

# Judicial Ethics Update

March 2005

This is the twenty-third Judicial Ethics Update from the Ethics Committee of the California Judges Association. The Update highlights areas of current interest from the 392 informal responses, during the period November 2003 - October 2004 to judges' questions on the Code of Judicial Ethics.

The Ethics Committee, as a matter of policy, does not answer questions which it determines to be legal in nature, nor does it respond to moot questions, or to issues pending before the Commission on Judicial Performance. All opinions of the committee are advisory only. Judges may direct questions on the Code of Judicial Ethics by writing or calling the CJA office or any Ethics Committee member.

## I. CONDUCT INSIDE THE COURTROOM

### A. Generally

1. When presiding judge becomes aware of those cases where parties are either judicial officers or their spouses, presiding judge should first determine if sitting judges would recuse themselves. If no sitting judge will hear the matter then presiding judge should contact the Judicial Council to assign a judge to hear the matters.

*(Canon 3E, 3C[3]) (IR #30)*

### B. Disclosure and Disqualification

1. Judge who has endorsed a candidate for an open judicial seat should disclose such endorsement in any case where candidate appears in judge's court. *(Canon 3E) (IR #32)*

2. Judge should recuse self upon filing of motion to amend that would potentially add, as party, company in which s/he has a financially disqualifying interest. *(Canon 1B, 3E and 2A) (IR #79)*

3. Where judge (1) discussed case with judge (2), and later learns judge (2) was disqualified on the matter at the time of the conversation, judge (1) should disclose to attorneys but not self-recuse if conversation had no influence on judge's decision. *(Canon 1B) (IR #104)*

4. A disqualified judge may not sign stipulations because it is not an exception under CCP 170.4. *(Canon 3E[1]) (IR #126)*

5. Judge whose son is being represented by attorney in pending criminal matter should recuse if attorney appears in judge's court and should disclose for two years after matter resolves.

*(Canon 3E[1], 3E[2], 3C[1]) (IR #135)*

6. A judge who has filed a state bar complaint (under confidential terms) against an attorney must recuse whenever that attorney appears before judge because disclosure is prohibited.

*(Canon 3E) (IR #77)*

7. If a member of a judge's immediate family works in a non-attorney position in a law firm, judge must disclose whenever the law firm appears, and should recuse if the family member is working on the case or directly for the attorney appearing. *(Canon 3E) (IR #301)*

8. Judge's son works for attorney general's office. Judge need not disqualify self unless son is involved in case, but should disclose son's employment in attorney general cases. *(Canon 3E) (IR #15)*.

## C. Ex Parte Communications

1. Juvenile judicial officer may not meet with wards on a one-on-one basis without appropriate waivers. (*Canon 3B[7]*) (*IR #298*)
2. Judge may receive ex parte communications from mediators from family court services on matters of urgency or emergency, but should take immediate steps to inform all parties of the substance of these communications. (*Canon 3B[7][b]*) (*IR #131*)
3. A judge should not use the internet to research the validity of facts presented in court proceedings. (*Canon 3B[7], 3E*) (*IR #285*)

## II. CONDUCT OUTSIDE THE COURTROOM

### A. Generally

1. Judge may not instruct partisan advocacy group on presentation in court. (*Canon 4A[1]*) (*IR #240*)
2. A judge may act for his/her own property interest and participate in mediation concerning closure of the street on which his residence lies. (*Canon 4G*) (*IR #242*)

### B. Gifts, Discounts, Honoraria

1. Judge may not accept invitation to accept a "judicial fellowship" in ATLA, which would provide for free membership to organization, conferences and waiver of fees for monthly magazine. (*Canon 4D[6][a], 2A*) (*IR #19 and #36*)
2. Judge may accept funds offered by bar association to provide training for probate investigators. (*Canon 2A, 4A[1]*) (*IR #203*)
3. Judge may accept the discounted rate for a lifetime membership in a legal association. (*Canon 4[D][6][a]*) (*IR #307*)

## III. POLITICAL ACTIVITY

1. Judge may serve as neutral moderator at a forum for candidates for city council election. (*Canon 4A, 5*) (*IR #24*)
2. Judge considering running for non-judicial office may not seek endorsements before taking leave of absence. (*Canon 5*) (*IR #57*)
3. Judge who has mistakenly exceeded the campaign contribution limits should quickly request a refund from the campaign. (*Canon 5A[3]*) (*IR #304*)
4. A candidate for election to judicial office may answer a questionnaire concerning his/her personal views on issues such as the three strikes law, death penalty, etc. so long as his/her answers do not commit candidate as to rulings on cases, controversies or issues, that would come before the court, and so long as the answers make no reference to substantive matters or specific cases. Judicial candidates should be aware that announcement of these personal views may subsequently trigger the requirement of disclosure.

(*Canon 5B[1]*) (*IR #123*)

5. A judge may participate in a newspaper ad concerning a ballot measure that concerns the law, legal system, or the administration of justice. (*Canon 5D*) (*IR #123*)
6. A judge may be a moderator on a local television channel providing election-night coverage. (*Canon 5*) (*IR #91*)

7. Judge may not publicly endorse a school bond issue because it does not concern law, legal system or administration of justice.

*(Canon 5D) (IR #309)*

#### **IV. CIVIC AND CHARITABLE ACTIVITIES**

##### **A. Government Positions**

1. A judicial officer should not serve on a city council commission to recommend funding for human services programs.

*(Canon 4C[2]) (IR #70)*

2. A judge may not serve on a human services commission

that makes funding recommendations to city council. *(Canon 4C) (IR #70)*

##### **B. Membership**

1. Judges may not sit on Court-Appointed Special Advocate (CASA) boards, since CASA is engaged in adversary proceedings in the judge's court. *(Canon 4C[3][c][ii]) (IR #332)*

2. Retired judge sitting on assignment may not be a member of board of directors of mental health agency that is involved in legislative advocacy. *(Canon 4C[3], 4A) (IR #18)*

##### **C. Fundraising**

1. Judge may be honored at National Conference of Christians and Jews so long as s/he does not personally solicit funds.

*(Canon 4A[1][2][3], 4C[d][iv]) (IR #64)*

2. Judge may write letters supporting funding grants for programs which provide services to the courts.

*(Canon 4C[3][d][ii]) (IR #237)*

3. Judge may accompany her/his daughter selling girl scout cookies, but must not make judicial position known or otherwise use it

to advance sales. *(Canon 4C[3][d][i]) (IR #136)*

4. A judge may serve on the board of directors and finance committee of his/her church, but should avoid personal fundraising. *(Canon 4C[3][b]) (IR #90)*

5. A juvenile court judicial officer may write letter to funding agencies in support of an organization developing programs for minors but may not allow use of name or title in lobbying efforts.

*(Canon 4C[3][b], 4C[3][d][ii] and [iv]) (IR #163)*

6. Judge may not be master of ceremonies, but may serve as featured speaker in campaign kick-off fundraiser for United Way. *(Canon 2B[2], 4B, 4C[3][d][i] and [iv]) (IR #312)*

#### **V. BUSINESS ACTIVITIES**

1. A judge may attend travel agent classes and use available discounts. *(Canon 4A, 4D) (IR #66)*

2. Judge, whose car is involved in accident while driven by his son, may advise son and act for himself in all legal matters.

*(Canon 4G) (IR #97)*

3. Judge may operate a bar review business so long as judicial position is not used to advance the business and it does not interfere with the proper performance of judicial duties.

*(Canon 2A, 4A, 4D[1][a][b], 4D[2])(IR #223)*

4. Judge who has ordered photos from a vendor may not use judicial stationery to demand refund for failure to deliver photos.

*(Canon 2B[2]) (IR #293)*

5. Judge who serves as an officer of a non-profit corporation may act as a signatory on the corporation investment portfolio.

*(Canon 4C[d][I]) (IR #323)*

6. Judge may work as tax preparer for a company as long as it does not interfere with the proper performance of judicial duties, clients will not appear before judge and judicial position will not be used in any way. *(Canon 4D[1][a][b], 4D[2], 2B[2]) (IR #339)*

7. Use of a laudatory quote from an appellate justice to promote book sales is impermissible use of the prestige of judicial office.

*(Canon 4B, 4D[2], 2B[2]) (IR #111)*

## **VI. EDUCATIONAL ACTIVITIES**

1. In conjunction with his/her teaching position at local law school, judge may accept compensation for supervision of independent study program in which students research issues and cases currently pending in judge's court. *(Canon 4A) (IR #116)*

2. Judge may give presentation to city attorney's office on the efficacy of domestic violence laws so long as s/he makes clear presentation is available to defense bar as well. *(Canon 2A) (IR #141)*

3. Judge may not appear on television as a consultant on the use of force in criminal cases. *(Canon 2B[2]) (IR #343)*

4. A judge may attend an educational program concerning engineering and mechanical aspects of the red light monitoring program, but should be careful that the presentation does not touch upon legal enforcement. *(Canon 4B) (IR #84)*

## **VII. COMMUNITY OUTREACH**

1. A judge may co-chair a minority clerkship's program sponsored by local bar associations. *(Canon 4A, 4B) (IR #127)*

2. Judge may tape a public service announcement urging participation in the foster parents program. *(Canon 2A, 4A) (IR #214)*

3. Judge may not deliver a presentation of the perils and penalties of DUI at sobriety checkpoint set up by local police departments. *(Canon 2A) (IR #234)*

4. Judge may use court email to alert judicial officers to bar association functions. *(Canon 2A)(IR #291)*

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