

FILED

JUN 04 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY CHIEF DEPUTY CLERK

STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS

DATE ISSUED: June 4, 2014

ADVISORY OPINION: JE14-002

PROPRIETY OF A JUDGE PURCHASING
AND USING ELECTRONIC RESEARCH
DATABASE SOFTWARE CREATED AND
MANAGED BY ATTORNEY PRACTICING
IN SAME COURT

ISSUE

May a district court purchase and use
case law search engine software created,
managed and provided for profit by an
attorney who practices before the same
court?

ANSWER

Yes. The Committee found no Rule
which explicitly prohibits a judge or court
from purchasing and using a case law
research reference tool that is available to
the public and which provides objective
summaries of published case law.

FACTS

A judge has inquired whether it
would be a violation of the Nevada Code of
Judicial Conduct ("NCJC") for a district
court to purchase and utilize a search engine
product designed to provide "a fully
searchable electronic database of summaries
and full text for all relevant family law cases
in the State of Nevada." The database at
issue is created, managed and sold for profit
by an attorney who regularly practices law
in the court in which judges who will utilize
the database preside. The database provides

objective summaries of published family
law cases in the State of Nevada, court rules,
Nevada Revised Statutes, and texts of
published articles from various journals
discussing family law issues in Nevada.
The database is described as one of many
research tools available to the court which
provides a reference tool.

The requesting judge has inquired
whether the purchase and use of the product
creates an appearance of bias or conflict of
interest.

DISCUSSION

The Committee is authorized to
render advisory opinions evaluating the
scope of the NCJC. *Rule 5 Governing the
Standing Committee On Judicial Ethics.*
Accordingly, this opinion is limited by the
authority granted in Rule 5.

Canon 1 requires a judge to "uphold
and promote the independence, integrity,
and impartiality of the judiciary and [to]
avoid impropriety and the appearance of
impropriety." Comment 5 to Rule 1.2 states
that the "test for appearance of impropriety
is whether the conduct would create in
reasonable minds a perception that the judge
violated this Code or engaged in other
conduct that reflects adversely on the
judge's honesty, impartiality, temperament,
or fitness to serve as a judge."

The Canons further require that a
judge perform his or her duties fairly and



impartially and without bias or prejudice. Rule 2.2; Rule 2.3. Additionally, the Committee notes that a judge shall not convey the impression that any person or organization is in a position to influence the judge. Rule 2.4(c).

The Committee does not believe the mere purchase or use of a legal research tool which is available for purchase or use by other attorneys and the public at large presents any issue of bias or conflict of interest under the Canons. The information contained in the database is comprised of published statutes, court rules, objective case opinions, and scholarly texts on family law issues. The Committee sees no difference in utilizing this research tool from using the Nevada Civil Practice Manual, a treatise, journal article, seminar materials, or other published opinion prepared by an attorney. It is but one arrow in the quiver of research tools available to the Court, and as presented would be used simply as that – a reference and research tool.

A question was raised whether the availability of the case summaries would create a conflict if the judge relied on the summary and failed to read the case text in full. However, the Committee notes that under Rule 2.5 judges are obligated to perform their judicial and administrative duties competently and diligently. To the extent an issue required examination of the full text of a case, the availability of a case summary would not reduce the obligations imposed under Rule 2.5.

The Committee cautions that the judge should avoid any issues of endorsing the database product, as affirmative endorsements of the product could raise issues under both Rule 1.3 (avoiding abuse of the prestige of judicial office) and Rule 2.4(C). Moreover, the Committee notes that a judge remains obligated to evaluate issues of disqualification on a case by case basis,

should the need arise in the specific context of a case or matter involving the Court.

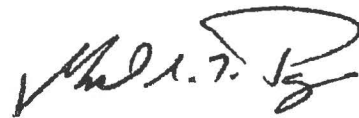
CONCLUSION

The Committee does not believe the purchase of a publicly available legal research database and use of such materials as one of many research tools available to the Court is prohibited by the Canons, notwithstanding that the database is created, managed and produced by an attorney that regularly appears before the Court.

REFERENCES

Nev. Code Jud. Conduct, Canon 1; Rule 1.2; Rule 2.2; Rule 2.3; Rule 2.4; Rule 2.5; *Rule 5 Governing the Standing Committee On Judicial Ethics*.

This opinion is issued by the Standing Committee on Judicial Ethics. It is advisory only. It is not binding upon the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity which requested the opinion.



Michael A.T. Pagni
Chairman