



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 11, 2022

Re: JIC Advisory Opinion 2022-09

Dear Mr. :

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The facts giving rise to your request are as follows: You were recently contacted by a family court case coordinator and asked if he/she could work part-time as a family court mediator in a jurisdiction outside of the one where his/her judge presides. According to you the case coordinator used to work as a court-appointed mediator for judges within the state prior to her appointment as a case coordinator. According to the case coordinator, he/she will do the family mediation only on his/her personal time and states that it will no way interfere with his/her duties as a case coordinator. You want to know if this is permissible.

To address your question, the Commission has reviewed Rules 1.2, 2.12(A) and 3.1(A), (B) and (C) of the Code of Judicial Conduct which state:

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 2.12 Supervisory Duties

- (A) A judge shall require court staff, court officials and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

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;

Based upon this, since a sitting family court judge could not concurrently serve as a family court mediator in another family court circuit, the Commission is of the opinion that a judge’s case coordinator also is precluded from engaging in the same activity.

We hope that this opinion fully addresses the issue which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns or desire additional advice.

Sincerely,

A handwritten signature in blue ink, appearing to read "F. Layton Cottrill, Jr.", is written over the typed name.

F. Layton Cottrill, Jr., Esquire, Vice- Chairman¹
Judicial Investigation Commission

FLC/tat

¹ JIC Chairman Alan D. Moats, Judge of the 19th Judicial Circuit has been appointed as a temporary Justice of the Supreme Court of Appeals of West Virginia beginning February 7, 2022 following the February 6, 2022 resignation of former Justice Evan Jenkins. Judge Moats will serve as a Justice until such time as Governor Justice has filled the vacancy and the appointee takes the bench. Until that time, Judge Moats will serve as a non-voting *ex officio* member of the JIC.