RECENT DEVELOPMENTS ON JUDICIAL RECUSAL
JUDGE EDWIN H. BYRD, III

Amendment of Article 151

Art. 151. Grounds

A. A judge of any trial or appellate court shall be recused upon any of the following grounds:

(1) The judge is a witness in the cause.

(2) The judge has been employed or consulted as an attorney in the cause or has previously been associated with an attorney during the latter's employment in the cause, and the judge participated in representation in the cause.

(3) The judge is the spouse of a party, or of an attorney employed in the cause or the judge's parent, child, or immediate family member is a party or attorney employed in the cause.

(4) **The judge is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that the judge would be unable to conduct fair and impartial proceedings.**

B. A judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

Canon 3(c)

C. **Recusation. A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned** and shall disqualify himself or herself in a proceeding in which disqualification is required by law or applicable Supreme Court rule. In all other instances, a judge should not recuse himself or herself.

The new law (151(B), effective August 1, 2021) added a "catch-all" category for the mandatory recusal of judges, like the permissive recusal basis in Canon 3(c). Under the new law, a judge **shall** be recused "when there exists a substantial and objective basis that

would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner."

> This "permissive" provision in Canon 3(c) remains voluntary. This is referenced as the "appearance of impropriety" standard. This is distinguished from an "objective" standard in amended Article 151. Had the legislature intended to adopt the impropriety standard, it could have done so. It did not. Instead, the legislature decided to adopt new language intended to be clearer and more objective than the appearance of impropriety standard.

Anderson v. Dean, 22-233 (La. App. 5 Cir. 7/25/22), 346 So.3d 356 at 369.

> Whereas prior law recognized this mandatory ground for recusal [bias or prejudice] only where there was a high probability of actual bias…, the addition of paragraph B [substantial and objective basis exists that would reasonably be expected to prevent the judge from conducting any aspect of the case in a fair and impartial manner] recognizes that there may be instances in which actual bias or prejudice cannot be proven, but which nonetheless require the recusal of the judge.

Id.

Constitutional Standard: Probability of bias too high to be constitutionally tolerable.

Caperton v. A.T. Massey Coal Co., 129 S. Ct. 2252 (2009).

A West Virginia jury found Massey Coal liable and awarded Caperton $50 million in both compensatory and punitive damages. After the verdict but while the matter was on appeal, Don Blankenship, Massey's CEO, supported an attorney who was running to replace one of the members of the Supreme Court of Appeals of West Virginia, Brent Benjamin. Blankenship raised $3 million, which was more than all of Benjamin's other supporters combined, and three times the amount spent by Benjamin's own campaign committee.

Justice Benjamin was elected and Plaintiff moved to recuse from the appeal. The West Virginia Supreme Court denied the motion. Justice Benjamin filed a concurring opinion defending his decision not to recuse, quoting the common law standard that "he had no 'direct, personal, substantial, pecuniary interest' in [the] case."

The United States Supreme Court held that recusal was necessary when the "probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable." Applying an objective test and noting the amount of money spent in relation to other money spent on the election found this case to be so extreme as

to violate the plaintiff's due process rights. Unlike the subjective standard of whether an interest actually exists that would influence the particular judge in a given case, the Court found that "[t]he inquiry is an objective one. The court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is 'likely' to be neutral, or whether there is an unconstitutional 'potential for bias.'"

Daurbigney v. Liberty Personal Insurance Company, 18-929, (La. App. 3 Cir. 5/09/2019), 272 So.3d 69.

The Third Circuit addressed an advertisement's reference to a particular attorney. Plaintiff's counsel, Broussard & David, sought recusal of Judge Castle based upon an advertisement utilized in her unsuccessful Supreme Court race.

> SHOULD PERSONAL INJURY LAWYERS PICK OUR NEXT SUPREME COURT JUSTICE Or should you? Personal Injury Lawyers have contributed over $ 1,000,000 to Jimmy Genovese's campaign. Then, when ethics laws prevented them from giving more, 18 of the wealthiest of them poured another $ 945,000 into a PAC (*Restore Our Coast*) created to promote Genovese's campaign.

Plaintiff's counsel, Broussard & David, was listed in the ad as one of those 18 firms.

The Third Circuit ordered recusal:

> The question really is not whether Judge Castle will tilt her ruling against the client because she still may be resentful of Broussard & David's financial support of her opponent through a PAC. One would like to believe that Judge Castle, who is reputed to be an honest, hardworking and conscientious trial judge, would try to do her best to decide the issues in the Valencia Daurbigney case fairly and impartially. However, under the recent jurisprudential standards on recusals, no "**actual bias**" need be proven. 272 So.2d at 75.

Id. At 77.

> We find that "objectively speaking, the probability of actual bias … is too high to be constitutionally tolerable."

Id.

Global Marketing Solutions, L.L.C. v. Chevron U.S.A., Inc., 19-01886 (La. 2/10/20) 347 So.3d 741.

The Louisiana Supreme Court also addressed an advertisement's reference to a

particular attorney. Plaintiff's counsel in that matter, John Carmouche, sought recusal of Justice Crain based upon a campaign flier that referenced him specifically:

> Don't let trial lawyers buy our Supreme Court.
>
> Don't be deceived.
>
> Trial lawyer John Carmouche spends almost $600,000 to elect Lijeberg.
>
> Carmouche spends over $750,000 to elect Jeff Hughes to the Supreme Court in 2013.
>
> Carmouche and trial lawyer friends funded 3 of 7 Supreme Court justices.
>
> Carmouche transfers hundreds of thousands of dollars to Citizens Fighting Crime PAC and Republican Fiduciary PAC to help Lijeberg.

In response Justice Crain submitted an affidavit that he was not biased.

> I have no personal or financial interest in the cases captioned Global Marketing Solutions, L.L.C. v. Chevron U.S.A., et al, Docket No. 19-C-1886 or Global Marketing Solutions, L.L.C. v. Blue Mill Farms, Inc., et al No. 19-CC-1402. I have never performed a judicial act in another court in either of these cases. I can and will fairly and impartially decide any issues presented in these cases based solely on the facts and law applicable to the same. I do not harbor any hostility towards either the parties or their attorneys in the captioned cases, which might impair my ability to be fair and impartial.

The majority ordered recusal, with two dissents that included reasons by Justice Crichton.

> I disagree with the majority of this Court's decision to recuse Justice William Crain in this matter and would deny the motion. In my view, recusal is neither required by the Louisiana Code of Civil Procedure, *see* La. C.C.P. art. 151(A)(4) ("a judge shall be recused when he is "biased or prejudiced toward or against the parties or the parties' attorneys to such an extent that he would be unable to conduct fair and impartial proceedings"), or federal law, *see* Rippo v. Baker, 580 U.S. 285, 137 S. Ct. 905, 197 L.Ed. 2d 167 (2017) (the only constitutionally permissible inquiry to be applied at the recusal hearing is, "objectively speaking, 'the probability of actual bias on the part of the judge or decision maker is too high to be constitutionally tolerable' ") (emphasis added)…. Despite the moving parties' assertions to the contrary,

> Justice Crain's sworn Affidavit demonstrates that he "can and will fairly and impartially decide any issues presented – in these cases based solely on the facts and law applicable to the same." [citations omitted]. A campaign mailer such as the one at issue here cannot – and should not – be the basis of recusal.
>
> The majority's decision to grant recusation under these circumstances, notwithstanding our colleague's sworn statement, is misguided, if not patently wrong, as neither federal case law or state law requires it. Accordingly, I dissent from the majority's decision and would deny the recusal motion.

State of Louisiana v. Kevin Dale Daigle, 18–0634 (La. 4/30/18), 241 So.3d 999.

Trial judge had a longtime working relationship with the victim's widow and a court employee, and had a social media relationship with the victim's widow that he initially denied in a formal opinion, but later admitted under oath. Appellate Court denied recusal, which was reversed by the Supreme Court. The Court applied the Constitutional standard, "First, an appearance of bias gives rise to a 'probability of actual bias,' also referred to as a 'risk of bias' or 'potential for bias.'" "Secondly, the defendant must prove that the probability of actual bias rises to a level that 'is too high to be constitutionally intolerable' under the circumstances."

In re Commitment of M.M., 53,577 (La. App. 2 Cir. 9/23/20), 303 So.3d 1095.

Judge declined to recuse from trial of a lawyer for constructive contempt. Counsel argued that claims of constructive contempt should be tried "before a judge other than the one toward whom the contumacious behavior was directed." He also argued that consideration by another judge of the contempt claims "would be better for the appearance of justice." Appellate court ordered recusal, stating that the Judge made several statements at the various hearings "leaving no doubt" about his opinion regarding the lawyers' actions, which culminated in a contempt charge against the lawyer.

Judge Garrett concurred, finding that recusal was necessary but that the judge was not subjectively biased:

> The moving party, under our past jurisprudence, would then have the heavy burden of proving the judge sought to be recused had "actual bias" if the only ground for recusal was bias under La. C. C. P. art. 151(A)(4).
>
> As noted in Daurbigney [Judge Castle recusal], this required subjective proof of actual bias. Under current jurisprudence from the United State Supreme Court, the Louisiana Supreme Court, and various appellate courts of this state, there is a due process analysis that should be considered in recusal

> matters and it appears that an objective test is now employed. The objective standard articulated by Louisiana courts in recent decisions provides: "Recusal is required when, objectively speaking, the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable."

Article 151 "Actual Bias" Standard

In re: Eleanor Pierce (Marshall) Stevens Living Trust and Eleanor Pierce Stevens Revocable Gift Trust, 17-111 (La. App. 3 Cir. 10/04/17), 229 So.3d 36.

Defendant alleged that *ex parte* communications between an attorney and the trial Judge revealed bias. After a hearing by a separate judge, recusal was denied. Defendant argued that the court "applied an incorrect 'actual bias' standard[,]" but that "the proper standard for recusal is the objective standard set forth in Canon 3(C)." The Appellate Court denied recusal, finding that "[t]here was no showing of bias, prejudice or untoward interest in the cause of its outcome, nor bias or prejudice toward or against any party to any extent such that the judge would be unable to conduct a fair and impartial proceeding."

James England v. Alina Julia England, 16-0936 (La. App. 4 Cir. 06/28/17), 223 So.3d 582.

Evidence established that the Judge engaged in *ex parte* communications with various individuals: a detective investigating child abuse allegations; a parenting coordinator; a custody evaluator; social workers; and a physician. In denying recusal, the appellate court found that "a judge can only be removed upon a finding of actual bias or prejudice; a substantial appearance of impropriety or even a mere appearance of impropriety are not causes for removing a judge."

State of Louisiana v. Robbie Ray Frith, 17–1004 (La. App. 3 Cir. 04/11/18), 243 So.3d 633.

Judge repeatedly invoked God and Christian scripture during Defendant's sentencing hearing. A few examples include the trial court's statement that "the offense is an offense against [children] but the sin is a sin against God"; "[w]e are only made righteous through Jesus Christ, if He's your Lord and Savior." "Those people who take care of the widows and children, the least of us shall be first in God's Kingdom. And so we all have a special place in our heart for children. And so those are the things that are considered;" and "When you let the Devil ride, he's going to want to drive." Denial of recusal without referral to another judge was reversed and matter remanded for hearing.

Camille Landry v. Pediatric Services of America, Inc., 19-796 (La. App. 3 Cir. 02/19/20), 2020 WL 831067.

Following defense verdict on a medical device claim for brain injury to a child, Plaintiffs discovered that a juror alleged that she had an *ex parte* communication with

Judge Broussard during the underlying jury trial. The juror alleged that she had disclosed that she had direct knowledge of the child's treatment, knew the hospital and the doctors being sued and had worked with them on this very case. Plaintiff filed a nullity petition which was assigned to Judge Rubin, who denied the nullity petition. In doing so Judge Rubin stated that Judge Broussard "did not speak to the juror." The appellate court found that the content of the alleged *ex parte* communication was not simply "administrative" or "managerial in nature," but that the discussions raised legitimate questions on the suitability of Ms. Gisclaire to continue to serve as a juror.

On remand the parties conducted discovery, which included taking the deposition of Judge Broussard, who denied speaking to the juror. Plaintiffs then filed a motion to recuse Judge Rubin as a witness to impeach Judge Broussard based on statements he made in open court during the hearing on the nullity action (that Judge Broussard denied speaking to the juror). Judge Rubin declined to recuse himself or to refer the matter for hearing to another judge. The appellate court reversed and remanded the matter for appointment of a judge to conduct a hearing on the recusal of Judge Rubin.

During the prior nullity hearing Judge Rubin also stated that "I can assure you if it goes to trial, I'm not going to be the trial judge. I'm going to get an ad hoc on this one if it does." Based on same the appellate court used its "plenary" power and requested an ad hoc judge from outside of the 15th Judicial District Court.

The assigned judge found that no *ex parte* communications occurred, but had it occurred it did not constitute an ill practice, which finding was affirmed. 350 So.3d at 873.

Wilson v. St. Landry Parish School Board, 20-136 (La. App. 3 Cir. 12/23/20), 311 So.3d 457.

Plaintiff sued the School Board for wrongful termination and defamation. Plaintiff sought recusal because the trial judge had previously represented the School Board for twenty-four (24) years. The judge denied recusal and did not refer to another judge. Appellate court found that Plaintiff's allegations may constitute grounds for recusal, so a hearing by another judge was required.

Amended Art. 151 Standard

Nancy Anderson v. Bob Dean, Jr., 22-233 (La. App. 5 Cir. 7/25/22), 346 So.3d 356.

Plaintiff counsel had a "business relationship" with attorney Baer. Mr. Baer had been involved in an auto accident on Judge Foret's property, striking a tree. Defendant's counsel represented Mr. Baer in that lawsuit, for an accident involving the crash into Judge Foret's tree. Judge Foret allegedly "made some very disparaging and derogatory comments about Mr. Baer, including the use of an expletive, in describing his feelings towards Mr. Baer."

Under new 151 standard, Judge Foret's comments created a substantial and objective basis that would reasonably be expected to prevent him from conducting any aspect of the cause in a fair and impartial manner.

State of Louisiana v. Jerman Neveaux, 22-426 (La. App. 5 Cir. 9/28/22), 350 So.3d 592.

Defendant argued that Judge Miller must be recused due to the appearance and risk of partiality because her husband is a sergeant who was involved in the instant case in his law enforcement capacity. The motion was denied under prior 151 because of a lack of evidence of subjective bias. In August, 2022, within thirty days of the amendment of Art. 151, the motion was re-filed. Judge Miller found that her involvement in the instant case did not create a substantial and objective basis that would reasonably be expected to prevent Judge Miller from conducting any aspect of this case in a fair and impartial manner. The appellate court remanded for a hearing by another judge.

State of Louisiana v. John Honore, 23-637 (La. 6/7/23) 361 So.3d 960.

Appellate court granted a writ that denied a continuance. On remand the prosecutor sought a 2023 trial date, but trial was set for 2024. Supreme Court ordered a 2023 trial date, as a trial setting so far out was an abuse of discretion. In his concurrence, Justice Crichton addressed motive as a potential basis for recusal.

> I agree with the per curiam's finding that the district court abused its discretion. More specifically, however, I find the district court's actions to be arbitrary and border on retaliation. Appellate review is a "safeguard of justice," and a litigant should never be punished for seeking review of a district court's ruling…. Moreover, if retaliatory, the decision of the district court would implicate violations of the Louisiana Code of Judicial Conduct and could be cause for mandatory recusal.

Timeliness of Motion – Thirty Days from Discovery of Basis

Radcliffe 10, LLC v. Zip Tube Systems of Louisiana, et al., 06-0128 (La. 11/3/06), 942 So.2d 1071.

Judge voluntarily disclosed to the parties' attorneys that Plaintiff's expert had served as his campaign treasurer during his election and Defendant declined to seek recusal. After negative trial result Defendant looked into the relationship and discovered that while the Judge had practiced as an attorney he represented the expert in several real estate transactions, as well as other civil actions, and had created several *inter vivos* trusts for the expert's wife and 5 children, for which he was designated as the attorney. The Judge also had a twenty-year relationship with the expert witness as business partners in both for profit

and non-profit enterprises. Recusal was timely; it had been denied without referral to another judge, so was remanded for motion hearing.

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La. C. Civ. P. Art. 151. Grounds

A. A judge of any trial or appellate court shall be recused upon any of the following grounds:

(1) The judge is a witness in the cause.

(2) The judge has been employed or consulted as an attorney in the cause or has previously been associated with an attorney during the latter's employment in the cause, and the judge participated in representation in the cause.

(3) The judge is the spouse of a party, or of an attorney employed in the

cause or the judge's parent, child, or immediate family member is a party or attorney employed in the cause.

(4) The judge is biased, prejudiced, or interested in the cause or its outcome or biased or prejudiced toward or against the parties or the parties' attorneys or any witness to such an extent that the judge would be unable to conduct fair and impartial proceedings.

B. A judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

C. In any cause in which the state or a political subdivision thereof is interested, the fact that the judge is a citizen of the state or a resident of the political subdivision, or pays taxes thereto, is not a ground for recusal. In any cause in which a religious body or religious corporation is interested, the fact that the judge is a member of the religious body or religious corporation is not alone a ground for recusal.

La. C. Civ. P. Art. 152. Disclosures

A. A judge of any trial or appellate court shall disclose, to the best of his information and belief, the existence of any of the following to all attorneys and unrepresented parties in the cause:

(1) The judge has been associated with an attorney during the latter's employment in the cause.

(2) At the time of the hearing of any contested issue in the cause, the judge has continued to employ, to represent him personally, the attorney actually handling the cause or a member of that attorney's firm.

(3) The judge performed a judicial act in the cause in another court.

(4) The judge is related to any of the following:

(a) A party or the spouse of a party, within the fourth degree.

(b) An attorney employed in the cause, the spouse of the attorney, or any member of the attorney's law firm, within the second degree.

(5) The judge's spouse, parent, child, or immediate family member has a substantial economic interest in the subject matter in controversy.

B. Upon disclosure, any party may file a motion that sets forth a ground for recusal under Article 151.

La. C. Civ. P. Art. 153. Recusal on court's own motion

A. A judge may recuse himself in any cause in which a ground for recusal exists, whether or not a motion for his recusal has been filed by a party.

B. A district judge may recuse himself in any cause objecting to the candidacy or contesting the election for any office in which the district or jurisdiction of such office lies wholly within the judicial district of the court on which the district judge serves.

C. Prior to the cause being allotted to another judge, a judge who recuses himself for any reason shall contemporaneously file in the record the order of recusal and written reasons that provide the factual basis for recusal under Article 151. The judge shall also provide a copy of the recusal and the written reasons therefor to the judicial administrator of the supreme court.

La. C. Civ. P. Art. 154. Procedure for recusal of district court judge

A. A party desiring to recuse a judge of a district court shall file a written motion therefor assigning the ground for recusal under Article 151. This motion shall be filed no later than thirty days after discovery of the facts constituting the ground upon which the motion is based, but in all cases prior to the scheduling of the matter for trial. 1n the event that the facts constituting the ground upon which the motion to recuse is based occur after the matter is scheduled for trial or the party moving for recusal could not, in the exercise of due diligence, have discovered such facts, the motion to recuse shall be filed immediately after such facts occur or are discovered.

B. If the motion to recuse sets forth a ground for recusal under Article 151, not later than seven days after the judge's receipt of the motion from the clerk of court, the judge shall either recuse himself or make a written request to the supreme court for the appointment of an ad hoc judge as provided in Article 155.

C. If the motion to recuse is not timely filed in accordance with Paragraph A of this Article or fails to set forth a ground for recusal under Article 151, the judge may deny the motion without the appointment of an ad hoc judge or a hearing but shall provide written reasons for the denial.

La. C. Civ. P. Art. 155. Selection of judge to try motion to recuse

Once a motion that sets forth a ground for recusal under Article 151 is referred for hearing, the supreme court shall appoint an ad hoc judge to hear the motion to recuse, and only the ad hoc judge to whom the motion is assigned shall have the power and authority to act in the cause pending disposition of the motion.

La. C. Civ. P. Art. 156. Selection of judge after recusal

A. When a district court judge of a court having two or more judges voluntarily recuses himself or is recused after a motion to recuse is heard, the cause shall be randomly assigned to another division or section of that court.

B. When a district court judge in a single-judge district voluntarily recuses himself, the judge shall make a written request to the supreme court for the appointment of an ad hoc judge to hear the cause. When an ad hoc judge appointed by the supreme court to hear a recusal grants the motion to recuse, that judge shall request that an ad hoc judge be appointed to hear the cause.

La. C. Civ. P. Art. 157. Recusal of supreme court justice

A. A party desiring to recuse a justice of the supreme court shall file a written motion therefor assigning the ground for recusal under Article 151. When a written motion is filed to recuse a justice of the supreme court, the justice may recuse himself or the motion shall be heard by the other justices of the court.

B. When a justice of the supreme court recuses himself or is recused, the court may do one of the following:

(1) Have the cause argued before and disposed of by the other justices.

(2) Appoint a sitting or retired judge of a district court or a court of appeal having the qualifications of a justice of the supreme court to act for the recused justice in the hearing and disposition of the cause.

La. C. Civ. P. Art. 158. Recusal of judge of court of appeal

A. A party desiring to recuse a judge of a court of appeal shall file a written motion therefor assigning the ground for recusal under Article 151. When a written motion is filed to recuse a judge of a court of appeal, the judge may recuse himself or the motion shall be heard by an ad hoc judge appointed by the supreme court.

B. When a judge of a court of appeal recuses himself or is recused, the court shall randomly allot another of its judges to sit on the panel in place of the recused judge.

C. If the motion to recuse fails to set forth a ground for recusal under Article 151, the judge may deny the motion without the appointment of an ad hoc judge or a hearing but shall provide written reasons for the denial.

La. C. Civ. P. Art. 159. Recusal of ad hoc judge

An ad hoc judge appointed to try a motion to recuse a judge, or appointed to try the cause, may be recused on the grounds and in the manner provided in this Chapter for the recusal of judges.

La. C. Civ. P. Art. 4861. Recusal of judges

A parish court or city court judge or justice of the peace may recuse himself or be recused for the same reasons and on the same grounds as provided in Article 151.

La. C. Civ. P. Art. 4862. Motion to recuse

A. When a written motion is made to recuse a judge of a parish or city court or a justice of the peace, not later than seven days after the judge or justice of the peace receives the motion from the clerk of court, the judge or justice of the peace shall either recuse himself, or the motion to recuse shall be tried in the manner provided by Article 4863.

B. If the motion to recuse fails to set forth a ground for recusal under Article 151, the judge or justice of the peace may deny the motion without the appointment of another judge or a hearing but shall provide written reasons for the denial.

La. C. Civ. P. Art. 4863. Determination of recusal; appointment of judge ad hoc

A. In a parish or city court having more than one judge, the motion to recuse shall be tried by another judge of the same court. The manner in which the judge is selected to try the recusal shall be provided by rule of court.

B. In all other cases, the motion shall be tried by an ad hoc judge appointed by the supreme court.

La. C. Civ. P. Art. 4864. Appointment of judge ad hoc after recusal

A. When a judge of a parish or city court recuses himself or is recused, another judge of the same court shall be appointed to try the cause, if that court has more than one division.

The manner in which the judge is selected to try the cause shall be provided by rule of court. In all other cases, an ad hoc judge shall be appointed by the supreme court to try the cause.

B. When a justice of the peace recuses himself, another justice of the peace shall be appointed by the supreme court to try the cause.

La. C. Civ. P. Art. 4865. Appointment of judge ad hoc in event of temporary inability of parish or city court judge to preside

When a parish or city court judge is unable to preside due to temporary absence, incapacity, or inability, he may appoint a judge ad hoc, who may be another judge or who may be a lawyer domiciled in the parish who possesses the qualifications of the judge he replaces. Appointment shall be by order, which shall reflect the term of and reasons for the appointment, and which shall be entered into the minutes of the court.

La. C. Civ. P. Art. 4866. Power and authority of judge ad hoc

A judge ad hoc appointed under the provisions of Articles 4861 through 4865 shall have the same power and authority to act on the causes or on the dates to which appointed as the judge whom he replaces would have.

La. C. Cr. P. Art. 671. Grounds for recusal of judge

A. In a criminal cause, a judge of any trial or appellate court shall be recused upon any of the following grounds:

(1) The judge is biased, prejudiced, or personally interested in the cause to such an extent that the judge would be unable to conduct a fair and impartial trial.

(2) The judge is the spouse of the accused, of the party injured, of an attorney employed in the cause, or of the district attorney; or is related to the accused or the party injured, or to the spouse of the accused or party injured, within the fourth degree; or is related to an attorney employed in the cause or to the district attorney, or to the spouse of either, within the second degree.

(3) The judge has been employed or consulted as an attorney in the cause or has been associated with an attorney during the latter's employment in the cause.

(4) The judge is a witness in the cause.

(5) The judge performed a judicial act in the cause in another court.

(6) The judge would be unable, for any other reason, to conduct a fair and impartial trial.

B. In a criminal cause, a judge of any trial or appellate court shall also be recused when there exists a substantial and objective basis that would reasonably be expected to prevent the judge from conducting any aspect of the cause in a fair and impartial manner.

C. In any cause in which the state or a political subdivision thereof is interested, the fact that the judge is a citizen of the state or a resident of the political subdivision, or pays taxes thereto, is not a ground for recusal. In any cause in which a religious body or religious corporation is interested, the fact that a judge is a member of the religious body or religious corporation is not alone a ground for recusal.

La. C. Cr. P. Art. 672. Recusal on court's own motion

A. A judge may recuse himself in any cause in which a ground for recusal exists, whether or not a motion for his recusal has been filed by a party.

B. Prior to the cause being allotted to another judge, a judge who recuses himself for any reason shall contemporaneously file in the record the order of recusal and written reasons that provide the factual basis for recusal under Article 671. The judge shall also provide a copy of the recusal and the written reasons therefor to the judicial administrator of the supreme court.

La. C. Cr. P. Art. 673. Judge may act until recused

A judge has full power and authority to act, even though a ground for recusal exists, until he is recused, or a motion for his recusal is filed. The judge to whom the motion to recuse is assigned shall have full power and authority to act in the cause pending the disposition of the motion to recuse.

La. C. Cr. P. Art. 674. Procedure for recusal of trial judge

A. A party desiring to recuse a trial judge shall file a written motion therefor assigning the ground for recusal under Article 67J. The motion shall be filed not later than thirty days after discovery of the facts constituting the ground upon which the motion is based, but in all cases at least thirty days prior to commencement of the trial. In the event that the facts constituting the ground for recusal occur thereafter or the party moving for recusal could not, in the exercise of due diligence, have discovered such facts, the motion to recuse shall be filed immediately after the facts occur or are discovered, but prior to verdict or judgment.

B. If the motion to recuse sets forth facts constituting a ground for recusal under Article 671, not later than seven days after the judge's receipt of the motion from the clerk of court, the judge shall either recuse himself or refer the motion for hearing to another judge or to an ad hoc judge as provided in Article 675.

C. If the motion to recuse is not timely filed in accordance with Paragraph A of this Article or fails to set forth facts constituting a ground for recusal under Article 671, the judge may deny the motion without referring the motion to another judge or to an ad hoc judge for hearing but shall provide written reasons for the denial.

La. C. Cr. P. Art. 675. Selection of ad hoc judge to try motion to recuse

A. In a court having two judges, the judge who is sought to be recused shall refer the motion to recuse to the other judge of that court.

B. In a court having more than two judges, the motion to recuse shall be referred to another judge of the court through a random process as provided by the rules of court.

C. In a court having only one judge, the judge shall make a written request to the supreme court for the appointment of an ad hoc judge to try the motion to recuse.

D. The order of the court appointing an ad hoc judge shall be entered on the minutes of the court, and the clerk of court shall forward a certified copy of the order to the appointed ad hoc judge. The motion to recuse shall be tried promptly in a contradictory hearing in the court in which the cause is pending.

La. C. Cr. P. Art. 676. Ad hoc judge to try cause when judge recused

A. When a judge of a court having more than two judges recuses himself or is recused after a trial of the motion, the matter shall be randomly reassigned to another judge for trial of the cause in accordance with the procedures contained in Article 675.

B. When a judge of a court having two judges recuses himself or is recused after a trial of the motion, the cause shall be tried by the other judge of that court.

C. When the judge of a court having only one judge recuses himself or is recused after a trial of the motion, the supreme court shall appoint an ad hoc judge to try the cause.

D. The ad hoc judge has the same power and authority to dispose of the cause as the recused judge would have.

La. C. Cr. P. Art. 678. Recusal of ad hoc judge

An ad hoc judge appointed to try a motion to recuse a judge, or appointed to try the cause, may be recused on the grounds and in the manner provided in this Chapter for the recusal of judges.

La. C. Cr. P. Art. 679. Recusal of an appellate judge and a supreme court justice

A. A party desiring to recuse a judge of a court of appeal shall file a written motion therefor assigning the ground for recusal under Article 671. When a written motion is filed to recuse a judge of a court of appeal, the judge may recuse himself or the motion shall be heard by the other judges on the panel to which the cause is assigned, or by all judges of the court, except the judge sought to be recused, sitting en bane.

B. When a judge of a court of appeal recuses himself or is recused, the court shall randomly allot another of its judges to act for the recused judge in the hearing and disposition of the cause.

C. If the motion to recuse fails to set forth facts constituting a ground for recusal under Article 671, the judge may deny the motion without a hearing but shall provide written reasons for the denial.

D. A party desiring to recuse a justice of the supreme court shall file a written motion therefor assigning the ground for recusal under Article 671. When a written motion is filed to recuse a justice of the supreme court, the justice may recuse himself or the motion shall be heard by the other justices of the court.

E. When a justice of the supreme court recuses himself or is recused, the court may have the cause argued before and disposed of by the other justices or appoint a sitting or retired judge of a district court or of a court of appeal having the qualifications of a justice of the supreme court to sit as a member of the court in the hearing and disposition of the cause.

La. CANON 2 A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All Activities

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

As used in this Code, “impartiality” or “impartial” denotes absence of bias or prejudice in favor of, or against, particular parties or classes of parties, as well as maintaining an open mind in considering issues that may come before the judge.

B. A judge shall not allow family, social, political, or other relationships to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interest of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness. Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. Letters of recommendation may be written only on private stationery which does not contain any official designation of the judge's court, but the judge may use his or her title. A judge shall not initiate the communication of information in any court or disciplinary proceeding, but may provide such information for the record in response to a formal request by a court or disciplinary agency official.

C. A judge shall not hold membership **in** any organization that arbitrarily excludes from membership, on the basis of race, religion, sex or national origin, any persons who would otherwise be admitted to membership. The term "organization" shall not include, however, an association of individuals dedicated to the preservation of religious, ethnic, historical or cultural values of legitimate common interest to its members; or an intimate, distinctly private association of persons whose membership limitations would be entitled to constitutional protection.

La. CANON 3 A Judge Shall Perform the Duties of Office Impartially and Diligently

The judicial duties of a judge take precedence over all other activities. Judicial duties include all the duties of office prescribed by law. Tn the performance of these duties, the following standards apply:

A. Adjudicative Responsibilities.

(1) A judge shall be faithful to the law and maintain professional competence in it. A judge shall be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge shall maintain order and decorum in judicial proceedings.

(3) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

(4) A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, and shall not permit staff, court officials or others subject to the judge's direction and control to do

so. A judge may make reasonable efforts, consistent with the law and court rules, to facilitate the abilities of all litigants, including self-represented litigants, to be fairly heard, provided, however, that in so doing, a judge should not give self-represented litigants an unfair advantage or create an appearance of partiality to the reasonable person.

(5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice against parties, witnesses, counsel or others.

(6) Except as permitted by law, a judge shall not permit private or ex parte interviews, arguments or communications designed to influence his or her judicial action in any case, either civil or criminal. A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding before the judge if the judge gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond. Where circumstances require, ex parte communications are authorized for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits, provided the judge reasonably believes that no party wi1lgain a procedural or tactical advantage as a result of the ex parte communication. A judge shall not knowingly accept in any case briefs, documents or written communications intended or calculated to influence his or her action w1less the contents are promptly made known to all parties. Judges of appellate courts shall also avoid all actions or language which might indicate to counsel, litigants or any member of the public, the particular member of the court to whom a case is allotted or assigned for any purpose. Similar circumspection should be exacted on the part of court officers, clerks and secretaries.

(7) A judge shall dispose of all judicial matters promptly, efficiently and fairly.

(8) A judge shall not, while a proceeding is pending in any Louisiana state court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness, and shall require similar abstention on the part of court personnel subject to his or her direction and control. This subsection does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court.

(9) Except as herein provided a judge shall prohibit broadcasting, televising, recording, or taking photographs in the courtroom and areas immediately adjacent thereto during sessions of court or recesses between sessions.

A trial judge may authorize:

(a) the use of cameras placed inside the courtroom for security purposes without audio;

(b) the use of electronic or photographic means for the presentation of evidence, for the perpetuation of a record for the court or for counsel, or for other purposes of judicial administration;

(c) the broadcasting, televising, recording or photographing of investitive or ceremonial proceedings;

(d) the photographic or electronic recording and reproduction of appropriate court proceedings under the following conditions:

(i) the means of recording will not distract participants or impair the dignity of the proceedings;

(ii) the parties have consented, and the consent to being depicted or recorded bas been obtained from each witness appearing in the recording and reproduction;

(iii) the reproduction will not be exhibited until after the proceeding has been concluded and all direct appeals have been exhausted; and

(iv) the reproduction will be exhibited only for instructional purposes in educational institutions.

An appellate court may permit broadcasting, televising, recording, and taking photographs of public judicial proceedings in the courtrooms of appellate courts in accordance with the guidelines set forth in an appendix to this Canon, subject, however, to the authority of each court and the presiding judge of each court or panel to (a) control the conduct of proceedings before the court, (b) ensure decorum and prevent distractions, and (c) ensure the fair administration of justice in the pending cause.

(10) A judge shall not, with respect to cases, controversies or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office.

C. **Recusation.** A judge should disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned and shall disqualify himself or herself in a proceeding in which disqualification is required by law or applicable Supreme Court rule. In all other instances, a judge should not recuse himself or herself.

28 USC § 47. Disqualification of trial judge to hear appeal

No judge shall hear or determine an appeal from the decision of a case or issue tried by him.

28 USC § 144. Bias or prejudice of judge

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

28 USC § 455. Disqualification of justice, judge, or magistrate judge

(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

(3) Where he has served in governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;

(4) He knows that he, individually or as a fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(5) He or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

(i) Is a party to the proceeding, or an officer, director, or trustee of a party;

(ii) Is acting as a lawyer in the proceeding;

(iii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(iv) Is to the judge's knowledge likely to be a material witness in the proceeding.

(c) A judge should inform himself about his personal and fiduciary financial interests, and make a reasonable effort to inform himself about the personal financial interests of his spouse and minor children residing in his household.

(d) For the purposes of this section the following words or phrases shall have the meaning indicated:

(1) “proceeding” includes pretrial, trial, appellate review, or other stages of litigation;

(2) the degree of relationship is calculated according to the civil law system;

(3) “fiduciary” includes such relationships as executor, administrator, trustee, and guardian;

(4) “financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, adviser, or other active participant in the affairs of a party, except that:

(i) Ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the judge participates in the management of the fund;

(ii) An office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by the organization;

(iii) The proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary

interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) Ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

(e) No justice, judge, or magistrate judge shall accept from the parties to the proceeding a waiver of any ground for disqualification enumerated in subsection (b). Where the ground for disqualification arises only under subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.

(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate judge, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate judge, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.

Fed. R. Civ. P. Rule 63. Judge's Inability to Proceed

If a judge conducting a hearing or trial is unable to proceed, any other judge may proceed upon certifying familiarity with the record and determining that the case may be completed without prejudice to the parties. In a hearing or a nonjury trial, the successor judge must, at a party's request, recall any witness whose testimony is material and disputed and who is available to testify again without undue burden. The successor judge may also recall any other witness.

Fed. R. Crim. P. Rule 25. Judge's Disability

(a) During Trial. Any judge regularly sitting in or assigned to the court may complete a jury trial if:

(1) the judge before whom the trial began cannot proceed because of death, sickness, or other disability; and

(2) the judge completing the trial certifies familiarity with the trial record.

(b) After a Verdict or Finding of Guilty.

(1) In General. After a verdict or finding of guilty, any judge regularly sitting in or assigned to a court may complete the court's duties if the judge who presided at trial cannot perform those duties because of absence, death, sickness, or other disability.

(2) Granting a New Trial. The successor judge may grant a new trial if satisfied that:

(A) a judge other than the one who presided at the trial cannot perform the post-trial duties; or

(B) a new trial is necessary for some other reason.

Fed. R. Bk. P. Rule 5004. Disqualification

(a) Disqualification of judge

A bankruptcy judge shall be governed by 28 U.S.C. § 455, and disqualified from presiding over the proceeding or contested matter in which the disqualifying circumstances arises or, if appropriate, shall be disqualified from presiding over the case.

(b) Disqualification of judge from allowing compensation

A bankruptcy judge shall be disqualified from allowing compensation to a person who is a relative of the bankruptcy judge or with whom the judge is so connected as to render it improper for the judge to authorize such compensation.

Fed. CANON 1 A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

Rule 1.1: Compliance with the Law

A judge shall comply with the law, including the Code of Judicial Conduct.

Rule 1.2: Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Rule 1.3: Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.

Fed. CANON 2 A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

Rule 2.1: Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law, shall take precedence over all of a judge's personal and extrajudicial activities.

Rule 2.2: Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Rule 2.3: Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

Rule 2.4: External Influences on Judicial Conduct

(A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

Rule 2.5: Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

Rule 2.6: Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

Rule 2.7: Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

Rule 2.8: Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

Rule 2.9: Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received.

(3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.

(4) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge.

(5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law to do so.

(B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

Rule 2.10: Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.
(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.

Rule 2.11: Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party;

(b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has an economic interest in the subject matter in controversy or in a party to the proceeding.

(4) The judge knows or learns by means of a timely motion that a party, a party's lawyer, or the law firm of a party's lawyer has within the previous [insert number] year[s] made aggregate contributions to the judge's campaign in an amount that [is greater than $[insert amount] for an individual or $[insert amount] for an entity] [is reasonable and appropriate for an individual or an entity].

(5) The judge, while a judge or a judicial candidate, has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as a judge over the matter in another court.

(B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge

should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

Rule 2.12: Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

Rule 2.13: Administrative Appointments

(A) In making administrative appointments, a judge:

(1) shall exercise the power of appointment impartially and on the basis of merit; and

(2) shall avoid nepotism, favoritism, and unnecessary appointments.

(B) A judge shall not appoint a lawyer to a position if the judge either knows that the lawyer, or the lawyer's spouse or domestic partner, has contributed more than $[insert amount] within the prior [insert number] year[s] to the judge's election campaign, or learns of such a contribution by means of a timely motion by a party or other person properly interested in the matter, unless:

(1) the position is substantially uncompensated;

(2) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or

(3) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent, and able to accept the position.

(C) A judge shall not approve compensation of appointees beyond the fair value of services rendered.

Rule 2.14: Disability and Impairment

A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take

appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

Rule 2.15: Responding to Judicial and Lawyer Misconduct

(A) A judge having knowledge that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.

(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.

(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.

Rule 2.16: Cooperation with Disciplinary Authorities

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

(B) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

Fed. CANON 3 A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

Rule 3.1: Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge;

(C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality;

(D) engage in conduct that would appear to a reasonable person to be coercive; or

(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

Rule 3.2: Appearances before Governmental Bodies and Consultation with Government Officials

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

(A) in connection with matters concerning the law, the legal system, or the administration of justice;

(B) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or

(C) when the judge is acting pro se in a matter involving the judge's legal or economic interests, or when the judge is acting in a fiduciary capacity.

Rule 3.3: Testifying as a Character Witness

A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

Rule 3.4: Appointments to Governmental Positions

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.

Rule 3.5: Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

Rule 3.6: Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

Rule 3.7: Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

(1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;

(2) soliciting contributions for such an organization or entity, but only from members of the judge's family, or from judges over whom the judge does not exercise supervisory or appellate authority;

(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice;

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the judge; or

(b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.
(B) A judge may encourage lawyers to provide pro bono publico legal services.

Rule 3.8: Appointments to Fiduciary Positions

(A) A judge shall not accept appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family, and then only if such service will not interfere with the proper performance of judicial duties.

(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than [one year] after becoming a judge.

Rule 3.9: Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by law.

Rule 3.10: Practice of Law

A judge shall not practice law. A judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family, but is prohibited from serving as the family member's lawyer in any forum.

Rule 3.11: Financial, Business, or Remunerative Activities

(A) A judge may hold and manage investments of the judge and members of the judge's family.

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or
(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code.

Rule 3.12: Compensation for Extrajudicial Activities

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law unless such acceptance would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

Rule 3.13: Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value

(A) A judge shall not accept any gifts, loans, bequests, benefits, or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality.

(B) Unless otherwise prohibited by law, or by paragraph (A), a judge may accept the following without publicly reporting such acceptance:

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending or impending before the judge would in any event require disqualification of the judge under Rule 2.11;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner, or other family member of a judge residing in the judge's household, but that incidentally benefit the judge.

(C) Unless otherwise prohibited by law or by paragraph (A), a judge may accept the following items, and must report such acceptance to the extent required by Rule 3.15:

(1) gifts incident to a public testimonial;

(2) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or

(b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge; and

(3) gifts, loans, bequests, benefits, or other things of value, if the source is a party or other person, including a lawyer, who has come or is likely to come before the judge, or whose interests have come or are likely to come before the judge.

Rule 3.14: Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law, a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner, or guest.

(C) A judge who accepts reimbursement of expenses or waivers or partial waivers of fees or charges on behalf of the judge or the judge's spouse, domestic partner, or guest shall publicly report such acceptance as required by Rule 3.15.

Rule 3.15: Reporting Requirements

(A) A judge shall publicly report the amount or value of:

(1) compensation received for extrajudicial activities as permitted by Rule 3.12;

(2) gifts and other things of value as permitted by Rule 3.13(C), unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed $[insert amount]; and

(3) reimbursement of expenses and waiver of fees or charges permitted by Rule 3.14(A), unless the amount of reimbursement or waiver, alone or in the aggregate with other reimbursements or waivers received from the same source in the same calendar year, does not exceed $[insert amount].

(B) When public reporting is required by paragraph (A), a judge shall report the date, place, and nature of the activity for which the judge received any compensation; the description of any gift, loan, bequest, benefit, or other thing of value accepted; and the source of reimbursement of expenses or waiver or partial waiver of fees or charges.

(C) The public report required by paragraph (A) shall be made at least annually, except that for reimbursement of expenses and waiver or partial waiver of fees or charges, the report shall be made within thirty days following the conclusion of the event or program.

(D) Reports made in compliance with this Rule shall be filed as public documents in the office of the clerk of the court on which the judge serves or other office designated by law, and, when technically feasible, posted by the court or office personnel on the court's website.