



IOWA STATE BAR ASSOCIATION  
COMMITTEE ON  
ETHICS AND PRACTICE GUIDELINES

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April 17, 2009

Mr. Dwight Dinkla  
Executive Director  
Iowa State Bar Association  
625 E. Court  
Des Moines, IA 50309

Re: Ethics Opinion 09-01 (Use of Lawyer and Law Firm Name)

Dear Mr. Dinkla

Samuel K. Benham and Erica A. Nichols, law students on behalf of Drake Equal Justice Works, a student organization of Drake Law School (“the organization”), sought the advice and opinion of whether their fund raiser, a 5K run in downtown Des Moines called “Court 2 Court 5K,” which invites law firms, lawyers and business members of the community to place their logos or names on the event T-shirt violates the Iowa Rules of Professional Conduct. Drake Equal Justice Works is a public service organization that engages in community service and civic fund raising activities. The 5K run is solely a fun run, with its primary purpose to raise money for Iowa Legal Aid. As such, all proceeds from the race are donated to Iowa Legal Aid for the representation of low-income Iowans. The organization solicits sponsorships from law firms and lawyers, and, in exchange for a \$250.00 donation, the organization offered to put the firm or individual’s name or logo on the back of the race T-shirts. These shirts would be given out on the day of the race to all the registrants and runners. The organization would also send a single shirt to the sponsor if they were not running in the actual race. Any law firm or individual is welcome to sponsor the event, and none of the sponsorship proceeds are put towards the purchase of

the T-shirts. The money for the shirts comes from runner registration fees.

The question is whether the placement of law firm logos on the race T-shirts is inconsistent with previous Iowa Formal Ethics Opinions and the Iowa Rules of Professional Conduct.

## OPINION

Mr. Benham and Ms. Nichols argue that the Canons of Ethics, the predecessor to the present Iowa Rules of Professional Conduct (Rules) and the prior Iowa Code of Professional Responsibility (Code) strictly forbade any form of lawyer advertising but that *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977), caused a re-examination of the prohibition which resulted in the adoption of the Iowa Code of Professional Responsibility. In the following years, the Code was amended several times to remain compliant with relevant and evolving United States Supreme Court jurisprudence. Generally, Code regulation favored disclosure over prohibition, and, in that regard, utilized the tool of the “mandatory disclosure” as a way of ensuring that the public was given sufficient objective information to be used in determining the need for legal services and selection of a lawyer.

They submit that based upon disclosure philosophy adopted by the Code, the predecessor Ethics Committee issued several Ethics Opinions applying the Code as it then existed to specific advertising and marketing situations. For example Opinion 80-31 prohibited a law firm from having its name on and distributing ballpoint pens as “in complete and utter violation” of the Code. The same prohibition was extended to key tags by Opinion 81-9. Applying the mandatory disclosure requirement of the Code in Opinion 91-48, the Committee did not allow a law firm to have its name on a sponsor’s T-shirt to support a civic athletic competition. Opinion 94-02 allowed a law firm to display its name as a sponsor of a publication in support of the University of Iowa, provided the mandatory disclosures were also published. In Opinion 94-09 the Committee addressed the issue as to whether mandatory disclosures were required for civic or public service activities. It determined that a law firm could display its name as a sponsor on baseball uniforms without the required disclosures because “the softball team is a genuinely civic-public enterprise,” but required that it not identify itself as a “law firm.” On the same day the Committee in Opinion 94-10 determined that the Code did not allow a law firm to use its name and logo on a polo shirt for wear during a “casual day” because “the proposed ‘casual day’ is not a civic public enterprise.” In Opinion 94-25 the Committee prohibited the use of a lawyer’s name on a “tote bag” without the required disclosures. The same rationale was in Opinion 95-28 and used as it concerned a lawyer’s name on note pads. In 2002 in Opinion 02-03, the Committee revisited the 1980 opinion prohibiting a lawyer’s name on a ballpoint pen. This time it authorized the practice provided the pens were only distributed to the lawyer’s existing clients.

However they argue that with the adoption of the Iowa Rules of Professional

Conduct, on July 1, 2005, several – but not all – mandatory disclosures were no longer required<sup>1</sup>. Instead, Rule 32:7.2(g) now provides “[t]he following information may be communicated to the public in the manner permitted by this rule, provided it is presented in a dignified style: (1) name, including name of law firm, names of professional associates, addresses, telephone numbers, Internet addresses and URLs, and the designation ‘lawyer,’ ‘attorney,’ ‘J.D.,’ ‘law firm,’ or the like.”

We are persuaded that with the elimination of those mandatory disclosures which were relevant to the issue then before the Committee it would appear that the rationale underlying the opinions discussed above no longer applies.

Accordingly, it is the Opinion of the Committee that sponsorship of the “Court 2 Court 5K” run and placement of the firm’s name or logo on the event day T-shirt is not improper under the Iowa Rules of Professional Conduct.

Furthermore the following opinions are accordingly rescinded:

Pens and Pencils: Opinions 80-31 and 02-03

Polo shirts, tote bag, key tags and note pads: 94-10, 94-25, 81-9 and 95-28

Event uniforms, tee-shirts, etc. 94-09 and 91-48

Recognition as supporting civic and public events: 94-02.

We trust that in developing their marketing plans Iowa lawyers will act reasonably and remember that when they use the designation “lawyer”, “attorney” or “J.D.” they call into play not only their own personal reputation but that of the profession as a whole.

For the Committee



Nick Critelli, Chair

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<sup>1</sup>Mandatory disclosures are still required as it concerns the contingent fee (32.7.2(h)(1)(ii)), fixed fees for specific legal services (32.7.2(h)(2) and the institution of litigation (32.7.2.(i)).