

To: ABA Joint Commission to Evaluate the Model Code of Judicial Conduct

From: Judge Julie Conger
Alameda County Superior Court
Oakland, CA

I have read and concur with the Comments submitted by Alan B. Morrison on January 28, 2006 and February 25, 2006 concerning the Revised Draft of December 14, 2006. As a member of the California Judges Association Ethics Committee since 1990 (twice Chair) and a judge who has been personally involved in judicial elections (both as a candidate and campaign manager/treasurer), I would like to supplement Mr. Morrison's remarks with the following observations:

- 1) Rule 5.01(A)(7): Prohibiting acceptance of endorsement from political organizations is not only difficult to enforce but puts judges and judicial candidates at a severe disadvantage in electoral campaigns. Local political organizations hold Candidates' forums which realistically are among the only avenues judicial candidates have to air their qualifications and to sell themselves. These organizations are more plentiful and community-based than the traditional political parties; they donate funds to the candidates they support, have phone banks, mailers and endorsement meetings. The likelihood of these organizations appearing before the judge's court as a party to litigation is minimal. Without the ability to appear and campaign at these political functions, judicial candidates are confined to getting their message to the electorate via ballot statements, expensive media presentations, and/or newspaper endorsements, which are, very often, even more politicized and political than the local organizations.
- 2) Rule 5.01(A)(4): The prohibition against contribution (of any amount) to political organizations or candidates for public office is overly restrictive. Why shouldn't a judicial officer be allowed to make a (modest) contribution to a candidate or cause he or she supports? Disclosure through Fair Political Practices

- Commission documentation would serve to keep a check on extravagant and politically-biased contributions and would satisfy the public interest in knowing the organizations and the candidacies supported by the judge.
- 3) Rule 5.01(A)(8) Again I agree with Mr. Morrison that this rule needs to be tightened to permit acceptance of campaign donations by a judicial candidate from family and close friends. Under this rule, donations would ostensibly be made to the candidates' campaign committee; will this rule prohibit other judges from sitting on that Committee and accepting campaign donations?
 - 4) Rule 5.01(A)(3) Furthermore, in judicial campaigns, strong support from other members of the judiciary is invaluable for establishing credentials as a viable candidate for judicial office. If this rule prohibits judges from endorsing their colleagues in a hotly contested judicial race, it would seriously tie the hands of judicial candidates, and hamper their ability to project their credentials to the electorate.

Thank you for your consideration of my comments.

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