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**ISSUE**

May a former judge who currently serves as a reserve judge, use the title "judge," designation "reserve judge," or be pictured in judicial robes in advertising services for hire as a mediator or arbitrator?

**ANSWER**

No.

**FACTS**

A former judge who currently serves as a reserve judge has used the title "judge," the designation "reserve judge" and been pictured in judicial robes, in advertising services as a mediator and arbitrator. The judge charges a fee for these services. The judge also continues to accept judicial assignments as a reserve judge.

**DISCUSSION**

The Committee concludes that the issues presented involve the provisions of SCR 60.01, SCR 60.03, and SCR 60.05(4)(a)(1).

**A. SCR 60.01**

The Code of Judicial Conduct applies to reserve judges since "judge" includes a "reserve judge." SCR 60.01(8). There is a formal process for the appointment of reserve judges. See, Wis. Stats. §753.075, SCR 70.35, and Wis. Const. Art. 7, §24(3).

**B. SCR 60.03**

SCR 60.03 states:

A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

Subsection (2) of this rule provides in part:

... A judge may not lend the prestige of judicial office to advance the private interests of the judge or of others or convey or permit others to

convey the impression that they are in a special position to influence the judge....

The Committee concludes that the proposed activity does violate this subsection of SCR 60.03. The use of the title "judge," or the designation "reserve judge" or the depiction in judicial robes lends the prestige of judicial office to advance the private financial interest of the former judge now serving as a reserve judge, i.e., receiving fees for his or her services as an arbitrator or mediator. The prestige of the judicial office is, in this case, used to enhance the reserve judge's private financial interests, and, therefore, creates the appearance of impropriety, violating SCR 60.03(2).

### ***C. SCR 60.05***

SCR 60.05 states:

A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

Subsection (4)(a)1. of SCR 60.05 provides in part:

1. A judge may not engage in financial or business dealings that could meet any of the following conditions:
  - a. Reasonably be perceived to exploit the judge's judicial position.

The use of the title "judge" or designation "reserve judge" or the depiction in judicial robes, can be "reasonably perceived" to exploit the judge's judicial position in order to advance the judge's private financial and/or business dealings. Thus, the proposed activity violates SCR 60.05(4)(a)1.

## **CONCLUSION**

The Committee concludes that a reserve judge may not use the title "judge," designation "reserve judge," or be pictured in judicial robes in advertising services for hire as a mediator or arbitrator.

### **APPLICABILITY**

This opinion is advisory only, is based on the specific facts and questions submitted by the petitioner to the Judicial Conduct Advisory Committee, and is limited to questions arising under the Supreme Court Rules, Chapter 60--Code of Judicial Conduct. This opinion is not binding upon the Wisconsin Judicial Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. This opinion does not purport to address provisions of the Code of Ethics for Public Officials and Employees, subchapter III of Ch. 19 of the statutes.

I hereby certify that this is Formal Opinion No. 97-6R issued by the Judicial Conduct Advisory Committee for the State of Wisconsin, this 8th day of May, 1998. This revised opinion holds to the same conclusion as 97-6, but it consolidates the issues to one and corrects the authoritative basis for the appointment of reserve judges.

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Thomas H. Barland  
Chair