

**ADVISORY COMMITTEE ON STANDARDS OF JUDICIAL CONDUCT  
OPINION NO. 5 - 2023**

RE: Propriety of a part-time probate judge practicing law by offering estate-planning services in the county in which the judge serves.

**FACTS**

A part-time probate judge intends to continue practicing law as permitted by the Code of Judicial Conduct. The judge is aware that the Code and a previous opinion would not allow the judge to appear as a lawyer in the Probate Court in the County in which the judge serves. The judge will limit any court appearances to other counties. However, the judge inquires as to the propriety of offering “estate planning” legal services, such as preparing wills, revocable trusts, powers of attorneys, and ancillary documents related to those. Specifically, the judge asks whether the judge can prepare these documents for clients who live in the same county in which the judge serves.

**CONCLUSION**

A part-time probate judge may provide estate-planning services for clients who live in the county in which the judge serves.

**OPINION**

A continuing part-time judge is not required to comply with the provisions of Canon 4(G) that prohibit 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. We have previously addressed the propriety of a probate judge continuing to practice law and held that under the Code: “A continuing part-time judge shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in

which the judge has served as a judge or in any other proceeding related thereto.” Op. No. 6-2013, citing Rule 501 Application C(2). In that opinion, we noted the requirement 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. We found that a probate judge’s continued practice of probate law in other counties was permitted as those courts would not constitute courts in which the judge served, nor did they have appellate jurisdiction over the court in which the judge served.

Neither the Code nor any previous opinions address the exact question presented in this matter. However, the Code only specifically prohibits the practice of law “in the court on which the judge serves[,]” not the county in which the judge serves Rule 501, Application C(2)(emphasis added). We conclude that offering “estate planning” legal services, such as preparing wills, revocable trusts, powers of attorneys, and ancillary documents related to those, to clients who live in the county in which the judge serves is not prohibited by the Code. Thus, a part-time judge can engage in the practice of law offering those services in the same county in which the judge serves. However, should any of those client services provided require court appearances in the probate court in the county in which the judge serves, the judge would not be able to appear on behalf of those clients.

s/ Usha Jeffries Bridges  
USHA JEFFRIES BRIDGES, CHAIR

s/ William H. Seals, Jr.  
WILLIAM H. SEALS, JR.

s/ Keith M. Babcock  
KEITH M. BABCOCK

April 13, 2023