

Committee on Judicial Ethics
Teleconference
Friday, September 23, 2011

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward R. Karazin, Jr., Vice Chair, Professor Jeffrey A. Meyer and Judge Maureen D. Dennis. Staff present: Martin R. Libbin, Secretary and Viviana L. Livesay, Assistant Secretary.

MINUTES

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:34 a.m. Although publicly noticed, no members of the public attended.
- II. The members present unanimously approved the Minutes of the September 16, 2011 meeting.
- III. The Committee considered Judicial Ethics Informal Opinion 2011-24 concerning whether a Judicial Official's status as a member of the Audubon Society requires disqualification in a case involving environmental issues but in which the Audubon Society is not a party or intervenor.

A Judicial Official has a family membership in the Audubon Society. As a member of the Audubon Society, the Judicial Official participates in bird watching field trips, attends meetings and receives periodic email correspondence. According to the Audubon Society's website, meetings include a brief business segment, a summary of recent trip reports and bird sightings, followed by a nature program. The Judicial Official is currently handling a housing appeal in which environmental issues have been raised. The Audubon Society is not a party to the proceeding, but several other environmental groups have intervened.

Based on the facts presented, including that the Audubon Society is not a party/intervenor in the case before the Judicial Official, and consistent with Rules 1.2 and 2.11(a) and the Committee's prior informal opinion in [JE 2011-16](#), the Committee members present unanimously concluded that membership in the Audubon Society does not create a disqualifying appearance of partiality necessitating disqualification provided that the Judicial Official believes that he or she does not harbor any personal bias involving environmental issues, based on his or her personal experience. If, however, the Judicial Official takes an advocacy role, prejudges issues or expresses opinions publicly or at the Audubon Society meetings, the Judicial Official should consider, pursuant to Canon 1 and Rule 1.2, whether to recuse on the ground that the Judicial Official's impartiality might reasonably be questioned. If the Judicial Official has publicly engaged in advocacy, prejudged the issues or expressed opinions, the Judicial Official should consider *sua sponte* recusal in light of all the facts and circumstances of the

case and the party's actions. Finally, if the Judicial Official continues on the case and a motion to disqualify the Judicial Official is filed by a party, the Judicial Official should undertake the appropriate steps to determine the disqualification issue as presented.

IV. The meeting adjourned at 9:41 a.m.