

The Etiquette and Ethics of Holiday Cards

By Barry Malone

As the holidays approach thoughts turn to traditions. One long-standing tradition is the holiday card. A holiday card is both a means to convey fond wishes and a simple marketing tool. Many attorneys use holiday cards to contact current, former, and prospective clients.

There is no standard approach to sending holiday cards. However, a thoughtful attorney should consider the following before putting those cards in the mail.

Create a mailing list

- Ideally, each year you will create and maintain a holiday card mailing list.
- Divide the list into personal and professional contacts as well as people with whom you would like to develop a better relationship. The latter category could be prospective clients, referral sources, judges, or elected officials.
- Within the three categories, determine whether you should send the holiday card to the person's home or office.
- Through the year, be sure to update the list with any changes in address, employment, marital status, and familial relationships. Staying abreast of your clients demonstrates that you are not only invested in their professional and legal issues, but that you also care about them personally.

Cover the basics

- Holiday cards should be religion-neutral.
- Address the card properly and verify correct spelling, especially of the recipient's name!
- When sending a card to a recipient's home, include the spouse's name on the address line of the envelope and in any personal notes inside the card.
- When sending a card to a recipient's office, exclude the spouse's name.
- Mail the card with sufficient time to reach the recipient before the holiday(s) the person celebrates.

Consider perceptions of the card

- The quality of the holiday card is a reflection of the sender and the recipient's value to the sender.
- Many businesses create pre-signed cards using the sender's signature. Does this convey your desired message?
- Is an e-card impersonal?
- Will the recipient appreciate the time taken to include a personalized message?
- Is the personal touch of a handwritten address worth the time invested?
- Does a postage stamp mean more than metered postage?

Review ethical rules Now that you have your mailing list in shape and have selected the perfect card to convey your personal message, what is next? Ethics. A careful attorney should also consider any ethical implications of sending holiday cards to prospective clients.

- *United States Supreme Court case law:* In *Shapero v. Kentucky Bar Association*, the Court stated that "[a] letter that is personalized (not merely targeted) to the recipient presents an increased risk of deception, intentional or inadvertent . . . [and states] can regulate such abuses."
- *Model Rules of Professional Conduct:* Most states have adopted the Model Rules; therefore, they are a great starting place for a review of ethical rules. Under the Rules, a lawyer may send a prospective client a holiday card without any advertising disclaimer; however, if a holiday card is sent because of the recipient's known legal need in a particular matter, a disclaimer is likely warranted.
- *State-specific regulations:* Notwithstanding the Model Rules, some states have adopted their own requirements. For example, in Florida, an attorney must provide a copy of the written communication and envelope to the standing committee on advertising, as well as retain a copy for three years. In Michigan, an attorney must keep a copy for two years but is not subject to state review. Review your jurisdiction's appropriate rules and regulations before sending out any cards to prospective clients.

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The holidays are a time for celebrating and connecting with others. Use this opportunity to make contact with current, former, and prospective clients, as well as further develop professional relationships with mentors and other attorneys. Sending a holiday card is an easy, inexpensive way to make those connections.

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