



# Ohio Board of Professional Conduct

## OPINION 2020-11

Issued October 2, 2020

### Trade Name Used as Law Firm Name

**SYLLABUS:** A lawyer or law firm may use a trade name as a law firm name that does not reference the name or surname of the lawyer or lawyers or describe the nature of the legal services provided. A trade name used by a lawyer or law firm as a law firm name cannot be false, misleading, or nonverifiable. A trade name that implies certain results, expediency, or a connection to a governmental, nonprofit, or charitable organization is inherently false or misleading. A lawyer or law firm using a trade name and organizing as a legal professional association, corporation, legal clinic, a limited liability company, or a limited partnership must comply with Gov.Bar R. III, §2 and carry the appropriate corporate legend or designation with the trade name.

This nonbinding advisory opinion is issued by the Ohio Board of Professional Conduct in response to a prospective or hypothetical question regarding the application of ethics rules applicable to Ohio judges and lawyers. The Ohio Board of Professional Conduct is solely responsible for the content of this advisory opinion, and the advice contained in this opinion does not reflect and should not be construed as reflecting the opinion of the Supreme Court of Ohio. Questions regarding this advisory opinion should be directed to the staff of the Ohio Board of Professional Conduct.



# Ohio Board of Professional Conduct

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### QUESTION PRESENTED:

Whether a lawyer or law firm is permitted to practice law under a trade name that is not connected to the lawyer's name or his or her legal services.

**APPLICABLE RULES:** Prof.Cond.R. 7.1, 7.5

**OPINION:** The Supreme Court amended Prof.Cond.R. 7.5, effective June 17, 2020, to remove the prohibition against the use of a trade name as a law firm name by a lawyer or lawyers. A trade name is defined as "a name, style, or symbol used to distinguish a company, partnership, or business (as opposed to a product or service); the name under which a business operates." Black's Law Dictionary (11<sup>th</sup> Ed., 2019.) As a consequence of the rule amendment, a lawyer or law firm may permissibly practice under a firm name that utilizes a trade name, without listing a lawyer's name or services provided, as long

as the trade name complies with the Rules of Professional Conduct and the Rules for the Government of the Bar.

*No Requirement to Include Lawyers' Names or Surnames in a Firm Name*

Prof.Cond.R. 7.5 expressly permits, but does not require, the use of a traditional law firm name that includes the surnames of lawyers in the firm. A firm name that does not use the traditional method of including the name or surname of a lawyer or lawyers in the firm is a trade name. The use of the trade name without referencing the name of the lawyer or lawyers in the firm is permissible under Prof.Cond.R. 7.5. and does not implicate the prohibition against false, misleading, or nonverifiable communications contained in Prof.Cond.R. 7.1.

*False, Misleading, or Nonverifiable Trade Names*

Advertising of a lawyer's services is specifically permitted by the Ohio Rules of Professional Conduct. Prof.Cond.R. 7.2. A lawyer's advertising may include many forms of communication such as written, recorded, electronic communication, or public media. *Id.* Prof.Cond.R. 7.2 permits public dissemination of information that might invite the attention of those seeking legal assistance. *Id.*, cmt. [2]. Information that may be publicly disseminated as advertising includes, but is not limited to a lawyer's name, firm name, address, email address, website, and the kinds of services the lawyer will undertake. *Id.*

The name of a law firm is one method by which lawyers advertise to the public their availability for the rendering of legal services and is a type of legal advertising. While a law firm name does not need to reference the name of a lawyer or lawyer in the firm, a lawyer must avoid communications about the lawyer, the law firm, or his or her legal services, including the firm name, that are false, misleading, or nonverifiable. Prof.Cond.R.7.1. False or misleading communications by lawyers through advertising are not constitutionally protected. *Zauderer v. Office of Disciplinary Counsel*, 471 U.S. 626 (1985).

Because a trade name may contain one word or a combination of words, it may be considered misleading if it contains a material misrepresentation of fact or omits a fact necessary to make the trade name, considered as a whole, not materially misleading. Prof.Cond.R. 7.1, cmt. [2]. A trade name may also be misleading if a substantial likelihood

exists that it will lead a prospective client to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation. *Id.* For example, a trade name that implies results, such as "Zero Tax" or "Winning Law Firm," would be considered misleading because it could lead a reasonable person or a prospective client to form an unjustified expectation that certain results can be obtained from the lawyer or firm. *Id.*, cmt.[3]. In addition, trade names that imply a connection to a governmental agency, *e.g.* "Attorney General Collections," "Public Defenders," "Ohio Judge's Law Group," "Social Security Administration Associates;" imply expediency, *e.g.* "Divorce Fast," "EZ Divorce," "Quick Settlement;" or that imply a connection to an existing nonprofit or charitable organization, *e.g.* "Legal Aid Associates," "Project Innocence Associates," or "Legal Assistance Foundation;" are inherently false or misleading and implicate Prof.Cond.R. 7.1. *See generally* S.C. Bar Eth. Adv. Op. 03-04.

On the other hand, there exists a number of possible law firm names that utilize a trade name and that would be permissible under Prof.Cond.R. 7.1 and 7.5. For example, a law firm with multiple lawyers that concentrates its law practice in representing plaintiffs in personal injury law cases could ethically use the trade name "Ohio Personal Injury Associates." Prof.Cond.R. 7.4(a), cmt.[1]. The name would only be considered false or misleading if no lawyers in the firm practice personal injury law or the firm ceased providing any legal services in the area of law used in the trade name. Likewise, a firm that exclusively practices in the area of insurance defense law may appropriately use the trade name "Ohio Insurance Defense Counsel." However, a trade name is not required to reference the area of legal services the lawyer or the law firm provides in order to not be false, misleading, or nonverifiable. For example, a trade name such as "Summit Law" or "First Legal" would be permissible, even though the trade name does not indicate the area of law practiced.

#### *Gov.Bar R. III Requirements for Trade Names as Firm Names*

If a law firm intends to be formally identified by the use of a trade name, and practice as a legal professional association, corporation, or legal clinic, a limited liability company, or a limited liability partnership, the trade name must comply with Gov.Bar R. III, §2. Prof.Cond.R. 7.5. Specifically, the trade name of a legal professional association or legal clinic must end with the legend, "Co., LPA" and the name of a corporation, limited liability company, or limited liability partnership must include a descriptive

designation as required under sections R.C. §§ 1701.05(A), 1705.05(A), or 1776.82, *e.g.*, L.L.C., L.L.P., or Inc. Gov.Bar R. III, §2.

**CONCLUSION:** Trade names may be used by lawyers as a law firm name under which legal services will be provided and to distinguish the law firm from other legal practices. Trade names constitute a form of communication or advertisement by a lawyer that cannot be false, misleading, or nonverifiable. Trade names that imply result, expediency, or a connection to a government agency, nonprofit, or charitable organization are inherently misleading and implicate Prof.Cond.R. 7.1. A firm name that does not reference the name of the lawyer or lawyers in the law firm or the area of practice can be a permissible trade name as long as it is not false, misleading, or nonverifiable. If a lawyer or law firm intends to practice as a legal professional association, corporation, or legal clinic, a limited liability company, or a limited liability partnership, a trade name used as a law firm name must comply with requirements of Gov.Bar R. III, §2 and carry the appropriate corporate legend or designation.