

JUDICIAL ETHICS COMMITTEE
Advisory Opinion 09-3
Issued October 29, 2009

Issue

May a retired District Court Judge in non-active retired status who plans to undertake in his personal capacity alternative dispute resolution matters contact former judicial colleagues and others announcing his new undertaking.

Statement of Facts

The inquiring Judge is retired and does not have an active retired status. In his retirement he proposes to be available to handle alternative dispute resolution matters. He inquires as to whether his announcement and resumé can be forwarded to his former judicial colleagues.

Applicable Provisions

Maine Code of Judicial Conduct, Part II General Provisions, Section 1, Applicability, states that every Justice, Judge, and Active Retired Justice of the Supreme Judicial, Superior, District, and Administrative Courts shall comply with all provisions of this Code.

Discussion

As we understand the inquiry, the Judge did not seek active retired status and is now retired and proposes to be active in the alternative dispute resolution field and would be distributing his announcement to that effect to members of the Bar, including his former judicial colleagues.

It is the Committee's view that retired Judges who are not Active Retired are not subject to the Maine Judicial Code.

Retired Judges who are no longer subject to recall are not mentioned in the ABA Judicial Code, “because by implication they are not governed by the Judicial Code.” Ronald B. Rotunda, Legal Ethics: The Lawyers Desk Book on Professional Responsibility, 594 (2002).

As a retired Judge, acting as an attorney offering ADR services, the retired Judge may face some advertising issues under the Maine Rules of Professional Conduct effective August 1, 2009. We express no opinion on that issue, since it falls within the purview of the Board of Overseers of the Bar and outside the jurisdiction of this Committee.

Conclusion

The retired Judge in non-active retirement status is no longer subject to the Maine Judicial Code.

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