

California Judges Association  
**OPINION NO. 28**

(Originally issued: April 23, 1983)

**APPEARANCE ON PUBLIC TELEVISION PROGRAM**

**AUTHORITY:** Canons 2B, 3B(9), 4A(1), 4B, 4D(2), 4H(1)

**I. Background**

A judge has asked to appear on public television as a host moderator for a twelve week, hour long program entitled "Legally Speaking." Each week a different panel of three attorneys, certified as specialists by the local bar association, will answer questions (on a selected subject of the law) called in by viewers and screened and asked by the judge; the attorney panelists are to be selected by the bar association without any participation nor prior approval of the judge-moderator.

The judge's function will be to announce the questions propounded to the panel and invite a response from members of the panel. The judge will not appear in judicial robes, nor in a courtroom setting, but will be introduced at the commencement of the program by title, i.e., Judge. The judge's function is to screen and facilitate the answering of questions on nonspecific areas of the law, and does not encompass the judge making any authoritative pronouncements concerning the responses of the attorney-panelists.

The program will be funded by a grant from a law book publishing company. The program will be aired on public education television and, therefore, is not commercially sponsored; however, an announcement common to public television, such as, "This program is/was made possible by a grant from e.g., Bancroft-Whitney," may be made at the commencement and conclusion of the program.

**II. Question**

May a judge appear on public television as a host moderator of a program funded by a commercial sponsor?

**III. Answer**

Yes.

**IV. Discussion**

The Ethics Committee of the California Judges Association is of the opinion that such participation by a judge does not violate any of the canons of the California Code of Judicial Ethics as long as the judge acts in a manner which promotes public confidence in the integrity and impartiality of the judiciary. However, we believe the following factors should be considered with regard to such participation.

**1. Promotion of a Commercial Product**

Since the program is not commercially sponsored, it should not be susceptible of appearing that the power and prestige of the judicial office is being utilized to promote a business or commercial product. The announcement at the commencement and conclusion of the program that a particular profit motivated business entity has donated funds to make this public service program possible does not appear

to be in violation of Canon 4D(2). Such quasi-judicial activity is not participating in a “business venture or commercial advertising that ...[would] otherwise lend the power or prestige of his or her office to promote a business or commercial venture.”

It is common knowledge that production of even the most modest of television programs requires considerable financial backing, and but for that contribution would not be possible. The Committee finds that the public benefit is sparking interest in the law, educating prospective clients on certain areas of interest, and presenting the law in a dignified and professional setting and far outweighs any remote possibility present here that the judge will be perceived as a salesman for those making the grant; the judge will not announce the grant nor be identified personally with the grantor’s product.

In finding that such participation by a judge does not bring him or her in conflict with judicial duties, we are not unmindful of our previous opinion rendered January 11, 1958, regarding a judge appearing in “Traffic Court.” (See Opinion No. 10.)

However, we distinguish “Legally Speaking” from “Traffic Court” in several particulars. The prestige of judicial office is not nearly so clearly present in “Legally Speaking.” Absent are judicial robes, an authentic courtroom setting, and a format which portrays the judge as much a judge on the screen as in performing official duties. The judge’s participation here cannot reasonably be interpreted as giving “official judicial approval of the reliability of the sponsor and the quality of its product” which we condemned in “Traffic Court.”

We consider herein only the extent of proposed judicial involvement with a commercial product. Since we are not informed of the actual sponsor, we recommend only that it be in good taste and of high class.

## 2. Compensation

Since the judge’s compensation will not exceed that which a non-judge performing the role would receive, there is no violation of Canon 4H(1).

## 3. Impropriety

Since the judge has no control over, nor participation in, the selection of the lawyer panelists, the judge is not lending the prestige of the judicial office to advance the private interest of others in violation of Canon 2B. In order to insure that the program does not convey the impression to viewers that the panelists are in a special position to influence the judge, an announcement at the commencement outlining the procedure for selection of the panelists by the local bar association is recommended.

## 4. Impartiality

While a host judge should abstain from public comment concerning pending or impending proceedings in any court,<sup>1</sup> we do not understand the participation here to involve lengthy and frequent pronouncements on a level which might reasonably be construed by the public as authoritative or binding on other courts and judges. The judge’s role here is not to decide which panelist is correct, but rather to facilitate an interesting and lively discussion and perhaps thereby to emphasize the vitality of the law. Such participation does violate Canon 3B(9), but seems to implement it, since that canon specifically permits a judge to explain “...for public information the procedures of the court.”

---

<sup>1</sup> Canon 3B(9).

Further, since the judge will not be rendering decisions, pronouncing judgments or imposing sentences, the judge's participation cannot reasonably be interpreted as precedent or binding on other judges – a procedure we condemned in “Traffic Court.”

We are mindful that the canons encourage a judge to participate in extra-judicial activities so long as that participation does not detract from the dignity of the office or interfere with the performance of judicial duties (See Canons 4A(1), 4B and Commentaries thereto). Further, Canon 4B specifically permits a judge to participate “... in activities concerning legal and nonlegal subject matters, subject to the requirements of this Code.” A judge may participate in such activities so long as no doubt is cast upon the judge's capacity to decide impartially any issue that may come before the court (Canon 4A(1)).

This opinion is advisory only. The Committee acts on specific questions submitted and its opinion is based on facts as set forth in the questions submitted.

COMMITTEE ON JUDICIAL ETHICS

April 23, 1983