

# DELAWARE STATE BAR ASSOCIATION

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October 5, 1979

Kenneth R. Abraham, Esquire  
24 The Green  
Dover, Delaware 19901

Dear Mr. Abraham:

You have asked the Professional Ethics Committee of the Delaware State Bar Association whether it would be unethical if you wrote a periodic column in a newspaper of general circulation which was "either a question and answer format, in which readers are invited to submit general questions of law, or the presentation of a hypothetical situation and the solution, or an explanation of general legal procedures in various courts in Delaware, or a combination thereof".

You ask whether such a column would be a breach of ethics.

### OPINION

A column such as you describe would not be a breach of ethics.

### DISCUSSION

Former Canon 40 read:

"A lawyer may with propriety write articles for publications in which he gives information upon the law, but he should not accept employment from such publications to advise inquirers in respect to their individual rights."

Kenneth R. Abraham, Esquire  
October 5, 1979  
Page Two

The Professional Ethics Committee of the American Bar Association has rendered a number of opinions interpreting Canon 40. In Informal Opinion No. 538, the Committee advised that:

"It is not unethical for an attorney to contribute monthly articles on practical questions of law to non-legal publications if the articles are of a general nature and constitute dignified and constructive treatment of the law, its history, philosophy and interpretation."

In Informal Opinion No. 743, the Committee advised:

"A lawyer may write articles for publication in lay papers explaining holdings of any dissenting opinions and decisions handed down by the U.S. Supreme Court. The attorney's name may be given, but no picture should be used and his office address should not be given."

Finally, in Informal Opinion No. 1198, the Committee advised that:

"The Code of Professional Responsibility does not contain a Disciplinary Rule expressly prohibiting a lawyer who writes for publication from identifying himself as a lawyer or as a member of the Bar of a particular state. This is true whether the lawyer writes for a legal periodical or for a newspaper or magazine or for the general public, although additional identifying information may be included in the former as it goes only to members of the profession. Thus a lawyer is not subject to discipline under the Code merely because he is identified in connection with any article, as a lawyer or as a member of the bar of a particular state, as this identification serves to validate the information

Kenneth R. Abraham, Esquire  
October 5, 1979  
Page Three

contained in the article. Any other identification, however, in an article published in a newspaper or magazine of general circulation would be superfluous and might be construed as advertising.

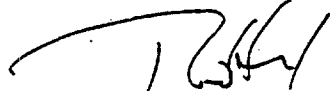
"We caution you additionally, that the Ethical Considerations advise a lawyer to shun personal publicity in connection with articles prepared for lay publication. This is sound advice for all lawyers. But is particularly sound advice for a lawyer in private practice, in that a lawyer is subject to discipline under DR2-104(A)(4) if he accepts employment that can be traced to advice he gave to a lay reader in an article in connection with which his own professional experience or reputation was emphasized."

References in the ABA Informal Opinion were to EC2-2, EC2-5 and DR2-104(A)(4).

I hope that this information which seems to be precisely on point for your problem will be of assistance and guidance to you.

Since this matter does not appear to be one in dispute, I am not asking for a consensus of the Committee on Professional Ethics.

Very truly yours,



Rodman Ward, Jr.  
Chairman, Professional  
Ethics Committee

RW/sm

cc: Members of the Professional  
Ethics Committee