

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 2 - 2022

RE: The propriety of a part-time municipal judge, who also engages in the practice of law, to represent a municipal employee in an employment case against an entity located outside of the municipality.

FACTS

A part-time municipal judge also practices law, as permitted by the Code of Judicial Conduct. The judge inquires into the propriety of representing another municipal employee in a employment matter/lawsuit against an entity located outside of the municipality that previously employed the employee.

CONCLUSION

A part-time municipal judge, who also engages in the practice of law, may represent a municipal employee in an employment case against an entity located outside of the municipality.

OPINION

A part-time judge is a judge within the meaning of the Code of Judicial Conduct, and compliance with the Code is required unless specifically excepted. Application Section E. A continuing part-time judge is not required to comply with Canon 4(G) that prohibits a judge from practicing law. Rule 501, Application C(1)(b), SCACR. A part-time judge can practice law so long as he or she conforms with the provisions of the Code of Judicial Conduct as applied to part-time judges.

In a previous opinion, we addressed whether a part-time municipal judge could represent city employees in worker's compensation claims against the City and determined it would be improper. Op. No. 15-2002. In that opinion, we noted that Canon 2 mandates that judges avoid the appearance of impropriety in their activities and conduct themselves "in a manner that

promotes public confidence in the integrity and impartiality of the judiciary." Rule 501, SCACR. We determined that because a municipal judge is employed by the City, the judge thus had financial ties to the City, and it would be improper for the judge to represent employees in worker's compensation cases against the City.

Here, the municipal employee is not suing the City, but instead is pursuing a civil matter against an entity located outside of the municipality in which the part-time judge serves. Pursuant to S.C. Code §14-25-45, municipal courts "have no jurisdiction in civil matters." Because the municipal judge does not preside over civil matters, there is no danger that the "impartiality of the judiciary" would be threatened by the judge's representation of the City employee in a civil case against a former employer. In addition, the opposing party is not the City that employs the judge and the employee and the judge (presumably) has no financial ties to the employee's former employer. Thus, there is no prohibition on the judge representing a municipal employee in a civil matter against a former employer located outside of the City.

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES, CHAIR

s/ William H. Seals, Jr.
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s/ Keith M. Babcock
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