



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
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Charleston, West Virginia 25304
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March 30, 2017

Re: JIC Advisory Opinion 2017-11.

Dear Judge

Your request for an advisory opinion to Counsel was recently reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: Your wife has been asked to spearhead a charitable fundraiser for Alzheimer's research and treatment. If permitted, your wife is inclined to do a motorcycle poker run through _____ counties. She is also contemplating having a meal and giving out door prizes at the end of the ride. You do not plan to assist with the planning of the fundraiser or to solicit any money for the event. You want to know if it is permissible for your wife to chair the event and for you to ride your motorcycle if you do not help plan the event or solicit any donations.

To address the questions you have raised, the Commission has reviewed Rules 3.1(A) and 3.7(A) (2) and (4) of the Code of Judicial Conduct which provide in pertinent part:

Rule 3.1 Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities a judge shall not:

(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;
- (D) engage in conduct that would appear to a reasonable person to be coercive; or
- (E) make use of court premises, staff, stationary, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Rule 3.7 Participation in . . . Charitable . . . Organizations and Activities

- (A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:
 - (2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;
 - (4) appearing or speaking at, receiving an award or other recognition at being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves as a fundraising purpose, the judge may participate only if the event concerns, the law, the legal system or the administration of justice;

Comment [3] to Rule 3.7 notes that “[m]ere attendance at an event, whether or not the event serves a fundraising purpose, does not constitute a violation of paragraph (A)(4). The Comment also states that it is generally permissible for a judge to serve as an usher or a food server or preparer at charitable events because “[s]uch activities are not solicitation and do not present an element of coercion or abuse the prestige of judicial office.”

In applying the foregoing to your factual scenario, the Commission is of the opinion that your wife may serve as Chair of the fundraising event and that you may ride your motorcycle in the poker run subject to the limitations of Rules 3.1 and 3.7(A)(2) and (4) of the Code of Judicial Conduct. It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,



Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/tat