

SUMMARIES

John Cratsley, Justice of the Massachusetts Superior Court
September 15, 2005

Justice John Cratsley, of the Massachusetts Superior Court is concerned about settlement conferences and similar activities on the part of judges. The court believes that stronger language is needed in Canon 2 to guide judges who participate with counsel and parties in informal, mediation-like settlement activities. The text in Comment [2] to proposed Rule 2.09 cautioning that judges "...should not act in a manner that coerces a party into settlement.", is insufficient guidance to deal with the real and perceived issues of conflict and bias for those judges who meet privately with lawyers and clients prior to trial. Most important in that new section would be a prohibition from conducting the trial for any judge who participates in an informal, mediation-like settlement session with counsel and/or the parties