



Gifts and Referrals A Risky Mixture

We all know that it is unethical to pay somebody for referring a client to us.¹ But how about when another lawyer refers a client to you, and you would like to send a gift to thank him? Or what if a client refers you another client? Is it all right to send the referring client tickets to a Suns game as a token of your appreciation?

The ethical propriety of giving gifts to lawyers and clients as an expression of thanks for the referral of clients has received mixed reviews from the various jurisdictions that have considered the

question.

In a 2002 Arizona opinion, our Committee on the Rules of Professional Conduct concluded that a *de minimis* gift to someone that is not a quid pro quo for a referral is acceptable.²

But all jurisdictions do not agree:

- In Rhode Island, the Ethics Committee ruled that it would be unethical for a lawyer to send a former client a gift for recommending another client, even if the gift costs less than \$100.³

David D. Dodge is a partner in the Phoenix law firm Lieberman, Dodge, Gerding, Kothe & Anderson, Ltd. He is a former Chair of the Disciplinary Commission of the Arizona Supreme Court.



- In Connecticut, it was ruled that a lawyer could not reward a referring client by performing services on a reduced basis.⁴
- And in Pennsylvania, it was held that although a lawyer could not reduce fees ordinarily charged to a client after that client had referred other cases to the lawyer, it was proper to give a gift certificate in a nominal sum to clients

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at a real estate closing for selecting the attorney as their lawyer.⁵

The recent opinion from our Committee makes it clear that Arizona does not read ER 7.1(j) as narrowly as other jurisdictions and that we, as Arizona lawyers, may give small gifts to lawyers

Committee makes it clear that it seeks to interpret ER 7.1(j) in light of its purpose—which is to prohibit a lawyer from paying someone else to recommend his or her services.

Referring to other states' views as "unrealistic and harsh," the Committee

a referring lawyer would not be appropriate, a set of Sun tickets (\$150) probably would be. How about a case of wine? Maybe, but not the great stuff—something around \$100 would be all right.

As always, use good judgment along with your appreciative words of thanks. ▲

Is it all right to send the referring client tickets to a Suns game as a token of your appreciation?

and to nonlawyers after a client referral if the gift is an expression of thanks and not payment for the referral. It must be stressed that the gift cannot be a quid pro quo for a referral. In the Opinion, our

noted that the type of gifts it had in mind are nominal in amount and would be given after the referral, rather than before.

One final point: What is a "nominal amount"? Whereas a check for \$5,000 to

endnotes

1. See ER 7.1(j), Rule 42, ARIZ.R.S.Ct.
2. Op. No. 2002-01 (January 2002), Committee on the Rules of Professional Conduct, State Bar of Arizona.
3. Ethics Op. 89-05 (5/29/89), Rhode Island Bar Association.
4. Informal Op. 92-24 (11/2/92), Connecticut Bar Association Committee on Professional Ethics.
5. Op. 83-1074 (1993), Pennsylvania Bar Association Committee on Legal Ethics and Professional Responsibility.