

M.R. 3140

**IN THE
SUPREME COURT
OF
THE STATE OF ILLINOIS**

Order entered March 26, 2001.

(Deleted material is struck through and new material is underscored.)

Effective immediately, Supreme Court Rule 63 and Rule 8.4 of the Illinois Rules of Professional Conduct are amended as follows:

Amended Rule 63

Rule 63

CANON 3

**A Judge Should Perform the Duties of Judicial
Office Impartially and Diligently**

The judicial duties of a judge take precedence over all 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:

A. Adjudicative Responsibilities.

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

(2) A judge should maintain order and decorum in proceedings before the judge.

(3) A judge should be patient, dignified, and courteous to litigants,

jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials, and others subject to the judge's direction and control.

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

(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 an opportunity to respond.

(b) 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.

(c) 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.

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

(5) A judge shall devote full time to his or her judicial duties, and should dispose promptly of the business of the court.

(6) A judge should abstain from public comment about a pending or impending proceeding in any court, and should require similar abstention on the part of court personnel subject to the judge's direction and control. This paragraph 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.

(7) Proceedings in court should be conducted with fitting dignity, decorum, and without distraction. The taking of photographs in the

courtroom during sessions of the court or recesses between proceedings, and the broadcasting or televising of court proceedings is permitted only to the extent authorized by order of the supreme court.

(8) 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, ~~or~~ 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.

(9) Proceedings before a judge shall be conducted without any manifestation, by words or conduct, of prejudice based upon race, sex, religion, ~~or~~ national origin, disability, age, sexual orientation or socioeconomic status, by parties, jurors, witnesses, counsel, or others. This section does not preclude legitimate advocacy when these or similar factors are issues in the proceedings.

Adopted December 2, 1986, effective January 1, 1987; amended June 12, 1987, effective August 1, 1987; amended November 25, 1987, effective November 25, 1987; amended August 6, 1993, effective immediately; amended October 15, 1993, effective immediately; amended March 26, 2001, effective immediately.

Amended Rule 8.4 of the Illinois Rules of Professional Conduct

Rule 8.4. Misconduct

- (a) A lawyer shall not:
- (1) violate or attempt to violate these Rules;
 - (2) induce another to engage in conduct, or give assistance to

another's conduct, when the lawyer knows that conduct will violate these Rules;

(3) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(4) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(5) engage in conduct that is prejudicial to the administration of justice. In relation thereto, a lawyer shall not engage in adverse discriminatory treatment of litigants, jurors, witnesses, lawyers, and others, based on race, sex, religion, or national origin. This subsection does not preclude legitimate advocacy when these or similar factors are issues in the proceeding;

(6) state or imply an ability to influence improperly any tribunal, legislative body, government agency or official;

(7) assist a judge or judicial officer in conduct that the lawyer knows is a violation of the Code of Judicial Conduct;

(8) avoid in bad faith the repayment of an education loan guaranteed by the Illinois Student Assistance Commission or other governmental entity. The lawful discharge of an educational loan in a bankruptcy proceeding shall not constitute bad faith under this rule, but the discharge shall not preclude a review of the attorney's conduct to determine if it constitutes bad faith; or

(9)(A) violate a Federal, State or local statute or ordinances that prohibits discrimination based on race, sex, religion, ~~or~~ national origin, disability, age, sexual orientation or socioeconomic status by conduct that reflects adversely on the lawyer's fitness as a lawyer. Whether a discriminatory act reflects adversely on a lawyer's fitness as a lawyer shall be determined after consideration of all the circumstances, including (1) the seriousness of the act, (2) whether the lawyer knew that it was prohibited by statute or ordinance, (3) whether it was part of a pattern of prohibited conduct, and (4) whether it was committed in connection with the lawyer's professional activities.

(B) No complaint of professional misconduct based on an unlawfully discriminatory act, pursuant to paragraph (9)(A) of this rule, may be brought until a court or administrative agency of competent jurisdiction has found that the lawyer has engaged in an unlawfully discriminatory act, and that the determination of the court or administrative agency has become final and enforceable and the right

of judicial review of the determination has been exhausted.

Adopted February 8, 1990, effective August 1, 1990; amended June 29, 1990; effective July 1, 1990; amended October 15, 1993, effective immediately; amended March 26, 2001, effective immediately.