

Maryland Judicial Ethics Committee

Opinion Request Number: 2017- 35

Date of Issue: December 8, 2017

■ Published Opinion □ Unpublished Opinion □ Unpublished Letter of Advice

Judge’s ability to encourage attorneys to provide pro bono public legal services

Issue: May a Judge encourage attorneys to provide pro bono publico legal services?

Answer: Yes, as long as it is not coercive and does not abuse the prestige of judicial office.

Facts: A charity, identified in the request for this opinion, recently opened a legal clinic, serving an area in need of pro bono legal services. The requestor wants to send a letter to attorneys located in the area in which the clinic is located, encouraging them to contact the clinic and discuss taking a case pro bono. The requestor has included the proposed letter with the request for this opinion.

Discussion

In Opinion No. 1996-20, issued by this Committee on October 22, 1996, under then applicable Canon 4C (2), we concluded that, *inter alia*, a judge may write to attorneys individually and encourage them to provide pro bono services to indigent persons.

The Canons were succeeded by the Code of Judicial Conduct (Code), effective July 1, 2010, codified as Rule 16-813. In Opinion No. 2013-29, issued by this Committee on February 12, 2014, under Rule 1.3 of the Code, the descendent of Canon 4C (2), this Committee reaffirmed its earlier opinion.

The Code is now codified as Title 18 of the Maryland Rules. Rule 18-103.7(b), effective July 1, 2016, provides that “[a] judge may encourage but not coerce attorneys to provide pro bono public legal services.” The comment to the Rule explains that, in encouraging attorneys to participate, the judge “may not employ coercion, or abuse the prestige of judicial office.” The comment further explains that the encouragement “may take many forms, including providing lists of available programs....”

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Page 2 of 3

As slightly amended by this Committee, this Committee concludes that the requestor can send the letter as follows.

Dear

I know there are tremendous demands on your time as an attorney. I hate being another person to make another request.

Recently, [the charity] has opened a legal clinic in [the named area] which serves alongside [the named] clinics. This was made possible by large donations from [the named donor(s)] and others. The clinic is servicing a very needy area of our county. Staffing the clinic is a very energetic young attorney on loan from [named loanor] named [named person]. There are many non-profit organizations that connect lawyers willing to provide pro bono representation to persons in our county who need such assistance

I encourage you to consider contacting [the named attorney at the clinic] (contact information below) or another such agency to discuss taking just one case in the coming months. All of these agencies are in need of attorneys to advise folks on just about any kind of case.

[contact information]

[Signature]

Maryland Judicial Ethics Committee

Opinion Request Number: 2017-35

Date of Issue: December 8, 2017

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Page 3 of 3

Application: The Maryland Judicial Ethics Committee cautions that this opinion is applicable only prospectively and only to the conduct of the Requestor described in this opinion, to the extent of the Requestor's compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this opinion.

Additionally, this opinion should not be considered to be binding indefinitely. The passage of time may result in amendments to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If you engage in a continuing course of conduct, you should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.