



## JUDICIAL INVESTIGATION COMMISSION

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

February 19, 2002

Re: JIC Advisory Opinion 2002-06

Dear

Your recent request for an advisory opinion has been reviewed by the Commission. In your correspondence you asked whether you, as an elected magistrate, could continue to work part-time as an expert witness reviewing civil litigation cases. You stated that you would expect that the magistrate expert would have to testify on occasion in a circuit court in West Virginia or in other states or in federal court.

The Commission has recently addressed the issue which you raised in your advisory opinion request. In the previous opinion the Commission relied, in part, on the relevant sections of Canon 2 of the Code of Judicial Conduct. That section of the Code states in relevant part:

Canon 2. A judge shall avoid impropriety and the appearance of the impropriety in all of the judge's activities.

B. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interest of the judge or others; nor shall a judge convey or knowingly permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

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It is therefore the opinion of the Commission that based on its prior advisory opinion as well as the relevant sections of Canon 2B that a judge shall not lend the prestige of judicial office to advance the private interest of the judge or others, you would not be permitted to appear as an expert witness in a case. See, JIC Advisory Opinion 1/16/02, which is attached hereto. See also, Opinion 95/5 (Florida) and Opinion 88/8 (Utah) which are attached hereto.

It is hoped that this opinion fully addresses the question which you have raised. 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 "Donald H. Cookman", followed by a horizontal line.

Donald H. Cookman, Chairperson  
Judicial Investigation Commission

DHC:nb

Enclosures