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Rule 3.01 Comment 2
Using the Judicial Office for Private Purposes
American Judicature Society
Cynthia Gray
October 8, 2004

Reiterating its March 2004 proposal to explicitly prohibit a judge from using court staff, resources, stationery, equipment, or premises for non-judicial activities, the American Judicature Society (AJS) expresses its strong disagreement with the proposed clause of Comment 2 to Rule 3.01 that would allow use of judicial letterhead in a judge's personal business except when it is used "to gain an advantage." In AJS's view, there is no possible motive for using judicial letterhead except to gain an advantage. The Commission's proposal in this regard adds ambiguity to the Code and is not helpful to judges or the public.

Rule 4.04
Civic or Charitable Activities
American Judicature Society
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AJS does not believe it is necessary to prohibit a judge from participating in a fund-raising event by selling goods or similar items in which money actually changes hands, as distinguished from soliciting or accepting donations.

Rule 4.04 (a)(2)(iii)
Using the Judicial Office for Private Purposes
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AJS supports the Commission's revision that would allow a judge to "appear at, participate in, and permit the judge's title to be used in connection with an event of an organization devoted to the improvement of law, the legal system, or the administration of justice, even though the event may serve as a fundraising purpose." AJS suggests additional comment to specifically remind judges that the permission to participate in law-related fund-raising events does not override the obligation to refrain from activities that cast reasonable doubt on the judge's capacity to act with impartiality, integrity, and independence.

Rule 4.02 Comment 1
Appearance before Governmental Bodies
American Judicature Society
Cynthia Gray
October 8, 2004

The American Judicature Society (AJS) disagrees with the portion of Comment 1 to Rule 4.02 that gives as an example of permissible comment to an executive or legislative body a juvenile court judge advocating the creation of new athletic or other recreational opportunities that could lead to a decrease in delinquency among juveniles. A judge is not uniquely situated to make this type of comment, and it will inevitably embroil a judge in a debate on use of limited community resources.

Rule 3.03
Affiliation with Discriminatory Organizations
American Judicature Society
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October 8, 2004

AJS supports the Commission's proposal that judges be prohibited from being members of organizations that practice invidious discrimination on the basis of ethnicity and sexual orientation (as well as those that discriminate on other grounds) and the extension of the prohibition to significant use of facilities.

Rule 2.04 Comment
Impartiality and Fairness
American Judicature Society
Cynthia Gray
October 8, 2004

AJS proposes addition of the following language to the Code to address self-represented litigants and suggests inclusion of this language in the comment to Rule 2.04. (Additions underlined.)

“A judge may make procedural accommodations to provide diligent pro se litigants the opportunity to have their cases fully heard, and such an exercise of judicial discretion does not raise a reasonable question about the judge’s impartiality. Reasonable accommodations include liberally construing pleadings, explaining the basis for a ruling, refraining from using legal jargon, questioning witnesses for clarification, freely allowing amendment of pleadings, and explaining general matters such as the burden of proof and what types of evidence may and may not be presented.”