

JUDICIAL ETHICS UPDATE

November 1986

This is the Fifth Annual Judicial Ethics Update from the Ethics Committee of the California Judges Association. The following is a summary of informal opinions on items of widest interest among California judges during the past year. In addition, attached are copies of the two formal opinions (numbers 32 and 33) rendered by the committee since the last update.

It should be noted that the Ethics Committee, as a matter of policy, does not answer inquiries which it determines to be legal in nature. All opinions of the committee are advisory only.

I. Civic and Charitable Activities.

- A. It is not improper for a judge to chair a committee the purpose of which is to increase public awareness about child abuse, so long as the judge does not engage in fundraising.
- B. A judge may be a speaker at a charity fundraising dinner, so long as the judge is not an honoree, the purpose of the judge's speech is not fundraising and the judge's name is not used to promote the dinner. However, Canon 5(B)(2) expressly prohibits the judge from being an honoree or principal speaker at such a dinner or otherwise engaging in fundraising for the charity.
- C. A judge having a housewarming party may not request invitees to make a contribution to a particular charity in lieu of gifts; such a request would violate Canon 5(B)(2).

II. Political Activities.

- A. It is not improper for a judge's spouse to pay for a political dinner in excess of the \$100 limit for Canon 7(A)(1)(b) if the spouse uses community funds. The judge may, however, wish
- B. It is not unethical for a judge to contact jurors who served in the judge's court to ask them to sign the judge's "in lieu" petitions, so long as no court resources are used to gather the names or do the solicitations.
- C. The Canons do not limit the political activity of retired judges who do not consider themselves available for assignment by the Judicial Council; such retired judges may use the designation "retired judge" in campaign literature.
- D. A judge may not speak at a campaign event on behalf of a candidate for a non-judicial office.

- E. It is improper for a judge to respond to a questionnaire from a group asking for the judge's views on legal issues relating to abortion.

III. Conduct Outside the Courtroom.

- A. It is not proper for a sitting judge to engage in private arbitration for a fee, even outside of business hours.
- B. Once sworn in, a new judge winding up a law practice is prohibited from engaging in any activity which could be interpreted as practicing law. It would not be improper for the judge to put a file in order and prepare a memo so that another lawyer could understand the status of the case, but requesting a continuance from opposing counsel would be.
- C. It is not proper to use official court stationery to request a private privilege, e.g., golfing privileges at a resort on a vacation. It is not improper to use private stationery for such a purpose.
- D. It is not per se improper for a judge to respond to the request of a probation officer for information on an acquaintance of the judge. Although the Canons prohibit a judge voluntarily testifying as a character witness, there is a public policy interest in judges providing relevant sentencing information to interested persons. Where the information is requested by the probation department in a judge's own jurisdiction, the judge should be sensitive to the appearance of undue influence and/or partiality. The decision whether to provide information in such circumstances should turn on whether the judge's input is vital to the ultimate sentencing determination or more in the nature of background information.