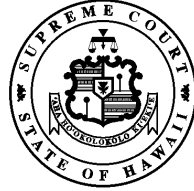


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FORMAL OPINION NO. 43

OF COUNSEL

This Opinion addresses the use of the title "of counsel" on letterhead, business cards, advertisements, telephone listings, and office signs or in other circumstances where there is a representation there is some relationship between a lawyer and a law firm.

As used in this opinion, the term "of counsel" refers to an actively licensed lawyer who, or a law firm that, has a continuing, close, and regular relationship with another lawyer or law firm. Any jurisdictional limitations on the practice of the "of counsel" lawyer or law firm must be stated on the affiliated firm's letterhead and other communications in which the name of the "of counsel" lawyer or law firm is included. This opinion applies to any of the the types of relationships described herein, including, but not limited to, designations as "counsel," "special counsel," "tax [or other specialty] counsel," or "senior counsel."

The use of the title "of counsel" in identifying the relationship of a lawyer or law firm with another lawyer or law firm is permissible as long as the relationship between the two is a continuing, close, and regular relationship and the use of the title is not false or misleading.


This opinion is based on the prohibition against misleading representations found in HRPC 7.1 and HRPC 7.5. HRPC 7.1 provides that "[a] lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services." HRPC 7.5 states that "[a] lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1." The prohibition against misleading representation is violated if the "of counsel" title, or one of its variants, is used to describe a relationship other than one that is continuing, close, and regular.

*The Disciplinary Board's mission is to maintain the integrity of the legal profession
and protect the public from professional misconduct by attorneys.*

DATED: Honolulu, Hawai'i, April 29, 2010

Hon. Clifford L. Nakea (Ret.)
Chairperson, Disciplinary Board

UPDATED: Honolulu, Hawai'i, March 19, 2015

A handwritten signature in blue ink that reads "Clifford L. Nakea". The signature is written in a cursive style with a horizontal line underneath the name.

Hon. Clifford L. Nakea (Ret.)
Chairperson, Disciplinary Board