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2
3 **CANON 3**

4 **PERSONAL CONDUCT: A JUDGE SHALL CONDUCT THE JUDGE’S PERSONAL**
5 **AFFAIRS TO PRESERVE THE INTEGRITY, IMPARTIALITY, AND INDEPENDENCE OF**
6 **THE JUDICIARY**

7 **RULE 3.01: INFLUENCE OF PERSONAL INTERESTS ON JUDICIAL CONDUCT**

8 **A judge shall not allow his or her financial, political or other personal**
9 **interests or relationships to influence his or her judicial conduct or**
10 **judgment.¹**

11 **RULE 3.02: MISUSING THE PRESTIGE OF JUDICIAL OFFICE**

12 **A judge shall not lend the prestige of judicial office, or allow others to do so,**
13 **to advance the personal interests of the judge or others.²**

14 **COMMENT**

15 [1] Maintaining the prestige of judicial office is essential to a system of
16 government in which the judiciary functions independently of the executive and
17 legislative branches. Respect for the judicial office facilitates the orderly conduct
18 of legitimate judicial functions. Judges should distinguish between proper and
19 improper use of the prestige of office in all of their activities.³

20 [2] It is improper for a judge to use or attempt to use his or her position to
21 gain personal advantage or deferential treatment of any kind. For example, a
22 judge must not use judicial letterhead to gain an advantage in conducting his or
23 her personal business.⁴

24 [3] Special considerations arise when judges write or contribute to
25 publications, whether related or unrelated to the law. A judge should not permit
26 anyone associated with the publication of such materials to exploit the judge’s
27 office in a manner that violates this Rule or other applicable law. In contracts for
28 publication of a judge’s writings, the judge should retain sufficient control over
29 the advertising to avoid exploitation of the judge’s office. Prohibited conduct
30 includes, but is not limited to, allowing the publisher to praise the judge’s judicial
31 accomplishments or, when the work is unrelated to the law, to emphasize the
32 judge’s position.⁵

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¹ Canon 2B (partial)

² Canon 2B (partial)

³ Canon 2B Commentary

⁴ Canon 2B Commentary

⁵ Canon 2B Commentary

1 [4] This rule does not apply to a judge's use of his or her name in connection
2 with campaign activity as permitted in Canon 5. Judges may participate in the
3 process of judicial selection by cooperating with appointing authorities and
4 screening committees, and by responding to inquiries from such entities
5 concerning the professional merit of a person being considered for a judgeship.⁶
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7 [5] A judge may provide a reference or a recommendation for an individual
8 based upon the judge's personal knowledge. When a judge is personally aware of
9 facts or circumstances that would contribute to an accurate assessment of the
10 individual under consideration, a judge may properly communicate that
11 knowledge, and his or her opinions based thereon, to those responsible for making
12 decisions concerning the applicant. The judge's awareness may be based, for
13 example, on personal knowledge of the individual or special knowledge derived
14 from some relationship, such as that with a law clerk or long-time family friend.
15 In any case, in considering whether it is appropriate to write the recommendation
16 on official or personal letterhead, the judge should carefully consider whether the
17 recommendation or endorsement might reasonably be perceived as exerting
18 pressure by reason of his or her judicial office, and should avoid any action that
19 could be so understood.⁷
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21 [6] A judge must not initiate the communication of information to a
22 sentencing judge or a probation or corrections officer, but may provide to such
23 persons information for the record in response to a formal request.⁸
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25 **RULE 3.03: USE OF NON-PUBLIC INFORMATION**

26
27 **A judge shall not intentionally disclose or use nonpublic information***
28 **acquired in a judicial capacity for any purpose unrelated to judicial duties.**⁹
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30 **COMMENT**

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32 [1] In the course of performing their judicial duties, judges may acquire
33 information of commercial or other value that is unavailable to the public. Judges
34 must not reveal or use such information for personal gain or for any purpose
35 unrelated to their judicial duties.
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37 **RULE 3.04: AFFILIATION WITH DISCRIMINATORY ORGANIZATIONS**

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39 **A judge shall not hold membership in any organization that practices**
40 **invidious discrimination on the basis of race, gender, religion, national**

⁶ Canon 2B Commentary

⁷ Canon 2B Commentary

⁸ Canon 2B Commentary

⁹ Canon 3B(12)

1 **origin, ethnicity, or sexual orientation, and shall not use the benefits or**
2 **facilities of such an organization to any significant extent.**¹⁰

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4 **COMMENT**¹¹

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6 [1] A judge's membership in an organization that practices invidious
7 discrimination creates the perception that the judge's impartiality is impaired.
8 Whether an organization's practices are invidiously discriminatory is often a
9 complex question. In general, an organization is said to discriminate invidiously if
10 it arbitrarily excludes from membership on the basis of race, religion, gender,
11 national origin, ethnicity or sexual orientation those individuals who would
12 otherwise be admitted, and the exclusion is not reasonably related to a legitimate
13 purpose. Rule 3.04 does not prohibit a judge's membership in any organization
14 dedicated to the preservation of religious, ethnic or legitimate cultural values of
15 common interest to its members.

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17 [2] Public manifestation by a judge of the judge's approval of invidious
18 discrimination on any basis gives the appearance of impropriety in violation of
19 Rule 1.01 and diminishes public confidence in the integrity and impartiality of the
20 judiciary. Rule 3.04 relates only to organizations invidiously discriminating on the
21 basis of race, gender, religion, national origin, ethnicity, or sexual orientation.
22 However, a judge's membership in or significant use of the benefits and facilities
23 of organizations practicing invidious discrimination on any other basis prohibited
24 by applicable law creates the appearance of impropriety in violation of Rule 1.01.

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26 [3] Whether a judge's use of the benefits and facilities of a discriminatory
27 organization is significant depends on whether the frequency or nature of that use
28 is sufficient to create the impression that the judge approves of the organization
29 and its practices. Accordingly, a judge must not arrange a meeting or regularly
30 attend events at, or regularly use other benefits and facilities of, an organization
31 that the judge knows practices invidious discrimination on the basis of race,
32 gender, religion, national origin, ethnicity or sexual orientation in its membership
33 or other policies.

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35 [4] When a judge learns that an organization to which the judge belongs
36 engages in invidious discrimination, the judge must resign immediately from the
37 organization.

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39 **RULE 3.05: TESTIFYING AS A CHARACTER WITNESS**

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41 **A judge shall not testify as a character witness, except when properly**
42 **summoned.**¹²

¹⁰ Canon 2C

¹¹ Comment is taken from Canon 2C Commentary

¹² Canon 2B (partial)

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COMMENT

[1] When a judge testifies as a witness, a lawyer who regularly appears before the judge may be placed in the awkward position of cross-examining the judge. In addition, a judge who testifies voluntarily as a character witness lends the prestige of judicial office to advance the interests of another. See Rule 3.01. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.¹³

¹³ Canon 2B Commentary