

KENTUCKY BAR ASSOCIATION

Ethics Opinion KBA E-191

Issued: September 1978

Modified by KBA E-223

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), especially Rules 7.01-7.50 and the Attorneys' Advertising Commission Regulations, before relying on this opinion.

Question: May a lawyer allow the use of business cards with the name, address, and phone numbers of an office manager/paralegal?

Answer: No.

References: Opinion KBA E-142, E-158; DR 2-102(A); ABA Informal Opinion 408, 619, 820, 909, 1000, 1185.

OPINION

In Opinion KBA E-142 this Committee stated that “A lawyer or law firm may not designate ‘legal assistants’ or ‘paralegals’ on the firm letterhead, card or any other form or notice listing permitted to lawyers by the Code of Professional Responsibility.”

DR 2-102(A)(1) states what information may appear on a professional card and provides that the card may give the names of the members and associates of the firm. DR 2-102(A)(4) states what information may be used on a law firm’s letterhead and provides that the letterhead may give the names of members and associates of the law firm (including deceased and retired members).

It is the Committee’s opinion that when read together DR 2-102(A)(1) and DR 2-102(A)(4) state that only lawyers’ names may appear on the letterheads and professional cards. The ABA Opinions and KBA Opinions on what may go on letterhead have unanimously held that only lawyers’ names may appear. Thus, the following were not allowed to be on letterheads of the law firm: any layman (ABA Informal Opinion 408), secretary’s name (ABA Informal Opinion 619), patent agent (ABA Informal Opinion 820), staff investigator (ABA Informal Opinion 1000); investigator, office manager, medical assistant (Opinion KBA E-158), paralegal or legal assistant (Opinion KBA E-142).

However, in the area of professional cards the ABA and KBA Opinions come into conflict. The American Bar Association would allow professional cards for an investigator (ABA Informal Opinion 909) and legal assistant (ABA Informal Opinion 1185); whereas, the Kentucky Bar Association would not allow paralegals or legal assistants (Opinion KBA E-142).

With all due regard to the American Bar Association, it is the Committee's belief that only lawyers' names may appear on a professional card. DR 2-102(A) provides that law firms shall not use professional cards or letterheads except in the six enumerated sections. Paralegals, office managers or any other non-lawyers are not within any of the six exceptions. In our opinion there is no difference between a law firm's letterhead and a professional card and only lawyers may be listed therein.

It should be noted that nothing in this opinion would preclude a paralegal/office manager/investigator, etc. from having their own "business card" which would not contain the name of the law firm on it. The card could list the law firm's phone number.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.