

**THE PROFESSIONAL ETHICS COMMITTEE
FOR THE STATE BAR OF TEXAS
Opinion No. 639**

November 2013

QUESTION PRESENTED

Is it permissible under the Texas Disciplinary Rules of Professional Conduct to include "Retired Judge" on the letterhead and business cards of a practicing lawyer who has retired from service as a part-time municipal court judge?

STATEMENT OF FACTS

A lawyer who, while practicing law, has served for a number of years as a judge of a municipal court in a small suburban community retires from this position and continues his private law practice. The lawyer proposes to include the phrase "Retired Judge" on his letterhead and business cards.

DISCUSSION

Rules 7.01 and 7.02 of the Texas Disciplinary Rules of Professional Conduct are applicable to the question presented here. Rule 7.01(f) prohibits the use of "a firm name, letterhead, or other professional designation that violates Rule 7.02(a)." Rule 7.02(a) provides in part that "[a] lawyer shall not make or sponsor a false or misleading communication about the qualifications or the services of any lawyer or firm." Rule 7.02(a)(1) specifies that a communication is false or misleading if it "contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading[.]"

In the circumstances considered, the phrase "Retired Judge" indicates that the lawyer did in fact retire, in the common meaning of the word "retire," from his position as municipal court judge after a significant period of service. If the lawyer for any reason did not complete the prerequisites to honorably retire from the position as municipal court judge, then the use of the word "retired," rather than another term such as "former," would be incorrect and therefore would not be permitted by Rule 7.02(a).

Use on the lawyer's letterhead and business cards of the word "judge" without indication of the court on which the judge served creates a risk that a person receiving the letterhead or card might misapprehend the lawyer's judicial experience. The experience gained by a lawyer from prior service as a judge may or may not be significant for the lawyer's current legal work. A lawyer who has served as a municipal court judge while also practicing law will have quite different experiences from the experiences of a lawyer who has served as a full-time judge of a

trial court of general jurisdiction or as a full-time judge of an appellate court. In the circumstances here considered, the lawyer's use on letterhead and business cards of the word "judge" without more would appear to create a substantial risk of misleading recipients of the lawyer's letterhead and business cards as to the lawyer's prior judicial service. The communication would likely be misleading to many recipients because the term "judge" without indication of the court where the judge served would normally be interpreted as referring to full-time judicial service in a court having broad trial or appellate jurisdiction. This problem could be eliminated by indicating on the lawyer's letterhead and business cards the court in which the lawyer had served as judge prior to his retirement from that position.

It should be noted that this opinion addresses only issues related to the application of the Texas Disciplinary Rules of Professional Conduct. In some circumstances, the Texas Code of Judicial Conduct may also govern certain aspects of the conduct of a retired or former judge. Tex. Code Jud. Conduct, Canon 6(F), *reprinted in* Tex. Gov't Code Ann., tit. 2, subtit. G, app. B (Thomson Reuters 2013). It is beyond the authority of this Committee, however, to address issues relating to the Texas Code of Judicial Conduct.

CONCLUSION

Under the Texas Disciplinary Rules of Professional Conduct, it is permissible for a lawyer who has ended his service as a part-time municipal court judge to include on the lawyer's letterhead and business cards the phrase "Retired Judge" if the lawyer has actually retired from this judicial service in the ordinary sense of the word "retire" and if the use of the phrase "Retired Judge" will not be likely to mislead the recipients of the lawyer's letterhead and business cards with respect to the judicial experience actually possessed by the lawyer. The potential for misleading the recipients of the lawyer's letterhead and business cards can be eliminated by including the specific court or judicial position previously occupied by the lawyer.