Contemplating a Name for Your Firm or Practice?

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Coming up with a name for a new firm or solo practice can be an exciting challenge. A firm's name often acts as a first impression on the community and serves as an identity for the lawyers practicing there. The firm name will appear on letterhead, in email signature blocks, on business cards and in court filings.

A firm's name carries reputational value and is critical for branding and marketing. But the process of naming a firm is not only a creative endeavor: there are ethical rules dictating how a firm may be named. Whether a lawyer is opening a solo or small firm, or a larger practice is changing its name, here are some tips to consider while going through the naming process.

Consider the Restrictions on Trade Names

Typically, many firms and solo practices adhere to the traditional eponymous approach and use the surnames of the founding partners or solo practitioners. Others may opt for a trade name that doesn't use the names of practitioners but describes the practice based on its specialty or location.

Until recently, a number of jurisdictions banned the use of trade names for lawyers in private practice.

Now, all jurisdictions within the U.S. permit trade names, so long as the trade names are not false, deceptive or misleading.

A firm or solo practitioner may consider using a trade name if the firm specializes in a particular area of the law or would like to reference a geographic location. Practicing under a trade name may make it easier for clients to remember the firm and may add to the practice's reputation. Although trade names are now generally permitted, there are still ethical considerations.

For example, law firms are typically not permitted to use names that imply that the law firm can obtain favorable results for a client regardless of the particular facts and circumstances. For example, a trade name of "Beat the Charge" could be improper because it suggests a likelihood of victory for all clients.

Or, a name like "Divorce Law Boutique" could be misleading if the firm does not actually focus on family law or if it's a larger-sized firm (and, thus, not a "boutique").

Ensure the Firm Name Is Not Misleading

Georgia Rule of Professional Conduct 7.5(a) states that a lawyer shall not use a firm name, trade name, letterhead or other professional designation that is false or misleading to the public. As comment [1] further explains, this rule tracks the general requirement for all attorney advertising that the communication must not be false, fraudulent,

deceptive or misleading.

For example, the name of the law firm may be used to reflect the size of the practice. However, if a lawyer is a solo practitioner, it could be considered misleading to adopt a firm name that suggests a larger practice, such as “Jane Doe & Associates.” Solo practitioners may instead choose a name like “Law Office of Jane Doe.”

Comment [1] to Rule 7.5 gives another example: lawyers who share office space, but are not actually law partners, “may not denominate themselves as, for example, ‘Smith and Jones,’ for that title suggests partnership in the practice of law.” Thus, lawyers who share office space may consider clarifying to the public that they are not joined together in a practice.

Another area in which firm names can be considered misleading is if there is a risk that the firm name suggests the firm is affiliated with a government agency or a charitable legal services organization.

For that reason, some firms that adopt trade names based on a geographic location or a public law issue (e.g., “New Orleans Immigration Law Clinic”) can consider the use of an express disclaimer to confirm that the firm is not a public legal aid agency.

Be Cognizant When Eponymous Law Firm Requires Name Change

The seemingly most common type of law firm name is one that includes the names of the founding partners. Such a firm name may have reputational value and can pay homage to the lawyers that founded the firm. But there can be instances when an eponymously named law firm may need to consider a change in name.

For example, things can become complicated when the firm is named for a partner who retires, dies or leaves the firm to practice elsewhere. The rules generally provide that law firms can be named after deceased or retired partners. Firms may also decide which of their “legacy” names to keep upon growth or mergers.

Typically, however, when a named partner leaves the firm to practice elsewhere, the eponymous firm will likely have to change its name. Otherwise, it can be misleading and suggest an affiliation with the named partner that no longer exists.

There are also special considerations that may arise during the lifetime of the firm that were not present at the time the firm was named. For example, if a named partner is elected to public office, the firm may be required to change its name during any lengthy period in which the lawyer is not active or regularly practicing with the firm that bears the lawyer’s name.

Some firms have faced the decision of whether to change their name if a named partner has been accused of unethical or untoward conduct: the firm name is a brand and sometimes the brand needs saving.

Naming a firm can be a complicated and strategic process. Keeping these issues in mind when selecting a name can help lawyers navigate the process and maintain their ethical obligations.

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