

Committee on Judicial Ethics  
Teleconference  
Tuesday, June 18, 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.

**MINUTES**

- I. With the above noted Committee members present, Justice Schaller called the meeting to order at 9:33 a.m. Although publicly noticed, no members of the public were in attendance.
- II. The Committee unanimously approved the Minutes of the June 6, 2013 meeting.
- III. The Committee discussed **Informal JE 2013-23** concerning whether a Judicial Official may speak on a law related topic at a TEDx conference for students, faculty and staff at a nonprofit educational institution.

TED is an educational program owned by a non-profit foundation and devoted to a mission of "Ideas Worth Spreading." According to the TED website, TED holds multiple yearly conferences involving a series of short talks from speakers on a broad range of topics. The TEDx program is designed to give communities, organizations, and individuals the opportunity to plan and engage in their own "TED-like" conferences. Pursuant to TEDx rules, each speaker at a TEDx conference is limited to a maximum of 18 minutes; panel discussions, breakout sessions, question and answer sessions, and keynote speeches are prohibited. Talks cannot be used to sell products or promote businesses. The conference is recorded and may be made available for viewing online by others in the future. Speakers are required to sign a waiver authorizing their presentation to be included on the TED You Tube site. There will be no charge for those that attend the TEDx program at which the Judicial Official would speak. The cost of the program is being paid for by sponsors, including, but not limited to, the student association at the educational institution. The program is not a fund-raiser, and the Judicial Official will not be paid for speaking, but may be reimbursed for the cost of travel.

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."

Rule 2.4(c) states that a judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge's judicial conduct or judgment.

Rule 2.10(a) states that a judge shall not make any public statement that might reasonably be expected to affect the outcome or to impair the fairness of a matter pending or impending in any court or make any nonpublic statement that might substantially interfere with a fair trial or hearing. Rule 2.10(b) states that a judge shall not, in connection with cases or controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of 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)(4) states that "[s]ubject 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, and those sponsored by or on behalf of educational, religious, charitable, fraternal or civic organizations not conducted for profit," including "appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with 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 3.14(a) states that if not prohibited by Rules 3.1 and 3.13(a) or other law, a judge may accept reimbursement of necessary and reasonable expenses for travel and waiver of registration fees or charges from sources other than the judge's employing entity if the expenses or charges are associated with the judge's participation in extra-judicial activities permitted by the Code. Rule 3.14(c) states that a judge who accepts reimbursement of expenses or waiver of fees or charges shall publicly report the acceptance as required by Rule 3.15.

Rule 3.15(a)(3) states that a judge shall publicly report the amount or value of reimbursement of expenses and waiver of fees or charges

permitted by Rule 3.14(a), unless the amount of reimbursement or waiver, alone or in the aggregate from the same source in the same calendar year, does not exceed \$250.

The Committee, having considered, inter alia, its opinion in JE 2009-23 (<http://www.jud.ct.gov/Committees/ethics/sum/2009-23.htm>), subject to various conditions a Judicial Official may organize and participate in a law related educational program on behalf of a general membership bar association, where sponsorships are solicited from law firms and businesses that were or likely would be engaged in litigation in the Connecticut courts) and formal opinion JE 2010-21 ([http://www.jud.ct.gov/Committees/ethics/formal\\_op/JE\\_2010-21.pdf](http://www.jud.ct.gov/Committees/ethics/formal_op/JE_2010-21.pdf)), subject to various conditions a Judicial Official may speak to a group of Department of Public Health employees who are engaged in the licensing, investigation and quality improvement of daycare facilities concerning the Judicial Official's views about the problems of American children and their role in the courts), unanimously determined that the Judicial Official may participate subject to the following conditions:

- 1) The Judicial Official prohibits the educational institution from using his or her name if soliciting sponsors for the event. Rule 1.3.
- 2) The Judicial Official should not discuss pending or impending cases or make any statement that might reasonably be expected to impair the fairness of a pending or impending matter. Rule 2.10(a).
- 3) The Judicial Official should be satisfied, after considering all the circumstances, that a reasonable person would not believe either that the Judicial Official had lent the prestige of office to advance the private interests of others or that any sponsors were in a special position to influence the Judicial Official. Rules 1.3, 2.4(c) and 3.1(3).
- 4) The Judicial Official should retain the right to review and pre-approve the use of any biographical information or other material used to describe his or her participation in the program and to review any post-presentation publications. Rules 1.3 and 2.4(c).
- 5) If the Judicial Official accepts reimbursement of travel expenses or waiver of fees, he or she reports that information if required to do so pursuant to Rules 3.14 and 3.15.

IV. The Committee discussed **Informal JE 2013-26** concerning whether a Judicial Official may assist with the organizational effort to establish

Connecticut's first Family Justice Center created to provide a full range of services to victims of sexual assault and domestic violence.

The Center for Women and Families of Eastern Fairfield County ("CWFEFC") is in the process of establishing Connecticut's first Family Justice Center ("FJC"), a "one stop shop" for victims of domestic violence and sexual assault. The Connecticut FJC plans to offer all the services victims need to become survivors, such as advocacy, shelter placement, case management, counseling, safety, education and employment planning, emotional support and childcare when receiving services. The Connecticut FJC will provide community collaboration with police, prosecutors, community-based advocates and social services and will be patterned after the first center that opened in San Diego, California in 2002 and the FJC in Brooklyn, New York. Funding for the Connecticut FJC has been provided, in part, by the Michael Bolton Charities. The Connecticut FJC will be housed in CWFEFC's headquarters in Bridgeport and will serve victims in Bridgeport, Easton, Fairfield, Monroe, Stratford and Trumbull.

Reported outcomes of FJCs include: reduced homicides; increased community support services; increased victim safety; reduced recantation and minimization by victims; reduced fear and anxiety for survivors and their children; increased autonomy, empowerment and self-sufficiency for survivors; increased prosecution of offenders; and reduced costs by co-location/streamlining the process.

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."

Although the goals of the FJC are laudable, the organization appears to be heavily one-sided in nature. Based upon the facts presented, including the victim-centered focus of the FJC, the composition of its membership (which lacks defense representation) and its potential for advocacy, the Committee determined that the Judicial Official should decline to assist with the organizational effort because it would cast doubt on the Judicial Official's impartiality in violation of Rule 1.2.

In rendering this opinion, the Committee considered its prior opinions in JE 2012-25 (judicial official should not accept an award from Mothers Against Drunk Driving, one of the largest victim services organization in the U.S.) and Emergency Staff Opinion JE 2012-29 (judicial official should not accept award from a victim support and

advocacy group that regularly appears in court on behalf of victims of domestic violence), as well as opinions from two other jurisdictions. See New York Opinion 06-108 (judge should not serve as a member of a Domestic Violence Task Force that includes no defense representation), New York Opinion 00-54/00-56 (judge should not participate with law enforcement agencies in a domestic violence project that excludes defense representation), New York Opinion 99-46 (judge should not serve as a member of a Domestic Violence Community Coordinating Council, which engages in vigorous advocacy on behalf of domestic violence victims) and Florida Opinion 98-8 (judge should not belong to a victim's rights council because it would cast a reasonable doubt on the judge's capacity to act impartially as a judge).

- V. The Committee discussed **Formal JE 2013-28** concerning whether a Justice Espinosa may participate as a panelist on the "Courageous Leadership" panel discussion at the *Vanidades 8<sup>th</sup> Annual Hispana Leadership Summit*. Based on the facts presented, including that the widely advertised summit is a for-profit event to assist business entrepreneurs, the Committee unanimously concluded that participating as a panelist would not be consistent with the activities permitted under Rules 1.2, 1.3 and 3.7 of the Code of Judicial Conduct.
- VI. The Committee tentatively scheduled its next meeting for Thursday, June 27, 2013 at 9:30 a.m.
- VII. The meeting adjourned at 9:52 a.m.