

Professor Monroe Freedman
September 15, 2005

SUMMARY

Rules 1.03 and 2.12

Professor Freedman strongly approves of the appearances standard of Rules 1.03 and 2.12.

Rule 4.13 and Introductory Report

Professor Freedman would add a reference to the need to avoid the potential for ex parte communications with the judge by sponsors and participants at educational conferences to the factors enumerated in Comment [2] to Rule 4.13. He would also add a reference to the potential for ex parte communications in the second paragraph of page 7 of the Introductory Report.

Rule 4.04

The two sub-sections of Rule 4.04 contradict each other. Sub-section (B)(2) begins with the words, "Notwithstanding paragraph (1)...." It then goes on to permit a judge to "appear at, participate in, and permit the judge's title to be used" in connection with an event "even though the event may serve a fundraising purpose." Thus, (B)(2) seems expressly to override the prohibition of (B)(1)(a) that a judge shall not "use or permit the use of the prestige of judicial office for fundraising or membership solicitation."

The limitations of 4.04(C)(1) and (2) should apply to any kind of involvement or participation by a judge with an organization, not just to service as an officer, etc.