

Committee Opinion  
October 26, 1988

LEGAL ETHICS OPINION 1143

DIVORCE – FOREIGN ATTORNEY –  
NEGOTIATING PROPERTY  
SETTLEMENT AGREEMENT WITH  
OUT-OF-STATE ATTORNEY IN  
ACTION BROUGHT IN VIRGINIA –  
LETTERHEAD: INDICATING  
JURISDICTIONAL LIMITATION OF  
MEMBERS.

You have advised that you are involved in a divorce matter in which you represent the husband. You received a proposed settlement offer from the wife's counsel who is an attorney licensed to practice law in the District of Columbia but not licensed in Virginia. The correspondence from the out-of-state attorney raised several ethical questions in your mind which you have asked the Standing Committees on Legal Ethics and Unauthorized Practice of Law to consider.

The Committee on Legal Ethics will address your questions in the order in which you have presented them in your inquiry.

I. Is it an ethical violation pursuant to DR:2-102 to not list members of the firm and jurisdictions in which they are licensed?

The Committee must respectfully decline and cannot opine as to the propriety of a law firm's letterhead in which, to the best of your knowledge, none of its members are licensed Virginia attorneys. However, the Committee would concur with your view that the correspondence which you received can be misleading, given the close proximity of the jurisdictions involved, and the commonality of multi-jurisdictional law practices in both jurisdictions. If, in fact, there are any members of the out-of-state firm who are licensed Virginia attorneys, and if the law firm members' names appear on the letterhead, then it would be improper for the member who is a licensed Virginia attorney to not distinguish the jurisdictional limitations in which that member is or is not licensed to practice law pursuant to DR:2-102(D). (See also, LE Op. 858)

II. Is it unethical for a licensed Virginia attorney to participate in negotiations on a property-settlement agreement with a non-Virginia attorney?

The Committee believes that negotiating between out-of-state lawyers and licensed Virginia lawyers over contracts or agreements in divorce matters, as well as other areas of law, is permissible, and it is not an ethical violation pursuant to DR:3-101 on aiding a nonlawyer in the unauthorized practice of law. Naturally, if a proposal is made by the out-of-state attorney during the negotiating process that will not comply with the various nuances of Virginia family law, then on behalf of your client and since the action will be brought in Virginia, you may advise the out-of-state attorney that his proposal would be incongruous with Virginia law. By negotiating a property settlement with the out-of-state attorney employed by your client's wife, you are not engaging in the aid to a nonlawyer. The rule is more appropriate in circumstances involving a Virginia attorney who aids a

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layman in transactions that would otherwise constitute the practice of law for which the layman is not authorized to render legal advice.

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