

Judicial Inquiry Commission

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June 28, 1996

The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a judge may accept lodging, food, and recreational entertainment for himself and his wife from a law firm in the judge's county in exchange for providing a three-hour legal seminar for the firm at its annual outing on the Gulf coast at which CLE seminars are regularly presented for the firm's members. You state that the firm has offered to provide lodging and food for yourself and your spouse for Thursday night, Friday night, and Saturday night, plus golf recreation for yourself for Friday and Saturday afternoons. You do not state whether your CLE presentation would be made Friday morning or Saturday morning or both mornings.

Under Canon 4, a judge, subject to the proper performance of his judicial duties, may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him. Canon 5C(I) provides as follows:

A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, or exploit his judicial position.

Canon 5C(4) provides as follows:

Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor, or loan from anyone if it reflects expectation of judicial favor.

Canon 6 provides the following, in pertinent part:

A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by these canons, if the source of such payments does not give the appearance of influencing the judge in his judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

A. COMPENSATION. Compensation should not exceed a reasonable amount, nor should it exceed what a person who is not a judge would receive for the same activity.

B. EXPENSE REIMBURSEMENT. Expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by his spouse. Any payment in excess of such an amount is compensation.

A judge certainly may, as a general matter, teach a continuing legal education seminar for a law firm in his court's jurisdiction so long as in so doing he does not cast doubt on his capacity to decide impartially any issue that may come before him or interfere with the performance of his judicial duties. As this Commission has previously stated, "In teaching a legal subject, a judge should not 'substitute his concept of what the law ought to be for what the law actually is, and ... [should] express himself in a manner that promotes public confidence in his integrity and impartiality as judge.'" Advisory Opinion 93-471 (quoting *In re Gridley*, 417 So.2d 950, 954 (Fla. 1982)). In Advisory Opinions 93-471 and 93-433, this Commission held that a judge may teach a law related course so long as in doing so he 1) does not cast doubt on his capacity to decide impartially any issue that may come before him, and 2) does not detract from the dignity of his office or interfere with the performance of his judicial duties. See also Advisory Opinion 92-464.

A judge must exercise extreme caution in commenting on any pending, or impending case while lecturing on a legal topic to ensure that nothing he says compromises or appears to compromise his ability to decide cases impartially. He also should not agree to speak at an event sponsored by a particular firm unless he will be available to address events by other firms as this might create an appearance of impropriety in utilizing the judge's professional experience to promote the welfare of one particular firm.

While there is no doubt that a judge may receive compensation for teaching about the law, a judge must not allow exploitation of the judicial office or accept any gift or favor which may reflect expectation of judicial favor. Canon 6B provides that expense reimbursement should be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by his spouse. Under Canon 6A, any compensation above reasonably incurred expenses should not exceed a reasonable amount, nor should it exceed what a person who is not a judge would receive for the same activity.

It is the opinion of the Commission that the judge may teach the CLE seminar proposed so long as attendance will not interfere with performance of his judicial duties or cast doubt on his capacity to decide impartially any issue that may come before him. Further, the judge may accept the provision of food and lodging for himself and his spouse for the period reasonably necessary for the judge to be at the event to provide the CLE seminar. Any remuneration in the form of lodging, food, or entertainment, in excess of expenses reasonably necessary for provision of the CLE session(s) should

not exceed the cost of travel plus a reasonable amount that does not exceed what a person who was not a judge would receive as compensation for this service. Finally, it is the opinion of the Commission that the judge may receive an ornamental gift of nominal value that memorializes the occasion (e.g., a plaque, framed certificate, etc.) without violation of the Canons of Judicial Ethics.

Respectfully,

JUDICIAL INQUIRY COMMISSION