



Connecticut Committee on Judicial Ethics

Informal Opinion Summaries

2015-23 (Emergency Staff Opinion Issued December 8, 2015)

Event, attendance/appearance; Extrajudicial Activities; Gifts; Ordinary Social Hospitality; Social Activities

Rules 1.2, 1.3, 3.1 & 3.13

Issue: May a Judicial Official attend a large annual holiday party hosted by a law firm? The law firm invites hundreds of people, including other lawyers that they litigate against, judges, politicians, business people, etc.

Additional Facts: The party consists of food and entertainment. No one is charged or pays a fee to attend. Prior to his or her appointment as a Judicial Official, the inquiring Judicial Official was invited and attended the annual holiday party.

Relevant Code Provisions: 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 1.3 of the Code states that “a judge shall not use or attempt to use the prestige of judicial office to advance the personal or economic interests of the judge or others or allow others to do so.”

Rule 3.1 (3) of the Code prohibits participation in extrajudicial activities “that would appear to a reasonable person to undermine the judge’s independence, integrity or impartiality.” Comment (2) of Rule 3.1 encourages judges’ participation in both law related and other extrajudicial activities because it “helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.”

Rule 3.13 (a) of the Code prohibits receipt of gifts, benefits or things of value if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality. Rule 3.13 (b) lists items that a judge may accept without publicly reporting such acceptance. Those items include gifts or other things of value from friends, relatives or other persons whose appearance or interest in a proceeding before the Judicial Official would require the Judicial Official's disqualification, and ordinary social hospitality.

Response: This inquiry was circulated to the Committee members and their input was solicited and received. At issue in this inquiry is whether the Judicial Official's attendance at a holiday party, where it is anticipated that attorneys and others who regularly appear in court, albeit the host law firm does not appear before the inquiring Judicial Official, would in a reasonable person's mind create an appearance of impropriety or undermine the judge's independence, integrity or impartiality and if attendance at the holiday party is consistent with ordinary social hospitality.

This Committee previously determined that judges may engage in social and recreational activities provided they do not detract from the dignity of the office or interfere with the performance of judicial duties. See [JE 2010-08](#) (Judicial Official may attend retirement party for prosecutor); [JE 2008-16](#) (Judicial Official should not attend law firm's five hour holiday party on board a river boat cruise ship); [JE 2009-04](#) (Judicial Official may spend several days with close personal friends, who are lawyers, at the friends' vacation home); [JE 2009-31](#) (Judicial Official may accept \$150 ticket to charity event to benefit a hospital from a doctor where neither the doctor nor the hospital have any cases pending before the Judicial Official, although the hospital does have cases pending in the court of which the Judicial Official is a member); [JE 2012-01](#) (Judicial Official should not attend retirement dinner hosted and paid for by the former partners of the retiring lawyer, who regularly appear before the Judicial Official); and [JE 2013-07](#) (Judicial Official should not participate in small social outing organized by the spouse of a foreclosure firm attorney whose cases make up a large portion of the Judicial Official's docket).

Cynthia Gray, in her paper entitled "A Judge's Attendance at Social Events, Bar

Association Functions, Civic and Charitable Functions and Political Gatherings”, on page 2, et seq., notes that generally judges are allowed to accept “ordinary social hospitality” and based upon that provision, a number of jurisdictions have allowed judges to attend law firm sponsored parties, including those celebrating the opening of an office, a holiday open house, a special birthday celebration, etc. The paper also notes that some jurisdictions have less permissive rules. The California judicial ethics committee, in its Advisory Opinion 43 (1994), notes that each judge must make his or her own decision regarding whether attendance at a party falls within the ambit of ordinary social hospitality, but defines ordinary social hospitality as “that type of social event or other gift which is so common among people in the judge’s community that no reasonable person would believe that (1) the donor was intending to or would obtain any advantage or (2) the donee would believe that the donor intended to obtain any advantage.” Among the factors that the California Committee directed judges to consider were: the cost of the event in the context of community standards for similar events, whether the benefits conferred were greater in value than traditionally furnished at similar events sponsored by bar associations or similar organizations, whether the benefits are greater than the value of what the judge customarily provides his/her own guests, whether the benefits conferred are usually only exchanged between friends and relatives, whether there is a history or expectation of reciprocal social hospitality, whether the event is a traditional occasion for social hospitality, and whether the benefits received need to be reported. New York opinions have stressed that ordinary social hospitality does not include a party at an expensive restaurant, a cruise or a similar expensive, lavish affair. New York Advisory Opinion 87-15(a).

Based on the facts presented, the Judicial Official may attend the holiday gathering and is not required to report the gift subject to the following conditions:

1. The Judicial Official determines, based upon the factors set forth above in the California and New York opinions, that the holiday gathering constitutes “ordinary social hospitality” within the meaning of Rule 3.13 (b);
2. The law firm hosting the party is not actively engaged in litigation or proceedings before the Judicial Official;
3. If the firm hosting the party appears before the Judicial Official in the future, for a reasonable period of time the Judicial Official should recuse himself or herself

or may disclose the facts related to attendance at the holiday party and seek remittal of disqualification in accordance with Rule 2.11 (c);

4. The Judicial Official does not discuss any pending matters with the hosts or guests at the party;
5. The Judicial Official does not engage in any action that may be perceived as advancing the private interests of the host law firm; and
6. The Judicial Official does not permit the host firm to announce the Judicial Official's attendance at the holiday party.