

Nebraska Judicial Ethics Opinion 06-2

Questions Presented--

- (1) Should the court be an instrument for providing brochures, pamphlets, and other informational literature for the elderly?*
 - (2) If so, should the court limit the display of such information to nonprofit, public service types of organizations, or can the court allow the display of for-profit organizations?*
 - (3) If so, should the court prominently display some sort of disclaimer clearly establishing the message that the court is not advocating for any of the organizations whose brochures are displayed or any of the services advertised by those organizations?*
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Conclusion

Advertisements unrelated to the judicial process, of either an educational or promotional nature, should not be displayed near the courtroom as they advance private interests and convey an impression of influence.

Statement of Facts

A county court judge recently affixed racks to the walls of the hallway in the court's probate division. The racks have since been filled with informational brochures and advertisements for both commercial products and services, all aimed at the elderly population. Examples of such pamphlets and brochures include information from nonprofit organizations on how to cope, advertisements for nursing homes and hospice centers, commercial advertisements for automobile companies which sell vehicles that accommodate the aging population, various medical supplies, and magazines.

Much of the information and material displayed is public service in nature; however, concerns were raised as to whether the court was an appropriate location for such materials as they may convey an inappropriate association with nonjudicial organizations.

Applicable Code Sections

Neb. Code of Jud. Cond., Canon 2

Canon 2 states, "A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities." Section B elaborates, stating in part, "A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression they are in a special position to influence the judge."

Discussion

The Code forbids the court from lending the prestige of the judicial office in order to advance the private interests of others and does not specify whether those interests are limited to nonprofit or for-profit organizations. The Code also forbids any actions or statements which convey to others the impression that a judge may be influenced. This influence encompasses advertisements near a courtroom, whether they seek to sell a product or service, or merely

promote an organization by providing educational information, and includes the pamphlets, brochures, and informational flyers in question. Such materials near courtrooms manifest an impression of bias and preference to those organizations whose materials are displayed.

In spite of the fact that these may be provided in the interest of the public, a court should not display advertisements for any private organizations or individuals which are not related to the business of the court. Materials that are related to the business of the court may be displayed. For example, it is appropriate to provide informational brochures prepared and/or provided by the court for pro se litigants. Likewise, it is appropriate to provide brochures regarding approved parenting classes that are required to be completed in custody cases pursuant to court rule. The court, however, should not advance the interests of private parties for the sake of providing, what may or may not be, general, helpful information unrelated to the business of the court. It is contrary to the Code to allow for-profit organizations to advertise their services or products, and it is contrary to the Code to allow nonprofit organizations to promote their interests by displaying their literature. Whether an organization is nonprofit or for-profit does not change the fact that the services and products being advertised fall outside the scope of the business of the judiciary.

Disclaimer

This opinion is advisory only and is based on the specific facts and question submitted by the person requesting the opinion pursuant to Appendix A of the Nebraska Code of Judicial Conduct. Questions concerning ethical matters for judges should be directed to the Judicial Ethics Committee.

APPROVED AND ADOPTED
BY THE COMMITTEE ON MAY 18, 2006

*Judge John F. Irwin
Judge Stephen R. Illingworth
Judge John F. Steinheider
Judge Carlton E. Clark
Judge John A. Colborn
Judge Robert B. Ensz
Judge Lawrence D. Gendler*