

July 12, 2006

The Honorable Robert M. Bell,
Chief Judge

The Honorable Irma S. Raker
The Honorable Alan M. Wilner
The Honorable Dale R. Cathell
The Honorable Glenn T. Harrell, Jr.
The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of
Appeal Building
Annapolis, Maryland 21401

Re: Rule 16-813 (Maryland
Code of Judicial Conduct)
and Rule 16-815 (Financial
Disclosure Statement)

Your Honors:

In response to the Court's June 6, 2006 letter request for draft Rules changes to facilitate further consideration by the Court of the December 1, 2005 Interim Report of the Study Group on Recalled Judges, the Rules Committee submits this Letter Report, transmitting hereby proposed amendments to Rules 16-813 (Maryland Code of Judicial Conduct) and 16-815 (Financial Disclosure Statement).

Three versions of draft amendments to Rule 16-813 are enclosed.

The first draft complies with the last paragraph of the June 6, 2006 letter, and presents an amendment that makes the entire Maryland Code of Judicial Conduct applicable to all judges approved for recall.

The second draft is consistent with the Study Group's Recommendation that the entire Code be made applicable to each recalled judge who is willing to serve at least 50% of the number of days in the calendar year for which the judge may receive *per diem* compensation under Code, Courts Article, §1-302. The

financial disclosure aspect of the Study Group's Recommendation No. 1 is addressed separately, in a proposed amendment to Rule 16-815.

The third draft represents the recommendation of an overwhelming majority of the members of the Rules Committee. In this version, the entire Code, other than Canon 4F (Service as Arbitrator or Mediator) is made applicable to each former judge approved for recall. The Committee's proposed exception as to Canon 4F is based on the concern that if this Canon is made applicable to recalled judges, the Judiciary could lose the services of the many excellent retired judges who also are highly sought after by members of the legal community to resolve disputes by arbitration or mediation.

In conjunction with proposed amendments to Rule 16-813, Rule 16-815 is proposed to be amended to require that a former judge approved for recall for temporary service under Maryland Constitution, Article IV, §3A file a financial disclosure statement that covers the portion of the preceding calendar year during which the former judge recalled for temporary service actually served.

For the guidance of the Court and the public, following each proposed Rules change is a Reporter's Note describing the reasons for the proposal and any changes that would be effected in current law or practice. We caution that these Reporter's Notes were prepared initially for the benefit of the Rules Committee; they are not part of the Rules and have not been debated or approved by the Committee; and they are not to be regarded as any kind of official comment or interpretation. They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

Joseph F. Murphy, Jr.
Chairperson

Linda M. Schuett
Vice Chairperson

JFM/LMS:cdc

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-813 to make the entire Maryland Code of Judicial Conduct applicable to each former judge who is approved for recall, as follows:

Rule 16-813. MARYLAND CODE OF JUDICIAL CONDUCT

. . .

CANON 4

Extra Judicial Activities

. . .

C. Charitable, Civic, and Governmental Activities

(1) Except when acting in a matter that involves the judge or the judge's interests, when acting as to a matter that concerns the administration of justice, the legal system, or improvement of the law, or when acting as otherwise allowed under Canon 4, a judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official.

COMMENT

As suggested in the Reporter's Notes to the ABA Model Code of Judicial Conduct (1990), the "administration of justice" is not limited to "matters of judicial administration" but is broad enough to include other matters relating to the judiciary.

(2) Except as otherwise provided by law and subject to Canon 4A, a judge may accept appointment to a governmental advisory commission, committee, or position.

COMMENT

A judge may not accept a governmental appointment that could interfere with the effectiveness and independence of the judiciary, assume or discharge an executive or legislative power (Maryland Declaration of Rights, Article 8), or hold an "office" under the constitution or other laws of the United States or State of Maryland (Maryland Declaration of Rights, Articles 33 and 35).

Committee note: The Judicial Ethics Committee notes that the supremacy clause of U.S. Constitution Article IV may allow service in reserve components of the armed forces that otherwise might be precluded under this Code, such as service as a judge advocate or military judge. However, the Attorney General, rather than the Judicial Ethics Committee, traditionally has rendered opinions with regard to issues of dual or incompatible offices.

(3) A judge may represent this country, a state, or a locality on ceremonial occasions or in connection with cultural, educational, or historical activities.

(4) (a) Subject to other provisions of this Code, a judge may be a director, member, non legal adviser, officer, or trustee of a charitable, civic, educational, fraternal or sororal, law related, or religious organization.

COMMENT

See the Comment to Canon 4B regarding use of the phrase "subject to other provisions of this Code." As an example of the meaning of the phrase, a judge permitted under Canon 4C (4) to serve on the board of an organization may be prohibited from such service by, for example, Canon 2C or 4A, if the organization practices invidious discrimination or if service on the board

otherwise causes a substantial question as to the judge's capacity to act impartially as a judge or as to service as an adviser.

(b) A judge shall not be a director, adviser, officer, or trustee of an organization that is conducted for the economic or political advantage of its members.

(c) A judge shall not be a director, adviser, officer, or trustee of an organization if it is likely that the organization:

(i) will be engaged regularly in adversary proceedings in any court; or

(ii) deals with people who are referred to the organization by any court.

COMMENT

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine whether it is proper to continue a relationship with it. For example, in many jurisdictions, charitable organizations are more frequently in court now than in the past or make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

(d) (i) A judge shall not participate personally in:

(A) 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 appellate or supervisory jurisdiction; or

(B) a membership solicitation that reasonably might be

perceived as coercive or, except as permitted in Canon 4C

(4) (d) (i) (A), is essentially a fund-raising mechanism.

(ii) A judge shall not participate as a guest of honor or speaker at a fund-raising event.

(iii) Except as allowed by Canon 4C (4) (d), a judge shall not use or lend the prestige of judicial office for fund-raising or membership solicitation.

(iv) A judge may:

(A) assist an organization in planning fund-raising;

(B) participate in the investment and management of an organization's funds; and

(C) make recommendations to private and public fund-granting organizations on programs and projects concerning the administration of justice, the legal system, or improvement of the law.

COMMENT

As a director, member, non-legal adviser, officer, or trustee of an organization that is devoted to the administration of justice, the legal system, or improvement of the law or for a not-for-profit charitable, civic, educational, fraternal or sororal, or religious organization, a judge may solicit membership and encourage or endorse membership efforts for the organization, as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor who is in a position of control or influence. A judge may be listed as a director, officer, or trustee of an organization but must not engage in direct, individual solicitation of funds or memberships in person, by telephone, or in writing, for that organization, except in the following cases: (1) a judge may solicit, for funds

or memberships, other judges over whom the judge does not exercise appellate or supervisory authority; (2) a judge may solicit, for membership in an organization described above, other persons if neither those persons nor persons with whom they are affiliated are likely to appear before the court on which the judge serves; and (3) a judge who is an officer of an organization described above may send a general membership solicitation mailing over the judge's signature.

Use of an organization's letterhead for fund-raising or membership solicitation does not violate Canon 4C (4) if the letterhead lists only the judge's name and office or other position in the organization. A judge's judicial office also may be listed if comparable information is listed for other individuals. A judge must make reasonable efforts to ensure that court officials, the judge's staff, and others subject to the judge's direction and control do not use or refer to their relationship with the judge to solicit funds for any purpose, charitable or otherwise.

Although a judge is not permitted to be a guest of honor or speaker at a fund-raising event, Canon 4 does not prohibit a judge from attending an event if otherwise consistent with this Code.

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

D. Financial Activities

(1) A judge shall not engage in business or financial dealings that:

- (a) reasonably would be perceived to violate Canon 2B; or
- (b) 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.

COMMENT

Canon 4D (1)(b) is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for recusal. A judge also should discourage **members of the judge's family** from engaging in dealings that reasonably

would appear to exploit the judge's judicial position. With respect to affiliation of relatives of the judge with law firms appearing before the judge, see the Comment to Canon 3D (1)(d) relating to recusal.

Participation by a judge in business and financial dealings is subject to the general prohibitions in Canon 4A against activities that cause a substantial question as to **impartiality**, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation also is subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Canon 2B against misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1. See the Comment to Canon 4B regarding use of the phrase "subject to other provisions of this Code."

(2) Subject to other provisions of this Code, a judge may hold and manage investments, including real estate, and engage in other remunerative activities except that a full time judge shall not hold a directorship or office in a bank, insurance company, lending institution, public utility, savings and loan association, or other business, enterprise, or venture that is affected with a public interest.

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

(3) A judge shall manage investments and other financial interests to minimize the number of cases in which recusal would be required. As soon as practicable without serious financial detriment, a judge shall dispose of those financial interests that might require frequent recusal.

(4) A judge shall neither use nor disclose, in financial dealings or for any other purpose not related to the judge's

judicial duties, information that is acquired in his or her judicial capacity and that is confidential, privileged, or otherwise not part of the public record.

Cross reference: As to court records, see Title 16, Chapter 1000 of the Maryland Rules. As to prohibitions against, and penalties for, improper disclosure or use of information by government officials and employees, see Code, State Government Article, §§15-507 and 15-903. As to civil and criminal provisions governing improper disclosure of information, see, e.g., Code, State Government Article, §§10-626 and 10-627 (public records) and Code, Tax-General Article, §13-1018 (tax information).

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

(a) contributions to a judge's campaign for judicial office that comply with Canon 5;

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

(c) an award, benefit, or **gift** incident to the business, profession, or other separate activity of a spouse or other **member of the judge's household**, including an award, benefit, or **gift** for the use of both the household member and judge (as spouse or household member), if the award, benefit, or **gift** could not reasonably be perceived as intended to influence the

judge in the performance of judicial duties;

(d) ordinary social hospitality;

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

(f) a bequest, favor, **gift**, or loan from a relative or close personal friend whose appearance or interest in a case would in any event require a recusal under Canon 3D;

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

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

(i) any other bequest, favor, **gift**, or loan if: (1) the donor or lender is not a person whose interests have come or are likely to come before the judge and (2) the judge reports, on the judge's financial disclosure form, all bequests, favors, **gifts**, and loans required under Rule 16-815 to be reported.

COMMENT

However innocently intended, favors or **gifts** from persons not in a judge's immediate family may create an appearance that the judge could be improperly beholden to the donor.

Similarly, a bequest, favor, **gift**, or loan to a **member of the judge's household** might be viewed as intended to influence the judge. Therefore, a judge must inform those household members

of the relevant ethical constraints on the judge in this regard and discourage those household members from violating the constraints. However, a judge cannot reasonably be expected to **know** or control all of the business and financial activities of all **members of the judge's household**.

Canon 4D (5) (b) and (i) governs, respectively, acceptance of an invitation to a law-related function and of an invitation paid for by an individual lawyer or group of lawyers.

A judge may accept a public testimonial, or a **gift** incident thereto, only if the donor is not an organization whose members comprise or frequently represent the same side in litigation, and the testimonial or **gift** complies with other provisions of this Code. See Canons 2B and 4A (1).

A **gift** that is made to a judge, or a **member of the judge's household**, and is excessive in value raises questions about the judge's **impartiality** and the integrity of the judicial office and might require recusal of the judge. See, however, Canon 4D (5) (f).

E. Fiduciary Activities

(1) (a) Except as provided in Canon 4E (1) and then only subject to other provisions of this Code and statutes, a judge shall not serve as a **fiduciary**.

(b) A judge may serve as a **fiduciary** for a **member of the judge's family**.

(c) A judge who has served as a trustee of a trust since December 31, 1969, may continue to do so as allowed by law.

(2) A judge shall not agree to serve as a **fiduciary** if it is likely that, as a **fiduciary**, the judge will be engaged in proceedings that ordinarily would 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 in a court under the

appellate jurisdiction of the court on which the judge serves.

(3) The restrictions that apply to personal financial activities of a judge also apply to the judge's **fiduciary** financial activities.

COMMENT

The Time for Compliance provision of this Code (Canon 6D) postpones the time for compliance with certain provisions of Canon 4E in some cases.

Committee note: Code, Estates and Trusts Article, §§5-105 (b) (5) and 14-104 prohibit a judge from serving as a personal representative or trustee for someone who is not a spouse or within the **third degree of relationship** (although a judge serving as trustee as of 12/31/69 is allowed to continue in that capacity). Neither the 1987 Maryland Code of Judicial Conduct nor any other Maryland law explicitly prohibits a judge from serving as any other type of **fiduciary** for anyone.

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

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 unless expressly authorized by law.

COMMENT

Canon 4F does not preclude a judge from participating in settlement conferences. If by reason of disclosure made during or as a result of a conference, a judge's **impartiality** might reasonably be questioned, the judge should not participate in the matter further. See Canon 3D (1).

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

. . .

CANON 6

Compliance

A. Courts

This Code applies to each judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court.

B. Construction

Violation of any of the Canons by a judge may be regarded as conduct prejudicial to the proper administration of justice within the meaning of Maryland Rule 16-803 (j), as to the Commission on Judicial Disabilities.

Committee note: Whether a violation is or is not prejudicial conduct is to be determined by the Court of Appeals of Maryland. Maryland Constitution, Article IV, §4B gives that Court the authority to discipline any judge upon recommendation of the Commission on Judicial Disabilities. This disciplinary power is alternative to and cumulative with the impeachment authority of the General Assembly.

C. Former Judges

This Code, ~~other than Canon 4C (Charitable, Civic, and Governmental Activities), D(2) (Financial Activities), E (Fiduciary Activities), and F (Service as Arbitrator or Mediator),~~ applies to each former judge of one of ~~those~~ the courts listed in Canon 6A who is approved for recall for temporary service under Maryland Constitution, Article IV, §3A.

Cross reference: As to approval of a former judge for recall, see Code, Courts Article, §1-302.

D. Time for Compliance

An individual to whom this Code becomes applicable shall comply immediately with all provisions of this Code except: Canon 2C (Avoidance of Impropriety and the Appearance of Impropriety), Canon 4D (2) (Financial Activities), and Canon 4E (**Fiduciary** Activities). The individual shall comply with Canons 2C and 4D (2) and E as soon as reasonably possible, and shall do so in any event as to Canon 2C within two years and as to Canon 4D (2) and E within one year.

Source: . . .

Canon 6.

Canon 6A is derived from Maryland Code (1987), Canon 6A, with the Committee note omitted.

Canon 6B is derived from Maryland Code (1987), Canon 6B, with substitution of "Canons" for "any of the provisions of this Code of Judicial Conduct" to clarify that a judge can be charged only with violating a Canon and not a Comment or Committee note.

Canon 6C is derived from Maryland Code (1987), Canon 6C, but with ~~Canon 4D (4)~~ the entire Code made applicable to recalled judges.

Canon 6D is derived from ABA Code (2000), Canon 6F.

REPORTER'S NOTE

The proposed amendments to Rule 16-813 comply with the letter request of Chief Judge Bell dated June 6, 2006 that an amendment to the Rule be drafted "making the entire [Maryland] Code [of Judicial Conduct] applicable to all judges approved for recall."

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-813 to make the entire Maryland Code of Judicial Conduct applicable to each former judge who is approved for recall and willing to serve 50% or more of the number of days in the calendar year for which the judge may receive *per diem* compensation, as follows:

Rule 16-813. MARYLAND CODE OF JUDICIAL CONDUCT

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CANON 4

Extra Judicial Activities

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C. Charitable, Civic, and Governmental Activities

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COMMENT

As suggested in the Reporter's Notes to the ABA Model Code of Judicial Conduct (1990), the "administration of justice" is not limited to "matters of judicial administration" but is broad enough to include other matters relating to the judiciary.

(2) Except as otherwise provided by law and subject to Canon 4A, a judge may accept appointment to a governmental advisory commission, committee, or position.

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Committee note: The Judicial Ethics Committee notes that the supremacy clause of U.S. Constitution Article IV may allow service in reserve components of the armed forces that otherwise might be precluded under this Code, such as service as a judge advocate or military judge. However, the Attorney General, rather than the Judicial Ethics Committee, traditionally has rendered opinions with regard to issues of dual or incompatible offices.

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COMMENT

See the Comment to Canon 4B regarding use of the phrase

"subject to other provisions of this Code." As an example of the meaning of the phrase, a judge permitted under Canon 4C (4) to serve on the board of an organization may be prohibited from such service by, for example, Canon 2C or 4A, if the organization practices invidious discrimination or if service on the board otherwise causes a substantial question as to the judge's capacity to act impartially as a judge or as to service as an adviser.

(b) A judge shall not be a director, adviser, officer, or trustee of an organization that is conducted for the economic or political advantage of its members.

(c) A judge shall not be a director, adviser, officer, or trustee of an organization if it is likely that the organization:

(i) will be engaged regularly in adversary proceedings in any court; or

(ii) deals with people who are referred to the organization by any court.

COMMENT

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine whether it is proper to continue a relationship with it. For example, in many jurisdictions, charitable organizations are more frequently in court now than in the past or make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

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(4) (d) (i) (A), is essentially a fund-raising mechanism.

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COMMENT

As a director, member, non-legal adviser, officer, or trustee of an organization that is devoted to the administration of justice, the legal system, or improvement of the law or for a not-for-profit charitable, civic, educational, fraternal or sororal, or religious organization, a judge may solicit membership and encourage or endorse membership efforts for the organization, as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor who is in a position of control or influence. A judge may be listed as a

director, officer, or trustee of an organization but must not engage in direct, individual solicitation of funds or memberships in person, by telephone, or in writing, for that organization, except in the following cases: (1) a judge may solicit, for funds or memberships, other judges over whom the judge does not exercise appellate or supervisory authority; (2) a judge may solicit, for membership in an organization described above, other persons if neither those persons nor persons with whom they are affiliated are likely to appear before the court on which the judge serves; and (3) a judge who is an officer of an organization described above may send a general membership solicitation mailing over the judge's signature.

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Although a judge is not permitted to be a guest of honor or speaker at a fund-raising event, Canon 4 does not prohibit a judge from attending an event if otherwise consistent with this Code.

Cross reference: As to exemption for certain former judges approved for recall, see Canon 6C.

D. Financial Activities

(1) A judge shall not engage in business or financial dealings that:

- (a) reasonably would be perceived to violate Canon 2B; or
- (b) 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.

COMMENT

Canon 4D (1) (b) is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for recusal. A judge also should discourage **members of the judge's family** from engaging in dealings that reasonably would appear to exploit the judge's judicial position. With respect to affiliation of relatives of the judge with law firms appearing before the judge, see the Comment to Canon 3D (1) (d) relating to recusal.

Participation by a judge in business and financial dealings is subject to the general prohibitions in Canon 4A against activities that cause a substantial question as to **impartiality**, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation also is subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Canon 2B against misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1. See the Comment to Canon 4B regarding use of the phrase "subject to other provisions of this Code."

(2) Subject to other provisions of this Code, a judge may hold and manage investments, including real estate, and engage in other remunerative activities except that a full time judge shall not hold a directorship or office in a bank, insurance company, lending institution, public utility, savings and loan association, or other business, enterprise, or venture that is affected with a public interest.

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Cross reference: As to court records, see Title 16, Chapter 1000 of the Maryland Rules. As to prohibitions against, and penalties for, improper disclosure or use of information by government officials and employees, see Code, State Government Article, §§15-507 and 15-903. As to civil and criminal provisions governing improper disclosure of information, see, e.g., Code, State Government Article, §§10-626 and 10-627 (public records) and Code, Tax-General Article, §13-1018 (tax information).

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

(a) contributions to a judge's campaign for judicial office that comply with Canon 5;

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

(c) an award, benefit, or **gift** incident to the business, profession, or other separate activity of a spouse or other **member of the judge's household**, including an award, benefit, or **gift** for the use of both the household member and judge (as

spouse or household member), if the award, benefit, or **gift** could not reasonably be perceived as intended to influence the judge in the performance of judicial duties;

(d) ordinary social hospitality;

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

(f) a bequest, favor, **gift**, or loan from a relative or close personal friend whose appearance or interest in a case would in any event require a recusal under Canon 3D;

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

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

(i) any other bequest, favor, **gift**, or loan if: (1) the donor or lender is not a person whose interests have come or are likely to come before the judge and (2) the judge reports, on the judge's financial disclosure form, all bequests, favors, **gifts**, and loans required under Rule 16-815 to be reported.

COMMENT

However innocently intended, favors or **gifts** from persons not in a judge's immediate family may create an appearance that the judge could be improperly beholden to the donor.

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A judge may accept a public testimonial, or a **gift** incident thereto, only if the donor is not an organization whose members comprise or frequently represent the same side in litigation, and the testimonial or **gift** complies with other provisions of this Code. See Canons 2B and 4A (1).

A **gift** that is made to a judge, or a **member of the judge's household**, and is excessive in value raises questions about the judge's **impartiality** and the integrity of the judicial office and might require recusal of the judge. See, however, Canon 4D (5) (f).

E. Fiduciary Activities

(1) (a) Except as provided in Canon 4E (1) and then only subject to other provisions of this Code and statutes, a judge shall not serve as a **fiduciary**.

(b) A judge may serve as a **fiduciary** for a **member of the judge's family**.

(c) A judge who has served as a trustee of a trust since December 31, 1969, may continue to do so as allowed by law.

(2) A judge shall not agree to serve as a **fiduciary** if it is likely that, as a **fiduciary**, the judge will be engaged in proceedings that ordinarily would 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 in a court under the appellate jurisdiction of the court on which the judge serves.

(3) The restrictions that apply to personal financial activities of a judge also apply to the judge's **fiduciary** financial activities.

COMMENT

The Time for Compliance provision of this Code (Canon 6D) postpones the time for compliance with certain provisions of Canon 4E in some cases.

Committee note: Code, Estates and Trusts Article, §§5-105 (b) (5) and 14-104 prohibit a judge from serving as a personal representative or trustee for someone who is not a spouse or within the **third degree of relationship** (although a judge serving as trustee as of 12/31/69 is allowed to continue in that capacity). Neither the 1987 Maryland Code of Judicial Conduct nor any other Maryland law explicitly prohibits a judge from serving as any other type of **fiduciary** for anyone.

Cross reference: As to exemption for certain former judges approved for recall, see Canon 6C.

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 unless expressly authorized by law.

COMMENT

Canon 4F does not preclude a judge from participating in settlement conferences. If by reason of disclosure made during or as a result of a conference, a judge's **impartiality** might reasonably be questioned, the judge should not participate in the matter further. See Canon 3D (1).

Cross reference: As to exemption for certain former judges approved for recall, see Canon 6C.

. . .

CANON 6

Compliance

A. Courts

This Code applies to each judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court.

B. Construction

Violation of any of the Canons by a judge may be regarded as conduct prejudicial to the proper administration of justice within the meaning of Maryland Rule 16-803 (j), as to the Commission on Judicial Disabilities.

Committee note: Whether a violation is or is not prejudicial conduct is to be determined by the Court of Appeals of Maryland. Maryland Constitution, Article IV, §4B gives that Court the authority to discipline any judge upon recommendation of the Commission on Judicial Disabilities. This disciplinary power is alternative to and cumulative with the impeachment authority of the General Assembly.

C. Former Judges

This Code, ~~other than Canon 4C (Charitable, Civic, and Governmental Activities), D(2) (Financial Activities), E (Fiduciary Activities), and F (Service as Arbitrator or Mediator),~~ applies to each former judge of one of ~~those~~ the courts listed in Canon 6A who is approved for recall for

temporary service under Maryland Constitution, Article IV, §3A, except that Canon 4C (Charitable, Civic, and Governmental Activities), D(2) (Financial Activities), E (Fiduciary Activities), and F (Service as Arbitrator or Mediator) apply only to a judge who is willing to serve 50% or more of the number of days in the calendar year for which the judge may receive per diem compensation under Code, Courts Article, §1-302.

Cross reference: As to approval of a former judge for recall, see Code, Courts Article, §1-302.

D. Time for Compliance

An individual to whom this Code becomes applicable shall comply immediately with all provisions of this Code except: Canon 2C (Avoidance of Impropriety and the Appearance of Impropriety), Canon 4D (2) (Financial Activities), and Canon 4E (**Fiduciary Activities**). The individual shall comply with Canons 2C and 4D (2) and E as soon as reasonably possible, and shall do so in any event as to Canon 2C within two years and as to Canon 4D (2) and E within one year.

Source: . . .

Canon 6.

Canon 6A is derived from Maryland Code (1987), Canon 6A, with the Committee note omitted.

Canon 6B is derived from Maryland Code (1987), Canon 6B, with substitution of "Canons" for "any of the provisions of this Code of Judicial Conduct" to clarify that a judge can be charged only with violating a Canon and not a Comment or Committee note.

Canon 6C is derived from Maryland Code (1987), Canon 6C, but with Canon 4D (4) made applicable to recalled judges and the

entire Code made applicable to recalled judges willing to serve 50% or more of the number of days in the calendar year for which the judge may receive *per diem* compensation under Code, Courts Article, §1-302.

Canon 6D is derived from ABA Code (2000), Canon 6F.

REPORTER'S NOTE

The proposed amendments to Rule 16-813 implement Recommendation No. 1 set forth in the December 1, 2005 Interim Report of the Study Group on Recalled Judges. Recommendation No. 1 reads as follows:

Recommendation No. 1: Recalled judges who are willing to work as a judge at least 50% of the 246 days to be used for computation of a *per diem* under Code, Courts and Judicial Proceedings Article §1-302, shall be subject to all provisions of the Maryland Code of Judicial Conduct and the financial disclosure requirement.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-813 to make the entire Maryland Code of Judicial Conduct other than Canon 4F applicable to each former judge who is approved for recall, as follows:

Rule 16-813. MARYLAND CODE OF JUDICIAL CONDUCT

. . .

CANON 4

Extra Judicial Activities

. . .

C. Charitable, Civic, and Governmental Activities

(1) Except when acting in a matter that involves the judge or the judge's interests, when acting as to a matter that concerns the administration of justice, the legal system, or improvement of the law, or when acting as otherwise allowed under Canon 4, a judge shall not appear at a public hearing before, or otherwise consult with, an executive or legislative body or official.

COMMENT

As suggested in the Reporter's Notes to the ABA Model Code of Judicial Conduct (1990), the "administration of justice" is not limited to "matters of judicial administration" but is broad enough to include other matters relating to the judiciary.

(2) Except as otherwise provided by law and subject to Canon 4A, a judge may accept appointment to a governmental advisory commission, committee, or position.

COMMENT

A judge may not accept a governmental appointment that could interfere with the effectiveness and independence of the judiciary, assume or discharge an executive or legislative power (Maryland Declaration of Rights, Article 8), or hold an "office" under the constitution or other laws of the United States or State of Maryland (Maryland Declaration of Rights, Articles 33 and 35).

Committee note: The Judicial Ethics Committee notes that the supremacy clause of U.S. Constitution Article IV may allow service in reserve components of the armed forces that otherwise might be precluded under this Code, such as service as a judge advocate or military judge. However, the Attorney General, rather than the Judicial Ethics Committee, traditionally has rendered opinions with regard to issues of dual or incompatible offices.

(3) A judge may represent this country, a state, or a locality on ceremonial occasions or in connection with cultural, educational, or historical activities.

(4) (a) Subject to other provisions of this Code, a judge may be a director, member, non legal adviser, officer, or trustee of a charitable, civic, educational, fraternal or sororal, law related, or religious organization.

COMMENT

See the Comment to Canon 4B regarding use of the phrase "subject to other provisions of this Code." As an example of the meaning of the phrase, a judge permitted under Canon 4C (4) to serve on the board of an organization may be prohibited from such service by, for example, Canon 2C or 4A, if the organization practices invidious discrimination or if service on the board

otherwise causes a substantial question as to the judge's capacity to act impartially as a judge or as to service as an adviser.

(b) A judge shall not be a director, adviser, officer, or trustee of an organization that is conducted for the economic or political advantage of its members.

(c) A judge shall not be a director, adviser, officer, or trustee of an organization if it is likely that the organization:

(i) will be engaged regularly in adversary proceedings in any court; or

(ii) deals with people who are referred to the organization by any court.

COMMENT

The changing nature of some organizations and of their relationship to the law makes it necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated to determine whether it is proper to continue a relationship with it. For example, in many jurisdictions, charitable organizations are more frequently in court now than in the past or make policy decisions that may have political significance or imply commitment to causes that may come before the courts for adjudication.

(d) (i) A judge shall not participate personally in:

(A) 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 appellate or supervisory jurisdiction; or

(B) a membership solicitation that reasonably might be

perceived as coercive or, except as permitted in Canon 4C

(4) (d) (i) (A), is essentially a fund-raising mechanism.

(ii) A judge shall not participate as a guest of honor or speaker at a fund-raising event.

(iii) Except as allowed by Canon 4C (4) (d), a judge shall not use or lend the prestige of judicial office for fund-raising or membership solicitation.

(iv) A judge may:

(A) assist an organization in planning fund-raising;

(B) participate in the investment and management of an organization's funds; and

(C) make recommendations to private and public fund-granting organizations on programs and projects concerning the administration of justice, the legal system, or improvement of the law.

COMMENT

As a director, member, non-legal adviser, officer, or trustee of an organization that is devoted to the administration of justice, the legal system, or improvement of the law or for a not-for-profit charitable, civic, educational, fraternal or sororal, or religious organization, a judge may solicit membership and encourage or endorse membership efforts for the organization, as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund-raising mechanism. Solicitation of funds and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor who is in a position of control or influence. A judge may be listed as a director, officer, or trustee of an organization but must not engage in direct, individual solicitation of funds or memberships in person, by telephone, or in writing, for that organization, except in the following cases: (1) a judge may solicit, for funds

or memberships, other judges over whom the judge does not exercise appellate or supervisory authority; (2) a judge may solicit, for membership in an organization described above, other persons if neither those persons nor persons with whom they are affiliated are likely to appear before the court on which the judge serves; and (3) a judge who is an officer of an organization described above may send a general membership solicitation mailing over the judge's signature.

Use of an organization's letterhead for fund-raising or membership solicitation does not violate Canon 4C (4) if the letterhead lists only the judge's name and office or other position in the organization. A judge's judicial office also may be listed if comparable information is listed for other individuals. A judge must make reasonable efforts to ensure that court officials, the judge's staff, and others subject to the judge's direction and control do not use or refer to their relationship with the judge to solicit funds for any purpose, charitable or otherwise.

Although a judge is not permitted to be a guest of honor or speaker at a fund-raising event, Canon 4 does not prohibit a judge from attending an event if otherwise consistent with this Code.

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

D. Financial Activities

(1) A judge shall not engage in business or financial dealings that:

- (a) reasonably would be perceived to violate Canon 2B; or
- (b) 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.

COMMENT

Canon 4D (1)(b) is necessary to avoid creating an appearance of exploitation of office or favoritism and to minimize the potential for recusal. A judge also should discourage **members of the judge's family** from engaging in dealings that reasonably

would appear to exploit the judge's judicial position. With respect to affiliation of relatives of the judge with law firms appearing before the judge, see the Comment to Canon 3D (1)(d) relating to recusal.

Participation by a judge in business and financial dealings is subject to the general prohibitions in Canon 4A against activities that cause a substantial question as to **impartiality**, demean the judicial office, or interfere with the proper performance of judicial duties. Such participation also is subject to the general prohibition in Canon 2 against activities involving impropriety or the appearance of impropriety and the prohibition in Canon 2B against misuse of the prestige of judicial office. In addition, a judge must maintain high standards of conduct in all of the judge's activities, as set forth in Canon 1. See the Comment to Canon 4B regarding use of the phrase "subject to other provisions of this Code."

(2) Subject to other provisions of this Code, a judge may hold and manage investments, including real estate, and engage in other remunerative activities except that a full time judge shall not hold a directorship or office in a bank, insurance company, lending institution, public utility, savings and loan association, or other business, enterprise, or venture that is affected with a public interest.

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

(3) A judge shall manage investments and other financial interests to minimize the number of cases in which recusal would be required. As soon as practicable without serious financial detriment, a judge shall dispose of those financial interests that might require frequent recusal.

(4) A judge shall neither use nor disclose, in financial dealings or for any other purpose not related to the judge's

judicial duties, information that is acquired in his or her judicial capacity and that is confidential, privileged, or otherwise not part of the public record.

Cross reference: As to court records, see Title 16, Chapter 1000 of the Maryland Rules. As to prohibitions against, and penalties for, improper disclosure or use of information by government officials and employees, see Code, State Government Article, §§15-507 and 15-903. As to civil and criminal provisions governing improper disclosure of information, see, e.g., Code, State Government Article, §§10-626 and 10-627 (public records) and Code, Tax-General Article, §13-1018 (tax information).

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

(a) contributions to a judge's campaign for judicial office that comply with Canon 5;

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

(c) an award, benefit, or **gift** incident to the business, profession, or other separate activity of a spouse or other **member of the judge's household**, including an award, benefit, or **gift** for the use of both the household member and judge (as spouse or household member), if the award, benefit, or **gift** could not reasonably be perceived as intended to influence the

judge in the performance of judicial duties;

(d) ordinary social hospitality;

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

(f) a bequest, favor, **gift**, or loan from a relative or close personal friend whose appearance or interest in a case would in any event require a recusal under Canon 3D;

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

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

(i) any other bequest, favor, **gift**, or loan if: (1) the donor or lender is not a person whose interests have come or are likely to come before the judge and (2) the judge reports, on the judge's financial disclosure form, all bequests, favors, **gifts**, and loans required under Rule 16-815 to be reported.

COMMENT

However innocently intended, favors or **gifts** from persons not in a judge's immediate family may create an appearance that the judge could be improperly beholden to the donor.

Similarly, a bequest, favor, **gift**, or loan to a **member of the judge's household** might be viewed as intended to influence the judge. Therefore, a judge must inform those household members

of the relevant ethical constraints on the judge in this regard and discourage those household members from violating the constraints. However, a judge cannot reasonably be expected to **know** or control all of the business and financial activities of all **members of the judge's household**.

Canon 4D (5) (b) and (i) governs, respectively, acceptance of an invitation to a law-related function and of an invitation paid for by an individual lawyer or group of lawyers.

A judge may accept a public testimonial, or a **gift** incident thereto, only if the donor is not an organization whose members comprise or frequently represent the same side in litigation, and the testimonial or **gift** complies with other provisions of this Code. See Canons 2B and 4A (1).

A **gift** that is made to a judge, or a **member of the judge's household**, and is excessive in value raises questions about the judge's **impartiality** and the integrity of the judicial office and might require recusal of the judge. See, however, Canon 4D (5) (f).

E. Fiduciary Activities

(1) (a) Except as provided in Canon 4E (1) and then only subject to other provisions of this Code and statutes, a judge shall not serve as a **fiduciary**.

(b) A judge may serve as a **fiduciary** for a **member of the judge's family**.

(c) A judge who has served as a trustee of a trust since December 31, 1969, may continue to do so as allowed by law.

(2) A judge shall not agree to serve as a **fiduciary** if it is likely that, as a **fiduciary**, the judge will be engaged in proceedings that ordinarily would 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 in a court under the

appellate jurisdiction of the court on which the judge serves.

(3) The restrictions that apply to personal financial activities of a judge also apply to the judge's **fiduciary** financial activities.

COMMENT

The Time for Compliance provision of this Code (Canon 6D) postpones the time for compliance with certain provisions of Canon 4E in some cases.

Committee note: Code, Estates and Trusts Article, §§5-105 (b)(5) and 14-104 prohibit a judge from serving as a personal representative or trustee for someone who is not a spouse or within the **third degree of relationship** (although a judge serving as trustee as of 12/31/69 is allowed to continue in that capacity). Neither the 1987 Maryland Code of Judicial Conduct nor any other Maryland law explicitly prohibits a judge from serving as any other type of **fiduciary** for anyone.

~~Cross reference: As to exemption for former judges approved for recall, see Canon 6C.~~

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 unless expressly authorized by law.

COMMENT

Canon 4F does not preclude a judge from participating in settlement conferences. If by reason of disclosure made during or as a result of a conference, a judge's **impartiality** might reasonably be questioned, the judge should not participate in the matter further. See Canon 3D (1).

Cross reference: As to exemption for former judges approved for recall, see Canon 6C.

. . .

CANON 6

Compliance

A. Courts

This Code applies to each judge of the Court of Appeals, the Court of Special Appeals, a circuit court, the District Court, or an orphans' court.

B. Construction

Violation of any of the Canons by a judge may be regarded as conduct prejudicial to the proper administration of justice within the meaning of Maryland Rule 16-803 (j), as to the Commission on Judicial Disabilities.

Committee note: Whether a violation is or is not prejudicial conduct is to be determined by the Court of Appeals of Maryland. Maryland Constitution, Article IV, §4B gives that Court the authority to discipline any judge upon recommendation of the Commission on Judicial Disabilities. This disciplinary power is alternative to and cumulative with the impeachment authority of the General Assembly.

C. Former Judges

This Code, other than Canon ~~4C~~ 4F (~~Charitable, Civic, and Governmental Activities~~), ~~D(2)~~ (~~Financial Activities~~), ~~E~~ (~~Fiduciary Activities~~), and ~~F~~ (Service as Arbitrator or Mediator), applies to each former judge of one of ~~those~~ the courts listed in Canon 6A who is approved for recall for temporary service under Maryland Constitution, Article IV, §3A.

Cross reference: As to approval of a former judge for recall, see Code, Courts Article, §1-302.

D. Time for Compliance

An individual to whom this Code becomes applicable shall comply immediately with all provisions of this Code except: Canon 2C (Avoidance of Impropriety and the Appearance of Impropriety), Canon 4D (2) (Financial Activities), and Canon 4E (**Fiduciary** Activities). The individual shall comply with Canons 2C and 4D (2) and E as soon as reasonably possible, and shall do so in any event as to Canon 2C within two years and as to Canon 4D (2) and E within one year.

Source: . . .

Canon 6.

Canon 6A is derived from Maryland Code (1987), Canon 6A, with the Committee note omitted.

Canon 6B is derived from Maryland Code (1987), Canon 6B, with substitution of "Canons" for "any of the provisions of this Code of Judicial Conduct" to clarify that a judge can be charged only with violating a Canon and not a Comment or Committee note.

Canon 6C is derived from Maryland Code (1987), Canon 6C, but with ~~Canon 4D (4)~~ the entire Code, other than Canon 4F, made applicable to recalled judges.

Canon 6D is derived from ABA Code (2000), Canon 6F.

REPORTER'S NOTE

The Rules Committee recommends proposed amendments to Rule 16-813 that make the entire Maryland Code of Judicial Conduct, other than Canon 4F, applicable to each former judge who is approved for recall.

The Committee is concerned that if Canon 4F is made applicable to recalled judges, the Judiciary could lose the services of the many excellent retired judges who also are highly sought after by members of the legal community to resolve

disputes by arbitration or mediation.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

AMEND Rule 16-815 to require that a former judge approved for recall for temporary service file a certain financial disclosure statement, as follows:

Rule 16-815. FINANCIAL DISCLOSURE STATEMENT

a. Every judge and each former judge approved for recall for temporary service under Maryland Constitution, Article IV, §3A shall file with the State Court Administrator an annual financial disclosure statement on the form prescribed by the Court of Appeals. When filed, a financial disclosure statement is a public record.

b. Except as provided in paragraph c of this Rule:

1. The initial financial disclosure statement shall be filed on or before April 15, 1987 and shall cover the period beginning on January 1, 1986 and ending on December 31, 1986.

2. A subsequent statement shall be filed annually on or before April 15 of each year and shall cover the preceding calendar year or that portion of the preceding calendar year during which the judge held office or the former judge recalled for temporary service actually served.

3. A financial disclosure statement is presumed to have been

filed unless the State Court Administrator, on April 16, notifies a judge that the judge's statement for the preceding calendar year or portion thereof has not been received.

c. If a judge or other person who files a certificate of candidacy for nomination for an election to an elected judgeship has filed a statement pursuant to §15-610 (b) of the State Government Article, Annotated Code of Maryland, the person need not file for the same period of time the statement required by paragraph b of this Rule.

d. The State Court Administrator is designated as the person to receive statements from the State Administrative Board of Election Laws pursuant to §15-610 (b) of the State Government Article.

e. Extension of Time for Filing.

1. Except when the judge or the former judge recalled for temporary service is required to file a statement pursuant to §15-610 (b) of the State Government Article, Annotated Code of Maryland, a judge or former judge may apply to the State Court Administrator for an extension of time for filing the statement. The application shall be submitted prior to the deadline for filing the statement, and shall set forth in detail the reasons an extension is requested and the date upon which a completed statement will be filed.

2. For good cause shown, the State Court Administrator may grant a reasonable extension of time for filing the statement.

Whether ~~he~~ the State Court Administrator grants or denies the request, the State Court Administrator shall furnish the judge or former judge and the Judicial Ethics Committee with a written statement of ~~his~~ the State Court Administrator's reasons, and the facts upon which this decision is based.

3. A judge or former judge who is dissatisfied with the State Court Administrator's decision may seek review by the Judicial Ethics Committee by filing with the Committee a statement of reasons for the judge's or former judge's dissatisfaction within ten days from the date of the State Court Administrator's decision. The Committee may take the action it deems appropriate with or without a hearing or the consideration of additional documents.

f. Failure to File Statement - Incomplete Statement.

1. A judge or former judge recalled for temporary service who fails to file a timely statement, or who files an incomplete statement, shall be notified in writing by the State Court Administrator, and given a reasonable time, not to exceed ten days, within which to correct the deficiency. If the deficiency has not been corrected within the time allowed, the State Court Administrator shall report the matter to the on Judicial Ethics Committee.

2. If the Committee finds, after inquiry, that the failure to file or the omission of information was either inadvertent or in a good faith belief that the omitted information was not required

to be disclosed, the Committee shall give the judge or former judge recalled for temporary service a reasonable period, not to exceed 15 days, within which to correct the deficiency.

Otherwise, the Committee shall refer the matter to the Commission on Judicial Disabilities. If a judge or former judge recalled for temporary service who has been allowed additional time within which to correct a deficiency fails to do so within that time, the matter shall also be referred to the Commission on Judicial Disabilities.

g. This rule applies to ~~any~~ each judge of a court named in Canon 6 A who has resigned or retired in any calendar year, with respect to the portion of that calendar year prior to ~~his~~ the judge's resignation or retirement, and to each former judge approved for recall for temporary service with respect to that portion of each calendar year during which the former judge actually served.

Source: This Rule is former Rule 1233.

REPORTER'S NOTE

In conjunction with proposed amendments to Rule 16-813, Rule 16-815 is proposed to be amended to require that a former judge approved for recall for temporary service under Maryland Constitution, Article IV, §3A file a financial disclosure statement that covers the portion of the preceding calendar year during which the former judge recalled for temporary service actually served. Stylistic changes also are made.



ROBERT M. BELL
CHIEF JUDGE

COURT OF APPEALS OF MARYLAND
634 COURTHOUSE EAST
111 N. CALVERT STREET
BALTIMORE, MARYLAND 21202
(410) 333-6396
(410) 347-3908 (FAX)
robert.bell@courts.state.md.us

June 6, 2006

The Honorable Joseph F. Murphy, Jr.
Chair
Standing Committee on Rules of Practice and Procedure
County Office Building
401 Bosley Avenue
Towson MD 21204

RE: Code of Judicial Ethics

Dear Mr. Chairman:

Canon 6, of the 2005 Code of Judicial Conduct provides, relevant to recalled judges:

This Code, other than Canon 4C (Charitable, Civic, and Governmental Activities), D(2) (Financial Activities), E (Fiduciary Activities), and F (Service as Arbitrator or Mediator), applies to each former judge of one of those courts who is approved for recall for temporary service under Maryland Constitution, Article IV, § 3A.

A majority of the Study Group on Recalled Judges has recommended to the Court of Appeals that Canon 6 be amended to delete the exemption as to certain recalled judges. The Court has considered that recommendation.

To facilitate further consideration, the Court asks that the Standing Committee on Rules of Practice and Procedure prepare an amendment to Canon 6 making the entire Code applicable to all judges approved for recall.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Bell".

Robert M. Bell

Hon. Joseph F. Murphy, Jr.
June 6, 2006
Page 2 of 2

cc: Court of Appeals Judges
Study Group on Recalled Judges
Sandra F. Haines, Esq.
Sherie B. Libber, Esq.
Elizabeth Buckler Veronis, Esq.