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Stipulation that Name and Address of Correspondent Shall not be Disclosed--Disapproved

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QUESTIONS AND ANSWERS OF COMMITTEE ON PROFESSIONAL ETHICS OF NEW YORK COUNTY LAWYERS ASSOCIATION

QUESTION NO. 187.

STIPULATION THAT NAME AND ADDRESS OF CORRESPONDENT SHALL NOT BE DISCLOSED.—COURSE INDICATED. STIPULATION THAT THE STIPULATION SHALL NOT BE DISCLOSED.—DISAPPROVED.

In a pending divorce action, unaffected by any color or question of collusion, but in which the parties intend to stipulate as to the provisions for alimony, counsel fee, etc.

(1) May they with propriety stipulate that the name and address of the correspondent shall not be mentioned in the pleadings, at the trial or otherwise in the action;

(2) May the stipulation with propriety contain a provision that the stipulation itself shall not be used or mentioned in the action?

ANSWER NO. 187.

In the absence of some law or rule of which we are not advised requiring the name of the correspondent if known to be stated in the complaint, it is the opinion of the Committee that the parties to a divorce action may properly stipulate that unless the Court shall require the disclosure, the name and address of a correspondent shall not be mentioned in the pleadings, at the trial or otherwise, but they may not with propriety stipulate that the stipulation itself shall not be used or mentioned in the action. It is also the opinion of a majority of the Committee that in view of the duties imposed upon the court in an action of this sort any such stipulation between the parties should be disclosed to the court.

In formulating the foregoing answer the Committee has not overlooked Section 1757 of the New York Code of Civil Procedure relating to the right of the correspondent to defend if named in the pleadings.

In answering questions this Committee acts by virtue of the following provisions of the by-laws of the Association, Article XVI, Section III:

"This Committee shall be empowered when consulted to advise inquirers respecting questions of proper professional conduct, reporting its action to the Board of Directors from time to time."

It is understood that this Committee acts on specific questions submitted ex parte, and in its answers bases its opinion on such facts only as are set forth in the question.