

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 89-01
(July 6, 1989)

**Member of Public Defender's Staff Sitting
As Pro Tem Justice of the Peace**

Issue

Is it ethically improper for a member of a county public defender's office to sit, pro bono, as a pro tempore justice of the peace, hearing civil cases only?

Answer: No, but see the notice at the end of the opinion.

Discussion

This question has been considered by the Advisory Committee on Rules and Professional Conduct of the State Bar of Arizona. In Opinion 87-21, the committee concluded that an attorney who has a public defender contract in superior court may serve as a judge pro tempore on the civil bench provided that the guidelines set forth in that committee's Opinion 74-6 have been met.

The guidelines, modified somewhat for the present issue, set forth in Opinion 74-6 are as follows:

1. Attorneys should never act in a judicial capacity in a case involving a party they are currently representing. Nor should one so act in a case involving a party previously represented. Every effort should be made to avoid hearing cases in which one party may have been represented by other attorneys in the office of the public defender.
2. Attorneys should not permit their practice as public defenders to interfere with the prompt and proper performance of their judicial duties, nor should the activities as a judge be conducted for the purpose of advancing personal ambitions.
3. Attorneys should not accept anything of value from any person when it is known or obvious that the offer is for the purpose of influencing their actions as a judge.
4. Attorneys should be mindful of and comply with all Canons of the Code of Judicial Conduct except those that are clearly not applicable to part-time judges pro tempore.

The Advisory Committee has reviewed the foregoing guidelines and finds them to be ethically appropriate. The committee further recommends that an attorney who serves as a part-time judge pro tempore should be familiar with the Code of Judicial Conduct and State Bar Committee Opinions 74-6 and 87-21, as well as Opinions 75-3, 77-3 and 80-14.

Advisory Opinion 89-01

References

Opinion 87-21, *Arizona State Bar Committee on Rules and Professional Conduct* (Sept. 18, 1987), and related opinions 74-6, 75-3, 77-3 and 80-14.

Notice

This opinion was originally issued as Opinion 89-02 on the date shown at the top of the page. In 1991, it was republished in a different format and renumbered as Opinion 89-01 to eliminate a discrepancy in the numbering system. Three years later, the Advisory Committee withdrew the opinion in Opinion 94-08 (July 20, 1994). Both opinions must be considered, however, in light of Opinion 95-08 (May 3, 1995) which the committee issued as a supplement to Opinion 94-08.