



JUDICIAL INVESTIGATION COMMISSION

Post Office Box 1629
Charleston, West Virginia 25326-1629
(304) 558-0169 FAX (304) 558-0831

May 21, 1998

Re: JIC Advisory Opinion 1998-06

Dear

Your request for an advisory opinion was reviewed by the Judicial Investigation Commission at its recent meeting. In that correspondence you stated that you are the Family Law Master for the District consisting of Counties. The Circuit Judge in the nd Judicial Circuit wants you to be a Guardian Ad-litem for the infant children in cases that come before him under the abuse and neglect statute. You asked whether you would be precluded from participating in such cases because of the prohibition against family law masters representing clients in domestic subject matter jurisdiction cases.

Canon 6C of the Code of Judicial Conduct states in relevant part:

Canon 6. Application of the Code of Judicial Conduct.

C. *Continuing part-time judge.* - A continuing part-time judge:

(2) may practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, but shall not act as a lawyer in a proceeding in which the judge has served as a judge in any other proceeding related thereto, or in any matter involving the same subject-matter jurisdiction.

The Commentary to this Canon states in relevant part: - *A part-time Family Law Master shall not accept any domestic relations matter or serve as an attorney in any proceeding related to a case in which he or she has served as a Family Law Master . . .*

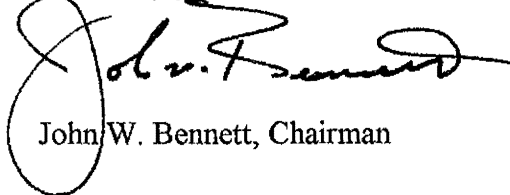
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In determining the perimeters of the duties of a guardian ad-litem in abuse and neglect cases a review of In Re: Jeffrey R. L., 190 W.Va. 24, 435 S.E.2d, 162 (1993) was undertaken. The appendix to that opinion sets forth two and one-half pages of detailed guidelines for guardians ad-litem in abuse and neglect cases. Those guidelines make clear the requirement that the guardian interview where possible the infant children, the parents and all other parties involved in any fashion in the matter before the court. Those duties would cause a great potential for conflicts of interest since many cases which appear before you as a family law master involve issues of abuse and neglect and custody matters. Because the potential for a conflict of interest is so great and since you would be required to recuse yourself in such cases as a family law master, it is the opinion of the Commission that you may not serve as a guardian ad-litem in abuse and neglect cases.

If 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 "John W. Bennett". The signature is fluid and cursive, with a large initial "J" and "W".

John W. Bennett, Chairman