

Committee on Judicial Ethics
Teleconference
Friday, July 20, 2012

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward R. Karazin, Jr., Vice Chair, Professor Jeffrey A. Meyer, Judge Maureen D. Dennis and Judge Thomas J. Corradino, Alternate. 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 9:32 a.m. Although publicly noticed, no members of the public attended.
- II. The Committee members present unanimously approved the Minutes of the July 12, 2012 meeting.
- III. The Committee discussed Informal JE 2012-21 concerning whether a Judicial Official and his or her spouse may attend a small gathering at the home of a relative so that a retiring political official can thank the hosts and guests (other than the Judicial Official) for their prior support. There will be no fundraising and there is no charge to attend.

The political official does not have and is not likely to be engaged in proceedings that would ordinarily come before the Judicial Official, the court of which the Judicial Official is a member or a court that is subject to the appellate jurisdiction, if any, of the court on which the Judicial Official serves.

Rule 4.1 of the Code of Judicial Conduct prescribes general guidelines limiting the involvement by judges with political activities. The Committee unanimously agreed that attendance at the event by the Judicial Official would not violate Rule 4.1, because the event is sponsored by a family member and is not "sponsored by a political organization or a candidate for public office" (Rule 4.1(a)(5)), because the event is not a fundraiser (Rule 4.1(a)(4)), and because the event does not involve a public official who is running for office or who has any matter before or is likely to come before the inquiring Judicial Official. The Committee further determined that there is no restriction on the Judicial Official's spouse's attendance and that the Judicial Official may attend provided that he or she does not personally believe that attendance as a guest would create an appearance of impropriety in violation of Rule 1.2.

- IV. The Committee discussed Informal JE 2012-22 concerning whether a Judicial Official, who has announced plans to retire and resign from the bench, may authorize and agree to be the guest of honor at a dinner

which will also be a fund-raising event to benefit an organization that concerns the law, the legal system or the administration of justice, if the event takes place after the Judicial Official departs judicial service and if the Judicial Official is not told before the event who will be attending.

Friends and associates of a Judicial Official who will be retiring and resigning from the bench and returning to the private sector have proposed a “retirement” dinner in the Judicial Official’s honor. In lieu of gifts, a portion of the ticket price will be donated to a non-profit entity that provides legal services to the indigent. The event will take place shortly after the effective date of the Judicial Official’s resignation. Ticket sales, which will be handled by the Judicial Official’s future employer, will take place prior to the effective date of the Judicial Official’s resignation, however, after the Judicial Official stops hearing contested matters. The Judicial Official will instruct the organizers of the event not to inform him or her of the names of the individuals who purchase tickets.

Rule 3.1(3) of the Code of Judicial Conduct prohibits a judge from participating in activities that would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality, while Rule 3.7(a)(4) permits a judge to appear at, speak at, and receive an award or recognition at an event that serves a fund-raising purpose if the event concerns the law, the legal system, or the administration of justice. Based upon the facts presented, including that the “retirement” event involves fundraising for a non-profit organization concerned with the law, the legal system or the administration of justice, that the Judicial Official will not know in advance of the event who has purchased tickets, and that the Judicial Official will not preside over any contested matters once the tickets are offered for sale, the Committee unanimously determined that the Judicial Official could agree to attend the “retirement” fundraising event as the guest of honor. In reaching its conclusion, the Committee considered JE 2010-30 and JE 2012-15. The Committee further determined that the proposed event would not create an appearance of impropriety in violation of Rule 1.2 and also would not constitute an attempt to use the prestige of office to advance the interests of others in violation of Rule 1.3.

- V. The Committee tabled action on Informal JE 2012-23. This inquiry was converted to an emergency staff opinion on July 19th and will be on the next meeting agenda for ratification.
- VI. The Committee scheduled its next meeting for Thursday, July 26, 2012 at 9:30 a.m.
- VII. The meeting adjourned at 9:41 a.m.