

MINNESOTA BOARD ON JUDICIAL STANDARDS

SUMMARY OF ADVISORY OPINIONS

2017

PREFACE

Each year, the Board issues advisory opinions applying the Minnesota Code of Judicial Conduct (Code) to various specific questions submitted by judges and judicial officers who are subject to the rules of judicial behavior. A synopsis of each advisory opinion is printed in the Board's annual report in the year issued. This index contains summaries of those advisory opinions as listed in the annual reports.

The Board's rules require confidentiality in all transactions except public proceedings. For this reason, neither the identity of the judicial officer requesting the advisory opinion nor any determinative facts which might lead to an unintended identification may be disclosed.

This index is meant to serve as a quick reference tool to aid researchers in locating these summaries of advisory opinions. Because an advisory opinion often addresses several different topics of judicial conduct, these summaries often are listed in multiple topic headings. Where the original advisory opinion cites to specific canons or rules, the summary includes those citations. Over the years, the Code of Judicial Conduct has been revised on several occasions. Although most of the rules embrace common principles, many of the numbering systems and titles have undergone revision. Readers are encouraged always to check the most current edition of the Code of Judicial Conduct, as well as Minnesota statutory and case law. The Board encourages contact from judicial officers, lawyers and the general public.

Finally, the summaries contained in this index cannot be regarded as conclusively resolving any current or future question of judicial ethics. The summaries may not be regarded as constituting a binding precedent on judicial conduct. The advisory opinions issued by the Board are not binding on the Minnesota Supreme Court or any panel appointed to hear a contested public case. Due to member term limits, the composition of the Board itself is subject to regular change. Although it always seriously considers the contents of prior advisory opinions, the Board is not required to strictly follow the views of past Boards and cannot bind a future Board. Several of the advisories are contradictory, representing different views of the same question. Additionally, as noted above, not all of the pertinent facts used to determine the result in an advisory opinion can be presented in any particular synopsis.

Although these summaries cannot be regarded as binding precedent or as conclusively supporting any particular specific result, the Board intends this index to serve as a useful tool to help inform and assist judges, lawyers and the general public engaged in the study of judicial ethics. It is the Board's hope that by presenting this index, the principles of judicial ethics will be more accessible to all interested persons and the discussion and study of this important topic will be encouraged.

Digest of Topic Headings

A

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A

-Administrative Appointments

-Affidavit, *See*: Testifying

-Appointments to Governmental Positions, Committees, Boards, Commissions

-1983, Inappropriate for workers' compensation judges to serve as members of the Advisory Council on Workers' Compensation created by *M.S. 175.007, 1983*.

-1988, Appropriate for a judge to write the Judicial Selection Committee to support or oppose an appointment for the Court of Appeals.

-1989, Inappropriate for a judge to serve as a member of a committee charged with studying capital punishment in Minnesota.

-1989, Inappropriate for a judge to seek or serve as a member of the Metropolitan Airport Commission of Minneapolis-St. Paul.

-1989, Appropriate for a judge to serve on a task force to review the Board of Medical Examiners disciplinary process.

-1993, Appropriate for judges to serve on family violence councils promoted by the State Court Administrators Office. *Canon 4C*.

-1993, Inappropriate for a judge to serve as a member of a public school board. *Article 6, Section 6, Minn. Constitution*.

-2002, Inappropriate for judges to serve on government task force aiming to improve behavior in college students. *Canons 4A, 4C(2)*.

-Arbitrator/Mediator

-1994, Inappropriate for a judge to serve as a volunteer mediator or arbitrator for either public or private institutions. *Canon 5E*.

-1998, Appropriate for retired judge, under a six-month or year-long assignment by the Supreme Court to a specific judicial district, to act as a mediator or arbitrator while not assigned to or engaged in judicial duties. *Canon 4F*.

-1999, Inappropriate for judge to permit a law clerk to act as administrator for a mediation referral service. *Canons 3A, 3B, 3D, 4D, 4F.*

-2007, Inappropriate for a retired judge, who by law is not permitted to practice law, to publicly advertise or announce availability as an arbitrator or mediator during any period of judicial assignment. *Canons 1, 2A, 2B, 4F.*

- 2007, Inappropriate for retired judge, who by law is not permitted to practice law, to publicly advertise or announce availability to provide services as an arbitrator or mediator utilizing a photograph that depicts the judge in a judicial robe. *Canons 1, 2A.*

- 2008, Except when assigned as part of regular judicial duties and expressly permitted by law, it is improper for a judge to perform any type of dispute resolution services, including mediation and arbitration, whether or not for economic gain. *Canons 1, 2A, 2B, 4A, 4C(3), 4F.*

B

-Bar Activities

-1980, Inappropriate for a judge to co-chair a committee to solicit funds for a county bar foundation.

-1989, Appropriate for a lawyer who is president of a district bar association to complete the term after appointment to the bench.

-Benefits

- 2004, Appropriate for a judge to maintain current interest in life insurance policy in a 401(k) plan maintained by former law firm where (a) the plan is separately administered, (b) the value of the policy is not dependent on the financial condition of the firm, (c) the interest is fully vested and requires no communication with the firm or contribution from the firm, (d) the premiums for the policy are paid by the judge, and (e) there is no practical alternative. *Canons 1, 2A, 3D(1)(c), 3D(1)(d)(iii).*

-Bequests

-Bias

-1992, Appropriate for a judge to hear a case involving a bank where the judge has a home loan. However, the judge should disclose the relationship to the parties. *Canons 3C(1)(c), 3C(1)(d)*.

-Board on Judicial Standards

-1981, Board on Judicial Standards does not have authority to represent or defend the judiciary from spurious complaints.

-Business Activities

-1999, Appropriate for a judge to continue to participate as a partner in a closely held family business after he assumes the bench. *Canon 4D*.

-2004, Appropriate for judicial officer to provide part or full-time referee and child support magistrate services as an independent contractor/employee of a closely held professional corporation where the corporation does no other business nor derives any other income. *Canons 1, 2A, 4A, 4D(3), M.S. 319B.06(3)*.

C

-Campaign Activity

-1978, Appropriate for a judge running for re-election to be pictured on campaign material in judicial robes.

-1980, Appropriate for an attorney campaigning for judicial office to campaign door-to-door, display his posters in businesses and public places, and send out letters to voters with his history and qualifications.

-1980, Inappropriate for a candidate for judicial office to compel the incumbent to respond to the candidate's "statement of facts".

-1998, Inappropriate for a judicial candidate to permit their judicial election committee to share office space and expenses with another judicial candidate's election committee. *Canon 5A(1)(b)*.

-2003, Appropriate for judge to attend public retirement event for an elected official if no political activity is anticipated, no special attention is requested by, or accorded to, the judge, event is not organized for political fundraising, and is not election related. *Canons 1, 2, 4A, 4C, 5.*

-2006, Appropriate for a former judge to support a candidate for election to office, act as a special assistant public defender and volunteer to an organization that provides legal services to persons in need, where the former judge was retired on the basis of disability and was not eligible to serve as an active/retired judicial officer. *Canons 4, 5.*

-2016, A candidate for judicial office may pay the election filing fee from campaign funds. Minnesota Statutes sections 211B.12 and 10A.01, subdivision 26(15) (2014) permit judicial candidates to use campaign funds to pay the filing fee. Rule 4.1(A)(7) of the Code does not prohibit the payment of the filing fee because the filing fee is not “for the private benefit of the judge, the candidate, or others.”

-Campaign Statements, Pledges, Commitments

-1990, Appropriate for a judge to discuss decisions and opinions of the appellate courts during an election contest.

-Charitable Organizations and Activities

-1977, Appropriate for a judge to serve as a director of The United Way.

-1978, Appropriate for court personnel to voluntarily hold a fundraiser to defray medical costs for a judge’s paraplegic son.

-1978, Appropriate for a van gifted to a paraplegic son of a judge to be registered in the judge’s name.

-1986, Inappropriate for a judge to participate in a charitable fundraising event in which the judge is jailed, and then bailed out of jail via contributions to the charity.

-1989, Appropriate for a judge to serve on the Dakota County Community Action Council, an adjunct of the United Way, in distributing funds to various charitable and social organizations as long as the judge is not engaged in fundraising.

-1990, Inappropriate for a judge to participate in a jail and bail program sponsored by the American Cancer Society. *Canons 1, 2, 5B(2).*

- 1991, Inappropriate for a judge to accept a plea agreement which provides for the defendant to make a contribution to a non-religious, non-denominational program.
- 1991, Inappropriate for a judge to order a defendant to pay a fine to the United Way, a non-religious, or non-denominational program without an agreement between the state and the defendant.
- 1993, Inappropriate for a judge performing a marriage ceremony to request in lieu of a fee, that the couple make a donation to a charity or church designated by the judge.
Canon 5D.
- 1994, Inappropriate for a judge to order a criminal defendant to pay money to a charity as part of a plea agreement. *Canon 5B(2).*
- 1995, Inappropriate for judge to write a letter in support of the Kids Network for use in the network's fundraising activities. *Canon 5B.*
- 1996, Appropriate for judge to serve as a trustee of a charitable foundation and receive compensation commensurate with other trustees as long as the service does not require a time commitment which would interfere with the judge's duties and the judge is not involved in fundraising activities. *Canons 4C(3), 4C(3)(b), 4H.*
- 1998, Appropriate for a judge to serve as director of charitable and educational organization designed to address problems of drug abuse and violence in schools. However, the judge may not be involved in any fundraising activities on behalf of the organization. *Canon 4C(3).*
- 1999, Inappropriate for a judge to serve as a counselor or non-legal advisor to children in the care of a charitable institution because under the facts presented, it was likely that the children would appear before the judge and because the children were frequently engaged in adversary proceedings in the court of which the judge was a member. *Canon 4C.*
- 1999, Appropriate for judge to accept membership in the American Judicial Society where the annual dues are provided by a charitable foundation. However, the membership and related materials received from the organization are not the personal property of the judge and must remain in the possession of the judicial office for official use. *Canon 4D(5).*
- 2000, Appropriate for a judge to attend a reception sponsored by the Minnesota Chapter of the American Board of Trial Advocates because the Chapter's activities are not conducted for the political or economic advantage of its members, the Chapter does not

appear in court to advance positions and a number of the judges are members of the organization. *Canon 4C(3)*.

-2001, Appropriate for a judge who serves on the governing body of a charitable organization in compliance with *Canon 4C*, to allow their name to appear on the organization's letterhead. But if the letterhead is also used for fundraising, it is not proper to permit the organization to use the title "Honorable," "Judge," or some other similar official designation on letterhead used by the organization. *Canon 4C(3)(b)*.

-2002, Inappropriate for a judge to be the subject of an article in a brochure of a charitable organization for fundraising purposes. *Canon 4C(3)(b)*.

-2007, Appropriate for judge, on occasion of a death in judge's family and on behalf of the family, to request interested persons to make contributions to charity or education "in lieu of flowers" as long as the judge or judicial officer does not designate a specific organization. *Canons 1, 2A, 2B, 4A, 4C(3), 4C(3)(b), 4D(5)(d), 4D(5)(h)*.

-2007, Appropriate for judge to answer questions from a prospective contributor about the activities of a charitable, religious, civic, or educational organization as long as there is no solicitation for contributions. *Canons 1, 2A, 2B, 4A, 4C(3)(b)*.

-Civic Organizations and Activities

-1980, Inappropriate for a judge to co-chair a committee to solicit funds for a county bar foundation.

-1982, Inappropriate for judge to maintain membership in the Citizens for Better Government, a non-partisan, non-profit, organization which promotes, aids, and endorses qualified candidates for municipal office.

-1984, Appropriate for a judge to serve on the board of Turning Point, which is a treatment center.

-1987, Inappropriate for judge to serve on the board of directors of Legal Assistance of Dakota County.

-1987, Appropriate for a judge to become a member of the National Advisory Board of United Palestinian Appeal Inc. The Board later advised that a judge should not use "Honorable" or "Judge" in any letterhead used by the organization.

-1988, Appropriate for a judge to serve on the board of governors for the Calhoun Beach Club.

-1988, Inappropriate for judge to sign a letter soliciting funds for a rape and abuse crisis center.

-1988, Appropriate for a judge to serve on the board of the Minnesota School for the Arts and Resource Center.

-1989, Appropriate for a judge to be a member of the Board of Minnesota Lawyers International Human Rights Committee.

-1989, Appropriate for a lawyer who is president of a district bar association to complete the term after appointment to the bench.

-1989, Appropriate for a judge to be a member of the steering committee to establish a teaching chair at the University of Minnesota.

-1989, Appropriate for a judge to serve on a task force to review the Board of Medical Examiners disciplinary process.

-1990, Appropriate for a judge to be a member of Amnesty International but not to allow name to be on letterhead nor to serve as a board member.

-1990, Appropriate for judge to act as parliamentarian for the annual meeting of the Kiwanis Club. However, the judge should avoid giving opinions which might constitute the practice of law.

-1990, Appropriate for a judge to serve on the board of directors for the Academy of Certified Trial Lawyers of Minnesota.

-1991, Inappropriate for a judge to serve on the board of directors for the Alexandra House, a shelter for women.

- 1991, Appropriate for a judge who was on a task force that established the St. Paul Ethical Practices Board to participate in roundtable discussions concerning the development and purpose of the board.
- 1991, Appropriate for a judge to be a member of the Hispanic Bar Association, but may not solicit potential members by sending out invitations and applications over the judge's signature.
- 1993, Appropriate for a judge to serve as a member of a joint city-independent school district-library board. *Canon 5B*.
- 1994, Appropriate for judge to serve as a board member of a multi-county mental health center but must disclose the board membership when center staff members appear as witnesses before the judge or reports from the center are furnished to the judge in a proceeding. *Canons 4C, 3C, 3D*.
- 1995, Appropriate for a judge, judge's spouse or guest to attend, as non-paying guests, a sponsored bar association function. *Canon 5C(4)(b)*.
- 1995, Appropriate for judges to accept invitations to dinners with officers and directors of the Minnesota Defense Lawyers Association but should pay for their own expenses of the event, including meals. *Canons 5C(4)(a), 5C(4)(b)*.
- 1995, Inappropriate for judge to function as master of ceremonies at an event sponsored by the Mental Health Association of Minnesota where a silent auction is conducted as a fundraising event. *Canons 2B, 5B(2)*.
- 1995, Appropriate for a judge who has been active in city park board athletic programs for children to be honored by the use of the judge's name on a special fund established for the athletic program. However, the judge may not be involved in the solicitation of funds for this program. *Canon 5B(2)*.
- 1997, Appropriate to permit representatives of community groups and organizations to make presentations at judge's meetings regarding their group's positions on various issues. However, the following should be considered: (1) that the presenters offer an educational learning experience, (2) the presentation is to a group of judges, such as a judicial conference or bench meeting, (3) the presentation will not diminish the dignity of the court or cause the appearance of impropriety. *Canon 4A*.

- 1998, Appropriate for a judge to serve on the board of a foundation that is dedicated to the promotion and recognition of academic excellence. However, a judge may not engage in soliciting funds for such a foundation. *Canon 4C(3)*.
- 1999, Appropriate for a community theater to name a new facility for an actively serving judge. *Canon 2B*.
- 1999, Appropriate for judge to accept membership in the American Judicial Society where the annual dues are provided by a charitable foundation. However, the membership and related materials received from the organization are not the personal property of the judge and must remain in the possession of the judicial office for official use. *Canon 4D(5)*.
- 2000, Appropriate for a judge to serve as a director of an organization existing to support various cultural activities where the judge is not required to engage in fundraising activity, the judge's impartiality is not adversely affected, the organization is not conducted for the economic or political benefit of its members and does not engage in legal proceedings. *Canon 4C(3)*.
- 2002, Inappropriate for a judge to serve as the president of the Minn. State Bar Association. *Canon 4C*.
- 2003, Appropriate for a judge to serve on the "advisory board" of a community corrections program organized pursuant to M.S. 241.31, so long as (1) the judge signs no fund raising or similar requests on behalf of the board, (2) the judge does not personally solicit funds or in-kind contributions for the board, (3) the judge is not advised as to the specific results of any solicitation for the funds, (4) the judge makes every effort to insure that any person or entity solicited for funds is advised that no judge will know whether or not the person or entity was solicited or actually made a contribution, and (5) the board is not independently engaged in litigation. *Canons 1, 2, 2B, 4A, 4C(3)(b)*.
- 2005, Appropriate for a judge to become a candidate for or serve as president of Minn. State Bar Association so long as (1) the time commitment does not interfere with the judge's ability to perform judicial duties (2) the judge does not personally solicit election support (3) the judge does not seek to identify lawyers who may not support his or her candidacy (4) the judge strictly avoids the appearance that certain lawyers may or may not be entitled to special treatment or advantage in proceedings before the judge (5) the judge refrains from publicly discussing or debating issues the MSBA favors or disfavors and (6) the judge endorses or speaks only on behalf of proposed legislation that concerns the law, the legal system or the administration of justice and refrains from endorsing or

speaking on behalf of any legislation that seeks to achieve any underlying social, political or civic objective.

-2006, Appropriate for judge to serve as an officer, director, trustee, or non-legal advisor of an organization that recruits minority lawyers for employment so long as the organization's activities are not limited to lawyers representing or promoting the interests of specific categories of parties or issues and the judge is mindful about giving the impression that a recruited lawyer or hiring firm has any extraordinary influence over judicial activities. *Canons 1, 2A, 2B, 2C, 4A, 4C.*

-2007, Appropriate for judge to serve as chairperson of organization promoting efforts to apply "progressive spiritual principles to the needs in our community and nation...our families, work places, communities, and political lives," so long as the judge avoids fundraising activities, public speaking or writing that implies commitment to a cause or causes that may come before the court for adjudication and makes reasonable efforts to protect the judicial office from association with the extra-judicial activity. *Canons 1, 2A, 2B, 3A(9), 3D(1), 4, 4C(3), 5A, 5C.*

-2007, Appropriate for judge to answer questions from a prospective contributor about the activities of a charitable, religious, civic, or educational organization as long as there is no solicitation for contributions. *Canons 1, 2A, 2B, 4A, 4C(3)(b).*

-2010, Appropriate for a judge to support and encourage the creation and existence of a lawyer panel which provides representation to criminal defendants who do not qualify for public defense but are unable to afford private representation by: (1) permitting the creation and operation of the panel, (2) permitting brochures about the panel to be created and distributed at courthouse facilities, (3) briefly announcing at the beginning of a pertinent court calendar, that lawyers affiliated with the panel are available for consultation. However, the judge should disclaim any connection between the panel and the court and advise that it is not permissible for the court to endorse, refer, or recommend any lawyer. It is appropriate for the judge to ask participating lawyers to raise their hands in court, but there should be no other participation by the court in future interactions. A judge should also emphasize that the participating lawyers do not speak for the court and that the court facilities are furnished solely as a matter of convenience. *Canons 1, 2, Rules 1.1, 1.2, 1.3, 2.2, 2.4, 2.11, 2.13.*

-Communication with Jurors

-Competence

-Conflict of Interest, *See*: Disqualification

-Conduct Demeaning to Judicial Office

-Conservatorship

-Consultation with Government Officials

-1987, Appropriate for judges to respond to the Minnesota State Board of Legal Certification concerning the trial skills and competency of the lawyers who appear before them for the purpose of certification.

-1987, Appropriate for judges to respond to inquiries made by law enforcement agencies but it is inappropriate for judges to originate or volunteer advice on the manner or scope of the investigation or prosecution.

-1988, Appropriate for a judge to write the Judicial Selection Committee to support or oppose an appointment for the Court of Appeals.

-1989, Inappropriate for a judge to seek or serve as a member of the Metropolitan Airport Commission of Minneapolis-St. Paul.

-1989, Inappropriate for a judge to serve as a member of a city's governmental ethics committee.

-1990, Inappropriate for a judge to write legislators to support a bill directly affecting the judge's pension. The board suggested the bill be supported by the Bar Association or the District Judges' Association.

-1993, Appropriate for judges to serve on family violence councils promoted by the State Court Administrators Office. *Canon 4C*.

-2002, Inappropriate for judges to serve on government task force aiming to improve behavior in college students. *Canons 4A, 4C(2)*.

-Continuing Legal Education

-1994, Inappropriate for judges to attend free CLE courses sponsored by large law firms. *Canons 2B, 5C(4)*.

-1997, Appropriate to permit representatives of community groups and organizations to make presentations at judge's meetings regarding their group's positions on various issues. However, the following should be considered: (1) that the presenters offer an educational learning experience, (2) the presentation is to a group of judges, such as a judicial conference or bench meeting, (3) the presentation will not diminish the dignity of the court or cause the appearance of impropriety. *Canon 4A*.

-Conviction of a Crime

-Cooperation

-Cooperation, with Disciplinary Authorities

D

-Decorum/Temperament

-Demean Judicial Office

-2002, Appropriate for a judge who was a celebrity prior to assuming office, to permit the production of a biographical videotape as long as the video does not demean the judicial office, interfere with the proper performance of judicial duties, cast reasonable doubt on the judge's capacity to act impartially, or violate fundraising restrictions. *Canons 1, 2A, 2B, 4C(2)*.

-Demeanor

-Disability

-Diligently, Perform Duties

-1997, Appropriate for a judge to offer a defendant in a traffic violation case, the option to participate in Decision Driving Court, a course offered by a local vocational college. *Canon 3A(2)*.

-Director

-1987, Inappropriate for a judge to serve on the board of directors of Legal Assistance of Dakota County.

-1998, Appropriate for a judge to serve as director of charitable and educational organization designed to address problems of drug abuse and violence in schools. However, the judge may not be involved in any fundraising activities on behalf of the organization. *Canon 4C(3)*.

-2006, Appropriate for judge to serve as an officer, director, trustee, or non-legal advisor of an organization that recruits minority lawyers for employment so long as the organization's activities are not limited to lawyers representing or promoting the interests of specific categories of parties or issues and the judge is mindful about giving the impression that a recruited lawyer or hiring firm has any extraordinary influence over judicial activities. *Canons 1, 2A, 2B, 2C, 4A, 4C*.

-2009, Inappropriate for a judge or judicial officer to serve as a member of the board of directors of an organization that engages in advocating for the benefit of its members. *Canons 1, 2A, 2B, 4A, 4C(3), 4C(3)(a)*.

-Discriminatory Organizations, Affiliation with

-Disqualification

-1977 (amended in 2015), Appropriate for a judge who has an ongoing installment sale contract for office equipment to a law firm to disqualify himself or herself in matters in which the law firm appears, unless disclosure is made and consents obtained as provide in Rule 2.11(C). *See State v. Pratt*, 813 N.W.2d 868 (Minn. 2012).

-1978, Appropriate for a judge whose spouse runs an active business employing local attorneys to disqualify if those attorneys appear before the judge.

- 1984, Appropriate for a judge whose spouse becomes the mayor of a municipality, to handle city misdemeanor cases, but may need to disqualify in cases where there was litigation involving the municipality.
- 1986, Inappropriate for judge to hear criminal welfare cases where the judges' son is chief of the welfare division in the county attorney's office.
- 1989, Appropriate for a judge to hear cases where a county attorney has brought a mandamus action against the district's judges.
- 1989, Appropriate for a judge to remain on a case after the Supreme Court remands to make findings, and thereafter one of the parties files an affidavit of prejudice.
- 1992, Appropriate for a judge to hear cases involving a bank where the judge has a home loan. However, the judge should disclose the relationship to the parties. *Canons 3C(1)(c), 3C(1)(d)*.
- 1997, Appropriate for a judge to join with other residents of their county in a class action lawsuit in federal court. Furthermore, it is appropriate for a judge to hear cases involving the law firm which represented the class in the federal action. *Canon 4D*.
- 1998, Appropriate for a judge to be a member of an investment club, even if one of the members of the club is an investigator who has previously testified in a county in which the judge presides. However, unless the relationship is disclosed, the judge should recuse from any case in which the investigator is involved. *Canon 4D(1)(b)*.
- 1998, Appropriate for a judge to recuse where a serious threat to the judge's physical wellbeing is made, unless such a disqualification would cause a serious disruption to the court proceedings. *Canon 3D*.
- 2004, Judges not required to disqualify solely on grounds that an attorney or party has filed an ethical complaint against the judge. *Canons 1, 2A, 3A(1), 3A(3), 3A(4), 3D*.

-Drug, Use

E

-Educational Organizations and Activities

- 1983, Inappropriate for a retired judge who has engaged in a full-time position as a fundraiser for an educational institution, including solicitation from judges and lawyers, to return to part-time duties as a sitting judge, even if the judge has severed the relationship with the institution.
- 1987, Appropriate for a picture and “success” story of a judge to be used in promotional materials to attract students to a private college.
- 1993, Inappropriate for a judge to serve as a member of a public school board. *Article 6, Section 6, Minn. Constitution.*
- 1991, Appropriate for a judge to serve as an officer of a education grant foundation. However, the judge should not use judicial title on foundation letterhead.
- 1995, Appropriate for judge to participate in a promotional video profiling the judge in a public service announcement for the Minnesota Higher Education Service Office. *Canon 5B.*
- 1997, Appropriate for a judge to offer a defendant in a traffic violation case, the option to participate in Decision Driving Court, a course offered by a local vocational college. *Canon 3A(2).*
- 1998, Appropriate for a judge to serve as director of charitable and educational organization designed to address problems of drug abuse and violence in schools. However, the judge may not be involved in any fundraising activities on behalf of the organization. *Canon 4C(3).*
- 1998, Appropriate for a judge to serve on the board of a foundation that is dedicated to the promotion and recognition of academic excellence. However, a judge may not engage in soliciting funds for such a foundation. *Canon 4C(3).*
- 2007, Appropriate for judge, on occasion of a death in judge’s family and on behalf of the family, to request interested persons to make contributions to charity or education “in lieu of flowers” as long as the judge or judicial officer does not designate a specific institution. *Canons 1, 2A, 2B, 4A, 4C(3), 4C(3)(b), 4D(5)(d), 4D(5)(h).*

-2007, Appropriate for judge to answer questions from a prospective contributor about the activities of a charitable, religious, civic, or educational organization as long as there is no solicitation for contributions. *Canons 1, 2A, 2B, 4A, 4C(3)(b)*.

-Election to Non-judicial Office

-Executor, *See*: Fiduciary Positions

-External Influences on Judicial Conduct

-Ex Parte

-2001, Inappropriate for a judge to issue an ex parte order on the basis of a close personal relationship and without requiring a prima facie basis for the action requested. *Canons 2A, 3A(2), 3A(7)*.

-2009, Inappropriate for a judge or judicial officer to issue an order in a contested case based on a proposal by one side without giving the opposing side an opportunity to be heard. *Canons 1, 2, Rules 1.2, 2.2, 2.3, 2.6(A), 2.9*.

-2010, Appropriate for a judge to consult and consider an electronic judicial information system such as MNCIS for the limited purpose of setting bail and issuing misdemeanor sentences if (1) all interested parties are present (2) the pertinent information is provided to the defendant in open court (3) the defendant has an opportunity to dispute the information or otherwise be heard. *Canons 1, 2, Rules 1.2, 2.2, 2.3(A), 2.6(A), 2.9(A), 2.9(C), 2.11(a)(1)*.

-Extrajudicial Activities in General

-1978, If a candidate for sheriff, without the judge's consent, has reprinted in his campaign literature a letter from the judge commending the candidate for work in combatting juvenile delinquency, the judge may write letters to local newspapers clarifying that he does not endorse any candidate for sheriff.

-1981, Inappropriate for a judge who is not running for re-election to rent a booth at county fair to disseminate information about the court system to fairgoers. *Canon 7A(2)*.

-1984, Appropriate for a judge, along with a family member and other professionals, to jointly participate in the construction of town homes for their individual residences.

-1985, Inappropriate for Court of Appeals to include a congratulatory notice in the Minneapolis Labor and Review. *Canons 2B, 5B(2)*.

- 1989, Appropriate for judge to write a gratuitous endorsement to a family law book written by lawyers on instructing litigants in family law matters.
- 1989, Appropriate for a judge to serve for a small honorarium on the editorial board of a legal publishing company.
- 1989, Appropriate for a judge to officiate high school basketball games as long as no remuneration is accepted. *Canon 5*.
- 1989, Inappropriate for a judge to seek or serve as a member of the Metropolitan Airport Commission of Minneapolis-St. Paul.
- 1989, Inappropriate for a judge to serve as a member of a city's governmental ethics committee.
- 1989, Appropriate for a lawyer who is president of a district bar association to complete the term after appointment to the bench.
- 1989, Appropriate for a judge to be a member of the steering committee to establish a teaching chair at the University of Minnesota.
- 1989, Appropriate for a judge to serve on a task force to review the Board of Medical Examiners disciplinary process.
- 1993, Inappropriate for a judge to serve as a member of a public school board. *Article 6, Section 6, Minn. Constitution*.
- 1995, Appropriate for a judge to serve as an honorary chair for a reception honoring a well-known artist at the opening of an art exhibit where the event is social and not a fundraising activity. *Canons 5B, 4B(2)*.
- 1999, Inappropriate for a judge to edit a legal textbook where (1) a county within the judge's judicial district holds the copyright on the text and (2) a contract to market and sell the text was in existence between the judge and an association of lawyers, because these factors cast reasonable doubt on the judge's capacity to act impartially as a judge and interferes with the proper performance of judicial duties. *Canons 4A, 4B, 4H*.
- 2005, Inappropriate for a judge to write a forward for a book about the treatment of juveniles in court when the book adopts controversial theories that could come before the court. *Canons 2A, 4A, 4B*.

-2007, Appropriate for judge to serve as chairperson of organization promoting efforts to apply “progressive spiritual principles to the needs in our community and nation...our families, work places, communities, and political lives,” so long as the judge avoids fundraising activities, public speaking or writing that implies commitment to a cause or causes that may come before the court for adjudication and makes reasonable efforts to protect the judicial office from association with the extra-judicial activity. *Canons 1, 2A, 2B, 3A(9), 3D(1), 4, 4C(3), 5A, 5C.*

-2009, Appropriate for judge or judicial officer to serve as an on-call part time municipal firefighter as long as (1) judicial duties are first priority (2) firefighting will not impede execution of judicial duties (3) the activity will not occur during judicial working hours (4) activity will not use court resources (5) litigation involving the agency is extremely rare (6) the judge will regularly reevaluate the activity to determine if it is proper to continue the affiliation. *Canon 1, Rules 1.1, 1.2, 3.1, 3.7.*

F

-Family Members, Appearing Before Judge

-1986, Inappropriate for judge to hear criminal welfare cases where the judges’ son is chief of the welfare division in the county attorney’s office.

-Fairness

-2009, Inappropriate for a judge or judicial officer to issue an order in a contested case based on a proposal by one side without giving the opposing side an opportunity to be heard. *Canons 1, 2, Rules 1.2, 2.2, 2.3, 2.6(A), 2.9.*

-Fiduciary Activities

-2005, Even where it is otherwise proper for a judge to serve, it is improper for a judge to engage in fiduciary activities if it is likely that the judge will be engaged in proceedings that would ordinarily come before the judge or if the estate, trust, conservator, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction. *Canon 4E.*

- Fiduciary Positions

-1988, Appropriate for a judge to serve as an executor of the Last Will and Testament of spouses' mother.

-1989, Appropriate for a judge to be the personal representative of the estate of a life-long friend and client where the judge had a familial relationship with the decedent and the family.

-2005, Even where it is otherwise proper for a judge to serve, it is improper for a judge to engage in fiduciary activities if it is likely that the judge will be engaged in proceedings that would ordinarily come before the judge or if the estate, trust, conservator, or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction. *Canon 4E*.

-Financial Activities

-1977, Appropriate for a judge to receive payment for interest in a firm and not on a deferred basis where the judge has severed all ties with the former law firm.

-1978, Inappropriate for newly-appointed judge to make an installment sale of his law office to other attorneys in that office.

-1978, Inappropriate for a newly-appointed judge to work on or complete files after the judge assumes office.

-1981, Appropriate for a judge terminating a law practice to transfer files to another attorney chosen by the client or return the files to the client. The judge's spouse should not continue working in the office of the lawyer purchasing the judge's physical assets.

-1983, Appropriate for a judge, who after appointment, who practiced law as a sole shareholder of a professional corporation, to defer the collection of accounts and the sale of assets in dissolving the corporation to the year following appointment for tax purposes.

- 1984, Appropriate for a judge who sold his law office interest to his partners on a 60 month installment program to disclose such facts in proceedings where the purchasing attorneys appear before the judge. *Canon 3C(1)(c)*.
- 1984, Inappropriate for judges to make election contributions to a candidate for judicial office's state-registered campaign.
- 1987, Appropriate for a judge to refer a former client to a former partner who now has the client's original files concerning a matter previously handled by the judge.
- 1995, Appropriate for former law firm of newly appointed judge to share in the expense of the judge's swearing-in ceremony and reception for the judge's guests. *Canon 5C(4)(a)*.
- 1998, Appropriate for a new judge to receive payment owed on a contingency fee case pending at the time the judge assumed the bench where the method of determining the judge's share of the fee was fixed at the time the judge took office. *Canon 4D*.
- 2001, Upon assuming the bench, a judge should divest herself or himself from all financial interests and other economic ties to their former law firms in the shortest possible time. A judge has a duty to preside over as many types of cases as possible and has a related duty to minimize the burdens created on the judicial system by frequent disqualification. But, unless the account can be transferred to another plan without substantial loss and there is no other reasonable alternative, it is appropriate for a recently appointed judge to maintain a pension and profit-sharing account with his former law firm for a reasonable period of time not to exceed three years. *Canons 2A, 3 D(1)(c), 3 D(d)(iii)*.
- 2010, It is proper for a judge to remain a shareholder in the corporation in which the judge previously practiced law where (1) the sole purpose of the continued existence of the corporation is to collect receivables and pay debts, (2) prior to assuming office, the judge resigns from the corporation in every other capacity including director, officer, and employee, (3) after assuming office, the judge has no legal or other connection to the corporation, (4) the corporation does not conduct any business related to the law or the practice of the law, (5) the corporation is dissolved within a year after the judge assumes office, even if some receivables are still outstanding, (6) the judge's participation in the collection activities are minimal (7) the judge disqualifies from any case in which other shareholders appear for a period of 12 months and thereafter, for a period of three years and where otherwise necessary, discloses the previous existence of the relationship. *Canons 1, 2, 3, Rules, 1.1, 1.2, 2.2, 2.11, 3.11*.

-Fraternal Organizations and Activities

-Fundraising

-1980, Inappropriate for a judge to co-chair a committee to solicit funds for a county bar foundation.

-1983, Inappropriate for a retired judge who has engaged in a full-time position as a fundraiser for an educational institution, including solicitation from judges and lawyers, to return to part-time duties as a sitting judge, even if the judge has severed the relationship with the institution.

-1985, Appropriate for a judge to be involved in and serve on the board of a non-profit foundation formed to consider the role of women as lawyers and judges and the improvement of the judicial system so long as judges do not participate in fundraising activities and all fundraising activities are performed by a contract fundraiser.

-1988, Inappropriate for judge to sign a letter soliciting funds for a rape and abuse crisis center.

-1991, Inappropriate for a judge to accept a plea agreement which provides for the defendant to make a contribution to a non-religious, non-denominational program.

-1991, Inappropriate for a judge to order a defendant to pay a fine to the United Way, a non-religious, or non-denominational program without an agreement between the state and the defendant.

- 1993, Inappropriate for a judge performing a marriage ceremony to request in lieu of a fee, that the couple make a donation to a charity or church designated by the judge. *Canon 5D*.
- 1994, Inappropriate for a judge to order a criminal defendant to pay money to a charity as part of a plea agreement. *Canon 5B(2)*.
- 1995, Inappropriate for judge to function as master of ceremonies at an event sponsored by the Mental Health Association of Minnesota where a silent auction is conducted as a fundraising event. *Canons 2B, 5B(2)*.
- 1995, Inappropriate for judge to write a letter in support of the Kids Network for use in the network's fundraising activities. *Canon 5B*.
- 1995, Appropriate for a judge who has been active in city park board athletic programs for children to be honored by the use of the judge's name on a special fund established for the athletic program. However, the judge may not be involved in the solicitation of funds for this program. *Canon 5B(2)*.
- 1995, Appropriate for judge to serve as an honorary chair for a reception honoring a well-known artist at the opening of an art exhibit where the event is social and not a fundraising activity. *Canons 5B, 4B(2)*.
- 1996, Inappropriate for a judge to participate in a celebrity fundraising event as a non-paying guest. *Canons 4C(3), 4C(3)(b)*.
- 1996, Appropriate for judge to serve as a trustee of a charitable foundation and receive compensation commensurate with other trustees as long as the service does not require a time commitment which would interfere with the judge's duties and the judge is not involved in fundraising activities. *Canons 4C(3), 4C(3)(b), 4H*.
- 2000, Appropriate for a judge to serve as director of an organization existing to support various cultural activities where the judge is not required to engage in fundraising activity, the judge's impartiality is not adversely affected, the organization is not conducted for the economic or political benefit of its members and does not engage in legal proceedings. *Canon 4C(3)(b)*.

-2001, Appropriate for a judge who serves on the governing body of a charitable organization in compliance with *Canon 4C*, to allow his or her name to appear on the organization's letterhead. But if the letterhead is also used for fundraising, it is not proper to permit the organization to use the title "Honorable," "Judge," or some other similar official designation on letterhead used by the organization. *Canon 4C(3)(b)*.

-2002, Inappropriate for judges to be subject of articles in brochures for charitable organizations for fundraising purposes. *Canon 4C(3)(b)*.

-2003, Appropriate for a judge to attend a public retirement event for an elected official if no political activity is anticipated, no special attention is requested by the judge, the event is not organized for political fundraising, and is not election related.
Canons 1, 2, 4A, 4C, 5.

-2003, Inappropriate for a judge to sign a letter or endorse a grant application seeking private funding for a governmental entity or seeking private or governmental funding for a non-governmental entity, no matter how worthy the cause or how closely related to the law, the legal system or the demonstration of justice. However, a judge, in the regular course of official judicial duties, may sign a letter or endorse a grant application seeking funding from a governmental entity for a drug court. *Canons 1, 2A, 2B, 4C(3)(b)*.

-2003, Appropriate for judge to assist in preparing a non-governmental grant application to fund a court dedicated to a special purpose as long as the application is not signed by the judge, the judge does not personally solicit funds, the judge is not advised as to specific results of the application, the judge takes action to ensure his anonymous assistance in composing the application, and the solicited person or entity is advised that no judge will know whether they made a contribution. *Canons 1, 2, 2B, 4A, 4C(3)(b)*.

-2003, Inappropriate for judge to raise non-governmental funds for court related projects or activities. *Canon 4C(3)(b)*.

-2007, Appropriate for judge to serve as chairperson of an organization promoting efforts to apply "progressive spiritual principles to the needs in our community and nation...our families, work places, communities, and political lives," so long as the judge avoids fundraising activities, public speaking or writing that implies commitment to a cause or causes that may come before the court for adjudication, and makes reasonable efforts to protect the judicial office from association with the extra-judicial activity. *Canons 1, 2A, 2B, 3A(9), 3D(1), 4, 4C(3), 5A, 5C.*

-2007, Inappropriate for a judge to permit a religious group to announce judge's speaking engagement in a writing that also includes a solicitation for funds. *Canons 1, 2A, 2B, 4C(3)(b)*.

G

-Guardian Ad Litem

-2001, Appropriate for judges to appoint to the position of *guardian ad litem* the spouse of another judge in their district, so long as the relationship to the judge is disclosed and the parties have an opportunity to object or be heard on the matter. *Canon 3(B)(4)*.

-Gifts

-1979, Appropriate for a judge who received a ring in the mail from an unknown source to deposit the ring with the clerk and notify authorities.

-1994, Inappropriate for judge to participate in a golf/social event sponsored by a large law firm that invites lawyers, business clients, friends, and judges to the event. *Canon 2B*.

-1995, Appropriate for judges to accept invitations to dinners with officers and directors of the Minnesota Defense Lawyers Association but should pay for their own expenses of the event, including meals. *Canons 5C(4)(a), 5C(4)(b)*.

-1995, Appropriate for former law firm of newly appointed judge to share in the expense of the judge's swearing-in ceremony and reception for the judge's guests. *Canon 5C(4)(a)*.

-1995, Appropriate for a judge to accept complimentary subscriptions for CD-ROM disks of state statutes and appellate court decisions for use by the judge in judicial business, provided the subscriptions are not the judge's personal property but that of the judge's office. *Canon 5C(4)(a)*.

-1996, Inappropriate for a judge to participate in a celebrity fundraising event as a non-paying guest. *Canons 4C(3), 4C(3)(b)*.

-1999, Appropriate for The Supreme Court to accept, on behalf of the Minnesota State Law Library, a gift of money for the purpose of purchasing important state treatises for the law library and to refurbish existing deteriorated volumes. *Canon 4D(5)*.

-2006, Inappropriate for judge to accept a gift of membership dues offered by a lawyer bar organization that specializes in representing or promoting the interests of specific parties or issues because the acceptance of the gift might create an improper appearance and affect the appearance of impartiality. *Canons 1, 2A, 2B, 4A*.

-Governmental Bodies, Appearances Before

-Grants, *See*: Fundraising

H

-Harassment

-Hostility, Towards Judges

-Hostility, Towards Lawyers

-Hostility, Towards Parties

-Hostility, Towards Witnesses

-Humor, Inappropriate

I

-Impairment

-Impartiality

-1977 (amended in 2015), Appropriate for a judge who has an ongoing installment sale contract for office equipment to a law firm to disqualify himself or herself in matters in which the law firm appears, unless disclosure is made and consents obtained as provide in Rule 2.11(C). *See State v. Pratt*, 813 N.W.2d 868 (Minn. 2012).

-2000, Judge may serve as director for cultural organization existing to support various cultural activities where the judge is not required to fundraise, the judge's impartiality is not affected, the organization is not conducted for the economic benefit of its members and does not engage in legal proceedings. *Canon 4C(3), Rule 3.7.*

-Impartially, Perform Duties

-Impropriety

-Income Producing Activities

-1989, Appropriate for a judge to participate in the preparation of a supplement to a law book sold to lawyers for a modest remuneration.

-1989, Appropriate for a judge to officiate high school basketball games as long as no remuneration is accepted. *Canon 5.*

-1999, Appropriate for a judge to continue to participate as a partner in a closely held family business after he assumes the bench. *Canon 4D.*

-2004, Inappropriate for judges to advertise in newspapers to perform weddings. However, judges may participate in promotional activities that list groups of available judges, such as a rotating registry maintained by a judicial district. *Canons 1, 2A, 2B, 4A and 4D(1)(a).*

-2004, Appropriate for a judicial officer to provide part or full-time referee and child support magistrate services as an independent contractor/employee of a closely held professional corporation where the corporation does no other business nor derives any other income. Minnesota law provides that the use of a professional corporation does "not alter any law applicable to the relationship between a person furnishing professional services and a person receiving professional services. *Canons 1, 2A, 4A, 4D(3), M.S. 319B.06(3).*

-Independence

-Integrity

-Investments

-1998, Appropriate for a judge to be a member of an investment club, even if one of the members of the club is an investigator who has previously testified in a county in which

the judge presides. However, unless the relationship is disclosed, the judge should recuse from any case in which the investigator is involved. *Canon 4D(1)(b)*.

-2004, Appropriate for a judge to maintain current interest in life insurance policy in a 401(k) plan maintained by former law firm where (1) the plan is separately administered, (2) the value of the policy is not dependent on the financial condition of the firm, (3) the interest is fully vested and requires no communication with the firm or contribution from the firm, (4) the premiums for the policy are paid by the judge, and (5) there is no practical alternative. *Canons 1, 2A, 3D(1)(c), 3D(1)(d)(iii)*.

-2010, Proper for judge to remain a shareholder in the corporation in which the judge previously practiced law where (1) the sole purpose of the continued existence of the corporation is to collect receivables and pay debts, (2) prior to taking office, judge has no connection to the corporation, (3) the corporation does not conduct any business related to the law or practice of the law, (4) the corporation is dissolved within a year after the judge takes office, even if some receivables are outstanding, (5) the judge's participation in collection activities are minimal, (6) the judge disqualifies from any case in which other shareholders appear for a period of one year and thereafter, for a period of three years and where otherwise necessary, discloses the previous existence of the relationship. *Canons 1, 2, 3, Rules, 1.1, 1.2, 2.2, 2.11, 3.11*.

J

-Judicial Statements on Pending and Impending Cases

K

L

-Language, Inappropriate in Courtroom

-Law Clerks

-1999, Inappropriate for judge to permit a law clerk to act as an administrator for a mediation referral service because under the facts presented, (1) it was likely that some of the cases processed by the service might come before the court, (2) the law clerk gained factual knowledge of the cases in the course of making the referral, and (3) the law clerk's factual knowledge of the cases created an appearance of impropriety. *Canons 3A, 3B, 3D, 4D, 4F*.

-Lawyers, Law Associations

-1977 (amended in 2015), Appropriate for a judge who has an ongoing installment sale contract for office equipment to a law firm to disqualify himself or herself in matters in which the law firm appears, unless disclosure is made and consents obtained as provide in Rule 2.11(C). *See State v. Pratt*, 813 N.W.2d 868 (Minn. 2012).

-1986, Inappropriate for judge to hear criminal welfare cases where the judges' son is chief of the welfare division in the county attorney's office.

-1989, Appropriate for judge to write a gratuitous endorsement to a family law book written by lawyers on instructing litigants in family law matters.

-1990, Inappropriate for a judge to be on the board of directors for the Academy of Certified Trial Lawyers of Minnesota.

-1994, Inappropriate for judge to participate in a golf/social event sponsored by a large law firm that invites lawyers, business clients, friends, and judges to the event. *Canon 2B*.

-1994, Inappropriate for judges to attend free CLE courses sponsored by large law firms. *Canons 2B, 5C(4)*.

-1995, Appropriate for judges to accept invitations to dinners with officers and directors of the Minnesota Defense Lawyers Association but should pay for their own expenses of the event, including meals. *Canons 5C(4)(a), 5C(4)(b)*.

-1997, Appropriate for a judge to join with other residents of their county in a class action lawsuit in federal court. Furthermore, it is appropriate for a judge to hear cases involving the law firm which represented the class in the federal action. *Canon 4D*.

-Legal Organizations and Activities: *See: Civic Organizations and Activities*.

-Letters of Recommendation

-1978, If a candidate for sheriff, without the judge's consent, has reprinted in his campaign literature a letter from the judge commending the candidate for work in combatting juvenile delinquency, the judge may write letters to local newspapers clarifying that he does not endorse any candidate for sheriff.

-1981, Appropriate for appellate court judge to write a letter of recommendation concerning a lawyer whom the judge personally knew and worked with and who also appeared before the judge.

-1987, Appropriate for judges to respond to the Minnesota State Board of Legal Certification concerning the trial skills and competency of the lawyers who appear before them for the purpose of certification.

1993, Appropriate for a judge to write letters of recommendation, but judges should be sensitive to the possible abuse of the prestige of the office and the letters should be based on the judge's personal knowledge in the ordinary course of activities. *Canon 2B*.

-1999, Appropriate for a judge to provide a written recommendation of employment for a lawyer acting as a public defender to the county attorney of a county within the district in which the judge presides, as long as the letter is (1) requested by the prospective employer, (2) prepared in the ordinary course of judicial activities, (3) based on the judge's personal knowledge of the lawyer's skills and abilities, and (4) to the judge's satisfaction, is not in breach of the prohibition against lending the prestige of the judicial office to advance the private interests of the lawyer or others. *Canon 2B*.

-2003, Appropriate for a judge to furnish a letter of support for a person seeking (1) employment, (2) admission to an education institute, (3) admission to a bar, or (4) appointment to the bench or similar office, if the letter is based solely on personal knowledge of pertinent skills and abilities. *Canon 2B*.

-2015, A judge may write a letter to the Governor or the Commission on Judicial Selection recommending an applicant for judicial office, provided that the judge has personal knowledge of the applicant and the recommendation is not publicly disseminated. *Rule 1.2 cmt. 2 and Rule 4.1(A)(3), Code of Judicial Conduct*.

-2008, Inappropriate for a judge or judicial officer to address a permitted letter of recommendation in such a way as to facilitate its use by recipients that are unintended or unknown at the time of writing, such as “To whom it may concern.” *Canons 1, 2A, 2B, 4A, 4C(3)*.

-2008, Appropriate for a judge or judicial officer, based on personal knowledge of his or her legal abilities, to submit a recommendation letter on behalf of a public defender for employment as a prosecutor. *Canons 1, 2A, 2B, 4A, 4C(3)*.

-2013, [Full text of Minnesota Board opinion](#).

-Loans

M

-Magistrate (*Also see: Business Activities*)

-1999, A part-time child support magistrate may practice family law before any Minnesota court in addition to discharging judicial duties, including any division established by any county, except for the division in which the magistrate serves. *Application Section, Paragraph C2*.

-2004, Appropriate for a judicial officer to provide part or full-time referee and child support magistrate services as an independent contractor/employee of a closely held professional corporation where the corporation does no other business nor derives any other income. Minnesota law provides that the use of a professional corporation does “not alter any law applicable to the relationship between a person furnishing professional services and a person receiving professional services. *Canons 1, 2A, 4A, 4D(3), M.S. 319B.06(3)*.

-Minimizing Risk of Conflict with Obligations of Judicial Office

-2002, Judges may not serve as president of Minn. State Bar Association. *Canon 4C*.

N

-Non-profit Organizations

-1977, Appropriate for a judge to serve as a member of the board of directors of a non-profit organization to oversee a cooperative home for persons with developmental disabilities. This opinion was reached in light of the possibility that a guardianship issue could possibly require disqualification.

-1978, Inappropriate for judge to make financial contributions to the Lawyers Public Affairs Commission, a non-partisan, non-profit organization, to support election of state legislators.

-1982, Inappropriate for judge to maintain membership in the Citizens for Better Government, a non-partisan, non-profit, organization which promotes, aids, and endorses qualified candidates for municipal office.

-1983, Appropriate for judge to be a member of the governing board of Search Institute, a national non-profit corporation researching and conducting projects on interfamilial relationships, teachers, counselors, and clergy, as long as the judge does not participate in any fundraising activities.

-1985, Appropriate for a judge to be involved in and serve on the board of a non-profit foundation formed to consider the role women as lawyers and judges and the improvement of the judicial system so long as judges do not participate in fundraising activities and all fundraising activities are performed by a contract fundraiser.

-2005, Judges may serve on board for non-profit corporation promoting recruitment of minority lawyers in the Twin Cities and may speak in support of the organization, as long as the judge does not give the impression that any lawyer or firm supporting the purposes of the non-profit corporation are in a position to influence rulings. It is not proper for a judge to act as the incorporator of the non-profit or to participate in the actual recruitment or hiring process.

-Nonpublic Information, Use of

O

-Other Things of Value

-1979, Appropriate for a judge who received a ring in the mail from an unknown source to deposit the ring with the clerk and notify authorities.

P

-Part-Time Judges

-Participation in Political Activities

-1984, Appropriate for a judge to comment on another judge from the same district who is running for re-election's qualifications and court activities if asked by the news media.

-1984, Inappropriate for judges to make election contributions to a candidate for judicial office's state-registered campaign.

-Photographs/Photography

-1978, Appropriate for a judge running for re-election to be pictured on campaign material in judicial robes.

-1987, Appropriate for a picture and "success" story of a judge to be used in promotional materials to attract students to a private college.

-2003, Inappropriate for a judge to permit taking of photos in the courtroom and areas immediately adjacent thereto, during sessions or recess between sessions unless photos will be exhibited only for instructional purposes by educational institutions. *Canon 3A(1)*.

-2007, Inappropriate for retired judge, who by law is not permitted to practice law, to publicly advertise or announce availability as an arbitrator or mediator during a period of any judicial assignment. *Canons 1, 2A, 2B, 4F*.

-Political Activity

-1978, If a candidate for sheriff, without the judge's consent, has reprinted in his campaign literature a letter from the judge commending the candidate for work in combatting juvenile delinquency, the judge may write letters to local newspapers clarifying that he does not endorse any candidate for sheriff.

-1984, Inappropriate for judges to make election contributions to a candidate for judicial office's state-registered campaign.

-1988, Inappropriate for a judge to receive an award from a district political party. *Canons 1, 2, 7A(1)C, 7A(4).*

-2003, Appropriate for judge to attend public retirement event for an elected official if no political activity is anticipated, no special attention is requested by, or accorded to, the judge, event is not organized for political fundraising, and is not election related. *Canons 1, 2, 4A, 4C, 5.*

-Practice of Law

-1977, Inappropriate for a judge to practice as an attorney except in cases in which he is a party. *M.S. 484.06 (1977).*

-1978, Inappropriate for a newly-appointed judge work on, or complete files after the judge assumes office.

-1987, Appropriate for a judge to refer a former client to a former partner who now has the client's original files concerning a matter previously handled by the judge.

-1988, Inappropriate for the name of a judge to be used in the name of a law firm.

-1990, Appropriate for judge to act as parliamentarian for the annual meeting of the Kiwanis Club. However, the judge should avoid giving opinions which might constitute the practice of law.

-1991, Inappropriate for a judge to represent family members in the preparation and filing of a Decree of Descent. *Canon 5F.*

-1999, A part-time child support magistrate may practice family law before any Minnesota court in addition to discharging judicial duties, including any division

established by any county, except for the division in which the magistrate serves.
Application Section, Paragraph C2.

-1999, A judge may not serve as a counselor or non-legal advisor to children in the care of a charitable institution because under the facts presented, it was likely that the children would appear before the judge and because the children were frequently engaged in adversary proceedings in the court of which the judge was a member. *Canon 4C.*

-2005, Improper for a retired active judge who by law cannot practice law in Minnesota due to judicial activity, to practice law in any other state while in an active status. *Canon 4G, M.S. 2.274(3).*

-2010, Lawyers serving as part-time judges pursuant to Section IV of the Application Rules may not, during the period of service, practice law in the district court of the county in which the part-time judge serves. If the county is divided into divisions, the lawyer may not practice law in the division in which he or she serves as part-time judge.
Application Rules Section IV, Canon 3, Rules 3.2, 3.10.

-Precedence Over All Judge's Personal and Extrajudicial Activities

- Prestige of Judicial Office, Abuse of

-Prejudice

-Public Elections, Political and Campaign Activities

-1984, Appropriate for a judge to comment on another judge from the same district who is running for re-election's qualifications and court activities if inquired by the news media.

-1984, Inappropriate for judges to make election contributions to a candidate for judicial office's state-registered campaign.

-1993, Inappropriate for a judge to serve as a member of a public school board. *Article 6, Section 6, Minn. Constitution.*

-Public Honors/Awards

-1995, Appropriate for a judge who has been active in city park board athletic programs for children to be honored by the use of the judge's name on a special fund established for the athletic program. However, the judge may not be involved in the solicitation of funds for this program. *Canon 5B(2)*.

-1999, A community theater may name a new facility for an actively serving judge. *Canon 2B*.

-Public Statements

-2004, Appropriate for a judge to comment on a settled class action over which the judge previously presided and in which the only remaining activity is the processing and satisfaction of claims, as long as comments are limited to the procedural aspects of the case and are made within the confines of a continuing legal education presentation. *Canon 3A(8)*.

-Publishing, *See*: Extrajudicial Activities in General

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-Recommendation, *See*: Letters of Recommendation

-Recruiting *Pro Bono* Attorneys

-2005, Proper for judges to engage in a recruiting and training pro bono attorneys and to participate in the education of attorneys and the public regarding the need for pro bono services. However, all communications by judges in furtherance of this goal should avoid the use of aggressive or forceful language and refrain from using words or activities that place undue pressure on lawyers to serve. *Canons 1, 2A, 2B, 4B, 4C(1), 4C(3)(b)*.

-Referee

-2004, Appropriate for judicial officer to provide referee and child support magistrate services as independent contractor for closely held corporation where corporation does no other business nor derives any other income. *Canons 1, 2A, 4A, 4D(3), M.S. 319B.06(3)*.

-Reimbursement of Expenses

-Religious Organizations and Activities

-Reporting Requirements

-1980, Appropriate for a judge to report probable criminal activity that the judge is made aware of during the course of a criminal trial when it will not likely come to the attention of prosecutors otherwise. Appropriate for the judge to bring the matter, including transcripts and evidence, to the prosecutor.

-1986, A judge is not required to report possible welfare fraud coming to the judge's attention during a dissolution matter.

-1987, Appropriate for a judge to recuse and advise both the county attorney and defense attorney of a letter sent by a defendant to the judge admitting a crime with which the defendant is charged.

-2009, No duty to report criminal activity disclosed in court proceedings. That decision is left to the judgment and conscience of the judge. Factors to consider include (1) Is the alleged offense of a serious nature? (2) Is the evidentiary basis for the report sufficient? (3) Is there danger to the community or is a public trust involved? (4) Is it likely that the wrongful conduct would come to light absent a report? (5) Are there other persons or entities aware of the wrongful conduct? (6) Did the crime have an individual victim and if so, was the victim's ability to report the matter interfered with in any way? (7) Was a lawyer representing an appropriate governmental or law enforcement authority present? (8) Would the report positively or adversely affect the appearance of the judge's impartiality or promote the public's confidence in the judiciary? *Canon 1, Rules 1.1, 1.2, 2.3, 2.11, 3.1*.

-Responding to Misconduct, Judicial

-Responding to Misconduct, Lawyer

-Responsibility to Decide

-1991, Inappropriate for judges not sitting on a case to submit affidavits setting out their opinions on the interpretation of a statute on the subject matter of the suit pending before the sitting judge.

-Retired Judges

-1995, A retired judge, no longer eligible for recall to judicial service, is not subject to the Code of Judicial Conduct.

-1998, Appropriate for retired judge, under a six-month or year-long assignment by the Supreme Court to a specific judicial district, to act as a mediator or arbitrator while not assigned or engaged in judicial duties. *Canon 4F*.

-2006, Appropriate for a former judge to support a candidate for election to office, act as a special assistant public defender and volunteer to an organization that provides legal services to persons in need, where the former judge was retired on the basis of disability and was not eligible to serve as an active/retired judicial officer. *Canons 4, 5*.

-Right to Be Heard

-2009, Inappropriate for a judge or judicial officer to issue an order in a contested case based, in whole or in part, on a proposal by one side, without first providing the opposing side an opportunity to be heard. *Canons 1, 2, Rules 1.2, 2.2, 2.3, 2.6(A), 2.9*.

-2010, Proper for judge to consult and consider an electronic judicial information system such as MNCIS for the limited purpose of setting bail and issuing misdemeanor sentences if (1) all interested parties are present (2) the pertinent information is provided to the defendant in open court (3) the defendant has an opportunity to dispute the information or otherwise be heard. *Canons 1, 2, Rules 1.2, 2.2, 2.3(A), 2.6(A), 2.9(A), 2.9(C), 2.11(a)(1)*.

-Rude Behavior

S

-Sexual Harassment

-Serving on a Board of Directors, *See*: Director

-Shareholder

-2010, Appropriate for a judge to remain a shareholder in the corporation in which the judge previously practiced law where (1) the sole purpose of the continued existence of the corporation is to collect receivables and pay debts (2) prior to taking office, judge has no connection to the corporation (4) the corporation does not conduct any business related to the law or practice of the law (5) the corporation is dissolved within a year after the judge takes office, even if some receivables are outstanding (6) the judge's participation in the collection activities are minimal (7) the judge disqualifies from any case in which other shareholders appear for a period of one year and thereafter, for a period of three years and where otherwise necessary, discloses the previous existence of the relationship. *Canons 1, 2, 3, Rules, 1.1, 1.2, 2.2, 2.11, 3.11.*

-Speaking, Fundraising Events

-2003, Appropriate for a judge to attend a public retirement event for an elected official if no political activity is anticipated, no special attention is requested by the judge, the event is not organized for political fundraising, and is not election related. *Canons 1, 2, 4A, 4C, 5.*

-Speaking, On behalf of Political Organizations

-Spouse, Judges

-1978, Appropriate for a judge whose spouse runs an active business employing local attorneys to disqualify if those attorneys appear before the judge.

-1979, The Board lacked jurisdiction to give an opinion to wife of a judge concerning acceptance of a paralegal position with Minnesota Legal Aid.

-1981, Appropriate for a judge terminating a law practice to transfer files to another attorney chosen by the client or return the files to the client. The judge's spouse should not continue working in the office of the lawyer purchasing the judge's physical assets.

-1984, Appropriate for a judge whose spouse becomes the mayor of a municipality, to handle city misdemeanor cases, but may need to disqualify in cases where there was litigation involving the municipality.

-1990, Appropriate for a judge to preside over cases from the county attorney's office where the judge's wife's niece is married to the county attorney, however, the judge should recuse in cases where the county attorney personally appears.

-1995, Appropriate for a judge, judge's spouse, or guest to attend, as non-paying guests, a sponsored bar association function. *Canon 5C(4)(b)*.

-1995, Appropriate for judges to accept invitations to dinners with officers and directors of the Minnesota Defense Lawyers Association but should pay for their own expenses of the event, including meals. *Canons 5C(4)(a), 5C(4)(b)*.

-Statements and Comments Made during a Campaign for Judicial Office

-Supervisory Duties

T

-Testifying

-1983, Appropriate for a judge who prior to his appointment to the bench, was a lawyer retained as an expert in a legal malpractice case, to testify at the trial of the case scheduled shortly after the appointment.

-1988, Inappropriate for judges to act as an expert witness in a criminal case even if subpoenaed.

-1989, In a federal action where a local police officer is sued by a defendant, it is appropriate for a judge to provide an affidavit of the facts concerning a telephone call the judge received from the local police requesting an oral search or arrest warrant for permission to forcibly enter a home and arrest the defendant who allegedly had fled.

-2006, Appropriate for judge to testify to facts within the judge's personal knowledge concerning a lawyer practicing in the judge's court. A subpoena is required before the judge can be asked to provide testimony regarding the lawyer's character. *Canons 1, 2A, 2B, 2C, 4A*.

-Terminating Law Practice Upon Appointment or Election to Judicial Office, *See*: Financial Activities

-Ticket-fixing

-Trustee

-1990, Appropriate for a judge to act as trustee for a trust created in another jurisdiction where the settler of the trust was a close personal and family friend of the judge. *Canon 5D*.

-1994, Appropriate for a judge to act as trustee of a close personal friend's child with a developmental disability. *Canon 5D*.

-1996, Appropriate for judge to serve as a trustee of a charitable foundation and receive compensation commensurate with other trustees as long as the service does not require a time commitment which would interfere with the judge's duties and the judge is not involved in fundraising activities. *Canons 4C(3), 4C(3)(b), 4H*.

-2006, Appropriate for judge to serve as an officer, director, trustee, or non-legal advisor of an organization that recruits minority lawyers for employment so long as the organization's activities are not limited to lawyers representing or promoting the interests of specific categories of parties or issues and the judge is mindful about giving the impression that a recruited lawyer or hiring firm has any extraordinary influence over judicial activities. *Canons 1, 2A, 2B, 2C, 4A, 4C*.

-Trusts

-2002, When intended to honor prior public service unrelated to judicial office, it is appropriate to permit the establishment of an endowment in the judge's name providing scholarships for students as long as (1) future donors are advised during solicitation that the judge will not be advised if a contribution is made or refused, (2) the judge does not attempt to directly or indirectly engage in the selection of beneficiaries of the endowment or its administration, and (3) no reference to the judge is made for fundraising purposes. *Canons 4A, 4C(3)(b)*.

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-Waivers of Fees

-Waivers of Charges

-Wedding Ceremonies, Performing

-1993, Inappropriate for a judge performing a marriage ceremony to request in lieu of a fee, that the couple make a donation to a charity or church designated by the judge.
Canon 5D.

-2004, Inappropriate for judges to advertise in newspapers their availability to perform weddings. However, judges may participate in promotional activities that list groups of available judges, such as a rotating registry maintained by a judicial district. *Canons 1, 2A, 2B, 4A, 4D(1)(a)*.

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Rules on the Board on Judicial Standards, Rule 2(a)(2)

Advisory Opinions. The board may issue advisory opinions on proper judicial conduct with respect to the provisions of the Code of Judicial Conduct. An advisory opinion may be requested by a judge or a candidate for judicial office. A request for an advisory opinion shall relate to prospective conduct only, and shall be submitted in writing and contain a complete statement of all facts pertaining to the intended conduct and a clear, concise question of judicial ethics. The board shall issue a written opinion within 30 days after receipt of the written request, unless the time period is extended by the board. The fact that the judge or judicial candidate requested and relied on an advisory opinion shall be taken into account in any subsequent disciplinary proceedings. The advisory opinion shall not be binding on the hearing panel or the Supreme Court in the exercise of their judicial-discipline responsibilities.

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