



JUDICIAL INVESTIGATION COMMISSION

City Center East - Suite 1200 A
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Charleston, West Virginia 25304
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September 16, 2016

Re: JIC Advisory Opinion 2016-19.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The facts giving rise to your request are as follows: An attorney in the County Bar recently passed away following a lengthy illness. He had no life insurance and spent all of his savings on medical bills. You want to know if it is permissible for you to collect monetary donations at your office on the lawyer's behalf and whether you could coordinate the collection efforts.

To answer your question, the Commission has reviewed Rules 3.1 and 3.7(A)(2) of the Code of Judicial Conduct which provide as follows:

Rule 3.1 Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;
- (D) engage in conduct that would appear to a reasonable person to be coercive; or

- (E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Rule 3.7 Participation in Educational, Religious, Charitable, Fraternal, Civic Organizations and Activities.

Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

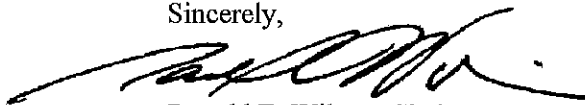
Comment [1] to Rule 3.1 notes that judges can engage in charitable or civic activities not conducted for profit. However, Comment [5] cautions:

[J]udges must not coerce others or take action that would reasonably be perceived as coercive. For example, depending upon the circumstances, a judge's solicitation of contributions or memberships for an organization, even as permitted by Rule 3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge.

In applying these Rules and Comments the Commission did consider the fact that you were not soliciting contributions from lawyers and simply wanted to help in this heart wrenching situation by providing a convenient location for the lawyers to deposit their contributions. The members also appreciated and want to commend you for your thoughtfulness in trying to help the deceased's family. However, the Commission members were of the opinion that despite your good intentions the Rules had to be applied as written and for that reason it is the Commission's opinion that if you should collect monetary donations at your office, or coordinate the collection efforts, it would violate Rules 3.1 and 3.7(A)(2). The Commission also believes that it is more appropriate for either an active member of the bar or the circuit clerk to undertake such activities.

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

Sincerely,



Ronald E. Wilson, Chairperson
Judicial Investigation Commission