



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2015-21 (December 17, 2015)

Disclosure/Disqualification; Attorney Conflict

Rules 1.2 & 2.11; Practice Book § 1-22 & § 1-23

Issue: Pursuant to Rule 2.11(e), a Judicial Official is not automatically disqualified from sitting on a proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the Judicial Official or filed a complaint with the Judicial Review Council concerning the Judicial Official, however, when the Judicial Official becomes aware of the lawsuit or complaint, the Judicial Official has a duty to disclose, on the record, that fact to the lawyer or parties to the proceeding and then proceed in accordance with Practice Book §1-22 (b). That section requires the Judicial Official, after disclosing the fact of the complaint or lawsuit, to either disqualify himself or herself from sitting on the proceeding, conduct a hearing on the disqualification issue or refer the matter to another Judicial Official for a hearing and decision.

The question presented by the inquiring Judicial Official is as follows. Once the lawsuit or complaint against a Judicial Official is disposed, is there an ongoing obligation to disclose the prior lawsuit or complaint if the attorney or party involved in the prior proceeding appears before the Judicial Official in a separate matter commenced after the disposition of the lawsuit or complaint, and if so, for how long?

Applicable Rules of Judicial Conduct: Rule 1.2 of the Code of Judicial Conduct states that a judge “should 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 2.11(e) states that a judge “is not automatically disqualified from sitting on a

proceeding merely because a lawyer or party to the proceeding has filed a lawsuit against the judge or filed a complaint against the judge with the judicial review council. When the judge becomes aware that such a lawsuit or complaint has been filed against him or her, the judge shall, on the record, disclose that fact to the lawyers and parties to the proceeding before such judge and shall thereafter proceed in accordance with Practice Book 1-22 (b).”

Response: At issue in this inquiry is whether a Judicial Official has an ongoing duty to disclose a prior lawsuit or complaint after the matter is resolved. In [JE 2015-01](#), involving a Judicial Official’s obligation to report an attorney to the Statewide Grievance Committee for further investigation, this Committee concluded that once the Judicial Official reports the attorney, the Judicial Official must disqualify him/herself from all cases in which the attorney appears, “both during the pendency of the disciplinary matter, and for a period of two years after the disciplinary matter is fully resolved.” The Committee decided that this standard should apply to the disclosure requirements in this case, as well.

Based upon the facts presented, the Committee determined that the Judicial Official has an ongoing obligation to disclose the prior lawsuit or complaint, both during the pendency of the matter, and for a reasonable period of time, which is not less than two years after the matter is fully resolved. Thereafter, if a motion to disqualify is filed, the Judicial Official should exercise his or her discretion in deciding the motion based upon the information provided in the motion and the accompanying affidavit, as provided for in Connecticut Practice Book § 1-23, as well as the particular circumstances of the case.