



## Connecticut Committee on Judicial Ethics

### Informal Opinion Summaries

**2016-10 (June 16, 2016)**

**Name, Use of; Soliciting Contributions; Rules 1.2, 1.3, 3.1 & 3.7**

**Background:** An ethnic bar association wants to permanently rename its annual awards dinner after a Judicial Official who was instrumental in the creation of the bar association. The dinner has been held for the past couple of years, but financial data is only available for last year. According to the Bar Association President, the program is not designed to be a fund-raiser. The President stated that in addition to charging a fee for the dinner slightly beyond the cost charged by the banquet facility, a program booklet is produced that includes sponsorships. The additional revenue is used to pay for honorees and their family to attend the dinner, and miscellaneous expenses related to the dinner and awards. Last year there was a net surplus of approximately \$1,500, however, the organization spent approximately \$1,000 to upgrade its website in order to allow it to accept reservations, etc., and therefore believes that the net profit last year was only \$500. The President also stated that the association does not plan to rename any of the individual awards in the judge's name.

**Issue:** May a Judicial Official consent to the use of his/her name for the ethnic bar association's annual awards dinner?

**Relevant Code Provisions:** Rule 1.2 of the Code 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 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 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 will interfere with the proper performance of judicial duties, lead to frequent disqualification or appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.

Rule 3.7 concerns participation in educational, religious, charitable, fraternal, or civic organization and activities. Subject to the requirements in Rule 3.1, a judge is permitted to participate in various activities sponsored by or on behalf of such entities. Subject to the requirements in Rule 3.1, subsection (a)(4) specifically authorizes judges “appearing or speaking at, receiving an award or other recognition at, 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”.

**Response:** In [JE 2011-05](#), this Committee adopted the position articulated in ethics opinions from other jurisdictions that in order for an activity to qualify as one that concerns “the law, the legal system, or the administration of justice,” it must be shown that there is “a direct nexus between [the activity] and how the court system meets its statutory and constitutional responsibilities – in other words, how the courts go about their business.” Applying the “direct nexus” standard to the facts presented, the Committee determined that the ethnic awards dinner does not qualify as an activity that concerns the law, the legal system or the administration of justice.

In reaching its opinion, the Committee considered several of its prior opinions regarding the use of a Judicial Official’s name: [JE 2009-11](#) (Judicial Official should not allow this use of his or her name to be used in advertising a dinner event that was determined to be a fund raiser by a nonprofit organization), [JE 2010-30](#) (Judicial Official may be honored at an event hosted by a law related organization that provides legal services to people who qualify under its standards of indigency, but that special care must be taken

to ensure that the Judicial Official's name was not used to encourage law firm participation and that no appearance is created that any of the donors were in a special position to influence the Judicial Official), [JE 2010-31](#) (Judicial Official may not lend his or her name to a campaign whose purpose was to solicit existing members of a law related organization to provide additional funds to become sustaining members of the organization), and [JE 2010-32](#) (Judicial Official may accept an honorary degree from a college in connection with a speaking appearance by the Judicial Official at the college subject to various conditions).

In [JE 2014-10](#), this Committee considered whether a Judicial Official may lend his/her name to an annual writing competition sponsored by an ethnic bar association. While the competition itself did not appear to be fund-raising event, the association planned to raise funds for the financial award through letters of solicitation to potential donors. The Committee determined that the event does not qualify as one that concerns "the law, the legal system or the administration of justice" and permitted the use of the judge's name subject to the following conditions:

1. The Judicial Official does not participate in fund-raising except as permitted in Rule 3.7(a)(2);
2. In accordance with Rule 1.3, the Judicial Official inform the bar association that it cannot use the Judicial Official's name in connection with soliciting funding for the competition. For example, the solicitation could state it is seeking funding for the annual writing competition, but it cannot state it is seeking funding for the annual Judge X writing competition; and
3. The Judicial Official should retain the right to review and pre-approve the use of any information or other material used to solicit contributions to fund the competition.

The Committee also considered [JE 2009-39](#) concerning whether an awards dinner qualified as a fund-raiser. The Committee unanimously determined in JE 2009-39 that a sports award banquet qualified as a fund-raising event because the funds that would be collected from ticket sales, including higher priced patron tickets and the program book,

would be applied, not only to the specific costs associated with the banquet, but also to support the scholarship program.

Based upon the facts presented, including that the dinner does not qualify as one that concerns “the law, the legal system or the administration of justice” and is not designed to be a fund-raiser (although it may generate an small amount of unanticipated profit), the Committee concluded that the Judicial Official may consent to the use of his/her name in connection with the ethnic bar associations’ annual awards dinner, subject to the following conditions:

1. The Judicial Official does not participate in fund-raising except as permitted in Rule 3.7(a)(2);
2. In accordance with Rule 1.3, the Judicial Official must inform the bar association that it cannot use the Judicial Official’s name in connection with soliciting funds for the sponsorships in the program booklet. For example, the solicitation could state it is seeking funding for the annual awards dinner, but it cannot state it is seeking funding for the annual Judge X awards dinner; and
3. The Judicial Official should retain the right to review and pre-approve the use of any information or other material used to solicit contributions to fund the awards dinner.