

Committee on Judicial Ethics
Teleconference
Wednesday, August 3, 2011

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Linda K. Lager, Vice Chair, and Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary and Viviana L. Livesay, Esq., Assistant Secretary.

MINUTES

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:30 a.m. Although publicly noticed, no members of the public attended.
- II. The Committee members present unanimously approved the Minutes of the July 20, 2011 meeting.
- III. The Committee considered Judicial Ethics Informal Opinion 2011-16. The facts are as follows: A Judicial Official recently adopted an animal from an out-of-state animal rescue center. The Judicial Official, who signed an application for an ex parte injunction involving an unrelated animal rescue center, has been assigned to preside over the temporary injunction hearing. Does the Code of Judicial Conduct require the Judicial Official to recuse herself or himself from presiding at the hearing?

Rule 1.2 of the Code of Judicial Conduct provides that a judge “should 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 2.11 (A) of the Code requires judicial disqualification “in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances:...(1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of the facts that are in dispute in the proceeding.” Accordingly, the propriety of presiding at the hearing depends on whether a reasonable person knowing all the circumstances would find a disqualifying appearance of partiality.

“A judge’s own moral convictions or attitudes about the law or societal issues are generally insufficient by themselves to disqualify the judge. That a judge has a general opinion about a legal or a social matter that relates to the case before him or her does not disqualify the judge from presiding over the case.” Alfini, J., Lubet, S., Shaman, J. & Geyh, C., Judicial Conduct and Ethics, §4.05, at 4-15, (4th Edition, 2007).

The Committee concluded that Judicial Official's status as an owner of a pet from an animal rescue center does not create a disqualifying appearance of partiality in this case. Based upon the information provided and consistent with Rules 1.2 and 2.11(A) of the Code of Judicial Conduct and the Committee's prior informal opinions, the Judicial Official does not have a duty to disqualify himself or herself from presiding over the hearing involving an animal rescue center provided that the Judicial Official believes that he or she does not harbor any personal bias involving rescue centers, based on his or her personal experience. In rendering its decision, the Committee considered its opinions in [JE 2008-21](#), [JE 2010-04](#), [JE 2010-09](#), [JE 2010-19](#), [JE 2010-25](#), and [JE 2010-28](#) and *State v. Montini*, 52 Conn. App. 682, 693-96, 730 A.2d 76 (1999)(trial court judge, who was a nationally known advocate for children's rights, was not subject to disqualification in a child sexual assault case).

IV. The meeting adjourned at 9:39 a.m.