

**IN THE COURT OF CENTRAL JURSDICTION  
COURT ORDER 51**

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**CANON 1: A JUDGE SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY**

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

All references to “judge” in the present Judicial Rules shall include the Justices of the Court of Appeals, District Court Judges and Special Magistrates of the Mille Lacs Band when their activities could reasonably be construed to reflect on their status as a Mille Lacs Band judicial officer.

**CANON 2: A JUDGE SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE’S 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.

**B.** A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests 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 in his/her capacity as a Mille Lacs Band judicial officer.

**CANON 3: A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE  
IMPARTIALLY AND DILIGENTLY**

**A. Judicial Duties in General.** The judicial duties of a judge take precedence over all of the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

**B. Adjudicative Responsibilities.**

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A Judge of the Court of Central Jurisdiction shall adhere to the laws, customs, and traditions of the Mille Lacs Band. He/she shall be unswayed by partisan interests, public clamor, political pressure, or by fear of criticism, and shall resist influences on the Court by other Tribal officials, governmental officials, or any other attempting to improperly influence the Court.

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

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

(5) 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, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, and shall not permit staff, court officials and others subject to the judge's direction and control to do so.

(6) A judge shall require lawyers or lay advocates in proceedings before the judge to refrain from manifesting, by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, against parties, witnesses, counsel or others. This Section 3B(6) does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status, or other similar factors, are issues in the proceeding.

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer or lay advocate, the right to be heard according to law. 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 concerning a pending or impending proceeding. However, a judge may consider the following ex parte communications:

(a) Where circumstances require, ex parte communications for scheduling, administrative purposes, or emergencies that do not deal with substantive matters or issues on the merits are authorized; provided:

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

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

(b) A judge may obtain the advice of a disinterested expert on federal law, state law, other sources of law, or tribal law, custom or tradition if the advice is applicable to a proceeding before the Court. Further, the request for advice shall be limited to points of law, tradition, or custom that do not involve the particular merits of the case. The parties shall be given a reasonable opportunity to respond to information provided by the expert.

(c) A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

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

(e) A judge may initiate or consider any ex parte communications when expressly authorized by law to do so.

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

(9) A judge shall not, while a proceeding is pending or impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control. This Section 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. This Section does not apply to proceedings in which the judge is a litigant in a personal capacity.

(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.

(11) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.

(12) 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.

### **C. Administrative Responsibilities.**

(1) A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

(2) A judge shall require staff, court officials, and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to refrain from manifesting bias or prejudice in the performance of their official duties.

(3) A judge with supervisory authority for the judicial performance of other judges shall take reasonable measures to assure the prompt disposition of matters before them and the proper performance of their other judicial responsibilities.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism. A judge shall not approve compensation of appointees beyond the fair value of services rendered.

#### **D. Disciplinary Responsibilities.**

(1) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall report the information to the Chief Justice of the Court of Central Jurisdiction. The Chief Justice shall assign a disinterested magistrate to investigate the allegations and file a report within 10 business days. The report shall include a certification by the investigating magistrate that he/she provided written notice of the allegations to the accused judicial officer; that the notice was provided in accordance with Appellate Rule 23; and that the accused judicial officer had the opportunity to respond in writing to the allegation. The accused's response, if one is given, shall be included and considered in the report to the Chief Justice. If the magistrate substantiates the allegation, the Chief Justice shall forward the report to the Chief Executive and the Speaker of the Assembly for their review. The Chief Executive and the Speaker have discretion as to how to proceed after reviewing the report. If the magistrate determines that no violation of this code occurred, the matter shall be closed. If the Chief Justice is the judge alleged to have violated a Rule of Judicial Conduct, the District Judge shall act in the Chief Justice's place.

(2) A judge who receives information indicating a substantial likelihood that a lawyer or lay advocate has committed a violation of the Minnesota Rules of Professional Conduct shall take action as specified in the Court of Central Jurisdiction's Attorney Discipline Code.

(3) Acts of a judge, in the discharge of disciplinary responsibilities, required or permitted by Sections 3D(1) and 3D(2) are part of a judge's judicial duties and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

#### **E. Disqualification.**

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer or advocate, or has personal knowledge of disputed evidentiary facts concerning the proceeding;

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

(c) the judge knows that he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, 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 or has any other more than de minimis interest that could be substantially affected by the proceeding;

(d) the judge or the judge's spouse, or a person within the third degree of relationship to either of them, by blood or custom, 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 a more than de minimis interest that could be substantially affected by the proceeding; or

(iv) is to the judge's knowledge, likely to be a material witness in the proceeding;

(2) 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 and minor children residing in the judge's household.

**F. Waiver of Disqualification.** A judge disqualified by the terms of Section 3E shall disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers or advocates to consider, out of the presence of the judge, whether to waive disqualification. If following disclosure of any basis for disqualification other than personal bias or prejudice concerning a party, the parties and lawyers, without participation by the judge, all agree that the judge should not be disqualified, and the judge is then willing to participate, the judge may participate in the proceeding. The agreement shall be incorporated in the record of the proceeding. However, for causes of action in which the first hearing in the case is required by statute to be held by a certain date, such as the initial hearing in a child welfare case, the judge may preside over the initial hearing even without a waiver if no other judge is available and the hearing would have to be delayed beyond the time frame allowed by law. After the initial hearing is conducted, a new judge will be assigned to the case if there is no waiver. No waiver is required from a litigant who is served as required by law but fails to appear for the hearing where the conflict is disclosed.

**CANON 4: A JUDGE SHALL SO CONDUCT THE JUDGE'S EXTRAJUDICIAL ACTIVITIES AS TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS**

**A. Extrajudicial Activities in General.** A judge shall conduct all of the judge's extrajudicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

**B. Avocational Activities.** A judge may speak, write, lecture, teach and participate in other extrajudicial activities concerning the law, the legal system, and the administration of justice and nonlegal subjects, subject to the requirements of this Code.

**C. Governmental, Civic or Charitable Activities.**

(1) A judge shall not appear at a public hearing before, or otherwise consult with, a Mille Lacs Band executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

(2) A judge shall not accept appointment to a Mille Lacs Band governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. A judge may, however, represent a country, state, locality, or tribe on ceremonial occasions or in connection with historical, educational, or cultural activities.

(3) A judge may serve as an officer, director, trustee or nonlegal advisor of a Mille Lacs Band organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice or of an educational, religious, charitable, fraternal, or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

(a) A judge shall not serve as an officer, director, trustee, or nonlegal advisor if it is likely that the organization:

- (i) will be engaged in proceedings that would ordinarily come before the judge, or
- (ii) will be engaged frequently in adversarial proceedings in the Court of Central Jurisdiction.
- (b) A judge as an officer, director, trustee, or nonlegal advisor, or as a member or otherwise:
  - (i) may assist such an organization in planning fund-raising and may participate in the management and investment of the organization's funds, but shall not personally participate in the solicitation of funds or other fund-raising activities, except that a judge may solicit funds from other judges over whom the judge does not exercise supervisory or appellate authority;
  - (ii) may make recommendations to public and private fund-granting organizations on projects and programs concerning the law, the legal system, or the administration of justice;
  - (iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4C(3)(b)(i), if the membership solicitation is essentially a fund-raising mechanism;
  - (iv) shall not use or permit the use of the prestige of judicial office for fund-raising or membership solicitation.

#### **D. Financial Activities.**

- (1) A judge shall not engage in financial and business dealings that:
  - (a) may reasonably be perceived to exploit the judge's judicial position, or
  - (b) involve the judge in frequent transactions or continuing business relationships with those lawyers or other persons likely to come before the court on which the judge serves.
  - (c) Part time judges of the Court of Central Jurisdiction may accept other employment and participate in the operation of a business, legal or otherwise in nature, subject to the following:
    - (i) A part-time tribal judge shall not practice law either as a lawyer or an advocate in the Court of Central Jurisdiction except when authorized by a specific provision of these Rules, e.g., when acting *pro se* or when assisting, but not representing, a family member who is *pro se*.
    - (ii) A part-time tribal judge shall not act as a lawyer or advocate in any proceeding in which he or she has judicially served or in any related proceeding.
- (2) A judge may, subject to the requirements of this Code, hold and manage investments of the judge and members of the judge's family, including real estate, and engage in other remunerative activity.



(3) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may, subject to the requirements of this Code, manage and participate in:

(a) a business closely held by the judge or members of the judge's family, or

(b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(4) A judge shall manage the judge's investments and other financial interests to minimize the number of cases in which the judge is disqualified. As soon as the judge can do so without serious financial detriment, the judge shall divest himself or herself of investments and other financial interests that might require frequent disqualification.

(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:

(a) a gift incident to a public testimonial, books, tapes, and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the judge and the judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system, or the administration of justice;

(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;

(c) ordinary social hospitality;

(d) a gift from a relative or friend, for a special occasion, such as a wedding, anniversary, or birthday, if the gift is fairly commensurate with the occasion and the relationship;

(e) a gift, bequest, favor, or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification under Section 3E;

(f) a loan from a lending institution in its regular course of business on the same terms generally available to persons who are not judges;

(g) a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants; or

(h) any other gift, bequest, favor, or loan, only if: the donor is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge; and, if its value exceeds \$150.00, the judge reports to the Court Administrator.

(i) de minimis gifts that are given as based on custom and tradition of the tribe of the offering person or the tribe of the recipient.

#### **E. Fiduciary Activities.**

(1) A judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney in fact or other fiduciary if the Court of Central Jurisdiction would have subject matter and personal jurisdiction over the estate, trust, ward, etc., for which the judge is serving. Exception: a judge may serve as an executor, administrator or other personal representative, trustee, guardian, attorney in fact, or other fiduciary for the estate, trust, or person of a member of the judge's family if such service will not interfere with the proper performance of judicial duties.

(2) A judge shall not serve as a fiduciary if it is likely that the judge as a fiduciary will 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.

(3) The same restrictions on financial activities that apply to a judge personally also apply to the judge while acting in a fiduciary capacity.

**F. Service as Arbitrator or Mediator.** A judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity in the Court of Central Jurisdiction unless expressly authorized by law.

**G. Practice of Law.** A judge shall not practice law in the Court of Central Jurisdiction. A full-time judge shall not practice law in the Court of Central Jurisdiction or outside the Court of Central Jurisdiction unless doing so would not interfere with the judge's duties and the Chief Justice expressly authorizes the full-time judge to do so on a case-by-case basis. Notwithstanding this prohibition, 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.

## **H. Compensation, Reimbursement and Reporting.**

A judge may receive compensation and reimbursement of expenses for the extrajudicial activities permitted by this Code, if the source of such payments does not give the appearance of influencing the judge's performance of judicial duties or otherwise give the appearance of impropriety.

(1) Compensation shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activity.

(2) Expense reimbursement shall be limited to the actual cost of travel and food and lodging at the Federal per diem rates if reasonably incurred by the judge and, where appropriate to the occasion, by the judge's spouse or guest. Any payment in excess of such an amount is compensation.

## **CANON 5: A JUDGE OR JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY**

### **A. All Judges:**

(1) Except as authorized in Section 5B(2), a judge, with respects to Mille Lacs Band elections and political organizations, shall not:

- (a) act as a leader or hold an office in a political organization,
- (b) publicly endorse or publicly oppose a candidate for public office;
- (c) make speeches on behalf of a political organization;
- (d) attend political gatherings; or
- (e) solicit funds for, pay an assessment to, or make a contribution to a political organization or candidate, or purchase tickets for political party dinners or other functions.

(2) A judge shall resign from judicial office upon becoming a candidate for a nonjudicial office either in a primary or in a general election, except that the judge may continue to hold judicial office while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.

(3) A candidate for a public office inside or outside the Mille Lacs Band:

- (a) shall maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity, and independence of the judiciary, and shall encourage members of the candidate's family to adhere to the same standards of political conduct in support of the candidate as apply to the candidate;
- (b) shall prohibit employees and officials who serve at the pleasure of the candidate, and shall discourage other employees and officials subject to the candidate's direction and control, from doing on the candidate's behalf what the candidate is prohibited from doing under the Sections of this Canon;
- (c) shall not authorize or knowingly permit any other person to do for the candidate what the candidate is prohibited from doing under the Sections of this Canon;
- (d) shall not:
  - (i) 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; or
  - (ii) knowingly misrepresent the identity, qualifications, present position, or other facts concerning the candidate;
- (e) may respond to personal attacks or attacks on the candidate's record as long as the response does not violate Section 5A(3)(d).

**B. Candidates Seeking Appointment to Judicial or Other Governmental Office.**

- (1) A candidate for appointment to judicial office or a judge seeking other governmental office shall not solicit or accept funds, personally or through a committee or otherwise, to support his or her candidacy.
- (2) A candidate for appointment to judicial office or a judge seeking other governmental office shall not engage in any political activity to secure the appointment except that:
  - (a) such persons may:
    - (i) communicate with the appointing authority, including any selection or nominating commission or other agency designated to screen candidates;
    - (ii) seek support or endorsement for the appointment from organizations that regularly make recommendations for reappointment or appointment to the office, and from individuals to the extent requested or required by those specified in Section 5B(2)(a); and

(iii) provide to those specified in Sections 5B(2)(a)(i) and 5B(2)(a)(ii) information as to his or her qualifications for the office;

(b) a non-judge candidate for appointment to judicial office may, in addition, unless otherwise prohibited by law:

(i) retain an office in a political organization,

(ii) attend political gatherings, and

(iii) continue to pay ordinary assessments and ordinary contributions to a political organization or candidate and purchase tickets for political party dinners or other functions.

**C. Incumbent Judges.** A judge shall not engage in any political activity except (i) as authorized under any Section of this Code, (ii) on behalf of measures to improve the law, the legal system or the administration of justice, or (iii) as expressly authorized by law.

**D. Applicability.** Canon 5 generally applies to all incumbent judges and judicial candidates. A successful candidate, whether or not an incumbent, is subject to judicial discipline for his or her campaign conduct; an unsuccessful candidate who is a lawyer is subject to lawyer discipline for his or her campaign conduct. A lawyer who is a candidate for judicial office is subject to the Minnesota Rules of Professional Conduct.

## **APPLICATION OF THE CODE OF JUDICIAL CONDUCT**

**A. Application.** All justices, judges, and magistrates shall comply with this Code except as provided below.

**B. Continuing Part-time Judge.** A continuing part-time judge is a judge who is an appointed judicial officer of the Mille Lacs Band and is in the status of a judge at all times but who is not a full-time Judicial Branch employee of the Mille Lacs Band. As of January 23, 2013, only the Justices of the Court of Appeals are in this category. A continuing part-time judge:

(1) is not required to comply:

(a) except while serving as a judge, with Section 3B(9); and

(b) at any time with Sections 4C(2), 4D(3), 4E(1), 4F, 4G, 4H, 5A(1), 5B(2) and 5D.

(2) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, 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.

**C. Periodic Part-time Judge.** A periodic part-time judge is a judicial officer who hears cases on an “as needed” basis and is paid by a contract for the actual time spent on a case. As of January 23, 2013, only the Court of Central Jurisdiction magistrates are in this category. A periodic part-time judge:

(1) is not required to comply:

(a) except while serving as a judge, with Section 3B(9);

(b) at any time, with Sections 4C(2), 4C(3)(a), 4D(1)(b), 4D(3), 4D(4), 4D(5), 4E, 4F, 4G, 4H, 5A(1), 5B(2) and 5D.

(2) shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, 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.

**D. Time for Compliance.** A person to whom this Code becomes applicable shall comply immediately with all provisions of this Code except Sections 4D(2), 4D(3) and 4E and shall comply with these Sections as soon as reasonably possible and shall do so in any event within the period of one year.

## **INTERPRETATION OF THE CODE OF JUDICIAL CONDUCT**

In interpreting the provisions of this Code, Federal, state, or tribal ethics decisions may be used as guidance until such time as the Court of Appeals has issued an ethics opinion on a provision of the Code that is in question.

IT IS SO ORDERED,

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\_\_\_\_\_, Chief Justice

Dated at Vineland, Minnesota, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

OFFICIAL SEAL