



## JUDICIAL INVESTIGATION COMMISSION

Room E-400, State Capitol

Charleston 25305

July 5, 1994

Re: JIC Advisory Opinion 1994-09

Dear

Your recent correspondence to Counsel for the Judicial Investigation Commission dated June 17, 1994, was reviewed by the Commission at its recent meeting. In that correspondence you asked for an advisory opinion on the provisions of Canon 3C (4) as it relates to the appointment of judicial personnel. You stated in your letter that there is currently a vacancy for a law librarian in \_\_\_\_\_ and that the position is appointed by the Chief Circuit Judge. The individual the judge wishes to appoint is the wife of a family law master. You asked whether her appointment by the judge would constitute favoritism under the provisions of the Canon. You also asked whether this situation could create an appearance of impropriety under Canon 2.

Canon 3C (4) states:

### CANON 3

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL  
OFFICE IMPARTIALLY AND DILIGENTLY

#### C. Administrative Responsibilities.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

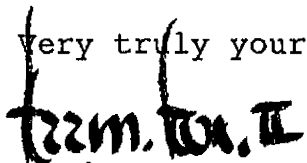
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This Canon prohibits a judge from demonstrating favoritism in making an appointment. It further requires that any appointments made by a judge be done on the basis of merit.

After reviewing your request, the Commission feels that if the position in question is filled on the basis of merit, and without favoritism, then the person the judge wishes to appoint could be placed in the position.

If there you have any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in black ink, appearing to read "Fred L. Fox, II". The signature is stylized with a large, looped "F" and "L".

Fred L. Fox, II, Chairman

FLF, II/bl