

STATE OF NEVADA

STANDING COMMITTEE ON JUDICIAL ETHICS

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ADVISORY OPINION: JE11-014

PROPRIETY OF A JUDGE  
CONTACTING VENDORS OR  
SPONSORS TO OBTAIN DONATIONS  
TO SUPPORT NEVADA JUDICIAL  
LEADERSHIP SUMMIT PROGRAM

ISSUE

May a judge contact vendors or sponsors to seek donations, monetary or otherwise, to support the Nevada Judicial Leadership Summit program convened by the Supreme Court?

ANSWER

No. The Nevada Code of Judicial Conduct precludes a judge or chamber staff from soliciting financial donations from vendors or sponsors in support of the Nevada Judicial Leadership Summit. However, nothing in the Code would preclude staff of the Administrative Office of the Courts from seeking such donations.

FACTS

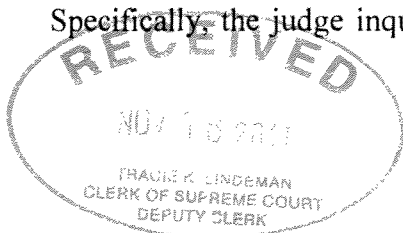
The Nevada Judicial Leadership Summit is a judicial education program convened every four years by the Nevada Supreme Court to provide further education on the law and legal system. A judge has inquired whether the Code permits judges to contact vendors or other sponsors to seek donations, monetary or otherwise, to support or enhance the Nevada Judicial Leadership Summit to help ensure an efficient and effective delivery of court services. Specifically, the judge inquires whether the

vendors or sponsors “may provide a monetary donation that sponsors a meal or may provide a bag or other trinket that judges may use during the conference or back at their court.” The judge inquires whether judges and/or staff from the Administrative Office of the Court may solicit these types of donations. Finally, the judge inquires whether a judge may solicit donations from a vendor who is also a family member of the judge.

DISCUSSION

The Nevada Judicial Code encourages judges “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”. *Comment 1, Rule 3.1* The Commentary acknowledges that “participation in both law-related and other extrajudicial activities helps integrate judges into their communities and furthers public understanding of and respect for courts and the judicial system.” *Comment 2, Rule 3.1.*

However, participation in such activities is not without limits. A judge, at all times, must act in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary. *Rules 1.2, 3.1(C)*. Rule 1.3 prohibits a judge from abusing the prestige of judicial office to advance personal or economic interests of others. *Rule 1.3*. While engaging in extrajudicial fund raising activities, a judge must not take action that would reasonably be perceived as coercive, especially in the



context of soliciting contributions. *See Rule 3.1(D); Comment [4], Rule 3.1.* In that respect, Rule 3.7(A)(2) only permits a judge to solicit contributions for extrajudicial activities from family members. Additionally, the Code provides that a judge should not convey or permit others to convey the impression that any person or organization is in a special position to influence the judge. *See Rule 2.4(C)*

Relevant to the acceptance of gifts or benefits, a judge is prohibited from accepting “gifts, loans, bequests, benefits, or other things of value, if acceptance . . . would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality.” *Rule 3.13.* Subject to this limitation, and provided the judge reports such acceptance in accordance with Rule 3.15, Rule 3.13(C) provides that a judge may accept a gift incident to a public testimonial; an invitation to attend without charge an event associated with a bar-related function or an activity relating to the law, the legal system, or the administration of justice; and gifts or other things of value from friends, relatives, or other persons, including lawyers, “whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification of the judge under Rule 2.11.”

The Commentary cautions, however, that “whenever a judge accepts a gift or other thing of value without paying fair market value, there is a risk that the benefit might be viewed as intended to influence the judge. . . .” *See Commentary [1], Rule 3.13.* Generally, Rule 3.13 imposes restrictions according to the magnitude of risk, allowing acceptance of nominally valued gifts where risk of undermining integrity is low.

Other jurisdictions have examined whether it is proper for judges or court staff to solicit or accept financial sponsorship from organizations to assist the court in presenting a symposium. Some jurisdictions have concluded that the risk of perceived coercion or undermining the integrity of the judiciary is so great, it is absolutely impermissible for a court or its staff to solicit or accept such donations. *See Arizona Adv. Op. 09-01; Arizona Adv. Op. 04-03* (impermissible for a court to solicit or accept contributions to assist in court-run symposium); *see also U.S. Adv. Op. 91 (1994)* (judicial employees may not solicit funds from vendors who do business with the courts to defray the expenses of a conference devoted to the improvement of the judicial system or accept even a truly voluntary offer by a vendor to provide funding). These jurisdictions have concluded the prohibition applies equally whether the event is organized by the court or an individual judge. Notably, Arizona concluded that it may be permissible for a court to relinquish control of the symposium to another group and assist in the organization and presentation. *See Arizona Adv. Op. 04-03* (court may help organize and present law related seminar for other group so long as court avoids fund-raising activities).

Other jurisdictions have concluded that it may be possible for Courts to organize and administer law related symposiums where financial sponsorship occurs, so long as certain limitations on the acceptance of donations are followed. *See Washington Adv. Op. 08-07; Washington Adv. Op. 05-02* (drawing distinction between solicitation by Court and individual judge); *Maine Judicial Ethics Committee, Adv. Op. 92-JE-3.* For example, the Washington Ethics Advisory Committee concluded that active judges are barred from

soliciting contributions from vendors or law firms for symposium sponsorship; however, retired judges or court administrative staff may do so. *See Washington Adv. Op. 08-07.* Additionally, Washington concluded that for contributions from sponsors to be permissible, such sponsors must not be recognized publicly in event materials “in a way that lends the prestige of judicial officers to advance the private interests of the contributors.” *Id.* The Washington Ethics Advisory Committee has also concluded that a court manager may preside over a conference and charge vendors to participate, provided such charges are “only for the actual costs associated” and are “equitably divided among the court vendors participating at the vendor fair”. *Washington Adv. Op. 05-02.* Finally, Washington concluded that a judicial officer should not attend an event where the court is negotiating with a vendor and the vendor is a significant contributor to the event because of the perceived impropriety. *Washington Adv. Op. 08-07.*

The Maine Judicial Ethics Committee has drawn distinctions between contributions made for Court sponsored symposiums and contributions made for the individual benefit of a particular judge. *See.* Acknowledging that judges have an obligation to engage in activities designed to improve the law and legal system, Maine concluded “[t]he distinction between professional and personal benefit is crucial because a professional benefit that goes to the judiciary as a whole from an independent organization poses little problem of judicial prejudice.” Nonetheless, Maine still concluded it was impermissible for judges to engage in “direct fund raising activities.” The Committee also finds it notable that the donor at issue in Maine was the Maine Bar Foundation, a neutral organization, and not a vendor or law firm

that either does business with or appears before the court.

The Committee finds the “limited participation” approach of the Washington and Maine Judicial Ethics Advisory Committees persuasive. The Committee believes the risk of perceived coercion or undermining the integrity of the judiciary precludes active judges or direct court personnel (e.g., bailiffs, court clerks, chamber staff) from soliciting financial donations from vendors or other sponsors for the Summit. However, the Committee believed that nothing in Nevada’s Code precludes staff of the Administrative Office of the Court from making such inquiries or accepting donations, so long as it is clear such inquiries are not made on behalf of a judge or group of judges. The Administrative Office of the Court serves no judicial function, focusing instead on budgets, accounting, human resources, facilities and special events. Given the non-judicial role served by AOC staff, the absence of interaction with judges on administration of cases, and the designated responsibility for coordinating special events, the Committee did not believe the concerns of perceived coercion or undermining the integrity of the judiciary exist where donation inquiries are made by AOC staff.

Some jurisdictions express separate concern that public recognition of donor names may impermissibly lend the prestige of judicial officers to advance the private interests of the contributors. *See Washington Adv. Op. 08-07.* The Committee believes limited public recognition of the names of donors is permissible, however, it cautions that judges should be cognizant that such recognition does not imply endorsement by the Court of vendor products or services, or otherwise

imply that law firms or other donors are in a special position to influence the judge.

Finally, the judge inquired whether a judge may solicit donations from vendors who are also family members of the judge. Although Rule 3.7(A)(2) permits a judge to solicit contributions for extrajudicial activities from family members, the Committee believes that rule is limited to situations where the solicitation is made from a family member in his or her individual capacity. Where a family member also serves as a vendor to the Court, the Committee believes the same concerns of perceived coercion and undermining judicial integrity preclude a judge or chamber staff from directly soliciting contributions from a vendor who happens to also be a family member of a judge.

#### CONCLUSION

The Code precludes a judge or chamber staff from soliciting financial donations from vendors or sponsors in support of the Nevada Judicial Leadership Summit. However, nothing in the Code would preclude staff of the Administrative Office of the Courts from such solicitations, so long as staff does not suggest the inquiry is being made on behalf of a particular judge or judges. The names of donors for the Nevada Judicial Leadership Summit may be recognized, however the Committee cautions that any such recognition should not be made in a manner that would impermissibly suggest the vendor or donor stands in a special position to influence a judge or that lends the prestige of judicial office to advance the private interests of others. Finally, the Committee concludes that Rule 3.7 does not allow a judge to solicit contributions for extra-judicial activities from a vendor where that vendor is also a family member of the judge.

#### REFERENCES

Nev. Code Jud. Conduct, Canon 1, Rule 1.2, Rule 1.3, Rule 2.4, Rule 3.1, Rule 3.7 & Rule 3.13; *Commentary* [1], [2] and [4] to Rule 3.1; *Commentary* [1] to Rule 3.13; *U.S. Adv. Op. 91 (1994)*; *Arizona Adv. Op. 09-01*; *Arizona Adv. Op. 04-03*; *Maine Judicial Ethics Committee, Adv. Op. 92-JE-3*; *Washington Adv. Op. 08-07*; *Washington Adv. Op. 05-02*

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