

The Supreme Court of Kansas

KANSAS JUDICIAL CENTER
301 S.W. 10th Ave.
Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 166 October 14, 2008

As Amended October 20, 2008

The child of a judge was delivered about six weeks prematurely by c-section. This child was extremely ill at birth. Despite great efforts to save the child's life, the child died when she was about a month old. The night before the child's funeral, the child's mother developed symptoms of heart problems and was taken to a hospital where she suffered a major heart attack that necessitated open-heart surgery. The heart did not recover and she was transferred to a metropolitan city to be placed in line for a heart transplant but she is required to wait for some time to be placed on the transplant list. She will need to remain in the city for as long as a year and must have a family member with her as long as she is there. Her medication expense will be about \$5,400.00 per month for two years, and insurance will pay only half of this expense. Apartment rent in the city is expected to be more than \$1,000.00 per month, and there will be travel costs for family members going to visit. Her antibodies are such that finding a heart that her body will accept may take considerably longer than for others awaiting a heart transplant. Finally, to be placed on the transplant list, a person must show the financial means to adequately take care of the expenses involved.

A fund has been or will be established with a local bank for the benefit of the judge's spouse which will apparently qualify donors to deduct contributions for income tax purpose as charitable contributions.

The request for this opinion comes from another judge asking two questions:

1. Are other judges ethically permitted to ask fellow judges to contribute to this cause?

Canon 4C(4)(b) (2007 Kan. Ct. R. Annot. 633) states:

“(b) A judge should not solicit funds for any educational, religious, charitable, fraternal, or civic organization, or use or permit the use of the prestige of office for that purpose, but a judge may be listed as an officer, director, or trustee of such an organization, so long as the listing is not used for fund-raising purposes. A judge should not be a speaker or the guest of honor at an organization’s fund-raising events, but may attend such events”

There are no exceptions to this prohibition by judges for the solicitation of funds, and a judge may not ethically ask a fellow judge to contribute to this cause.

This does not mean that a judge is prohibited from contributing to the fund for the benefit of a fellow judge’s family that is experiencing a medical emergency.

Because the organization or fund that is set up with the local bank will be utilized only for fund-raising activities, a judge may not be an officer, director or trustee of such an organization. It would not be improper for court personnel, lawyers who are not judges, or any other community members to join together to solicit support for the medical benefit of the judge’s spouse.

2. Is it proper for the fund which has been established for the benefit of the judge’s spouse to accept contributions from lawyers who may appear before the judge in the future?

Canon 4D(5)(b) (2007 Kan. Ct. R. Annot. 635-636) states:

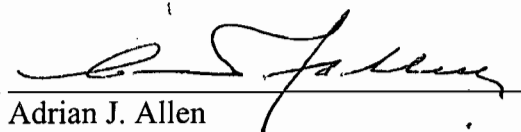
“(5) A judge shall not accept, and shall urge members of the judge’s family residing in the judge’s household, not to accept, a gift, bequest, favor or loan from anyone except for:

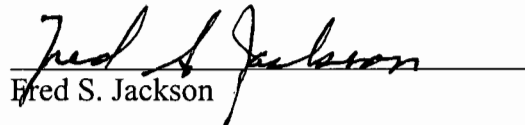
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- (b) a gift, award or benefit incident to the business, profession or other separate activity of a spouse or other family member of a judge residing in the judge’s household, including gifts, awards and benefits for the use of both the spouse or other family member and the judge (as spouse or family member), provided the gift, award or benefit could not reasonably be perceived as intended to influence the judge in the performance of judicial duties and is reported if its value exceeds \$150;”

We believe this exception applies to the judge and would allow the fund established for the spouse's benefits to accept contributions from lawyers who may appear before the judge in the future.

If the value of any contribution to the fund exceeds \$150.00, the judge must report it in the same manner as the judge reports a gift.


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