

Committee on Judicial Ethics
Teleconference
Thursday March 5, 2009

Members present via teleconference: Justice Barry R. Schaller, Chair; Judge Linda K. Lager, Vice-Chair, Judge Robert J. Devlin, Jr., and Associate Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary, Viviana L. Livesay, Esq., Assistant Secretary.

MINUTES

- I. Justice Schaller called the meeting to order at 9:31 a.m. Though publicly noticed, no members of the public attended.
- II. The draft Minutes of the February 18, 2009 meeting were unanimously approved.
- III. The draft Log Entries were unanimously approved.
- IV. The Committee considered Judicial Ethics Opinion 2009-12 concerning whether a Judicial Official may act as a legal advisor to a close family member and whether if a Judicial Official holds an administrative position and a close family member has a case pending in the judicial district where the judicial official is assigned, must the case be transferred to another judicial district. Based upon the facts presented, including that the Judicial Official would like to accompany the family member to meet with the family member's attorney and discuss any potential settlements with the family member and the family member's attorney, the Committee unanimously determined that Canon 5(f) prohibits judges from engaging in the "practice of law," as that term is defined in Practice Book § 2-44A, and agreed that the Judicial Official should not act as a legal advisor to the family member or engage in any potential settlement discussions. The Committee also determined that the Code does not prohibit a Judicial Official from providing family members with emotional or moral support, or personal advice based on common sense and good judgment. The Judicial Official may attend meetings with the attorney for those purposes alone. With respect to the transfer issue, the Committee determined that Canon 3's obligation that judges perform the duties of the office impartially requires the Judicial Official to disqualify him or herself from all cases involving the family member's attorney at least for the duration of the family member's representation. The Code does not, however, require other judges in the judicial district to recuse themselves just because a judge with administrative responsibilities is disqualified. Each Judicial Official must make his or her own determination based upon the provisions of the Code. Should the relative's attorney or the opposing party move for a change of venue, the inquiring Judicial Official should not preside over that motion.

It was noted that this informal opinion is based on the existing version of the Code of Judicial Conduct which is based on the ABA's 1972 Model Code language.

Connecticut did not adopt the 1990 amendment to the Model Code which permitted judges, without compensation, “to give legal advice to and draft or review documents for a member of the judge’s family.” Proposals to amend Connecticut’s current Code of Judicial Conduct, including this provision, are presently under consideration.

V. The meeting adjourned at 9:51 a.m.