



Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr. Chairman  
Hon. Thomas A. Donnelly  
Prof. William T. MacPhearson, Jr.  
Hon. Marie A. Baca

April 8, 1997

The Honorable

Re: Judicial Advisory Opinion 97-05

Dear Judge

The Judicial Advisory Committee is in receipt of your letter of March 6, 1997, requesting an opinion as to whether you can write and submit articles about the probate process to a local \_\_\_\_\_ newspaper for publication. Based on the Code of Judicial Conduct and pursuant to a prior New Mexico Judicial Advisory Opinion, it is our opinion that your participation in preparing these articles would not be improper.

Judicial Advisory Opinion No.96-05 involved a situation similar to your own. There, the Committee determined that a judge could participate in an educational program conducted through a newspaper column or talk radio format designed to encourage the general public to write with questions, concerns or comments regarding the operation of the court. The Committee relied on Canons 21-500(B) and 21-300(B)(10) and out-of-state advisory opinions. A copy of Judicial Advisory Opinion No.96-05 is enclosed.

In addressing your inquiry, we are principally guided by two Canons of Judicial Conduct. These are Canons 21-300 and 21-500. Canon 21-500(B) provides:

**B. Avocational activities.** A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.

Canon 21-300(B)(10) prohibits a judge from making comments that would impair the fairness or impact the outcome of a proceeding pending or impending in any court. In Judicial Advisory Opinion 96-05, the Committee noted, however, several restrictions to Canon 21-500(B):

[W]e think it is clear that judges are free to write about the law, the legal system, and the administration of justice with a view toward explaining the judicial system or improving the law; however, in doing so, a judge should be careful not to cast doubt on his or her impartiality, and should scrupulously refrain from giving legal advice or advisory opinions, or commenting on pending cases, matters or controversies that may come before his or her court or any other court;

Subject to the restrictions noted above, we conclude that your participation in writing these informational articles would not be contrary to the Code of Judicial Conduct.

Your very truly,

s/Frank H. Allen, Jr

Frank H. Allen, Jr.  
Chairman, Judicial  
Advisory Committee

Enclosure