

SUMMARY

ALAN B. MORRISON
SENIOR LECTURER, STANFORD LAW SCHOOL
July 18, 2005

CANON 4

Rules 4.03 & 4.04

Mr. Morrison finds that as regards judges accepting appointments and otherwise participating in governmental bodies and civil/charitable organizations the fact that a judge is generally freer to serve on private bodies than on government bodies seems rather odd, if not actually backwards. He points out that this can be seen most clearly from comment [12] to Rule 4.04, where the draft tells a judge that it is proper to serve on the board of a private law school, but not on the board of a public university. He sees no reason to treat other governmental bodies differently from civic and charitable entities and thus would add the governmental bodies to 4.04 and eliminate 4.03.

Rule 4.04(a)(2)(iii)

Mr. Morrison notes that the scope of what organizations come with the ambit of this Rule is not clear. He points out that there is no definition of a legal organization or these other terms in the Code. He concludes that this Rule needs adjustments..

Rule 4.12

Mr. Morrison is troubled by (a)(3) which allows a judge *and the judge's spouse* to be taken to dinners, even lavish ones, if they are widely attended, but the judge's spouse, under (a)(4), cannot accept a gift based on the spouse's own separate activities if it could "reasonably be perceived as intended to influence the judge in the performance of judicial duties." He questions why the qualification is in (4) but not in (3).

Rule 4.13(b)

Mr. Morrison notes that this Rule allows the expenses of the judge's spouse, domestic partner or guest to be reimbursed "where appropriate to the occasion." But points out that the comments say nothing about the conditions for determining whether spouses should be allowed to accept them when accompanying the judge and hence whether they are "appropriate." Mr. Morrison asks why the spouse should be reimbursed at all; he believes that no spousal expenses should be paid by private entities.