

Committee on Judicial Ethics
Teleconference
Wednesday, June 11, 2014

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Christine E. Keller, Vice Chair, Judge Maureen D. Dennis, Professor Sarah F. Russell, and Judge Thomas Corradino, Alternate. 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 9:33 a.m. Although publicly noticed, no members of the public were in attendance.
- II. The Committee members present approved the minutes of the May 8, 2014 meeting.
- III. The Committee ratified **Emergency Staff Opinion JE 2014-06**.
- IV. The Committee discussed **Informal JE 2014-07** concerning whether a Judicial Official may participate in an adult co-ed summer soccer league organized by an attorney.

A Judicial Official would like to participate in an adult co-ed summer soccer league run by an attorney volunteer coordinator. The league is self-funded and charges participants a \$135 registration fee which includes placement on a team, a per-player town field maintenance fee, a team shirt, referee fees, league liability insurance and an end of season pizza party. The league is open to everyone, but priority is given to town residents. It is not a lawyers' league. Placement on a team is at the sole discretion of the team representatives and the League Coordinator. The Judicial Official will be paying for his/her own registration. The attorney who runs the league (and whose name appears as part of the league name) previously appeared before the Judicial Official when the Judicial Official was assigned to a different Judicial District, but does not appear before the Judicial Official in his/her current court location. All games are played in the evening.

Rule 1.2 states that a judge "shall act at all times in a manner that promotes public confidence in the ... 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 (3) prohibits participating in extrajudicial activities "that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality." Comment (2) of Rule 3.1 encourages judges' participation in both law related and other extrajudicial activities because it "helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system."

The Committee has addressed the issue of socializing with attorneys in several of its prior opinions: [JE 2008-04](#) (JO may attend a sold-out baseball game with an attorney friend using tickets obtained by the attorney's law firm); [JE 2009-04](#) (JO may spend several days with close personal friends, who are lawyers, at the friends' vacation home, provided that the JO continues to recuse himself in cases involving the friends, these recusals are infrequent and the judge has extended similar hospitality to the friends); [JE 2010-08](#) (JO may attend a retirement party for a prosecutor, whom the JO knew prior to his/her appointment, provided it does not detract from the dignity of the office or interfere with the performance of judicial duties); [JE 2012-01](#) (JO should not attend a "by invitation only" retirement dinner hosted and paid for by the former partners of the retiring lawyer, who regularly appear before the judge); and [JE 2013-07](#) (JO may not participate in a small social outing organized by the spouse of a foreclosure firm attorney whose cases make up a large portion of the JO's docket). The Committee also considered New York Opinion 12-177 (volunteer athletic coaching activities are ethically permissible as they do not appear to involve fund-raising or other prohibited activities and do not appear to pose a risk to the judge properly performing his/her judicial duties).

Based on the facts presented, including that the league is open to all adults, is self-funded, that participation as a player does not appear to involve the JO in any fund-raising activities, games are played outside of court hours, and that the attorney who runs the program does not presently appear before the Judicial Official, the Committee unanimously concluded that the Judicial Official's participation in the soccer league is permissible. If, however, the attorney who organizes the league should appear before the Judicial Official in the future, the Judicial Official should disclose the relationship.

- V. The Committee discussed **Informal JE 2014-08** concerning whether a Judicial Official may grant a nonprofit organization permission to use his or her name and former political title on the organization's letterhead.

Prior to the Judicial Official's appointment to the bench, the Judicial Official served as an elected government official. While serving in that capacity, the Judicial Official was a member of a local nonprofit 501(c)(3) charitable organization whose mission is to make meaningful contributions toward improving the quality of life for children in a particular Connecticut town. The Judicial Official is not involved in any fundraising and no longer attends meetings. The organization's letterhead lists board members and at least 8 other former elected officials. The purpose of the letter is to invite individuals to a golf tournament -- the organization's sole annual fundraising event. The letter also solicits donations, including auction items, raffle prizes and gift cards. According to the Judicial Official, the organization has raised approximately \$25,000 to date. The golf event also offers sponsorship opportunities. In the past, sponsorship classifications were as follows: Major Sponsor (\$500-5,000) and Flag Sponsor (\$150).

Because the nonprofit organization appears to be affiliated with a particular municipality, the letter also includes the following disclaimer: "Please be aware that donations to this tournament will not in any way have any influence in doing business with the [Town]. This tournament is not affiliated with Town government as the [organization] is a 501(c)(3) nonprofit charitable organization."

Rule 1.2 of the Code of Judicial Conduct states 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 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 as a judge."

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."

Based on the facts presented, the Committee unanimously determined that the Judicial Official should not allow the nonprofit organization to use his or her name and former political title on its letterhead because the purpose of the communication is for fundraising. In reaching its decision, the Committee took into account its prior opinions in [JE 2008-06](#) (a Judicial Official could join a law school reunion committee provided that he/she did not participate in any activity involving fundraising from others, including but not limited to (1) not allowing his/her name to be used on any letters or communications concerning fundraising activities, and (2) not participating in activities related to requesting participation in a class gift

campaign, thanking classmates who have made a gift or pledge, and contacting those who have not yet given to encourage their support); [JE 2009-11](#) (a Judicial Official may not accept an award for excellence in mediation because the event appears to be a fundraiser and should not allow the use of his or her name for purposes of advertising such an event); and [JE 2010-27](#) (a Judicial Official may attend and participate in a golf tournament fundraiser for the benefit of a judicial branch employee who was tragically injured in a motorcycle accident and may contribute money and sponsor a hole, tee or cart to help the injured employee. The Committee, however, cautioned that the Judicial Official should consider the propriety of using their judicial title in connection with the fundraiser to determine whether it implicitly lend the prestige of office to advance the private interests of others in violation of Canon 2).

VI. The meeting adjourned at 9:42 a.m.