

**South Dakota  
Special Committee  
on Judicial Election  
Campaign  
Intervention**

500 East Capitol Avenue  
Pierre, SD 57501-5070



**Committee Members:**

Retired Chief Justice  
Robert A. Miller (Chair)  
*Pierre, South Dakota*  
Retired Circuit Judge  
Rodney Steele (Vice-Chair)  
*Brookings, South Dakota*  
Honorable Harvey Wollman  
*Frankfort, South Dakota*  
John Blackburn, Esq.  
*Yankton, South Dakota*  
Professor Christine Hutton  
*Vermillion, South Dakota*  
Arlene Ham-Burr  
*Rapid City, South Dakota*  
Dr. Robert Burns  
*Brookings, South Dakota*  
Bob H. Miller  
*Pierre, South Dakota*  
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*Pierre, South Dakota*

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Greg Sattizahn, Esq.  
*Pierre, South Dakota*  
  
Suzanne Kappes, Esq.  
*Pierre, South Dakota*

July 30, 2014

OPINION #14-06

Dear [REDACTED]:

You have requested an advisory opinion from the Special Committee on Judicial Election Campaign Intervention:

**Whether a judicial candidate may advertise at a movie theatre and, if so, are there restrictions.**

The Committee answers in the affirmative.

Canon 5C(1)(b)(i) provides that a judicial candidate may appear in “newspaper, television and other media advertisements” to support their candidacy. However, as set forth in the Commentary, “[t]he conduct of a judicial campaign and the manner of presentation of any material in connection with a campaign for judicial office should comport with the dignity and integrity required of that office.”

Thus, the question becomes not whether it is allowable to advertise in a movie theater but whether the advertisement comports with the dignity and integrity required of the judicial office. Dignity is defined as “the quality or state of being worthy, honored, or esteemed; a legal title of nobility or honor” by Merriam Webster dictionary. The Commentary to Canon 1A notes that “integrity is one in which judges are known for their probity, fairness, honesty, uprightness, and soundness of character.”

It is not likely in the Committee’s opinion that advertising in a movie theater would lead the public to believe that a judge was going to be unfair, dishonest, or of unsound character. Although advertising at a movie theater is not the traditional form used to promote support of a judicial campaign, this action would not violate the integrity or dignity of the judicial candidate. However, our opinion would likely change if the candidate did not use proper discretion in choosing the movie theater in which the advertisement took place, i.e. adult movie theaters. The judicial candidate should also use their discretion in the type of movies that the advertisement precedes. Depending on the movie, the judicial candidate may want to forgo advertising because of the content or rating of the movie. As always, the candidate must exercise discretion in making these determinations.

With this letter, the Committee considers this matter concluded and has elected to treat this as a formal opinion. This opinion, however, is advisory in nature and should be regarded as such.

For the Committee,

A handwritten signature in black ink, appearing to read 'R. Miller', with a long horizontal flourish extending to the right.

Robert A. Miller, Retired Chief Justice  
Committee Chair

*The Committee is a non-partisan group dedicated to preserving the dignity and integrity of this state's judicial system. We believe judicial candidates should aspire to the highest ethical standards to promote public trust and confidence in the fairness and impartiality of this state's courts. We do not endorse candidates, and this opinion is not intended to announce support for, or opposition to, any candidate. Instead, we strive to educate the candidates, the media, and the public about judicial campaign conduct.*