Committee on Codes of Conduct
Advisory Opinion No. 55

Extrajudicial Writings and Publications

This opinion considers the topic of extrajudicial writing and publishing. We consider two particular aspects of this issue: (1) the propriety of a judge writing about cases that the judge has heard; and (2) the extent of permissible advertising of the judge's publications. While it is difficult to prescribe precise guidelines, the following factors are worthy of consideration by a judge contemplating these endeavors. If after consideration of these factors a judge remains uncertain about the propriety of a particular action, the Committee stands ready to answer specific inquiries.

Writing Generally

As a general matter, the Code of Conduct for United States Judges advises that a "judge may . . . write . . . on both law-related and nonlegal subjects." Canon 4. Indeed, the Commentary to Canon 4 notes that "[a]s a judicial officer and a person specially learned in the law, a judge is in a unique position to contribute to the law, the legal system, and the administration of justice . . ." The Code's authorization for extrajudicial writing, however, is subject to various limitations. Canon 4 imposes the general caveat that "a judge should not participate in extrajudicial activities that detract from the dignity of the judge's office, interfere with the performance of the judge's official duties, reflect adversely on the judge's impartiality [or] lead to frequent disqualification . . . " Canon 4G restricts the use of court resources to undertake extrajudicial writing, instructing that a "judge should not to any substantial degree use judicial chambers, resources, or staff to engage in extrajudicial activities permitted by this Canon."

Regarding compensation for extrajudicial writing, Canon 4H states: "A judge may accept compensation and reimbursement of expenses for the law-related and extrajudicial activities permitted by this Code if the source of the payments does not give the appearance of influencing the judge in the judge's judicial duties or otherwise give the appearance of impropriety . . ." The Code, however, restricts this allowance in the following ways: (1) compensation must be reasonable and not exceed what a non-judge would receive for the same activity; (2) expense reimbursement should be limited to the actual costs reasonably incurred by the judge, and, where appropriate to the occasion, by the judge's spouse or relative; excess payments should be treated as gifts or compensation and not expense reimbursement; and (3) the judge should file the required financial disclosures. Canon 4H(1)-(3).

Writing About Cases the Judge Has Heard

A judge must exercise special caution when writing about a case the judge has heard. To start, a "judge should not make public comment on the merits of a matter pending or impending in any court." Canon 3A(6). However, "the prohibition on public comment on the merits does not extend to public statements made in the course of the judge's official duties, to explanations of court procedures, or to scholarly presentations made for purposes of legal education." *Id*. The Commentary to Canon 3 elaborates on the public comment restriction:

The admonition against public comment about the merits of a pending or impending matter continues until the appellate process is complete. If the public comment involves a case from the judge's own court, the judge should take particular care so that the comment does not denigrate public confidence in the judiciary's integrity and impartiality, which would violate Canon 2A. A judge may comment

publicly on proceedings in which the judge is a litigant in a personal capacity, but not on mandamus proceedings when the judge is a litigant in an official capacity (but the judge may respond in accordance with Fed. R. App. P. 21(b)).

Commentary to Canon 3A(6).

The Committee offers these additional suggestions, which are not intended to be comprehensive. When writing about a case the judge has heard, even after final disposition, the judge should be especially careful to avoid the potential for exploitation of the judicial position. If referring to a criminal case, the judge should consider whether the comments might afford a basis for collateral attack on the judgment. A judge must avoid writings that are likely to lead to disqualification. In every case, the judge should avoid sensationalism and comments that may result in confusion or misunderstanding of the judicial function or detract from the dignity of the office. Finally, the judge should consider the language, intent, and spirit of the entire Code when deciding to write about a case handled by the judge.

Advertising

The judge should, as far as possible, make certain that advertising for the judge's publications does not violate the language, spirit, or intent of the Code. A judge should be particularly careful to comply with Canon 2B, which, in part, counsels against lending the prestige of the judicial office to advance the private interests of the judge or others. To that end, in contracting for publication it would be advisable for a judge to retain a measure of control over the advertising (including the right to veto inappropriate advertising), so that the advertising does not exploit the judicial position or use the prestige of the judge's office to advance the private interests of the judge or others.

June 2009

Committee on Codes of Conduct
Advisory Opinion No. 87

Participation in Continuing Legal Education Programs

The Committee regularly receives inquiries from judges concerning various forms of participation in continuing legal education (CLE) programs and the impact of the Code of Conduct for United States Judges, together with various statutory and regulatory provisions, on such participation. This opinion summarizes the Committee's views concerning the ethical implications of judicial participation in such programs, and sets out important caveats at the end of the opinion. In Advisory Opinion No. 105, the Committee addresses judges' participation in private law-related training programs *other* than those offered by CLE providers, accredited institutions, and similar established educational providers. The caveats at the end of this opinion are equally applicable to Advisory Opinion No. 105.

In general, under Canon 4, judges are permitted to teach and write, and to receive compensation and reimbursement of expenses for doing so: "A judge may accept compensation and reimbursement of expenses for the law-related and extrajudicial activities permitted by this Code if the source of the payments does not give the appearance of influencing the judge in the judge's judicial duties or otherwise give the appearance of impropriety . . ." Canon 4H. Judges are not, however, permitted to accept honoraria, defined as including payment for a personal appearance, speech, or article. *See* 5 U.S.C. App. § 501(b); § 505(3)-(4); *Judicial Conference Regulations On Outside Earned Income, Honoraria, and Outside Employment* § 4(b); *Guide to Judiciary Policy*, Vol. 2C, § 1020.30 ("Regulations").

The Regulations make clear that "participation in continuing legal education programs for which credit is given by licensing authorities or programs which are sponsored by recognized providers of continuing legal education" constitutes teaching activity for which compensation (and reimbursement of expenses) may properly be accepted, and that such compensation is not prohibited honoraria. Regulation § 5(b). *See also* Regulations § 4(b)(2); 5 U.S.C. App. § 505(3)-(4).

It is, of course, necessary for the judge to obtain advance approval from the chief judge of the circuit before engaging in such teaching activity. Regulation § 5(c)-(d). Additionally, the normal restrictions on extrajudicial compensation and reimbursement of expenses apply, including: the compensation must be reasonable in amount and no greater than a similarly situated non-judge would receive for the same service; the 15% cap on "outside earned income" is applicable to the compensation paid; expense reimbursement should be limited to the actual costs of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or relative; any additional payment is treated as compensation; and the payment must be included in the judge's annual financial disclosure report. *See* Canon 4H; Regulation § 3.

Judges are permitted to receive separate or additional compensation for preparing written instructional materials for use in CLE programs. Ordinarily, such payments constitute compensation for teaching activities, rather than a sale of intellectual property or receipt of a royalty, and therefore such payments fall within the 15% "outside earned income" limitation. There may, however, be situations involving a CLE program and the sale of copyrighted material where the sale of intellectual property may not be considered as producing "outside earned income." The Regulations permit judges to receive "[r]oyalties, fees, and their functional equivalent, from the use or sale of copyright . . . received from established users or purchasers of those rights." Regulation § 3(b)(5). In addition, the Regulations permit judges to

exclude such sums from the computation of the annual "earned income" cap. Id. (The Committee notes that it is authorized to address inquiries from judges regarding whether income is properly treated as "outside earned income" or excluded royalty income for purposes of the regulations. Regulation § 6.)

Avoiding Improper Exploitation of Judicial Office

The Code bars a judge from lending the "prestige of the judicial office to advance the private interests of the judge or others . . ." Canon 2B. Thus, a "judge should be sensitive to possible abuse of the prestige of office." Commentary to Canon 2B. This caution applies to a judge deciding whether to participate in a CLE program.

The Committee believes that a judge who, when writing or teaching, utilizes the special insights derived from his or her judicial experience is not engaging in improper exploitation of the judicial office if the subject is not principally concerned with the specific court on which the judge sits.

A judge who writes on a legal topic or teaches in the field of law inevitably draws to some degree upon his or her experience as a judge. This is unavoidable if judges are to write and teach as the Code encourages them to do. See Commentary to Canon 4 ("Complete separation of a judge from extrajudicial activities is neither possible nor wise; a judge should not become isolated from the society in which the judge lives. As a judicial officer and a person specially learned in the law, a judge is in a unique position to contribute to the law, the legal system, and the administration of justice, including revising substantive and procedural law and improving criminal and juvenile justice."). And, as noted earlier, the Code expressly approves the receipt of reasonable compensation for permissible scholarly activity. But the Committee believes that there is a distinction between a judge's writing or teaching for compensation when the subject matter is how to practice before the judge's own court, and writing or teaching for compensation on other legal topics with respect to which the judge does not occupy a unique position by virtue of his or her own particular judgeship. The "unique position" mentioned in the Commentary to Canon 4 means the judicial position in general, rather than the particular judgeship of that particular judge.

For a judge to derive financial benefit, over and above the judicial salary, from the publication and sale of a book about his or her own court, or from participation in a seminar on the same topic, would constitute exploiting the judicial position for financial gain. It could also permit others–the publisher of the book, the sponsor of the seminar–to benefit from the judge's exploitation of his or her judicial position. When the subject matter is so limited, there is the likelihood that a lawyer practicing in that court could reasonably believe that purchase of the publication, or attendance at the seminar, is endorsed or expected by the judiciary.

In short, it is the Committee's view that it is inappropriate for a judge to sell his or her expertise on the idiosyncrasies of practice before that particular court. This does not mean that a judge cannot lecture or write on that subject, only that the judge may not properly do so for compensation. Nor does this mean that a judge who is lecturing or writing for profit about some aspect of legal practice or procedure is foreclosed from giving illustrations from his or her own experience on the court, only that a judge may not charge for giving a lecture or writing a book where the principal focus is how to practice before the judge's court and where, as a necessary result, a substantial part of the value and appeal to the audience arises from the fact that the lecturer or author is an "insider."

Limitations on Uncompensated Teaching or Writing

As stated above, when a judge's teaching or writing focuses upon the ins-and-outs of practice before that judge's court, his or her particular judicial position is being exploited, to some extent. It is therefore improper for the judge to receive compensation for such activities, because to do so would be to exploit the judicial office for his or her own private gain. By the same token, when the sponsoring entity of the seminar or course is a private individual or a for-profit entity, the judge could be said to be exploiting the judicial position for the private benefit of the sponsor, irrespective of whether the judge is being compensated. See Advisory Opinion No. 105 ("Participation in Private Law-Related Training Programs"). With the caveats noted below, where the sponsoring organization is a law-related non-profit entity, however, these restrictions do not normally apply: Canon 4 permits judges to assist in the activities of law-related entities, including to a limited degree their fund-raising activities, so long as the judge does not personally participate in fund-raising activities. Hence, there is no ethical impediment to a judge teaching or writing about the practices of his or her own court, if the sponsor is a law-related non-profit entity, provided the judge does not accept compensation for doing so and the judge's presentation is not essentially a fund-raising mechanism. In such a circumstance, the judge may accept reimbursement of expenses, but not compensation, from the law-related non-profit entity.

In summary, it is permissible for judges to engage in teaching and writing, including participating in CLE seminars, and to accept compensation for doing so, unless the subject matter primarily relates to practice before the judge's own particular court. When the subject matter is thus focused, a judge may participate only if no compensation is accepted, and only if the sponsoring organization is a non-profit entity.

It is the continuing obligation of the participating judge to monitor any promotional activities associated with his or her participation to ensure that no improper exploitation of judicial office occurs. *See* Advisory Op. No. 55 ("Extrajudicial Writings and Publications").

Important Caveats

Canons 2A and 2B of the Code are concerned with (1) preserving the appearance of impartiality, (2) prohibiting the lending of a judge's prestige to advance the interests of others, and (3) avoiding the impression that others are in a position to influence the judge. Thus, even though Canon 4 encourages judges to assist with legal education, the Committee has previously applied Canon 2 principles to participation in legal training programs, whether such programs offer CLE credit or not and whether the sponsor is a "for-profit" or "non-profit" entity.

In other words, merely because a provider offers CLE credit or is a "non-profit" entity does not eliminate the requirement that a judge determine whether his or her participation runs afoul of Canon 2. The following four examples illustrate how Canon 2 concerns may override the general desirability of judicial participation in the education of lawyers.

1. Example 1. The way in which seminars are marketed is important when considering whether Canon 2 trumps Canon 4 regarding judicial participation in seminars providing CLE for lawyers. For example, the Committee has advised against judicial participation in a CLE seminar, even though the judge would not be compensated, where the seminar exhibited in varying degrees all of the following characteristics: (a) the seminar focused on specialized litigation topics (for

example, employment discrimination litigation, ERISA litigation, or asbestos claims) and required the payment of substantial fees in order to attend; (b) the seminar was aggressively marketed by a for-profit provider using marketing materials that highlighted the judge's participation (sometimes including photographs of the judge in marketing materials) to the exclusion of other speakers; (c) the seminar marketing materials suggested that participants would obtain special or exclusive access to the judge; (d) the seminar marketing materials described judicial participation in non-neutral terms, suggesting that the judge's participation would help attendees be more effective in court; and (e) seminar attendees were predominantly lawyers with a particular orientation (for example, members of the defense bar). Considering all these factors together, the Committee concluded that judicial participation in such a seminar could lead a reasonable person to question the judge's impartiality, to believe that the judge is biased in favor of defendants, and to conclude that the judge's prestige had been lent to advance the interests of the seminar sponsor or attendees. The Committee concluded that the special nature of the seminar and the privileged ability to learn helpful litigation tactics also suggested to a reasonable person that the sponsor or the attendees may be in a special position to influence a participating judge.

2. Example 2. In another "marketing" inquiry, the Committee recommended against judicial participation in a seminar (a) where the fees charged for attendance were likely to be substantially in excess of the direct cost of providing CLE credit to the seminar attendees; (b) where the marketing materials used by the sponsor prominently featured the biographies and photographs of the judges; (c) where the marketing materials suggested that participants would obtain special or exclusive access to the judges; and (d) where the seminar focused on the judges' courtroom practices. The Committee reasoned that when seminar marketing materials imply that a judge will give special access to a limited group of lawyers on matters pertaining to that particular judge's courtroom practices, and when lawyers pay a substantial fee to a third party to participate in the seminar, then the judge cannot be said to have avoided the appearance of impropriety. Rather, under those circumstances, it can be said that a judge has lent the prestige of his or her office to the sponsor by participating. In the foregoing example, the Committee recommended against participation even though the judges were to receive no compensation and even though the sponsor might have been a "non-profit" entity.

3. Example 3. As suggested by the preceding example, the fact that a sponsor is denominated a "non-profit" organization does not mean that the Committee automatically will treat the sponsor as a non-profit organization for purposes of applying Canon 2 of the Code of Conduct. Thus, if a seminar provider offering CLE credit (a) acts as if it is a private business when it offers seminars in which judges participate by aggressively emphasizing judicial participation as a marketing mechanism and (b) charges fees that are likely to be substantially in excess of the direct cost of providing CLE credit to seminar attendees, the Committee will consider the sponsor to be a "for-profit" entity without regard to its precise corporate or tax status.

4. Example 4. The involvement of lawyers from a single law firm in conjunction with a seminar providing CLE credit and offered by a separate third-party sponsor has caused the Committee to question the propriety of judicial participation. Thus, even though the judges were to receive no compensation, where (a) members from one law firm solicited judges to participate in a seminar offered by a separate provider; (b) those same law firm members were scheduled to serve as

the sole seminar moderators; and (c) the seminar was focused on practice in those particular judges' courtrooms, the Committee recommended against judicial participation. The Committee believed that a reasonable person could conclude that the law firm was in a special position to influence the judges.

September 2010

Committee on Codes of Conduct
Advisory Opinion No. 105

Participation in Private Law-Related Training Programs

In Advisory Opinion No. 87, the Committee provides guidance about judges' participation in continuing legal education programs and sets forth important caveats at the end of that opinion. This opinion focuses on judges' participation in private law-related training programs *other* than those offered by CLE providers, accredited institutions, or similar established educational providers. The caveats in Advisory Opinion No. 87 are equally applicable to the issues discussed here, and, although not repeated below, should be read in conjunction with this opinion.

The law-related training programs considered in this opinion include varied programs of instruction on trial and appellate advocacy, judicial procedure, and substantive law. Programs of this nature are offered to a select audience of attorneys and/or litigants, and are designed to improve attendees' legal skills or performance in judicial proceedings. However, the training in question is not offered by established educational providers (such as universities, law schools, and CLE firms) and is not available to a broad spectrum of attendees; rather, it is offered by entities seeking to train their own employees, clients, or associates. This opinion summarizes the Committee's earlier advice and discusses ethical issues that judges should consider before accepting an invitation to participate in such programs[1].

Invitations to participate in private law-related training programs should be distinguished from the array of invitations judges may receive to provide law-related education, for outreach to the public, or to maintain relations with the bar. For example, judges may be asked to speak to students, to welcome new bar members, to address bar association meetings and international conferences, or to offer general remarks to gatherings of civic or community groups. Events of this nature do not generally involve providing instruction and training on matters of legal advocacy or substantive law and procedure. The Commentary to Canon 4 of the Code of Conduct for United States Judges specifically encourages judges' participation in such opportunities because judges are "in a unique position to contribute" to programs dedicated to improving the law and promoting public understanding of the legal system. Judges may participate in public outreach of this nature so long as they avoid concerns about improperly lending the prestige of their office under Canon 2.

Participation in private law-related training programs implicates several provisions of the Code. Canon 2 advises judges to act with integrity and impartiality and counsels against lending "the prestige of the judicial office to advance the private interests of the judge or others . . . ." Canon 4A states that a "judge may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice." The Commentary to Canon 4 encourages judges to participate in law-related activities, either independently or through bar associations and other organizations, reflecting a recognition of the special contributions judges may make to the improvement of the law and the administration of justice. Canon 4D(1) mandates that a judge should "refrain from financial and business dealings that exploit the judicial position or involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves." When speaking to an audience that predominantly includes attorneys or clients on one side of litigation, a judge should be mindful of not giving advice that would favor or assist that audience at the expense of their litigation adversaries to avoid an appearance of bias that could arise contrary to Canon

2A. A judge speaking to such an audience must be equally available to address the other litigation constituency.

The Committee has relied on several interrelated factors to distinguish permissible from impermissible law-related training activities. Because judges are invited to participate in such a broad range of programs—involving diverse sponsors, audiences, and subject matter—it is difficult to draw bright line rules in this area. This opinion focuses on situations in which the Committee has expressed caution, or alternatively, programs that generally do not raise ethical concerns. In general, the factors that may affect a judge's decision as to the propriety of participation in a law-related training program include:

1. (1) the sponsor of the training program;
2. (2) the subject matter;
3. (3) whether there is a commercial motivation for the program;
4. (4) the attendees, including whether members of different constituencies are invited to attend; and
5. (5) other factors, including the location of the program and advertising or promotion of the event.

Below we discuss these factors in the context of specific types of programs.

Programs Sponsored by a Law Firm or Legal Department

Law-related training programs sponsored by law firms or business legal departments raise concerns on several levels. First, participation by a judge in a law firm's training program for its attorneys, or a similar program offered by a business legal department for in-house attorneys, provides direct assistance to a particular law firm or business entity in violation of Canon 2B. Involvement in such a program can create the impression of a special relationship between the judge and the sponsor—that the judge wishes to do the sponsor a favor, that the sponsor wishes to do the judge a favor, or that the firm or business entity has some special influence that enables it to enlist the judge's support for its private training programs. This can also be viewed as lending the prestige of judicial office to a private interest. Based on these same concerns, the Committee advised against participation in an educational program for in-house lawyers sponsored by a private, for-profit corporation. *See also* Advisory Opinion No. 87 [including "Important Caveats,"] Example 4 (the Committee questioned the propriety of judicial participation where there was significant involvement of lawyers from a single law firm in the organization and presentation of a seminar offering CLE credit to anyone willing to pay a fee to a separate third-party sponsor).

The location of the training program is also an important consideration. For example, a judge's participation in private educational programs that are held at the offices of attorneys appearing before the judge, and that are closed to other members of the bar, creates an appearance of a special relationship, favoritism, or partiality.

As with any commercial, for-profit activity, judges should avoid participating in law firm and legal department training activities that improperly exploit the judicial position or lend the prestige of judicial office to advance private interests. For example, judges are advised to refrain from teaching at for-profit

programs about "the ins-and-outs of practice before that judge's court." *See* Advisory Opinion No. 87 ("Participation in Continuing Legal Education Programs"). Judges also should take steps to ensure that their names or positions are not exploited in advertising or used as an endorsement of the law firm or business sponsor. *See* Advisory Opinion No. 55 ("Extrajudicial Writings and Publications"); *see also* Advisory Opinion No. 87, [including "Important Caveats,"] Examples 1 & 2.

Business-related Programs

Requests to speak at seminars sponsored by consulting firms or other business entities raise concerns under Canon 2B regarding lending the prestige of office. While not ruling out altogether judicial participation in such circumstances, the Committee recommends a variety of checks on both the judge's and the sponsor's activities to limit the possibility that the judicial office will be improperly exploited.

When a program is sponsored by a business entity, a judge should consider whether the program is designed to promote the sponsor's business services to current or prospective clients, and whether the program is presented in a way that suggests that the participating judge has endorsed the sponsor's services. The Committee has advised that the judge may properly participate in a business program where the judge's appearance, and the program's brochures, do not imply an endorsement by the judge. In contrast, a judge's participation in a conference intended to attract litigators and sponsored by a group that provides witnesses for court proceedings strongly implicates the concern that the prestige of the judicial office is being employed to benefit a commercial endeavor. For similar reasons the Committee has advised against speaking at a program on discovery issues hosted by a for-profit company offering discovery services, where the company marketed its services in part through the training program.

Seminars sponsored by for-profit educational providers that are open to attendees for a fee present differing considerations. As noted above, it is inappropriate for a judge to sell his or her expertise about the local rules and practices of the judge's own court by lecturing on this topic at a program sponsored by a for-profit entity. But judges may lecture on other topics. For example, the Committee found no impropriety in a judge's lecture at a seminar sponsored by a for-profit entity on a law-related subject of interest to attorneys and lay persons alike, provided that the judge avoided exploitation of the judicial office in the advertising and promotional materials. Similarly, the Committee advised that a judge could properly speak at a for-profit program for corporate and government attorneys on topics unrelated to the operations of the judge's court.

The Committee cautions judges to remain vigilant that the organizers of business-related programs do not exploit judicial participation by overemphasizing judges' participation, either in promotional materials for the event or by otherwise implying that the participating judge endorses the sponsor's commercial activities. It is therefore inadvisable for judges to provide blanket authorization to sponsors to use their names, positions, or likenesses for advertising and marketing purposes. Judges have a continuing obligation to monitor promotional activities associated with their participation in such programs to ensure that no improper exploitation of judicial office occurs. *See* Advisory Opinion No. 87, [including "Important Caveats,"] Examples 1 & 2.

Programs sponsored by a bar association or other nonprofit entity

Bar associations and other nonprofit entities on occasion offer law-related educational programs that are not part of a CLE curriculum (as noted above, CLE programs are addressed in Advisory Opinion No. 87). These programs raise fewer concerns than those sponsored by for-profit entities, mainly because the sponsors do not have a commercial motivation and the programs are generally open to a broad audience. The Commentary to Canon 4 specifically encourages judges to participate in law-related activities such as those sponsored by bar associations. Bar association training programs offer valuable opportunities for judges to share their experience and expertise with the legal community by making themselves available to a large and diverse group of practitioners. Accordingly, the Committee has advised that a judge could properly participate in a law-related forum sponsored by a not-for-profit civic organization and open to the public, even though the organization charged admission to defray its costs.

However, not all nonprofit groups have the same characteristics. Thus, there will be instances when the precise corporate or tax status of an entity must be disregarded for ethical purposes. See, e.g., Advisory Opinion No. 87, [including "Important Caveats,"] Example 3 (a nonprofit entity will be treated as a for-profit entity when offering CLE credit if that seminar provider (a) acts as if it were a private business by aggressively emphasizing judicial participation as a marketing mechanism and (b) charges fees that are likely to be substantially in excess of the direct cost of providing CLE credit to the seminar attendees). Moreover, a judge's participation in a training program that will only benefit a specific constituency, as opposed to the legal system as a whole, cannot be characterized as an activity to improve the law within the meaning of Canon 4. For example, judge participation in legal training offered by an issue-specific advocacy group that appears regularly in the judge's court may be perceived as lending the prestige of the judicial office to advance the interests of the group.

Note for Advisory Opinion No. 105

[1]Judges who participate in the select programs addressed in this opinion should be aware that such law-related training activities (other than accredited teaching and CLE) generally do not constitute "teaching" for which compensation may be accepted (with proper approval). That is, compensation (beyond reimbursement for actual expenses) for such programs would instead likely constitute a prohibited "honorarium" under the *Judicial Conference Regulations On Outside Earned Income, Honoraria, and Outside Employment; Guide to Judiciary Policy*, Vol. 2C, Ch. 10 ("Regulations"). *Compare* Regulations § 4 (defining "honorarium") *with* § 5(b) (defining "teaching").

September 2010