

Judicial Inquiry Commission

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April 3, 1990

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge or justice, who authors a treatise on Alabama law or court rules, may be identified as a judge or justice either on the cover of the book or on the advertising for the book to be sold commercially. Since in Advisory Opinion 86-278 the Commission advised that the writing and marketing of such a legal treatise was permitted under Canons 4 and 5 of the Alabama Canons of Judicial Ethics, the specific question presented here is whether in marketing the treatise the judge or justice may be identified in his official capacity and whether the marketing brochure is consistent with the Canons.

It is the opinion of the Commission that the identification of the author of a legal treatise as a judge or justice does not violate the Alabama Canons of Judicial Ethics whether such identification occurs on the cover of the book or the marketing brochures. It is further the opinion of the Commission that a marketing brochure for such a treatise should contain only factual information. In marketing the treatise the judge should, however, remain mindful of the provisions of Canon 5C(l) as follows:

“(1) 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.”

The mere identification of the judge or justice in his official capacity in this instance does not “exploit his judicial position.”

Further, in examining the proposed marketing brochure, it appears that the brochure for the most part merely states factually the assistance provided to lawyers in the treatise. However, there is in the brochure a characterization of the treatise as presenting “Expert Guidance on the New Rules.” This reference goes beyond a mere factual statement and as a marketing tool appears to characterize the judge as an expert in the area. As a characterization, it should not be used by the judge.

Sincerely,

JUDICIAL INQUIRY COMMISSION