PREAMBLE

The judiciary is the cornerstone of the American legal system and a highly visible symbol of our commitment to justice and to government under the rule of law. The rule of law depends on an independent judiciary composed of men and women of integrity who perform their duties competently and impartially.

In order to sustain the rule of law judges must possess the qualities of integrity, impartiality, independence and competence. They must also promote public confidence in the judiciary. That confidence is eroded if judges engage in improper or unethical conduct. Accordingly, judges, individually and collectively, must respect and honor the judicial office as a public trust, and maintain the dignity of the office at all times. They must respect as well all other persons who serve and participate in the judicial system, including other judges, court employees, public officials, jurors, litigants, and lawyers.

Because of their roles as public symbols of justice and the rule of law, judges must not only avoid impropriety in their professional and personal lives, but avoid the appearance of impropriety as well. They should expect to be the subject of public scrutiny, and should freely and willingly accept restrictions on their conduct that might be viewed as burdensome by ordinary citizens.

The black letter Rules of the ABA Model Code of Judicial Conduct provide a body of clear, succinct, and enforceable rules to regulate the conduct of individual judges. They establish minimum standards of conduct with which all judges and - where applicable - judicial candidates must comply. The Model Code also articulates aspirational goals and ideals, encouraging judges and candidates to establish and maintain standards of judicial and personal conduct that exceed the minimum standards set forth in the Rules. Taken together, the Code accomplishes the two objectives of any code of conduct. In providing judges with guidance in the face of potential ethical problems, it serves a prophylactic purpose. In establishing rules that can be effectively enforced by those who regulate the judiciary, it serves a purpose of protecting the public.

The Model Code consists of five Canons, which collectively state the five overarching core principles of judicial conduct that are indispensable to sustaining the rule of law and to enhancing public confidence in the judiciary and the justice system. As further described in the Scope section, the Rules organized under each Canon implement these core principles.

Canon 1 provides that “A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All the Judge’s Activities, So as to Uphold the Integrity, Impartiality, and Independence of the Judiciary.” Judges apply the law, and, like lawyers, are often
referred to as “servants of the law.” In the public mind, however, judges embody the law itself, and through their daily work demonstrate the majesty of the law as it is employed to resolve conflicts and maintain a just society. The public must be able to trust every judge and the judicial system itself. It is imperative that judges obey the law and other rules applicable to them, while exhibiting sound character and moral rectitude in their professional work and in their personal lives.

Canon 2 provides that “A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.” This concept is fundamental to the discharge of a judge’s duty to act at all times as a just adjudicator. Judges are public servants obligated to decide matters both mundane and controversial without fear or favor. In instances where a judge’s impartiality might reasonably be questioned, however, the Canon works to protect the public interest by requiring disqualification of the judge.

Judges are obligated to work diligently on matters presented to them, maintain decorum and respect in the courtroom and in ancillary proceedings, provide every litigant with the right to be heard according to established procedures, and avoid ex parte communications. When these goals are achieved, the public’s regard for the judicial system is deservedly high.

Canon 3 instructs that “A Judge Shall Conduct the Judge’s Personal Affairs to Preserve the Integrity, Impartiality, and Independence of the Judiciary.” Although this Canon regulates the conduct of judges when they are not engaged in the core adjudicative activities of their office, it nonetheless operates to ensure that judges will be held in proper regard when they are on the bench or otherwise acting in their official roles. If judges allow personal entanglements to affect their adjudicative activity, or if they lend the prestige of judicial office to others for private gain, they diminish respect for the judiciary. Similarly, a judge’s membership in discriminatory clubs or organizations undermines public confidence in the fairness of the judicial process.

Canon 4 states that “A Judge Shall Conduct the Judge’s Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations.” In its concern for activity by judges that lies outside of their core adjudicative function, this Canon is similar in some respects to Canon 3. Canon 4, however, focuses on outside involvements that could taint a judge’s integrity, impartiality, or independence. Although judicial participation in charitable and educational activities is desirable and meritorious, as is pro bono public service on a governmental board or agency, too close an identification with non-judicial interests may give rise to concerns that a judge is lending the prestige of judicial office to others, or that the judge may bring a bias related to such service into judicial proceedings. These and similar extra-judicial activities are therefore closely regulated.

The Rules under Canon 4 impose significant restrictions on the acceptance of gifts by
judges and require judges to file meaningful and timely reports regarding those gifts.

Canon 5 admonishes that “A Judge or Candidate for Judicial Office Shall Refrain From Political Activity that is Inconsistent with the Integrity, Impartiality, and Independence of the Judiciary.” This necessarily complex Canon addresses the tension created by two long-standing features of our system. The first of these is the traditional constitutional principle of separation of powers, which operates to allow judges to maintain a healthy distance from the politics of legislative and executive branch activities. In those arenas decision-making may be based, for example, on appeals to expediency, which would be inappropriate in the judicial arena.

The second feature is the practical reality that judges in a majority of American jurisdictions are subject to public election. Although judicial elections differ greatly from elections for other types of office, it is impossible for candidates in a judicial election to avoid all political activity. Canon 5 attempts to remove as much political influence as possible from the judicial election process and from the judiciary itself by imposing certain narrowly tailored restrictions on the political activity - including campaign activity - of sitting judges and all candidates for judicial office. Its Rules operate to guarantee to judges and candidates the constitutional rights of free speech and expressive association, but in so doing, draw a bright line between statements of personal views on disputed legal and political issues on the one hand, and specific pledges or promises to reach a particular result in pending or impending cases on the other.

When read together, these Rules and aspirational goals codify the traditional and respected ethics precepts that guide and govern our nation’s judges, giving effect to the rule of law. The precepts of the Code will be put to the test in ordinary and extraordinary circumstances; in all instances, they constitute the framework by which not only judges, but other participants in the judicial system and the public at large can evaluate judicial conduct.