



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2017-05 (Emergency Staff Opinion Issued June 6, 2017)

Transition to the Bench; Change in Law Firm Name; Prestige of Office; Name, Use of; Rules 1.2 & 1.3; Rules of Professional Conduct Rule 7.5

Issues & Facts: Several Judicial Officials have inquired about the name of their former law firm. In particular, if a Judicial Official's former law firm name is A, B and C, where "C" is the name of the Judicial Official, must the Judicial Official have his or her name removed from his or her former law firm's name once the Judicial Official is sworn into office? If so, is there a time period during which this must be accomplished? Do the answers to the prior questions depend upon whether the former law firm is a partnership, LLC or PC?

Relevant Code & Rule Provisions: 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."

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 7.5 (c) of the Rules of Professional Conduct states "The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm."

Response: This inquiry was circulated to the Committee members and their input was solicited and received. In Cynthia Gray's paper, *Ethical Issues for New Judges* (rev. 2003), she notes at pages 11 – 12, the following:

Except for payment of fees or for the judge's interest in the practice, "[u]pon assuming judicial office, a judge is required to sever all ties with the judge's former firm." *Michigan Advisory Opinion JI-89* (1994).

As part of that process, a new judge must ensure that her name is deleted from the firm name and not used in professional notices sent out by the firm. See *Kentucky Advisory Opinion JE-41* (1982); *Louisiana Advisory Opinion 155* (1999); *Michigan Advisory Opinion JI-89* (1994); *New York Advisory Opinion 89-136*. For example, the Massachusetts judicial ethics committee stated that a judge has an obligation to notify members of her former law firm that she objects to the use of her name and title in a brochure that the firm is preparing for distribution to the firm's clients and prospective clients. *Massachusetts Advisory Opinion 90-1*.

That change to the firm name is required by the Canon 2B provision that a judge "shall not lend the prestige of office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge." The removal of the judge's name from a law firm name is also required by Rule 7.5 of the model rules of professional responsibility, which states that the "name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm."

However, if a judge's former firm refuses to remove the judge's name from the firm name, the judge is not required to take action to force it to do so. *Massachusetts Advisory Opinion 03-9* (judge whose former firm has refused requests to remove the judge's surname from the firm name may file a complaint with the board of bar overseers but is not required to do so); *U.S. Compendium of Advisory Opinions § 2.7(g)* (2001) (judge should not permit a former law firm to continue to use the judge's name but need not take steps to compel an immediate change if the firm plans to remove the judge's name that year).

Based upon the foregoing, the Judicial Officials were advised that they should advise their former law firms that their name needs to be removed from the law firm name and that the removal of the Judicial Official's name should be accomplished as soon as reasonably possible. The foregoing is true regardless of whether the firm is a partnership, LLC or PC.