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STATE OF NEVADA

STANDING COMMITTEE ON  
JUDICIAL ETHICS AND ELECTION PRACTICES

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**OPINION: JE06-015**

PROPRIETY OF AN ELECTED, CONTINUING PART-TIME JUDGE REPRESENTING A PARTY IN LITIGATION IN ANOTHER COURT WHICH IS RELATED TO A MATTER WHICH WAS HEARD AND DECIDED BY THE CONTINUING PART-TIME JUDGE IN HIS OR HER COURT.

retired judge subject to recall who is permitted to practice law.” See, Code of Judicial Conduct, Terminology. The Application provisions of the Code of Judicial Conduct exempt continuing part-time judges from certain provisions of the Canons. A continuing part-time judge is not required to comply, at any time, with Canon 4G. Such a judge is allowed to practice law. See, Application of the Code of Judicial Conduct, C; see also, Canon 4G; see also, N.R.S. § 4.215.

ISSUE

May an elected, “continuing part-time judge” represent a party in litigation in another court which is related to a matter which was heard and decided by the continuing part-time judge in his or her court?

However, continuing part-time judges are not exempt from complying with other relevant portions of Canon 4, which require judges to conduct their extrajudicial activities as to minimize the risk of conflict with judicial obligations. Continuing part-time judges are not exempt from Canon 4A, which requires a judge to “conduct all of the judge’s extrajudicial activities so that they do not (1) cast reasonable doubt on the judge’s capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties.” In addition, the Application provisions of the Code of Judicial Conduct, subsection C(2), places certain express limits on such a judge’s practice of law. Subsection 2 of the Application provision, in applicable part, provides that a continuing part-time judge:

ANSWER

No.

“shall not practice law in the court on which the judge serves, or in any court subject to the appellate

FACTS

A candidate for judicial election to be a “continuing part-time judge” asks whether such a judge may represent a party in litigation in another court which is related to a matter which was heard and decided by the “continuing part-time judge” in his or her court.

DISCUSSION

The Nevada Code of Judicial Conduct defines a “continuing part-time judge” as “a judge who serves repeatedly on a part-time basis by election or under a continuing appointment, including a

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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.”

In Advisory Opinion JE98-004 (August 18, 1998), the Committee, considering whether a continuing part-time judge of a municipal court could practice law in a district court, said:

“Obviously, the judge may not act as counsel in the district court on any matter in which he acted in his judicial capacity in municipal court. Nor may he act as counsel in any related matter. If, for example, in his capacity as municipal court judge he acted with respect to a traffic citation which arose from an accident, he would be prohibited from representing any party in district court with respect to any personal injury or criminal proceeding which arose directly or indirectly from the accident.”

#### CONCLUSION

An elected, continuing part-time judge may not represent a party in litigation in another court which is related to a matter which was heard and decided by the continuing part-time judge in his or her court. The Application provision of

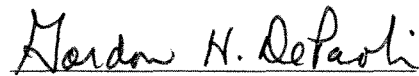
the Code of Judicial Conduct, subsection C(2), expressly prohibits such representation, and the provisions of Canon 4A of the Code of Judicial Conduct implicitly prohibit it.

#### REFERENCES

Nevada Code of Judicial Conduct, Terminology; Nevada Code of Judicial Conduct, Application C; Canon 4; Canon 4A; Canon 4G; N.R.S. § 4.215; Nevada Code of Judicial Conduct, Application C(2); Ethics Advisory Opinion JE98-004 (August 18, 1998).

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