

SUMMARY

Ray McKoski, Circuit Judge, Lake County, Illinois
February 10, 2006

Rule 5.01 of the Final Draft Report of the Joint Commission's Proposed Model Code of Judicial Conduct.

Judge McKoski address a judge's obligation to restrict, or attempt to restrict, the independent political activities of the judge's family members. Specifically, paragraphs [6], [19], and [20] of the Comment to Rule 5.01 are discussed.

A judge does not have authority to "require" a family member to take reasonable steps to avoid the implication that a judge endorses a family member's candidacy or other political activity. Therefore, the word "require" in line eight of paragraph [6] of the Comment to Rule 5.01 should be replaced with the word "urge" or the word "request".

The limiting phrase "in support of the candidate" should be inserted immediately after the word "conduct" in the fourth line of paragraph [19] of the Comment to Rule 5.01. Adding this phrase will make it clear that a candidate only has a duty to take steps to ensure that family members conform their campaign and political conduct to the requirements of the Code when the campaign or political conduct is performed on behalf of the candidate.

It is suggested that a period replace the comma after the word "else" in line three of paragraph [20] of the Comment to Rule 5.01 and that the remainder of the sentence be deleted. Alternatively, the word "independently" should be substituted for the word "separately" in line four of paragraph [20].