

David L. Hagen
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Mr. Hagen points to the Code's structural weakness on the goals of justice and the Rule of Law: He notes that the Model Code addresses the intermediate objectives of "integrity, impartiality and independence of the judiciary", but finds it appears to provide relatively little guidance for the major controversial issues judges must face. He states that justice is a critical but not the sole factor to preserve the Rule of Law. "Integrity, impartiality, independence of the judiciary, avoiding impropriety and the appearance of impropriety" are all objectives within the higher goals of justice based on foundational organic principles of organic law and preserving the Rule of Law. Mr. Hagen urges inclusion of the language "uphold Justice within the objective Rule of Law by foundational transcendent principles of organic law" in Canons 1 and 5. He offers detailed redrafted versions of Rules 1.05, 1.06, and plus a comment to Rule 1.04.

Mr. Hagen states that proposed Code appears to have a serious weakness of being subjective and recursive. It provides little reference to the complementary securities of the Rule of Law. These securities include Oaths to uphold the CONSTITUTION and the First Principles of transcendent law mutually required by all States for equal standing in the Union. The Code's emphasis on judicial "independence," without the balance of this context, dangerously encourages judges to take license and act by arbitrary personal whim. In his view and commentary he emphasizes that the Code needs to reference foundational principles of organic law, including "consent of the Governed," and foundational quality of the Constitution which ground the Rule of Law.