

ADVISORY COMMITTEE
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 7 - 2012

RE: The propriety of a Master-in-Equity participating in the campaign activities of his or her spouse.

FACTS

An inquiry is made into the extent a Master-in-Equity can participate in the campaign activities of his/her spouse. The Master inquires as (1) whether the Master can appear in a family portrait to be used in campaign materials; (2) whether the Master can attend the spouse's speeches or debates; and (3) whether the Master can attend the spouse's election night party.

The Master has also been asked to speak to a local Republican Women's Club to explain the role of a Master-in-Equity. The Master inquires as to whether accepting this invitation is proper.

CONCLUSION

A Master-in-Equity may appear in a family photo to be used in a spouse's political campaign and attend a spouse's election night party.

A Master-in-Equity may speak at a Republican Women's Club on the role of the Master.

OPINION

We have previously addressed the question of whether a full-time magistrate could appear in a family portrait for a spouse's campaign materials, and concluded that the judge could appear in such a portrait as long as the judge was not identified in any way by the use of the words "judge," "Honorable" or other references to title. Op. No. 9-2002; Op. No. 14-2003. The same conclusion applies here. The inquiring Master may appear in a portrait to be used for a spouse's political campaign as long as the words "Master in Equity," "judge," "Honorable" or other references to title are not used.

Regarding the Master's appearance at a spouse's campaign events, the Canons prohibit a judge from publicly endorsing a candidate for public office. Canon 5(A)(1)(b). However, the Canons also note that "[c]omplete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives." Commentary, Canon 4. In Op. No. 14-2003, this Committee addressed a similar question and opined that a Family Court Judge could attend "fund-raising and non fund-raising activities, visit the spouse's campaign offices, attend the spouse's announcement, and be present on election night." However, the judge was cautioned to make it clear that he or she was not in attendance in a judicial capacity or publicly endorsing the spouse for office, but was simply participating as a spouse. Therefore, the Master may attend debates or speeches of the spouse, and the election night party, as long as attendance is on the Master's own time and the Master's membership in the judiciary is not publicized or announced at such events. If the Master observes those measures, it would indicate that the Master is participating as a spouse, and would not constitute endorsement of a candidate for public office.

The Master may also speak at the Republican Women’s Club on the topic of the role of a Master-in-Equity. Canon 4B addresses allows a judge to speak on the law, the legal system, the administration of justice and other non-legal subjects, subject to the requirements of the Code of Judicial Conduct.^[1] The Commentary to that section states that:

As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that time permits, a judge is encouraged to do so, either independently or through a bar association, judicial conference or other organization dedicated to the improvement of the law. Judges may participate in efforts to promote the fair administration of justice, the independence of the judiciary and the integrity of the legal profession and may express opposition to the persecution of lawyers and judges in other countries because of their professional activities.

Commentary, Rule 4B. Because the Master’s speech to the Republican Women’s Club is on the role of the Master-in-Equity – and therefore on the law and the legal system as allowed in Canon 4 – the Master may accept the invitation to speak.

s/ _____
A. CAMDEN LEWIS, CHAIRMAN

s/ _____
G. EDWARD WELMAKER

s/ _____
JOCELYN B. CATE

March 30, 2012.

^[1]In Opinion No. 5-2002, this Committee addressed an inquiry as to whether or not there would be a conflict with a probate judicial candidate participating in a question and answer forum or debate sponsored by the League of Women Voters, the Republican Party, and the S.C. Association of Realtors, to which all probate judicial candidates were invited to attend. The Committee concluded the candidate could participate. However, that opinion does not control here because the situation presented there involved a candidate for an elected judicial position apparently speaking on his or her own behalf at an event, which is permitted under Canon 5C. Thus, the Committee has analyzed this inquiry independently.