



JUDICIAL INVESTIGATION COMMISSION

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

February 29, 2016

Re: JIC Advisory Opinion 2016-05.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission at its February 26, 2016 meeting. The factual scenario giving rise to your request is as follows: You are a candidate for re-election in the May 2016 election. You would like to know if you may use and identify your staff in advertising. You have suggested sending out a mailer with a picture of you and your support staff with a caption stating "Family Court team" or "keep the team in office."

The Commission has reviewed Rules 4.1(A)(8) and (9) of the Code of Judicial Conduct to address the question which you have raised. Rule 4.1A(8) states that "a judge or judicial candidate shall not require court staff to participate in a campaign for judicial office, or use court resources in a campaign for judicial office." In JIC Advisory Opinion 3/8/2000, the Commission stated that a judicial officer who is a candidate for re-election may have staff appear in a campaign commercial as long as their presence was voluntary and the advertisement was done on their own time.

Rule 4.1A(9) provides that "a judge or judicial candidate shall not knowingly, or with reckless disregard for the truth, make any false or misleading statement." Comment 7 to the Rule states:

Judicial candidates must be scrupulously fair and accurate in all statements made by them and by their campaign committees.

Paragraph (A)(9) obligates candidates and their committees to refrain from making statements that are false or misleading, or that omit facts necessary to make the communication as a whole not materially misleading.

Based upon the foregoing, the Commission is of the opinion that you may use your staff in campaign advertisements as long as the appearance is voluntary and done after normal work hours. However, you may not run as a "team," because the slogan could be misleading to the public. When voters cast their ballot for family court judge, they are voting strictly for the candidate. The names of your staff do not appear on the ballot. Your staff is not voted into office but is appointed solely by you and serves solely at your will and pleasure. Therefore, it would be inappropriate to refer to the "team" concept in your advertisements.

We hope this opinion fully addresses the issue which you have raised. If there is any further question regarding this matter do not hesitate to contact the Commission.

Sincerely,

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

Ronald E. Wilson, Chairperson
Judicial Investigation Commission

REW/bjl