

# *The Supreme Court of Ohio*

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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## **OPINION 91-24**

Issued October 18, 1991

*[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]*

*[Not current-subsequent rule amendments to DR 2-101, eff. Jan. 1, 1993, DR 2-102 eff. Dec. 1, 1995.]*

**SYLLABUS:** It is misleading for a person licensed to practice law in another state but employed in Ohio as a collections manager for a company to use "Esq." after his/her name when signing correspondence in the course of business. DR 2-101 (A).

**OPINION:** The question presented is whether a person who is licensed to practice law in another state but who is employed in Ohio as a collections manager for a company may use "Esq." after his/her name when signing correspondence in the course of business.

The term esquire has several meanings. "In English law, a title of dignity next above gentleman, and below knight. Also a title of office given to sheriffs, sergeants, and barristers at law, justices of the peace, and others. In United States, title commonly appended after name of attorney; e.g. John J. Jones, Esquire." Black's Law Dictionary, 489 (5th ed. 1979). Thus, using this general definition, one purpose of writing "esquire" after a person's name is to signify that the person is an attorney.

The Code of Professional Responsibility makes no direct reference to the use of the term "esquire." However, three rules are applicable. Disciplinary Rule 2-101(A) requires that "[a] lawyer shall . . . not use, or participate in the use of, any form of communication containing a false, fraudulent, misleading, or deceptive statement or claim." Disciplinary Rule 2-102 (E) states that "[a] lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on his [her] letterhead, office sign, or professional card, nor shall he [she] identify himself [herself] as a lawyer in any publication in connection with his [her] other profession or business." Disciplinary Rule 2-102 (F) creates the exception that "nothing contained herein [within the rule] shall prohibit a lawyer from using or permitting the use, in connection with his name, of an earned degree or title derived therefrom indicating his [her] training in the law."

Several state ethics committees have advised that an attorney may use "esquire" so long as the use is not false, fraudulent, misleading, or deceptive. One committee concluded that it was not improper for an attorney shareholder of a business corporation to be listed on the corporation's letterhead and

promotional literature by the attorney's name followed by "Esq." because such designation is not false or fraudulent when the person is an attorney and the services of the corporation do not include rendering of legal services. Maine Bd. of Overseers of the Bar, Professional Ethics Comm'n, Op. 91 (1988). Another committee allowed a lawyer engaged in a nonlegal governmental-affairs consulting business to use business cards and stationery that included the designations "Esquire" or "Attorney at Law" or the degree "L.L.B." or "J.D.," provided there existed no reasonable likelihood that the public would be misled into believing that the business is a law firm. District of Columbia Bar, Legal Ethics Comm., Op.149 (1985). However, while the above cited opinions provide some guidance, they do not address the use of esquire by a person not licensed to practice law within the state.

When a member of the public receives a collection letter with a signature followed by the term "Esq." it is likely that he/she would assume that the letter was signed by an attorney licensed to practice law within the state. Such use of the term "esquire" is a "muscling" technique used to influence the debtor's response to the collection letter by creating what in this instance is a false belief that a debt collections manager is a licensed attorney.

It is this Board's opinion that it is misleading for a person licensed to practice law in another state but employed in Ohio as a collections manager for a company to use "Esq." after his/her name when signing correspondence in the course of business. DR 2-101(A). Such conclusion is consistent with the prohibition of Disciplinary Rule 2-102(E) that a lawyer engaged in both the practice of law and another profession or business should not identify him/herself in any publication in connection with his other profession or business. Further, the exception to DR 2-102(E) found within DR 2-102(F) does not require a contrary result with regard to the facts presented. Disciplinary Rule 2-102(F) permits the use, in connection with an attorney's name, of an "earned degree or title derived therefrom indicating training in the law." However, the Board does not consider the term "esquire" to be an "earned degree or title derived therefrom indicating training in the law" within the meaning of DR 2-102(F), but rather to be a term commonly used to indicate a status as an attorney which carries with it the implication that the person is licensed to practice law.

**Advisory Opinions of the Board of Commissioners on Grievances and Discipline are informal, nonbinding opinions in response to prospective or hypothetical questions regarding the application of the Supreme Court Rules for the Government of the Bar of Ohio, the Supreme Court Rules for the Government of the Judiciary, the Code of Professional Responsibility, the Code of Judicial Conduct, and the Attorney's Oath of Office.**