



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169 • FAX (304) 558-0831

March 21, 2011

Re: JIC Advisory Opinion 2011-06

Dear Judge

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. In that letter you state that approximately 13-years ago you were a plaintiff in a wrongful discharge action against your former employer, an attorney who was then at a law firm. That attorney has since left the law firm and created a firm with his wife. To the best of your recollection he has appeared in your court on one occasion and his wife has appeared in your court a few times. In Family Court, when the husband and wife present a pleading or motion usually both of their names appear below the signature line but only one signs the pleading. You currently have a case pending in which the wife is counsel.

You are seeking guidance on whether you could preside over any case in which the attorney who you sued 13-years ago is counsel.

You asked whether you may preside over any case in which his wife and law partner is counsel. The Commission feels that you could preside over cases in both scenarios.

You asked whether it is counsel's burden to raise the potential conflict. The Commission feels that if counsel wants to, that could be raised but there would be no obligation.

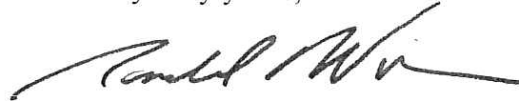
You asked whether it is your duty to raise the potential conflict. The Commission feels that there is no potential conflict so there would be no duty to raise the issue.

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You asked what should happen if counsel and the clients attempt to waive any conflict. The Commission feels that the issue is moot so the question does not need to be addressed.

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

Very truly yours,

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

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW:nb

