

**ETHICS OPINION NUMBER 223
OF THE MISSISSIPPI BAR
RENDERED JANUARY 19, 1995
AMENDED APRIL 6, 2013**

ADVERTISING – LETTERHEAD - PARALEGAL CERTIFICATION - It is proper for an attorney's paralegal to use the initials CLA or CLAS so long as the paralegal has actually been certified by the National Association of Legal Assistants and so long as the designation is accompanied by language indicating that the paralegal is not a lawyer.

The Ethics Committee of The Mississippi Bar has been requested to render an opinion on the following question:

May an attorney permit a paralegal who has been certified by the National Association of Legal Assistants to use the initials CLA or CLAS on legal correspondence?

In the facts presented, the requesting attorney states that:

non-lawyers who assist lawyers are identifying themselves as 'Certified Legal Assistants' based upon their passage of a test administered by a private organization known as The National Association of Legal Assistants(NALA) and are using the initials CLA or CLAS by their names.

The attorney wants to know if this is permissible under the Mississippi Rules of Professional Conduct (MRPC).

There are two rules of the MRPC which apply to the question presented. The first is Rule 7.7, Firm Names and Letterheads, which states in pertinent part that:

(a) A lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1.

The second rule is, of course, Rule 7.1, Communications Concerning a Lawyer's Services, which states in part that:

A lawyer shall not make or permit to be made a false, misleading, deceptive or unfair communication about the lawyer or the lawyer's services. A communication violates this rule if it:

(a) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(b) Is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results that violate the Mississippi Rules of Professional Conduct or other law; or

(c) Compares the lawyer's services or fees with other lawyers' services unless the comparison can be factually substantiated.

The Supreme Court of the United States of America has ruled on this issue regarding lawyers in two cases.

The first case is *Peel v. Attorney Registration and Disciplinary Commission of Illinois*, 496 U.S. 91, 110 L.Ed 83, 110 S.Ct. 2281 (1990). In *Peel*, the Court held that it was a violation of the First Amendment of the Constitution of the United States of America for the disciplinary authority of the Illinois Bar to censure an attorney for stating on his letterhead that he had been certified a civil trial specialist by the National Board of Trial Advocacy (NBTA). In its opinion, the Court noted that NBTA had a set of standards and procedures for certifying an attorney and that these included the successful completion of a day-long examination. The Court, however, also indicated that a State could screen the certifying organizations to make sure that they were reputable.

In *Ibanez v. Fla Dept. of Bus.*, 512 U.S. 136, 114 S.Ct. 2084 (1994), the Supreme Court held that lawyers could not be prohibited from stating on their letterheads that they are certified public accountants or certified financial planners, so long as the certifications are true. (Again, both of the certifications are based on stringent standards and procedures.)

Thereafter, Rule 7.6 of the Mississippi Rules of Professional Conduct (“MRPC”) has been amended to provide the following:

A lawyer may communicate the fact that he or she has been certified or designated in a field of law by a named organization or authority, but only if that certification or designation is granted by an organization or authority show

specialty certification or designation program is accredited by the American Bar Association. Notwithstanding the provisions of this Rule, a lawyer may communicate the fact that he is certified or designated in a particular field of law by a names, non-American Bar Association organization or authority, but must disclose such fact and further disclose that there is no procedure in Mississippi for approving, certifying, or designating organizations and authorities.

Rule 7.6(b), MRPC, goes on to provide that lawyers who are admitted before the United States Patent and Trademark Office may use the designation “patent attorney” and those engaged in admiralty practice may so designate.

With reference to paralegals, the Ethics Committee has previously held that an attorney may list the name of a paralegal on the attorney's letterhead so long as there is language stating that the paralegal is not a lawyer. (Opinion No. 93).

Based on these findings, the Ethics Committee is of the opinion that it is proper for an attorney's paralegal to use the initials CLA or CLAS so long as the paralegal has actually been certified by the National Association of Legal Assistants and so long as the designation is accompanied by language indicating that the paralegal is not a lawyer.