



JUDICIAL INVESTIGATION COMMISSION

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

October 5, 2010

Re: JIC Advisory Opinion 2010-13

Dear

In a recent letter to counsel you asked for an advisory opinion from the Judicial Investigation Commission. That correspondence was reviewed at the Commission's last meeting. In the request you stated that your wife and sister-in-law are representing themselves as plaintiffs in a lawsuit regarding an estate. You have been giving them advice, preparing documents and reviewing legal documents submitted by the adverse parties. Specifically, you stated you prepared their complaint, interrogatories, motions and legal memorandum. They signed and filed the documents. You plan to continue providing this assistance, however, you do not represent your wife or sister-in-law in court or advocate for them in the legal matter. In essence, you are a "ghostwriter."

Your wife informed you that the presiding judge in her case suggested in a recent court hearing that it might be proper for you to file a notice that you are preparing the documents. She was unsure about the Judge's exact statement because she was very nervous. However, you believe her recollection of the Judge's suggestion is substantially correct.

You asked for an advisory opinion on the following:

- 1) Have you violated Judicial Canon 4G by giving advice to, drafting legal documents, and reviewing legal documents for your wife and sister-in-law? You maintain a close familial relationship with your sister-in-law.
- 2) Do the Judicial Canons require you to file a notice or notify the court and parties that you are advising your wife and sister-in-law and preparing and reviewing documents for them?

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To address the questions which you have raised the Commission has reviewed Canon 4G of the Code of Judicial Conduct. Canon 4G states:

4G. Practice of law. - A judge shall not practice law. Notwithstanding this prohibition, a judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family.

The terminology section of the Code of Judicial Conduct defines "member of the judge's family" as denoting "a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship."

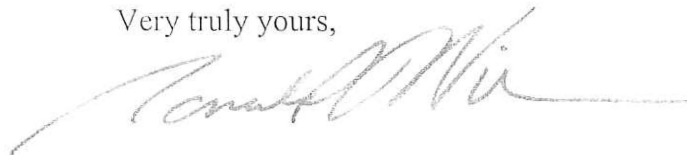
The commentary to Canon 4(G) states that "the Code allows a judge to give legal advice to and draft legal documents for members of the judge's family, so long as the judge receives no compensation. A judge must not, however, act as an advocate or negotiator for a member of the judge's family in a legal matter."

Based upon the language contained in the Canon, the definition of member of the judge's family, and the statement set forth in the commentary to the Canon, it is the opinion of the Commission that you have not violated Canon 4(G) by giving advice to drafting legal documents and reviewing legal documents for your wife and sister-in-law.

The Commission could find no language set forth in Canon 4G which would require you to file a notice or notify the court and the parties that you are advising your wife and sister-in-law and preparing and reviewing documents for them.

It is hoped that this opinion fully addresses the questions which you have raised. If you have any further question concerning these matters, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Ronald E. Wilson", with a long horizontal flourish extending to the right.

Ronald E. Wilson, Vice-Chairperson
Judicial Investigation Commission

REW:nb