

Committee on Judicial Ethics
Teleconference
Friday, March 20, 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: Viviana L. Livesay, Esq., Assistant Secretary.

MINUTES

- I. With a quorum present, Justice Schaller called the meeting to order at 9:34 a.m. Though publicly noticed, no members of the public attended.
- II. The Committee approved the draft Minutes of the March 5, 2009 meeting. (Judge Mihalakos abstained.)
- III. The Committee considered Judicial Ethics Formal Opinion 2009-10 concerning whether a Judicial Official may serve on the board of directors of the Greater Hartford Legal Aid. The Committee unanimously determined that service on the Greater Hartford Legal Aid board of directors would violate Canon 5(b)(1) and also implicate Canon 2(a).
- IV. The Committee considered Judicial Ethics Informal Opinion 2009-11 concerning whether a Judicial Official may accept an award for excellence in mediation given by a nonprofit organization that receives referrals from courts and communities in the region of Connecticut where the Judicial Official sits. The Judicial Official does not impact or influence the mediation program selected by the parties. The award is to be presented during a ceremony at a dinner event. Based upon the facts presented, including that the ticket pricing structure includes three different levels of patronage (Benefactor \$250, Patron \$100 and Friend \$50), that information obtained regarding last year's event suggests that sponsorship opportunities may be available to individuals and organizations, that the organization indicated to ticket purchasers that all but \$20 of the ticket price could be considered an income tax-deductible contribution, and that the organization uses fundraising terminology in describing the event, the Committee unanimously determined that it is impermissible under Canon 5(b) for the Judicial Official to accept the award because the event appears to be a fundraiser, in addition to the stated purpose of the event as "designed to increase awareness of mediation for both the general public and legal professionals".

The Judicial Official also inquired whether the Official, if he or she were to accept the award, may permit his or her name to be used in advertising the event. The Committee unanimously determined that, to avoid any implication that the Judicial Official, who would be the sole guest of honor, is lending the prestige of the judicial office to this particular organization, since it engages in mediating a substantial

number of court-based cases in the area in which the Judicial Official is assigned, the Judicial Official should not allow the use of his or her name for purposes of advertising such an event. See Canon 2(b).

- V. Professor Meyer recused himself from discussing or considering Judicial Ethics Informal Opinion 2009-13 and exited the teleconference prior to the Committee's discussion of 2009-13.

- VI. The Committee considered Judicial Ethics Informal Opinion 2009-13 concerning whether a judicial official may provide a letter of recommendation to the state's two United States Senators with respect to a person applying for a position with the federal court system. Based upon the facts presented, the Committee determined that the Judicial Official may not provide a letter of recommendation, but may offer to have his or her name listed as a reference. If the Judicial Official is contacted and asked to provide a letter of recommendation, he or she may do so, subject to the following conditions: (1) the Judicial Official has personal knowledge of the candidate's qualifications that are relevant to the particular position for which the candidate is applying, (2) the candidate is not a relative within the meaning of the Code or C.G.S. § 51-39a, (3) the Judicial Official indicates that the opinions expressed represent the personal opinions of the Judicial Official, (4) neither the candidate nor the U.S. Senators have cases pending before the Judicial Official at the time the recommendation is provided or for a reasonable period of time after the submission of the letter of recommendation, and (5) if the Judicial Official believes that recusal would be required in order to comply with condition (4) because his or her fairness would be impaired, and that recusal is likely to be frequent, the Judicial Official should not provide the letter of recommendation. See JE 2009-05 & JE 2009-08.

- VII. The meeting adjourned at 10:09 a.m.