

Avoiding the Pitfalls... The Cannons of Judicial Ethics

Hon. Leon Jamison
Circuit Judge, Pine Bluff

EXHIBIT A

**Arkansas Code of Judicial Conduct as Proposed by the
Arkansas Bar Association’s House of Delegates
June 14, 2008 based on the**

**ABA MODEL CODE OF JUDICIAL CONDUCT
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TABLE OF CONTENTS

PREAMBLE.....
SCOPE.....
TERMINOLOGY.....
APPLICATION.....

CANON 1

***A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE,
INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL
AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.***

RULE 1.1 Compliance with the Law.....
RULE 1.2 Promoting Confidence in the Judiciary.....
RULE 1.3 Avoiding Abuse of the Prestige of Judicial Office.....

CANON 2

***A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE
IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.***

RULE 2.1 Giving Precedence to the Duties of Judicial Office.....
RULE 2.2 Impartiality and Fairness.....
RULE 2.3 Bias, Prejudice and Harassment
RULE 2.4 External Influences on Judicial Conduct.....

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

- RULE 4.1** *Political and Campaign Activities of Judges and Judicial Candidates in General.....*
- RULE 4.2** *Political and Campaign Activities of Judicial Candidates in Public Elections.....*
- RULE 4.3** *Activities of Candidates for Appointive Judicial Office.....*
- RULE 4.4** *Campaign Committees.....*
- RULE 4.5** *Activities of Judges Who Become Candidates for Nonjudicial Office.....*

Scope

[1] The Model Code of Judicial Conduct consists of four Canons, numbered Rules under each Canon, and Comments that generally follow and explain each Rule. Scope and Terminology sections provide additional guidance in interpreting and applying the Code. An Application section establishes when the various Rules apply to a judge or judicial candidate.

[2] The Canons state overarching principles of judicial ethics that all judges must observe. Although a judge may be disciplined only for violating a Rule, the Canons provide important guidance in interpreting the Rules. Where a Rule contains a permissive term, such as “may” or “should,” the conduct being addressed is committed to the personal and professional discretion of the judge or candidate in question, and no disciplinary action should be taken for action or inaction within the bounds of such discretion.

[3] The Comments that accompany the Rules serve two functions. First, they provide guidance regarding the purpose, meaning, and proper application of the Rules. They contain explanatory material and, in some instances, provide examples of permitted or prohibited conduct. Comments neither add to nor subtract from the binding obligations set forth in the Rules. Therefore, when a Comment contains the term “must,” it does not mean that the Comment itself is binding or enforceable; it signifies that the Rule in question, properly understood, is obligatory as to the conduct at issue.

[4] Second, the Comments identify aspirational goals for judges. To implement fully the principles of this Code as articulated in the Canons, judges should strive to exceed the standards of conduct established by the Rules, holding themselves to the highest ethical standards and seeking to achieve those aspirational goals, thereby enhancing the dignity of the judicial office.

[5] The Rules of the Model Code of Judicial Conduct are rules of reason that should be applied consistent with constitutional requirements, statutes, other court rules, and decisional law, and with due regard for all relevant circumstances. The Rules should not be interpreted to impinge upon the essential independence of judges in making judicial decisions.

TERMINOLOGY

The first time any term listed below is used in a Rule in its defined sense, it is followed by an asterisk (*).

“Aggregate,” in relation to contributions for a candidate, means not only contributions in cash or in kind made directly to a candidate’s campaign committee, but also all contributions made indirectly with the understanding that they will be used to support the election of a candidate or to oppose the election of the candidate’s opponent. See Rules 2.11 and 4.4.

“Appropriate authority” means the authority having responsibility for initiation of disciplinary process in connection with the violation to be reported. See Rules 2.14 and 2.15.

“Contribution” means both financial and in-kind contributions, such as goods, professional or volunteer services, advertising, and other types of assistance, which, if obtained by the recipient otherwise, would require a financial expenditure. See Rules 2.11, 2.13, 3.7, 4.1, and 4.4.

“De minimis,” in the context of interests pertaining to disqualification of a judge, means an insignificant interest that could not raise a reasonable question regarding the judge’s impartiality. See Rule 2.11.

“Domestic partner” means a person with whom another person maintains a household and an intimate relationship, other than a person to whom he or she is legally married. See Rules 2.11, 2.13, 3.13, and 3.14.

“Economic interest” means ownership of more than a de minimis legal or equitable interest. Except for situations in which the judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

- (1) an interest in the individual holdings within a mutual or common investment fund;
- (2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge’s spouse, domestic partner, parent, or child serves as a director, an officer, an advisor, or other participant;
- (3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or
- (4) an interest in the issuer of government securities held by the judge.

See Rules 1.3 and 2.11.

parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship. See Rules 3.7, 3.8, 3.10, and 3.11.

“Member of a judge’s family residing in the judge’s household” means any relative of a judge by blood or marriage, or a person treated by a judge as a member of the judge’s family, who resides in the judge’s household. See Rules 2.11 and 3.13.

“Nonpublic information” means information that is not available to the public. Nonpublic information may include, but is not limited to, information that is sealed by statute or court order or impounded or communicated in camera, and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports. See Rule 3.5.

“Pending matter” is a matter that has commenced. A matter continues to be pending through any appellate process until final disposition. See Rules 2.9, 2.10, 3.13, and 4.1.

“Personally solicit” means a direct request made by a judge or a judicial candidate for financial support or in-kind services, whether made by letter, telephone, or any other means of communication. See Rule 4.1.

“Political organization” means a political party or other group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office. For purposes of this Code, the term does not include a judicial candidate’s campaign committee created as authorized by Rule 4.4. See Rules 4.1 and 4.2.

“Public election” includes primary and general elections. . See Rules 4.2 and 4.4.

“Third degree of relationship” includes the following persons: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11.

COMMENT

[1] Regarding the term “judicial candidate,” in Arkansas, there are no retention elections, and selection by appointment arises in limited situations, such as to fill a newly created judgeship or a vacancy.

II. [DELETED]

III. CONTINUING PART-TIME JUDGE

A judge who serves repeatedly on a part-time basis by election or under a continuing appointment, including a retired judge subject to recall who is permitted to practice law ("continuing part-time judge"),

(A) is not required to comply:

(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges), 3.15 (Reporting Requirements); and

(B) shall not practice law in the court on which the judge serves, shall not appear in any criminal matter in the county in which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

COMMENT

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and pursuant to any applicable Model Rules of Professional Conduct. An adopting jurisdiction should substitute a reference to its applicable rule.

[2A] Paragraph (B) does not, as a general rule, prohibit a continuing part-time judge from practicing law. However the position of a judge in presiding over a criminal matter and then appearing as a criminal defense attorney in a court of general jurisdiction and opposing that same prosecutor creates an appearance of impropriety, even when the proceedings are separate. Accordingly, continuing part time judges are prohibited from appearing in any criminal matter in the county

V. PRO TEMPORE PART-TIME JUDGE

A pro tempore part-time judge who serves or expects to serve once or only sporadically on a part-time basis under a separate appointment for each period of service or for each case heard is not required to comply:

(A) except while serving as a judge, with Rules 1.2 (Promoting Confidence in the Judiciary), 2.4 (External Influences on Judicial Conduct), 2.10 (Judicial Statements on Pending and Impending Cases), or 3.2 (Appearances before Governmental Bodies and Consultation with Government Officials); or

(B) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.6 (Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office).

VI. TIME FOR COMPLIANCE

A person to whom this Code becomes applicable shall comply immediately with its provisions, except that those judges to whom Rules 3.8 (Appointments to Fiduciary Positions) and 3.11 (Financial, Business, or Remunerative Activities) apply shall comply with those Rules as soon as reasonably possible, but in no event later than one year after the Code becomes applicable to the judge.

COMMENT

[1] If serving as a fiduciary when selected as judge, a new judge may, notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly, if engaged at the time of judicial selection in a business activity, a new judge may, notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable period but in no event longer than one year.

[5] Actual improprieties include violations of law, court rules or provisions of this Code. 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.

[6] A judge should initiate and participate in community outreach activities for the purpose of promoting public understanding of and confidence in the administration of justice. In conducting such activities, the judge must act in a manner consistent with this Code.

RULE 1.3

Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests* of the judge or others, or allow others to do so.

COMMENT

[1] It is improper for a judge to use or attempt to use his or her position to gain personal advantage or deferential treatment of any kind. For example, it would be improper for a judge to allude to his or her judicial status to gain favorable treatment in encounters with traffic officials. Similarly, a judge must not use judicial letterhead to gain an advantage in conducting his or her personal business.

[2] A judge may provide a reference or recommendation for an individual based upon the judge's personal knowledge. The judge may use official letterhead if the judge indicates that the reference is personal and if there is no likelihood that the use of the letterhead would reasonably be perceived as an attempt to exert pressure by reason of the judicial office.

[3] Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees, and by responding to inquiries from such entities concerning the professional qualifications of a person being considered for judicial office.

[4] Special considerations arise when judges write or contribute to publications of for-profit entities, whether related or unrelated to the law. A judge should not permit anyone associated with the publication of such materials to exploit the judge's office in a manner that violates this Rule or other applicable law. In contracts for

COMMENT

[1] To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

[2] Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

[3] When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

[4] It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.

RULE 2.3

Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to personal characteristics when they are relevant to an issue in a proceeding.

COMMENT

[1] A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

RULE 2.5

Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

COMMENT

[1] Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

[2] A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

[3] Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

[4] In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

RULE 2.6

Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

[1] Judges must be available to decide the matters that come before the court. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

RULE 2.8

Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

COMMENT

[1] The duty to hear all proceedings with patience and courtesy is not inconsistent with the duty imposed in Rule 2.5 to dispose promptly of the business of the court. Judges can be efficient and businesslike while being patient and deliberate.

[2] Commending or criticizing jurors for their verdict may imply a judicial expectation in future cases and may impair a juror's ability to be fair and impartial in a subsequent case.

[3] A judge who is not otherwise prohibited by law from doing so may meet with jurors who choose to remain after trial but should be careful not to discuss the merits of the case.

(B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

COMMENT

[1] To the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge.

[2] Whenever the presence of a party or notice to a party is required by this Rule, it is the party's lawyer, or if the party is unrepresented, the party, who is to be present or to whom notice is to be given.

[3] The proscription against communications concerning a proceeding includes communications with lawyers, law teachers, and other persons who are not participants in the proceeding, except to the limited extent permitted by this Rule.

[4] A judge may initiate, permit, or consider ex parte communications expressly authorized by law, such as when serving on therapeutic or problem-solving courts, mental health courts, or drug courts. In this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.

[5] A judge may consult with other judges on pending matters, but must avoid ex parte discussions of a case with judges who have previously been disqualified from hearing the matter, and with judges who have appellate jurisdiction over the matter.

[6] The prohibition against a judge investigating the facts in a matter extends to information available in all mediums, including electronic.

[7] A judge may consult ethics advisory committees, outside counsel, or legal experts concerning the judge's compliance with this Code. Such consultations are not subject to the restrictions of paragraph (A)(2).

RULE 2.11

Disqualification

(A) 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 the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.

(2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary,* or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household,* has an economic interest* in the subject matter in controversy or in a party to the proceeding.

(4) [DELETED]

(5) The judge, while a judge or a judicial candidate,* has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed

judge's impartiality might reasonably be questioned under paragraph (A), or the relative is known by the judge to have an interest in the law firm that could be substantially affected by the proceeding under paragraph (A)(2)(c), the judge's disqualification is required.

[4A] The fact that a lawyer in a proceeding, or a litigant, contributed to the judge's campaign, or publicly supported the judge in his or her election does not of itself disqualify the judge. However, the size of contributions, the degree of involvement in the campaign, the timing of the campaign and the proceeding, the issues involved in the proceeding, and other factors known to the judge may raise questions as to the judge's impartiality under paragraph (A).

[5] A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.

[6] "Economic interest," as set forth in the Terminology section, means ownership of more than a de minimis legal or equitable interest. Except for situations in which a judge participates in the management of such a legal or equitable interest, or the interest could be substantially affected by the outcome of a proceeding before a judge, it does not include:

(1) an interest in the individual holdings within a mutual or common investment fund;

(2) an interest in securities held by an educational, religious, charitable, fraternal, or civic organization in which the judge or the judge's spouse, domestic partner, parent, or child serves as a director, officer, advisor, or other participant;

(3) a deposit in a financial institution or deposits or proprietary interests the judge may maintain as a member of a mutual savings association or credit union, or similar proprietary interests; or

(4) an interest in the issuer of government securities held by the judge.

(D) No judge shall employ a spouse or other relative unless it has been affirmatively demonstrated to the Arkansas Judicial Discipline and Disability Commission that it is impossible for the judge to hire any other qualified person to fill the position.

COMMENT

[1] Appointees of a judge include assigned counsel, officials such as referees, commissioners, special masters, receivers, and guardians, and personnel such as clerks, secretaries, and bailiffs. Consent by the parties to an appointment or an award of compensation does not relieve the judge of the obligation prescribed by paragraph (A).

[2] Unless otherwise defined by law, nepotism is the appointment or hiring of any relative within the third degree of relationship of either the judge or the judge's spouse or domestic partner, or the spouse or domestic partner of such relative.

[3][DELETED]

RULE 2.14

Disability and Impairment

A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

COMMENT

[1] "Appropriate action" means action intended and reasonably likely to help the judge or lawyer in question address the problem and prevent harm to the justice system. Depending upon the circumstances, appropriate action may include but is not limited to speaking directly to the impaired person, notifying an individual with supervisory responsibility over the impaired person, or making a referral to an assistance program.

judge or lawyer. Ignoring or denying known misconduct among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. This Rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

[2] A judge who does not have actual knowledge that another judge or a lawyer may have committed misconduct, but receives information indicating a substantial likelihood of such misconduct, is required to take appropriate action under paragraphs (C) and (D). Appropriate action may include, but is not limited to, communicating directly with the judge who may have violated this Code, communicating with a supervising judge, or reporting the suspected violation to the appropriate authority or other agency or body. Similarly, actions to be taken in response to information indicating that a lawyer has committed a violation of the Rules of Professional Conduct may include but are not limited to communicating directly with the lawyer who may have committed the violation, or reporting the suspected violation to the appropriate authority or other agency or body.

[3A] This rule does not apply to a member of the Lawyer Assistance Committee of the Arkansas Lawyer Assistance Program (ArLAP) or a volunteer acting pursuant to the Rules regarding information received in one's capacity as a Committee member or volunteer, acting in good faith, unless it appears to the member or volunteer that the lawyer or judge in question, after entry into the ArLAP, is failing to desist from said violation, or is failing to cooperate with a program of assistance to which said lawyer or judge has agreed, or is engaged in the sale of a controlled substance or theft of property constituting a felony under Arkansas law, or the equivalent thereof if the offense is not within the State's jurisdiction.

[4A] Except as provided by this Code or the Rules of ArLAP, no information received, gathered, or maintained by the Committee, its members or volunteers, or by an employee of the ArLAP in connection with the work of the Committee may be disclosed to any person nor be subject to discovery or subpoena in any administrative or judicial proceeding, except upon the express written release of the subject lawyer or judge. However, the Committee may refer any lawyer or judge to a professional assistance entity, and may, in good faith, communicate information to the entity in connection with the referral. If information obtained by a member of the Committee, a volunteer, or an employee of the ArLAP gives rise to reasonable suspicion of a direct threat to the health or safety of the subject lawyer, judge or other person, then the obligation of confidentiality shall not apply, and the Committee member, volunteer, or ArLAP employee may make

A judge may engage in extrajudicial activities, except as prohibited by law* or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;**
- (B) participate in activities that will lead to frequent disqualification of the judge;**
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality;***
- (D) engage in conduct that would appear to a reasonable person to be coercive; or**
- (E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.**

COMMENT

[1] To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects. In addition, judges are permitted and encouraged to engage in educational, religious, charitable, fraternal or civic extrajudicial activities not conducted for profit, even when the activities do not involve the law. See Rule 3.7.

[2] Participation in both law-related and other extrajudicial activities helps integrate judges into their communities, and furthers public understanding of and respect for courts and the judicial system.

[3] Discriminatory actions and expressions of bias or prejudice by a judge, even outside the judge's official or judicial actions, are likely to appear to a reasonable person to call into question the judge's integrity and impartiality. Examples include jokes or other remarks that demean individuals based upon their personal characteristics. For the same reason, a judge's extrajudicial activities must not be conducted in connection or affiliation with an organization that practices invidious discrimination. See Rule 3.6.

[4] While engaged in permitted extrajudicial activities, judges must not coerce others or take action that would reasonably be perceived as coercive. For

[1] Judges possess special expertise in matters of law, the legal system, and the administration of justice, and may properly share that expertise with governmental bodies and executive or legislative branch officials.

[2] In appearing before governmental bodies or consulting with government officials, judges must be mindful that they remain subject to other provisions of this Code, such as Rule 1.3, prohibiting judges from using the prestige of office to advance their own or others' interests, Rule 2.10, governing public comment on pending and impending matters, and Rule 3.1(C), prohibiting judges from engaging in extrajudicial activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

[3] In general, it would be an unnecessary and unfair burden to prohibit judges from appearing before governmental bodies or consulting with government officials on matters that are likely to affect them as private citizens, such as zoning proposals affecting their real property. In engaging in such activities, however, judges must not refer to their judicial positions, and must otherwise exercise caution to avoid using the prestige of judicial office.

RULE 3.3

Testifying as a Character Witness

A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

COMMENT

[1] A judge who, without being subpoenaed, testifies as a character witness abuses the prestige of judicial office to advance the interests of another. See Rule 1.3. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

[1] In the course of performing judicial duties, a judge may acquire information of commercial or other value that is unavailable to the public. The judge must not reveal or use such information for personal gain or for any purpose unrelated to his or her judicial duties.

[2] This rule is not intended, however, to affect a judge's ability to act on information as necessary to protect the health or safety of the judge or a member of a judge's family, court personnel, or other judicial officers if consistent with other provisions of this Code.

RULE 3.6

Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination. A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

COMMENT

[1] A judge's public manifestation of approval of invidious discrimination gives rise to the appearance of impropriety and diminishes public confidence in the integrity and impartiality of the judiciary. A judge's membership in an organization that practices invidious discrimination creates the perception that the judge's impartiality is impaired.

[2] Invidious discrimination will generally be demonstrated if an organizations's exclusionary membership practices are arbitrary, irrational,

RULE 3.7

Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;

(2) soliciting* contributions* for such an organization or entity, but only from members of the judge's family,* or from judges over whom the judge does not exercise supervisory or appellate authority;

(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, as long as the solicitation cannot reasonably be perceived as coercive;

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono publico legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono publico legal work, and participating in events recognizing lawyers who have done pro bono publico work.

RULE 3.8

Appointments to Fiduciary Positions

(A) A judge shall not accept appointment to serve in a fiduciary* position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties.

(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than one year after becoming a judge.

COMMENT

[1] A judge may act pro se in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. A judge must not use the prestige of office to advance the judge's personal or family interests. See Rule 1.3.

RULE 3.11

Financial, Business, or Remunerative Activities

(A) A judge may hold and manage investments of the judge and members of the judge's family.*

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code.

COMMENT

[1] Judges are generally permitted to engage in financial activities, including managing real estate and other investments for themselves or for members of their families. Participation in these activities, like participation in other extrajudicial activities, is subject to the requirements of this Code. For example, it would be improper for a judge to spend so much time on business activities that it interferes with the performance of judicial duties. See Rule 2.1. Similarly, it would be improper for a judge to use his or her official title or

(B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following without publicly reporting such acceptance:

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending* or impending* before the judge would in any event require disqualification of the judge under Rule 2.11;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner,* or other family member of a judge residing in the judge's household,* but that incidentally benefit the judge.

(C) Unless otherwise prohibited by law or by paragraph (A), a judge may accept the following items, and must report such acceptance to the extent required by Rule 3.15:

(1) gifts incident to a public testimonial;

(2) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

freely accept such benefits if they are available to the general public, or if the judge qualifies for the special price or discount according to the same criteria as are applied to persons who are not judges. As an example, loans provided at generally prevailing interest rates are not gifts, but a judge could not accept a loan from a financial institution at below-market interest rates unless the same rate was being made available to the general public for a certain period of time or only to borrowers with specified qualifications that the judge also possesses.

[4] Rule 3.13 applies only to acceptance of gifts or other things of value by a judge. Nonetheless, if a gift or other benefit is given to the judge's spouse, domestic partner, or member of the judge's family residing in the judge's household, it may be viewed as an attempt to evade Rule 3.13 and influence the judge indirectly. Where the gift or benefit is being made primarily to such other persons, and the judge is merely an incidental beneficiary, this concern is reduced. A judge should, however, remind family and household members of the restrictions imposed upon judges, and urge them to take these restrictions into account when making decisions about accepting such gifts or benefits.

[5] Rule 3.13 does not apply to contributions to a judge's campaign for judicial office. Such contributions are governed by other Rules of this Code, including Rules 4.3 and 4.4.

RULE 3.14

Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs

(c) whether the content is related or unrelated to the subject matter of litigation pending or impending before the judge, or to matters that are likely to come before the judge;

(d) whether the activity is primarily educational rather than recreational, and whether the costs of the event are reasonable and comparable to those associated with similar events sponsored by the judiciary, bar associations, or similar groups;

(e) whether information concerning the activity and its funding sources is available upon inquiry;

(f) whether the sponsor or source of funding is generally associated with particular parties or interests currently appearing or likely to appear in the judge's court, thus possibly requiring disqualification of the judge under Rule 2.11;

(g) whether differing viewpoints are presented; and

(h) whether a broad range of judicial and nonjudicial participants are invited, whether a large number of participants are invited, and whether the program is designed specifically for judges.

[4A] Reimbursement of expenses from governmental entities need not be reported under Rule 3.14 [C] or Rule 3.15.

RULE 3.15

Reporting Requirements

(A) A judge shall publicly report the amount or value of:

(1) compensation received for extrajudicial activities as permitted by Rule 3.12;

(2) gifts and other things of value as permitted by Rule 3.13(C), and

(3) reimbursement of expenses and waiver of fees or charges as permitted by Rule 3.14(A).

(B) The scope of reporting, the time for reporting, the manner of reporting, and other issues shall be as determined by state law.

(11) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;

(12) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court; or

(13) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A).

COMMENT

GENERAL CONSIDERATIONS

[1] Even when subject to public election, a judge plays a role different from that of a legislator or executive branch official. Rather than making decisions based upon the expressed views or preferences of the electorate, a judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure. This Canon imposes narrowly tailored restrictions upon the political and campaign activities of all judges and judicial candidates, taking into account the various methods of selecting judges.

[2] When a person becomes a judicial candidate, this Canon becomes applicable to his or her conduct.

PARTICIPATION IN POLITICAL ACTIVITIES

[3] Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although judges and judicial candidates may register to vote as members of a political party, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.

that bear upon a candidate's integrity or fitness for judicial office. As long as the candidate does not violate paragraphs (A)(11), (A)(12), or (A)(13), the candidate may make a factually accurate public response. In addition, when an independent third party has made unwarranted attacks on a candidate's opponent, the candidate may disavow the attacks, and request the third party to cease and desist.

[9] Subject to paragraph (A)(12), a judicial candidate is permitted to respond directly to false, misleading, or unfair allegations made against him or her during a campaign, although it is preferable for someone else to respond if the allegations relate to a pending case.

[10] Paragraph (A)(12) prohibits judicial candidates from making comments that might impair the fairness of pending or impending judicial proceedings. This provision does not restrict arguments or statements to the court or jury by a lawyer who is a judicial candidate, or rulings, statements, or instructions by a judge that may appropriately affect the outcome of a matter.

PLEDGES, PROMISES, OR COMMITMENTS INCONSISTENT WITH IMPARTIAL PERFORMANCE OF THE ADJUDICATIVE DUTIES OF JUDICIAL OFFICE

[11] The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

[12] Paragraph (A)(13) makes applicable to both judges and judicial candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

[13] The making of a pledge, promise, or commitment is not dependent upon, or limited to, the use of any specific words or phrases; instead, the totality of the statement must be examined to determine if a reasonable person would believe that the candidate for judicial office has specifically undertaken to reach a particular result.

(1) act at all times in a manner consistent with the independence,* integrity,* and impartiality* of the judiciary;

(2) comply with all applicable election, election campaign, and election campaign fund-raising laws and regulations of this jurisdiction;

(3) review and approve the content of all campaign statements and materials produced by the candidate or his or her campaign committee, as authorized by Rule 4.4, before their dissemination; and

(4) take reasonable measures to ensure that other persons do not undertake on behalf of the candidate activities, other than those described in Rule 4.4, that the candidate is prohibited from doing by Rule 4.1.

(B) A judicial candidate * in a public election may, unless prohibited by law,* and not earlier than 365 days before the first applicable election:

(1) establish a campaign committee pursuant to the provisions of Rule 4.4;

(2) speak on behalf of his or her candidacy through any medium, including but not limited to advertisements, websites, or other campaign literature;

(3)[DELETED];

(4) attend or purchase tickets for dinners or other events sponsored by a political organization*;

(5) seek, accept, or use endorsements from any person or organization other than a partisan political organization; and

(6)[DELETED].

(C)[DELETED].

COMMENT

[1] Paragraph (B) permits judicial candidates in public elections to engage in some political and campaign activities otherwise prohibited by Rule 4.1.

(B) seek endorsements for the appointment from any person or organization other than a partisan political organization.

COMMENT

[1] When seeking support or endorsement, or when communicating directly with an appointing or confirming authority, a candidate for appointive judicial office must not make any pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office. See Rule 4.1(A)(13).

RULE 4.4

Campaign Committees

(A) A judicial candidate* subject to public election* may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law.*

(B) A judicial candidate subject to public election shall direct his or her campaign committee:

(1) to solicit and accept only such campaign contributions* as are permitted by state law.

(2) not to solicit or accept contributions for a candidate's current campaign more than 180 days before the applicable election, nor more than 45 days after the last election in which the candidate participated; and

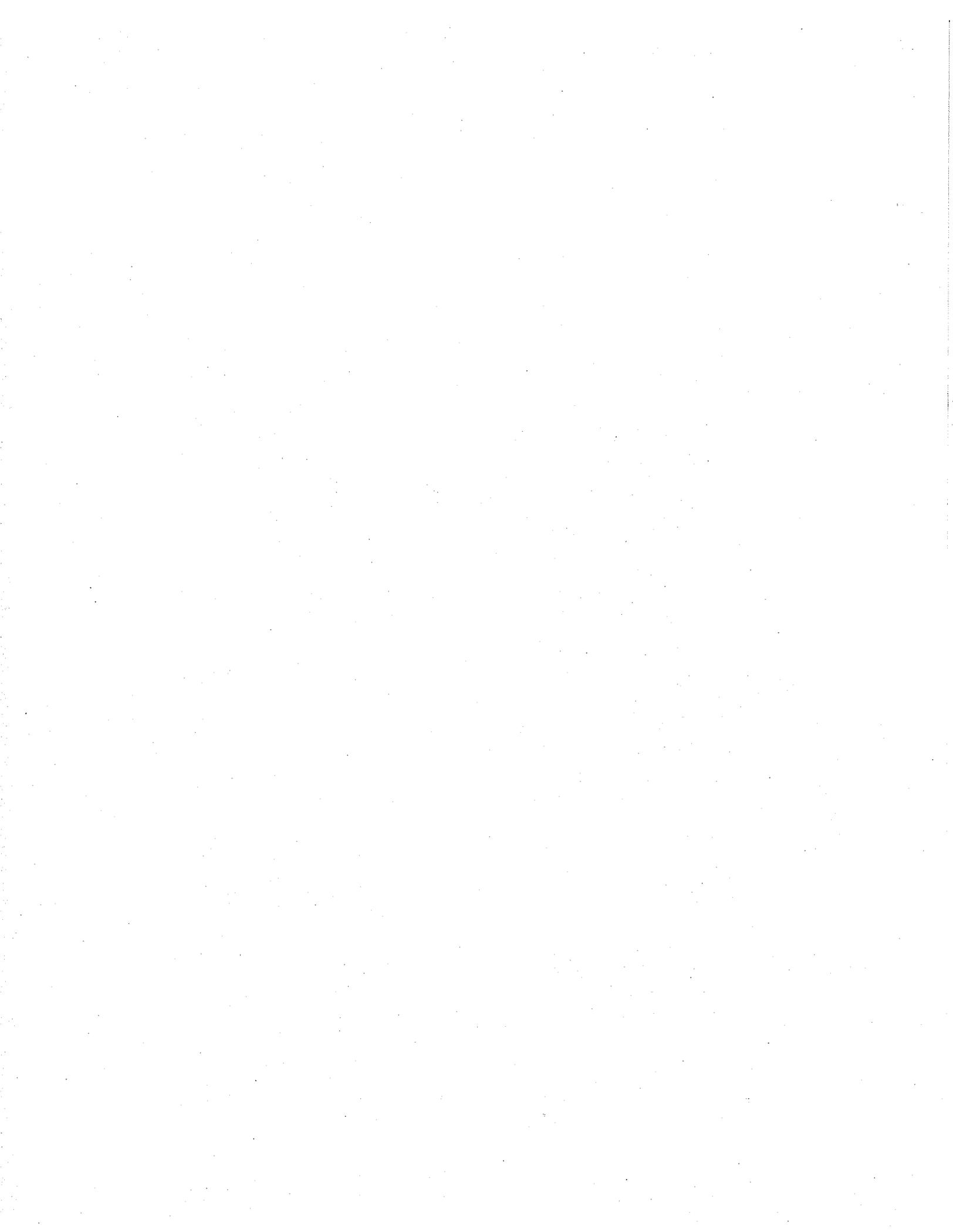
(3) to comply with all applicable statutory requirements for

(B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.

COMMENT

[1] In campaigns for nonjudicial elective public office, candidates may make pledges, promises, or commitments related to positions they would take and ways they would act if elected to office. Although appropriate in nonjudicial campaigns, this manner of campaigning is inconsistent with the role of a judge, who must remain fair and impartial to all who come before him or her. The potential for misuse of the judicial office, and the political promises that the judge would be compelled to make in the course of campaigning for nonjudicial elective office, together dictate that a judge who wishes to run for such an office must resign upon becoming a candidate.

[2] The “resign to run” rule set forth in paragraph (A) ensures that a judge cannot use the judicial office to promote his or her candidacy, and prevents post-campaign retaliation from the judge in the event the judge is defeated in the election. When a judge is seeking appointive nonjudicial office, however, the dangers are not sufficient to warrant imposing the “resign to run” rule.



Avoiding the Pitfalls

The Canons of Judicial Ethics

Leon N. Jamison, Circuit Judge

Integrity and Independence

Courtroom Demeanor

Public Comment

Ex Parte Communications

Diligence

Administrative Duties

Appointment Power

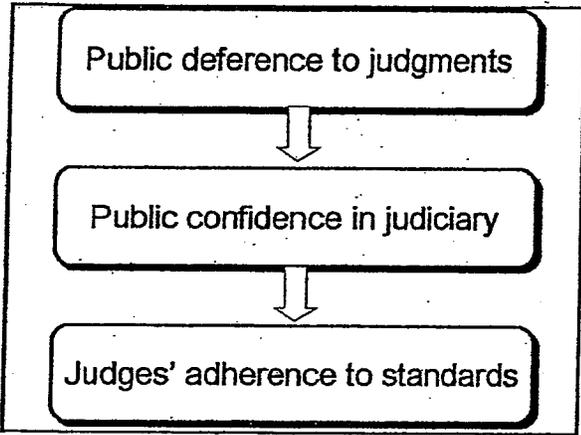
Disciplinary Responsibility

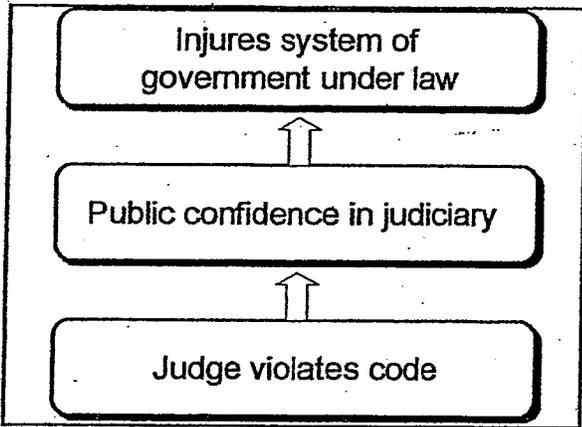
Disqualification

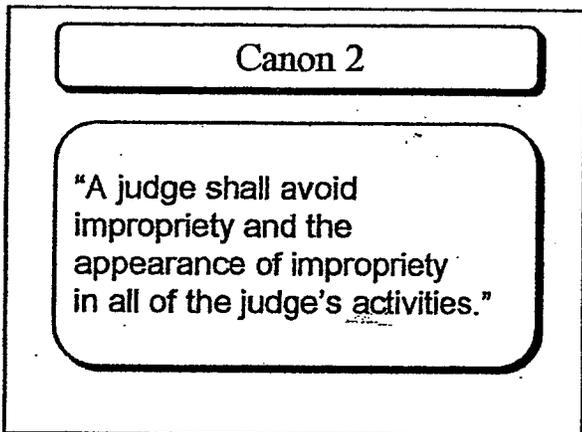
Speaking, Writing, Teaching

Government Relations

Charitable Activities







Canon 2A

"A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

CJC, Canon 2A

**Public
role**

**Private
life**

**Public
role**

**Private
life**

Canon 2B

Prestige of office

Judge identified himself as judge to police after arrest

- Stated he could "explain everything" and was "pro police"

Case study

Inquiry Concerning Richardson
760 So. 2d 932 (Florida 2000)

Canon 2B

Prestige of office

Judge asked several times for help with son's DUI case

- Called arresting officer several times
- Called presiding judge

Case study

Commission on Judicial Performance v. Brown, 761 So. 182 (Mississippi 2000)

Canon 2B

Prestige of office

Judge sent letters to other judges seeking special consideration for defendants awaiting sentencing

- Used judicial stationery

Case study

In the Matter of Martin, Determination (New York Commission 2001)

Canon 2C

Discriminatory organizations

- Whether organization discriminates
- Whether discrimination is invidious
- Whether organization is private

Arizona Opinions 94-13 & 94-7; Indiana Opinion 1-94; Nebraska Opinion 94-1

Canon 2C

Discriminatory organizations

Whether organization discriminates

- Based on race, national, origin, religion, gender

Canon 2C

Discriminatory organizations

Whether discrimination is invidious

- Irrational
- Not related to legitimate purpose
- Stigmatizing

Canon 5

**A Judge or Judicial Candidate Shall
Refrain from Inappropriate Political
Activity**

2) Did you have a case before this judge? yes no
If yes, is the case still pending? yes no

3) When and where did the ethical misconduct occur?

Date: _____ Time: _____ Location: _____

4) If your complaint arose from a court case, please provide the following information:

Case Name: _____ Case Number: _____

Plaintiff's information:

Defendant's information:

Name _____

Name _____

Address _____

Address _____

Daytime phone _____

Daytime phone _____

Attorney's information (Plaintiff):

Attorney's information (Defendant):

Name _____

Name _____

Address _____

Address _____

Phone _____

Phone _____

Additional Attorney's Information (use additional pages if necessary):

Name _____

Name _____

Address _____

Address _____

Phone _____

Phone _____

Represented _____

Represented _____

What type of case gives rise to this complaint? Please check one.

criminal; small claims; civil; probate;
 domestic (family) relations; other (specify) _____

Arkansas Judicial Discipline & Disability Commission
Tower Building - Suite # 1060 - 323 Center Street
Little Rock, AR 72201
Phone: (501) 682-1050
FAX: (501) 682-1049

COMPLAINT

I hereby request an investigation of _____ of the _____
(judge's name)
_____ Court in _____, _____ Arkansas.
(city) (county)

On information and belief, I state that the above-named judge: (check all appropriate items)

- _____ 1. Has engaged in unethical and improper conduct as a judge.
 - _____ a. Partiality, bias, or prejudice (against an individual or group)
 - _____ b. Ex-parte (one-sided) communication with one or some, but not all parties or attorneys
 - _____ c. Conflict of interest / failure to disqualify

- _____ 2. Has willfully or persistently failed to perform an official duty by;
 - _____ a. Delay (includes delay in setting a matter for hearing or deciding a case)
 - _____ b. Injudicious temperament (includes failure to be patient, dignified, and courteous or by exhibiting rude or intimidating conduct)
 - _____ c. Abuse of judicial power (includes a knowing or persistent disregard of clear law or fundamental rights)
 - _____ d. Legal error / improper procedure (includes dissatisfaction with court procedures or rulings on evidence, criminal sentences, custody, etc..)
 - _____ e. Failure to perform duties of office
 - _____ f. Procedural or administrative irregularity

- _____ 3. Has engaged in gross personal misconduct. Misconduct (off the bench) (includes prohibited charitable, business, personal, political or criminal conduct)

- _____ 4. Has used intoxicating beverages or dangerous drugs in such a way as to interfere with the proper performance of official duties.

- _____ 5. Has a Physical or mental disability that impairs the proper performance of official duties.

- _____ 6. Other (specify). _____

#08316
P.2

State of Arkansas
Judicial Discipline and Disability Commission
Online Complaint Form

I hereby request an investigation of:

Judge's Name: Leon Jamison
City: Pine Bluff

Court Name: Circuit Court
County: Jefferson

Full Name: [REDACTED]
Mailing Address: [REDACTED]
City/ST/ZIP: [REDACTED]
Daytime Phone: [REDACTED]
Evening Phone: [REDACTED]
Cellular Phone: [REDACTED]
eMail Address: [REDACTED]

Statement of Facts

1. State below the specific details of what the judge did that you think constitutes misconduct or indicates disability.

I was requesting my child support be reduced because I am unemployed at the present time. Judge Jamison made a judgment based upon his personal beliefs instead of the facts that were presented. I am a full time student in [REDACTED], Judge Jamison specifically stated that he did not believe that I was unemployed, the facts were presented and he ignored it. An affidavit of financial means and a letter from my employer stating my hours are 0. He did not decrease my child support because of his personal belief and violated my civil rights. I believe the reason I was treated unfairly is because of my Islamic religion.

2. Did you have a case before this judge? Yes No
If yes, is the case still pending? Yes No

3. When and where did the ethical misconduct occur?
Date: [REDACTED] Time: [REDACTED]
Location: Circuit Court of Jefferson County

4. If your complaint arose from a court case, please provide the following information:

a) Case Name: [REDACTED]
Case No: [REDACTED]

Plaintiff's Information: [REDACTED]

Attorney's information (Plaintiff): [REDACTED]

Defendant's Information: [REDACTED]

Attorney's information (Defendant): [REDACTED]

Additional Attorney's Information:

, , ,

Represented:



Judicial Discipline & Disability Commission

JUDGE LEON N. JAMISON
CHAIRMAN

323 Center Street • Suite 1060
Little Rock, AR 72201
(501) 682-1050 • Fax: (501) 682-1049
E-Mail: jddc@arkansas.gov

DAVID A. STEWART
EXECUTIVE DIRECTOR

December 11, 2008

Honorable Leon Jamison
4th Division Circuit Court
PO Box 7664
Pine Bluff, AR

RE: Case # 08316

PERSONAL AND CONFIDENTIAL

Dear Judge Jamison:

Please accept this letter as notification that a complaint has been filed against you with the Judicial Discipline and Disability Commission by [REDACTED]. A copy of the complaint is enclosed for your review.

This complaint will be forwarded to an Investigation Panel for preliminary review. You may submit a response to the complainant's allegations for the Commission staff to forward with the complaint within 21 days of the date of this letter. Your response is voluntary. You will receive no further notice and no extensions can be granted at this phase of the investigation. If you choose not to respond at this time, the panel will evaluate the substance of the initial complaint without your input.

Except for final actions by the Commission or other limited circumstances including the filing of formal charges, all records, files, reports and proceedings before the Commission are confidential, including the results of any future investigation. Any information contained in this letter or received from you is strictly confidential. Other than you, any person who obtains information about the Commission's work and violates this confidentiality requirement is subject to punishment for contempt of the Arkansas Supreme Court.

Sincerely,

Handwritten signature of David A. Stewart in black ink.

David A. Stewart
Executive Director

Enclosure as stated

Represented:

What type of case gives rise to this complaint?

- Criminal
- Civil
- X Domestic (family) relations
- Small claims
- Probate
- Other:

How are you interested in the case?

- X Plaintiff/petitioner
- Defendent/respondent
- Unrelated to a case
- Other:
- Attorney for
- Witness for
- Family member of

5. List documents you can forward to the Commission that will help support your complaint that the judge has engaged in misconduct or has a disability: This information should be mailed to the Commission with a note to include the information with an email complaint. (Please do not send originals.)

Court Documents, letter from my employer

6. List documents that you cannot forward, but will be needed by the Commission to support your complaint that may help the Commission's investigation:

7. Identify, if possible, any other witnesses to the judge's conduct: (example: reporters, bailiffs, clerks, court reporters, law enforcement officers, or other attorneys, plaintiffs, defendants or witnesses that were present at the time).

[Redacted]

Note: State Law Provides that the Judicial Discipline and Disability Commission's Proceedings on this request for investigation are confidential.

I request that the above complaint, supported by the Statement of Facts, be investigated by the Judicial Discipline & Disability Commission and that appropriate action be taken.

I hereby swear or affirm that the above information is true and correct.

[Redacted Signature]

VIII. COMPLAINTS, DISPOSITIONS & WORKLOAD DATA

The Judicial Discipline and Disability Commission received 280 complaints and disposed of 301 complaints during the calendar year 2006. The following tables show statistical data on the complaints processed in 2006.

Table 1

2006 Source of Complaints

Anonymous	11
Commission's Motion	6
Attorneys	14
Litigants	209
Judge/Court Personnel	2
Non-litigating Individual	14
Non-litigating Family Member	32
Public Official	2

This table reflects a breakdown of the source of the complaints. Clearly, litigants are the most frequent party to initiate a complaint.

TABLE 3

Nature of Litigation Giving Rise to 2006 Complaints

Criminal	115
Domestic Relations, includes divorce, custody and support matters	70
General Civil	42
Juvenile	13
Mental Illness	0
Probate	3
Small Claims	3
Traffic	6
Non-litigation	15

This table shows the types of litigation that gave rise to the complaints. Criminal cases and domestic relations cases (which include divorce, custody, support and related contempt and post-divorce matters) are the types of litigation giving rise to approximately two-thirds of the complaints filed in 2006.

TABLE 5

2006 Docket

A.	Matters pending on January 1, 2006	79
	Complaints received during 2006	280
	Total Complaints:	359
B.	Disposition of complaints:	
	Complaints dismissed	299
	Informal Adjustment	0
	Private reprimands	0
	Public Admonitions	1
	Public reprimands/censure	0
	Judicial resignation or retirement during Commission investigation	1
	Suspension from office with pay	0
	Recommendation to Supreme Court for:	
	Suspension for misconduct	0
	Removal for misconduct	0
	Suspension for disability	0
	Removal for disability	0
	Total Disposition:	301
C.	Miscellaneous	
	Appearances by a judge	5
	Appearance by an attorney representing a judge	7
	Formal statement of charges served on a judge	0
	Probable cause hearings	3
	Referral to Supreme Court for interim suspension of a judge	0
	Supreme Court granting interim suspension of a judge	0

This table displays the 2006 docket of the Commission. In 2006 the Commission received 280 complaints and disposed of 301 complaints. This disposition included:

- Issuance of 1 public admonishment in two (2) complaints
- One retirement from office with the judge agreeing to never serve again in the Arkansas judiciary

As of December 31, 2006 there were 103 open and pending matters before the Commission.

A report for the Fourth Quarter of 2008 (October 1 to December 31) will soon be due. A copy of the report form and a self-addressed envelope are enclosed for your convenience. If you do not have a case to report, please complete the form by stating "none." If you are reporting a case, please be sure to complete all sections of the form. If the form is not properly completed, you may be required to submit an amended form.

To comply with Administrative Order No. 3, your report must be received in this office no later than **January 15, 2009**.

Enclosures

21

EXHIBIT C

Comparison of the House of Delegates Proposal to the existing Arkansas Code of Judicial Conduct (1993)

This memo indicates the primary changes from the existing Arkansas Code of Judicial Conduct (effective May 1, 1993). The focus is upon those changes that would be most apparent to Arkansas judges.

Scope: Please note paragraphs 3,4 and 6: The Comments to the Rules provide guidance and identify aspirational goals for judges. Even when a comment contains the term “must”, it is not intended that the comment itself is binding or enforceable. Although the black letter of the Rules is binding and enforceable, it is not contemplated that every transgression of a Rule will result in the imposition of discipline.

Terminology: The phrase “domestic partner” is explained in the Terminology, and used throughout the Code.

Application: (III. Continuing Part-time Judge): The language of (B) clarifies that a continuing part-time judge may not appear in criminal cases in the county in which the judge presides. Prior opinions of the Judicial Ethics Advisory Committee (98-02; 2002-04) concluded that a municipal judge should not represent any criminal defendants in the same circuit. Comment [2A] urges the judge to exercise caution before appearing in any adversary proceedings involving lawyer who come before the judge in his or her judicial capacity.

1)Rule 2.3: Judges are not to manifest bias or prejudice, and are not to permit court officials and lawyers to do so either. The current Code says: “Including, but not limited to race, sex, religion, or national origin.” The House of Delegates substituted the language of “personal characteristics.” The change was also made in Rules 3.1 and 3.6, and accompanying Comments. The language was based in part on a proposal from the United States Judicial Conference.

9)Rule 4.1 (Comment 6A) and Rule 4.2(B)(4): Judges and judicial candidates are permitted to purchase tickets and attend political rallies conducted by political organizations (but not by individual candidates). Those activities may take place during the campaign and during the judge's tenure in office.

10)Rule 4.1(A)(4): Judges are not permitted to give money to a political organization or another political candidate, whether it is during the election cycle or during the term of office. The proposed Code continues to bar judges and judicial candidates from supporting or opposing any other candidate. Rule 4.1(A)(3).

11)Rule 4.2: Judicial campaigns cannot begin until 365 days before the election. However, the current 180 day limitation on pre-election fund raising is retained, as is the 45 day post-election limit.

12)Rule 4.4: Comment 3A urges judicial candidates, as much as possible, to remain unaware of the contributors to the campaign.

Howard W. Brill
Chair, Task Force

June 20, 2008

presides. Because of the geographical size of some judicial circuits, the Task Force concluded it was unrealistic to prohibit judges from appearing in any criminal matter in the entire circuit. Comment 2A explains this restriction. Further, Comment 3A urges the judge to exercise caution before appearing in any adversary proceeding that involves attorneys who come before the judge in his or her judicial capacity. In addition, the language in (A) was altered to provide that candidates for district judgeships will be subject to the same judicial election rules as other judicial candidates.

3) In Rules 2.3, 3.1 and 3.6 (and accompanying comments), the House deleted a list of 12 categories or factors, and substituted the language of "personal characteristics." This language is based on proposals from the United States Judicial Conference.

4)Rule 2.9(A)(4): In response to feedback from the House of Delegates and other attorneys, the Task Force deleted this language: "A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge."

5)Rule 2.11: The proposal removes (A)(4). The Task Force did not believe that disqualification should be required because a litigant or an attorney had contributed at a particular level to the campaign fund of the judge. However, recognizing the possibility of a conflict or the appearance of a conflict, the Task Force inserted Comment 4A.

6)Rule 2.13: The proposal removes (A)(3) forbidding appointment of lawyers to administrative positions if they had contributed at a particular level to the judge's campaign fund. However, the proposal adds (D), which is taken from the current Code, and requires judges to affirmatively demonstrate to the Arkansas Judicial Discipline and Disability Commission that it is impossible for the judge to hire any other qualified person to fill the position.

7)Rules 2.14 and 2:15: The proposal adds Comments 3A to Rule 2.14 and Comments 7A and 8A to Rule 2.15. These references to the Arkansas Lawyer Assistance Program are taken from the existing Code.

8)Rule 3.1: The Task Force added Comment 5A.

SUPREME COURT OF ARKANSAS

No. 08-924

Opinion Delivered: 10-2-08

IN RE: ARKANSAS BAR
ASSOCIATION PETITION TO
AMEND CODE OF JUDICIAL
CONDUCT

PER CURIAM

The American Bar Association has proposed a new model code of judicial conduct, the 2007 American Bar Association Code of Judicial Conduct (“2007 ABA Code”), and each state is asked to consider its adoption. This court in considering whether the 2007 ABA Code should be adopted in Arkansas requested that the Arkansas Bar Association review it and make a report to the court. The Arkansas Bar Association created the Task Force on the Code of Judicial Conduct and appointed the following members: Professor Howard Brill of Fayetteville, Chair, Hon. Kathleen Bell of Helena, Hon. Ellen Brantley of Little Rock, Laurie Bridewell, Esq., of Lake Village, Michael Crawford, Esq., of Hot Springs, Don Elliott, Jr., Esq., of Fayetteville, Frances Fendler, Esq., of Little Rock, Hon. John C. Finley, III of Ashdown, Donis Hamilton, Esq., of Paragould, Hon. Eugene Harris of Little Rock, Hon. Leon Jamison of Pine Bluff, James Simpson, Esq., of Little Rock, Hon. Kim Smith of Fayetteville, Hon. Gordon Webb of Harrison, Patrick Wilson, Esq., of Little Rock, and Hon. Ralph Wilson of Osceola.

IN THE SUPREME COURT OF ARKANSAS

ARKANSAS BAR ASSOCIATION

PETITIONER

IN RE: CODE OF JUDICIAL CONDUCT

PETITION

The Arkansas Bar Association, at the direction of its House of Delegates, and acting through its President, Rosalind M. Mouser, Past President Richard L. Ramsay, and by chair of its Task Force on the Code of Judicial Conduct, Howard Brill, petitions the Court to revise the Code of Judicial Conduct of the Commission and to adopt the rule set out in Exhibit "A" attached hereto.

1. The existing Arkansas Code of Judicial Conduct was adopted by PER CURIAM order on July 5, 1993.
2. At the request of the Court, Petitioner Arkansas Bar Association then President James D. Sprott and then President-Elect Richard L. Ramsay appointed its Task Force on Code of Judicial Conduct in May, 2007 to review the 2007 American Bar Association Code of Judicial Conduct.
3. The Task Force, comprised of eight judges and eight lawyers, met on several occasions over a nine month period, completed its assignment, and submitted its Report the to the Arkansas Bar Association House of Delegates on June 14, 2008. A copy of the Report is attached as Exhibit "A".

JUDGES, LAWYERS & THE COMMITTEE ON PROFESSIONAL CONDUCT

January 9, 2009

(Stark Ligon, 501-376-0313, 1-800-506-6631)

Arkansas Code of Judicial Conduct:

Canon 3(2) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct should take appropriate action. A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall either communicate directly with respect to the violation with the lawyer who has committed the violation or report the violation to the Arkansas Supreme Court Committee on Professional Responsibility.

(3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely privileged, and no civil actions predicated thereon may be instituted against the judge. Appropriate action may include direct communication with the judge or lawyer who has committed the violation, other direct action if available, and reporting the violation to the appropriate authority or other agency or body.

Canon 2(b). A judge must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. Moreover, when a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness. **(Tip: Make them subpoena you, or do not testify or submit any writing.)**

Arkansas Rules of Professional Conduct: Rule 8.3. Reporting Professional Misconduct. (a)

A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.

Supreme Court Procedures Regulating Professional Conduct of Attorneys at Law:

Section 5.C. Duties-Complaints. (1) It shall be the duty of the Office of Professional Conduct to receive and investigate all complaints against any member of the Bar. Such complaints shall be docketed and assigned a permanent file number. The Office of Professional Conduct and the Committee shall accept and treat as a formal complaint any writing signed by a judge of a court of record in this State regardless of whether such signature is verified. (Ligon's emphasis.)

**[If a judge sends it to OPC in writing, it must be made a formal Complaint -
no OPC discretion!]**

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