

JUDICIAL ETHICS UPDATE

October 1989

This is the eighth *Judicial Ethics Update* from the Ethics Committee of the California Judges Association. The *Update* highlights areas of current interest from the approximately 150 informal responses rendered since December 1988 to judges' questions on the Code of Judicial Conduct.

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. Judges may direct questions on the Code of Judicial Conduct to the Ethics Committee by writing or calling the CJA office or any Ethics Committee member.

I. Civic and Charitable Activities.

- A. A judge may permit a civic group to use the judge's photograph in judicial robe in its publication in connection with an article honoring the judge for community service, where the honor is not related to the judge's official duties or to any fundraising activity. Canon 5, Opinion 36.
- B. A judge may be an honoree at a fundraising dinner of a nonprofit organization, where the only announcement that the judge will be an honoree will come at the dinner, and there will be no use of the judge's name in advertising the dinner or soliciting funds. Canon 5, Opinion 41.
- C. A judge may serve as a member of the Board of Directors of a nonprofit organization which provides advice and assistance to Vietnam veterans, where the Board will do no fundraising, and no remuneration is given to its members. Canon 5.

II. Political Activities.

- A. A judge may publicly support a tax override measure or other ballot proposition that would provide revenue for court operations or jail construction, since the objects of the funding pertain to the administration of justice. Canon 4, Opinion 32.
- B. A judge may appear before a local political organization to administer the oath of office to newly elected officers and to deliver a speech, so long as the speech is nonpartisan. Canon 7.
- C. A judge may permit the use of the judge's name in a roster of community officials joining to honor an elected official, when this is done in connection with a dinner sponsored by a nonpartisan organization and is not in connection with an election campaign. Canon 7.

- D. A candidate for judicial office is not prohibited from having his or her name appear in a slate mailer/flyer, provided that the mailer/flyer does not constitute or imply an endorsement of any non-judicial candidate and does not imply that the judge is a candidate for a partisan office or is a partisan candidate running for a judicial office. Canon 7.

III. Business Activities.

- A. While there is nothing inappropriate in a new judge's retention of a license as a real estate broker for the judge's own use in making investments, such activity should be limited in order to avoid the likelihood that the judge, and perhaps other judges, will be placed in positions necessitating recusal or disqualification in matters coming before the court. Canons 5 and 6.
- B. A new judge may maintain his or her license as a CPA to assist family members and those who are in similarly close relationship to the judge, if those services do not interfere with the proper performance of judicial duties. It would be inappropriate, however, for the judge to continue serving former clients, inasmuch as the duties of a judge must take precedence over all other activities, and because a judge must regulate extra-judicial activities to minimize the risk of disqualifying relationships. Canons 2, 3, 5, and 6.

IV. Conduct Outside the Courtroom.

- A. A judge may ask a local bar associate to endorse legislation which would provide court facilities and services, because such matters deal with the administration of justice. Canon 4.
- B. A judge should decline the use of a boat or vacation home offered by an attorney who appears regularly in the judge's court, because such use would constitute a gift, but the judge may rent the boat or home from the attorney for the reasonable value of its use. Canon 5.
- C. A judge may appear on television to discuss court programs and to answer questions concerning the justice system in general. Where a judge's participation involves answering questions put to the judge by a moderator or by callers, a judge must be mindful of the prohibition against discussion of cases pending in the court system. Canons 3, 4, and 5.
- D. A judge may participate in a tour of a utility company's power plants and other facilities, but should not accept as a gift the costs of the tour, if the interests of the utility have come or are reasonably likely to come before the judge. Canons 2A, 2B, 5C(4)(c).
- E. A judge may accept appointment to a drug abuse advisory committee or other similar board which deals with matters concerning the administration of justice, but may not

serve on bodies such as a county or city planning commission, airport advisory committee, or school board. Canons 4C, 5G, and Opinion 22.

V. Conduct Within the Courtroom.

- A. While a judge has no direct ethical obligation to regulate or prohibit the receipt of Christmas or other gifts by court staff, an appearance of judicial impropriety may be created by staff members' receipt of gifts, as this may convey to the donor or to others that the donor is in a special position to influence the courtroom staff. Canon 2.
- B. A person who has served as judge pro tempore in a particular matter should not thereafter undertake representation of a party in the same case. Compliance Section B.

VI. Educational Activities.

- A. A judge who hears DUI cases may not take part in teaching police officers proper courtroom demeanor and persuasive aspects of testimony as part of a police officers' training program, because to do so would give the appearance that the judge is coaching or otherwise assisting witnesses for one side of such cases. Canons 2 and 4.
- B. A judge should not appear as a speaker in an educational program hosted by a legal firm primarily for the benefit of its clients, even though members of the public will be invited, because to do so would be to lend the prestige of the judicial office to advance the private interest of others. Canons 2 and 3, Opinion 29.