

1 **PROFESSIONAL ETHICS OF THE FLORIDA BAR**
2 **PROPOSED ADVISORY ADVERTISING OPINION A-09-1**
3 **(June 25, 2009)**
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5 The Supreme Court of Florida has asked The Florida Bar to review the
6 issue of use of the title “Judge” by retired judges in the practice of law. It has
7 come to the Court’s attention that some attorneys who are retired judges and who
8 are engaged in the active practice of law use the term “Judge Jane Doe (Ret.)” or
9 otherwise identify themselves as “Judge (Ret)” on letterhead, business cards, and
10 advertisements.

11 Although there are Florida ethics opinions written on the issue of use of
12 the term “judge” by a former judge who is actively engaged in the practice of law,
13 those opinions were written before the current lawyer advertising rules and before
14 the creation of the Standing Committee on Advertising. For example, Florida
15 Ethics Opinion 73-27 concludes that a lawyer who is a former municipal judge
16 may not permit the lawyer’s telephone answering service to answer “Judge X’s
17 office.” Similarly, Florida Ethics Opinion 73-31 determined that a former judge
18 who is actively practicing law may not use a nameplate using “Judge X” on the
19 lawyer’s door or desk. Florida Ethics Opinion 75-34 states that a former judge
20 who practices law and serves as a corporate officer may not use “Judge X” on
21 corporate stationary or let corporate employees refer to the lawyer as “Judge”
22 when communicating with third persons.

23 The American Bar Association has taken a similar position, indicating that
24 former judges should not use the titles of either “Judge” or “The Honorable”
25 while engaged in the practice of law, including answering the telephone “Judge
26 X’s Office,” having “Judge X” on a nameplate, or using “Judge X.” See ABA
27 Formal Opinion 95-391 (1995). The ABA opinion cites concerns that such
28 references are misleading, and may “exaggerate the influence the lawyer may be
29 able to wield.”

30 The Standing Committee on Advertising agrees with the Florida and ABA
31 ethics opinions. Florida Bar rules prohibit lawyers from making false,

32 misleading, or deceptive communications about their services, whether they are
33 misleading by omission or commission. Rule 4-7.2(c)(1), Rules Regulating The
34 Florida Bar. Additionally, a lawyer may not “state or imply an ability to influence
35 improperly a government agency or official or to achieve results by means that
36 violate the Rules of Professional Conduct or other law.” Rule 4-8.4(e), Rules
37 Regulating The Florida Bar. The Committee is of the opinion that lawyers should
38 not use the term “Judge” preceding their names, regardless of whether a modifier
39 such as “former” or “retired” is used, when they are actively engaged in the
40 practice of law after leaving the bench. Such a use is misleading, as the person is
41 no longer a judge, and it may lead the public to believe that the person has an
42 ability to exert improper influence in the judicial system. The Committee
43 therefore finds it improper to use the term as a title, or to use the term in any way
44 that states or implies that the former judge or justice has special influence. On the
45 other hand, the Committee believes that lawyers may properly provide accurate
46 and truthful information to the public about their prior judicial experience. For
47 example, a former judge may include in advertisements an accurate and truthful
48 statement that he or she is a “retired circuit judge,” “former county judge” or
49 “former general magistrate.”