



JUDICIAL INVESTIGATION COMMISSION

WV Judicial Tower - Suite 700 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169

March 27, 2024

Re: JIC Advisory Opinion 2024-09

Dear :

The Commission has considered your recent request for an advisory opinion. You are running for a contested circuit judge seat in the May 2024 election. Recently, you won a civil trial in federal court for your client. The West Virginia Association of Justice has asked you to put on a presentation about the case at its summer meeting which will be after the election in June 2024. You want to know if you win the election whether you can do the presentation as you would be considered a judge-elect.

To address your question, the Commission has reviewed Rule 2.10 of the Code of Judicial Conduct which states in pertinent part:

- (A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

Comment [1] to the Rule provides that the “restrictions on judicial speech are essential to the maintenance of the independence, integrity and impartiality of the judiciary.” The Code defines “pending matter” as one “that has commenced. A matter continues to be pending through any appellate process until final disposition.”

Based upon the foregoing the Commission is of the opinion that if you are a judge-elect you are bound by Rule 2.10. Therefore, you could not discuss the case as long as the appeal period is running or unless the other side has waived its right to appeal in writing and paid the judgment.

Thank you for your inquiry. Please do not hesitate to contact the Commission should you have any further questions, comments or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alan D. Moats". The signature is fluid and cursive, with the first name "Alan" and last name "Moats" clearly distinguishable.

Alan D. Moats, Chairperson
Judicial Investigation Commission

ADM/tat