

CODE OF JUDICIAL CONDUCT

ANNOTATED BY OPINIONS OF

THE ILLINOIS JUDICIAL ETHICS COMMITTEE

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Committee Commentary

Preface

Prior to 1964, Illinois left the matter of judicial ethics to the individual conscience of the judge, subject to the impeachment power of the General Assembly and the requirement that each judge run for reelection at the expiration of his term of office. On January 1, 1964, the effective date of the amendment to the judicial article of the 1870 Constitution, the Courts Commission was established to investigate, prosecute and adjudicate complaints of judicial misconduct against judicial officers. Concomitantly, the Illinois Judicial Conference adopted advisory Canons of Judicial Ethics.

In January 1970, the Illinois Supreme Court adopted the first rules of judicial conduct, effective March 15 of that year. With the adoption of the 1970 Constitution of Illinois, the present system for the enforcement of judicial ethics through the Judicial Inquiry Board and the Courts Commission was established. This first judicial code was based on the efforts of the Supreme Court Committee on Judicial Ethics. The report recommended that the matter be kept under constant surveillance, particularly "in view of the current work of the American Bar Association in this area and the approaching Constitutional Convention in the state."

With the adoption of a new code of judicial ethics by the American Bar Association in 1972, a joint Illinois State Bar Association and Chicago Bar Association committee submitted a report recommending that the new ABA Code be made the basis of a new Illinois code of judicial ethics. This report was studied by a committee of the Illinois Judicial Conference, whose report in 1975 led to several amendments to the Illinois code in 1976.

The initial determination of the present committee was to propose the adoption of a new code based on the ABA canons. There was general agreement that revisions of the existing code would be sufficient to keep Illinois in the forefront of the modern movement toward full but fair regulation of judicial ethics. Indeed, the comprehensiveness and wisdom of that code is reflected in the fact that it was the committee's conclusion that the adoption of the ABA canons would work no significant substantive changes in the existing law. The unanimous decision of the committee to

recommend that the ABA canons be adopted as the foundation of the Illinois rules was primarily predicated on two interrelated factors: the desire for uniformity with rules governing judicial officers in other States and the need for a body of interpretative decisions to guide judicial officers when the application of a rule in a particular factual situation is not clear. With regard to the latter problem, an additional benefit lies in the fact that the ABA has established a Standing Committee on Ethics and Professional Responsibility which renders opinions on matters of proper professional or judicial conduct.

It was, of course, not feasible to recommend that the ABA canons be adopted verbatim. Specific provisions of the Illinois Constitution and statutes as well as circumstances unique to Illinois required that the canons be modified in accord with any superseding legal requirements and extraordinary circumstances. The committee commentary is primarily concerned with these modifications; however, wherever appropriate, the ABA commentary has been incorporated into the committee commentary. For an excellent background commentary on the ABA canons themselves see Thode, Reporter's Notes to Code of Judicial Conduct (ABA 1973).

Rule 61 CANON 1

A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing, and should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

Adopted December 2, 1986, effective January 1, 1987; amended August 6, 1993, effective immediately; amended October 15, 1993, effective immediately.

Committee Commentary

This canon is substantially identical to the 1972 version of the ABA canon.

Annotations

93-4 A judge may be a speaker at an event sponsored by an organization that is not law- related nor seeks to raise funds for any organization. In deciding whether to appear, the judge should consider whether his or her appearance would compromise the independence or integrity of the judge or the Court as prohibited by Rule 62. (Note: This opinion was issued prior to the 2006 amendment of Section B(2) of the Rule that permits a judge to speak at fund raising events sponsored by the types of organizations identified.) In making a determination under Rule 62, the judge should consider whether: 1) its activities are partisan or service oriented; 2) its members appear regularly before the

court; 3) it has made public announcements concerning issues that may come before the Court.

97-1 A judge can be disciplined under the Code of Judicial Conduct for asserting the Fifth Amendment with respect to questioning before a grand jury regarding the performance of the judge's judicial duties. A judge can also be disciplined for bargaining for a grant of immunity in connection with such grand jury proceedings. However, a judge cannot be disciplined for accepting and testifying under an unrequested grant of immunity.

97-2 Testimony provided by a judge to a grand jury under a grant of immunity may be used against the judge in subsequent judicial discipline proceedings. An early Courts Commission decision holds that it lacks jurisdiction to discipline a judge for misconduct that occurred before the judge assumed the bench.

Rule 62 CANON 2

A Judge Should Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

A. A judge should respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow the judge's family, social, or other relationships to influence the judge's judicial conduct or judgment. A judge should not lend the prestige of judicial office to advance the private interests of others; nor should a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

Adopted December 2, 1986, effective January 1, 1987; amended October 15, 1993, effective immediately.

Committee Commentary

This canon is substantially identical to ABA Canon 2. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on his or her conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

The testimony of a judge as a character witness injects the prestige of judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official testimonial. This canon, however, does not afford a judge a privilege against testifying in

response to an official summons.

Annotations

Rule62A

Respect and Compliance with the Law

96-23 Chief Judge is required to take appropriate disciplinary steps when a judge he or she supervises has been arrested for DUI and the Chief Judge has knowledge that the judge has an alcohol abuse problem.

98-16 A judge who is campaigning for election cannot serve as a deputy voter registrar.

Promoting Public Confidence in Integrity and Impartiality of Judiciary

93-4 A judge may be a speaker at an event sponsored by an organization that is not law- related nor seeks to raise funds for any organization. In deciding whether to appear, the judge should consider whether his or her appearance would compromise the independence or integrity of the judge or the Court as prohibited by Rule 62. (Note: This opinion was issued prior to the 2006 amendment of Section B(2) of the Rule that permits a judge to speak at fund raising events sponsored by the types of organizations identified.) In making a determination under Rule 62, the judge should consider whether: 1) its activities are partisan or service oriented; 2) its members appear regularly before the court; 3) it has made public announcements concerning issues that may come before the Court.

94-5 A judge or a candidate for judge may publicly express his or her opinion on a matter of public interest so long as it is done in a manner that would not threaten to compromise a judge's impartiality.

95-1 A judge who has actual knowledge of another judge's violation of the Code of Judicial Conduct must take or initiate appropriate disciplinary measures.

95-10 A lawyer's testimony that he or she used cocaine confers the judge presiding over that proceeding with knowledge that the lawyer violated Rule 8.4 of the Illinois Rules of Professional Conduct. Consequently, the judge is required to "take or initiate appropriate disciplinary measures" against the lawyer. Under the circumstances presented in this inquiry, the judge is required to report the lawyer to the ARDC.

95-21 A judge should not attend the execution of a person convicted of a capital offense where the judge had served as a prosecutor in the case.

96-16 A judge may not serve as a member of the judicial evaluation committee of a civic organization.

96-23 Chief Judge is required to take appropriate disciplinary steps when a judge he or she supervises has been arrested for DUI and the Chief Judge has knowledge that the judge has an alcohol abuse problem.

97-1 A judge can be disciplined under the Code of Judicial Conduct for asserting the Fifth Amendment with respect to questioning before a grand jury regarding the performance of the judge's judicial duties. A judge can also be disciplined for bargaining for a grant of immunity in connection with such grand jury proceedings. However, a judge cannot be disciplined for accepting and testifying under an unrequested grant of immunity.

97-2 Testimony provided by a judge to a grand jury under a grant of immunity may be used against the judge in subsequent judicial discipline proceedings. An early Courts Commission decision holds that it lacks jurisdiction to discipline a judge for misconduct that occurred before the judge assumed the bench.

99-8 A judge may, in confidential communication to a bar association, express an opinion regarding the qualifications of a fellow judge for retention or elective judicial office.

98-10 Generally, a judge may appear on television or radio to discuss legal issues if the judge does not comment about proceedings which are pending or impending in any court. However, comments may be made about a pending proceeding if they are limited to: (1) explanations of administrative procedures of the court, (2) that which appeared in the official transcript of the proceeding, or (3) that which appeared in the court order or written opinion.

00-3 Judge may sponsor little league team and have judge's name on uniforms.

01-3 Judge may not be guest of honor at a non-fundraising event held by a non-profit organization whose employees regularly testify in adversary proceedings before that judge.

01-6 The judge may be a speaker on non--legal subjects at a church service.

01-10 A judge may serve on the board of directors of a not for profit "Drug Court" organization.

02-1 A judge is not required to report criminal conduct disclosed during testimony in a proceeding.

05-3 A judge may participate in an educational program for groups of children who are potential witnesses in a civil or criminal proceeding. The program must

present only general information about courtroom procedures and must be neither child-- nor case--specific.

Rule 62B Family and Other Relationships that Influence or Appear to Influence Judicial Performance

Family/ Social Relationships

95-9 The judge is not disqualified from hearing criminal, juvenile or traffic proceedings, simply because the spouse is a secretary in the State's Attorney's Office.

06-2 A judge's spouse may engage in independent campaign activities in support of a candidate for public office including: (1) soliciting funds for the candidate;; (2) publicly endorsing the candidate;; (3) displaying a bumper sticker on a vehicle jointly owned by the spouse and judge and driven by the spouse;; and (4) displaying a campaign sign in the yard of the home jointly owned by the spouse and judge. When a candidate for election or retention, a judge must encourage spouse to limit his or her activities in support of the judge's candidacy to those political activities in which the judge is permitted to engage.

Gifts/Honorariums

93-6 A judge may not accept free use of a condominium from a lawyer where members of the lawyer's firm appear before the judge.

93-12 A judge may attend a golf outing as the honoree of a bar association so long as it does not create the impression that certain interests or lawyers are in a position to influence the judge;; may attend a golf outing as the guest of an individual lawyer who is a social acquaintance even if the lawyer or members of the lawyer's law firm have appeared, or may appear, in the judge's court as long as it constitutes "ordinary social hospitality."

94-7 A judge is prohibited from becoming a nominee for an association's award, where the award is contingent on the judge's blanket endorsement of legislation and the funding of programs advocated by the association.

Membership in Organizations

93-7 A judge may not accept the presidency of a religiously-affiliated organization that advocates abolition of the death penalty. A judge must remain impartial at all times.

93-8 A judge may serve on a committee for a lawyer who is a candidate for a bar association office. The purpose of a bar association is to further the quality of the legal profession and the administration of justice. Officers of such organizations volunteer their services for the public good, and a judge who supports a candidate for such office is not advancing the candidate's own private interests.

98-5 A Judge may not serve on a Board of Directors of a charitable organization that is involved in proceedings that regularly come before the Judge.

00-3 Judge may sponsor a little league team and have judge's name on uniforms.

05-5 A judge may serve on the board of directors of a not-for-profit corporation organized for the purpose of promoting responsible fatherhood only if none of the limitations discussed in this opinion are applicable.

Lending the Prestige of Office to Advance Personal Interests

97-14 A defense fund may be established for a judge charged with a criminal offense but must be established with caution. Lawyers may contribute to the fund so long as they have not practiced, and are unlikely to practice, before the judge. Judges may contribute to the fund if their interests have not and are unlikely to come before the judge. The name of the judge, for whom the fund is created, may be used in fundraising activities that solely benefit the judge, but may not be used in joint fundraising activities with co-defendants.

98-13 A judge may receive compensation for assisting in the writing of a television screenplay, and use his or her name and title on the screenplay and in the screen credits.

99-4 A judge may serve on the board of directors of a not-for-profit anti-drug use organization.

01-8 A judge may not accept complimentary membership as a "judicial fellow" with associated free membership benefits, in a specialized bar association if such membership may give the appearance of favoritism toward a particular class or category of litigants.

01-09 A judge's spouse may host an event for a political candidate in the spouse and judge's home, and the judge may attend the event.

01-11 It is proper for a judge to be feted at a post-investiture party sponsored by his/her former law firm, so long as it is not intended to advance the interests or status of the law firm.

03-6 The Code of Judicial Conduct does not prohibit a judge's spouse from circulating a nominating petition for candidate for non-judicial office. A judge is not prevented from signing the nominating petition.

06-3 A judge may not advertise future availability as a mediator or arbitrator.

Letters of References/Recommendations

93-9 A judge may act as a reference, and furnish a letter of recommendation, for a person seeking a federal judgeship, provided that, the reference and recommendation are based upon the judge's personal knowledge of the applicant.

95-15 A judge may not offer a written appraisal of a book if the intent, in the first instance, is to promote sales of the book rather than simply to inform the public of a new contribution to the literature.

95-3 A judge may sponsor a lawyer for admission to practice before the United States Supreme Court. In so doing, the judge is furthering the efficient administration of justice and in no way is affecting his or her impartiality.

95-4 A judge may act as a reference or furnish a letter of recommendation for a person seeking employment, admission to college, or a scholarship.

96-2 A judge may recommend a neighbor for a state fellowship or internship if the judge has personal knowledge of the applicant and may use court stationery to send the recommendation.

96-16 A judge may not act as an advocate for a Rabbi in negotiations with his or her synagogue.

98-2 A judge may circulate and sign the nominating petitions of a judicial candidate when that judge is also a candidate in the same election.

98-6 A judge may not write a letter to the editor stating that a candidate for elective judicial office is "qualified."

01-7 A judge may act as a reference or furnish a letter of recommendation for a person seeking appointment to the governing board of a township political committee provided that the reference or recommendation is based upon the judge's personal knowledge of the applicant.

04-1 A judge may attend a meeting regarding harassment of his children and a special education student living temporarily with the judge's family and may attend the informal appeal. A judge may write a letter seeking the appointment of a neutral

with regards to these matters, mentioning in his description of his background the fact that he is a judge.

Testimony as a Character/Fact Witness

95-12 A judge may write a character reference letter on behalf of a defendant for use at a sentencing hearing only if requested to do so by the sentencing judge or a probation or corrections officer.

04-3 A judge may not voluntarily write a letter to the Illinois Courts Commission in support of a judge against whom disciplinary proceedings are pending.

05-6 A judge should not voluntarily provide a character reference or opinion letter on behalf of a defendant for use at an executive clemency hearing before the Illinois Prisoner Review Board. Such written opinion or letter may be permissible if specifically requested by the Review Board.

07-4 It is not improper for a Judge to testify in a collateral matter as to what the judge observed while presiding at a trial when subpoenaed to do so by a party. But the Judge should seek legal advice from the appropriate state agency and should not express an opinion regarding the quality of representation or performance of the attorney.

Rule 63 CANON 3

A Judge Should Perform the Duties of Judicial Office Impartially and Diligently

The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1) A judge should be faithful to the law and maintain professional competence in it. A judge should be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should maintain order and decorum in proceedings before the judge.

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

(4) 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. A judge shall not initiate, permit,

or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding except that:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(b) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

(c) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.

(d) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

(5) A judge shall devote full time to his or her judicial duties, and should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(7) Proceedings in court should be conducted with fitting dignity, decorum, and without distraction. The taking of photographs in the courtroom during sessions of the court or recesses between proceedings, and the broadcasting or televising of court proceedings is permitted only to the extent authorized by order of the supreme court. This rule is not intended to prohibit local circuit courts from using security cameras to monitor courtrooms, provided that cameras are controlled by designated court personnel. For the purposes of this rule, the use of the terms "photographs," "broadcasting," and "televising" include the audio or video transmissions or recordings made by telephones, personal data assistants, laptop computers, and other wired or wireless data transmission and recording devices.

(8) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice,

including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

(9) Proceedings before a judge shall be conducted without any manifestation, by words or conduct, of prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, by parties, jurors, witnesses, counsel, or others. This section does not preclude legitimate advocacy when these or similar factors are issues in the proceedings.

B. Administrative Responsibilities.

(1) A judge should diligently discharge the judge's administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge should require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

(3) (a) A judge having knowledge of a violation of these canons on the part of a judge or a violation of Rule 8.4 of the Rules of Professional Conduct on the part of a lawyer shall take or initiate appropriate disciplinary measures.

(b) Acts of a judge in mentoring a new judge pursuant to M.R. 14618 (Administrative Order of February 6, 1998, as amended June 5, 2000) and in the discharge of disciplinary responsibilities required or permitted by canon 3 or article VIII of the Rules of Professional Conduct are part of a judge's judicial duties and shall be absolutely privileged.

(c) Except as otherwise required by the supreme court rules, information pertaining to the new judge's performance which is obtained by the mentor in the course of the formal mentoring relationship shall be held in confidence by the mentor.

(4) A judge should not make unnecessary appointments. A judge should exercise the power of appointment on the basis of merit, avoiding nepotism and favoritism. A judge should not approve compensation of appointees beyond the fair value of services rendered.

(5) A judge should refrain from casting a vote for the appointment or reappointment to the office of associate judge, of the judge's spouse or of any person known by the judge to be within the third degree of relationship to the judge or the judge's spouse (or the spouse of such a person).

C. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(b) the judge served as a lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge has been a material witness concerning it;

(c) the judge was, within the preceding three years, associated in the private practice of law with any law firm or lawyer currently representing any party in the controversy (provided that referral of cases when no monetary interest was retained shall not be deemed an association within the meaning of this subparagraph) or, for a period of seven years following the last date on which the judge represented any party to the controversy while the judge was an attorney engaged in the private practice of law;

(d) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, 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, or has any other more than de minimis interest that could be substantially affected by the proceeding; or

(e) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) is acting as a lawyer in the proceeding;

(iii) is known by the judge to have a more than de minimis interest that could be substantially affected by the proceeding; or,

(iv) is to the judge's knowledge likely to be a material witness in the proceeding.

(2) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse and minor children residing in the judge's household.

D. Remittal of Disqualification.

A judge disqualified by the terms of Section 3C may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the

parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. This agreement shall be incorporated in the record of the proceeding.

Adopted December 2, 1986, effective January 1, 1987; amended June 12, 1987, effective August 1, 1987; amended November 25, 1987, effective November 25, 1987; amended August 6, 1993, effective immediately; amended October 15, 1993, effective immediately; amended March 26, 2001, effective immediately; amended April 1, 2003, effective immediately; amended December 5, 2003, effective immediately; amended April 16, 2007, effective immediately.

Committee Commentary (April 1, 2003)

New subpart (B)(3)(b) is a modified version of the ABA Model Code of Judicial Conduct, Canon 3D(3) (1990).

New subpart (B)(3)(c) is the identical language currently contained in M.R. 14618 (Administrative Order of February 6, 1998, as amended June 5, 2000) subparagraph (b)(4) on confidentiality.

Committee Commentary

The provisions of this canon relate to judicial performance of adjudicative responsibilities, judicial performance of administrative responsibilities and the circumstances and procedure for judicial disqualification.

Paragraph A(4) and subsections C and D were amended, effective August 6, 1993, to incorporate the provisions of the Model Code of Judicial Conduct adopted by the ABA in 1990.

Paragraphs A(1) through A(3). The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and business-like while being patient and deliberate.

Paragraph A(4). This paragraph was amended, effective August 6, 1993, to adopt the provisions of Canon 3B(7) of the 1990 ABA Model Code of Judicial Conduct relating to ex parte communications. Paragraph A(4) differs in that it modifies ABA Canon 3B(7) by deleting the sentence which provides: "A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond." The committee believed that such a procedure would be too close to the former practice of using masters in chancery which was abolished by the 1962 amendment of the judicial article. Furthermore both bar association committees were concerned with the possibility of a judge seeking advice from a law professor. The committee does not believe that the deletion of this provision affects the obligation of a

judge to disclose any extrajudicial communication concerning a case pending before the judge to the parties or their attorneys. The proscription against communications concerning a proceeding includes communications from lawyers, law teachers, and other persons who are not participants in the proceeding.

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

Whenever presence of a party or notice to a party is required by paragraph A(4), 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.

Certain ex parte communication is approved by paragraph A(4) to facilitate scheduling and other administrative purposes and to accommodate emergencies. In general, however, a judge must discourage ex parte communication and allow it only if all the criteria stated in paragraph A(4) are clearly met. A judge must disclose to all parties all ex parte communications described in subparagraph A(4)(a) regarding a proceeding pending or impending before the judge.

A judge must not independently investigate facts in a case and must consider only the evidence presented.

A judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.

A judge must make reasonable efforts, including the provision of appropriate supervision, to ensure that paragraph A(4) is not violated through law clerks or other personnel on the judge's staff.

Paragraph A(5). The ABA 1972 canon provides that "[a] judge should dispose promptly of the business of the court." The committee agreed with the ISBA/CBA joint committee recommendation that the language of the Illinois Constitution (art. VI, §13(b)) which requires that a judge should devote full time to his or her judicial duties should be incorporated into this paragraph. 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 insist that court officials, litigants and their lawyers cooperate with the judge to that end.

Paragraph A(6). ABA Canon 3A(6) is adopted without substantive change. It was the view of the committee that, with regard to matters pending before the judge, a judicial officer should discuss only matters of public record, such as the filing of documents, and should not comment on a controversy not pending before the judge but which could come before the judge. "Court personnel" does not include the lawyers in a proceeding before a judge. The conduct of lawyers is governed by Rule 3.6 of the Illinois Rules of

Professional Conduct.

Paragraph A(7). The Illinois Supreme Court allows extended media coverage of proceedings in the supreme and appellate courts subject to certain specified conditions. Except to the extent so authorized, however, the existing prohibition of the taking of photographs in the courtroom during sessions of the court or recesses between proceedings, and the broadcasting or televising of court proceedings, other than those of a ceremonial nature, is retained. While this prohibition does not extend to areas immediately adjacent to the courtroom, it does not preclude orders regulating or restricting the use of those areas by the media where the circumstances so warrant.

Paragraph A(8). A judge must refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and must require the same standard of conduct of others subject to the judge's direction and control.

A judge must perform judicial duties impartially and fairly. A judge who manifests bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. A judge must be alert to avoid behavior that may be perceived as prejudicial.

Paragraph B(3). A modified version of the ABA canon was recommended even though Illinois Supreme Court Rule 61(c)(10) only referred to an obligation to refer an attorney's unprofessional conduct in matters before the judge to the proper authorities. Thus the rule here is broader, in that it is not limited to matters before the judge, and in that it extends the obligation to unprofessional conduct of other judges. In the case of misconduct by lawyers, the Rules of Professional Conduct, Rule 8.4, contains the circumstances of misconduct that are covered by paragraph B(3). This canon requires a judge to take or initiate appropriate disciplinary measures where he or she has knowledge of a violation of Rule 8.4. Where misconduct by an attorney is involved, a finding of contempt may, in appropriate circumstances, constitute the initiation of appropriate disciplinary measures. Furthermore, in both cases, the rule does not preclude a judge from taking or initiating more than a single appropriate disciplinary measure. Additionally, a judge may have a statutory obligation to report unprofessional conduct which is also criminal to an appropriate law enforcement official.

Paragraph B(4). It is the position of the committee that this ABA canon implicitly includes the provision of Illinois Supreme Court Rule 61(c)(11) that a judge "should not offend against the spirit of this standard by interchanging appointments with other judges, or by any other device." Appointees of the judge include officials such as 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 this paragraph.

Paragraphs C(1)(a) through C(1)(c). When originally adopted on December 2, 1986, the existing ABA canon was modified in two ways. The words "or his lawyer" were added to paragraph C(1)(a) to expressly mandate disqualification in the case of personal bias or

prejudice toward an attorney rather than a party. This modification was later incorporated by the ABA into its 1990 revision. More significantly a new subparagraph, C(1)(c), was added in 1986 regulating disqualifications when one of the parties is represented by an attorney with whom the judge was formerly associated and when one of the parties was a client of the judge. These modifications were in substantial accord with the joint committee recommendations. Hence ABA subparagraphs (c) and (d) were renumbered and are now subparagraphs (d) and (e) respectively.

Paragraphs C(1)(d) and (1)(e). The fact that a lawyer in a proceeding is affiliated with a law firm with which a relative of the judge is affiliated does not of itself disqualify the judge. Under appropriate circumstances, the fact that "the judge's impartiality might reasonably be questioned" under Canon 3C(1), or that the relative is known by the judge to have an interest, or its equivalent, in the law firm that could be "substantially affected by the outcome of the proceeding" under Canon 3C(1)(e)(iii) may require the judge's disqualification.

Paragraph D. A remittal procedure provides the parties an opportunity to proceed without delay if they wish to waive the disqualification. To assure that consideration of the question of remittal is made independently of the judge, a judge must not solicit, seek or hear comment on possible remittal or waiver of the disqualification unless the lawyers jointly propose remittal after consultation as provided in the rule. A party may act through counsel if counsel represents on the record that the party has been consulted and consents. As a practical matter, a judge may wish to have all parties and their lawyers sign the remittal agreement.

APPENDIX

MR No. 2634.

Order entered April 16, 2007.

Any security cameras installed in the courtrooms in the various circuits shall be in accordance with the following standards; (1) security cameras are to be placed in areas of the courtroom such that there is no video recording of the jury or witnesses; (2) audio recordings of the proceedings are prohibited in connection with security cameras; (3) use of such cameras is limited to security purposes and any video tape produced therefrom shall remain the property of the court and may not be used for evidentiary purposes by the parties or included in the record on appeal; (4) security cameras shall be monitored by designated court personnel only; and (5) signs shall be posted in and outside of the courtroom notifying those present of the existence of the court surveillance.

Annotations

Rule 63A – Adjudicative Responsibilities

Ex Parte Communications

Disclosure of *Ex Parte Communications*

93-1 A judge has no disclosure obligation under Rule 63 when he or she acts promptly to stop an attempt at an *ex parte* conversation.

94-19 A Judge may provide information concerning a matter in which the judge served as prosecutor to the assistant State's Attorney, but cannot give legal advice. [Judge will not be trial judge.] Disclosure not required as this is not an *ex parte* communication.

Ex Parte Consultation Concerning a Pending Matter

93-2 While a judge may seek an opinion from the Illinois Judicial Ethics Opinion, where such advice involves a pending matter such consultation may only be with a sitting judge.

Public Comments Concerning Pending or Impending Cases

94-5 A judge or a candidate for judge may publicly express his or her opinion on a matter of public interest so long as it is done in a manner that would not threaten to compromise a judge's impartiality.

94-7 A judge is prohibited from becoming a nominee for an association's award, where the award is contingent on the judge's blanket endorsement of legislation and the funding of programs advocated by the association.

94-8 Judges may speak out to clarify the court's philosophy of the law or procedures in the area of domestic violence.

94-13 A judge should decline to give testimony before the Prisoner Review Board where the judge rendered the sentence on the prisoner up for parole.

96-5 A judge may not speak to a reporter about a ruling in a pending case without violating Supreme Court Rule 63A(6) unless the judge's comments are limited to either (1) explanations of administrative procedures of the court, (2) that which appeared in the official transcript of the proceeding, or (3) that which appeared in the court order or written opinion.

98-10 Generally, a judge may appear on television or radio to discuss legal issues if the judge does not comment about proceedings which are pending or impending in any court. However, comments may be made about a pending

proceeding if they are limited to: (1) explanations of administrative procedures of the court, (2) that which appeared in the official transcript of the proceeding, or (3) that which appeared in the court order or written opinion.

05-6 A judge should not voluntarily provide a character reference or opinion letter on behalf of a defendant for use at an executive clemency hearing before the Illinois Prisoner Review Board. Such written opinion or letter may be permissible if specifically requested by the Review Board.

Rule 63B-Administrative Responsibilities

Appointment Powers

94-14 A sitting judge may be an applicant for appointment to a non-judicial office by fellow judges in the same circuit.

Nepotism

97-18 The hiring by one judge of a secretary who is the child of a fellow judge does not automatically amount to nepotism.

Reporting Misconduct

94-10 A finding of contempt may constitute an appropriate disciplinary measure, making further measures (i.e., notification to the ARDC) discretionary.

95-1 A judge who has actual knowledge of another judge's violation of the Code of Judicial Conduct must take or initiate appropriate disciplinary measures.

95-10 A lawyer's testimony that he or she used cocaine confers the judge presiding over that proceeding with knowledge that the lawyer violated Rule 8.4 of the Illinois Rules of Professional Conduct. Consequently, the judge is required to "take or initiate appropriate disciplinary measures" against the lawyer. Under the circumstances presented in this inquiry, the judge is required to report the lawyer to the ARDC.

95-17 Not all convictions of battery require report to Attorney Registration and Disciplinary Commission, but prudent course for judge is to make report.

96-13 A judge who learns from matters pending before him that a plaintiff has many collection cases that violate the truth in lending laws may, but is not obligated to, refer those facts to the authorities that have a statutory responsibility to enforce those laws.

96-23 Chief Judge is required to take appropriate disciplinary steps when a judge he or she supervises has been arrested for DUI and the Chief Judge has knowledge that the judge has an alcohol abuse problem.

99-6 A judge must take appropriate disciplinary action against a lawyer whom the judge knows to have committed an ethical violation, but need not report the misconduct to the Attorney Registration and Disciplinary Commission.

02-1 A judge is not required to report criminal conduct disclosed during testimony in a proceeding.

03-4 A judge must take appropriate disciplinary action such as initiating contempt proceedings, but is not necessarily required to report to the ARDC a State's Attorney who threatens to file substitution of judge motions in every criminal case before that judge unless the judge increases the sentence imposed on a particular defendant. However, uncertainty regarding this conclusion in light of a recent Supreme Court decision may make it prudent for the judge, out of an abundance of caution, to report lawyer to the ARDC even if that action is not required.

Rule 63C - Recusal or Disqualification

Personal Knowledge Concerning the Matter

93-1 A judge is not disqualified under Rule 63 when he or she acts promptly to stop an attempt at an *ex parte* conversation.

04-4 A judge who has exercised disqualification in a case regarding a litigant because he has come to possess direct knowledge of the case should exercise disqualification at any subsequent proceedings, which are related to the fact that prompted the original disqualification.

Personal/Professional Relationship with Counsel or Litigant

93-10 When former partner is before bench, duty to disqualify is only for three years; duty to disclose is indefinite.

93-11 A judge is not obliged to disqualify himself or herself from a proceeding because a lawyer or a party was a campaign contributor.

95-2 The appearance before a judge of a lawyer who represents the judge involves a situation where the judge's impartiality might reasonably be questioned. Consequently, the judge is disqualified from hearing any matters involving the lawyer unless, following the judge's disclosure of his or her relationship with the lawyer, the parties agree in writing to waive the disqualification pursuant to Illinois Supreme Court Rule 63D.

95-5 A judge is not obligated to disqualify himself or herself from a proceeding merely because a party's lawyer has filed a suit against the judge accusing the judge of misconduct or has filed a complaint against the judge with the Judicial Inquiry Board.

95-6 Judge is not required to disqualify himself or herself when it is discovered that a party had been represented by a former law partner of the judge in an unrelated case.

95-9 A judge is not disqualified from hearing criminal, juvenile or traffic proceedings, simply because the judge's spouse is a secretary in the State's Attorney's Office.

95-15 A judge must disqualify himself or herself from a case if the judge was a partner in private practice with a lawyer who, during that partnership, served as court-appointed counsel for the defendant in the same matter now before the judge.

95-20 A new judge who had been an assistant public defender before becoming a judge is not disqualified from hearing a case in which that office represents a defendant so long as the judge never represented the defendant in the matter now before the judge.

96-18 A judge need not disqualify himself or herself from a case where the lawyer representing one of the parties referred business to the judge when the judge was in practice and tried two cases with the judge as co-counsel three years prior to the judge being appointed to the bench.

Whether a judge is required to disqualify himself or herself from a case where the judge's daughter is an associate in the firm representing one of the parties depends upon whether the judge's daughter is acting as a lawyer in the proceeding and whether the daughter has more than *de minimis* interest that could be substantially affected by the proceeding.

96-20 A judge is disqualified from hearing any matters during the course of an election campaign in which one of the parties is represented by the judge's campaign chairman. That disqualification does not extend to cases in which other lawyers with the campaign chairman's firm are involved. Although the judge's disclosure of the presence of his or her campaign chairman in the law firm representing one of the parties is not required, such disclosure is advisable, even in cases in which another party is appearing *pro se*.

96-22 Absent personal hostility toward the lawyer or a manifestation of impartiality, disqualification is not required of a judge when a lawyer who represented the judge's former spouse in the judge's dissolution of marriage

appears before the judge representing other clients in unrelated matters.

96-25 A judge is not required to disqualify himself or herself from a case because the judge has insurance policies with the defendant insurance company. Disqualification is not required even if the judge is likely to file a claim against the insurance company. Disqualification is required where the judge has filed suit against the insurance company.

97-4 Judge is not disqualified merely because the judge previously represented one of the lawyers now appearing in case before him or her, as long as the judge has no personal bias or prejudice for or against the former client.

97-17 Fact that city prosecutor is judge's tenant and owes judge money does not require disqualification of judge from hearing cases prosecuted by part-time assistant prosecutors who have no association with the City prosecutor in private practice.

98-7 A judge is not disqualified from hearing all criminal cases because the elected State's Attorney was the judge's associate in private practice less than three years ago.

98-9 Judge need not be disqualified where members of law firm of judge's business partner appear before the judge and where judge's interest in the business deal and lawyer's interest in firm's cases before the judge are not significant enough to cause the judge's impartiality to reasonably be questioned; judge will be disqualified where judge's business partner personally appears before judge and judge's interest in business deal is significant.

98-17 Judge does not have a duty to disqualify or disclose when, (1) relationship with lawyer's firm ended thirty-three years ago;; (2) lawyer's representation of judge in two routine real estate closings took place four and nine years ago.

01-1 A judge is disqualified from hearing all cases that were pending at the judge's former law firm while the judge was practicing there. The judge is further disqualified from hearing cases involving the judge's former firm for a period of three years after the judge left the firm, whether or not the case was pending at the time the judge was practicing there. Finally, a judge is disqualified from hearing all cases within seven years after the judge left the firm which involves a client that the judge represented while practicing with the firm.

03-2 A judge who served as an assistant state's attorney and public defender, is not disqualified from hearing cases involving defendants the judge previously prosecuted or defended unless the judge personally participated in the prosecution or defense of the case currently before the court.

03-5 Assuming, without deciding, that Rule 63C(1) disqualifies a judge from

hearing cases in which a party is represented by a lawyer who concurrently represents all Illinois judges in an unrelated class action suit, the judge may pursuant to the “Rule of Necessity” preside over matters in which the attorney appears.

05-1 A judge is not disqualified from cases in which a lawyer appears where the lawyer was retained by the judge six years prior to the judge’s appointment to the bench to assist in responding to a letter from the Attorney Registration and Disciplinary Commission.

07-1 A judge is disqualified from proceedings in which a law firm appears when the judge is negotiating future employment with the firm.

07-2 A judge, receiving pension benefits from a former law firm, is usually disqualified from presiding over cases where a party is represented by the firm. After full disclosure, the parties may remit the disqualification.

07-3 A judge, who is in the midst of a dissolution of marriage discovers that the attorney who represents his spouse will be appearing before him on a regular basis, is disqualified, but, absent any personal bias or prejudice, should remit the disqualification to the parties and counsel. A disqualified judge may enter ministerial orders, such as scheduling of a hearing date or continuing a hearing on a substantive matter, while parties are considering remittal of the judge’s disqualification.

10-2 A judge is disqualified from hearing a case in which one of the lawyers representing a party to the controversy had, within the past three years, divided fees with the judge, when the judge was in private practice, in connection with a referral made in accordance with Rule 1.5(g) of the Rules of Professional Conduct. Disqualification is not required in a criminal case when the State is represented by an Assistant State’s Attorney where the referral was made by the elected State’s Attorney. Disqualification is not overridden by the Rule of Necessity even if the judge received such referrals from most lawyers in the county where the judge is sitting.

Familial Relationships with Counsel or Litigant

94-18 A judge need not disqualify himself or herself when a relative within the third degree of relationship is associated with a law firm representing one of the parties so long as the relative is not acting as a lawyer in the proceeding and has only a *de minimis* interest that could be affected by the proceeding. Disclosure that the judge is related to a lawyer associated with a law firm representing a party is recommended, but is not ethically required.

95-9 A judge is not disqualified from hearing criminal, juvenile or traffic proceedings, simply because the judge’s spouse is a secretary in the State’s

Attorney's Office.

96-6 A judge need not disqualify him or herself from hearing all criminal cases because his or her spouse is a complainant in a single indictment pending in that same courthouse but not on that judge's call.

96-18 A judge need not disqualify himself or herself from a case where the lawyer representing one of the parties referred business to the judge when the judge was in practice and tried two cases with the judge as co-counsel three years prior to the judge being appointed to the bench.

Whether a judge is required to disqualify himself or herself from a case where the judge's daughter is an associate in the firm representing one of the parties depends upon whether the judge's daughter is acting as a lawyer in the proceeding and whether the daughter has more than *de minimis* interest that could be substantially affected by the proceeding.

97-16 Disqualification will not be required where interest of judge's spouse, as vice president of department of parent corporation, in subsidiary corporation's case before the judge is *de minimis*.

98-12 A judge need not disclose or recuse if the judge's sister-in-law is the secretary of a law firm that often appears before the judge.

00-2 Disqualification is required where: (1) the uncle of the judge's spouse is acting as a lawyer in the proceeding;; or (2) the cousin of the judge's spouse is acting as an attorney in the proceeding and the judge's impartiality may reasonably be questioned or the uncle, as the cousin's partner, has more than a *de minimis* interest in the proceeding that could be substantially affected by the outcome of the proceeding.

01-2 The judge is disqualified from hearing cases in which the law firm of the judge's spouse is entitled to a referral fee if the spouse's interest in the case is more than *de minimus*.

03-3 A judge is disqualified from hearing a case in which a relative within the third degree of relationship is sued in his or her official capacity as a government official.

05-02 A judge is disqualified from criminal cases in which the judge's son-in-law, in his capacity as an assistant state's attorney signs charging instrument or otherwise acts as a lawyer in the proceedings.

07-06 A judge should not preside over a "Teen Court" proceeding if the judge would be called upon to determine guilt or the imposition of sanctions or disposition of participating youth defendants. A Judge may, however, serve as a judge for, or

teen or youth court if his or her role is advisory or supervisory only. Even if the role is advisory, a judge may nevertheless be required to disqualify him or herself in the event of a subsequent prosecution of the minor (resulting from the failure to comply with the diversion program's disposition).

08-1 A judge may speak at a legal education program open only to prosecuting attorneys provided that the judge (1) does not appear to advocate for the state;; (2) maintains the impartial, neutral attitude required of judicial officers;; (3) does not discuss pending or impending cases;; and (4) is available to present similar programs to criminal defense attorneys.

Miscellaneous

95-8 A judge may send a personally signed "thank you" note to campaign contributors. However, such acknowledgement establishes that the judge is aware of the identity of his or her supporters. This can be a factor in seeking to disqualify the judge for cause.

Rule 64 CANON 4

| A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice

A judge, subject to the proper performance of his or her judicial duties, may engage in the following law-related activities, if in doing so the judge does not cast doubt on his or her capacity to decide impartially any issue that may come before him or her.

A. A judge may speak, write, lecture, teach (with the approval of the judge's supervising, presiding, or chief judge), and participate in other activities concerning the law, the legal system, and the administration of justice.

B. A judge may appear at a public hearing before an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice, and he or she may otherwise consult with an executive or legislative body or official, but only on matters concerning the administration of justice.

C. A judge may serve as a member, officer, or director of ~~an organization or~~ a bar association, governmental agency, or other organization devoted to the improvement of the law, the legal system, or the administration of justice. He or she may assist such an organization in raising funds and may participate in their management and investment, ~~but should not personally participate in public fund-raising activities. He or she~~ planning fund-raising activities; may participate in the management and investment of the organization's funds; and may appear at, participate in, and allow his or her title to be used in connection with a fund-raising event for the organization. Under no circumstances, however, shall a judge engage in direct, personal solicitation of funds on

the organization's behalf. Inclusion of a judge's name on written materials used by the organization for fund-raising purposes is permissible under this rule so long as the materials do not purport to be from the judge and list only the judge's name, office or other position in the organization and, if comparable designations are listed for other persons holding a similar position, the judge's judicial title.

D. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

Adopted December 2, 1986, effective January 1, 1987; amended June 4, 1991, effective August 1, 1991; Committee Commentary amended October 15, 1993, effective immediately; amended September 30, 2002, effective immediately; amended May 24, 2006, effective immediately.

Committee Commentary

This canon regulates the permissible scope of a judicial officer's law-related activities. As a judicial officer and person specially learned in the law, a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, including revision of substantive and procedural law and improvement of criminal and juvenile justice. To the extent that the judge's time permits, he or she is encouraged to do so through appropriate channels.

Extrajudicial activities are governed by Canon 5.

For the distinction between those organizations devoted to the improvement of the law, the legal system, and the administration of justice referred to in paragraph C and other civic or charitable organizations, see Thode at page 76.

Rule 64 A- Teaching, Speaking or Writing

94-5 A judge or a candidate for judge may publicly express his or her opinion on a matter of public interest as long as it is done in a manner that would not threaten to compromise a judge's impartiality.

94-8 Judges may speak out to clarify the court's philosophy of the law or procedures in the area of domestic violence.

94-9 While a judge may not personally solicit funds, a judge may explain to a potential donor the activities and importance of an agency devoted to the improvement of justice.

95-15 A judge may not offer a written appraisal of a book if the intent, in the first instance, is to promote sales of the book rather than simply to inform the

public of a new contribution to the literature.

94-17 Judges may create a Speakers Bureau and inform the public of the judges' availability to speak on issues regarding the law, the legal system, and the administration of justice. Judges may speak about law--related issues to groups that advocate changes in the content or enforcement of laws, and other members of the public, so long as the judges (1) do not say anything that casts doubt on their capacity to decide impartially any issue that may come before them, and (2) comply with the restrictions on political speech contained in Illinois Supreme Court Rule 67.

95-18 A judge may act as a coach for the speech and debating team of a high school and a judge of a speech and debating contest, and may receive an honorarium for those activities.

96-8 A judge may receive compensation for writing a book.

98-11 A judge's name (with the attribution "The Honorable") may be used on documents which recommend permanent funding for the Lawyers Assistance Program (LAP) through an increase in attorney registration fees. A judge may be involved both in public and before the Supreme Court in a request to increase the registration dues for LAP funding. A judge may appear before local and special interest bar associations and speak in support of permanent funding for LAP through an increase in registration fees for attorneys.

99-4 A judge may serve on the board of directors of a not--for--profit anti--drug use organization.

05-3 A judge may participate in an educational program for groups of children who are potential witnesses in a civil or criminal proceeding. The program must present only general information about courtroom procedures and must be neither child-- nor case--specific.

08-1 A judge may speak at a legal education program open only to prosecuting attorneys provided that the judge (1) does not appear to advocate for the state; (2) maintains the impartial, neutral attitude required of judicial officers; (3) does not discuss pending or impending cases; and (4) is available to present similar programs to criminal defense attorneys.

Rule 64B - Communication with Other Branches of Government

94-19 A Judge may provide information concerning a matter in which the judge served as prosecutor to the assistant State's Attorney, but cannot give legal advice. [Judge will not be trial judge.]

07-5 A judge may express an opinion to a mayor and city council that the city's liquor ordinance should be amended to reduce the hours of liquor sales.

Rule 64C - Participation in Activities of Law Related Organizations

Membership

93-8 A judge may serve on a committee for a lawyer who is a candidate for a bar association office. The purpose of a bar association is to further the quality of the legal profession and the administration of justice. Officers of such organizations volunteer their services for the public good, and a judge who supports a candidate for such office is not advancing the candidate's own private interests.

94-20 A judge may serve on the board of a not for profit Victim Impact Panel.

95-11 A judge may serve on the Board of an organization that trains guardians *ad litem* who are available to be selected by the Court.

95-22 A judge may serve as chair of an organization that raises funds for the charitable arm of the state bar association. [Editor's Note: 2006 Amendment to this Rule does not appear to affect the conclusion reached in this opinion.]

96-24 A judge may serve as a member of the USIP which is an independent, Federal institution created and funded by Congress to develop and disseminate knowledge about international peace and conflict resolution. The judge may receive an honorarium for such service.

98-1 A judge may serve on a broad-based family violence coordinating council that studies and proposes procedures for addressing issues of domestic violence.

99-4 A judge may serve on the board of directors of a not-for-profit anti-drug use organization.

01-8 A judge may not accept complimentary membership as a "judicial fellow" with associated free membership benefits, in a specialized bar association if such membership may give the appearance of favoritism toward a particular class or category of litigants.

01-10 A judge may serve on the board of directors of a not-for-profit "Drug Court" organization.

07-06 A judge should not preside over a "Teen Court" proceeding if the judge would be called upon to determine guilt or the imposition of sanctions or disposition of participating youth defendants. A Judge may, however, serve as a judge for, or

participate in a teen or youth court if his or her role is advisory or supervisory only. Even if the role is advisory, a judge may nevertheless be required to disqualify him or herself in the event of a subsequent prosecution of the minor (resulting from the failure to comply with the diversion program's disposition).

Rule 64D-Fundraising

94-9 While a judge may not personally solicit funds, a judge may explain to a potential donor the activities and importance of an agency devoted to the improvement of justice.

98-11 A judge's name (with the attribution "The Honorable") may be used on documents which recommend permanent funding for the Lawyers Assistance Program (LAP) through an increase in attorney registration fees. A judge may be involved both in public and before the Supreme Court in a request to increase the registration dues for LAP funding. A judge may appear before local and special interest bar associations and speak in support of permanent funding for LAP through an increase in registration fees for attorneys.

99-3 A judge's name may be included on a list of donors to a fundraiser honoring a retired public defender.

99-7 A judge may not lead a college alumni fund drive for scholarships for students interested in attending law school.

05-4 A judge may not personally solicit funds or manpower from a not for profit agency for the benefit of a National Organization of Appellate Judges, of which the judge is a member of its executive committee.

Rule 65 CANON 5

A Judge Should Regulate His or Her Extrajudicial Activities to Minimize the Risk of Conflict With the Judge's Judicial Duties

A. Avocational Activities. A judge may write, lecture, teach, and speak on nonlegal subjects, and engage in the arts, sports, and other social and recreational activities, if such avocational activities do not detract from the dignity of the judge's office or interfere with the performance of the judge's judicial duties.

B. Civic and Charitable Activities. A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or nonlegal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or will be regularly engaged in adversary proceedings in any court.

(2) A judge should not solicit or permit his or her name to be used in any manner to solicit funds or other assistance for any such organization. A judge should not allow his or her name to appear on the letterhead of any such organization where the stationery is used to solicit funds and should not permit the judge's staff, court officials or others subject to the judge's direction or control to solicit on the judge's behalf for any purpose, charitable or otherwise. A judge ~~should not~~ may be a speaker or the guest of honor at an organization's fund-raising events, ~~but he or she may attend such events.~~

C. Financial Activities.

(1) A judge should refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judge's judicial duties, exploit the judge's judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves.

(2) Subject to the requirements of subsection (1), a judge may hold and manage investments, including real estate, and engage in the activities usually incident to the ownership of such investments, but a judge should not assume an active role in the management or serve as an officer, director, or employee of any business.

(3) A judge should manage his or her investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge should divest himself or herself of investments and other financial interests that might require frequent disqualification.

(4) Neither a judge nor a member of the judge's family residing in the judge's household should accept a gift, bequest, favor, or loan from anyone except as follows:

(a) a judge may accept a gift incident to a public testimonial to the judge; books supplied by publishers on a complimentary basis for official use; or an invitation to the judge and the judge's spouse to attend a bar-related function or activity devoted to the improvement of the law, the legal system, or the administration of justice;

(b) a judge or a member of the judge's family residing in the judge's household may accept ordinary social hospitality; a gift, bequest, favor, or loan from a relative; a wedding or engagement gift; a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges; or a scholarship or fellowship awarded on the same terms applied to other applicants;

(c) a judge or a member of the judge's family residing in the judge's household may

accept any other gift, bequest, favor, or loan only if the donor is not a party or other person whose interests have come or are likely to come before the judge, including lawyers who practice or have practiced before the judge.

(5) Information acquired by a judge in the judge's judicial capacity should not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge's judicial duties.

D. Fiduciary Activities. A judge should not serve as the executor, administrator, trustee, guardian, or other fiduciary, 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 the judge's judicial duties. As a family fiduciary a judge is subject to the following restrictions:

(1) The judge should not serve if it is likely that as a fiduciary the judge will 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.

(2) While acting as a fiduciary a judge is subject to the same restrictions on financial activities that apply to the judge in his or her personal capacity.

E. Arbitration. A judge should not act as an arbitrator or mediator.

F. Practice of Law. A judge should not practice law.

G. Extrajudicial Appointments. A judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice. A judge, however, may represent his or her country, State, or locality on ceremonial occasions or in connection with historical, educational, and cultural activities.

Adopted December 2, 1986, effective January 1, 1987; amended October 15, 1993, effective immediately; amended May 24, 2006, effective immediately.

Committee Commentary

This canon governs the permissible scope of a judicial officer's extrajudicial activities. Avocational, civic and charitable, financial, and fiduciary activities are regulated as well as practice as an arbitrator or lawyer and the propriety of accepting extrajudicial appointments. ABA Canon 5(C)(6), which provides that "[a] judge is not required by this Code to disclose his income, debts, or investments except as provided in this Canon and Canons 3 and 6," was deleted as inconsistent with the present Illinois disclosure requirements which are retained in this code. The remaining subparagraphs were renumbered. In adapting the ABA canons to Illinois, certain adjustments were required in

this canon because of the impact of article VI, section 13(b), of the Illinois Constitution, which prohibits a judicial officer from holding "a position of profit."

Paragraph (B)(1). The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine if it is proper for the judge to continue the judge's relationship with it. For example, in many jurisdictions charitable hospitals are now more frequently in court than in the past. Similarly, the boards of some legal aid organizations now make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

Paragraph (B)(2). This subparagraph is largely based on Illinois Supreme Court Rule 64. The major difference is that the ABA canon would allow a judicial officer to be listed on the letterhead of such an association as an officer, director or trustee. This canon will not allow that where the letterhead is used to solicit funds. The provision prohibiting a judge from allowing judicial staff to solicit on the judge's behalf for any purpose, charitable or otherwise, is a replacement for the provision of the ABA canon that provides that the judge should not use or permit the use of "the prestige of his office for that purpose."

Paragraph (C)(2). This subparagraph retains the language of Illinois Supreme Court Rule 63. See also 705 ILCS 60/1.

Paragraph (C)(3). This is ABA Canon 5(C)(3). The committee noted that this canon requires divestment of an investment only when it would cause frequent disqualification, and, even in that case, the divestment need not be made until the asset can be disposed of without serious financial detriment.

Paragraph (C)(4). This subparagraph combines ABA Canon 5(C)(4)(c) and the requirements of present Illinois Supreme Court Rule 61(c)(22). The ABA provisions regarding reporting are deleted since that is covered by Canon 6 of this code and by the Illinois Governmental Ethics Act (5 ILCS 420/1--101 et seq.).

Paragraph (D)(2). A judge's obligation under this canon and his or her obligation as a fiduciary may come into conflict. For example, a judge should resign as trustee if it would result in detriment to the trust to divest it of holdings whose retention would place the judge in violation of Canon 5(C)(3).

Paragraphs (E), (F) and (G). Valuable services have been rendered in the past to the States and the nation by judges appointed by the executive to undertake important extrajudicial assignments. The appropriateness of conferring these assignments on judges must be reassessed, however, in light of the demands on judicial manpower created by today's crowded dockets and the need to protect the courts from involvement in extrajudicial matters that may prove to be controversial. Judges should not be expected or permitted to accept governmental appointments that could interfere with the effectiveness and independence of the judiciary.

Annotations

Rule 65A- Avocational Activities

95-15 A judge may not offer a written appraisal of a book if the intent, in the first instance, is to promote sales of the book rather than simply to inform the public of a new contribution to the literature.

95-18 A judge may coach a high school speech and debating team and may judge a speech and debating contest, and may receive an honorarium for those activities.

95-23 A judge may act in a play even though the sponsoring agency hopes to raise money from the play.

96-8 A judge may receive compensation for writing a book.

96-11 The judge may teach a martial arts class and may accept an honorarium or tuition waiver. Martial arts instruction is a permitted activity per Rule 65A. The timing of the class is also permissible under Rule 65A. Under Rule 66A, the judge may accept a reasonable honorarium of up to \$3000 every six months. The judge may accept tuition waiver according to Rule 65C(4)(b). [Editor's Note: This opinion was issued prior to the 2002 amendment of Rule 66A which, as amended, allows a judge to accept compensation for extrajudicial activities permitted by the Code as long as the compensation is reasonable and does not exceed what a non-judge would receive for the same activity.]

96-26 A judge may engage in the avocation of acting and may accept an "honorarium". [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

97-11 A judge may receive compensation for writing a novel where legal issues are part of the plot.

97-12 A judge may receive an honorarium for playing a violin in an orchestra or solo as part of a wedding ceremony. [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

98-13 A judge may receive compensation for assisting in the writing of a television screenplay, and use his or her name and title on the screenplay and in the screen credits.

98-16 A judge who is campaigning for election cannot serve as a deputy voter registrar.

00-3 Judge may sponsor little league team and have judge's name on uniforms.

06-1 A judge may not serve on the advisory board of directors of a bank.

06-4 A judge may be a shareholder of a corporation organized for the purpose of purchasing real estate at foreclosure sales so long as (1) the judge does not assume an active role in management or serve as an officer, director, or employee of the corporation; (2) the judge's business involvement does not adversely reflect on the judge's impartiality, interfere with the performance of judicial duties, or exploit the judicial office; and (3) corporate activities do not involve the judge in frequent transactions with individuals likely to come before the judge.

09-1 A judge may help a religious school recruit students by participating in a videotaped interview which does not mention that one of the interviewees is a judge.

Rule 65B - Civic and Charitable Activities

Non-Profit Organizations- Manner of Participation

Membership

93-5 Subject to enumerated limitations, a judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members

93-7 A judge may not accept the presidency of a religiously-affiliated organization that advocates abolition of the death penalty.

94-2 A judge is precluded from practicing law. Legal counseling to any group, including social organizations, constitutes the practice of law.

94-20 A judge may serve on the board of a not for profit Victim Impact Panel.

95-11 A judge may serve on the Board of an organization that trains guardians *ad litem* who are available to be selected by the Court.

95-13 A judge may serve on the board of directors of the cooperative in which the judge lives so long as, if the board of directors is engaged in civic activities, the cooperative is organized and run on a not-for-profit basis, will not likely be engaged in proceedings that would ordinarily come before the judge, and will not regularly be engaged in adversary proceedings in any court, and provided the

judge neither serves as legal advisor nor engages in fundraising activities.

95-23 A judge may act in a play even though the sponsoring agency hopes to raise money from the play.

96-4 A judge may be president of a church, temple or mosque but may not solicit funds for the church, temple or mosque.

96-7 Judges may participate in civic and charitable activities, such as serve as an officer of an education organization not conducted for the economic or political benefit of its members.

96-14 A judge should not serve on an alderman's advisory committee because it would bring into question the judge's impartiality and would give the appearance that the judge is engaging in prohibited political activity.

96-16 A judge may not serve as a member of the judicial evaluation committee of a civic organization.

96-21 A judge may not accept appointment to a Citizens Advisory Council of his or her local school district.

97-3 Judge may not serve as a member of local task force on sexual assault.

97-5 A judge may serve as a trustee of a charitable foundation if it would not reflect adversely on his or her impartiality or interfere with judicial duties and the organization is not likely to be engaged in proceedings that would come before the judge.

97-6 A judge may serve as a Director or officer of an educational nonprofit organization.

97-9 A judge may act as an uncompensated trustee of a charitable trust set up to disburse the income of the trust to charities in the settlor's name.

97-13 A judge may serve as a board member, officer, or committee member of a not-for-profit economic development corporation involved in financial transactions with private businesses only if none of the limitations discussed in this opinion are applicable.

97-15 A judge may be president of a cancer society but may not solicit funds for the charity.

98-1 A judge may serve on a broad-based family violence coordinating council that studies and proposes procedures for addressing issues of domestic violence.

98-5 A judge may not serve on a Board of Directors of a charitable organization that is involved in proceedings that regularly come before the Judge.

99-2 A judge may not serve out the remainder of his or her term as a member of an elected public school board after being appointed an associate judge.

99-4 A judge may serve on the board of directors of a nonprofit anti--drug use organization.

00-1 A judge may serve as a director of a family charitable foundation.

00-2 Judge may sponsor little league team and have judge's name on uniforms.

01-10 A judge may serve on the board of directors of a nonprofit "Drug Court" organization.

04-2 A judge may serve on the board of directors of a nonprofit hospital unless: (1) the judge is assigned to a call where the hospital regularly appears; or (2) the hospital will be regularly engaged in adversary proceedings in any court.

05-5 A judge may serve on the board of directors of a nonprofit corporation organized for the purpose of promoting responsible fatherhood only if none of the limitations discussed in this opinion are applicable.

Fundraising

93-3 A judge may be listed as a member of the Board of Directors of a college on generalized information material about the school included in a mailing soliciting funds for the institution.

98-11 A judge's name (with the attribution "The Honorable") may be used on documents which recommend permanent funding for the Lawyers Assistance Program (LAP) through an increase in attorney registration fees. A judge may be involved both in public and before the Supreme Court in a request to increase the registration dues for LAP funding. A judge may appear before local and special interest bar associations and speak in support of permanent funding for LAP through an increase in registration fees for attorneys. [Editor's Note: The Opinion concludes this activity does not come within the scope of Rule 65.]

99-1 A judge may not help raise funds for a charity by serving as a celebrity bagger at a fundraising event held at a supermarket.

99-3 A judge's name may be included on a list of donors to a fundraiser honoring a retired public defender.

99-5 A judge may not permit his or her name to be used in any manner to solicit funds for a charitable fundraising event. A judge may not be a guest of honor at any organization's fundraising event, but may attend such an event. [Editor's Note: The 2006 amendment to Rule 65 may render this Opinion obsolete. See opinion 10-1.]

99-7 A judge may not lead a college alumni fund drive for scholarships for students interested in attending law school.

09-1 A judge may help a religious school recruit students by participating in a videotaped interview which does not mention that one of the interviewees is a judge.

10-1 A judge may serve as the guest speaker or the guest of honor at a college fund-raising event and may permit his or her name, title, and biographical information to be included in the program, invitation, and other material promoting the event.

Attending or Speaking at Event Sponsored by Non-Law- Related Organizations

93-4 A judge may be a speaker at an event sponsored by an organization that is not law-related nor seeks to raise funds for any organization. In deciding whether to appear, the judge should consider whether his or her appearance would compromise the independence or integrity of the judge or the Court as prohibited by Rule 62. (Note: This opinion was issued prior to the 2006 amendment of Rule 65B(2) that permits a judge to speak at fund raising events sponsored by the types of organizations identified.)

94- 3 Judge may participate in civic function that is non-partisan and not demeaning to judicial office. (Appearance in civic parade dressed in judicial robes).

94-7 A judge is prohibited from becoming a nominee for an association's award, where the award is contingent on the judge's blanket endorsement of legislation and the funding of programs advocated by the association.

96-3 A judge may not be the speaker at a university scholarship fundraiser. A judge may sit at the head table of a charitable fundraiser. 3. A judge may not introduce the honoree or the speaker at a law school fundraiser. [Editor's Note: The 2006 amendment to Rule 65B(3) appears to render this Opinion obsolete.]

96-10 A judge may not participate in a fund raiser for a non-law related charitable organization sponsored by a bar association where the judge's participation is the impetus for donations to the charity. [Editor's Note: The 2006 amendment to Rule 65B(3) appears to render this Opinion obsolete.]

99-5 A judge may not permit his or her name to be used in any manner to

solicit funds for a charitable fundraising event. A judge may not be a guest of honor at any organization's fundraising event, but may attend such an event. [Editor's Note: The 2006 amendment to Rule 65 appears to render this Opinion obsolete.]

01-3 A Judge may not be guest of honor at a non-fundraising event held by a non--profit organization whose employees regularly testify in adversary proceedings before that judge. [Editor's Note: Under current version of Rule 65 such activity would appear to be permissible. The fact that the organization regularly appears before the judge leads to the conclusion that a violation of Rule 62 would occur.]

01-4 A judge may not receive an award at a charitable organization's dinner if fund--raising will be conducted at the event. [Editor's note: The 2006 amendment to Rule 65 may render this Opinion obsolete.]

01-5 A Judge may not be a guest of honor at a civic organization's fundraising event. [Editor's note: The 2006 amendment to Rule 65 may render this Opinion obsolete.]

01-6 The judge may be a speaker on non--legal subjects at a church service.

Rule 65C - Financial Activities

Judge's Property and Investments

95-16 A judge may appear pro se in another state as long as the judge represents only the judge's interests and the judge does not exploit the judge's judicial position.

96-9 While a new judge should endeavor to wind up his or her private practice as quickly as possible, a judge may pursue business relations if they do not detract from the dignity of the court or interfere with his or her judicial duties.

97-7 A judge may not assume an active role in the management or serve as an officer, director or employee of a family business. However, the judge may be a stockholder or shareholder and may attend a promotion of the family business so long as the judge is not introduced as a judge and does not wear a name tag with judge in the title.

97-13 A judge may serve as a board member, officer, or committee member of a not--for--profit economic development corporation involved in financial transactions with private businesses only if none of the limitations discussed in this opinion are applicable.

97-14 A defense fund may be established for a judge charged with a criminal offense but must be established with caution. Lawyers may contribute to the fund so long as they have not practiced, and are unlikely to practice, before the judge. Judges may contribute to the fund if their interests have not and are

unlikely to come before the judge. The name of the judge, for whom the fund is created, may be used in fundraising activities that solely benefit the judge, but may not be used in joint fundraising activities with co--defendants.

98-8 A judge need not require his former firm to remove his or her surname from the name of the firm if the judge's foreseeable tenure on the bench does not constitute a substantial period of time.

06-1 A judge may not serve on the advisory board of directors of a bank.

06-4 A judge may be a shareholder of a corporation organized for the purpose of purchasing real estate at foreclosure sales so long as (1) the judge does not assume an active role in management or serve as an officer, director, or employee of the corporation; (2) the judge's business involvement does not adversely reflect on the judge's impartiality, interfere with the performance of judicial duties, or exploit the judicial office;; and (3) corporate activities do not involve the judge in frequent transactions with individuals likely to come before the judge.

07-2 A judge, receiving pension benefits from a former law firm, is usually disqualified from presiding over cases where a party is represented by the firm. After full disclosure, the parties may remit the disqualification.

Gifts

93-6 A judge may not accept free use of a condominium from a lawyer where members of the lawyer's firm appear before the judge. The same restriction does not apply where use of the condominium is offered by a non-lawyer who has no matters pending or likely to become pending before the judge. The actual value of the use of the condominium must be reported on the judge's annual statement of economic interest.

93-12 A judge may attend a golf outing as the honoree of a bar association so long as it does not create the impression that certain interests or lawyers are in a position to influence the judge; may attend a golf outing as the guest of an individual lawyer who is a social acquaintance even if the lawyer or members of the lawyer's law firm have appeared, or may appear, in the judge's court as long as it constitutes "ordinary social hospitality."

94-4 A judge may accept a gift in recognition of the judge's law-related extrajudicial activity.

94-16 Judge may receive fee for referral made before becoming a judge where the fee is based entirely on the judge's making of the referral and sharing of "legal responsibility" for the performance of the legal services. Ethical and financial considerations may make it desirable, but not mandatory, for judge to seek client's consent to eliminate judge's ongoing legal responsibility by rescinding or modifying fee-- sharing agreement. [Fee cannot exceed the amount a non-judge

would receive for the same activity.]

95-7 A judge may accept, for official use, a complimentary subscription to state statutes and appellate and supreme court opinions contained on CD--ROM from a publishing company.

96-11 The judge may teach a martial arts class and may accept an honorarium or tuition waiver. Martial arts instruction is a permitted activity per Rule 65A. The timing of the class is also permissible under Rule 65A. Per Rule 66A, the judge may accept a reasonable honorarium of up to \$3000 every six months. The judge may accept tuition waiver per the terms of Rule 65C(4)(b). [Editor's Note: This opinion was issued prior to the 2002 amendment of Rule 66A which, as amended, allows a judge to accept compensation for extrajudicial activities permitted by the Code as long as the compensation is reasonable and does not exceed what a non-judge would receive for the same activity.]

01-8 A judge may not accept complimentary membership as a "judicial fellow" with associated free membership benefits, in a specialized bar association if such membership may give the appearance of favoritism toward a particular class or category of litigants.

Rule 65D- Fiduciary Activities

95-19 A judge may not act as a legal advisor for an immediate family member in negotiating with a third party.

97-9 A judge may act as a non-compensated trustee of a charitable trust set up to disburse the income of the trust to charities in the settlor's name..

97-10 A judge may serve as executor for his or her mother's estate, but may not receive compensation for this extrajudicial activity.

Section E - Arbitrator

94-1 A judge may not work as an arbitrator even after court hours.

07-06 A judge should not preside over a "Teen Court" proceeding if the judge would be called upon to determine guilt or the imposition of sanctions or disposition of participating youth defendants. A Judge may, however, serve as a judge for, or participate in a teen or youth court if his or her role is advisory or supervisory only. Even if the role is advisory, a judge may nevertheless be required to disqualify him or herself in the event of a subsequent prosecution of the minor (resulting from the failure to comply with the diversion program's disposition.

Rule 65F- Prohibition of Practice of Law

94-2 A judge is precluded from practicing law. Legal counseling to any group, including social organizations, constitutes the practice of law.

94-12 In winding up a law practice, a lawyer, who has become a judge, must return client files and property to the client; must return any part of a yearly retainer fee not earned; and may receive, after assuming the bench, payment of legal fees for work completed and billed as a lawyer.

94-16 Judge may receive fee for referral made before becoming a judge where the fee is based entirely on the judge's making of the referral and sharing of "legal responsibility" for the performance of the legal services. Ethical and financial considerations may make it desirable, but not mandatory, for judge to seek client's consent to eliminate judge's ongoing legal responsibility by rescinding or modifying fee-- sharing agreement.

94-20 A Judge may provide information concerning a matter in which the judge served as prosecutor to the assistant State's Attorney, but cannot give legal advice. [Judge will not be trial judge.]

95-16 A judge may appear pro se in another state as long as the judge represents only the judge's interests and the judge does not exploit the judge's judicial position.

95-19 A judge may not act as a legal advisor for an immediate family member in negotiating with a third party.

96-16 A judge may not act as an advocate for a Rabbi in negotiations with his or her synagogue.

97-8 Judge on military reserve duty with the Judge Advocate General, as authorized by Supreme Court Rule 70, may give legal advice, serve on military courts and help prepare wills, leases or other documents for military personnel.

98-4 A judge may appear in court pro se provided that the judge only represents the judge's interests and does not use the prestige of office to advance his or her interests.

98-8 A judge need not require his former firm to remove his or her surname from the name of the firm if the judge's foreseeable tenure on the bench does not constitute a substantial period of time.

04-1 A judge may attend a meeting regarding harassment of his children and a special education student living temporarily with the judge's family and may attend the informal appeal. A judge may write a letter seeking the appointment of a neutral

with regards to these matters, mentioning in his description of his background the fact that he is a judge.

Rule 65G-Extrajudicial Appointments

96-21 A judge may not accept appointment to a Citizens Advisory Council of his or her local school district.

99-2 A judge may not serve out the remainder of his or her term as a member of an elected public school board after being appointed as associate judge.

Rule 66 CANON 6

Nonjudicial Compensation and Annual Statement of Economic Interests

A judge may not receive compensation for the law-related and extrajudicial activities permitted by this Code; however, he or she may receive an honorarium and reimbursement of expenses if the source of such payments does not give the appearance of influencing the judge in his or her judicial duties or otherwise give the appearance of impropriety; subject to the following restrictions: For purposes of this canon, "compensation" is a sum of money or other thing of value paid by a person or entity to a judge for services provided or performed. Compensation shall not be construed to include investment or interest income or other income that is unrelated to the work or services provided or performed by the judge; nor shall compensation be construed to include a sum of money or other thing of value paid for writings.

~~A. Honorarium. An honorarium should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity. The total honoraria received by a judge within a six-month period shall not exceed \$5,000.~~

A. Compensation. Compensation should not exceed a reasonable amount nor should it exceed what a person who is not a judge would receive for the same activity.

B. Expense Reimbursement. Expense reimbursement shall be limited to the actual cost of travel, food, and lodging reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse. Any payment in excess of such an amount is compensation.

C. Annual Declarations of Economic Interests. A judge shall file a statement of economic interests as required by Rule 68, as amended effective August 1, 1986, and thereafter.

Adopted December 2, 1986, effective January 1, 1987; amended June 4, 1991, effective August 1, 1991; amended April 1, 1992, effective August 1, 1992; amended October 15, 1993, effective immediately; amended December 13, 1996, effective immediately; amended September 30, 2002, effective immediately.

Annotations

Compensation

94-1 A judge may not work as an arbitrator even after court hours.

96-8 A judge may receive compensation for writing a book.

95-14 A judge may not accept a fee, gift, gratuity, or compensation of any kind, for solemnizing a marriage. [See Il. Sup. Court Rule 40]

95-18 A judge may act as a coach for the speech and debating team of a high school and a judge of a speech and debating contest, and may receive an honorarium for those activities. [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

96-11 The judge may teach a martial arts class and may accept an honorarium or tuition waiver. Martial arts instruction is a permitted activity per Rule 65A. The timing of the class is also permissible under Rule 65A. Per Rule 66A, the judge may accept a reasonable honorarium of up to \$3000 every six months. The judge may accept tuition waiver per the terms of Rule 65C(4)(b). [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

96-17 The judge may request and accept a tuition waiver, so long as it is granted on the same terms as would be applicable to non-judges. The waiver should not be considered "compensation" for the judge's permitted part-time instruction at the school. The amount of the reduction need not be applied to the limit on honoraria set by Rule 66A. [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

96-24 A judge may serve as a member of the USIP which is an independent, Federal institution created and funded by Congress to develop and disseminate knowledge about international peace and conflict resolution. The judge may receive an honorarium for such service.

96-26 A judge may engage in the avocation of acting and may accept an "honorarium". [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

97-9 A judge may act as trustee of a charitable trust set up to disburse the

income of the trust to charities in the settlor's name, but may not receive compensation. [Editor's note: The 2002 amendment to Rule 66 may render this portion of the Opinion obsolete.]

97-10 A judge may serve as executor for his or her mother's estate, but may not receive compensation for this extrajudicial activity. [Editor's note: The 2002 amendment to Rule 66 may render this portion of the Opinion obsolete.]

97-11 A judge may receive compensation for writing a novel where legal issues are part of the plot.

97-12 A judge may receive an honorarium for playing a violin in an orchestra or solo as part of a wedding ceremony. [Editor's note: The 2002 amendment to this Rule replaced a dollar limit on such compensation. The amount received cannot exceed the amount a non-judge would receive for the same activity. The amount received may require reporting under Rule 68.]

98-13 A judge may receive compensation for assisting in the writing of a television screenplay, and use his or her name and title on the screenplay and in the screen credits.

06-1 A judge may not serve on the advisory board of directors of a bank.

Winding Up Practice

94-12 In winding up a law practice, a lawyer, who has become a judge, must return client files and property to the client; must return any part of a yearly retainer fee not earned; and may receive, after assuming the bench, payment of legal fees for work completed and billed as a lawyer.

Public Speaking

94-17 Judges may create a Speakers Bureau and inform the public of the judges' availability to speak on issues regarding the law, the legal system, and the administration of justice. Judges may speak about law--related issues to groups that advocate changes in the content or enforcement of laws, and other members of the public, so long as the judges (1) do not say anything that casts doubt on their capacity to decide impartially any issue that may come before them, and (2) comply with the restrictions on political speech contained in Illinois Supreme Court Rule 67.

Rule 67 CANON 7

A Judge or Judicial Candidate Shall Refrain From Inappropriate Political Activity

A. All Judges and Candidates.

(1) Except as authorized in subsections B(1)(b) and B(3), a judge or a candidate for election to judicial office shall not:

- (a) act as a leader or hold an office in a political organization;
- (b) publicly endorse or publicly oppose another candidate for public office;
- (c) make speeches on behalf of a political organization;
- (d) solicit funds for, or pay an assessment to a political organization or candidate.

(2) A judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or in a general election.

(3) A candidate for a judicial office:

(a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the integrity and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;

(b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control from doing on the candidate's behalf what the candidate is prohibited from doing under the provisions of this Canon;

(c) except to the extent permitted by subsection B(2), shall not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the provisions of this Canon;

(d) shall not:

(i) make statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court; or

(ii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent; and

(e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate subsection A(3)(d).

B. Authorized Activities for Judges and Candidates.

(1) A judge or candidate may, except as prohibited by law:

(a) at any time,

(i) purchase tickets for and attend political gatherings;

(ii) identify himself or herself as a member of a political party; and

(iii) contribute to a political organization;

(b) when a candidate for public election

(i) speak to gatherings on his or her own behalf;

(ii) appear in newspaper, television and other media advertisements supporting his or her candidacy;

(iii) distribute pamphlets and other promotional campaign literature supporting his or her candidacy; and

(iv) publicly endorse or publicly oppose other candidates in a public election in which the judge or judicial candidate is running.

(2) A candidate shall not personally solicit or accept campaign contributions. A candidate may establish committees of responsible persons to conduct campaigns for the candidate through media advertisements, brochures, mailings, candidate forums and other means not prohibited by law. Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for his or her candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers. A candidate's committees may solicit contributions and public support for the candidate's campaign no earlier than one year before an election and no later than 90 days after the last election in which the candidate participates during the election year. A candidate shall not use or permit the use of campaign contributions for the private benefit of the candidate or others.

(3) Except as prohibited by law, a candidate for judicial office in a public election may permit the candidate's name: (a) to be listed on election materials along with the names of other candidates for elective public office, and (b) to appear in promotions of the ticket.

C. Incumbent Judges. A judge shall not engage in any political activity except (i) as authorized under any other provision of this Code, (ii) on behalf of measures to improve the law, the legal system or the administration of justice, or (iii) as expressly authorized by law.

D. Applicability. Canon 7 generally applies to all incumbent judges and judicial candidates. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to Rule 8.2(b) of the Rules of Professional Conduct.

JUSTICE HEIPLE, concurring:

First and foremost, Rule 67 and these canons of judicial ethics are intended as a working guide of conduct for judges and judicial candidates. They indicate areas of activity that are deemed to be within and without proper limits of judicial conduct. In between, of course, are uncertain areas which lack definition. What the canons seek is judicial conduct that is in keeping with the high calling of judicial office. They are not intended to facilitate the filing of casual or vindictive charges against judges or judicial candidates.

The application of these canons require a high measure of common sense and good judgment. Matters that are either minor in nature or susceptible to differing interpretations ought not result in charges being filed. Charges of misconduct should be limited to matters that are both clearly defined and commonly accepted as serious.

The canons have attempted to recognize that Illinois has an elective judiciary. As a practical matter, the Illinois judge must involve himself in matters political. That is to say, the judge or candidate must be a participant in the system. A corollary of this activity is the public's right to know whom they are voting for. Realistically speaking, it is not enough for the judge or candidate to merely give name, rank and serial number as though he were a prisoner of war. Rather, the public has a right to know the candidate's core beliefs on matters of deep conviction and principle. While the candidate is not required to disclose these beliefs, he should neither be deterred nor penalized for doing so. In so doing, however, the judge or judicial candidate ought to refrain from stultifying himself as to his evenhanded participation in future cases. Rule 67 attempts to make that clear.

What fair-minded people seek in a judge is a person who will be fair and impartial and who will follow the law. Those considerations overshadow matters of nonjudicial ideology such as socialism, antivivisection, membership in the Flat Earth Society, an obsession with gender neutral language, or whatever. The matter of nonjudicial ideology is of direct and primary concern, of course, when judges begin to act as legislators rather than jurists. Judges who adhere to the rule that their conscience is their guide and that the law must accommodate their conscience are especially deserving of close scrutiny and concern. Under our Illinois constitutional scheme, however, it is the voters who are to make that call, not a governmental prosecutorial body or an association of lawyers.

JUSTICE McMORROW, dissenting:

I dissent from the adoption of certain portions of new Rule 67 of the Code.

At the time of this writing, Illinois elects its judges. Irrespective of the merits or demerits of the elective process, it is essential to the justice system that judges be "independent, fair, and competent" so as to honor the public trust placed in them by virtue of their position. The purposes of the Code of Judicial Conduct are set forth in the Preamble to the Code. That Preamble, as amended, inter alia, provides:

"Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all provisions of this code are precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system."

In this Code of Judicial Conduct, the Supreme Court of Illinois has set the standard by which judges are to be guided in their professional conduct. In my opinion, these standards should be high, and should be in keeping with the principles espoused in the Preamble. They are the guidelines which tell judges in this State in what activities they may or may not participate. The primary goal of the Code should be the attainment of a fair and impartial judiciary.

Today, in adopting certain amendments to Rule 67, the majority apparently wishes to accommodate the elective process to which judges are presently subjected. In so doing, the majority has substantially broadened the political activity in which judges may participate. For example, by deleting certain prohibitions which appeared in Rule 67 prior to the amendments, a judge may now at any time attend political gatherings, may make unlimited contributions to a political organization, may identify himself or herself as a member of a political party, or may purchase tickets for political dinners or other functions. Rules 67(B)(1)(a)(i), (B)(1)(a)(ii), (B)(1)(a)(iii).

However, our prior Rule 67 was not unduly restrictive. Indeed, no hardship to judges under the former rule has been demonstrated, nor has there been any hue or cry for the changes which have been adopted. I am unaware of any need for judges to make unlimited contributions to a political party, to attend political gatherings, or to identify their political party allegiance. On the contrary, upon election to judicial office, judges are to be impartial; they are to be unbiased with respect to race, gender, and political party affiliation. Upon election, judges should no longer be Democrats or Republicans. Rather, judges are elected to apply the rule of law without respect to political organization affiliation. Although I recognize the need to solicit political organizational support at the time a candidate is seeking election to the judiciary, or at such time as a judge is seeking retention, I am particularly disturbed by the amendments' allowance of a judge to engage in the political activities permitted by these amendments at any time.

I submit that the new rule "abandon[s] several important ethical standards that uphold the independence and dignity of judicial office" and will surely cause severe problems in the public perception of judicial candidates. (Report of the Committee on Judicial Performance and Conduct of the Lawyers' Conference of the Judicial Administration

Division of the American Bar Association on the Final Draft of the Model Code of Judicial Conduct 28 (1990) (hereinafter Report of the Committee on Judicial Performance).) In my view, the new standards of the rule are too permissive with respect to the political activities of judicial candidates. The increased permissiveness in judicial candidates' political activities fosters a misguided over-politicization of the judicial election process in this State. In my judgment the time and efforts of the Illinois Supreme Court might be better expended by addressing the myriad of problems confronting the justice system, rather than considering and adopting amendments which allow judges to participate in additional political activity. I dissent from the adoption of these amendments because they are imprudent, unnecessary, and lend themselves to abuse.

In addition, I cannot agree with the majority's new view of the appropriate scope of a judicial candidate's public comment on matters that may or are likely to come before the court, provided the candidate does not "make statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court." (Rule 67(A)(3)(d)(i).) Ultimately, the new Rule is short-sighted because it places candidates for judicial office in an unseemly position where they may feel compelled to "pander" for votes by publicly adopting views which appear popular to the electorate. See Report of the Committee on Judicial Performance at 31.

The Commentary indicates that this amendment was adopted in response to the decision of the Federal court in *Buckley v. Illinois Judicial Inquiry Board* (7th Cir. 1993), 997 F.2d 224. In that case, the Seventh Circuit Court of Appeals held unconstitutional the portion of our rule that forbids a judicial candidate from "announc[ing] his views on disputed legal or political issues." (134 Ill. 2d R. 67(B)(1)(c).) The Federal court concluded that this "announcement" prohibition invaded a candidate's constitutional rights, because it "reache[d] far beyond speech that could reasonably be interpreted as committing the candidate in a way that would compromise his impartiality should he be successful in the election." *Buckley*, 997 F.2d at 228.

It is indisputable that the constitutional guarantee of freedom of speech must be balanced against the right of the public to a judiciary which will decide the issues presented to it in the courtroom setting, on the basis of the facts and applicable law. A judicial candidate's right to free speech may be restricted where a compelling State interest is present which counterbalances the candidate's ability to speak freely. The integrity and impartiality and independence of the judiciary is, in my opinion, such a compelling State interest to which deference should be paid.

The key words in the amendment which now appear in Rule 67(A)(3)(d)(i) are "commit or appear to commit." These words are subject to varying interpretations and, I submit, are unnecessarily too broad to cure the fault found by the Federal court in the *Buckley* case. I question whether the amendment permitting a judge to speak on issues which may come before the court, provided the judge uses the magic words that the judge "is not committing" will be more problematic than the rule was prior to this amendment.

I also find disturbing the Commentary to the amendments to the effect that a judge or

judicial candidate may respond to "false information concerning a judicial candidate [that] is made public." (Rule 67, Committee Commentary.) The Report of the Committee on Judicial Performance stated the following with regard to this provision:

"This new expansion of free speech for judges who might be tempted to come to the aid of another judge or judicial candidate who has been the subject of criticism in a political campaign is totally without merit. There is no reason for a judge to become involved as a spokesperson or in any other capacity for another judge who has been publicly maligned. Publicly 'correcting' what the judge regards as a misstatement of fact in a judicial campaign is one of the acts presently prohibited by the existing Code, and it should continue to be prohibited.

Most issues of 'fact' in the context of judicial elections are, at best, mixed issues of fact and opinion and at worst are pure issues of opinion. Thus, the 'narrow' exception anticipated by the draftspersons would, in reality, become a large loophole.

The new provision would put enormous pressure on judges to become actively involved in campaigns of other judges or candidates." Report of the Committee on Judicial Performance at 5-6.

I agree with these comments from the Report of the Committee on Judicial Performance regarding this new amendment to Rule 67.

In my opinion, public perception of a fair and impartial judiciary is diminished by adoption of the amendments to which I have made reference. Because the majority permits potential further politicization of the Illinois judiciary by adoption of the above-referenced amendments, I respectfully dissent.

Adopted December 2, 1986, effective January 1, 1987; amended April 20, 1987, effective August 1, 1987; amended August 6, 1993, effective immediately; amended March 24, 1994, effective immediately.

Committee Commentary

This canon regulates the extent to which a judicial officer may engage in political activity. Canon 7 adopts as its foundation the provisions of Canon 5 of the ABA Model Code of Judicial Conduct, which was adopted by the ABA in 1990.

Paragraph 7A(1). A judge or candidate for judicial office retains the right to participate in the political process as a voter.

Where false information concerning a judicial candidate is made public, a judge or another judicial candidate having knowledge of the facts is not prohibited by paragraph 7A(1) from making the facts public.

Subparagraph 7A(1)(a) does not prohibit a candidate for elective judicial office from retaining during candidacy a public office such as State's Attorney, which is not "an office in a political organization."

Subparagraph 7A(1)(b) does not prohibit a judge or judicial candidate from privately expressing his or her views on judicial candidates or other candidates for public office.

A candidate does not publicly endorse another candidate for public office by having that candidate's name on the same ticket.

Subparagraph 7A(1)(d). The ABA provisions that prohibit the following activities were deleted: attending political gatherings (5A(1)(d) of ABA), making contributions to political organizations or candidates (5A(1)(e)), and purchasing tickets for political party dinners or other functions (5A(1)(e)). These provisions were deleted because the ABA provisions adopted in subparagraph 7B(1)(a) were modified to authorize all judges and candidates to engage in such activities at any time. However, the prohibition on the solicitation of funds for, or paying an assessment to, a political organization or candidate, is adopted and renumbered as subparagraph (d).

Subparagraph 7A(3)(a). Although a judicial candidate must encourage members of his or her family to adhere to the same standards of political conduct in support of the candidate that apply to the candidate, family members are free to participate in other political activity.

Subparagraph 7A(3)(d). The ABA clause prohibiting "pledges and promises of conduct in office," found in Canon 5A(3)(d) of the Model Code (which was similar to the language of Canon 7B(1)(c) of our previous rules on political conduct) was deleted. This change was made to clarify the limitations of the rule (see *In re Buckley* (Ill. Cts. Comm'n Oct. 25, 1991), No. 91--CC--1), which gave a broader construction to the rule. Subparagraph 7A(3)(d) prohibits a candidate for judicial office from making statements that commit or appear to commit the candidate with respect to cases, controversies or issues within cases that are likely to come before the court. However, as a corollary, a candidate should emphasize in any public statement the candidate's duty to uphold the law regardless of his or her personal views. See also paragraph 3A(6), the general rule on public comment by judges. Subparagraph 7A(3)(d) does not prohibit a candidate from making pledges or promises respecting improvements in court administration. Nor does this provision prohibit an incumbent judge from making private statements to other judges or court personnel in the performance of judicial duties. This subparagraph applies to any statement made in the process of securing judicial office. See also Rule 8.2 of the Rules of Professional Conduct.

The ABA Model Code of 1990 was modified to remove the provisions pertaining to candidates seeking appointment to judicial or other governmental office that are found in subsection B of Canon 5. Hence ABA subsections C, D and E were renumbered and are now subsections B, C and D of our Canon 7.

Paragraph 7B(1). This paragraph permits judges at any time to be involved in limited political activity. Subsection 7C, applicable solely to judges, would otherwise bar this activity.

Paragraph 7B(2). This paragraph is substantially identical to the Section 5C(2) of the 1990 ABA Model Code. The one difference is that the language prohibiting the candidates from personally soliciting publicly stated support is omitted to allow judicial candidates to appear before editorial boards of newspapers and other organizations. Paragraph 7B(2) permits a candidate to solicit publicly stated support, and to establish campaign committees to solicit and accept public support and reasonable financial contributions. At the start of the campaign, the candidate must instruct his or her campaign committees to solicit or accept only contributions that are reasonable under the circumstances. Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers or others who appear before the judge, may be relevant to disqualification under subsection C of Canon 3.

Campaign committees established under Section 7B(2) should manage campaign finances responsibly; avoiding deficits that might necessitate post-election fund-raising, to the extent possible.

Paragraph 7B(3). This paragraph provides a limited exception to the restrictions imposed by paragraph 7A(1).

Subsection 7C. Neither subsection 7C nor any other section of the Code prohibits a judge in the exercise of administrative functions from engaging in planning and other official activities with members of the executive and legislative branches of government.

Annotations

Attendance at Political Events

93-12 A judge may attend a golf outing at the behest of a political candidate or office holder and pay necessary fees or contributions.

94-21 A judge, whether or not a candidate for election or retention, may attend a political gathering and may be introduced at that gathering.

96-12 A judge may attend political gatherings and may buy tickets for such gatherings.

96-19 A judge may be the featured speaker at a political party Lincoln Day dinner that is held after the election only if the event is a community gathering rather than a fundraiser for the political organization.

98-15 A judicial candidate may not retain membership either in a political party's

central committee or on a board of directors of a non--profit organization which, among other things, functions as a political action committee registered with and regulated by the Federal Election Commission and the Illinois State Board of Elections.

01-09 A judge's spouse may host an event for a political candidate in the spouse and judge's home, and the judge may attend the event.

Making Political Contributions

94-6 A judge may make a contribution to the campaign of a colleague who is a candidate for judge.

96-12 A judge may attend political gatherings and may buy tickets for such gatherings.

Judicial Campaign Contributions

95-8 A judge may send a personally signed "thank-- you" note to campaign contributors.

96-1 A candidate for judge or a member of his family is not prohibited from signing campaign fund checks to pay campaign expenses.

Endorsements/Campaign Activity

The Judge

94-11 The Illinois Code of Judicial Conduct generally prohibits judges from publicly endorsing or opposing candidates for judicial office. An exception to this rule, however, is that judges running for judicial office are allowed to publicly endorse or oppose other candidates in the same public election that the judge is a candidate.

96-14 A judge should not serve on an alderman's advisory committee because it would bring into question the judge's impartiality and would give the appearance that the judge is engaging in prohibited political activity.

96-16 A judge may not serve as a member of the judicial evaluation committee of a civic organization.

98-2 A judge may circulate and sign the nominating petitions of a judicial candidate when that judge is also a candidate in the same election.

98-3 A candidate who is not a judge may not use the "Judge" in advertising in a

way that would make people think he or she already was a judge.

98-6 A judge may not write a letter to the editor stating that a candidate for elective judicial office is "qualified."

98-16 A judge who is campaigning for election cannot serve as a deputy voter registrar.

99-8 A judge may, in confidential communication to a bar association, express an opinion regarding the qualifications of a fellow judge for retention or elective judicial office.

00-3 Judge may sponsor little league team and have judge's name on uniforms.

03-1 A judge or candidate for judicial office should not make allegations concerning an opponent's private sexual conduct absent a likely criminal prosecution or judicial disciplinary violation.

The Judge's Family

01-09 A judge's spouse may host an event for a political candidate in the spouse and judge's home, and the judge may attend the event.

03-6 The Code of Judicial Conduct does not prohibit a judge's spouse from circulating a nominating petition for candidate for non-judicial office. A judge is not prevented from signing the nominating petition.

06-2 A judge's spouse may engage in independent campaign activities in support of a candidate for public office including: (1) soliciting funds for the candidate; (2) publicly endorsing the candidate; (3) displaying a bumper sticker on a vehicle jointly owned by the spouse and judge and driven by the spouse; and (4) displaying a campaign sign in the yard of the home jointly owned by the spouse and judge. When a candidate for election or retention, a judge must encourage spouse to limit his or her activities in support of the judge's candidacy to those political activities in which the judge is permitted to engage.

Public Speaking Touching on Political Issues

94-5 A judge or a candidate for judge may publicly express his or her opinion on a matter of public interest so long as it is done in a manner that would not threaten to compromise a judge's impartiality.

94-7 A judge is prohibited from becoming a nominee for an association's award, where the award is contingent on the judge's blanket endorsement of legislation and the funding of programs advocated by the association. [Editor's Note: This

opinion does not reference any decisional law concerning First Amendment Rights of candidates for judicial office.]

94-17 Judges may create a Speakers Bureau and inform the public of the judges' availability to speak on issues regarding the law, the legal system, and the administration of justice. Judges may speak about law--related issues to groups that advocate changes in the content or enforcement of laws, and other members of the public, so long as the judges (1) do not say anything that casts doubt on their capacity to decide impartially any issue that may come before them, and (2) comply with the restrictions on political speech contained in Illinois Supreme Court Rule 67.

01-6 The judge may be a speaker on non--legal subjects at a church service.

Resignation Requirement

94-14 A sitting judge may be an applicant for appointment to a non-judicial office by fellow judges in the same circuit. The judge is not required to resign as the office is not elective.

Rule 68-STATEMENT OF ECONOMIC ACTIVITY

A judge shall file annually with the Clerk of the Illinois Supreme Court (the Clerk) a verified written statement of economic interests and relationships of the judge and members of the judge's immediate family (the statement).

As statements are filed in the Clerk's office, the Clerk shall cause the fact of that filing to be indicated on an alphabetical listing of judges who are required to file such statements. Blank statement forms shall be furnished to the Clerk by the Director of the Administrative Office of the Illinois Courts (the Director).

Any person who files or has filed a statement under this rule shall receive from the Clerk a receipt indicating that the person has filed such a statement and the date of such filing.

All statements filed under this rule shall be available for examination by the public during business hours in the Clerk's office in Springfield or in the satellite office of the Clerk in Chicago. Original copies will be maintained only in Springfield, but requests for examination submitted in Chicago will be satisfied promptly. Each person requesting examination of a statement or portion thereof must first fill out a form prepared by the Director specifying the statement requested, identifying the examiner by name, occupation, address and telephone number, and listing the date of the request and the reason for such request. The Director shall supply such forms to the Clerk and replenish such forms upon request. Copies of statements or portions of statements will be supplied to persons ordering them upon payment of such reasonable fee per page as is required by

the Clerk. Payment may be by check or money order in the exact amount due.

The Clerk shall promptly notify each judge required to file a statement under this rule of each instance of an examination of the statement by sending the judge a copy of the identification form filled out by the person examining the statement.

The contents of the statement required by this rule shall be as specified by administrative order of this court.

Effective March 15, 1970; amended April 1, 1986, effective August 1, 1986.

ADMINISTRATIVE ORDER

The verified statements of economic interests and relationships referred to in our Rule 68, as amended effective August 1, 1986, shall be filed by all judges on or before April 30, 1987, and on or before April 30, annually thereafter. Such statements shall also be filed by every person who becomes a judge, within 45 days after assuming office. However, judges who assume office on or after December 1 and who file the statement before the following April 30 shall not be required to file the statement due on April 30. The form of such statements shall be as provided by the Administrative Director of the Illinois Courts, and they shall include all information required by Rule 68 and this order, including:

1. Current economic interests of the judge and members of the judge's immediate family (spouse and minor children residing with the judge) whether in the form of stock, bond, dividend, interest, trust, realty, rent, certificate of deposit, deposit in any financial institution, pension plan, Keogh plan, Individual Retirement Account, equity or creditor interest in any corporation, proprietorship, partnership, instrument of indebtedness or otherwise. Every source of noninvestment income in the form of a fee, commission, compensation, compensation for personal service, royalty, pension, honorarium or otherwise must also be listed. No reimbursement of expenses by any unit of government and no interest in deferred compensation under a plan administered by the State of Illinois need be listed. No amounts or account numbers need be listed in response to this paragraph 1. In listing his or her personal residence(s) in response to this paragraph 1, the judge shall not state the address(es). Current economic interests shall be as of a date within 30 days preceding the date of filing the statement.

2. Former economic interests of the type required to be disclosed in response to numbered paragraph 1 which were held by the judge or any member of the judge's immediate family (spouse and minor children residing with the judge) during the year preceding the date of verification. Current economic interests listed in response to numbered paragraph 1 need not be listed. No amounts or account numbers need be listed in response to this paragraph 2. In listing his or her personal residence(s) in response to this paragraph 2, the judge shall not state the address(es).

3. The names of all creditors to whom amounts in excess of \$500 are owed by the judge or members of the judge's immediate family (spouse and minor children residing with the judge) or were owed during the year preceding the date of verification. For each such obligation there is to be listed the category for the amount owed as of the date of verification and the maximum category for the amount of each such obligation during the year preceding the date of verification of the statement. The categories for reporting the amount of each such obligation are as follows:

- (a) not more than \$5,000;
- (b) greater than \$5,000 but not more than \$15,000;
- (c) greater than \$15,000 but not more than \$50,000;
- (d) greater than \$50,000 but not more than \$100,000;
- (e) greater than \$100,000 but not more than \$250,000; and
- (f) greater than \$250,000.

Excluded from this requirement are obligations consisting of revolving charge accounts, with an outstanding liability equal to or less than \$5,000.

4. The name of any individual personally known by the judge to be licensed to practice law in Illinois who is a co-owner with the judge or members of the judge's immediate family (spouse and minor children residing with the judge) of any of the economic interests disclosed in paragraphs 1 and 2, and the name of any person who has acted as a surety or guarantor of any of the obligations required to be disclosed in paragraph 3.

5. A list of every office, directorship and salaried employment of the judge and members of the judge's immediate family (spouse and minor children residing with the judge). Exclude unsalaried positions in religious, social or fraternal organizations, and honorary positions.

6. Pending cases in which the judge or members of the judge's immediate family (spouse and minor children residing with the judge) are parties in interest and, to the extent personally known to the judge, pending cases in which a party is an economic entity in which the judge or any member of the judge's immediate family has an interest. Cases in which a judge has been sued in the judge's official capacity shall not be included.

7. Any fiduciary position, including executorships and trusteeships of the judge or members of the judge's immediate family (spouse and minor children residing with the judge).

8. The name of the donor and a brief description of any gifts received by the judge or

members of the judge's immediate family (spouse and minor children residing with the judge). Gifts of transportation, food, lodging or entertainment having a value in excess of \$250 must be reported. All other gifts having a value in excess of \$100 must be reported. Gifts between the judge and the judge's spouse, children, or parents shall not be reported.

9. Any other economic interest or relationship of the judge or of members of the judge's immediate family (spouse and minor children residing with the judge) which could create a conflict of interest for the judge in the judge's judicial capacity, other than those listed in numbered paragraphs 1 to 8 hereof.

Prior to the first Monday in March of each year the Director shall inform each judge by letter of the requirements of this amended rule. The Director shall similarly inform by letter each person who becomes a judge of the requirements of the rule within 10 days of such person assuming office. The Director shall include with such letter instructions concerning the required statements, two sets of the statement forms, and one mailing envelope preaddressed to the Clerk. The Clerk shall redact personal residence addresses contained in any statement filed pursuant to Supreme Court Rule 68. The letter, instructions, and statements shall be in substantially the form set forth below:

[Letterhead of Administrative Office of the Illinois Courts]

_____, 20__

TO: MEMBERS OF THE JUDICIARY OF THE STATE OF ILLINOIS

RE: Compliance with Supreme Court Rule 68

As a member of the judiciary, you are required to file an annual statement of economic interests pursuant to Supreme Court Rule 68. Enclosed are the necessary forms and envelopes to be used in complying with Rule 68 on or before _____, 20__.

In this packet are:

(A) One copy of "Instructions Concerning Required Statement for Members of the Judiciary of the State of Illinois."

(B) Two copies of the form entitled "Statement Required of Members of the Judiciary of the State of Illinois." [One copy to be filed with the Clerk of the Supreme Court; one copy to be retained for your records.]

(C) One 9 x 12 mailing envelope preaddressed to the Clerk of the Supreme Court.

The Supreme Court requests you follow these instructions carefully and asks that you be certain to return the original of your statement in the mailing envelope furnished herewith preaddressed to the Clerk of the Supreme Court.

Forms for compliance with Public Act 77-1806, "Illinois Governmental Ethics Act," will be mailed to you under separate cover and must be filed separately with the Secretary of State.

Very truly yours,

Director

INSTRUCTIONS CONCERNING REQUIRED STATEMENT FOR MEMBERS OF THE JUDICIARY OF THE STATE OF ILLINOIS

On or before April 30, 1987, and on or before April 30, annually thereafter, every judge of the Supreme Court, the Appellate Court, and every judge and associate judge of the Circuit Court shall file a verified written statement (the statement) of economic interests and relationships which may create conflicts of interest, with the Clerk of the Illinois Supreme Court. Such statements shall be filed by every person who becomes a judge or associate judge within 45 days after assuming office and on or before each April 30 thereafter. However, judges who assume office on or after December 1 and who file the statement before the following April 30 shall not be required to file the statement due on April 30.

The statements required shall include the following information which, except where noted, shall include information as of the date of verification of the statement.

1. Current economic interests of the judge and members of the judge's immediate family (spouse and minor children residing with the judge) whether in the form of stock, bond, dividend, interest, trust, realty, rent, certificate of deposit, deposit in any financial institution, pension plan, Keogh plan, Individual Retirement Account, equity or creditor interest in any corporation, proprietorship, partnership, instrument of indebtedness or otherwise. Every source of noninvestment income in the form of a fee, commission, compensation, compensation for personal service, royalty, pension, honorarium or otherwise must also be listed. No reimbursement of expenses by any unit of government and no interest in deferred compensation under a plan administered by the State of Illinois need be listed. No amounts or account numbers need be listed in response to this paragraph 1. In listing his or her personal residence(s) in response to this paragraph 1, the judge shall not state the address(es). Current economic interests shall be as of a date within 30 days preceding the date of filing the statement.

2. Former economic interests of the type required to be disclosed in response to numbered paragraph 1 which were held by the judge or any member of the judge's immediate family (spouse and minor children residing with the judge) during the year

preceding the date of verification. Current economic interests listed in response to numbered paragraph 1 need not be listed. No amounts or account numbers need be listed in response to this paragraph 2. In listing his or her personal residence(s) in response to this paragraph 2, the judge shall not state the address(es).

3. The names of all creditors to whom amounts in excess of \$500 are owed by the judge or members of the judge's immediate family (spouse and minor children residing with the judge) or were owed during the year preceding the date of verification. For each such obligation there is to be listed the category for the amount owed as of the date of verification and the maximum category for the amount of each such obligation during the year preceding the date of verification of the statement. The categories for reporting the amount of each such obligation are as follows:

- (a) not more than \$5,000;
- (b) greater than \$5,000 but not more than \$15,000;
- (c) greater than \$15,000 but not more than \$50,000;
- (d) greater than \$50,000 but not more than \$100,000;
- (e) greater than \$100,000 but not more than \$250,000; and
- (f) greater than \$250,000.

Excluded from this requirement are obligations consisting of revolving charge accounts, with an outstanding liability equal to or less than \$5,000.

4. The name of any individual personally known by the judge to be licensed to practice law in Illinois who is a co-owner with the judge or members of the judge's immediate family (spouse and minor children residing with the judge) of any of the economic interests disclosed in paragraphs 1 and 2, and the name of any person who has acted as a surety or guarantor of any of the obligations required to be disclosed in paragraph 3.

5. A list of every office, directorship and salaried employment of the judge and members of the judge's immediate family (spouse and minor children residing with the judge). Exclude unsalaried positions in religious, social or fraternal organizations, and honorary positions.

6. Pending cases in which the judge or members of the judge's immediate family (spouse and minor children residing with the judge) are parties in interest, and, to the extent personally known to the judge, pending cases in which a party is an economic entity in which the judge or any member of the judge's immediate family has an interest. Cases in which a judge has been sued in the judge's official capacity shall not be included.

7. Any fiduciary position, including executorships and trusteeships of the judge and members of the judge's immediate family (spouse and any minor child residing with the judge).

8. The name of the donor and a brief description of any gifts received by the judge or members of the judge's immediate family (spouse and minor children residing with the judge). Gifts of transportation, food, lodging or entertainment having a value in excess of \$250 must be reported. All other gifts having a value in excess of \$100 must be reported. Gifts between the judge and the judge's spouse, children or parents shall not be reported.

9. Any other economic interest or relationship of the judge or of members of the judge's immediate family (spouse and minor children residing with the judge) which could create a conflict of interest for the judge in the judge's judicial capacity other than those listed in numbered paragraphs 1 to 8 hereof.

The Statement required herein shall be in substantially the form titled "STATEMENT REQUIRED OF MEMBERS OF THE JUDICIARY OF THE STATE OF ILLINOIS," which is attached hereto as Exhibit A.

(SAMPLE)

EXHIBIT A

STATEMENT REQUIRED OF MEMBERS OF THE JUDICIARY OF THE STATE OF ILLINOIS

1. My current economic interests and the current economic interests of my immediate family (spouse and minor children residing with me) are as follows:

(Here list current economic interests specified in numbered paragraph 1 of the instructions setting forth the date (within 30 days of the date of filing) as of which said interests are being reported.)

2. My former economic interests and the former economic interests of my immediate family (spouse and minor children residing with me) held during the year preceding the date of verification:

(Here list former economic interests specified in numbered paragraph 2 of the instructions.)

3. Creditors to whom amounts in excess of \$500 are owed as of the date of verification or were owed during the year preceding the date of verification by me or members of my immediate family (spouse and minor children residing with me), exclusive of revolving charge accounts with an outstanding liability equal to or less than \$5,000, the amount of each such obligation outstanding as of the date of verification and the maximum amount

of each such obligation during such preceding year within the categories set forth in numbered paragraph 3 of the instructions:

(Here list in accordance with numbered paragraph 3 of the instructions.)

4. The name of any individual personally known by me to be licensed to practice law in Illinois who is a co-owner with me or members of my immediate family (spouse and minor children residing with me) of any of the economic interests disclosed in paragraphs 1 and 2, and the name of any person who has acted as a surety or guarantor of any of the obligations required to be disclosed in paragraph 3.

(Here list in accordance with numbered paragraph 4 of the instructions.)

5. My offices, directorships, and salaried employments and the offices, directorships and salaried employments of my immediate family (spouse and minor children residing with me) are as follows:

(Here list in accordance with numbered paragraph 5 of the instructions.)

6. Pending cases in which I or members of my immediate family (spouse and minor children residing with me) have an interest are as follows:

(Here list pending cases in which you or members of your immediate family are parties in interest, or an economic entity in which you or they have an interest is a party, in accordance with numbered paragraph 6 of the instructions.)

7. My fiduciary positions, including executorships and directorships, and the fiduciary positions of the members of my immediate family (my spouse and minor children residing with me) are as follows:

(Here list fiduciary positions in accordance with numbered paragraph 7 of the instructions.)

8. The name of the donor of gifts received by me or members of my immediate family (spouse and minor children residing with me) during the year preceding the date of verification, are as follows:

(Here list gifts in accordance with numbered paragraph 8 of the instructions.)

9. My economic interests and relationships and those of my immediate family (spouse and minor children residing with me), other than those listed in numbered paragraphs 1 to 8 hereof, which could create conflicts of interest for me in my judicial capacity are as follows:

(Here insert any economic interest or relationship which might or could create a substantial conflict of interest.)

VERIFICATION

Pursuant to Supreme Court Rule 68, I declare that this statement of economic interest, including any accompanying schedules and statements, as it relates to me and members of my immediate family, has been examined by me and to the best of my knowledge and belief is true, correct and complete.

_____ Judge's Signature

_____ Date

Adopted by Order Entered April 1, 1986; order amended April 20, 1987, effective August 1, 1987; order amended December 30, 1993, effective January 1, 1994; order amended December 1, 1995, effective immediately; order amended September 23, 2005, effective immediately.

Annotations

Reporting of Gifts

95-7 Although a judge may accept, for official use, a complimentary subscription to state statutes and appellate and supreme court opinions contained on CD--ROM from a publishing company, the gift must be reported if the value of the subscription exceeds \$100.00.

96-17 The judge may request and accept a tuition waiver, as long as it is granted on the same terms as would be applicable to non--judges. The waiver should not be considered "compensation" for the judge's permitted part-- time instruction at the school. The amount of the reduction need not be applied to the limit on honoraria set by Rule 66A. [Editor's Note: The Opinion advises that any amount received via the waiver should be reported on the annual disclosure required by Rule 68.]

97-14 All contributions that exceed \$100.00 in value made to a defense fund established for a judge charged with a criminal offense must be reported under this Rule.

98-14 A judge is required to include in his or her Statement of Economic Interest the names of all cases and the names of all lawyers to whom the judge referred cases with a fee splitting agreement prior to becoming a judge.

Rules 69-70. Reserved.

Rule 71. Violation of Rules

A judge who violates Rules 61 through 68 may be subject to discipline by the Illinois Courts Commission.

Effective March 15, 1970; amended effective October 1, 1971; amended June 24, 1976, effective July 15, 1976; amended December 2, 1986, effective January 1, 1987.