

Committee on Judicial Ethics
Teleconference
Thursday, January 21, 2016

Members present via teleconference: Judge Christine E. Keller (Chair), Judge Maureen D. Dennis (Vice Chair), and Professor Sarah F. Russell. Staff present: Attorney Martin R. Libbin (Secretary) and Attorney Viviana L. Livesay (Assistant Secretary).

MINUTES

- I. With the above noted Committee members in attendance, Judge Keller called the meeting to order at 9:34 a.m. Although publicly noticed, no members of the public were present.
- II. The Committee members approved the minutes of the December 17, 2015 meeting.
- III. The Committee ratified **Emergency Staff Opinion JE 2016-01** concerning whether a Judicial Official may take an acknowledgment on a document that a relative needs to sign in connection with a pending lawsuit. Does taking the acknowledgment fall within the exception contained in Rule 3.10 regarding “giving legal advice to and drafting or reviewing documents for a member of the judge’s family” and, if so, does it constitute serving as the family member’s lawyer in a forum?

Rule 3.10 of the Code of Judicial Conduct states that “[e]xcept as provided herein, a judge shall not practice law. A judge may act as a self-represented party and may, without compensation, give legal advice to and draft or review documents for a member of the judge’s family, but is prohibited from serving as the family member’s lawyer in any forum.”

Conn. Gen. Stat. § 1-29 provides, in relevant part, that “[t]he acknowledgment of any instrument may be made in this state before: (1) A judge of a court of record or a family support magistrate; (2) a clerk or deputy clerk of a court having a seal; (3) a town clerk; (4) a notary public; (5) a justice of the peace; or (6) an attorney admitted to the bar of this state.

This inquiry was circulated to the Committee members and their input was solicited and received. Staff circulated the Committee’s prior Emergency Staff opinion in JE 2009-26, noting that taking an acknowledgment was not the practice of law on the facts of the inquiry, as well as advisory opinions from New York in which the issue of a judge serving as a notary public was considered. The New York Advisory Committee concluded that there is nothing intrinsically

unethical in a judge serving as a notary public, particularly in light of the authority otherwise given to judges to administer oaths and acknowledgments. See NY 03-129 (New York Constitution prohibits Supreme Court justices from holding another public office, such as serving as Notary Public); NY 10-191 (Judicial Hearing Officer may serve as a Notary Public because the New York Constitution not prohibit JHOs from holding any other public office); and NY 14-107 (full-time city court judge may serve as Notary Public because the New York Constitution does not prohibit city court judges from holding any other public office.)

Based on the facts presented, the Judicial Official was advised that furnishing an acknowledgment would not constitute the practice of law, particularly in light of the statutory authority otherwise given to judges to administer acknowledgments within the state under C.G.S. § 1-29.

- IV. The three Committee members present approved the 2015 Annual Report to the Chief Justice. Since the report is submitted by the Chair to the CJ on behalf of the entire Committee, the Chair requested that the report be circulated to all members for their review and approval.
- V. New Business – The next meeting of the Committee is scheduled for February 18, 2016.
- VI. The meeting adjourned at 9:39 a.m.