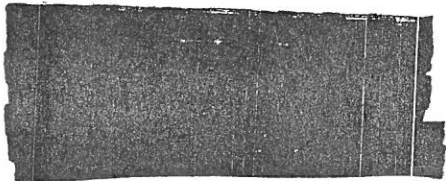




## Advisory Committee on the Code of Judicial Conduct

Hon. James J. Wechsler, Chair  
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Paul L. Biderman, Esq.  
Prof. Robert L. Schwartz  
Hon. Freddie J. Romero  
Hon. Sandra W. Engel

December 22, 2015



Re: Judicial Advisory Opinion No. 15-03

Dear Judge 

You have consulted the Advisory Committee on the Code of Judicial Conduct to confirm whether you may be interviewed by an independent team of journalists for an article in a magazine published for equestrian enthusiasts. Because you had previously been a rodeo queen, the journalists have asked to feature you in an article focusing on how participation in such contests benefits young women. They would photograph you for the article in your rodeo queen attire and include separate pictures of you with your horse and in your courtroom. Your question is whether your participation in this article might violate any provision of the Code of Judicial Conduct.

The applicable provision of the Code is Rule 21-103 NMRA, as the primary issue is whether this interview would violate the requirement that judges avoid abuse of the prestige of their office. See Rule 21-103 ("A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so."). We believe that the rule neither prohibits your conducting this interview, nor your appearance in the photographs that you have described.

The rule against using prestige of judicial office may be violated when a judge uses his or her status for personal gain, either for the judge or for others. As you have described the magazine article that will feature you, other than the magazine, neither you nor any business or nonprofit organization will benefit directly. The article is instead aimed at encouraging young women to participate in rodeo activities and contests by featuring you as a role model for them. The Code allows, and even encourages, judges to promote this kind of message. With respect to the magazine, there is no indication that it is attempting to capitalize on the use of your position in an improper manner.

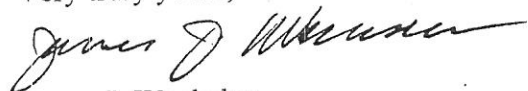
The Code's acceptance of such a project is highlighted in another rule that addresses a related issue. Rule 21-307(A)(3) NMRA<sup>1</sup> allows:

(3) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her [the judge's] title to be used in connection with an event of such an organization or entity.

While this rule is directed at participation in educational, religious, charitable, fraternal, or civic organizations and activities, it supports the notion that the Code expects and allows judges to speak publicly for positive community values. *See* Rule 21-307 committee commentary ¶ 3 (“Too strict a rule forbidding a judge’s attendance at or participation in community events would discourage judges from participating in their communities and interacting with citizens and neighbors, a result that would isolate judges from the public they serve and would be detrimental to encouraging public support for the judiciary.”). There is no significant difference between appearing at an event to encourage young women to participate in rodeo activities and appearing in an article in a publication promoting that same end. Since the former is explicitly authorized in the Code, the latter may be presumed to be as well.

We caution that participation in such journalistic projects does not empower judges to use such opportunities to raise funds for themselves or any for-profit or not-for-profit organizations or to encourage the public to join any organization that charges dues. Judges planning to participate in such publications should also observe other limitations in Rule 21-307, such as considering whether the purposes and membership of an organization publishing or benefitting from the publication would conflict with other ethical obligations of the judge, or whether the publisher is scheduled or might be expected to appear before the judge. Since none of those limiting factors is presented here, the Committee sees no obstacle to your plans.

Very truly yours,



James J. Wechsler  
Chair

cc: Paul L. Biderman, Esq.  
Hon. Sandra W. Engel  
Hon. Freddie J. Romero  
Professor Robert L. Schwartz

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<sup>1</sup>The amendments to this rule adopted by the Supreme Court in Order No. 15-8300-013, effective December 31, 2015, are not pertinent to your inquiry.