

## OPINION NO. 47

(Issued: September 11, 1997)

### PROPRIETY OF JUDGES ASSOCIATING WITH ATTORNEYS AT SOCIAL AND EDUCATIONAL SETTINGS

#### I. Introduction

This opinion seeks to assist judges in assessing the propriety of associating with attorneys in group social settings and educational programs. The Judicial Ethics Committee has had a number of questions submitted to it in recent years concerning these areas and members of the bar have expressed concern that they perceive that judges have become reluctant to participate in such activities. This opinion does not cover the subject of accepting food, beverage or entertainment at social functions as that is covered in Opinions 43 and 44, nor does it thoroughly cover disclosure requirements, that having been covered in Opinion 45.

#### II. Applicable Canons

Canon 2A: "A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Canon 2B(2): "A judge shall not lend the prestige of judicial office to advance the pecuniary or personal interest of the judge or others;..."

Canon 3E: "A judge shall disqualify himself or herself in any proceeding in which disqualification is required by law. In all trial court proceedings, a judge shall disclose on the record information that the judge believes the parties or their lawyers might consider relevant to the question of disqualification, even if the judge believes there is no actual basis for disqualification."

Canon 4A: "A judge shall conduct all of the judge's extrajudicial activities so that they do not

- (1) cast reasonable doubt on the judge's capacity to act impartially;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties."

Canon 4B: "A judge may speak, write, lecture teach, and participate in activities concerning legal and nonlegal subject matters, subject to the requirements of the code."

#### Applicable Sections from Rothman Handbook

§210.500  
§230  
§260.500

#### III. Discussion

##### Bar association functions

It is appropriate and desirable for judges to participate in the professional, educational and social activities of legal organizations. Care should be exercised, however, when participating in bar-related organizations which represent a partisan view of certain legal issues. If, as a result of the judge's participation in the activities of a legal organization, the judge develops special relationships with

individual lawyers, the judge should consider whether the relationship is of such a nature as to require disclosure, should these lawyers appear before the judge.

The Rhode Island Supreme Court has explained that:

“... avoiding intellectual exchange among lawyers and academics may lead the judge to a form of mental asphyxiation that will diminish his or her effectiveness. A judge should not be isolated from the current ideas abroad in his or her profession or those that may be contributed by related disciplines. Attendance at meetings of bar associations and such organizations as [the Rhode Island Trial Lawyers Association] will stimulate the judge’s thought process whether the judge agrees or disagrees with the positions that may be taken by these organizations.” (*In re Petition of Wiley* (1996) 671 A.2d 308.)

Judges are encouraged to participate in the activities of organizations such as state and local bar associations and their sections, specialty bar associations such as business trial lawyer associations, family lawyer groups, inns of court, and similar organizations. Judges’ participation in the educational activities of such groups is particularly desirable. Judges may serve as officers and board members of such organizations and may run for such offices in contested elections against an attorney member. Such participation may give rise to a duty of disclosure when lawyers with whom the judge has worked closely in the organizations appear before the judge.

Judges should, however, avoid permitting themselves to become associated with the viewpoints promoted by lawyer organizations which are intended to promote the interests of a limited segment of the bar such as district attorney or public defender organizations, plaintiff or defense-oriented bar associations and similar organizations. Such “partisan” lawyer organizations tend to promote causes which operate to the advantage of some and the disadvantage of other litigants.

Judges are not necessarily prohibited from participating in all activities organized by such lawyer organizations; it would be appropriate, for example, for judges to participate as speakers or to participate in other capacities in educational programs sponsored by such groups. However, as such a speaker, judges should maintain a neutral posture as to the issues which the organization advocates. Judges should also be equally available to groups representing opposing viewpoints and at all times avoid appearances of impropriety which may result if the impression is created that the judge shares the goals espoused by such organizations.

A judge should not be a member or participate in the governance of such partisan lawyer organizations and in participating in the activities of such groups, the judge should be particularly careful not to permit such groups to use the judge in its advertising in such a manner as to make it appear that the judge promotes the goals of the organization. Regular attendance at the meetings of such “partisan” lawyer groups should be avoided or offset by similar attendance at meetings of the organization espousing opposing viewpoints. The in-chambers display of periodicals published by such organizations should be avoided or offset by similarly displaying the periodicals of the organization espousing opposing viewpoints. For a judge to accept honors from such organizations, such as “judge of the year” awards may create the appearance the judge fosters the goals of the organizations.

A judge should not participate in the activities of any organization which, as a body, is or may be involved in litigation before the court of which the judge is a member. Likewise, judges should not participate in the activities of organizations which publicly promote highly controversial positions. Participation in entertainment programs of specialty groups such as local family law attorneys can be appropriate but judges should be alert to the danger of appearing to endorse what may be critical and tasteless portions of such programs.

While participating in the activities of bar-related organizations, judges should be careful to avoid situations where individual members of the bar may attempt to advance the merits of their cases. Discussion of legal issues, ideas, and philosophies is appropriate; discussion of specific pending cases is not, whether or not the case is pending before another judge.

Participation in bar organizations which promote the interests of particular racial, ethnic, or gender groups is proper, as long as such organizations do not restrict their membership to a particular race, ethnic group, or gender. Judges should not participate in such organizations if membership is restricted.

#### **Social relations with attorneys**

A judge may socialize with individual attorneys, with whom the judge is friendly, in such activities as golfing, jogging, dining and similar social activities. The judge need not disqualify him or her self as long as the judge feels that he or she can be impartial. However, in such a case the judge must, at the outset, disclose the relationship to the parties on the record.

Judges are allowed to accept ordinary social hospitality. It is therefore not necessarily inappropriate for judges to socialize with individual attorneys or to attend such events as the opening of an attorney's new law offices or a law firm's open house or holiday party. As to the factors to be considered by the judge in determining whether such participation is appropriate, see Opinion No. 43. "A judge should not attend such an event if attendance would undermine public confidence in the impartiality of the judiciary or promote the private interests of another." Participation in social groups consisting of former District Attorneys or Public Defenders or other similar alumni groups are appropriate. Judges should always be mindful of their duty to disclose their close social relationship with members of the bar which appear before them.

#### **IV. Conclusion**

Judges are encouraged to attend social and educational programs put on by bar groups. "Informal exchanges that such functions allow may help reduce tensions between the bench and bar and alleviate some of the isolation from former colleagues that judges experience upon their elevation to the bench."

However, the judge must ensure that the activities do not cast reasonable doubt on the judge's capacity to act impartially and must do nothing that might diminish the public confidence in the impartiality of the judiciary. Particular care should be taken to disclose any social contacts, beyond mutually attending a group meeting, with attorneys appearing before the judge.

#### **COMMITTEE ON JUDICIAL ETHICS**

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