

Advisory Committee on the Code of Judicial Conduct

Hon. James J. Wechsler, Chair
Hon. Kevin L. Fitzwater
Paul L. Biderman, Esq.
Prof. Robert L. Schwartz

September 2, 2008

Re: Judicial Advisory Opinion No. 08-06

You have requested an Advisory Opinion of the Advisory Committee on the Code of Judicial Conduct as to whether the Code precludes you from speaking at a seminar of the New Mexico Criminal Defense Lawyers Association. You have been asked to speak about the over which you preside. You are concerned about the propriety of your making the presentation because the seminar is limited to criminal defense attorneys; prosecutors are not permitted to attend.


The Committee believes that your concern is well taken. Although the Code permits and encourages judges to speak or lecture about the legal system and the administration of justice, such activities must be conducted in accordance with the requirements of the Code. Rule 21-500(B) NMRA; Commentary to Rule 21-500(B). Rule 21-200(A) NMRA stresses that a judge must act "at all times in a manner that promotes public confidence in the integrity and the impartiality of the judiciary." Rule 21-200(A) requires that a judge avoid even the appearance of impropriety. Commentary to Rule 21-200(A). An appearance of impropriety exists if "the conduct would create in *reasonable* minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and confidence is impaired." *Id.*

The Committee believes that your presentation at the NMCDLA seminar would create an appearance that could impair public confidence in your impartiality in domestic violence cases. Indeed, the handling of domestic violence cases is a matter of significant public concern. The nature of your presentation addresses issues that arise in your courtroom in cases in which members of the NMCDLA represent clients. Based on the sponsorship of the program and because the seminar is designed so that the other side of the adversarial process will not be present, the Committee believes that it is reasonable for the public to perceive

that, in speaking at the program, you would be subjected to only the defense side of any issues raised by your presentation. The Committee thus believes that a reasonable public perception can be that your impartiality in handling domestic violence cases could be affected.

The Committee recommends that you decline the request to speak at the seminar.

Very truly yours,

A handwritten signature in cursive script, which appears to read "James J. Wechsler", is written over a solid black rectangular redaction box.

James J. Wechsler

JJW:ow

cc: Hon. Kevin Fitzwater
Paul Biderman, IPL Director Professor
Robert L. Schwartz