

Committee on Judicial Ethics
Teleconference
Wednesday January 21, 2009

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Linda K. Lager, Vice-Chair, Judge Robert J. Devlin, Jr., Judge Socrates H. Mihalakos and Associate Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary, and Viviana L. Livesay, Esq., Assistant Secretary.

MINUTES

- I. Justice Schaller called the meeting to order at 9:18 a.m. Though publicly noticed, no members of the public attended.
- II. The draft Minutes of the January 2, 2009 meeting were unanimously approved.
- III. The Committee considered Judicial Ethics Opinion 2009-01 concerning the propriety of a judicial official being interviewed on camera concerning the impact of broadcasting court proceedings on the Judicial Branch, the potential future role of television coverage of the courts, and related issues. The video is being produced by a public television network and is intended to be a part of anniversary commemoration of the founding of the network. Based upon the facts provided, including that the video would not be used in advocacy, fundraising or any other activity from which the network may derive any benefits, the Committee unanimously agreed that the judicial official may participate subject to the following restrictions: (1) the appearance does not interfere with the judicial official's judicial duties, (2) the judicial official does not give opinions which would cast doubt on the judicial official's impartiality, (3) the judicial official is careful not to express opinions or present the topic of television coverage in any way that would indicate a predisposition with respect any particular case, (4) the presentation is factual and instructive, i.e. it explains the procedures used for televising court proceedings, but does not contain comments about pending or impending cases, and (5) the judicial official retains the right to review and pre-approve the use of any biographical information concerning the judicial official used to advertise the segment in order to avoid a violation of Canon 2 (b)'s prohibition against lending the prestige of judicial office to advance the private interests of others. In discussing the matter, it was noted that Canon 4(1) specifically states that a judicial official "may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice" so long as the judicial official acts in the proper performance of judicial duties and does not cast doubt on his or her capacity to impartially decide any issue that may come before the judicial official. The Committee wished to emphasize that judicial officials retain the right to express personal opinions provided that they comply with these provisions as well as others set forth in the Code.
- IV. The meeting adjourned at 9:40 a.m.