

SUMMARY

Defense Research Institute
Richard T. Boyette, Immediate Past President
March 13, 2006

Rule 4.04 (B)(3)

Specifically, DRI is concerned about the clause which would prohibit judges from attending or speaking at events or programs sponsored by organizations whose members chiefly represent particular types of clients, and the associated Comment [8] which refers to such organizations as "specialty bar associations".

DRI believes that Rule 4.03(b)(3) as currently drafted is not necessary and runs the risk of discouraging valuable interaction between the judiciary and the practicing bar. DRI operates an educational program that includes over twenty high-quality live seminars each year which draw attendance from around the country, and in some instances, from around the world. DRI often invites active judges to bring the perspective of the bench as speakers at DRI seminars, as well as at DRI's annual meeting. DRI believes that its members are well served by opportunities to learn of the judicial perspective on issues of practice and procedure, professionalism and ethics, and other areas germane to civil practice and the civil justice system.

In addition, DRI is aware that many specialty bar organizations, including state and local defense organizations, regularly invite judges to attend their events and programs, sometimes as speakers, and other times as guests. In some instances, judges are invited as guests to an organization's annual meeting. Some of them participate in panel discussions; some merely attend the programs and social events and have the opportunity to associate with the lawyer attendees in informal settings. This presents an invaluable opportunity, particularly for younger attorneys, to meet and associate with judges in a setting outside of the courtroom. This type of association is rarely available in other settings, and generally promotes rather than detracts from respect for the bench.

The proposed rule would have the effect of promoting increased insulation of the bench from the bar. At a time when the independence of the judiciary is under increasing attack, such insulation would be unhealthy, at best, and contrary to the aspirations articulated .

DRI believes that the exclusion related to specialty bar organizations is not necessary to promote the salutary purpose of the revisions to the Code. Even with deletion of the last clause of Section 4.04(B)(3) and the last sentence of Comment [8], a judge would remain under an obligation to consider whether his or her attendance or participation at an event sponsored by a specialty bar organization would reflect adversely on his or her independence, integrity and impartiality.