

SUMMARY

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Rule 2.06, Comment [3]

Professor Goldschmidt strongly commends the Commission for including the language, “It is not a violation of this Rule, however, for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.” She reports that many trial judges for many years have sought some authority to rely upon when assisting pro se litigants in presenting their cases, so that they would avoid an accusation of bias from opposing counsel.

Professor Goldschmidt recommends even greater specificity. She is attaching another document, a draft article that addresses the Canadian experience on this issue. There, unlike U.S. law, judges have a *duty*, not a right as presently posited under Comment [3], to provide reasonable assistance to pro se litigants to ensure a fair trial. Her paper breaks down Canadian case law into the categories of required, permissive, and impermissible forms of assistance

Canon 1, Comment [2]

Professor Goldschmidt also questions why the Final Draft omits the language in Canon 1, Comment [2] of the Preliminary Draft regarding judges being “encouraged” to, *inter alia*, “promote access to justice for all.” In her view, it ought to be strengthened, with language indicating it is a *duty* of all judges to promote access to justice for all.