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STATE OF NEVADA

STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

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PROPRIETY OF A NEVADA DISTRICT JUDGE SPEAKING OR TEACHING, AND PREPARING WRITTEN MATERIAL RELATED THERETO, FOR COMPENSATION IN CONNECTION WITH A CONTINUING PROFESSIONAL EDUCATION PROGRAM SPONSORED BY A NONPROFIT ORGANIZATION.

In connection with the judicial forum, the judges are being asked to speak or teach on various topics related to civil trial practice and procedure. The participating judges may also be writing or compiling course materials that will be distributed to the attendees. The nonprofit organization sponsor of the judicial forum may compensate the participating judges.

ISSUE

DISCUSSION

May a Nevada district judge speak or teach at a continuing professional education seminar or program and prepare written materials related to such presentation, for which the judge will be compensated, where the program is sponsored and conducted by a nonprofit organization that imposes and collects fees from program attendees?

The Committee is authorized only to render an opinion that evaluates compliance with the requirements of the Nevada Code of Judicial Conduct. *Rule 5 Governing Standing Committee On Judicial Ethics & Election Practices.* Accordingly, this opinion is limited by the authority granted by Rule 5.

ANSWER

Yes.

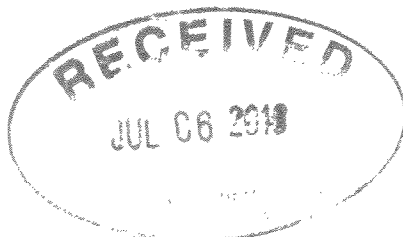
Canon 3 declares that “[a] judge shall conduct the judge’s personal and extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.” Nev. Code Jud. Conduct, Canon 3. Rule 3.1 provides:

FACTS

Several district judges have been asked to participate in a “judicial forum” sponsored by a nonprofit organization that provides continuing professional education for a fee to members of bar associations and the public. The organization has received a ruling from the Internal Revenue Service that the organization has qualified as a nonprofit organization pursuant to 501C(3).

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not;

(A) participate in activities that will interfere with the proper



performance of the judge's judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge;

(C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

(D) engage in conduct that would appear to a reasonable person to be coercive, or

(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Nevada Code of Judicial Conduct, Canon 3, Rule 3.1. The *Commentary* to Rule 3.1 further elaborates:

To the extent that time permits, and judicial independence and impartiality are not compromised, judges are encouraged to engage in appropriate extrajudicial activities. Judges are uniquely qualified to engage in extrajudicial activities that concern the law, the legal system, and the administration of justice, such as by speaking, writing, teaching, or participating in scholarly research projects.

See Nevada Code of Judicial Conduct, Canon 3, Rule 3.1, *Commentary [1]* to Rule 3.1.

Rule 3.7 explains that “a judge may participate in activities . . . sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations *not conducted for profit* . . .” Nevada Code of Judicial Conduct, Canon 3, Rule 3.7(A)(emphasis added).

Rule 3.12 states that judges may – subject to the reporting requirements of Rule 3.15 – be compensated for permitted extrajudicial activities provided the compensation is “reasonable” and unless accepting compensation would “appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.” Nevada Code of Judicial Conduct, Canon 3, Rule 3.12. The *Commentary* for Rule 3.12 explains:

A judge is permitted to accept compensation for extrajudicial activities, provided the compensation is reasonable and commensurate with the task performed and the acceptance of the compensation does not violate NRS 281A.510 prohibiting honoraria. A judge may, however, accept reimbursement for expenses incurred in connection with speaking engagements as provided in Rule 3.14. The judge should be mindful, however, that judicial duties must take precedence over other activities. See Rule 2.1.

See Nevada Code of Judicial Conduct, Canon 3, Rule 3.12, *Commentary [1]* to Rule 3.12.

Subject to the specific requirements of the NCJC, the Committee views a judge's participation as a speaker or instructor at continuing legal education programs as an important extrajudicial activity. As noted in the Commentary to Rule 3.1, jurists are "uniquely qualified" to speak, teach and write on the legal system and judicial process as is the case in this situation. Here the sponsor is a nonprofit educational organization and thus consistent with the mandates of Rule 3.7(A). Nothing about the subject matter of the educational program suggests that judicial independence, integrity or impartiality is at risk from the judges' participation in the judicial forum.

The NCJC acknowledges that judges may be compensated for their participation in this type of extrajudicial activity. Accordingly, the judges may, consistent with the standards and requirements enumerated in Rules 3.12, 3.14 and 3.15, accept reasonable compensation for their participation in the educational program. In particular, the Committee calls to the attention of the participating jurists that the amount of compensation must be reasonable given the tasks performed; consistent with other state statutes and the criteria identified in Rule 3.14 as applicable; and, be reported to the extent mandated by Rule 3.15.

CONCLUSION

A Nevada district judge may speak or teach at a continuing professional education seminar or program and prepare written materials related to such presentation, provided the program is sponsored and conducted by a nonprofit organization. The judge may accept reasonable compensation commensurate with the tasks involved for participating in

the program and consistent with the standards and requirements enumerated in the NCJC.

REFERENCES

Rule 5 Governing Standing Committee On Judicial Ethics & Election Practices; Nevada Code of Judicial Conduct, Canon 3, Rule 3.1, 3.7(A), 3.12, 3.14 & 3.15 *Commentary [1]* to Rule 3.1 & *Commentary [1]* to Rule 3.12.

This opinion is issued by the Standing Committee on Judicial Ethics and Election Practices. It is advisory only. It is not binding on the courts, the State Bar of Nevada, the Nevada Commission on Judicial Discipline, any person or tribunal charged with regulatory responsibilities, any member of the Nevada judiciary, or any person or entity requesting the opinion.


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