



California Fair Political Practices Commission

March 17, 1986

Ralph J. Gampell, Director
Administrative Office of the Courts
State Building, Room 3154
850 McAllister Street
San Francisco, CA 94102

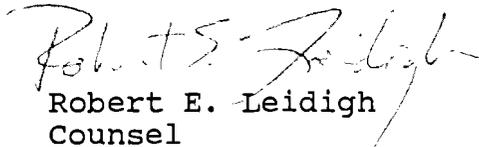
Re: Your Request for Advice
Our File No. A-86-055

Dear Mr. Gampell:

You have written regarding the implementation of Stats. 1984, Ch. 727 and Commission regulation 2 Cal. Adm. Code Section 18724. The staff recognizes that there is a need to amend the regulation with respect to "pro tem" or "temporary" judges and with respect to the 12-month period for which the 30 days or more of service is counted. In addition, the filing official question needs resolution.

Consequently, the staff intends to prepare and notice amendments to Section 18724. Your agency's comments and participation in the amendment process will be most welcome. We will forward a copy of the noticed revisions to you. We hope that they will be noticed in time to be considered by the Commission at its June meeting. In the interim, retired judges sitting on assignment need not file Statements of Economic Interests. John McLean of our legal staff will be working on this matter. He may be reached at (916) 322-5901, if you have any questions or comments.

Sincerely,


Robert E. Leidigh
Counsel
Legal Division

REL:plh
cc: All Courts

CHIEF JUSTICE
ROSE ELIZABETH BIRD
CHAIRPERSON



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February 11, 1986

Mr. John Keplinger
Executive Director
Fair Political Practices Commission
P.O. Box 807
Sacramento, California 95804-0807

Dear Mr. Keplinger:

The Administrative Office of the Courts assists in the assignment of active and retired judges to appellate and trial courts (Cal. Const., art. VI, § 6). A recent regulation of the Fair Political Practices Commission (Cal. Admin. Code, tit. 2, § 18724, effective Dec. 13, 1985) raises several issues affecting assigned retired judges that should be addressed by the commission.

In 1976, "judges of courts of record" were added to the list of officials in section 87200 of the Government Code who are required to file statements of economic interests (Stats. 1976, ch. 129, effective as urgency legislation on May 5, 1976). The 1984 legislation amended this portion of section 87200 as follows: "judges and commissioners of courts of ~~record~~ the judicial branch of government." (Stats. 1984, ch. 727, § 7, operative July 1, 1985.) The effect of this amendment was to add commissioners and justice court judges to the list of officials required to file statements.

In the decade since judges were added to the Political Reform Act, we have not been aware of any communications from the FPPC indicating that retired judges were required to file disclosure statements when sitting on assignment. Indeed, there are sound policy reasons -- and practical reasons also -- for not imposing such a requirement. We recently learned, however, that your technical assistance unit has informed a judge who was about to retire and had accepted an assignment to serve as a retired judge that no leaving-office statement

should be filed until his assignment was completed. Your regulation 18724 was cited as authority.

Regulation 18724 does not appear to require judges on assignment to file statements of economic interests. It does not announce a change in the interpretation of who is required to file under section 87200. Furthermore, the "statement of reasons" for adopting the regulation appears to be based on a misconception of the scope of the 1984 legislation. The Initial Statement of Reasons reads,

Situation Addressed: This regulation implements Government Code Section 87200 which was amended by Statutes of 1984 Chapter 727 to add judges and commissioners of courts of the judicial branch of government.

This statement seems to assume the 1984 legislation extended section 87200 to cover judges as well as commissioners, when, of course, judges have been in the section since 1976.

In determining its policy on assigned retired judges, the commission should consider whether section 87200 of the Government Code is intended to include assigned judges. Retired judges are assigned to courts (Cal. Const., art. VI, § 6), but are they judges of courts? Section 87200 applies to "judges ... of courts of the judicial branch of government." Judges of courts stand for election and hold a specific office for determinate periods, as do most of the other officials listed in section 87200. Retired judges are assigned for varying periods to a number of courts. They do not hold a specific office nor do they stand for election.

By accepting assignments retired judges perform a valuable service to the court system and the people. The additional compensation is so small that a majority of retired judges waive the additional amount and serve on a "pro bono" basis. The state should not impose unnecessary requirements that might discourage retired judges from accepting assignments, because the need for assigned judges always exceeds the number available to serve. We hope the commission considers these factors in determining its policies.

If the commission determines that retired judges serving on assignment are required to file statements of economic interests, we believe the commission should announce

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the change in policy and notify the retired judges. Even though this office assists in the assignment of retired judges to the courts, it is not in a position to instruct assigned judges on their filing requirements. The FPPC is the named filing officer for judges (Gov. Code, § 87500(i)), and it would be appropriate for the commission to inform them of their duties (see Gov. Code, § 81010).

I hope that this will be of help in your analysis. Ben McClinton of our legal staff has been assigned to this matter. He may be reached at (ATSS) (8) 597-2582.

Very truly yours,



Ralph J. Gampell
Director

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