

# *The Supreme Court of Ohio*

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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## **OPINION 89-21**

Issued June 16, 1989

*[Former CJC Opinion-provides advice under the former Ohio Code of Judicial Conduct which is superseded by the Ohio Code of Judicial Conduct, eff. 3/1/2009.]*

*[Not Current- subsequent rule amendments to Canons 1 through 6, Ohio Code of Judicial Conduct, eff. May 1, 1997 and amendments to Chapter 102, Ohio Revised Code]*

**SYLLABUS:** A judge is permitted, under Canon 4A of the Code of Judicial Conduct, to write articles for publication on legal topics. A judge may also receive compensation for such an activity provided the source of such payment does not give the appearance of influencing the judge or otherwise give the appearance of impropriety. Furthermore, the amount of compensation should not exceed a reasonable amount nor exceed what someone who is not a judge would receive for the same activity. This opinion does not address any statutory or constitutional provision which may apply.

**OPINION:** We have before us a request for an advisory opinion on whether a judge may accept compensation for writing articles on various legal topics for newspapers. The requesting party has been writing weekly articles for a local newspaper without receiving compensation. The question is whether the judge may contact other newspapers asking them to publish the articles and receive compensation.

Canon 4A Of the Code of Judicial Conduct allows a judge to write articles concerning the law, the legal system, and the administration of justice. The drafters of the Code were of the opinion that a judge could write on legal issues, analyzing the present law and its history, its virtues and shortcomings. Thode, Reporter's Notes to Code of Judicial Conduct, 74 (1973). Without compromising the judge's capacity to decide an issue impartially, a judge may commend the present law or propose legal reform. Id.

In our view, the activity you propose is not, in and of itself, a violation of any specific Code provision. However, Canon 5C does encourage judges to refrain from financial and business dealings that tend to reflect adversely on the judges' impartiality. In addition, judges should not engage in quasi-judicial or extra-judicial activities which interfere with the proper performance of their judicial duties. Code of Judicial Conduct, Canon 5C. The judicial duties of a judge should take precedence over all other activities. Code of Judicial Conduct, Canon 3.

The ABA issued an opinion in 1931 which concluded that judges were precluded from writing newspaper columns which take considerable time and comment on political issues and controversial subjects. ABA Committee on Professional Ethics, Op. 52 (1931). We do not disagree with that statement, but would not concur with any flat prohibition against judges writing articles.

Canon 6 applies to the issue of whether the judge may receive compensation for writing the articles. A judge may receive compensation and reimbursement of expenses for the quasi-judicial and extra-judicial activities permitted by the Code provided the source of such payment does not give the appearance of influencing the judge in his or her judicial duties or otherwise give the appearance of impropriety. Code of Judicial Conduct, Canon 6. The amount of compensation should not exceed a reasonable amount nor exceed what someone who is not a judge would receive for the same activity. *Id.* A judge who receives such compensation should report it as required under Canon 6.

In conclusion, it is our opinion and you are so advised that a judge may write articles on legal topics for publication in newspapers. However, the judge must avoid writing any articles which would likely lead to the judge's disqualification or impair the judge's impartiality. A judge may receive reasonable compensation for the activity provided the payment does not give the appearance of influencing the judge or any appearance of impropriety.

**This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Judicial Conduct. This opinion does not address any statutory or constitutional provision which may apply.**