

1 July 2004 PRELIMINARY DRAFT

2
3 **CANON 4: EXTRA-JUDICIAL CONDUCT: A JUDGE SHALL SO**
4 **CONDUCT THE JUDGE'S EXTRA-JUDICIAL ACTIVITIES AS TO**
5 **MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL**
6 **OBLIGATIONS¹**

7 **4.01 Extra-judicial Activities in General. A judge shall conduct**
8 **all of the judge's extra-judicial activities so that they do not:²**

9 (a) **do not interfere with the proper performance of**
10 **judicial duties;³**

11 (b) **do not cast reasonable doubt on the judge's**
12 **capacity to act with impartiality, integrity and**
13 **independence impartially as a judge;⁴**

14 (c) **do not demean the judicial office; ~~or~~ and⁵**

15 (d) **comply with the requirements of this code.**

16 ~~**Avocational Activities. A judge may speak, write, lecture, teach**~~
17 ~~**and participate in other extra-judicial activities concerning the**~~
18 ~~**law*, the legal system, the administration of justice and**~~
19 ~~**nonlegal subjects, subject to the requirements of this Code.⁶**~~

20 **Commentary:**

21 [1] Complete separation of a judge from extra-judicial activities is
22 neither possible nor wise; a judge should not become isolated from
23 the community in which the judge lives.⁷

24 [2] Expressions of bias or prejudice by a judge, even outside the
25 judge's judicial activities, may cast reasonable doubt on the judge's
26 capacity to act impartially as a judge. Expressions which may do so
27 include jokes or other remarks demeaning individuals on the basis
28 of their race, sex, religion, national origin, disability, age, sexual

¹ Canon 4

² Canon 4A

³ Canon 4A(3)

⁴ Canon 4A(1)

⁵ Canon 4A(2)

⁶ Canon 4B (black letter rule moved to commentary of Rule 4.01)

⁷ Canon 4A commentary

1 orientation or socioeconomic status. See ~~Section 2C~~ Rule 3.03 and
2 accompanying Commentary.⁸

3 [4] As a judicial officer and person specially learned in the law, a
4 judge is in the ~~a~~-unique position to contribute to the improvement of
5 the law, the legal system, and the administration of justice,
6 including revision of substantive and procedural law and
7 improvement of ~~criminal and juvenile justice~~ the justice system.
8 Such contributions may take the form of speaking, writing, teaching
9 or participating in other extrajudicial activities. In many instances,
10 these activities may contribute significantly to the promotion of the
11 fair administration of justice and to ensuring the integrity,
12 independence and impartiality of the judiciary. To the extent that
13 time permits, a judge is encouraged to undertake such activities,
14 either independently or through a bar association, judicial
15 conference or other organization. ~~dedicated to the improvement of~~
16 ~~the law. Judges may participate in efforts to promote the fair~~
17 ~~administration of justice, the independence of the judiciary and the~~
18 ~~integrity of the legal profession and may express opposition to the~~
19 ~~persecution of lawyers and judges in other countries because of~~
20 ~~their professional activities.~~⁹

21 ~~In this and other Sections of Canon 4, the phrase “subject to the~~
22 ~~requirements of this Code” is used, notably in connection with a~~
23 ~~judge’s governmental, civic or charitable activities. This phrase is~~
24 ~~included to remind judges that the use of permissive language in~~
25 ~~various Sections of the Code does not relieve a judge from the~~
26 ~~other requirements of the Code that apply to the specific conduct.~~

27 [5] As a private individual, a judge may also wish to engage in
28 writing, speaking, teaching, or being otherwise active in regard to
29 non-legal subjects. To the extent that such activity is not in conflict
30 with any of the judges’ duties under this Code, it is permitted by this
31 Rule.

32

33 **4.02 Governmental, Civic or Charitable Activities**
34 **Appearances**
35 **Before Governmental Bodies.** A judge shall not appear at a
36 public hearing before, or otherwise consult with, an executive
or legislative body or official except:¹⁰

⁸ Canon 4A commentary

⁹ Canon 4B commentary

¹⁰ Canon 4C(1) partial

1 (a) on matters concerning the law*, the legal system or
2 the administration of justice;¹¹

3 (b) on other matters that might reasonably merit the
4 attention and comment of the judge because of knowledge or
5 expertise acquired in the course of the judge's judicial duties;
6 or

7 (c) when acting pro se in a matter involving the judge or
8 the judge's interests.¹²

9 **Commentary:**

10 [1] Judges possess special expertise on matters of law, the legal
11 system and the administration of justice, and may properly share
12 that expertise with governmental bodies. In addition, judges may
13 acquire information on issues before them that are not law-related
14 but upon which they may be well qualified to comment from their
15 unique vantage point as jurists who have presided over such
16 matters in court. For example, a juvenile court judge may be
17 uniquely situated to comment to a public body on the potential
18 benefits of proposed improvements in the community, such as the
19 creation of new athletic or other recreational opportunities that
20 could lead to a decrease in delinquency among juveniles. Judges
21 must be mindful, however, that their appearance before
22 governmental bodies remains subject to other provisions of this
23 Code, such as Rule 2.11, governing public comment on pending
24 and impending matters, and Rule 4.01(b), prohibiting judges from
25 engaging in extra-judicial activities that cast reasonable doubt on
26 the judge's impartiality, integrity and independence.

27 [2] In general, it would be an unnecessary and unfair burden to
28 prohibit judges from appearing before governmental bodies on
29 matters that are likely to have special effect upon them as private
30 citizens, for example, zoning proposals that will affect their real
31 property or proposals having to do with the availability of local
32 health services. The judge must exercise care, however, not to lend
33 the prestige of judicial office to advance general causes with
34 respect to which the judge possesses no special judicial
35 competence.

36 [3] See Section 2B Rules 2.10 and 3.01 and Commentary regarding
37 the obligation to avoid improper influence.¹³

¹¹ Canon 4C(1) partial

¹² Canon 4C(1) partial

1 **4.03 Appointments to Governmental Bodies.** A judge
2 shall not accept appointment to a governmental
3 committee or commission or other governmental
4 position that is concerned with issues of fact or policy
5 on matters other than the improvement of the law,* the
6 legal system or the administration of justice. A judge
7 may, however, represent a country, state or locality on
8 ceremonial occasions or in connection with historical,
9 educational or cultural activities.¹⁴

10 **Commentary:**

11 [1] Section 4C(2) prohibits a judge from accepting any
12 governmental position except one relating to the law, legal system
13 or administration of justice as authorized by Section 4C(3). A judge
14 must assess the appropriateness of accepting extra judicial
15 assignments ~~must be assessed~~ in light of the demands on judicial
16 resources created by crowded dockets, and ~~the need to protect the~~
17 ~~courts from involvement in extra-judicial matters that may prove to~~
18 ~~be controversial.~~ Judges should not accept governmental
19 appointments that are likely to interfere with the effective operation
20 of the courts. Judges must also avoid appointments that are likely
21 to embroil the court in controversial issues or impair the impartiality,
22 integrity and independence of the judiciary. ~~impartiality,~~
23 ~~effectiveness and independence of the judiciary.~~¹⁵

24 [2] Section 4C(2) does not govern a judge's service in a
25 nongovernmental position. See Section 4C(3) permitting service by
26 a judge with organizations devoted to the improvement of the law,
27 the legal system or the administration of justice and with
28 educational, religious, charitable, fraternal or civic organizations not
29 conducted for profit. For example, service on the board of a public
30 educational institution, unless it were a law school, would be
31 prohibited under Section 4C(2), but service on the board of a public
32 law school or any private educational institution would generally be
33 permitted under Section 4C(3).¹⁶

34 **4.04 Civic or Charitable Activities:** ~~A judge may serve as an officer, director,~~
35 ~~trustee or nonlegal advisor of an organization or governmental agency~~
36 ~~devoted to the improvement of the law*, the legal system or the~~
37 ~~administration of justice or of an educational, religious, charitable, fraternal~~
38 ~~or civic organization not conducted for profit~~ A judge may participate in

¹³ Canon 4C(1) commentary

¹⁴ Canon 4C(2)

¹⁵ Canon 4C(2) commentary

¹⁶ Canon 4C(2) commentary (this paragraph is incorporated in Rule 4.04 commentary)

1 **civic or charitable activities that do not reflect adversely upon a judge's**
2 **impartiality, integrity and independence, or interfere with the performance**
3 **of judicial duties, subject to the following limitations and the other**
4 **requirements of this Code.**¹⁷

5
6 a. ~~A judge, as an officer, director, trustee or non-legal advisor, or as~~
7 ~~a member or otherwise: With respect to any activities in which a~~
8 ~~judge participates on behalf of a civic or charitable organization:~~¹⁸

9
10 (1) **A judge shall not**

- 11
12 i. ~~Shall not use or permit the use of the~~
13 ~~prestige of judicial office for fundraising or~~
14 ~~membership solicitation~~¹⁹
15
16 ii. **personally solicit funds for the**
17 **organization**²⁰
18
19
20 iii. ~~personally participate in membership~~
21 ~~solicitation if the solicitation is primarily a~~
22 ~~fundraising mechanism, or if it might~~
23 ~~reasonably be perceived as coercive, or,~~
24 ~~except as permitted in Section 4C(3)(b)(i), if~~
25 ~~the solicitation is a fund-raising~~
26 ~~mechanism.~~²¹

27
28 (2) **Notwithstanding paragraph (1) above, a judge may:**

- 29
30 i. **personally solicit funds from other judges**
31 **over whom the judge does not exercise**
32 **supervisory or appellate authority;**²²
33
34 ii. ~~may assist the such an organization in~~
35 ~~planning fundraising and may participate in~~
36 ~~the management and investment of the~~
37 ~~organization's funds;~~²³
38
39 iii. **appear at, participate in, and permit the**
40 **judge's title to be used in connection with**

¹⁷ Canon 4C(3) (see rule 4.04(b) for deleted portions of this rule)

¹⁸ Canon 4C(3)(b)

¹⁹ Canon 4C(3)(b)(iv)

²⁰ Canon 4C(3)(b)(i) partial

²¹ Canon 4C(3)(b)(iii)

²² Canon 4C(3)(b)(i) partial

²³ Canon 4C(3)(b)(i) partial

1 an event of an organization devoted to the
2 improvement of law, the legal system, or
3 the administration of justice, even though
4 the event may serve a fundraising purpose;

5
6 iv. make recommendations to public and
7 private fund-granting organizations on
8 projects and programs and activities
9 concerning the law, the legal system or the
10 administration of justice.²⁴

11
12
13 b. ~~A judge shall not serve as an officer, director, trustee or non-legal~~
14 ~~advisor if it is likely that the organization:~~²⁵ A judge may serve as
15 an officer, director, trustee, or non-legal advisor of an
16 organization or governmental agency entity devoted to the
17 improvement of the law,* the legal system or the administration of
18 justice or of an educational, religious, charitable, fraternal or civic
19 organization not conducted for profit, unless it is likely that the
20 organization or governmental entity:²⁶

21
22 (1) Will be engaged in proceedings that would
23 ordinarily come before the judge, or²⁷

24
25 (2) will be engaged frequently in adversary
26 proceedings in the court of which the judge is a
27 member or in any court subject to the appellate
28 jurisdiction of the court of which the judge is a
29 member.²⁸

30
31 **Commentary:**

32
33 [1] A judge should be permitted to participate in civic, fraternal or
34 charitable activities for the benefit of the community of which the
35 judge is a part, provided that such participation does not take
36 inappropriate advantage of the judge's judicial position, or
37 otherwise interfere with the performance of the judge's judicial
38 duties.

39
40 [2] Solicitation of funds for an organization and ~~solicitation of~~
41 ~~memberships similarly~~ involves the danger that the person solicited

24 Canon 4C(3)(b)(ii)

25 Canon 4C(3)(a)

26 Canon 4C(3)

27 4C(3)(a)(i)

28 Canon 4C(3)(a)(ii)

1 will feel obligated to respond favorably to the solicitor if the solicitor
2 is in a position of influence or control.²⁹ For that reason, a judge is
3 not permitted to solicit funds in person, in writing or by telephone,
4 unless the person being solicited is another judge over whom the
5 judge exercises no appellate or supervisory control. Similarly, a
6 judge is not permitted to personally solicit memberships in an
7 organization if the solicitation is primarily a fundraising mechanism.
8 A judge may, however, participate in fundraising activities by
9 performing tasks other than soliciting or accepting donations at
10 fundraising events, without the attendant risk of coercion that
11 makes personal solicitation of funds problematic.

12 [3] Solicitation of membership poses potential problems similar to
13 those associated with the solicitation of funds. For that reason, a
14 judge must not personally may solicit membership or endorse or
15 encourage membership efforts for civic or charitable organizations
16 if an organization devoted to the improvement of the law, the legal
17 system or the administration of justice or a nonprofit educational,
18 religious, charitable, fraternal or civic organization as long as the
19 solicitation cannot could reasonably be perceived as coercive. A
20 judge must not engage in direct, individual solicitation of funds or
21 memberships in person, in writing or by telephone except in the
22 following cases: 1) a judge may solicit for funds or memberships
23 other judges over whom the judge does not exercise supervisory or
24 appellate authority, 2) a judge may solicit other persons for
25 membership in the organizations described above if neither those
26 persons nor persons with whom they are affiliated are likely ever to
27 appear before the court on which the judge serves and 3) a judge
28 who is an officer of such organization may send a general
29 membership solicitation mailing over the judge's signature. For
30 example, a judge must not solicit memberships from other judges
31 over whom the judge exercises supervisory or appellate authority,
32 or from persons or those affiliated with persons who are likely ever
33 to appear before the court on which the judge serves.

34 [4] Notwithstanding the foregoing limitations, no comparable risk of
35 coercion arises when a judge who is an officer of such an
36 organization sends a general membership solicitation mailing over
37 the judge's signature. In addition, lawyer and judicial organizations
38 with diverse memberships, whose members are balanced in
39 representing all parties in litigation often include judges in their
40 leadership. Judges may be involved in member recruitment for
41 such organizations even though the dues or fees associated with

²⁹ Canon 4C(3)(b) commentary partial

1 membership may be used, in part, as fundraising to support the
2 objectives of those organizations.³⁰

3 [5] Judges are an integral part of the legal community and may
4 participate as judges in the activities of organizations within the
5 legal community without inappropriately lending the prestige of
6 office to those activities, even when they serve a fundraising
7 purpose. Therefore, a judge may, for example, accept an invitation
8 to speak at or be recognized or honored at an event hosted by a
9 legal organization, law school, or other entity devoted to improving
10 the law, the legal system or the administration of justice, even if
11 such an event raises funds for the benefit of the sponsoring
12 organization.

13 [6] Use of an organization's letterhead for fundraising or
14 membership solicitation does not violate ~~Section 4C(3)(b)~~ Rule 4.04
15 provided that the letterhead lists only the judge's name and office or
16 other position in the organization, and, if comparable designations
17 are listed for other persons, the judge's judicial designation. In
18 addition, a judge must also make reasonable efforts to ensure that
19 the judge's staff, court officials and others subject to the judge's
20 direction and control do not solicit funds on the judge's behalf for
21 any purpose, charitable or otherwise.³¹

22 ~~[7] Section 4C(3)~~ This Rule does not prohibit apply to a judge's
23 service in a governmental position ~~unconnected~~ associated with the
24 improvement of the law, the legal system or the administration of
25 justice; see ~~Section 4C(2)~~ Rule 4.03.³²

26 ~~[8] See Commentary to Section 4B regarding use of the phrase~~
27 ~~"subject to the following limitations and the other requirements of~~
28 ~~his Code."~~ In this and other Sections Rules in Canon 4, the phrase
29 "subject to the requirements of this Code" is used, notably in
30 connection with a judge's governmental, civic or charitable
31 activities. ~~This phrase is included to remind judges that the use of~~

³⁰ Canon 4C(3)(b) commentary

³¹ Canon 4C(3)(b) commentary

³² Canon 4C(3)(b) commentary

1 permissive language in various ~~Sections~~ Rules of the Code does
2 not relieve a judge from the other requirements of the Code that
3 apply to the specific conduct.³³ As an example of the meaning of
4 the phrase, a judge permitted by ~~Section 4C(3)~~ this Rule to serve
5 on the board of a fraternal institution may be prohibited from such
6 service by ~~Sections 2C or 4A~~ Rules 3.03 or 4.01 if the institution
7 practices invidious discrimination or if service on the board
8 otherwise casts reasonable doubt on the judge's capacity to act
9 impartially as a judge.³⁴

10 [9] Service by a judge on behalf of a civic, fraternal or charitable
11 organization may be governed by other provisions of Canon 4 in
12 addition to ~~Section 4C~~ Rules 4.02, 4.03 and 4.04. For example, a
13 judge is prohibited by ~~Section 4C~~ Rule 4.07 from serving as a legal
14 advisor to a civic, fraternal or charitable organization.³⁵

15 [10] The changing nature of some organizations and of their
16 relationship to the law makes it necessary for a judge regularly to
17 reexamine the activities of each organization with which the judge
18 is ~~affiliated~~ associated to determine if it is proper for the judge to
19 continue the affiliation. ~~For example, in many jurisdictions charitable~~
20 ~~hospitals are now more frequently in court than in the past.~~
21 ~~Similarly, the boards of some legal aid organizations now make~~
22 ~~policy decisions that may have political significance or imply~~
23 ~~commitment to causes that may come before the courts for~~
24 ~~adjudication.~~³⁶

25 ~~[10] A judge must not be a speaker or guest of honor at an~~
26 ~~organization's fund-raising event, but mere attendance at such an~~
27 ~~event is permissible if otherwise consistent with this Code.~~³⁷

28 [11] ~~Section 4C(2) does not govern a judge's service in a~~
29 ~~nongovernmental position. This Rule, not Rule 4.03 governs a~~
30 ~~judge's service in a nongovernmental position. See Section 4C(3)~~
31 ~~permitting~~ This Rule permits service by a judge with organizations
32 devoted to the improvement of the law, the legal system or the
33 administration of justice and with educational, religious, charitable,
34 fraternal or civic organizations not conducted for profit. ~~For~~
35 ~~example,~~ Service on the board of a public educational institution,
36 unless it were a law school, would be prohibited under ~~Section~~
37 ~~4C(2)~~ Rule 4.03, but service on the board of a public law school or

³³ Canon 4B commentary

³⁴ Canon 4C(3) commentary

³⁵ Canon 4C(3) commentary

³⁶ Canon 4C(3)(a) commentary

³⁷ Canon 4C(3)(b) commentary

1 any private educational legal institution would generally be
2 permitted under ~~Section 4C(3)~~ this Rule.³⁸

3
4 **4.05 Fiduciary Activities-Appointments to Fiduciary**
5 **Positions.**

6 (a) A judge shall not serve as executor,
7 administrator or other personal representative,
8 trustee, guardian, attorney in fact or other
9 fiduciary,* except for the estate, trust or person of
10 a member of the judge's family,* and then only if
11 such service will not interfere with the proper
12 performance of judicial duties.³⁹

13 (b) A judge shall not serve as a fiduciary* if it is
14 likely that the judge as a fiduciary will be engaged
15 in proceedings that would ordinarily come before
16 the judge, or if the estate, trust or ward becomes
17 involved in adversary proceedings in the court on
18 which the judge serves or one under its appellate
19 jurisdiction.⁴⁰

20 (c) The same restrictions on financial activities
21 that apply to a judge personally also apply to the
22 judge while acting in a fiduciary* capacity.⁴¹

23 **Commentary:**

24 [1] The Time for Compliance provision of this Code (Application,
25 Section F) postpones the time for compliance with certain
26 provisions of this ~~Section~~ Rule in some cases.⁴²

27 [2] The restrictions imposed by this Canon may conflict with the judge's
28 obligation as a fiduciary. For example, a judge should resign as trustee if
29 detriment to the trust would result from divestiture of holdings the retention
30 of which would place the judge in violation of ~~Section 4D(4)~~ Rule 4.11, or
31 require frequent disqualification.
32

³⁸ Canon 4C(2) commentary

³⁹ Canon 4E(1)

⁴⁰ Canon 4E(2)

⁴¹ Canon 4E(3)

⁴² Canon 4E commentary

1 **4.06 Service as Arbitrator or Mediator. A judge shall not act as**
2 **an arbitrator or mediator or otherwise perform judicial**
3 **functions in a private capacity unless expressly authorized by**
4 **law*.**⁴³

5 **Commentary:**

6 [1] Judges regularly participate in arbitration, mediation or
7 settlement conferences, either as part of their regular duties or as
8 specially authorized by court rule or other law. The integrity of the
9 judiciary is undermined, however, when judges take financial
10 advantage of their offices by rendering private dispute resolution
11 services for pecuniary gain as an extra-judicial activity. In such
12 circumstances, the prestige of the judicial office would be used to
13 advance the personal financial gain of the judge.

14 [2] ~~Section 4F~~ Rule 4.06 does not prohibit a judge from participating
15 in arbitration, mediation or settlement conferences performed as
16 part of judicial duties.⁴⁴

17 **4.07 Testifying as a Character Witness. A judge shall not**
18 **testify voluntarily as a character witness, except when**
19 **properly summoned.**⁴⁵

20 **Commentary**

21 ~~Moreover~~ When a judge testifies as a witness, a lawyer who
22 regularly appears before the judge may be placed in the awkward
23 position of cross-examining the judge. In addition, a judge who
24 testifies voluntarily as a character witness, lends the prestige of
25 judicial office to advance the interests of another. See Rule 3.01.A
26 ~~judge may, however, testify when properly summoned.~~ Except in
27 unusual circumstances where the demands of justice require, a
28 judge should discourage a party from requiring the judge to testify
29 as a character witness.⁴⁶

30

⁴³ Canon 4F

⁴⁴ Canon 4F commentary

⁴⁵ Canon 2B partial

⁴⁶ Canon 2B commentary

1 **4.08 Practice of Law. A judge shall not practice law.**
2 **Notwithstanding this prohibition, a judge may act pro se and**
3 **may, without compensation, give legal advice to and draft or**
4 **review documents for a member of the judge's family.*⁴⁷**

5 **Commentary:**

6 [1] This prohibition refers to the practice of law in a representative
7 capacity and not in a pro se capacity. A judge may act for himself or
8 herself in all legal matters, including matters involving litigation and
9 matters involving appearances before or other dealings with
10 legislative and other governmental bodies. However, in so doing, a
11 judge must not abuse the prestige of office to advance the interests
12 of the judge or the judge's family. See ~~Section 2B~~ Rule 3.01.⁴⁸

13 [2] The Code allows a judge to give legal advice to and draft legal
14 documents for members of the judge's family, so long as the judge
15 receives no compensation. A judge must not, however, act as an
16 advocate or negotiator for a member of the judge's family in a legal
17 matter.⁴⁹

18

19 **4.09 Financial Activities. A judge shall not engage in financial**
20 **and business dealings that:⁵⁰**

21 **(a) may reasonably be perceived to exploit**
22 **the judge's judicial position, or⁵¹**

23 **(b) involve the judge in frequent**
24 **transactions or continuing business**
25 **relationships with those lawyers or other**
26 **persons likely to come before the court on**
27 **which the judge serves.⁵²**

28 **Commentary:**

29 [1] When a judge acquires in a judicial capacity information, such
30 as material contained in filings with the court, that is not yet
31 generally known, the judge must not use the information for private

⁴⁷ Canon 4G

⁴⁸ Canon 4G commentary

⁴⁹ Canon 4G commentary

⁵⁰ Canon 4D(1)

⁵¹ Canon 4D(1)(a)

⁵² Canon 4D(1)(b)

1 gain. See ~~Section 2B~~ Rule 3.01; see also ~~Section 3B(11)~~ Rule
2 3.02.⁵³

3 [2] A judge must avoid financial and business dealings that involve
4 the judge in frequent transactions or continuing business
5 relationships with persons likely to come either before the judge
6 personally or before other judges on the judge's court. In addition, a
7 judge should discourage members of the judge's family from
8 engaging in dealings that would reasonably appear to exploit the
9 judge's judicial position. This rule is necessary to avoid creating an
10 appearance of exploitation of office or favoritism and to minimize
11 the potential for disqualification. With respect to affiliation of
12 relatives of a judge with law firms appearing before the judge, see
13 Commentary to ~~Section 3E(1)~~ Rule 2.12 relating to
14 disqualification.⁵⁴

15 [3] Participation by a judge in financial and business dealings is
16 subject to the general prohibitions in ~~Section 4A~~ Rule 4.01 against
17 activities that tend to reflect adversely on impartiality, demean the
18 judicial office, or interfere with the proper performance of judicial
19 duties. Such participation is also subject to the general prohibition
20 in ~~Canon 2~~ Canon 1 against activities involving impropriety or the
21 appearance of impropriety and the prohibition in ~~Section 2B~~ Rule
22 3.01 against the misuse of the prestige of judicial office. In addition,
23 a judge must maintain high standards of conduct in all of the
24 judge's activities, as set forth in Canon 1. See ~~Commentary for~~
25 ~~Section _____ regarding use of the phrase "subject to the~~
26 ~~requirements of this Code."~~⁵⁵

27 ~~The Time for Compliance provision of this Code (Application,~~
28 ~~Section F) postpones the time for compliance with certain~~
29 ~~provisions of this Section in some cases.~~⁵⁶

30

31 **4.10 Remunerative Activities.** A judge may, subject to
32 **the requirements of this Code, hold and manage**
33 **investments of the judge and members of the judge's**
34 **family,* including real estate, and engage in other**
35 **remunerative activity.**⁵⁷

⁵³ Canon 4D(1) commentary

⁵⁴ Canon 4D(1) commentary

⁵⁵ Canon 4D(1) commentary

⁵⁶ Canon 4D(1) commentary

⁵⁷ Canon 4D(2)

1 **Commentary:**

2 [1] This ~~Section~~ Rule provides that, subject to the requirements of
3 this Code, a judge may hold and manage investments owned solely
4 by the judge, investments owned solely by a member or members
5 of the judge's family, and investments owned jointly by the judge
6 and members of the judge's family. See Commentary for Rule 4.04
7 regarding use of the phrase "subject to the requirements of this
8 Code."⁵⁸

9 **4.11 Management and Divestiture of Investments. A**
10 **judge shall manage the judge's investments and other**
11 **financial interests to minimize the number of cases in**
12 **which the judge is disqualified. As soon as the judge**
13 **can do so without serious financial detriment, the judge**
14 **shall divest himself or herself of investments and other**
15 **financial interests that might require frequent**
16 **disqualification.**⁵⁹

17 **Commentary**

18 [1] Judges should not allow their financial activities to
19 interfere with their duty to preside over cases that come
20 before them. Although some disqualifications will be
21 unavoidable, judges must reduce unnecessary conflicts of
22 interest that arise when they retain financial interests in
23 organizations and other entities that appear regularly in their
24 courts, by divesting themselves of such interests.

25 [2] Financial interests, within the meaning of this rule, include
26 the interests of others whom the judge serves as a fiduciary
27 under Rule 4.05.

28 **4.12 Business Activities. A judge shall not serve as an**
29 **officer, director, manager, general partner, advisor or**
30 **employee of any business entity except that a judge**
31 **may, subject to the requirements of this Code, manage**
32 **and participate in:**⁶⁰

33 **(a) a business closely held by the judge or**
34 **members of the judge's family,* or**⁶¹

⁵⁸ Canon 4D(2) commentary

⁵⁹ Canon 4D(4)

⁶⁰ Canon 4D(3)

⁶¹ Canon 4D(3)(a)

1 (b) a business entity primarily engaged in
2 investment of the financial resources of the judge
3 or members of the judge's family.*⁶²

4 **Commentary:**

5 ~~[1] Subject to the requirements of this Code, a judge may~~
6 ~~participate in a business that is closely held either by the judge~~
7 ~~alone, by members of the judge's family, or by the judge and~~
8 ~~members of the judge's family.~~

9 [1] Although participation by a judge in a closely-held family
10 business might otherwise be permitted by ~~Section 4D(3)~~ Rule 4.12,
11 a judge may be prohibited from participation by other provisions of
12 this Code when, for example, the business entity frequently
13 appears before the judge's court or the participation requires
14 significant time away from judicial duties. Similarly, a judge must
15 avoid participating in a closely-held family business if the judge's
16 participation would involve misuse of the prestige of judicial office.⁶³

17 **4.13, 4.14 and 4.15, pertaining to gifts,**
18 **compensation, reimbursement, reporting**
19 **and disclosure will be distributed at a later**
20 **date under separate cover**

21
22 I/users/libcpr/ethics/jud-comm/code revision 2003-
23 2004/drafts/canons 3 & 4/redline_canon4_071904

⁶² Canon 4D(3)(b)

⁶³ Canon 4D(3) commentary