

I. Civic and Charitable Activities

- A. A judge is prohibited from signing a letter appealing for funds for a battered women's shelter program sponsored by the YWCA. June 29, 1979. Canon 5B(2) prohibits judges from soliciting funds for any educational, religious, charitable, fraternal or civic organization. (Advisory Only).
- B. A judge is prohibited from participating as an auctioneer on a local public education television station for the purpose of raising funds for the operation of the station. March 17, 1979. The committee cited Canon 5B(2) as its authority. (Advisory Only).
- C. A judge is prohibited from allowing his or her name to appear on the letterhead of a scholarship fund committee honoring a deceased judge when such letter is to be used in soliciting members of the Bar and corporations to donate money to the fund. March 17, 1979. The committee cited Canon 5B(2) as its authority. (Advisory Only).
- D. A judge may serve on an Advisory Council of a national nonpartisan organization whose state objective is to improve the status of women and, in particular, to secure the passage of the "Equal Rights Amendment." See Formal Opinion Number 3, January 3, 1951. The committee cited Canons 4 and 7A(3) as its authority.
- E. A judge is permitted to accept an appointment by a county board of supervisors to serve as chairman of an Alcoholism Advisory Board which is funded under state law and created to advise county officials on the prevention and treatment of alcohol abuse problems. See Formal Opinion No. 22, April 19, 1975. The committee cited Canon 5G as its authority.
- F. A judge may be listed as an officer, director, or trustee of a charitable organization for non-fundraising activities or correspondence. The judge's name, however, may not appear on announcements, stationery or correspondence soliciting funds or contributions, nor can such documents refer to the judge as a member of the organization. Formal Opinion Number 27. August 18, 1979. The committee cited Canon 5B(2) as its authority.

(Note: There has been a commonly held belief that Canon 5B(2) permitted the use of a charitable organization's stationery which contained the name and title of the judge as a member of the organization or Board of Directors for fundraising purposes if the judge was not listed or identified as a member of the fundraising committee or as one of the persons directly soliciting the contributions. It should be noted that Opinion Number 27 prohibits such a practice.)

- G. A judge is prohibited from serving on a fundraising committee of a civic or charitable organization. January 9, 1982. The committee cited Canon 5B(2) as its authority.
- H. A judge is permitted to serve as a trustee of a trust which awards scholarships to deserving students. January 9, 1982. The committee cited Canon 5B(2) as its authority.
- I. A judge may serve as a “trustee” of a charitable trust created by the will of a decedent and administered by the Court, even though the trustees are required to submit periodic accounting to the court on which the judge sits. May 15, 1982. The committee cited Canon 5B(2) as its authority.

(Note: Originally there was a conflict between Canon 5B(2) and Canon 5D, however Canon 5D was amended at the Annual Meeting, September 1982 to clear the ambiguity between these two canons in the use of the word “trustee”.)

## II. Political Activities

- A. A judge may conduct fundraising activities in support of the judge’s candidacy prior to the filing date for the office. June 29, 1979. (Advisory Only).
- B. A judge is not permitted to pay an assessment, whether in the form of dues or otherwise, to a political organization whose primary purpose includes public support and contribution of funds toward non-judicial political candidates. June 13, 1981. The committee cited Canon 7A(1)(c) as its authority.
- C. A municipal court judge is prohibited from wearing his or her robe for election campaign pictures. May 21, 1980. The committee cited Attorney General Opinion CR 78/19 as its authority. (Advisory Only).
- D. A judge may sign a petition to qualify a measure for the ballot if the judge’s title is not used. Amendment to commentary at Annual Meeting September, 1982.
- E. A judge may not sign his or her name to support publicly an initiative or other ballot measure not related to the administration of justice. May 15, 1982. The committee cited Canon 7A(3) as its authority.
- F. A retired judge who is available for assignment as a judge is prohibited from acting as a sponsor for a partisan political candidate for non-judicial office. See Formal Opinion No. 13, June 18, 1962. The committee cited Canons 1, 2A and Page 29, Paragraph C of the Code as its authority.
- G. A judge may respond to a judicial evaluation poll and to criticism by public officials and the news media as long as the response does not involve the merits of a specific pending or impending judicial proceeding. See Formal Opinion No. 2, March 27, 1976. The committee cited Canons 3A(6), 4A and the suspension of Canon 7B as its authority.

- H. A judge should be cautious in answering questionnaires which call for comments about pending or impending proceedings in any court or if the response may cast doubt about the judge's capacity to decide impartially any issue that may come before the Court of may give rise to suspicion of political bias or impropriety. See Formal Opinion No. 26, August 18, 1979. The committee cited Canons 2A, 2B, 3A(1), 3A(6), 4 (Introductory), 4B, 5C(7), 7 (Introductory), and 7A(3) as its authority.
- I. A group of judges may contribute to a campaign fund for distribution among judges who are candidates for re-election or retention. January 9, 1982. See Commentary to Canon 7A – as amended at Annual Meeting, September 1982.
- J. A judge may personally solicit funds for a judicial candidate. See Canon 7A(1)(c) as amended at Annual Meeting, September 1982.
- K. A retired judge who is not regularly sitting and available for assignment may serve as a Master of Ceremonies for a partisan political organization. March 17, 1979. (Advisory only).

(Note: While a sitting a judge is prohibited by Canon 7A(1)(a) & (b) from such activity, it is clear that the Code of Judicial Conduct does not apply to a retired judge who is not regularly sitting nor available to sit as a judge, pursuant to Page 29, paragraph C of the Code of Judicial Conduct.)

- L. A retired judge not regularly sitting and available for assignment who participates in a fundraising letter for a charitable organization should, if using the word "Judge" adjacent to his or her name, add the word "Retired" following the name. March 17, 1979.

### III. Business Activities

- A. A judge may serve as a member of the Board of Directors of a local public broadcasting television station as long as such service does not involve activities prohibited by Canon 5C(2) and as long as the judge's name is not listed on any fundraising letter or used in similar fundraising activities. March 17, 1979. (Advisory Only).

(Note: There appears to be some conflict with 5C(2) in that a public broadcasting television station would appear to be a "business affected with a public interest.")

- B. A judge may receive a referral fee or a portion of a contingent fee from a lawyer as a result of a referral of a personal injury case by the judge to the lawyer prior to the judge's appointment or election to the bench as long as the receipt of such fee complies with the appropriate Rules of Professional Conduct of the State Bar. January 31, 1981. (Advisory Only). The committee felt that the receipt of such a fee did not constitute the "practice of law" as defined by 5F and Government Code Section 68082 because the latter Section was not intended to include within the definition of "practice of law" a fee received for a referral or for work completed prior to the time the judge took the bench.

- C. A judge may accept a group discount rate from a car rental agency as long as the discount is on terms generally available to other identifiable non-judge groups. June 13, 1981. The committee felt that the widespread practice of certain business entities and industries to grant group-discount rates did not cast judges in an improper light as long as they were treated the same as other groups.
- D. A judge may accept a gratuity for the performances of a marriage ceremony on a Saturday, Sunday or legal holiday. See Formal Opinion Number 5, March 1951. The committee cited Article VI, Section 15 of the California Constitution and Penal Code Sections 94 and 94.5 as its authority.
- E. A judge may not compensate another person for directing couples to the judge for the purpose of performing a marriage ceremony. See Formal Opinion No. 6, March 1951. The committee cited Canon 5C(1) as its authority.
- F. A judge is prohibited from participating as a judge in a simulated court proceeding on a weekly, sponsored television program. See Formal Opinion Number 10, January 11, 1958. This opinion relies primarily upon the fact that such participation would justify a reasonable suspicion that the power and prestige of the judicial office was being utilized to promote a commercial product. The committee cited Canons 2 and 5C(2) as its authority.

(Note: A retired judge who is not available for judicial assignment is not governed by the Code of Judicial Conduct. See “Compliance With The Code of Judicial Conduct”.)

(Further Note: The 1982-83 Ethics Committee is reviewing the entire question of participation by a judge on television and radio programs. A new opinion may be rendered in the coming year.)

- G. A judge should not permit his or her name and title as judge to be used in a prospectus which offers investment certificates in a real estate trust to the public. See Formal Opinion No. 11, February 1962.

#### IV. Conduct Outside the Courtroom.

- A. A judge should not accept an award or special recognition from any group whose membership or purpose is such as might reasonably lead to the impression that the group is in a special position to influence the judge. This opinion was rendered in response to a question as to whether it was ethical or proper for judges to accept awards from particular lawyers’ groups such as the California Trial Lawyers Association. May 15, 1982. (Advisory Only). The committee cited Canon 2B as its authority. The committee emphasized that its opinion was intended to apply to any group, not only lawyers’ groups, whose positions on issues or whose primary purpose might be such that a litigant or

attorney on the other side might legitimately question the ability of the judge to be totally fair and impartial.

(Note: At the Annual Meeting in September, 1982 the Ethics Committee proposed an amendment to Canon 2 of the California Code of Judicial Conduct which specifically would have prevented a judge from accepting such an award or special recognition. The proposed amendment failed. The effect, if any, of this advisory opinion, is uncertain given the fact that the membership refused to modify the Canons.)

- B. A judge may serve on an advisory committee of a private profit-making hospital where the function of the advisory committee is to discuss and render opinions on the use of experimental drugs. The judge may receive a nominal stipend to cover expenses of attending committee meetings. It was assumed that the hospital was not likely to engage in litigation nor were drugs in question likely to be involved in litigation. May 15, 1982. The committee cautioned that violations of Canon 5F regarding the giving of legal advice and Canon 5C(2) regarding allowing the judge's name or position to be used in the promotion of a business venture must be guarded against.
- C. A retired judge who remains eligible for assignment may use the title "Judge, Retired" on his or her letterhead provided that the judge is not using the letterhead in the practice of law or in the promotion of a business or charity. See Formal Opinion No. 12, February 1962.

#### V. Conduct Within the Courtroom.

- A. A new judge must fully disclose his or her previous partnership arrangements with lawyers of record prior to taking the bench even if all economic ties are severed, or the judge must disqualify himself or herself. November 3, 1978. (Advisory Only). The committee was concerned with the "appearance of impartiality" citing Code of Civil Procedure Section 170 and Canons 3C, 3D and 2 as its authority.
- B. A judge should disqualify himself or herself from hearing matters handled by a former associate in the practice of law who has recently performed legal services for the judge and who is the judge's debtor. A judge should, likewise, not hear matters in which new partners of the judge's former associate appear. See Formal Opinion Number 19. Updated. The committee referred to the fact that new partners share the corporation's profits. The committee cited Canons 2 and 3C as its authority.
- C. A judge is automatically disqualified from hearing any matter when the judge is related to a person within the third degree who is a member of a law firm, whether public or private, that is attorney of record. January 9, 1982. The committee referred to CCP Section 170(3) as its authority.

(Note: The Statutory provision conflicts with the Commentary to Canon 3C(1)(c) and Formal Opinion 21. The committee has recommended clarification of the Statute.

- D. A justice court judge may practice law in other courts. See Formal Opinion No. 23, April 19, 1975. See Compliance with the California Code of Judicial Conduct, Paragraph A(2).

## VI. Educational Activities.

### A. Judicial educational activities.

1. Funds generated by Bar sponsored educational programs may be used for the continuing education of individual judges, including registration, materials, fees, travel, lodging and meals. November 3, 1978. (Advisory Only). The committee found no particular Canon which prohibited the use of these funds. The continuing education of the Judiciary is promoted by the Code of Judicial Conduct.

2. A Superior Court Domestic Relations Commissioner, as a judicial officer is prohibited from sharing profits as a lecturer in a series of educational programs for family law lawyers. January 9, 1982. The committee was particularly concerned with the propriety of the Commissioner in receiving profits generated from the attendance of lawyers before whom the Commissioner would preside in a courtroom. The committee cited Canons 2B and 6A as its authority.

(Note: The restrictions in Canon 6A and 6B, relating to compensation and expense reimbursement, do not apply to the sale or distribution of publications authored by a judge which are available to the general public. As amended at Annual Meeting, September 1982.)

3. A judge is prohibited from teaching at a public law school. January 9, 1982. The committee cited Article VI, Sec. 17 of the California Constitution.

(Note: The Executive Board will sponsor a provision to amend the Constitution to permit judges to teach at any public educational institution in the 1983 legislative session.)

4. A judge may serve as the Chairman of a board of a private law school. January 9, 1982. The committee cited Canons 5B and 5C as its authority. The committee further noted the limitation set forth in 2B that a judge in such a position must be careful not to lend the prestige of his office to advance the private interests of others, including a private law school. The committee also emphasized the restriction contained in Canon 5B(2) prohibiting fundraising activities by a judge for charitable, educational, or other institutions. This opinion reaffirms a previous informal opinion on a similar subject rendered March 17, 1979. See Formal Opinion Number 15, September 26, 1967. Opinion No. 15 also held that it was proper for a judge to serve as a Dean of a private law school. The Opinion did not discuss the Constitutional limitation on public employment.