



ILLINOIS STATE
BAR ASSOCIATION

ISBA Advisory Opinion on Professional Conduct

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This Opinion was **AFFIRMED** as to the Digest 2 by the Board of Governors in July 2010. Digest 1 was **OVERRULED** by the Board of Governors in January 1991. Please see the 2010 Illinois Rules of Professional Conduct 7.1, 7.2, 7.3, and 7.4. This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

Opinion Number 700
November 4, 1980

Topic: Solicitation

- Digest:
- ~~1. It is professionally improper for an attorney to initiate private communications with coaches and athletic directors to inform them that he engages in the practice of "sports law" and is available to represent clients.~~
 2. It is professionally proper to handle "player representation" from the attorney's law office.

Ref: Rule 2-103(a)
ABA EC 2-8

FACTS

Attorney has a "sports law" practice and represents athletes in contract negotiations. The athletes he represents are handled through his law office from which he conducts a private law practice.

QUESTION

May the attorney advise college athletic directors and coaches of his "sports law" practice and representation of athletes without naming any specific athletes that he represents, and inform the athletic directors and coaches that he is "available." Secondly, may the "player representation" be carried on in the attorney's law office.

OPINION

~~Rule 2-103(a) of the Illinois Code of Professional Responsibility (adopted by the Illinois Supreme Court effective July 1, 1980) provides:~~

~~"A lawyer shall not by private communication, except as provided in (b) below, directly or through a representative, recommend or solicit employment of himself, his partner or his associate for pecuniary gain or other benefit and shall not for that purpose initiate contact with a prospective client."~~

~~Subparagraph (b) of Rule 2-103 has no applicability to the question at hand.~~

~~EC 2-8 of Canon 2 of the Code of Professional Responsibility of the American Bar Association provides in part as follows:~~

~~"Selection of a lawyer by a lay person should be made on an informed basis. Advice and recommendation of their parties relative, friends, acquaintances, business associates, or other lawyers—and disclosure of relevant information about the lawyer and his practice may be helpful. A lay person is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment."~~

~~Advising coaches and athletic directors that one practices "sports law" and represents athletes in contract negotiations and is "available" would appear to be designed to encourage the coaches and directors to recommend the attorney to the athletes under their charge. The committee is of the opinion, therefore, that the initiation of communications by an attorney to coaches and athletic directors to inform them of the attorney's availability to represent athletes would be professionally improper.~~

The second question presented deals with whether an attorney may handle "player representation" from the same office in which he engages in the general practice of law. It would appear, therefore, that the attorney making this inquiry questions whether the representation of athletes is actually the practice of law in that it may include a wide range of business counseling, as well as contract negotiation. This doubt could be prompted by the fact that nonlawyers frequently engage in these activities.

The committee is of the opinion that, when an attorney engaged in the private practice of law

represents a client in contract negotiations and general business counseling, these activities constitute the practice of law and it would be professionally proper to handle them from the same office in which he engages in the general practice of law.

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