NCSC

CENTER FOR
JUDICIAL ETHICS

JUDICIAL CONDUCT
REPORTER

Spring | Summer | Fall **2025**

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NEWS & UPDATES

News and Updates from the Center for Judicial Ethics

WELCOME BACK, CINDY GRAY!

The Center for Judicial Ethics is thrilled to announce the return of Cindy Gray. Cindy will be a part-time judicial conduct consultant and will be primarily working on the *Judicial Conduct Reporter* and assisting with information requests. Her email address is cgray@ncsc.org.

Please continue to send your requests for information to Cathy Zacharias as well as to Cindy.

INTRODUCING THE NEW FORMAT OF THE *JUDICIAL CONDUCT REPORTER*

The Center for Judicial Ethics is excited to announce the new format of the *Judicial Conduct Reporter (JCR)* in this combined Spring/Summer/Fall edition. The JCR features an updated design to make the publication more engaging and accessible for our readers.

We are also pleased to share that the JCR will resume its quarterly publication schedule in 2026. If you have an idea for an article providing commentary, research, or practical guidance on judicial ethics and discipline, you would like to write for a future issue, please contact Cathy Zacharias.

ENHANCING ONLINE RESOURCES

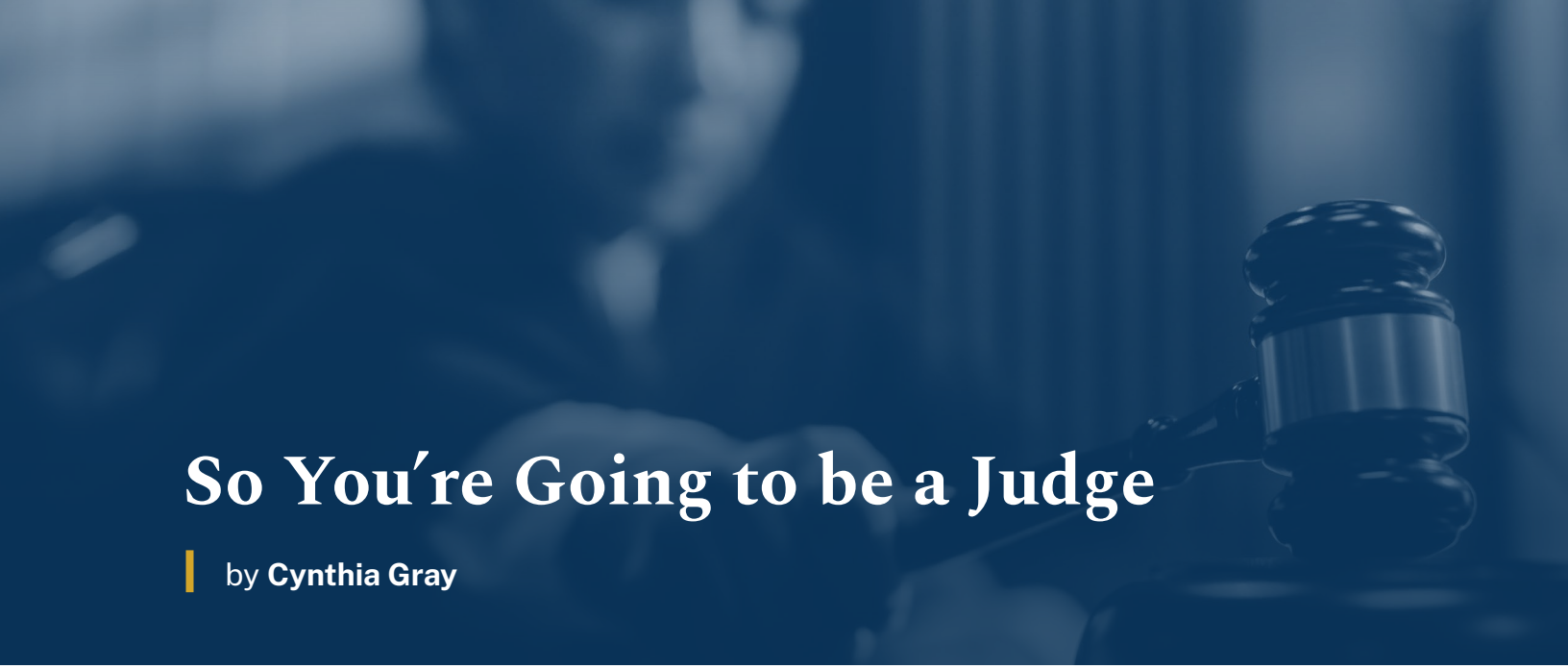
NCSC is currently working to restore valued resources to better serve the judicial conduct commissions, judges, and the public. In May of this year, NCSC migrated to a new website in response to direction from NCSC's board to update the look and feel of the website, and to bring brand consistency to the Center's many and varied products, services and lines of work. Some of the older and archival content, such as the past editions of the *Judicial Conduct Reporter*, were moved into the NCSC Resource Library, which is a separate online database.

NCSC is working on a solution to address these concerns for all of our stakeholders and continues to look at options for how to meet the competing demands of using the website to showcase impact of our collective work, while also providing access to older resources, or resources that are tailored to distinct audiences. CJE is in the process of establishing a work group to provide guidance on the online needs of those who work in or have an interest in judicial conduct and discipline.

NATIONAL COLLEGE ON JUDICIAL CONDUCT AND ETHICS

Nearly 150 conduct commission staff, commission members, judges, and other stakeholders gathered in Louisville in the September for 28th National College on Judicial Conduct and Ethics to explore current and emerging issues in judicial conduct and ethics. The program opened with a plenary on balancing judicial independence and accountability, followed by sessions on sanctions and remedial measures, disqualification and disclosure requirements, judicial demeanor, ethical considerations in Generative AI, judicial well-being, and the role of public members in the disciplinary processes. Attendees also heard about international developments in judicial integrity measures. Thank you to all who contributed to these important conversations on judicial integrity and ethics.

ARTICLES



So You're Going to be a Judge

by **Cynthia Gray**

This is an abridged version of an article originally published in volume 60, issue 2 (2024), of the Court Review, the journal of the American Judges Association. Used with the permission of the AJA.

Before running or applying for judicial office, a judicial hopeful should read the code of judicial conduct to make sure they understand the ethical implications of their aspiration. If they are successful and are elected or appointed to the bench, the budding judge should immediately re-read the code to ensure a smooth, conflict-free transition from advocate to arbiter charged with acting "at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary" and avoiding not only impropriety but "the appearance of impropriety." Rule 1.2, *Model Code of Judicial Conduct* (American Bar Association 2007).

Outlining the advice judicial ethics committees have given about making that shift, this article highlights the provisions in the code that a nascent judge will have to apply immediately before or soon after taking the bench. It begins by listing the inquiries a soon-to-be judge should make about personal, charitable, business, fiduciary, political, and social media activities to evaluate what changes are necessary to conform to the judicial ethics rules. It also considers whether a new judge may accept gifts, including receptions, that are offered to celebrate their new position. Finally, the article discusses winding up a law practice, including withdrawing from representing clients, separating from their firm, and accepting payments for prior legal work.

The article does not cover, but a new judge should assiduously study, the code provisions that establish the core ethical principles governing a judge's judicial duties, such as treating litigants, lawyers, and others with patience, dignity, and courtesy; eschewing ex parte communications; and performing duties competently and diligently.

A NOTE ABOUT THE CODE OF JUDICIAL CONDUCT AND JUDICIAL ETHICS ADVISORY OPINIONS

The basis for the state and federal codes of judicial conduct are the canons of the *Model Code of Judicial Conduct* — adopted by the American Bar Association in 1972 and revised in 1990 and 2007 — although jurisdictions modify the model before adopting it. Unless otherwise indicated, references to rules in this article are to the 2007 model code.

A candidate for appointed or elected judicial office should download their jurisdiction's version of the code onto their computer and bookmark it on their browser for easy reference, and a new judge should transfer it to their new work computer as well. The code can usually be found on the website of the state supreme court (often in court rules), the judicial conduct commission, or the judicial ethics advisory committee.

A judge-select should already be familiar with their state's version of the rules on political and campaign activity in Canon 4 as section I of the application section of the code provides that "Canon 4 applies to judicial candidates," and the terminology section defines "judicial candidate" as "any person, including a sitting judge, who is seeking selection for or retention in judicial office by election or appointment."

At what point a successful judicial candidate becomes a judge and the entire code applies to all of their conduct varies from state-to-state and may even vary within a state. In many states, a judge becomes a judge on taking the oath of office. See, e.g., *New York Advisory Opinion 1998-92; North Carolina Formal Advisory Opinion 2023-1*; *South Carolina Advisory Opinion 5-2006; Texas Advisory Opinion 293* (2007). Other states, however, have created different starting points. *See, e.g., Arizona Advisory Opinion 2000-7* (pursuant to a constitutional provision, an elected judge becomes a judge on "the first Monday in January next succeeding their election," and, by statute, an appointed judge becomes a judge on the effective date of the appointment," that is, when the commission of office is signed).

Approximately 45 states have judicial ethics advisory committees to which a judge can submit an inquiry regarding the propriety of contemplated future action; the United States Judicial Conference has a committee for federal judges. Most of the committees have websites (although some have not

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posted opinions for many years, which may mean they are not active). Depending on the state, the opinions can be oral, informal, or formal. Compliance with an opinion is usually considered evidence of good faith in disciplinary proceedings although an opinion is not usually binding on disciplinary authorities.

A new judge should review their advisory committee's website, examine prior opinions, and read any new opinions as they are posted and otherwise distributed. A new judge should also learn how to ask the committee for an opinion and feel free to ask when they have a question.

Advisory opinions are an invaluable resource for judges who want to develop the sensitive ethical antenna required for public confidence in the judiciary and who want their peers' perspective on interpreting their ethical responsibilities.

OFF THE BENCH

A new judge's new job comes not only with a new role in the justice system but new ethical duties in all of their activities, personal as well as judicial, out in the community as well as in the courthouse. In general, Rule 3.1 requires that an individual newly chosen to be a judge review the personal activities they currently engage in — social, avocational, educational, religious, charitable, fraternal, civic, financial, business, and remunerative — and ask whether those activities will:

- Interfere with the proper performance of their judicial duties;
- Lead to frequent disqualification; or
- Appear to a reasonable person to undermine their independence, integrity, or impartiality as a judge.

As a specific example, a new judge is required to resign immediately from any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation. Rule 3.6.

In addition, a new judge should note that when engaging in even permitted extrajudicial activities, they are prohibited from:

- Using "court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or

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the administration of justice, or unless such additional use is permitted by law" (Rule 3.1(E));

- Intentionally disclosing or using "nonpublic information acquired in a judicial capacity" (Rule 3.5); or
- "Abusing "the prestige of judicial office to advance" their own personal or economic interests or those of others, or allowing others to do so (Rule 1.3).

COMMUNITY ACTIVITIES

People who become judges are often people who have been actively involved in their communities, but even laudable civic activities may bias a judge in favor of particular causes, issues, or parties, distract a judge from judicial duties, or exploit the judicial office for the benefit of private organizations — or at least create the appearance of doing so. Therefore, the code limits judges' charitable activities, even law-related ones.

In the interim between being chosen and taking the bench, a new judge should ask:

- Are any of the nonprofit organizations in which I am an officer or director likely to be engaged in proceedings that would ordinarily come before me or engaged frequently in adversary proceedings in the court of which I am a member or in any court subject to the appellate jurisdiction of my court? Rule 3.7(A)(6).
- Are any of the government commissions on which I serve concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice? Canon 3.4.

If the answer to either question is "yes," the judge will need to resign from that organization or task force before taking office as there is no exception that allows a new judge to continue prohibited involvement after taking the bench.

There may be one limited exception: although advisory committees differ on whether a judge may be an officer of a bar association, even those that prohibit such service allow a bar association officer to complete their term after they become a judicial officer, although barring the new judge from running for another term in the bar position. *See Court Review* article at at footnote 5.

Even for those nonprofit organizations in which a judge may properly be involved, under Rule 3.7, a judge cannot:

- Solicit contributions — except from members of their family or judges they do not exercise supervisory or appellate authority over;
- Ask people to become members of the organization — except for organizations that

are concerned with the law, the legal system, or the administration of justice; or

- Be honored at, be featured on the program of, or permit their title to be used in connection with a fundraising event — except events that concern the law, the legal system, or the administration of justice.

Therefore, a new judge may need to refrain from fundraising activities in that they were accustomed to participating in before becoming a judge and should inform the organization about these new constraints to manage the organization's expectations about their future involvement and to prevent the organization from inadvertently associating them with fundraising that is inappropriate for a judge.

Many states have different exceptions to the general prohibitions on community activities, particularly the fundraising rules, and clarifying the limits is a frequent topic for inquiries to judicial ethics committees. A new judge should consult the code and opinions in their state for direction and ask for an opinion if they have any unanswered question.

BUSINESS AND FINANCIAL ACTIVITIES

A judge generally may engage in "financial activities, including managing real estate and other investments for themselves or for members of their families," but Rule 3.11 has some specific limits on a judge's financial activities and involvement in businesses, in addition to the general limits for extrajudicial activities in Rule 3.1.

In most jurisdictions, Rule 3.11(B) will require a judge-select "to resign as an officer, director, manager, general partner, advisor, or employee of any business entity" except "a business closely held by the judge or members of the judge's family" or "a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family."

Further, to comply with Rule 3.11(C)(3), a judge-select must examine their financial, business, or remunerative activities and withdraw from any that involve "frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves" "as soon as practicable without serious financial detriment" (Comment 2, Rule 3.11) but "in no event longer than one year" (Application, §VI).

To ensure future compliance with the code, a new judge will need to start:

- Keeping informed about their personal and fiduciary economic interests (Rule 2.11(B));
- Making a reasonable effort to keep informed about the personal economic interests of their spouse or domestic partner and minor children residing in their household (Rule 2.11(B)); and
- Conducting their business and financial affairs in a way that avoids frequent disqualification (Rule 3.1(B)).

FIDUCIARY POSITIONS

To comply with Rule 3.8(A), a new judge who is serving as an executor, administrator, trustee, guardian, attorney in fact, or other personal representative will need to withdraw from that fiduciary position. There is an exception that allows a judge to serve as a fiduciary for the estate, trust, or person of a member of their family, that is, "a spouse, domestic partner, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship." Even if the fiduciary position is for a member of the judge's family, a judge must withdraw:

- If serving as a fiduciary will interfere with the proper performance of judicial duties (Rule 3.8(A));
- If the judge will likely be engaged in proceedings as a fiduciary that would ordinarily come before them (Rule 3.8(B));
- If the estate, trust, or ward is or becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction (Rule 3.8(B)); or
- If serving as a fiduciary might require frequent disqualification because the amount of stock in a party held by a trust is more than de minimis (Comment 1, Rule 3.8).

Comment 1 to Section VI of the application section of the code allows a new judge "serving as a fiduciary when selected as judge, . . . to continue to serve as fiduciary, but only for that period of time necessary to avoid serious adverse consequences to the beneficiaries of the fiduciary relationship and in no event longer than one year." One year is an outside limit, and new judges must immediately begin to extricate themselves from their fiduciary appointments without waiting until the deadline draws near, for example, by promptly filing a motion for the appointment of a substitute even while performing ministerial duties as a matter of necessity until a successor is appointed. *New York Advisory Opinion 1995-39*.6 Moreover, a judge must withdraw immediately if completing fiduciary responsibilities requires the practice of law (*New York Advisory Opinion 2006-116*), and the need for the judge to withdraw promptly is even greater if a trust is involved in litigation (*Massachusetts Advisory Opinion 2008-3*). *See Court Review* article, at footnote 6.

Judges have been sanctioned for continuing to serve as a fiduciary for an unreasonably long time after becoming a judge.

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See Judicial Discipline and Disability Commission v. Simes, 354 S.W.3d 72 (Arkansas 2009); *Inquiry Concerning Sullivan*, Decision and Order (California Commission on Judicial Performance May 17, 2002); *In the Matter of Cichowic*, 213 N.E.3d 1022 (Indiana 2023); *Commission on Judicial Performance v. Watts*, 324 So.3d 796 (Mississippi 2021); *In the Matter of Thurber*, Order (New Jersey Supreme Court September 6, 2023); *In the Matter of Moynihan*, 604 N.E.2d 136 (New York 1992); *In the Matter of O'Connor*, Determination (New York State Commission on Judicial Conduct August 12, 2013); *In re Inquiry Concerning Brooks*, 856 S.E.2d 777 (North Carolina 2021).

POLITICAL ACTIVITIES

To abate any public impression that a judge will decide cases based on their commitment to political causes or loyalties, not on the merits of the case viewed impartially, Canon 4 of the model code provides generally: "A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary." The specific rules in Canon 4 include restrictions on what judges can and cannot do on behalf of other candidates, how much they can be involved with political organizations, and how they must run their own campaigns if theirs is an elective judicial office. The restrictions on political activity by judges vary considerably from state to state, may vary within a state depending on whether the judicial office is an appointed one or an elected one, and may even vary from period to period depending on whether a judge is a candidate for reelection.

As noted, a judge-select should already be in compliance with their state's version of Canon 4 because those rules applied to them as soon as they became a candidate. Although in the interim after election or appointment and before taking office, a judge-select is no longer a candidate and is not quite a judge, the political rules are not suspended for just that short period, and a judge-select must continue to comply with them. *See Florida Advisory Opinion 2000-16* (a judge-elect may not actively participate in a non-judicial campaign before being sworn in to office); *New York Advisory Opinion 1998-142* (a judge-elect who is vacating a seat in the local legislature should not engage in political activities in support of a candidate in the special election for the seat); *South Carolina Advisory Opinion 23-1994* (a judge who has been appointed or elected to judicial office but has not yet been sworn in must still comply with the code's restrictions on political conduct).

In one possible exception to the application of the rules, advisory committees have allowed judicial candidates to retain another public office they hold while running for judge, but then require the successful candidate to resign before taking their new office without serving out the balance of the term for their old one. *See Arizona Advisory Opinion 1993-4* (an elected tribal official may not serve the balance of their term after appointment as a justice of the peace); *Florida Advisory Opinion 2014-19* (a judge-appointee who is a member of the state legislature may attend and vote in a special session of the legislature that will take place before they take

office); *Illinois Advisory Opinion 1999-2* (a newly appointed judge may not serve out the remainder of their term as a member of an elected public school board).

SOCIAL MEDIA

Their social media presence is another aspect of their life a new judge will have to reconsider in light of the code of judicial conduct, keeping in mind that what is appropriate for an advocate like a lawyer or for a private person may not be appropriate for an impartial arbiter and representative of the judiciary. Ethics advisory committees, judicial conduct commissions, and supreme courts have universally allowed judges to join social media but have also emphasized that the code applies on those platforms and warned of the risks that casual, careless social media activity poses to the reputation of an individual judge and public confidence in the judiciary as a whole.

The increasing number of judicial discipline cases involving conduct on social media demonstrates that a new judge needs to take those warnings very seriously. Judges have been sanctioned for using social media, for example, to engage in ex parte communications; to make public comments on pending cases; to mock litigants; to solicit funds for charitable organizations; to engage in sexual communications with litigants or court staff; to post or share controversial, political, or biased comments; and to publicly endorse political candidates.

There are several principles that the caselaw and advisory opinions emphasize in the context of social media that a new judge should keep in mind.

- Anything a judge does online is subject to the code even if they do not use their title or wear their robe in their account or post.
- A judge should assume everything they say and do on social media can become public regardless what their privacy settings are.
- A judge's ignorance of how social media works is not a defense to a judicial ethics complaint.
- A judge should remember that their "likes" and "shares" will be considered endorsements of the content even if that is not what they intended.

In response to an inquiry from a new judge, the Connecticut judicial ethics committee advised that, if the new judge decided to continue participating in social media, they should, if possible, permanently terminate any existing accounts and "start anew." *Connecticut Informal Opinion 2013-6*. If that was not possible, the committee stated, the judge should edit their profile page to remove "inappropriate contacts, photos, links, comments, petitions, 'friending,' and 'Check In' postings." The committee then listed types of material a new judge should delete and, of course, eschew in the future, for example:

- Undignified comments, photographs, and other information;
- Social-networking interactions with individuals or organizations that erode confidence in the independence of judicial decision-making;
- Material that could be construed as advancing the interests of the judge or others, for example, linking to, endorsing, or "liking" commercial or advocacy websites;
- Social media relationships with persons or organizations that may convey an impression that these persons or organizations are in a position to influence the judge;
- Social-networking "friendships" with law enforcement officials, social workers, or other persons who regularly appear in court in an adversarial role;
- Comments about any matters pending or impending before any court; and
- Public endorsement of or opposition to a candidate for public office, links to a political organization's website, and comments on proposed legislation or controversial political topics.

The committee emphasized that a judge "should be aware of the contents of his/her social-networking profile page, be familiar with the site's policies and privacy controls, and stay abreast of new features and changes."

As they review their social media practices, a new judge should look for resources on judges' using social media specific to their jurisdiction and review the general information available online.

GIFTS AND RECEPTIONS FOR NEW JUDGES

Local bar associations, former colleagues, and friends understandably want to give gifts or parties to celebrate a new judge's achievement, and the judge is generally allowed to accept such offers. Although such a tribute may necessitate the judge's recusal from matters involving the donor, as the advisory committee for federal judges explained, the gift is often likely to be from a donor whose appearance in a case would necessitate the judge's recusal anyway, at least for a time, or from a group where recusal may not be required for individual members if each individual contribution is relatively small. *U.S. Advisory Opinion 98* (2009). However, the committee warned that a new judge may not accept a gift or reception from:

- A political organization;
- A for-profit company that has no pre-existing or long-standing relationship with the judge; or
- An organization that is publicly identified with controversial legal, social, or political positions or that regularly engages in adversary proceedings in the courts.

The committee also emphasized that a judge should not solicit gifts and should be aware that gifts may have to be reported on financial disclosure forms.

Opinions have advised that a new judge may accept:

- A gavel or judicial robe from members of their family (*New York Advisory Opinion 2012-177*);
- A robe from a bar association to which the judge belongs (*Arkansas Advisory Opinion 2000-10*);
- A clock from a bar association (*U.S. Advisory Opinion 98* (2009));
- A gavel from the state's attorney, who is a former employer (*Florida Advisory Opinion 1976-22*);
- A gift from the state government office where they had worked, including individuals representing that office (*Connecticut Informal Advisory Opinion 2013-9*);
- A judicial robe from their former law partners (*U.S. Advisory Opinion 98* (2009));
- A chair from former judicial colleagues (*U.S. Advisory Opinion 98* (2009)); and
- A gavel and $500 from a former client (*U.S. Advisory Opinion 98* (2009)).

A new judge's former law firm may sponsor and pay the expenses for a reception following their investiture. *Florida Advisory Opinion 1999-3*; *Illinois Advisory Opinion 2001-11*; *Minnesota Summary of Advisory Opinions*, at 28 (1995); *U.S. Advisory Opinion 98* (2009). However, the Illinois committee cautioned that a judge may only agree to be honored at such an event only if it is not intended to advance the interests or status of the firm. The committee also warned the judge to exercise "selected control" over "the magnitude or extravagance of the celebration and the number and nature of those invited."

Whether a new judge may accept an offer from other private entities or individuals to sponsor or contribute to a reception in their honor "depends in part on the identity of the proposed donor and the donor's relationship to the judge." *U.S. Advisory Opinion 98* (2009). Opinions have allowed a new judge to accept:

- A reception sponsored and paid for by attorneys in their community one week after their investiture (*Florida Advisory Opinion 1999-3*);
- An unsolicited offer from family members and close personal friends to pay for their induction ceremony, including costs associated with the venue and refreshments (*New York Advisory Opinion 2023-238*);
- A dinner/gathering in honor of the judge's appointment hosted by their family and close church friends (*Connecticut Informal Advisory Opinion 2013-10*);

- A banquet in their honor given by the Black Chamber of Commerce even if the event is sponsored by local businesses and area attorneys (*South Carolina Advisory Opinion 2003-16*);
- A dinner celebrating their appointment hosted by their former state government office (*Connecticut Informal Advisory Opinion 2013-9*); and
- An offer by a former corporate employer or business client or group of former colleagues to sponsor or contribute to a reception in honor of the judge's investiture (*U.S. Advisory Opinion 98* (2009)).

The Connecticut committee noted that a new judge need not specify "no gifts" on an invitation to a dinner/gathering in their honor. *Connecticut Informal Advisory Opinion 2013-10*.

WINDING-UP REPRESENTATION

Rule 3.10 prohibits a full-time judge from practicing law (with limited exceptions for acting pro se and for family members under certain circumstances). Although a lawyer may continue to actively practice during any period after they are elected or appointed, that winding-up cannot continue after taking office. Therefore, during any interim period, a judge must focus on withdrawing from representing their clients without jeopardizing their clients' interests.

PRACTICING IN THE INTERIM

As the Georgia committee explained, "it would be unfair and unrealistic to require an active trial lawyer to immediately withdraw as counsel in pending cases simply because he or she has been elected to serve as a judge for a term to begin some several months after the election." *Georgia Advisory Opinion 217* (1996). Similarly, the Florida advisory committee noted that it was important to allow a lawyer who has recently been elected to the bench "to effectively and expeditiously conclude those legal matters that have been entrusted" to them. *Florida Advisory Opinion 2000-39*. *See also Pennsylvania General Guidance 2-2023* (a judge-elect may keep working as an attorney until they take the oath of office). Further, a judge-select may be compensated for their work during any interregnum. *Arkansas Advisory Opinion 1996-9*.

Thus, committees have advised that in the interim before taking office, a newly chosen judge:

- May handle both criminal and civil cases *(Florida Advisory Opinion 1988-29*);
- May practice before all courts, including the court in which they will preside (*Arkansas Advisory Opinion 1996-5*; *Florida Advisory Opinion 1988-29*);
- May appear in jury and nonjury trials (*Florida Advisory Opinion 1988-29*);
- May appear as trial counsel (*Georgia Advisory Opinion 217* (1996)); and

- May handle the sentencing hearing in a case for which they were lead attorney and that had been tried to verdict before they took the bench (*Florida Advisory Opinion 2023-10*).

However, advisory committees have warned attorneys that continuing to practice increases the risks that they will not manage to close out their law practice before taking on their judicial duties (*New York Advisory Opinion 1998-92*) and have also recommended that attorneys keep future disqualification issues in mind as they practice law in the interim before taking the bench (*Arkansas Advisory Opinion 1996-5*). *See also Florida Advisory Opinion 1984-21* (describing with approval a proposal by a circuit-judge-elect to avoid future disqualifications by appearing in the interim before taking office only in misdemeanor cases or in felony cases in another geographic area of the circuit and to immediately relinquish administrative and supervisory duties); *Kentucky Advisory Opinion JE-32* (1981) (suggesting that a judge-elect should resign as an assistant county attorney to minimize the problems of disqualification).

BEFORE TAKING THE BENCH

Before assuming judicial office, an attorney "should devote substantial attention during any interim period to winding up the law practice, with due regard for the rights and expectations of existing clients." *Florida Advisory Opinion 2000-39*. Except for the addition of the deadline imposed by taking office, the ethical responsibilities owed to clients when an attorney leaves the practice of law to become a judge are the same as those owed when an attorney ends representation for any other reason, and an attorney should consult their jurisdiction's rules and resources on that issue immediately after appointment or election.

For example, in winding up a law practice, a lawyer who is becoming a judge should "promptly" notify all of their clients about the impending change in their professional status and must return to the client files, property, and any unearned part of a retainer fee. *Illinois Advisory Opinion 1994-12*. *Accord Arizona Advisory Opinion 2000-7*. Further, a judge-select must "discuss with the client the options available with regard to obtaining counsel if the matter cannot be concluded before the attorney becomes a judge," and "assist the client in locating counsel with the necessary expertise." *Arizona Advisory Opinion 2000-7*.14 The judge-select cannot transfer a client's file to another attorney until they have fully disclosed the circumstances of the proposed transfer to the client and received the client's consent, not only to the transfer but to any fee arrangement between the transferring and transferee attorneys. *Michigan Advisory Opinion JI-89* (1994); *South Carolina Advisory Opinion 21-1998*.

In terminating their representation, a judge-select must make clear to their clients that they can no longer represent them in any way after they are sworn in, including providing advice or consulting about continuing cases and prior work. *South Carolina Advisory Opinion 21-1998*. Similarly, a judge-select should conduct any necessary discussion of pending cases with new

counsel that would constitute the practice of law "during the process of closing the law practice, not after the judge takes office." *Florida Advisory Opinion 2005-19*. The New York committee suggested that "the safe and ethical practice would be for the judge-elect to concentrate, during the closing of the law practice, on providing subsequent counsel with everything necessary to avoid the need for later discussions." *New York Advisory Opinion 2000-77*.

AFTER TAKING OFFICE

A lawyer must concentrate on "winding-up" their representation of clients before taking office because after a judge takes office, there is no "closing-out" exception to the prohibition on practicing law that allows a new judge to complete pending matters for clients. *See Arizona Advisory Opinion 2000-7*; *New York Advisory Opinion 1998-92*; *Oklahoma Advisory Opinion 1999-2*. The prohibition even applies to providing legal services pro bono. *Michigan Advisory Opinion J-2* (1989); North Carolina Advisory Opinion 2023-1.

Interpreting the prohibition strictly and broadly, judicial ethics committees have advised that a new judge:

- May not represent a defendant in a sentencing hearing shortly after they take office even in a federal court in another state (*Texas Advisory Opinion 293* (2007));
- May not represent a client in a mediation even if liability is not contested and the only issue is the amount necessary to settle the case (*Texas Advisory Opinion 293* (2007));
- May not present the oral argument before an appellate court in a case they tried even if their client wants them to and opposing counsel does not object (*Florida Advisory Opinion 1977-2*); and
- May not be listed as an author on a brief the judge wrote while an attorney (*New York Advisory Opinion 2013-8*).

The prohibition also precludes a new judge from helping a former client obtain satisfaction of a judgment entered before the judge took the bench. *Florida Advisory Opinion 2009-9*. Judges have been sanctioned for even communicating on behalf of a client on that issue. *See In re Ramich*, Determination (New York State Commission on Judicial Conduct, December 27, 2002) (censure for, in addition to other misconduct, corresponding with attorneys in connection with the pay-off of a debt owed to the successor in interest to a client for whom the judge, as an attorney, had obtained a judgment, and signing a satisfaction of judgment as an attorney for the judgment creditor); *In re Slusher*, Stipulation and agreement (Washington State Commission on Judicial Conduct, April 3, 1992) (admonishment for attempting to secure funds for a former client by communicating with the attorney for the other party).

Of course, the practice of law is not limited to appearing in legal proceedings, "but embraces all advice to clients and all actions taken for them in matters connected with the law," including "conveyancing, the preparation of legal instruments of all kinds, and the giving of legal advice to clients." *Florida Advisory Opinion 2005-19*. Thus, after taking the bench, a new judge is also prohibited from tasks such as:

- Continuing to counsel clients even if in an effort to wind-up pending cases (*Alabama Advisory Opinion 2013-920*);
- Signing a title-insurance policy even if the documents were recorded and the policy took effect before the judge took office (*Florida Advisory Opinion 2006-1*);
- Attending the closing of a real estate transaction (*Florida Advisory Opinion 1983-3*);
- Completing the probating of two estates (*Florida Advisory Opinion 1983-3*); or
- Completing unfinished legal services for an estate even if no court appearances are necessary (*New York Advisory Opinion 1989-38*).

In discipline cases, courts have rejected judges' attempts to argue that they were only performing "ministerial acts," not practicing law when they continued to perform services for clients after taking the bench. *See Court Review* article, at footnote 17.

However, as long as they do not give legal advice or discuss litigation strategy, a lawyer may, even after becoming a judge, provide factual information to a former client or successor counsel as part of a lawyer's "continuing duty of loyalty to the former client as well as an obligation to make available information to the successor lawyers and to assist in the transition." *New York Advisory Opinion 1995-20*. The issue arises most often in criminal cases given how long post-conviction proceedings can be. For example, in response to an inquiry from a judge who was a former assistant state's attorney, the Illinois committee stated that "cooperation in the interest of the proper administration of justice, should not be discouraged. A judge has a duty to his former client, in this case the State, just as he or she would to any other client, to provide information to the new lawyer regarding the case." *Illinois Advisory Opinion 1994-19*.

Emphasizing that "providing information is not the same as providing advice on matters such as trial strategy," the committee cautioned that a judge "must be careful not to give current advice to the new attorney" as doing so would violate the prohibition on practicing law. Similarly, the New York committee advised that a judge who had been a criminal defense attorney may answer their former client's factual inquiries regarding a potential motion to vacate a judgement of conviction based on the prosecutor's alleged failure to disclose certain information, explaining that the judge's role "would be essentially that of a witness, and would not constitute the giving of legal advice or the practicing of law." *New York Advisory Opinion 1995-116*. *See also Florida Advisory Opinion 2006-12* (a judge who, while an assistant state attorney, prosecuted a murder case that led to conviction may meet with the current state's attorney to discuss a

defendant's ineffective-assistance-of-counsel claims in a motion to vacate judgment as long as the judge scrupulously avoids advising or assisting in the post-conviction litigation and limits the discussion to factual matters; the judge is not required to agree to being interviewed).

With those conditions a new judge may, even after taking the bench:

- Provide incidental information to successor counsel (*Alabama Advisory Opinion 2013-920*);
- Answer questions about "factual matters not readily apparent from the file" or "the nature and location of documents and other historical information" from the attorney to whom they referred cases (*Connecticut Informal Advisory Opinion 2013-12*);
- Provide information to successor counsel about factual details that are within the judge's peculiar knowledge (*Connecticut Informal Advisory Opinion 2017-2*);
- Respond to questions from successor counsel about facts not readily apparent from the file and similar matters of clarification (*Connecticut Informal Advisory Opinion 2017-2*; *Massachusetts Letter Opinion 2018-2*);
- Provide the current prosecutor with a verbatim transcription of the otherwise illegible notes about a case that the judge made before becoming a judge (*Nevada Advisory Opinion JE1998-3*);
- Answer any factual inquiries the purchaser of the judge's practice may have about the prior representation that would assist in the transition (*Nevada Advisory Opinion JE2013-001*);
- Tell a former client their recollection of events and/or the content of their closed files that might support the former client's post-conviction motion (*New York Advisory Opinion 1995-116*); or
- Provide historical information to the prosecutor assigned to retry a case the judge originally prosecuted (*New York Advisory Opinion 2011-96*).

The Massachusetts committee cautioned that any permitted communication by a judge with successor counsel should take place on the judge's personal time and using personal resources, including a personal email account, and should exclude opposing counsel. *Massachusetts Letter Opinion 2018-2*.

Judicial ethics committees also advise that a judge may provide an affidavit, affirmation, or testimony in a court proceeding about a matter the judge handled as counsel before assuming the bench, as in doing so the judge is acting as a witness, not practicing law. Some of the opinions seem to suggest, if not require, that the judge request a subpoena before providing that information.

For example, the California advisory committee stated that a judicial officer who had been a public defender could submit a declaration in support of a former client's habeas petition but should require a subpoena. *California Expedited Opinion 2022-49*. The petition was asserting that the judge's former client had not received effective assistance of counsel, and the judge's declaration would be about their representation and about resources available in the public defender's office at the time of trial. The committee added that if the judicial officer chose not to require a subpoena, they should not refer to their current title or position unless required to do so by a subpoena or court order.

Other committees have permitted similar submissions in similar situations. See *Court Review* article, at footnote 19. In addition, if a judge is going to testify as a witness pursuant to a subpoena about their former representation, they are allowed to review the file and talk to the attorneys in the case as any witness would. *See Court Review* article, at footnote 20.

SEVERING TIES

For a judge-select who was in private practice, the prohibition on practicing law after they take office also means terminating the relationships and financial arrangements that constitute the business of a legal practice.

For a new judge who was a solo practitioner, sole shareholder, or part of a small firm that is breaking up, several judicial ethics committees have advised that the judge may maintain the firm's existence solely to wind up its financial affairs if dissolution before they take the bench is infeasible. For example, the Connecticut committee answered an inquiry from a judicial nominee who was the sole shareholder in a small firm that would cease to practice law after the nominee was confirmed because the other attorneys were joining other firms. *Connecticut Informal Advisory Opinion 2014-4*. The committee advised that the former firm could remain in existence and retain its name (that of the new judicial officer) on a bank account solely to receive payments of fees as long as:

- The firm was not held out to the public as being in existence;
- There was a written agreement as to how the funds were to be distributed;
- Clients were notified that the firm was dissolved but that payments should continue; and
- Payments were received only for work done before the judge took office.

While winding down, the firm could:

- Collect accounts receivable;

- Send periodic bills to former clients;
- Maintain an escrow account;
- Pay debts;
- Submit corporate income tax returns;
- File unemployment forms for employees;
- Organize and store financial records; and
- Retain client records.

Other committees have approved similar continuing arrangements. *See Court Review* article, at footnote 21.

A new judge who was part of a law firm that will go on without them can rely on the firm to take care of ministerial and administrative tasks, must resign from the firm before taking office, and "as promptly as possible, sever any business or financial relationships with the former law firm or lawyers in that firm." *Minnesota Advisory Opinion 2014-1*.

As an essential step in that process, a new judge must ensure that their name is deleted from their former firm's name. *See Court Review* article, at footnotes 22 and 23. That name change is required, not only by the code of judicial conduct, but by comment 8 to Rule 7.1 of the American Bar Association *Model Rules of Professional Responsibility*: "It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm." However, if the firm refuses their requests to remove their name from the firm name, the judge is not required to file a bar complaint against the firm. *See Massachusetts Advisory Opinion 2003-9*; *New York Advisory Opinion 2015-19*.

Judicial ethics committees have also directed a new judge to instruct their former firm not to use their name in professional notices (*Michigan Advisory Opinion JI-89* (1994)); not to congratulate them in mailings to clients or in a bar association publication (*Florida Advisory Opinion 2006-10*); and not to include the judge's prior association and current position in brochures distributed to clients and prospective clients (*Massachusetts Advisory Opinion 1990-1*). In a private warning, the Arizona Commission on Judicial Conduct reminded a judge "to ensure that his former law firm's website did not give the appearance or leave the impression that he still practiced law with the firm, including, but not limited to, eliminating any reference to the judge as a member of the firm and removing his name from the firm." Order No. 15-118 (Arizona Commission on Judicial Conduct August 17, 2015). The Commission noted that the firm's webpage advertised the judge's name, picture, and biographical description as a practicing attorney.

In a discipline case, the California Commission on Judicial Performance stated that a judge should not be connected in any way with their former law firm or give the appearance that they are practicing law, including using legal stationery to communicate with former clients or others concerning a former client's legal matters, and that a judge must take steps to have their name immediately removed from the letterhead and any other place where the name of the firm is displayed. *Inquiry Concerning Kreep*, Decision and order (California Commission on Judicial Performance August 7, 2017). The Commission found that the judge had committed misconduct for, over a year after taking the bench, issuing four checks that identified the account holder as "Gary G Kreep Sole Prop, DBA The Law Offices of Gary G Kreep." For example, one check paid an arbitrator's award of $14,914.65 to a former client in an attorney fee dispute.

Whether a judge may maintain retirement funds in a former firm's plan for at least a short period depends on whether that arrangement would require frequent disqualification and how the account is managed. For example, the Connecticut committee advised that a judge may leave accumulated funds in a retirement plan set up by their former law firm for a reasonable time but in no event longer than one year after taking office. *Connecticut Informal Advisory Opinion 2015-13*. Further, if the judge creates a self-directed sub-account for which they direct all investments and pay all fees and into which the firm makes no further contributions, the committee advised, the judge may maintain the account for longer than a year but must disclose to counsel and to parties their participation in the plan when members of the former law firm appear before the judge. Other committees have given similar advice. *See Court Review* article, at footnote 26.

PAYMENTS AFTER TAKING THE BENCH

"To deny a newly-elected judge just compensation for valued service performed while a practicing lawyer would be inequitable and would tend to discourage qualified persons from accepting judicial office." *Michigan Advisory Opinion CI-1079* (1985). Thus, advisory opinions universally allow a new judge to accept — with conditions — payments of fees they earned before taking the bench (see *Court Review* article, at footnote 27) and payments for their interest in a firm or practice they left when they took the bench (*see Court Review* article, at footnote 28). That includes payments from former clients, former partners, former firms, lawyers who purchased their practice, lawyers to whom they referred cases, successor lawyers, successor firms, and courts or government agencies. It includes payments of flat fees, hourly fees, contingency fees, referral fees; payments from structured settlements and judgments to be paid over time; payments for court-appointed work; the purchase price for their practice or their share of a practice; payments for their equity on leaving a firm; their capital investment in their former firm; payments pursuant to a promissory note; deferred compensation plans; and payments under retirement plans.

For example, as an Ohio opinion explains:

> *As often the case, the judge may have earned legal fees prior taking office, but the fees have not been collected or received by the former law firm. The Code of Judicial Conduct prohibits a judge from practicing law . . . but does not prevent a judge from accepting outstanding fees from his or her former law firm after taking office. A judge transitioning from private practice is entitled to accept payments reflecting a flat fee or the number of hours billed at an agreed upon hourly rate for legal services performed. Contingent fees may also be paid to a judge once the contingency occurs based on quantum meruit for services performed prior to leaving the former law firm.*

Ohio Advisory Opinion 2021-6. The opinion adds that the judge must report any payments they receive on their annual financial disclosure statement. *See also Judicial Discipline and Disability Commission v. Thompson*, 16 S.W.2d 212 (Arkansas 2000) (removal of a judge, for in addition to other misconduct, failing to list on his outside income report attorney's fees he received after taking the bench for work performed before becoming a judge).

That permission applies equally to solo practitioners, salaried associates, and partners who receive a given percentage of the firm's fees. *Kentucky Advisory Opinion JE-41* (1982). A judge may also be reimbursed for expenses incurred while in private practice. *New York Advisory Opinion 2022-15(A)*. Moreover, it is not just "new judges" that may receive such payments; opinions have approved payments as long as 10 years after taking the bench. *See Court Review* article, at footnote 33. There are, however, many conditions imposed on a new judge's receipt of those payments.

- Payments must reflect only work performed before the judge took office.
- Payments must not reflect profits a firm earned after the judge's departure.
- Payments must be pursuant to an agreement reached before the judge took office.
- The amount or the method for calculating the payment must be established before the judge takes office.
- The amount or the method for calculating the payment must be based on traditional standards.
- The payments must be proper under the rules of professional conduct.
- Any division of fees between the judge and a lawyer or firm should be reasonable and in proportion to the respective work done.
- Fees must not be clearly excessive.
- Fee arrangements must have been fully disclosed to the client.

As a best practice if not a requirement, a fee arrangement pursuant to which a judge is receiving payments should be in writing. *See* *Alabama Advisory Opinion 2013-921* (if the arrangement is traditional or standard in the legal profession and the judge's former law firm, the lack of a written agreement does not necessarily prevent a judge from receiving the compensation due for work performed); *Connecticut Informal Advisory Opinion 2008-19A* (although a pre-existing verbal separation agreement is acceptable, written agreements are preferable); *West Virginia Advisory Opinion 2000-42* (approving a judge's receipt of contingency fees based on the assumption the arrangement is in writing).

Some committees require that the amount a new judge is to be paid for their interest in a firm must be fixed before the judge takes office (*Florida Advisory Opinion 1974-4*; *Maine Advisory Opinion 2005-2*; *Minnesota Advisory Opinion 2014-1*), although others simply indicate the amount should be set "if possible" (*Nebraska Advisory Opinion 1989-1*; *U.S. Advisory Opinion 98* (2009)). According to a Minnesota advisory opinion, a lump sum payment for a judge's interest in their former law firm is preferable, but, if immediate liquidation would cause serious financial detriment, an installment sale over a period that is "as short as possible" is permissible. *Minnesota Advisory Opinion 2014-1*. Other committees have also approved installment payments. *See* *Court Review* article, at footnote 35.

When a judge anticipates the receipt of fees or other payments from a former firm or successor counsel, most advisory opinions state that the judge is disqualified from cases in which those lawyers are counsel for a party. *See* *Court Review* article, at footnote 36. Because "excessive delay in concluding a law practice may result in otherwise unnecessary disqualification," the Michigan committee advised that "a judge should encourage the diligent conclusion" of uncompleted matters and "outstanding financial obligations. *Michigan Advisory Opinion J-2* (1989). *See also* *Ohio Advisory Opinion 2021-6* (a judge's agreement with their former firm should not provide for the payment of retirement income in perpetuity).

A new judge may take steps to collect fees owed for legal work performed before taking office. For example, the New York committee advised that a new judge may send bills to former clients for outstanding balances due for services they rendered before becoming a judge and may maintain an escrow account for processing the fees. *New York Advisory Opinion 1995-12*.

Similarly, the Minnesota committee stated that a former solo practitioner may continue to collect accounts receivable for a reasonable period following their appointment as a judge. *Minnesota Advisory Opinion 2014-1*. *See also* *New Mexico Advisory Opinion 2012-14* (a new judge who is a former solo practitioner may delegate to their assistant from the firm the administrative responsibilities required to receive and disburse funds for services previously rendered). *But see* *Kentucky Advisory Opinion JE-32* (1981) (a judge must turn their accounts over to another lawyer for collection).

If a fee requires approval by a court or agency, a new judge may complete any documents necessary to request that approval, for example, signing an affidavit regarding the time they spent on the case. *See Court Review* article, at footnote 38.

CONCLUSION

The period between being elected or appointed to the bench and their first day on the bench is a crucial, critical time for a budding judge. Attorneys are accustomed to being governed by a code of ethics, of course, but the rules in the code of judicial conduct will be unfamiliar, touch on every part of a new judge's life, and, in some respects, require a reversal of practices the attorney may have followed for years. Thus, an immediate, thorough review of the code may prevent a very public stumble by a new judge and will begin the commitment to judicial independence, integrity, and impartiality the judge will be expected to maintain throughout a long career on the bench.

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Artificial Intelligence and the Code of Judicial Conduct

I Don't Care What People Say: AI Tools Are Here to Stay

by **Justice Maria E. Berkenkotter** (Colorado Supreme Court) and
Judge Lino S. Lipinsky de Orlov (Colorado Court of Appeals)

Because the Colorado Supreme Court is responsible for overseeing the practice of law and lawyer discipline in this state, this article raises questions, but does not provide opinions regarding judges' ethical use of artificial intelligence.

THE NATURE OF ARTIFICIAL INTELLIGENCE

The artificial intelligence (AI) revolution has irrevocably altered the legal landscape. Growing numbers of legal professionals and law students rely on AI tools daily for legal research; drafting pleadings and memos, and synthesizing massive amounts of data. While judges' use of AI for work — outside of traditional tools like Westlaw or Lexis — may not yet be widespread, some are using it to conduct other types of research, summarize transcripts, and even draft opinions. Many attorneys, law clerks, and self-represented litigants (SRLs) use these tools. The era when a lawyer or judge could safely profess ignorance of AI has ended.

The growing ubiquity of AI creates opportunities and potential pitfalls for those who use it, frequently requiring judges to police lawyers' and SRLs use and misuse of AI tools. We encourage every judge to develop a working understanding of AI, including its basic mechanics, how lawyers and SRLs use it, and, how it, critically, implicates judges' ethical obligations set forth in the code of judicial conduct.

THE NATURE AND LIMITS OF AI

AI refers broadly to applications, software programs, and computer systems capable of performing tasks that previously required human intelligence, such as generating content and analyzing vast amounts of information. AI is adept at reasoning, pattern recognition, and making predictions based on data trained through technologies like machine learning. Readers of this article have likely used AI unknowingly for years through Westlaw searches, Amazon suggestions, or Google Maps, and other applications. These seemingly mundane interactions are powered by sophisticated algorithms that mimic cognitive functions.

This article focuses on a different type of AI - generative AI — a category of AI capable of creating new content, including text, images, audio, and video. Generative AI rests on large language models, known as LLMs, that are trained on staggering volumes of data, trillions of words pulled from books, articles, and websites, among other sources. This training enables the model to learn patterns, syntax, and context to predict the next logical word or phrase producing responses that are fluent, coherent, and remarkably adaptable in tone and style. AI can instantly draft a legal memorandum, revise a brief for conciseness, or summarize a multi-volume discovery file.

For more information on the nature of the technology, *see* Maria E. Berkenkotter & Lino S. Lipinsky de Orlov, *Artificial Intelligence and Professional Conduct*, 53 Colo. Law. 20, 21-26 (Jan./Feb. 2024); Maria E. Berkenkotter & Lino S. Lipinsky de Orlov, *Can Robot Lawyers Close the Access to Justice Gap?*, 53 Colo. Law. 40, 41-46 (Dec. 2024).

Judges need not grasp the inner technical workings of AI — but they should understand its key limitations. Public-facing AI tools (e.g., ChatGPT, Claude, and Gemini) were not designed for legal research and often yield results that, while appearing accurate, contain substantive errors. These tools are prone to generating hallucinations which include fabricated case names, docket numbers, or reporters. Furthermore, they may misconstrue the holding of a case, the meaning of a statute, or the legal principle at issue. Because these systems are trained on publicly available data such as Reddit and Wikipedia, their outputs may also reflect the biases or oversimplifications of their sources. AI outputs require scrutiny and verification, as relying on such tools without sufficient review and verification has significant ethical implications.

Judges need not grasp the inner technical workings of AI — but they should understand its key limitations.

THE IMPACT OF AI ON THE LEGAL PROFESSION

The implications of AI for the legal profession first entered public consciousness in the May 2023 New York Times report of the *Mata v. Avianca* case. *Here's What Happens When Your Lawyer Uses ChatGPT* by Benjamin Weiser, New York Times (May 27, 2023). *See Mata v. Avianca, Inc.*, 678 F. Supp. 3d 443 (S.D.N.Y. 2023). In this matter, plaintiffs' counsel submitted a brief containing "non-existent judicial opinions with fake quotes and citations created by the artificial intelligence tool ChatGPT." When the court called out these hallucinations, the lawyers who filed the brief claimed they "could not fathom" that the tool would invent case law and claimed

ChatGPT misled them by falsely insisting the citations were authentic. The court imposed a $5,000 sanction against the attorneys.

Mata served as a wake-up call, demonstrating that judges face new issues. Those issues include filings containing AI-generated hallucinations, requests for sanctions against a lawyer or self-represented litigant who submitted such filings, challenges to the admissibility of AI-generated exhibits (images, video, audio), and understanding the functionality of specialized AI platforms. The clear lesson is that new technological capabilities come with new responsibilities for judges — chiefly , the duty to verify AI-generated content and understand its limitations.

Following *Mata*, the market responded quickly, and by late 2023, legal vendors began launching specialized generative AI platforms that claim to be trained on vetted legal sources. However, *West Virginia Advisory Opinion 2023-22* warned judges that specific use AI "may have downsides if used for other than its intended purpose."

AI AND THE MODEL CODE OF JUDICIAL CONDUCT

As AI becomes embedded in legal practice, judges must ensure their use of the technology — and their oversight of law clerks' and staffs' use — upholds the fundamental values of judicial integrity, impartiality, and transparency embodied in the 2007 American Bar Association *Model Code of Judicial Conduct*. (Although not binding on judges, the specific model rules relied on below have been adopted in all jurisdictions, with occasional minor amendments.) AI use implicates several provisions of the model code. All reference are to the model code.

Promoting Confidence in the Judiciary (Rule 1.2)

Rule 1.2 requires judges to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and [to] avoid impropriety and the appearance of impropriety." *Comment 1* warns that "[p]ublic confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety."

To comply with this rule, judges should carefully consider what AI tools to use in performing their official duties. When judges use any AI tool, they should verify all authorities retrieved through AI tools and to carefully review, edit, and proofread AI outputs to ensure they accurately reflect the judges' rulings and are free from bias.

Judges should consider whether to publicly disclose their use of generative AI. At least three appellate judges publicly acknowledged using ChatGPT, Claude, and Gemini to assist in deciding cases, demonstrating how significantly this technology has altered the legal landscape. See, *United States v. Deleon*, 116 F.4th 1260 (11th Cir. 2024) (Newsom, J., concurring) (using ChatGPT, Claude, and Gemini to research the meaning of "physically restrained" because "well, I couldn't

help myself"); Snell v. United Specialty Ins. Co., 102 F.4th 1208 (11th Cir. 2024) (Newsom, J., concurring) (using AI tools to determine whether an in-ground trampoline is "landscaping" for purpose of insurance coverage); Ross v. United States, 311 A.3d 220 (D.C. 2025) (Deahl, J., dissenting) (analyzing whether the defendant's dog was placed in serious danger by being left in a hot car).

Impartiality and Fairness and Bias, Prejudice, and Harassment (Rule 2.2)

Rule 2.2 requires judges to "uphold and apply the law" and "perform all duties of judicial office fairly and impartially." Similarly, Rule 2.3 says:

> *(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.*
>
> *(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.*
>
> *(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.*

AI tools can reflect or reproduce bias — whether explicit or implicit — based on the nature of their training data. Only careful review can ensure that these biases do not contaminate AI-assisted work.

Further, what duties does a judge have under Rule 2.3(C) if a judge suspects that a legal professional submitted a biased filing produced using AI?

AI tools can reflect or reproduce bias — whether explicit or implicit — based on the nature of their training data. Only careful review can ensure that these biases do not contaminate AI-assisted work.

Michigan Advisory Opinion JI-155 (2023) describes why knowledge of AI technology is essential to ensuring that a judge's use of AI does not conflict with other provisions in the code, for example, if the algorithm or training data for an AI tool is biased.

> *Specifically, if an AI tool's algorithm's output deviates from accepted norms, would the output influence judicial decisions . . . ? An algorithm may weigh factors that the law or society deem inappropriate or do so with a weight that is inappropriate in the context presented . . . AI does not understand the world as humans do, and unless instructed otherwise, its results may reflect an ignorance of norms or case law precedent.*

West Virginia Advisory Opinion 2023-22 emphasized that "because of perceived bias that may be built into the program," "a judge should NEVER use AI to reach a conclusion on the outcome of a case." Further, the opinion identified the use of drafting AI to prepare an opinion or order as "a gray area."

> *It is one thing to use a product like Microsoft Word that corrects spelling, punctuation, grammar, maintains a built-in thesaurus and provides an editor's score for the finished document. Those products are perfectly acceptable. However, the use of an AI product to actually draft the findings, conclusions and ultimate decisions should be met with extreme caution. The drafting product may have built in biases or over time may develop perceived biases based on the judge's thought process. AI should never decide the conclusion.*

Competence, Diligence, and Cooperation (Rule 2.5)

Rule 2.5 of the code provides:

> *(A) A judge shall perform judicial and administrative duties, competently and diligently.*
>
> *(B) A judge shall cooperate with other judges and court officials in the administration of court business.*

Comment 1 explains that "[c]ompetence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office."

The Arizona Supreme Court, in response to a petition filed on behalf of the state's Steering Committee on Artificial Intelligence and the Courts, recently amended comment 1 to Rule 2.5 (effective January 1, 2026) of the state's code of judicial conduct to explicitly address technology and judicial competence adding:

> *Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of*

> *judicial office, including the use of, and knowledge of the benefits and risks associated with, technology relevant to service as a judicial officer.*

Arizona's comment is similar to comment 8 to Rule 1.1 of the *ABA Model Rules of Professional Conduct*: "[t]o maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology." Thus, judges should consider whether Rule 2.5 requires them to possess a working knowledge of AI and its shortcomings, including the risks of hallucinated citations and biased outputs.

Two advisory opinions conclude that judges have a duty to maintain competence in technology, including AI, and that that duty is continuing even without a comment such as the one adopted in Arizona. *Michigan Advisory Opinion JI-155* (2023); *West Virginia Advisory Opinion 2023-22*. For example the Michigan advisory committee stated that the ethics requirement that judicial officers competently handle their administrative duties includes "competency with advancing technology," including "knowing the benefits and risks associated with the technology that judicial officers and their staff use daily, as well as the technology used by lawyers who come before the bench."

Ensuring the Right to Be Heard (Rule 2.6)

Rule 2.6 provides:

> *(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*
>
> *(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party . . . .*

Rule 2.6 raises several AI-related questions regarding how a judge can accord SRLs "the right to be heard according to law": should judges inform such litigants about the availability, advantages, and risks of AI tools intended to help laypeople with their legal matters? Should judges show more leniency to SRLs whose filings contain hallucinations or who submit AI-fabricated exhibits than to lawyers who engage in the same conduct? And more generally, what role should judges play in ensuring that laypeople have access to AI tools that could enhance their right to be heard?

Supervisory Duties (Rule 2.12)

Rule 2.12 provides:

> *(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.*
>
> *(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.*

This provision raises many important issues that a judge must consider. Judges should adopt guidelines on staff use of AI and ensure training for law clerks and court staff regarding ethical use of AI tools. Other questions include whether law clerks and staff should be allowed to use AI for internal memos and routine but prohibited from using AI for official writing. The guidelines should be reviewed as AI tools improve and become more reliable but should also include verification of the outputs and have a "human in the loop." Judges should instruct their law clerks and staff on the responsible use of AI, caution against relying on tools not designed for legal research, and monitor their use. No judge wants to discover, after issuing an order, that a law clerk or other assistant included an unchecked hallucinated citation obtained from an AI tool. Failure to properly supervise staff could lead to sanctions.

Unfortunately, two federal judges already have issued orders that contained hallucinations, attracting widespread media attention and the scrutiny of the Senate Judiciary Committee. See "Two federal judges say use of AI led to errors in US court rulings," by Sara Merken, Reuters (October 23, 2025); "Grassley Scrutinizes Federal Judges' Apparent AI Use in Drafting Error-Ridden Rulings," Senate Judiciary Committee Press Release (October 6, 2025).

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Responding to Judicial and Lawyer Misconduct (Rule 2.15)

Rule 2.15 states:

> *(A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.*
>
> *(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.*
>
> *(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.*
>
> *(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.*

As AI uses continues to increase, judges will need to recognize when the improper use of AI by a judge or a lawyer violates their applicable ethical rules While there are few authorities on when misuse of AI creates a "substantial question" regarding a lawyer's or a judge's "honesty, trustworthiness, or fitness" that is likely to change as the use of AI expands. It remains unresolved if lawyers' submissions of filings containing hallucinations raises "substantial questions" if the lawyers failed to educate themselves about the risks of relying on AI tools, if they knew about the risks but ran out of time to check the results of their queries, or failed to review a junior lawyer's AI-generated work product.

CONCLUSION

AI holds promise for streamlining legal work and improving access to justice. But in the judicial context, where integrity and impartiality are paramount, thoughtful and cautious engagement with these tools is essential. The model code is a crucial starting point for navigating the ethical minefields associated with this new technological frontier. Judges must be prepared to apply the model code's principles in an AI-transformed world. As the Michigan advisory opinion warned:

> *AI is becoming more advanced every day and is rapidly integrating within the judicial system, which requires continual thought and ethical assessment of the use, risks, and benefits of each tool. The most important thing courts can do today is to ask the right questions and place their analysis and application of how they reached their conclusion on the record.*

Judicial Well-being and Ethics: Two Sides of the Same Coin

by **Judge Victor Reyes** (ret.)

INTRODUCTION

Judicial well-being, which encompasses the mental health, emotional resilience, subjective well-being,[1] and professional fulfillment of judges is an area that is gaining recognition as a worldwide concern culminating in the United Nations adopting a resolution establishing July 25th as the International Day for Judicial Well-being that was supported by 160 member states and had 70 co-sponsors. In his comments on International Day for Judicial Well-being, Chief Justice Mark E. Recktenwald of the Hawaii Supreme Court recognized that "judicial well-being is essential to upholding the integrity, independence, and effectiveness of justice systems worldwide.

Judicial ethics and judicial integrity — defined as the consistent adherence to established codes of conduct and principles of impartiality — are directly impacted by a judge's physical, psychological, and emotional state. When judges are well-supported and guided by ethical standards, they are better equipped to render fair, unbiased decisions. Strong well-being helps judges maintain professional boundaries and resist external pressures, while ethical guidelines ensure their conduct remains above reproach. Together, well-being and ethics safeguard individual integrity and reinforce

When judges are well-supported and guided by ethical standards, they are better equipped to render fair, unbiased decisions.

1 Deiner, E., Lucas, R.E., & Oishi, S. (2002) Subjective well-being: The Science of Happiness and life Satisfaction, in C.R. Snyder & S.J. Lopez (Eds.) *Handbook of Positive psychology* (pp. 187-194). Oxford: Oxford University Press.

public confidence in the justice system.[2] In today's world of heightened scrutiny, judicial well-being and strict adherence to ethical principles are indispensable for preserving public trust and ensuring the fair administration of justice. For these reasons judicial officers must examine the interplay between judicial well-being, mental health, and ethics, and adopt strategies that foster a judiciary that is both mentally healthy and ethical.

UNDERSTANDING WELL-BEING

Judicial well-being refers to the holistic health of judges, encompassing mental, emotional, physical, and social aspects. Judges, as custodians of the law and arbiters of disputes, face immense pressures. Maintaining their well-being is essential not only for personal health but also for ensuring sound decision making, judicial integrity, and public confidence in the judicial system.

The National Task Force on Lawyer Well-being (2017) identified six aspects of well-being that are highly relevant to judicial officers[3:]

- **Mental and Emotional Health:** Judges regularly encounter high-stress situations, emotionally charged cases, and the weight of making consequential decisions. Exposure to distressing materials can lead to psychological distress, burnout, or secondary traumatic stress.
- **Physical Health:** Long hours, the sedentary nature of judicial work, and the expectation of sustained attention can erode physical health, contributing to chronic conditions.
- **Social Well-being:** The judicial role can be isolating; concerns about impartiality or public perception may limit social interactions, leading to feelings of loneliness. Judges may also experience threats to their safety or privacy, heightening stress and anxiety.
- **Occupational:** Cultivating personal satisfaction, growth, and enrichment in work, and financial stability.
- **Intellectual:** Engaging in continuous learning and the pursuit of creative or intellectually challenging activities that foster ongoing development; monitoring cognitive wellness.
- **Spiritual:** Developing a sense of meaningfulness and purpose in all aspects of life.

2 Miller, M.K. and Richardson, J.T. (2006) A model of causes and effects of judicial stress. *Judges' Journal, 45(4)*, 20-23; Richmond, D.R. (2012) Bullies on the Bench. Louisiana Law Review (72)(2), 325-360.

3 The Path To Lawyer Well-Being: Practical Recommendations for Positive Change

WHY JUDICIAL WELL-BEING MATTERS

Neglecting judicial well-being has far-reaching consequences: Impaired poor mental or physical health can lead to poor decision-making, delayed proceedings, and even ethical lapses. Judges under stress may be prone to errors or uncharacteristic behavior, undermining public trust and confidence in the courts.

Conversely, a judiciary that prioritizes well-being is better equipped to uphold the rule of law, act with empathy, and maintain the composure expected of those in high office. Supporting judges' health and well-being not only helps retain talented, experienced judges but also reduces burnout and premature departures.

> *. . . a judiciary that prioritizes well-being is better equipped to uphold the rule of law, act with empathy, and maintain the composure expected of those in high office.*

THE APPLICABILITY OF JUDICIAL ETHICS IN A JUDGE'S EVERYDAY LIFE:

Judicial ethics establishes standards of conduct that guide judges in their professional role, ensuring that judges act with integrity, independence, impartiality, and respect for the law. Five core principles of judicial ethics as reflected in the 2007 *American Bar Model Code of Judicial Conduct* (model code) may be implicated by the mental and emotional state of a judicial officer.

- **Independence:** Judges must remain free from external influences, whether familial, political, financial, or social. Independence safeguards the judiciary's ability to render decisions based solely on the facts and law. Canon 1, Rule 1.2, Canon 2, Rule 2.4, Canon 4.
- **Impartiality:** Fairness requires that judges approach every case without bias or prejudice, treating all parties equally and with respect. Canon 1, Canon 2, Rule 2.2, Rule 2.3, Rule 2.4, Rule 2.9,
- **Integrity:** Honesty and moral uprightness are essential to maintaining public confidence. Irresponsible comments by people outside of the judiciary can have a serious impact on the credibility of judges, and actions taken by judges should not reinforce those perceptions and undermine the credibility of judges across all levels of the system. Canon 1; Rule 1.2.

- **Propriety:** Judges must uphold the dignity of their office both inside and outside the courtroom, avoiding conduct that could bring the judiciary into disrepute. Preamble.
- **Competence and Diligence:** Judges must remain knowledgeable, prepared, and attentive to ensure legal proceedings are managed efficiently and justly. Rule 2.2.

ETHICS IN PRACTICE

Judicial codes of conduct, such as the model code, the Bangalore Principles of Judicial Conduct, and guidelines issued by national judicial councils, not only define the core principles of ethical behavior but also establish the process for addressing misconduct.

The significance of ethical conduct extends beyond avoiding sanctions or disciplinary measures. Ethical lapses can erode public confidence, undermine the legitimacy of the courts, and weaken the foundations of democracy. Conversely, a judiciary that consistently upholds ethical behavior fosters respect and trust in the rule of law.

Ethical lapses can erode public confidence, undermine the legitimacy of the courts, and weaken the foundations of democracy.

CHALLENGES TO JUDGES AND IMPACTS ON JUDICIAL ETHICS

Judicial well-being and ethics are closely intertwined. The pressure to uphold the highest ethical standards can itself be a source of stress, while impaired well-being may increase vulnerability to ethical lapses. Challenges that judges face include:

1. **Stress and Ethical Decision-Making:** High stress or burnout can impair cognitive function and judgment, making it harder for judges to adhere to ethical standards. Overwhelming caseloads and strict deadlines can force rushed decision-making with long term consequence on people's lives. Judges who rotate assignments frequently and may face steep learning curves, especially in unfamiliar areas of the law.

   Example: *Transitioning from criminal law to family or civil cases requires mastering new procedures and law, which can be daunting during the first years on the bench. Developing a consistent judicial philosophy takes time and patience, and the pressure to "get it right" can be intense.*

2. **Technological Change:** Digital evidence, remote hearings, and cybersecurity threats add complexity and introduce new ethical dilemmas.[4]

   Example: *The shift to virtual proceedings during COVID heightened concerns about their personal safety and privacy. Judges reported hiding identifying details in their backgrounds and feeling isolated from the public and their staff.*

   Technology also blurs work-life balance. Now, judges have access to case files 24/7, leading to unhealthy habits such as drafting orders at 2:00 a.m., which can undermine professionalism and well-being.

3. **Personal Safety, Accountability and Public Scrutiny:** Judges increasingly face threats to themselves and their families from disgruntled parties, organized crime[5], or even politicians.[6] Harassment through social media, assaults, including homicides at judges' homes, and even attempts to force recusal create additional stress[7]. Ethical constraints often prevent judges from responding publicly. This climate of disrespect erodes trust and heightens anxiety.

4. **Lack of Resources:** Inadequate support staff, limited access to wellness resources, and insufficient training hamper efforts to maintain well-being and ethical standards.[8] Resource disparities exist between urban and rural courts. Although urban judges may hear many more cases, they may also have access to additional staff, while rural courts may hear fewer cases but lack access to staff for support. Time constraints often force reliance on proposed orders from parties.

5. **Caseload and Administrative Burdens:** Heavy caseloads and administrative responsibilities leave little time for reflection, preparation, or recuperation. Judges often face time pressures and resource constraints. Chronic stress and fatigue can cause burnout, hindering a judge's ability to make sound decisions.[9]

6. **Emotional Impact of Traumatic Cases:** Judges routinely encounter distressing evidence in criminal, family, or child welfare cases. Prolonged exposure can lead

4 *National Center for State Courts*. (2021, January 16). Addressing the mental health and well-being of judges and court employees.

5 National Judicial College, Over half of judges report threats, environment affecting mental health

6 Muffler, J.F. Adjudicating in an Unsecured Workplace: How to Assess and Stay Safe. *The Judges' Journal*, Volume 57, Number 2, Spring 2018. © 2018 by the American Bar Association.

7 Brennan Center for Justice, Legislative Assaults on State Courts - December 2021 Update.

8 Lustig, S.L., Karnik, N. Delucci, K. Tennakon, L., Kaul, B. Marks, D. & Slavin, D. (2008), Burnout and stress among United States Immigration Judges, *Bender's Immigration Bulletin*, 13, 22-30.

9 Schrever, C., Hulbert, C. & Sourdin, T. The privilege and pressure: judge's and magistrate's reflections on sources and impacts of stress in judicial work. *Psychiatry, Psychology and the Law* (2024 May) 327-380.

to secondary trauma or empathetic distress,[10] distorting a judge's worldview and impacting their mental well-being.

Example: *Witnessing the tragic impact of violent crimes on families could unconsciously influence a judge's sentencing philosophy toward punishment or tolerance, raising ethical concerns about impartiality.*

7. **Professional Isolation:** Judicial independence necessitates limited social interactions, contributing to a sense of isolation and reduced access to emotional support[11] Judges require human connection, but the judicial system limits certain types of relationships due to potential or the appearance of ethical issues. Judges frequently spend significant time with their clerks. However, they may hesitate to be honest about issues. Likewise, lawyers will hesitate to offer feedback and relationships with close lawyer friends will often end, especially in smaller jurisdictions.

8. **Gender Issues:** Female judges frequently face gender-based bias by litigants, lawyers, and peers.[12] Female judges are seemingly held different standards and may face isolation from their male colleagues. Studies indicate that some female judges perceive their careers were impacted by family responsibilities.

The cumulative effect of these stressors has been shown to increase the prevalence of mental health issues among judges, including depression, anxiety, and substance use disorders.

PROMOTING JUDICIAL WELL-BEING

Addressing judicial well-being requires a multifaceted approach by both institutions and individuals. The *Nauru Declaration on Judicial Well-being,* issued by the United Nations Convention Against Corruption in July 2024, provides a roadmap built on seven core principles:

1. **Judicial well-being is essential and must be recognized and supported.** Judicial well-being is fundamental to a fair and effective justice system and ensuring public confidence.

10 Chamberlain, J., & Miller, M. K. (2009). Evidence of secondary traumatic stress, safety concerns, and burnout among a homogeneous group of judges in a single jurisdiction. *Journal of the American Academy of Psychiatry and the Law*, 37(2), 214–224. Schrever, C., Hulbert, C., & Sourdin, T. (2022). Where stress presides: predictors and correlates of stress among Australian judges and magistrates. *Psychiatry, Psychology, and Law: An Interdisciplinary Journal of the Australian and New Zealand Association of Psychiatry, Psychology and Law, 29(2).*

11 Mote, S. 5 Things Judges can do to cope with isolation and loneliness. Ohio Lawyer's Assistance Program. For an international perspective, see The Loneliness of Judges.

12 Lebovitz, G. (2017) Judicial Wellness: The Ups and Downs of Sitting New York Judges. *New York Bar Association*, 89(5). 10-22.

2. **Judicial stress is not a weakness and must not be stigmatized.** Historically. legal and judicial culture stigmatized stress, creating barriers to help-seeking and recovery. Judicial leaders must promote healthy cultural messages about well-being.

3. **Judicial well-being is a responsibility of individual judges and judicial institutions.** Judicial well-being is a shared responsibility. Individual judges must take active steps to maintain their well-being while judicial institutions must create working conditions conducive to judicial well-being.

4. **Judicial well-being is supported by an ethical and inclusive judicial culture.** A supportive culture is necessary as collegial connection is a key predictor of well-being. The court environment must support well-being for all judges and demonstrate zero tolerance for negative behaviors, including corruption, discrimination, harassment, and bullying.

5. **Promoting judicial well-being requires a combination of raising awareness, prevention, and management activities.** A systemic and holistic approach to promote judicial well-being should raise awareness, prevent avoidable stress, and manage the inherent demands of judicial work.

6. **Judicial well-being initiatives must suit the unique circumstances and requirements of national jurisdictions.** Well-being initiatives must be responsive to specific needs of the jurisdiction to be effective. Stress drivers are strongly shaped by local contextual factors, including economic, social, cultural, political, religious, and environmental influences, as well as crisis situations.

7. **Judicial well-being is enhanced by human rights.** Judges are entitled to fundamental rights (e.g., freedom of expression, belief, association, and assembly) subject to their duty to preserve the dignity of their judicial office and uphold the impartiality, integrity and independence of the judiciary.

THE ETHICAL RESPONSIBILITY

Reflecting on these principles, as well as the model code, raises an important question: *What is the ethical responsibility of a judge to develop an awareness of their state of mind and maintain their well-being?* If a judicial officer's demeanor, independence, integrity, impartiality, competence, and diligence may be affected by a lack of well-being, there is an ethical duty to seek help, just as lawyers must seek help seek when their ability to represent their client is impaired.[13]

13 Fucile, M. (2020) Model Rule 1.16(a)(2): Where Wellness Meets Withdrawal, *The Professional Lawyer* Vol. 27, No. 1.

Ending the stigma around of mental health treatment in the legal profession is essential. Judges need to know they will not be condemned personally or professionally for seeking help.

MOVING TOWARDS REFLECTION

There is a movement to be more reflective and less reactive. For example:

- Judge Tim Fall of California openly shares his challenges in *Running for Judge* (2020).
- Then-Chief Judge Timothy C. Evans partnered with the Illinois Lawyer's Assistance Program and the Illinois Commission on Professionalism to provide all the judges in Cook County a program on secondary trauma and increasing resilience.

Ending the stigma around of mental health treatment in the legal profession is essential.

Many judiciaries now offer wellness programs or offer confidential assistance through treatment providers. Research conducted through interviews with 59 in Australian judges revealed four common strategies among judges who maintain well-being.[14]

- They treated their physical health as foundational to their work;
- They maintained balanced lives, with interests and friendships outside the law;
- They consciously developed personal philosophies to help navigate the challenges of the role; and
- They proactively sought support in difficult times.

INDIVIDUAL STRATEGIES

Judges should prioritize sleep, nutrition, exercise, and personal time, recognizing that self-care is essential, not indulgent. Setting clear boundaries between work and home helps prevent burnout and maintain emotional balance. Seeking confidential professional or peer support when needed is a sign of strength, not weakness. Practicing self-compassion and acknowledging the demanding nature of judicial. These measures enable judges to remain empathetic, compassionate, and resilient, ensuring sound judgment and wisdom in adjudicating important matters.

14 Schrever, C., Hulbert, C. & Sourdin, T. The privilege and pressure: judge's and magistrate's reflections on sources and impacts of stress in judicial work. *Psychiatry, Psychology and the Law* (2024 May) 327-380.

INSTITUTIONAL STRATEGIES

Judicial institutions and the community have a moral if not ethical obligation to create an environment conducive to well-being. Strategies include:

- **Workload Management:** Adjust case assignments and provide sufficient administrative resources to alleviate pressure.
- **Education and Training:** Offer regular programs on resilience, stress management, and mental health awareness to equip judges with practical tools.
- **Counseling and Peer Support:** Provide confidential counseling services, peer mentoring, and judicial wellness committees to foster support and guidance.
- **Physical Health Initiatives:** Promote healthy habits within the court environment including encouraging regular exercise, breaks, and healthy eating.
- **Security Measures:** Implement adequate physical and digital security measure to protects judges and reduce anxiety about personal safety.

CONCLUSION

Judicial well-being and ethics are inseparable, forming two sides of the same coin. To dispense justice ethically, judges must cultivate self-awareness and resilience. Historically, conversations about mental health, trauma, and self-care were rare within judicial culture. Today, research shows that neglecting judicial well-being not only affects judges personally but also undermines judicial performance and public confidence.

Fostering judicial well-being and ethical integrity, through both institutional and individual efforts, is an investment in the future of justice. In an era of growing caseloads, limited resources, technological challenges, and heightened public scrutiny, these principles vital as the laws themselves — sustaining the moral and functional heart of the courts for generations to come.

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RECENT **CASES**

Recent Cases

PRIVATE POLITICAL EMAIL LEADS TO PUBLIC REPRIMAND

The Arizona Commission on Judicial Conduct publicly reprimanded a former judge for an email "of a political nature" that he sent to the other judges on his bench from his county email account. Cohen, Order (Arizona Commission on Judicial Conduct April 2, 2025).

The Commission initiated the complaint after news reports regarding an email the judge sent in August 2024 using his county email account to his fellow judges. In the email, the judge urged his colleagues to stand up against people who were accusing minority individuals of being unworthy "diversity hires," specifically referencing then Vice President Kamala Harris

This private communication became public in November 2024. The judge was presiding over a high-profile case at the time involving Arizona's "fake electors." when one of the attorneys in the case obtained a copy of the email and filed a motion to recuse based on it. The judge subsequently recused himself from the case. The motion and email were ultimately made public, and there were several articles written about the judge and his comments.

In his response to the Commission, the judge acknowledged that by sending the email and inserting himself "into the discourse, albeit in a private email to my colleagues, I opened myself and the court I represented up to ridicule at a time of great division." He emphasized that the email was not a political endorsement but rather a "call for decency" and that he had recused promptly from the "fake electors" case.

His subsequent *Motion for Reconsideration* was denied on July 23, 2025, despite the Disciplinary Counsel recommendation in its response, that the Commission reassess the prior order and instead impose a *Dismissal with a Warning* based upon the mitigating factors set out in the judge's response. In its response to the motion, the Commission reiterated that similar prior cases involving judges writing political emails resulted in reprimands, warranting the same sanction here for parity.

JUDGE INTERVENES FOR ACQUAINTANCE'S PARKING TICKETS AND ASSERTS JUDICIAL TITLE IN PUBLIC DISPUTE

Based on an agreement, the New York State Commission on Judicial Conduct publicly censured a judge for misuse of his judicial office on behalf of an acquaintance and, in a separate incident, on behalf of his son. *In the Matter of Klein*, Determination (New York State Commission on Judicial Conduct May 29, 2025).

In the first incident, on October 25, 2022, the judge improperly intervened to prevent the mechanical booting of a vehicle belonging to a professional acquaintance who owed $465 in outstanding tickets. The judge called a Special Police Officer and said in words or substance, "Stop the boot." He subsequently called the sergeant's desk, stating that the tickets were on the desk and being "taken care of," leading the sergeant to believe the judge was acting in his judicial capacity to adjudicate the violation. Consequently, SPOs were notified that "Judge Klein called. Do not boot it," and the boot was removed believing the judge was acting in his judicial capacity.

In the second incident, on April 11, 2024, the judge attended a public meeting of a local School District's Board of Education to challenge the policy for selecting valedictorians, seeking the appointment of his son. During heated exchanges with the School District Attorney, Judge Klein asserted his judicial office, telling the attorney, "You can refer to me, Counsel, as judge" and "If you are going to try to be a lawyer, then

> *"The Commission found that the judge's conduct in these two incidences was inconsistent with his obligations to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."*

refer to me by my title as well." He shouted, repeatedly interrupted counsel, and accused the Superintendent of siccing a "pit bull attorney" on him.

The judge twice improperly interjected his judicial status into private matters and his actions were unbecoming a judge. The Commission found that the judge's conduct in these two incidences was inconsistent with his obligations to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." The judge acknowledged that his conduct was improper and that he should face public discipline.

CAMPAIGN MISCONDUCT: FALSE ACCUSATIONS AND IRS RETALIATION

Based on a stipulation, the Florida Supreme Court suspended a judge for 10 days without pay and issued a public reprimand for misconduct during her 2022 judicial campaign. JQC re: Mardi Levey Cohen (Florida Supreme Court May 8, 2025).

First, she disseminated unverified information accusing her opponent of fraud. Second, in retaliation against a church where her opponent had campaigned, she filed a complaint with the Internal Revenue Service challenging the church's tax-exempt status. She then sent the church a copy of the complaint using a false return address of "IRS EO Classification," deceitfully suggesting the document originated from the IRS itself.

The judge stipulated that she knowingly mispresented facts about her opponent and acted in a manner inconsistent with what is expected of a judge. In determining the appropriate sanction, the Court took into consideration that the judge admitted her misconduct, accepted responsibility, and cooperated with the Commission when imposing discipline.

ATTORNEY DISPARAGEMENT

The California Commission on Judicial Performance publicly admonished a former judge for his improper behavior towards a deputy public defender while presiding over a homicide case, including making disparaging remarks concern counsel. *Public Admonishment of Bowers (Ret.)* (California Commission on Judicial Performance July 8, 2025).

The judge's conduct began after the deputy public defender filed a motion to continue because of a conflict with another felony case that was set for trial. In open court, the judge began questioning the defendant about the quality of his appointed counsel in open court which was objected to by the DPD as an improperly initiated a *Marsden* motion (a request to substitute appointed counsel).

The judge stated his concern about the DPD's competence, questioning if his "step up to homicide" was too soon and saying that it was his intent to appoint a more experienced private attorney if the defendant requested one, exhibiting bias and prejudgment. The judge made additional disparaging comments about the DPD, referring to his statement of disqualification that he filed as "pretty borderline frivolous" and implying bad faith concerning trial scheduling. In addition, even before the defendant requested new counsel, the judge engaged in an *ex parte* conversation with another attorney about his availability to take on the homicide case. Furthermore, the judge improperly handled the statement of disqualification.

The Commission found that the judge's conduct interfered with the attorney-client relationship and could be perceived as retaliation for counsel's motion to disqualify the judge. In deciding the appropriate sanction, the Commission considered two previous cases of misconduct for which the judge was sanctioned that were similar in nature to this case. The Commission privately admonished the judge in 2012 and issued an advisory letter in 2007.

The Commission found that the judge's conduct interfered with the attorney-client relationship and could be perceived as retaliation for counsel's motion to disqualify the judge.

A PATTERN OF IMPROPER DEMEANOR

The California Commission on Judicial Performance publicly admonished a judge for a pattern of misconduct occurring between 2019 and 2024, involving inappropriate remarks, threats, and abuses of authority. *Public Admonishment of Monguia* (California Commission on Judicial Performance August 28, 2025.)

Over a four-and-a-half year period, the judge repeatedly made public remarks in the courtroom threatening to "shoot" people, or have them "shot" by his bailiff, remarks directed at defendants, attorneys, and a retired judge. In one instance, while presiding over a preliminary hearing in November 2022, he told a defendant when ruling on the motion to reduce the felony charge to a misdemeanor that, if it were him, "I would have shot him [the defendant], but that's me."

On another occasion in September 2023, the judge criticized two lawyers waiting in his courtroom while he was on the record saying to the effect of: "if counsel did not lower their

voices, he would authorize his bailiff to use physical force, not for the bailiff to shoot counsel, but so Judge Monguia could shoot counsel himself."

In October 2023, retired judge Stephen Marcus was presiding in a case in Judge Monguia's courthouse. Judge Marcus, who was in a suit not a robe, entered Judge Monguia's courtroom through the public entrance. While the judge was on the bench but not on the record, Judge Marcus went up to the judicial assistant and asked to use the staff entrance. The judicial assistant did not recognize Judge Marcus and did not let him use the entrance. Judge Marcus turned to exit the courtroom through the public entrance, and Judge Monguia stated that Judge Marcus was lucky the bailiff was not there, otherwise he "would have ordered her to 'shoot' Judge Marcus, or words to that effect."

His inappropriate comments were also directed to perspective jurors; in May 2019 during jury selection, the judge "joked" that his bailiff was "authorized to shoot" anyone who crossed into the well between counsel table and the judicial bench.

The Commission concluded that these remarks, even if made in jest, were undignified and discourteous, fostering an atmosphere of intimidation, and constituted an abuse of authority.

While presiding over a domestic violence case in March 2023, the judge made improper remarks to a domestic violence victim, who was seeking to modify a no-contact restraining order to facilitate child visitation, implying that the victim was partially to blame for the violent acts by the defendant. He told the victim, "My attitude on this and the way I handle these in my court is it takes two to tango, you know." He also made a statement that the victim had learned to communicate through violence saying, "Tempers get hot and flared. And the way that you communicate to each other is through violence. This is what you know." Furthermore, he told the victim to "convince me that you're not going to be treated as a doormat, you have some self-esteem and some self-respect."

The Commission found that the judge failed to treat the victim with "dignity, respect, courtesy, and sensitivity, and

The Commission concluded that these remarks, even if made in jest, were undignified and discourteous, fostering an atmosphere of intimidation, and constituted an abuse of authority.

failed to protect her from 'intimidation, harassment, and abuse, throughout the criminal . . . justice process'" and that these comments implied that the victim was partially responsible for the violent behavior, used harmful stereotypes about women who are domestic violence victims, and gave the appearance of gender bias and bias against victims of domestic violence.

The improper remarks extended to potential jurors. In September 2022 while presiding over jury selection, in response to a juror expressing reservations about police, Judge Monguia responded by stating, in part, that "I grew up in San Bernardino. I know what you're saying. Sometimes we used to say the Mexican cops were the worst ones because they were the hardest on us, and I've seen one — two of my friends shot and killed or stabbed to death." He also stated that "I don't think anyone should have firearms… but me. Because of my past, I grew up with firearms and weapons." In the same case, he referred to one juror as a "hot mess" and when a prospective juror requested to speak in chambers about their sister being a "victim of a violent rape," the judge responded: "Okay. That's all? I mean, that came out wrong, but, I mean, this case has — it's not a violent, you know, assault or murder —."

In another case during jury selection when a prospective juror who was Korean, said she did not read English. the judge said on the record although outside of the presence of the jurors, "I think she understands. It's a cultural thing." He later made an off-the-record statement to the effect of: "I don't think it's that she doesn't speak English. I think it's that she's a meek Korean woman who doesn't know how to speak up." When they went back on the record, he further remarked "There's a lot of cultural things. She doesn't get a bypass on this… She just doesn't get it." The Commission found these comments violated his duty to avoid bias based on national origin and gender.

The judge also made inappropriate comments to and about defendants that were discourteous and gave the appearance of bias, including remarks that reflected gender and ethnicity bias. In November 2023, during a felony sentencing hearing, when defense counsel requested a finding that the defendant was indigent, the judge addressed the defendant, who was overweight, saying, "So[,] you don't look like you['re] starving or anything.

In another case in May 2019, in an off-the-record pre-trial conference the judge made comments describing the pregnant defendant, who had prior drug charges, as a "meth psycho bitch" who was a "drug addict," and commented that she was "going to have a meth baby" who would be "supported by [his] taxes."

The judge also exhibited an impatient and discourteous demeanor toward a another defendant in September 2022. When the defendant merely nodded while the judge was speaking about her case, the judge told her: "And you're nodding, ma'am. Please do not distract the court. I don't need to listen from [sic] you. If you have something to say, I'll take a break, and you can talk to your attorney… If you continue to do that in front of jurors, I'm going to have you thrown out. Do you understand?"

The judge had several improper interactions attorneys that reflected poor demeanor and bias, were of such nature that it was undermining their professional standing, and interfered with the attorney-client relationship.

The judge had several interactions with a particular deputy public defender (DPD) who was a new attorney that were discourteous and could be considered improper coaching of the attorney and improper *ex parte* communication. In August 2023, the DPD left the courtroom briefly to attend to other matters after being told by the judicial assistant the judge was not ready to call her case; she returned to the courtroom when the judicial assistant texted her to return to the courtroom. When she returned, the judge, in open court, said words to the effect of: "Don't go anywhere. I have instructed my bailiff to shackle you if you try to leave." Later that same day, when the DPD was representing her client in her first preliminary hearing and she was trying to clarify her argument, the judge criticized her by saying: "Well, that might play well for the 12 mystery guests, but this is a preliminary hearing, and the standard is much different. We're all old and jaded and curmudgeonly up here. Pretty much anyone who worked in this building more than ten years could qualify as an expert in these cases. I just don't see where you're going." After the hearing the judge told the DPD in an off-the-record conversation, outside the presence of the prosecutor, that her repetition of witness answers during cross-examination was "unnecessary" and "annoying," and told her, "Don't do that."

In another case in August 2023, a different DPD was told by the judicial assistant that the prosecution's witnesses had not arrived, and that the case was not ready to be called. The DPD told the judicial assistant that she was going to attend to another scheduled appearance and that she would return in 20-30 minutes, which she did. When she returned, the judge loudly addressed her in an angry tone in a crowded courtroom, saying words to the effect that the DPD was "disrespectful" of the court and witnesses, had "no situational awareness," and "owed the prosecution's witnesses lunch." The judge had inquired the day before if the DPD was a new attorney.

During a another pre-trial conference, the judge made off-the-record comments disparaging the DPD's legal strategy in the presence of the Deputy District Attorney that was considered improper coaching. He advised the DPD not to call a particular witness, stating, "You're gonna lose, and when your client goes down I'm going to max her out," or words to that effect.

In addition to his inappropriate behavior in these cases, the judge had multiple instances of disregarding the rights of a defendants and abuse of authority.

In September 2023, a defendant appeared voluntarily on a bench warrant with her young child in the morning. Much later in the day, the judge finally called the case. After determining her counsel intended to file a motion to be relieved and substitute counsel was not authorized to act, a DPD who was in the courtroom offered to appear as a friend of court and proposed that the case be set for probation violation hearing and asked for more time to review the case. The judge

ordered the defendant be remanded into custody despite the objection by the DPD who noted there was no one present to take custody of the child. While the DPD was attempting to make arguments for the defendant, the judge interrupted the DPD when she stated that she needed to call her office and that she had never seen "a child ripped away from his mother's arms in court," responding, "Well, you haven't been in the office very long then, counsel. I've been here for 30 years so…" He also refused to let the defendant speak when she asked and proceeded to remand her to custody without counsel. As deputies handcuffed the defendant her, she handed her child over to them, who then transferred the child to the DPD. The DPD and other public defenders had to remain outside the courtroom waiting for a responsible adult to take custody. Later that afternoon, after three senior public defenders spoke to him, the judge appointed the Public Defender's office and, after hearing arguments, released the defendant on her own recognizance.

In November 2024, during a preliminary hearing in while a defendant was representing himself while in custody, the judge engaged in improper communication and violated the defendant's rights by unilaterally declaring a doubt as to his competence. The judge communicated with the defendant's investigator outside the defendant's presence. The judge stated in court that the investigator had been there that morning and had to leave for an appointment. During that conversation that the judge had with the investigator without the defendant present, the investigator told the judge that the defendant refused to discuss the discovery and refused to let him assist, leading the investigator to ask to be relieved from the case. The judge told the defendant that upon review of the transcripts from his prior proceedings that had not been provided to the defendant, that his discussions had been "disjointed" and he was "unable to assist in the preparation of your defense." When the defendant objected, quoting case law about his rights, the judge interrupted, stating: "Sir, I'm declaring a doubt as to your competence. Your criminal proceedings are suspended." When the defendant tried to speak and ask for the transcripts, the judge said, "You'll get them when you come back." The defendant responded by saying "No. I'm not going to cooperate with that. You're kidnapping me." After suspending the criminal proceedings, the judge failed to appoint counsel until 15 days later, delaying the case and prolonging the defendant's time in custody.

The Commission considered the judge's admission to misconduct, as well as his lack of prior discipline, as mitigating factors in determining the sanction.

SEXUAL HARASSMENT AND INAPPROPRIATE COURTROOM RELATIONSHIPS

Based on the judge's admissions, the Minnesota Board on Judicial Standards publicly reprimanded a former judge for engaging in inappropriate sexual contact with his law clerk, inappropriate comments made to other clerks, and other behavior that made court staff feel uncomfortable in violation of the Judicial Council non-discrimination and harassment policy. In the Matter of Quam (Minnesota Board on Judicial Standards April 25, 2025). The judge engaged in an inappropriate sexual relationship with his law clerk while she was in his employ and made inappropriate comments to other court staff. Staff altered their professional behavior to avoid his unwanted attention. The judge retired after the investigation commenced.

EX PARTE COMMUNICATIONS AND HOSTILE COURTROOM GRIEVANCES

Pursuant to the judge's agreement, the Kentucky Judicial Conduct Commission publicly reprimanded a judge for repeated violations of the Code of Judicial Conduct that involved *ex parte* communication, inappropriate discussion of confidential matters, threatening a prosecutor, discussing pending ethics complaints against himself from the bench, and conducting independent investigations outside his judicial role. In re the Matter of Hall (Kentucky Judicial Conduct Commission April 2, 2025).

In January 2024, the judge met with a criminal defendant to complete an *Affidavit of Indigency* and appoint counsel without the Commonwealth present. In February 2024, following a recusal motion in the same case, during a phone call that he made to the prosecutor, he accused the Commonwealth of attempting to destroy him, and threatened to "make life difficult for them," and became more hostile when the prosecutor mentioned the previous *ex parte* communication.

During several hearings in February 2024 and again in April 2024, the judge talked about ethics charges filed against him by the Commonwealth, making comments that included that people were "out to get him," that people were "inking up motions before they think," that "if the ethics board doesn't remove me" when talking a new protocol he was working, and that he had "cuffs thrown on" him by ethics rules.

On several occasions, the judge made inappropriate comments about drug court during proceedings. He stated that if he did what drug court did, some "nutjob" would file an ethics complaint against him and referred to drug court as operating like a "cartel" and a "Star Chamber."

On several cases, the judge failed to notify the prosecutor to appear. The judge did not disclose calls from a defendant's family to the Commonwealth regarding the defendant's bond until a

hearing on the case. In another case, the judge called a defendant to appear without informing the Commonwealth. In yet another case, the judge entered an order of expungement without notice to the Commonwealth and without a hearing.

The judge performed a wedding for a criminal defendant on August 11, 2022, while a motion to amend judgment was still pending in that case without disclosing his actions on the record.

DISREGARD FOR JUDICIAL DECORUM

Based on the Judiciary Commission's findings and recommendation, the Louisiana Supreme Court of suspended a judge from office for 30 days without pay for his improper judicial demeanor in three separate cases in 2021 and 2022. *In re Foret*, (Louisiana Supreme Court October 15, 2025). The Commission had recommended a censure.

The first complaint concerned the judge's conduct during a murder trial. When an assistant district attorney (ADA) requested a table to publish the evidence, the judge loudly expressed anger at the ADA and at his staff over the failure to have an evidence table ready. When the deputy chief judge discussed the judge's conduct during the trial in a phone call on a speakerphone, the judge raised his voice and used profanity. The conversation was overheard by court staff. In the same trial, he started closing arguments early when the jurors arrived early, causing the sequestered murder victim's family, who had waited seven years for the trial, to miss a small portion of the prosecution's closing arguments.

The second complaint involved the judge's behavior in two separate instances in a civil case. The first was when the judge indicated to counsel that he was generally predisposed against motions for summary judgment and motions in limine. After a pre-trial hearing in the matter, the judge asked about settling the case. The judge then used an expletive, advising plaintiffs' counsel to tell defense counsel to "go f---himself" if he did not raise his offer.

The third complaint was related to the judge's behavior in a status conference in a high-profile class action case that was reported on in a newspaper. The judge questioned one of the plaintiffs' attorneys about her business relationship with an attorney who was not involved with the litigation. The attorney said they had a joint venture but were not law partners. The judge called the unrelated party "a piece of s---" and told the plaintiff's attorney that if they were law partners, he could not be fair. One of the defense attorneys related that he also had a professional relationship with that attorney as he was representing him in a case involving a car accident. The judge then indicated that the car accident happened in his front yard and continued to berate the unrelated attorney. A motion to recuse was filed against the judge; while an ad hoc judge originally denied the request, on appeal, the motion to recuse was granted.

The Louisiana Supreme Court in a lengthy discussion about the judge's behavior made it clear that the judge was "being disciplined for his intemperate and actions" and found that his behavior "demonstrates a pattern of injudicious behavior and gives the impression that Respondent either lacks a fundamental understanding regarding appropriate judicial temperament and demeanor or believes that maintaining appropriate judicial temperament and demeanor is unnecessary." In aggravation, the Court noted that the judge's conduct was while he acting in his official capacity and most occurred in the courtroom. While the judge indicated to the Court that he had mentor to address his judicial demeanor, the Court was concerned about his ability to change temperament or even understand what a judicial demeanor should be. The Court stated that the judge was new to the bench but he had a long legal career before taking the bench so he should have known proper judicial demeanor from his years of experience in the courtroom. Considering all the factors, the Court determined that the behavior warranted a suspension.

POLITICAL ENDORSEMENT VIOLATION

The Supreme Court of New Jersey adopted the findings and recommendation of the Advisory Committee on Judicial Conduct and suspended a judge from judicial duties for two months without pay for Facebook posts and mandated that he complete a minimum of four hours of in-person continuing professional development courses concerning systemic, actual, and implicit bias prior to returning to the bench. *In the Matter of LePore*, (New Jersey Supreme Court May 28, 2025.)

In the formal complaint filed in the Court, the Committee alleged that that the judge's Facebook page had numerous posts, reposts, and "likes" and "friends" that violated the judges ethical obligations. He posted support to "Blue Lives Matter" and other social movements, and other posts contained references to partisan political viewpoints, and he had "friended" groups that were considered partisan political groups. The Committee had advised the judge to remove to eliminate "inappropriate content" from his Facebook page, but the judge failed to do so.

PATTERN OF DISREGARD FOR MANDAMUS ORDERS AND JUDICIAL PROFESSIONALISM

The Texas State Commission on Judicial Conduct publicly reprimanded a judge for failure to follow orders issued by an appellate court and to maintain professional competence. *Judge Alvarez* (Texas State Commission on Judicial Conduct May 12, 2025.)

The Commission consolidated several complaints into their discipline of the judge. In the first complaint, the judge failed to timely act on an order from the court of appeals to vacate an order and blamed the court's general counsel on her delay. In a second case, she granted a change in visitation without allowing the other side to present evidence failing to give those with an interest in the litigation an opportunity to be heard.

In the second complaint, the judge failed to comply with the law and maintain professional competence in the law when she acknowledged the court of appeals opinions but disregarded binding precedent, specifically by failing to comply with rulings and mandamus orders issued by the Fourth Court of Appeals in nineteen separate cases involving the Department of Family and Protective Services (DFPS). Her failure to comply with precedent and court orders in a timely fashion resulted in seven mandated opinions from the appellate court and sixteen opinions finding that she violated the Separation of Powers Clause of the Texas Constitution after the court of appeals had previously made rulings regarding this issue in same or similar cases from her court. She failed to follow orders issued by court of appeals in a timely fashion seven times.

In the third complaint, the judge exhibited bias and prejudice when she refused to appoint an attorney as the *Amicus Attorney* in two cases despite an agreement by the parties to have her appointed and she made disparaging comments in open court about her on multiple occasions. The judge also improperly requested a transcript from another county in which a potential juror mentioned the *Amicus* Attorney, intending to use it in her defense against allegations and requesting her county to pay for the transcript which was lending the prestige of her judicial office to advance her own private interests. She did agree to repay the transcript costs.

INTEMPERATE COURTROOM EXCHANGES AND JUDICIAL OVERREACH

The Wisconsin Supreme Court suspended a judge without pay for seven days for two separate incidents showing judicial intemperance and overreach. *In the Matter of Berz* (Wisconsin Supreme Court May 27, 2025).

In the first incident in May 2010, during a hearing in a criminal case, when the defendant made another request for additional time to prepare for trial, the judge told the defendant she agreed with the prosecutor that the request would "in all probability" turn out to be a "ruse," and if he was convicted, "this Court will not forget that" followed by more by sarcastic and intemperate remarks. When the defendant noted her sarcasm, she replied, "Good. I thought it would be. That's why I'm saying it to you that way, because I thought you would relate with that."

The second incident from December 2021 which the Court found "even more troubling," occurred in a criminal case after a defendant failed to appear for trial. His attorney told the judge that the defendant had been admitted to the hospital. Instead of issuing a bench warrant for the defendant, the judge instructed staff to locate the defendant. The defendant was found to be in a hospital emergency room. The judge first directed the bailiff to arrest the defendant. When this proved impossible, she told those in her courtroom she would retrieve the defendant herself, and subsequently drove away from the courthouse in her personal vehicle with defense counsel in the front seat without the prosecutor. She instructed counsel not to tell the defendant they were coming. She returned only after counsel insisted the trip was inappropriate for a neutral decision maker.

CONFLICT OF INTEREST AND ABUSE OF AUTHORITY

Based on the Board on Judicial Standards' findings and recommendation, the Minnesota Supreme Court censured a judge and suspended him without pay for nine months for two instances of misconduct that included a conflict of interest and abuse of authority. The Court also issued a public reprimand of the judge as an attorney. *Inquiry into the Conduct of Dehen* (Minnesota Supreme Court September 22, 2025). The Commission had recommended the judge be censured and suspended without pay for six month.

Court Reporter Dispute: The first incident is related to a court reporter salary dispute in which the judge improperly issuing to writs of mandamus ordering the district court administrator to increase the judge's court reporter's salary. The judge's court reporter resigned after complaining that her salary was too low with an understanding that the judge would rehire her at a higher salary. The judge and his court reporter were unaware that the state had sent out a notice that court reporters would be rehired at the same salary they had upon resignation unless they had obtained further experience. Despite being told that the court reporter's salary was set according a collective bargaining agreement and that a judge could not set the specific rate of pay, the judge directed the court administrator to rehire his court reporter at the top of the pay range and later suggested a salary midpoint on the range. The judge then filed an order appointing his court reporter and issued a peremptory writ of mandamus directing the court administrator to immediately pay his court reporter the higher salary. The Court of Appeals vacated the peremptory writ.

After several months of litigating the issues, the judge issuing a second writ, but the Court of Appeals vacated this second order and writ and explicitly found that the judge had a clear disqualifying conflict of interest because he initiated the proceeding concerning the salary of his directly supervised employee and assigned the matter to himself to decide it.

Remote Court Calendar: The second incident occurred in November 2022, when the judge was presiding over a remote juvenile court calendar, which included confidential matters. The judge conducted the hearings while riding as a passenger in a moving vehicle with his wife driving. The judge had told the attorneys that he was on vacation but decided to hold court but later told the Board that he had an opportunity to attend a family member's swim meet. The Court concluded that conducting court from a moving car is generally inconsistent with decorum.

The Court determined that, contrary to the Board's conclusion, the judge's actions regarding certain at-risk juvenile guardianship proceedings did not constitute misconduct, concluding that any errors were not contrary to clear and determined law and did not convincingly reflect actual bias.

The Court based its decision to impose a greater sanction than the Board recommended, in part, on the egregious nature of his misconduct related to the court reporter salary issue and that he exhibited little if any remorse for his actions.

FAILURE TO FOLLOW APPELLATE MANDATE

The Nevada Commission on Judicial Discipline suspended a judge without salary, for a period of eighteen months, with twelve months of that sanction suspended, followed by two years of probation, for repeatedly failing to comply with orders from the Supreme Court and failing to rule on recusal motions. The judge was also ordered to complete, at her own expense, a specialized remedial training program developed and administered by the National Judicial College to tailored to the judge's misconduct and Code violations. The Commission found against the judge in three of the six charges filed. *In the Matter of Ballou* (Commission on Judicial Discipline September 22, 2025).

The judge failed or refused to enter judgment in favor of the State and remand a criminal defendant into custody after the Supreme Court reversed the judge's decision regarding a Petition for a Writ of Habeas Corpus in August 2022. Instead of entering the ordered judgment, the judge scheduled an evidentiary hearing to allow the defendant to present additional evidence. The Commission rejected the judge's claim that the Supreme Court's order to "REVERSE AND REMAND" was ambiguous.

The judge subsequently failed to enter judgment in favor of the State and remand the defendant into custody after the Supreme Court granted the State's Petition on October 12, 2023, which specifically ordered the judge to enter judgment.

The judge failed to follow the law and took no action in the same case after the State filed motions to recuse or disqualify the judge in the underlying case. Nevada law requires a judge to proceed no further with a case once an affidavit seeking disqualification is filed and the judge did not do that, instead the judge granted the criminal defendant's motion to strike the State's recusal motion.

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