

**Rule 4.14**  
**Reimbursement or Waiver of Charges for Travel-Related Expenses**  
**Community Rights Counsel**  
**Douglas T. Kendall, Executive Director**  
**November 19, 2004**

Expanding upon his August 6, 2004 testimony to the Commission and incorporating by reference the October 15, 2003 joint comments of the Community Rights Counsel (CRC) and HALT, Mr. Kendall expresses CRC's support for the Commission's response to the issue of private judicial seminars and for sending an important message to judges about how such trips can impact a judge's impartiality and independence. CRC also supports the disclosure obligations of Rule 4.14, Comment 3 and the reporting requirements of Rules 4.14 and 4.16 (Reporting of Compensation, Reimbursement and Waiver of Charges.)

CRC notes the following deficiencies in the Commission's draft Rule 4.14:

- **Lack of a bright line test and incorporation of a too-malleable multi-factored test**

CRC urges the Commission to distinguish between judicial seminars run by and at law schools and bar associations of general membership and those run by private organizations seeking to advance a particular view on the law. As to the latter, Rule 4.14 should impose a limit on the size of the gift that judges can accept. Moreover, the limit should be sufficiently low to prohibit judicial participation in multi-day trips to vacation settings that are damaging to the reputation of the judiciary.

- **Ambiguity with respect to free tuition**

CRC notes that while Rule 4.14 is limited to "necessary travel, food, and lodging" associated with a judge's participation in permissible extra-judicial activities, the Commission's draft is ambiguous as to whether acceptance of free tuition is permissible. Insofar as tuition expenses often dwarf the per-judge travel, board, and lodging expenses for the sponsoring organization, the following ambiguity arises: before attending a private seminary must a judge first consider Rule 4.13 as to tuition and then satisfy Rule 4.14 as to acceptance of travel-related expense? CRC believes the Commission's current draft of Rule 4.14 necessitates this two-step inquiry before a judge can accept a gift of free tuition, and thus urges the Commission to make the requirement explicit.

**Rule 4.13 (a) (3)**  
**Acceptance of Gifts**  
**Community Rights Counsel**  
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The Community Rights Counsel (CRC) urges the Commission to clarify how a judge should determine whether acceptance of a gift of free tuition is appropriate. In particular, the

Commission should clarify that a privately-run program designed to advance a particular perspective on the law is not an “activity devoted to the improvement of the law, the legal system or the administration of justice,” as referenced in Rule 4.13 (a) (3).

CRC also urges the Commission to seriously consider dropping the exception for attendance at widely attended events because of the potential for abuse. CRC’s concerns in this regard are addressed in its comments about the definition of the term “widely attended event” in the Code’s Terminology section.

### **Terminology**

**Community Rights Counsel**

**Douglas T. Kendall, Executive Director**

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The Community Rights Counsel (CRC) urges the Commission to change the current definition of “widely attended event” or drop this exception to the gift prohibition of Rule 4.13. CRC considers the list of qualifying events in the definition as overly broad and giving rise to blatantly problematic activities. At a minimum, the term “viewing” should be deleted from the definition of “widely attended event.”

CRC also recommends that the Commission reconsider whether attendance of an event by more than 25 persons renders the event less problematic where the meeting is not open to a broad category of participants or the media. CRC recommends the following revision of the definition of “widely attended event.”

“Widely attended event” means a convention, conference, symposium, forum, panel discussion, dinner, ~~viewing~~, reception or other similar event at which more than 25 persons are expected to attend and to which the media, the general public, or a broad cross-section of the legal profession is invited.”