

Committee on Judicial Ethics  
Teleconference  
Thursday, June 6, 2013

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward Karazin, Vice Chair, Judge Maureen D. Dennis, Judge Christine E. Keller and Professor Jeffrey A. Meyer. Staff present: Attorney Martin R. Libbin, Secretary and Attorney Viviana L. Livesay, Assistant Secretary.

**MINUTES**

- I. With the above noted Committee members present, Justice Schaller called the meeting to order at 9:32 a.m. Although publicly noticed, no members of the public were in attendance.
- II. The Committee approved the Minutes of the May 20, 2013 meeting. (Judge Karazin abstained.)
- III. The Committee discussed Informal **JE 2013-24** concerning whether a Judicial Official who is the chair of a Judicial Branch Public Service and Trust Commission Committee may sign a letter of support, in his or her capacity as chair, on behalf of a legal aid organization seeking a technology grant from a charitable organization.

The legal aid organization's application for funding is related to the mission of the particular Public Service and Trust Commission and the Committee's membership includes lawyers who represent diverse interests. The charitable organization in question is concerned with the law, the legal system or the administration of justice. The proceeds of the grant, if awarded, will be used for a program or activity that concerns the law, the legal system or the administration of justice.

Rule 1.2 requires a judge to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and to avoid impropriety and the appearance of impropriety.

Rule 1.3 states that "[a] judge shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so." The comments to this Rule note, inter alia, that a judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge and may use official letterhead provided the judge indicates that the reference is personal and the use of letterhead would not reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

Rule 3.1 states that a judge may engage in extrajudicial activities, except as prohibited by law, however, a judge shall not participate in activities that (1) will interfere with the proper performance of judicial duties, (2) lead

to frequent disqualification, (3) appear to a reasonable person to undermine the judge's independence, integrity or impartiality, (4) appear to a reasonable person to be coercive, or (5) make use of court premises, staff or resources except for incidental use or for activities that concern the law, the legal system or the administration of justice, or if the use is permitted by law.

Rule 3.7(a) states that subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations concerned with the law, the legal system or the administration of justice, as well as those sponsored by or on behalf of educational, religious, charitable, fraternal or civic organizations not conducted for profit, including the following:

- (1) assisting such an organization or entity in planning related to fund-raising and participating in the management and investment of the organization's or entity's funds;
- (2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority; ...
- (5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities but only if the organization or entity is concerned with the law, the legal system or the administration of justice ...."

Comment (2) to Rule 3.7 states that "[e]ven for law related organizations, a judge should consider whether the membership and purposes of the organization, or the nature of the judge's participation in or association with the organization, would conflict with the judge's obligation to refrain from activities that reflect adversely on a judge's independence, integrity, and impartiality."

The Committee, having considered, inter alia, Emergency Staff Opinion JE 2011-28 (a Judicial Official should not provide a letter of support to a law-related organization to use in soliciting donations but may, consistent with Rule 3.7(a)(5), make recommendations to a public or private fund-granting organization that is concerned with the law, the legal system or the administration of justice), and opinions from other jurisdictions including, but not limited to, Arizona Opinions 95-21 and 97-01, Florida Opinions 2012-35 and 2002-09, and New York Opinions 08-112 and 97-71, unanimously determined that if the inquiring Judicial Official has otherwise determined that the Committee has the authority to issue a letter of support and that the Committee has approved providing such a letter, the Judicial Official may, consistent with Rules 1.2, 1.3, 3.1 and 3.7(a)(5), issue a letter of support in his or her capacity as the Chair of the committee subject to the following conditions: (1) the Judicial Official is knowledgeable about the organization soliciting the funding, its purposes and how the funding will be used; (2) the Judicial Official is convinced that the project in fact advances the administration of justice; and (3) the

Judicial Official makes it clear that the letter is on behalf of the Committee and not on behalf of the entire Judicial Branch.

- IV. The Committee discussed Informal **JE 2013-25** concerning whether a Judicial Official may accept an invitation from the Connecticut Trial Lawyers Association (“CTLA”) to attend a dinner at its annual meeting as a guest of the CTLA.

The inquiring Judicial Official advised that while membership is open to all lawyers, the CTLA is perceived as a plaintiffs’ bar. The CTLA website describes the organization as follows:

**Connecticut Trial Lawyers Association** is a non-profit professional association dedicated to creating and maintaining a more just society by preserving individual rights within the justice system.

We are a fellowship of over 1,300 of Connecticut's most accomplished and active lawyers who are interested in protecting plaintiffs' rights and becoming better trial lawyers. CTLA provides its members with continuing education, publications, trial skills workshops and networking opportunities that keep them current on the law.

The annual meeting is an all-day program with numerous speakers. During the dinner, there is a speaker as well as a presentation of a Civil Justice Award, CTLA Judicial Award and a Lifetime Achievement Award. The cost of the dinner is \$75 for members, their guests and law students and \$95 for all others. If a reservation is placed after May 29, the entrance fee increases by \$30 for both categories.

Rule 1.2 of the Code of Judicial Conduct provides that a judge “shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this Code or engaged in other conduct that reflects adversely on the judge’s honesty, impartiality, temperament, or fitness to serve as a judge.”

Rule 3.1 states that a judge may engage in extrajudicial activities, except as prohibited by law; however, a judge shall not participate in activities that will interfere with the proper performance of judicial duties, lead to frequent disqualification or appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.

Rule 3.7 concerns participation in educational, religious, charitable, fraternal, or civic organization and activities. Subject to the requirements in

Rule 3.1, a judge is permitted to participate in activities sponsored by “organizations or governmental entities concerned with the law, the legal system, or the administration of justice”. Subject to the requirements in Rule 3.1, subsection (a)(4) specifically authorizes judges “appearing or speaking at ... an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system or the administration of justice”.

Rule 3.13 concerns the acceptance and reporting of gifts. Subsection (a) notes that a judge should not accept a gift or other thing of value “if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.” Subsection (c)(2)(A) states that unless otherwise prohibited by law or subsection (a), a judge may accept an invitation to the judge and a guest “to attend without charge ... an event associated with a bar related function or other activity relating to the law, the legal system, or the administration of justice.”

Rule 3.15 sets forth the reporting requirement for gifts and other things of value permitted by Rule 3.13(c). Basically, provided the value of all such items received from a single source does not exceed \$250 in a calendar year, there is no duty to report the item.

Based on the facts presented, including that membership in the CTLA is open to all and that the CTLA’s stated purpose is to create and maintain a more just society by preserving individual rights within the justice system, the Committee unanimously determined that the Judicial Official may accept an invitation from the CTLA to attend the dinner at its annual meeting as its guest. However, the nature and extent of the Judicial Official’s participation at the CTLA’s dinner are subject to the following ethical limitations:

- (1) The Judicial Official does not discuss any pending or impending cases in any court;
- (2) The Judicial Official does not personally believe that attendance as a guest of the CTLA would create an appearance of impropriety; and
- (3) If required to do so pursuant to Rule 3.15, the Judicial Official reports the gift.

- V. The Committee tentatively scheduled its next meeting for Tuesday, June 18, 2013 at 9:30 a.m.
- VI. The meeting adjourned at 9:51 a.m.