

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 15th day of December 2016.

It is ordered that Section III of the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be amended, to become effective immediately.

Amend the Title to Section III to read as follows:

SECTION III. CANONS OF JUDICIAL CONDUCT FOR THE COMMONWEALTH OF VIRGINIA.

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Amend Comment on Canon 2(B) to read as follows:

Comment on subdivision B. — Maintaining the prestige of judicial office is essential to a system of government in which the judiciary functions independently of the executive and legislative branches. Respect for the judicial office facilitates the orderly conduct of legitimate judicial functions. Judges should distinguish between proper and improper use of the prestige of office in all of their activities. For example, it would be improper for a judge to allude to his or her judgeship to gain a personal advantage such as deferential treatment when stopped by a police officer for a traffic offense. Similarly, judicial letterhead must not be used for conducting a judge's personal business.

A judge must avoid lending the prestige of judicial office for the advancement of the private interests of others. For example, a judge must not use the judge's judicial position to gain advantage in a civil suit involving a member of the judge's family. As to the acceptance of awards, see Section 4E(5)(a) and Commentary.

In a criminal case, a judge may not approve a plea agreement or disposition that requires or permits the defendant to make a charitable contribution or donation, or any other monetary payment other than a statutorily authorized fine or restitution or payment in satisfaction of an injury pursuant to Code § 19.2-151, as a condition of a suspended sentence or the reduction or dismissal of charges.

Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. When using court stationery for letters of reference an indication should be made that the opinion expressed is personal and not an opinion of the court. However, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such person information for the record in response to a formal request.

Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship.

Amend Canon 4(D)(3)(b)(iii) to read as follows:

(iii) shall not personally participate in membership solicitation if the solicitation might reasonably be perceived as coercive or, except as permitted in Section 4D(3)(b)(i), if the membership solicitation is essentially a fund raising mechanism;

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Amend Comment on Canon 4(D)(3)(b) to read as follows:

Comment on Subdivision D(3)(b). — A judge may solicit membership or endorse or encourage membership efforts for an organization devoted to the improvement of the law, the legal system or the administration of justice or a nonprofit educational, religious, charitable,

fraternal or civic organization as long as the solicitation cannot reasonably be perceived as coercive and is not essentially a fund raising mechanism. Solicitation of funds for an organization and solicitation of memberships similarly involve the danger that the person solicited will feel obligated to respond favorably to the solicitor if the solicitor is in a position of influence or control. A judge must not engage in direct, individual solicitation of funds or memberships in person, in writing or by telephone except in the following cases: (1) a judge may solicit funds or memberships from other judges over whom the judge does not exercise supervisory or appellate authority, (2) a judge may solicit other persons for membership in the organizations described above if neither those persons nor persons with whom they are affiliated are likely ever to appear before the court on which the judge serves and (3) a judge who is an officer of such an organization may send a general membership solicitation mailing over the judge's signature.

This Canon is not intended to prohibit judges from participating in all charitable events. Judges are encouraged to be involved in community activities so long as the judge does not participate in the solicitation of funds and the prestige of the office is not used for fund raising.

Use of an organization letterhead for fund raising or membership solicitation does not violate Section 4D(3)(b) provided the letterhead lists only the judge's name and office or other position in the organization, and, if comparable designations are listed for other persons, the judge's judicial designation. In addition, a judge must also make reasonable efforts to ensure that the judge's staff, court officials and others subject to the judge's direction and control do not solicit funds on the judge's behalf for any purpose, charitable or otherwise.

Amend Comment on Canon 4(E)(2) to read as follows:

Comment on Subdivision E(2). — This Section provides that, subject to the requirements of this Canon, a judge may hold and manage investments owned solely by the judge, investments owned solely by a member or members of the judge's family, and investments owned jointly by the judge and members of the judge's family. A judge may own real estate or other property with others, who are not family members, so long as the judge complies with Section 4E(1) and (2).

Amend Comment on Canon 4(E)(3) to read as follows:

Comment on Subdivision E(3). — Subject to the requirements of this Canon, a judge may participate in a business in which at least fifty percent is held either by the judge alone, by members of the judge's family, or by the judge and members of the judge's family.

Although participation by a judge in a closely held family business might otherwise be permitted by Section 4E(3), a judge may be prohibited from participation by other provisions of these Canons when, for example, the business entity frequently appears before the judge's court or the participation requires significant time away from judicial duties. Similarly, a judge must avoid participating in a closely held family business if the judge's participation would involve misuse of the prestige of judicial office, subject the judge to public criticism or give the appearance of impropriety.

“Member of the judge's family” denotes a spouse, child, grandchild, parent, grandparent, or other relative or person with whom the judge maintains a close familial relationship.

Amend Comment on Canon 4(E)(5)(a) to read as follows:

Comment on Subdivision E(5)(a). — Acceptance of an invitation to a law related function is governed by Section 4E(5)(a).

Amend Comment on Canon 4(E)(5)(d) to read as follows:

Comment on Subdivision E(5)(d). — A gift to a judge, or to a member of the judge's family living in the judge's household, that is excessive in value raises questions about the judge's impartiality and the integrity of the judicial office and might require disqualification of the judge where disqualification would not otherwise be required. See, however, Section 4E(5)(e).

Amend Comment on Canon 4(F) to read as follows:

Comment on Subdivision F. — The restrictions imposed by this Canon may conflict with the judge's obligation as a fiduciary. For example, a judge should resign as trustee if detriment to the trust would result from divestiture of holdings the retention of which would place the judge in violation of Section 4E(4).

Amend Comment on Canon 4(G) to read as follows:

Comment on Subdivision G. — Section 4G does not prohibit a judge from participating in settlement conferences performed as part of judicial duties.

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Amend Canon 6(B), 6(C), and 6(D) to read as follows:

B. Retired Judge, Senior Judge or Justice. — The provisions of § 51.1-309 of the Code of Virginia and of these Canons shall apply to all retired judges. Such judges, however, are not required to comply with Canon 4D(2), E(3), F, G, H, and I(2).

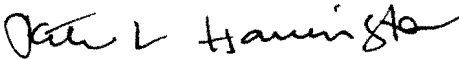
C. Substitute Judge or Special Justice. — A substitute judge or special justice shall not act as a lawyer in a proceeding in which he has served as a judge or in any other proceeding related thereto but otherwise may practice law in the court on which he serves. A substitute judge or special justice is not required to comply with 4D(1), (2), and (3) except that he shall not use or permit the use of the prestige of judicial office for fund raising or membership solicitation. A substitute judge or special justice is not required to comply with 4E(3), F, G, and H.

D. Person Selected for Judgeship. — A person selected for a full-time position subject to the provisions of these Canons who is not already a justice or judge, from either election by both houses of the General Assembly or appointment by the appropriate authority until taking the oath of office as a justice or judge, is required to comply with Canons 1, 2, 2A, 2B, 4A, 4B, 4D(2), 4D(3)(b)(i, iii, and iv), 4E(1)(a), 4E(5), 4I(1), and 5. Such person shall arrange his or her affairs

to be in compliance with the other appropriate parts of the Canons of Judicial Conduct at the time that he or she takes the oath of office.

A Copy,

Teste:

A handwritten signature in black ink, appearing to read "Paul L. Hanning". The signature is written in a cursive style with a large, stylized initial "P".

Clerk