

JUDICIAL ETHICS COMMITTEE
OF THE
ADVISORY COMMITTEE ON THE CODE OF JUDICIAL CONDUCT

JUL 5 Rec'd

Question: An out-of-state private company, Resolute Systems, Inc., engaged in the business of mediation and alternative dispute resolution, has contacted an "active-retired" justice of the Superior Court to determine his interest in hearing cases and assisting in the mediation and resolution of cases outside of regular court proceedings. The justice asks:

"Is there anything improper or unethical for an active-retired judge to engage in such mediation during a period when he is otherwise unassigned?"

Answer: The Maine Code of Judicial Conduct is applicable to active-retired justices. Part II, § 1(A).

Even though a judge would not utilize court facilities or resources, but as a retired judge acts for the Judicial Branch on a part-time basis, employment to hear and resolve cases in a private capacity is not permitted under Canon 4(F) of the Code as it currently exists:

"Service as Arbitrator or Mediator: A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity."