

Advisory Committee on the Code of Judicial Conduct

Hon. James J. Wechsler, Chair
Hon. Marie A. Baca
Paul L. Biderman, Esq.
Thaddeus Bejnar, Esq.

July 26, 2004

Re: Advisory Opinion No. 04-04

Dear Judge

You have asked the Advisory Committee on the Code of Judicial Conduct for an opinion concerning the propriety of your participating in certain charitable fund-raising activities. Specifically, you have advised the committee that employees of your court are interested in participating in a two-day relay event which raises funds for cancer research. You have inquired whether you can participate in a "Dunk a Judge" activity involving a "dunking" booth. It is our understanding that participants will pay something of value to the charitable organization to try to "dunk" the participating judge with water.

Two provisions of the Code of Judicial Conduct are directly relevant to your request. Rule 21-200(8) NMRA prohibits a judge from lending the prestige of judicial service to advance the private interest of others. Rule 21-500 (C) NMRA specifically addresses a judge's participation in charitable activities. Rule 21-500 (C)(3)(b) provides:

A judge. . . as an officer, director, trustee or non-legal advisor, or as a member or otherwise:

(iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

The proposed activity, by its nature, uses the prestige of judicial service to attract participants who will make contributions to try to "dunk" a judge. Promotion of the fundraising event using judge's names or stating the involvement of judges directly involves the judges in the fundraising. Some persons may attend only because of a particular judge or judges' presence. Attendees may participate in the activity in order to curry favor with the judge. As a result, the "Dunk a Judge" activity is based on the prestige of the judge in order to attract participants.

We conclude that the Code of Judicial Conduct does not permit you

to engage in a "Dunk a Judge" dunking booth for charitable purposes.

Very truly yours,

James J. Wechsler

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cc: Hon. Marie A. Baca
Paul Biderman, Esq.
Thaddeus Bejnar, Esq.