



JUDICIAL INVESTIGATION COMMISSION

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

February 19, 2002

Re: JIC Advisory Opinion 2002-03

Dear :

In a recent letter to the Commission you asked for an advisory opinion. In that correspondence you stated that you have hired _____ as a Case Coordinator for _____ and _____ Counties. One of the duties of a case coordinator is to conduct pre-mediation screening. As a result of _____ involvement in the legal community in _____ County he is very familiar with many of the litigations that come to family court. He worked for _____ now _____, for 12 years as a legal assistant. More than 80% of his work was with domestic clients. He was acquainted with every detail of every domestic case that was handled by the law firm. During the course of a domestic proceeding he talked to each client and generally became pretty well acquainted with him or her. This meant that he obtained specific knowledge about each client along with each client's opinion of the opposing party. You state that if he were conducting pre-mediation screening he would do his best to be impartial no matter who the litigants were or what his association with them had been in the past. However, you realize that there may be an appearance of partiality if one of the litigants happen to be a party who had been represented by the law firm where he was employed. As much as _____ would be impartial in a situation there is always a possibility that his past acquaintance with the litigants could affect his judgment as to the effectiveness of the pre-mediation screening. You asked if it would be appropriate for him to conduct pre-mediation screening for litigants who had been represented by the law firm where he had been employed.

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To address the question which you have raised, the Commission has reviewed Canon 3 of the Code of Judicial Conduct. Canon 3 states in relevant part:

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

C. Administrative responsibilities. - (2) A judge shall require staff, court officials, and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

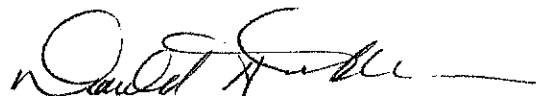
E. Disqualification. - (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned . . .

Based upon the relevant sections of Canon 3 you shall require staff and others subject to your direction and control to observe the standards of fidelity and diligence that apply to you. One of those standards is to assure that all proceedings conducted by you are fair and impartial. The Case Coordinator's prior knowledge of certain litigants may, at least by appearance, encroach upon the standards required in your court.

For those reasons, it is the opinion of the Commission that _____ should not be involved in any case in which he was involved as a paralegal while working for the law firm. He would be able to be involved in any other case which may come before you.

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

Very truly yours,

A handwritten signature in dark ink, appearing to read "Donald H. Cookman", followed by a horizontal line.

Donald H. Cookman, Chairperson
Judicial Investigation Commission

DHC:nb