

Opinion 12
Spring 1948
18 Baylor L. Rev. 198 (1966)

ARTICLES ON LEGAL SUBJECTS - NEWSPAPERS - MAGAZINES - TRADE JOURNALS

An attorney may write and sell for publication articles of a general nature on legal subjects for newspapers, magazines, or trade journals, provided he does not advise inquirers in respect to their individual rights.

ADVERTISING - FREE LEGAL ADVICE TO SUBSCRIBERS

An attorney may not allow his name to be carried in a magazine or other publication representing that he is an attorney for a named organization and will furnish free legal advice to its members.

Canon 37. A.B.A. Canon 40.

QUESTION

"Whether or not a lawyer's writing a feature weekly letter upon common place law matters in which the public generally is interested for the newspapers to carry and pay a compensation to the lawyer, would be unethical. In other words, would such be considered a solicitation of business or improper advertising or, on the contrary, would it be treated as the writing and selling of such service as in the nature of the writing and selling of law books?"

OPINION

Canon 37, which is substantially the same as Canon 40 of the American Bar Association, and Opinions 92 and 162 of the opinions of the Committee on Professional Ethics and Grievances of such association, adequately cover and answer the foregoing question. Such Opinions 92 and 162 are hereby adopted as the opinion of this Committee applicable to Canon 37; which opinions read as follows:

Opinion 92: "An attorney of the Atlanta Bar seeks the opinion of the committee as to the propriety under ethical standards of the American Bar Association, of his writing, signing and selling to periodicals of general circulation articles of a general nature upon legal subjects. Canon No. 40 of the Canons of Professional Ethics expressly recognizes the practice as proper with the qualification that 'he should not accept employment from such publications to advise inquirers with respect to their individual rights.' Since the articles are to be of a 'general nature,' we assume they will not come within the exception to Canon 40; that they will constitute dignified and instructive treatment of the law, its history, philosophy and interpretation. Within the bounds indicated, the contemplated activity is entirely proper."

Opinion 162: "A trade magazine, in soliciting subscriptions from persons engaged in the business to which it related, stated that it operated a Legal Advice Service Department under the direction of the country's leading authority in the field of law pertaining to that business, in order to help its subscribers in solving their legal problems. It invited all subscribers to submit their questions to it, stating that the specialist would give subscribers the benefit of his advice free. It also stated that he contributes a monthly article to the magazine dealing with those phases of the law with which men in that particular business are continuously coming in contact, which service alone is worth many times the \$3.00 subscription price and might easily save one engaged in the business hundreds of dollars."

A member of this Association inquires whether the attorney is guilty of unethical conduct in furnishing advice to the subscribers of this magazine or in writing the article for its pages, it being assumed that for each he is paid by the magazine.

There is no ethical or other valid reason why an attorney may not write articles on legal subjects for magazines and newspapers. The fact that the publication is a trade journal or magazine, makes no difference as to the ethical question involved. On the other hand, it would be unethical and contrary to the precepts of the canons for the attorney to allow his name to be carried in the magazine or other publication in the manner indicated in the foregoing statement, as a free legal adviser for the subscribers to the publication. Such would be contrary to Canons 27 and 35 and opinions heretofore announced by the Committee on Professional Ethics and Grievances. (See Opinions 31, 41, 42 and 56.)" (6-1)