

Committee on Judicial Ethics  
Teleconference  
Wednesday, September 8, 2010

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Linda K. Lager, Vice Chair, Judge Francis X. Hennessy, Judge Edward R. Karazin, Jr., and Associate Professor Jeffrey A. Meyer. Staff present: Martin R. Libbin, Esq., Secretary.

**MINUTES**

- I. With all 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 unanimously approved the draft Minutes of the August 6, 2010 meeting.
- III. The Committee considered Judicial Ethics Informal Opinion 2010-26 concerning whether a Judicial Official should disclose pertinent information regarding his or her relationship with a sibling, who is an attorney, and a second attorney in any case involving an appearance by the other attorney, who has an ongoing subleasing relationship and an occasional case referral, with referral fee, relationship with the Judicial Official's sibling. Based upon the facts presented, the Committee unanimously decided that pursuant to Canon 2's proscription with respect to avoiding the appearance of impropriety, the Judicial Official should disclose the close, ongoing financial relationship involving subleasing and occasional case referrals between the Judicial Official's sibling and the attorney in any case in which the attorney appears before the Judicial Official.
- IV. The Committee considered Judicial Ethics Informal Opinion 2010-27 concerning whether a Judicial Official may participate and contribute financially to a golf tournament fundraiser to benefit an injured judicial branch employee. The facts of the inquiry are as follows: A union is sponsoring a golf tournament fundraiser for the benefit of a judicial branch employee who was tragically injured in a motorcycle accident. The event will not occur during normal work hours and the employee is not a litigant who has come or is likely to come before the inquiring Judicial Officials. The cost to attend the tournament is \$150 per person and includes lunch, dinner and a \$5 credit at the pro shop. Hole, tee and cart sponsorships are available at the cost of \$150, \$100, and \$50, respectively. All proceeds from the tournament will go to the injured employee. The Judicial Officials indicate that they will not participate in the solicitation of funds for the event.

(1) May the Judicial Officials attend and participate in the fundraiser?

(2) May the Judicial Officials make a contribution or sponsor a hole, tee or cart at the fundraiser?

Based upon the facts presented, the Committee unanimously determined that the Judicial Officials (1) may attend the tournament at their own expense and participate (play golf) in the fundraising event and (2) may contribute money and sponsor a hole, tee or cart to help the injured judicial branch employee. The Judicial Officials, however, should consider the propriety of using their judicial title in connection with the fundraiser to determine whether it implicitly lends the prestige of the judicial office to advance the private interests of others in violation of Canon 2. If judicial titles are used in connection with the fundraiser, the Judicial Officials should retain the right to review and pre-approve the use of any biographical information about the Judicial Officials to ensure that the information is not used for any solicitation purposes in potential violation of Canon 5(b)(2).

- V. The Committee considered Judicial Ethics Informal Opinion 2010-28 concerning whether a Judicial Official may preside over a motion to reconsider. The facts of the inquiry are as follows: A Judicial Official presided over a trial to the bench and rendered a judgment. The “losing” party retained a new attorney, and the new attorney has filed a motion to reconsider, which is currently pending. The new attorney is a member of a small law firm, and the Judicial Official has a close personal relationship with a named partner in this small law firm and the partner visited the Judicial Official in his home within the past year. To the best of the Judicial Official’s knowledge, the close friend is basically retired but still goes into the law office a little each week. It is not known to what extent, if any, that the close friend of the Judicial Official benefits from any new business of the law firm that is handled by other attorneys at the firm. Is the Judicial Official disqualified from presiding over the motion to reconsider?

Based upon the facts presented, including that (1) the Judicial Official does not believe that he or she has a personal bias or prejudice in favor or opposed to counsel, (2) the Judicial Official believes that he or she can be fair and impartial, (3) the friend was last at the Judicial Official’s home within the past year, and (4) the Judicial Official has stated that he or she would have recused him or herself from any case involving the friend’s law firm when the friend was actively practicing, the Committee unanimously determined as follows: consistent with Canons 2 and 3 of the Code of Judicial Conduct, the Judicial Official does not have a duty to automatically disqualify himself or herself; however, the Judicial Official has a duty to disclose the relationship with counsel to the parties and their counsel. 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. The same result would be reached under the new Code, effective January 1, 2011.

VI. The meeting adjourned at 10:00 a.m.