

STATE OF MINNESOTA
IN SUPREME COURT
ADM08-8004

OFFICE OF
APPELLATE COURTS

AUG 17 2010

FILED


ORDER ESTABLISHING DEADLINE FOR SUBMITTING COMMENTS ON
PROPOSED AMENDMENT TO THE MINNESOTA CODE OF JUDICIAL
CONDUCT

The Minnesota Judicial Council has recommended an amendment to the Minnesota Code of Judicial Conduct dealing with continuing part-time judges. This Court will consider the proposed change without a hearing after soliciting and reviewing comments on the proposed amendment. The proposed amendment is annexed to this order.

IT IS HEREBY ORDERED that any individual wishing to provide statements in support or opposition to the proposed rules amendment shall submit twelve copies in writing addressed to Frederick Grittner, Clerk of the Appellate Courts, 305 Judicial Center, 25 Rev. Dr. Martin Luther King Jr. Boulevard, St. Paul, Minnesota 55155, no later than Monday, October 18, 2010.

DATED: August 17, 2010

BY THE COURT:


Lorie S. Gildea
Chief Justice

Minnesota Code of Judicial Conduct
Proposed Amendment

APPLICATION

III. CONTINUING PART-TIME JUDGE

A judge who serves repeatedly on a part-time basis under a continuing appointment,

(A) is not required to comply:

(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), 4.2 (Political and Campaign Activities of Judicial Candidates in Public Elections), 4.3 (Activities of Candidates for Appointive Judicial Office), 4.4 (Campaign Committees), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); and

(B) shall not practice law in the division of the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves. This paragraph shall not apply to lawyers who are appointed pursuant to Minn. Stat. 491A.03, subd. 1. However, in no event shall the judge, and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.



OFFICE OF
APPELLATE COURTS

OCT 12 2010

FILED

MINNESOTA JUDICIAL BRANCH
MINNESOTA JUDICIAL CENTER
25 REV. DR. MARTIN LUTHER KING JR. BLVD.
SAINT PAUL, MINNESOTA 55155

SUE K. DOSAL
STATE COURT ADMINISTRATOR

(651) 296-2474
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E-mail: Sue.Dosal@courts.state.mn.us

October 7, 2010

Mr. Frederick Grittner
Clerk of the Appellate Courts
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King Jr. Blvd.
St. Paul, Minnesota 55155

Dear Mr. Grittner:

In response to the Court's request for comments on the amendment to the Code of Judicial Conduct dealing with continuing part-time judges, the Office of the State Court Administrator submits the following comments and alternative proposal.

On April 15, 2010, the Judicial Council took the following action on the ASD-2 Committee recommendation regarding use of subordinate judicial officers:

The Judicial Council approved the motion to form a workgroup of judges and administrative staff to develop an implementation plan for using pro bono attorneys to hear conciliation court (and potentially housing court) cases via ITV and to study the potential for regionalizing or centralizing the conservator account review hearings using ITV and subordinate judicial officers.

The action contemplates the use of volunteer attorneys for hearing types in addition to Conciliation Court. Subsequent to the action taken by the Judicial Council, my office has been contacted for information about the feasibility of using volunteer lawyers/referees in other uncontested case types. In order to avoid the lengthy rule amendment process for extension to each separate case type, the following proposal suggests that the rule be changed to authorize the court to consider a petition and order extension of the exemption to other case types as it deems appropriate.

Mr. Fred Grittner
October 7, 2010
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A similar amendment is suggested for Periodic Part Time Judges to allow service by local attorneys for a more limited or specialized assignment such as backlog or delay reduction in particular areas where they practice law.

Proposed language suggesting changes to the code are attached.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Sue Dosal", written in a cursive style.

Sue K. Dosal
State Court Administrator

III. Continuing Part-Time Judge

A judge who serves repeatedly on a part-time basis under a continuing appointment,

(A) is not required to comply:

(1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.14 (Reimbursement of Expenses and Waivers of Fees or Charges), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), 4.2 (Political and Campaign Activities of Judicial Candidates in Public Elections), 4.3 (Activities of Candidates for Appointive Judicial Office), 4.4 (Campaign Committees), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); and

(B) shall not practice law in the district court of the county in which the judge serves, or, if the court is divided into divisions, in the division of the court on which the judge serves, or in any court subject to the appellate jurisdiction of the court on which the judge serves. This paragraph shall not apply to lawyers who are appointed pursuant to Minn. Stat. 481A.03, subdivision 1, Minn. Stat. 484.013, or such other appointments as ordered by the Supreme Court [or the Judicial Council]. However, in no event shall the judge and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.

Comment

[1] When a person who has been a continuing part-time judge is no longer a continuing part-time judge, including a retired judge no longer subject to recall, that person may act as a lawyer in a proceeding in which he or she has served as a judge or in any other proceeding related thereto only with the informed consent of all parties, and pursuant to Rule 1.12 of the Rules of Professional Conduct.

IV. Periodic Part-Time Judge

A periodic part-time judge who serves or expects to serve repeatedly on a part-time basis, but under a separate appointment for each limited period of service or for each matter,

(A) is not required to comply:

(1) with Rule 2.10 (Judicial Statements on Pending and Impending Cases), except while serving as a judge; or

(2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.7 (Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator), 3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13 (Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things of Value), 3.15 (Reporting Requirements), 4.1 (Political and Campaign Activities of Judges and Judicial Candidates in General), and 4.5 (Activities of Judges Who Become Candidates for Nonjudicial Office); and

(B) shall not practice law in the district court of the county in which the judge serves, or, if the court is divided into divisions, in the division of the court on which the judge serves, or in any court subject to the appellate jurisdiction of the court on which the judge serves. This paragraph shall not apply to lawyers who are appointed pursuant to Minn. Stat. 481A.03, subdivision 1, Minn. Stat. 484.013, or such other appointments as ordered by the Supreme Court [or the Judicial Council]. However, in no event shall the judge and shall not act as a lawyer in a proceeding in which the judge has served as a judge or in any other proceeding related thereto.