

Committee on Judicial Ethics  
Teleconference  
Monday, April 7, 2014

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Christine E. Keller, Vice Chair, Judge Maureen D. Dennis, Judge Barbara M. Quinn and Professor Sarah F. Russell. Staff present: Attorney Martin R. Libbin, Secretary and Attorney Viviana L. Livesay, Assistant Secretary.

**MINUTES**

- I. With the above noted Committee members present, Justice Schaller called the meeting to order at 9:33 a.m. Although publicly noticed, no members of the public were in attendance.
- II. The Committee members present approved the minutes of the February 27, 2014 meeting.
- III. The Committee ratified **Emergency Staff Opinion JE 2014-02**.
- IV. The Committee discussed **Informal JE 2014-03** concerning whether a Judicial Official has a duty to recuse or to disclose his or her relationship with a former partner or former law firm when members of a newly merged law firm (comprised of members of the former law firm) appear before the Judicial Official.

When a Judicial Official and his or her former law partner ceased practicing law together, the partner became a partner at a midsized law firm. The Judicial Official received compensation from that firm for a few years as a part of the transaction, but has not received any compensation for at least five years. In addition to maintaining a close relationship with the Judicial Official's former partner, the Judicial Official occasionally socializes with one of the partners of the midsized firm. It is the Judicial Official's practice to recuse himself or herself whenever an attorney from the midsized firm appears before the Judicial Official.

The midsized law firm subsequently merged with a large law firm. Due to their personal relationships, the Judicial Official will continue to recuse himself or herself whenever the former partner or a few of the partners from the midsized firm appear before the Judicial Official. The Judicial Official inquires whether there is a duty to recuse or disclose when members of the newly merged law firm appear before the Judicial Official.

Rule 1.2 of the Code of Judicial Conduct states 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 2.4 of the Code addresses the importance of an independent judiciary and states, in subsection (b), that "[a] judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment." Subsection (c) of Rule 2.4 states that "[a] judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge's judicial conduct or judgment."

Rule 2.11 (a) states, in relevant part, that a judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned including, but not limited to, certain specified circumstances. One such circumstance is if the judge has a personal bias or prejudice concerning a party or a party's lawyer. Comment (1) to Rule 2.11 states that under this Rule, "a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of the specific provisions of subsections (a)(1) through (5) apply."

Based on the facts presented and consistent with Rules 1.2, 2.4 (b) & (c) and 2.11 (a), the Committee unanimously determined that the Judicial Official does not have a duty to automatically disqualify himself or herself when members of the newly merged large law firm appear before the Judicial Official, provided the Judicial Official does not believe that he or she has any personal bias (favorable or unfavorable) involving the new law firm. The Judicial Official does, however, have a duty to disclose his or her personal relationships with his or her former partner and the attorneys from the midsized firm. Thereafter, if a motion to disqualify is filed, the Judicial Official must exercise his or her discretion in deciding the motion based upon the information provided in the motion and the accompanying affidavit, as provided for in Connecticut Practice Book § 1-23, as well as the particular circumstances of the case.

In reaching its decision, the Committee took into account its prior opinions in [JE 2008-21](#) (a Judicial Official, who served as a part-time corporation counsel, need not recuse himself when former municipal employer is a party or complaining witness. Judicial Official must, however, disclose relationship for a reasonable period of time, which is not less than two years); [JE 2010-04](#) (a Judicial Official who served as an AAG approximately 15 years ago need not recuse or disclose); [JE 2010-25](#) (a Judicial Official does not have an affirmative obligation to disclose prior

professional relationships that existed more than 20 years ago); and [JE 2011-06](#) (a Judicial Official, who has a close personal relationship with the current Attorney General, does not need to disqualify him/herself when a member of the Attorney General's office appears before the Judicial Official, but has a duty to disclose his or her personal relationship to parties and their counsel).

- V. The meeting adjourned at 9:41 a.m.