



## **JUDICIAL INVESTIGATION COMMISSION**

City Center East - Suite 1200 A  
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Charleston, West Virginia 25304  
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December 16, 2021

Re: JIC Advisory Opinion 2021-21

Dear Judge :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission at its December 10, 2021 meeting. Specifically, you want to know whether a judge and/or staff can accept a Christmas token/gift/gift card from the County Bench Bar Committee which consists of a number of family law attorneys and judges. You also want to know if the judge and/or court staff can accept Christmas tokens/gifts/gift cards from individual attorneys who appear before the family court.

To address your questions, the Commission has reviewed 1.2, 3.13 and 3.15 of the Code of Judicial Conduct which provide:

### **Rule 1.2 Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety

### **Rule 3.13 Acceptance and Reporting of Gifts, etc.**

- (A) A judge shall not accept – or knowingly permit staff, court officials and others subject to the judge’s direction and control to accept – any gifts, loans, bequests, benefits or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality.
- (B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following without publicly reporting such acceptance:

- (1) items with little intrinsic value, such as plaques, certificates, trophies and greeting cards;
  - (2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons including lawyers, whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification of the judge under Rule 2.11;
  - (3) ordinary social hospitality: . . .
- (C) Unless otherwise prohibited by law or by paragraph (A), a judge may accept the following items and must report such acceptance to the extent required by Rule 3.16. . . .
- (3) gifts, loans, bequests, benefits, or other things of value, if the source is a party or other person, including a lawyer who has come or is likely to come before the judge, or whose interests have come or are likely to come before the judge.

**Rule 3.15 Reporting Requirements**

- (A) A judge shall publicly report the amount or value or . . . .
- (2) gifts and other things of value as permitted by Rule 3.13(C) unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed \$150;

Based upon the foregoing, the Commission is of the opinion that judges and/or staff members may accept Christmas tokens/gifts/gift cards from the Bench/Bar Committee and/or lawyers who may appear before the court as long as the amount of the tokens/gifts/gift cards does not exceed the amount set forth in the West Virginia Ethics Act. The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,



Alan D. Moats, Chairperson  
Judicial Investigation Commission