

JUDICIAL CONDUCT REPORTER



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Gifts and receptions for new judges

by Cynthia Gray

Following is an excerpt from the article “So You’re Going to be a Judge,” published in [Court Review](#), volume 60, issue 2, the journal of the American Judges Association. Based on judicial ethics advisory opinions, the article highlights the provisions in the code of judicial conduct that someone about to become a judge will have to apply immediately before or right after taking the bench. It describes the inquiries they should make about personal, charitable, business, fiduciary, political, and social media activities to evaluate what changes are necessary to conform to the judicial ethics rules. The article also includes ethical guidance for winding up a law practice, for example, withdrawing from representing clients, separating from their firm, and accepting payments for prior legal work.

Local bar associations, former colleagues, and friends understandably want to give gifts or parties to celebrate a new judge’s achievement, and the judge is generally allowed to accept such offers. Although such a tribute may necessitate the judge’s recusal from matters involving the donor, as the advisory committee for federal judges explained, the gift is often likely to be from a donor whose appearance in a case would necessitate the judge’s recusal anyway, at least for a time, or from a group where recusal may not be required for individual members if each individual contribution is relatively small. [U.S. Advisory Opinion 98](#) (2009). However, the committee warned that a new judge may not accept a gift or reception from:

- A political organization;
- A for-profit company that has no pre-existing or long-standing relationship with the judge;
- An organization that is publicly identified with controversial legal, social, or political positions; or
- An organization that regularly engages in adversary proceedings in the courts.

The committee also emphasized that a judge should not solicit gifts and should be aware that gifts may have to be reported on financial disclosure forms.

Advisory opinions have advised that a new judge may accept:

- A gavel or judicial robe from members of their family ([New York Advisory Opinion 2012-177](#));
- A robe from a bar association to which the judge belongs ([Arkansas Advisory Opinion 2000-10](#));
- A clock from a bar association ([U.S. Advisory Opinion 98](#) (2009));
- A gavel from the state’s attorney, who is a former employer ([Florida Advisory Opinion 1976-22](#));

- A gift from their former state government office, including individuals representing that office ([Connecticut Informal Advisory Opinion 2013-9](#));
- Gift certificates from their former law firm ([Pennsylvania Informal Advisory Opinion 2/28/2012](#));
- A judicial robe from their former law partners ([U.S. Advisory Opinion 98](#) (2009));
- A chair from former judicial colleagues ([U.S. Advisory Opinion 98](#) (2009));
- A gavel and \$500 from a former client ([U.S. Advisory Opinion 98](#) (2009)); and
- A book or other gift from an attorney who had been opposing counsel in cases before their appointment ([Connecticut Informal Advisory Opinion 2013-22](#)).

Receptions

A new judge's former law firm may sponsor and pay the expenses for a reception following their investiture. [Florida Advisory Opinion 1999-3](#); [Illinois Advisory Opinion 2001-11](#); [Minnesota Summary of Advisory Opinions](#), at 28 (1995); [U.S. Advisory Opinion 98](#) (2009). However, the Illinois committee cautioned that a judge may agree to be honored at such an event only if it is not intended to advance the interests or status of the firm. The committee also warned the judge to exercise "selected control" over "the magnitude or extravagance of the celebration and the number and nature of those invited."

Whether a judge may accept an offer from other private entities or individuals to sponsor or contribute to a reception in honor of the new judge "depends in part on the identity of the proposed donor and the donor's relationship to the judge." [U.S. Advisory Opinion 98](#) (2009). Opinions have allowed a new judge to accept:

- A reception sponsored and paid for by attorneys in their community one week after their investiture ([Florida Advisory Opinion 1999-3](#));
- An unsolicited offer from family members and close personal friends to pay for their induction ceremony, including costs associated with the venue and refreshments ([New York Advisory Opinion 2023-238](#));
- A dinner/gathering in honor of the judge's appointment hosted by their family and close church friends ([Connecticut Informal Advisory Opinion 2013-10](#));
- A banquet in their honor given by the Black Chamber of Commerce even if the event is sponsored by local businesses and area attorneys ([South Carolina Advisory Opinion 2003-16](#));
- A dinner celebrating their appointment hosted by their former state government office ([Connecticut Informal Advisory Opinion 2013-9](#)); and
- An offer by a former corporate employer or business client or group of former colleagues to sponsor or contribute to a reception in honor of the judge's investiture ([U.S. Advisory Opinion 98](#) (2009)).

Local bar associations, former colleagues, and friends understandably want to give gifts or parties to celebrate a new judge's achievement, and the judge is generally allowed to accept such offers.

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The Connecticut committee noted that a new judge need not specify “no gifts” on an invitation to a dinner/gathering in their honor. [Connecticut Informal Advisory Opinion 2013-10](#).

Administrative responsibilities of judges

Judges are administrators as well as adjudicators, responsible not only for deciding cases but for ensuring that their court’s caseload is processed correctly and efficiently. There is a lot of paperwork—literal or digital—involved in the administration of justice, and even if it is not a judge’s job to perform the tasks, seeing that the work is done is part of a judge’s duties.

There are ethical directives for judges related to management and supervisory responsibilities. Under the American Bar Association 2007 *Model Code of Judicial Conduct*, a judge is required to:

- Discharge administrative responsibilities competently and diligently ([Rule 2.5\(A\)](#));
- Discharge administrative responsibilities without bias or prejudice ([Rule 2.3\(A\)](#));
- Require court staff, court officials, and others subject to the judge’s direction and control to act in a manner consistent with the judge’s obligations ([Rule 2.12](#)); and
- Cooperate with other judges and court officials in the administration of court business ([Rule 2.5\(B\)](#)).

What a judge’s specific administrative duties are depends on the type of court and location.

The importance of these administrative duties is demonstrated by the significant harm to litigants and serious repercussions for the court system that are described in judicial discipline cases addressing a breach of these rules. The cases usually involve a long-term pattern of widespread failure to supervise staff and discharge multiple administrative duties and a refusal to address problems when they are brought to the judge’s attention.

For example, in an Alabama case, the judge’s actions and inactions in handling her small claims docket were found to have caused innumerable unnecessary and harmful delays in reaching judgments, resulted in unenforceable judgments, impeded execution of judgments, and hindered the efficient and economical resolution of claims for which the small claims court was designed. [In the Matter of Pettway, Final judgment](#) (Alabama Court of the Judiciary January 21, 2016) (180-day suspension without pay). The judge’s pattern and practice of inattention to her small claims docket and irregular application of the law constituted “an almost complete failure to operate or administer her small claims docket in accordance with the law, rules

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of court, and effective administrative procedures.” The judge almost completely ignored the court system’s simple means of assessing and processing small claims matters and failed to learn and regularly use the state’s electronic court filing, docketing, and case management system. Her failures greatly complicated small claims practice by requiring extra steps for parties and court officials, thwarting the objectives of small claims court and thereby the administration of justice.

General and individual harm

An Indiana judge’s failure to supervise his staff’s processing of criminal cases led to the dismissal of 16 criminal cases and delays in many others. *In the Matter of Norrick*, 233 N.E.3d 403 (Indiana 2024) (45-day suspension without pay for this and other misconduct).

From January 1, 2021, to March 31, 2023, there were approximately 40 criminal cases in the judge’s court with missing entries and orders, including failing to accurately update warrants, to set jury trial dates, to reflect what took place at hearings, and to state whether future hearing dates were needed. Other judges and members of the prosecutor’s office told the judge that his lead criminal court reporter was four or five weeks behind on completing case entries, but for two years, the judge failed to make any effort to review his criminal docket.

The missing entries and orders led to the dismissal of 16 cases because the defendants were not timely tried. The Court emphasized:

Not only does this harm the administration of justice generally, but it also individually harms the witnesses and alleged victims who cooperated in the prosecution of those actions. Several of the cases with missing entries involved domestic battery in the presence of a child, strangulation, and residential entry. And despite being made aware of these delays and omissions by multiple people, including his fellow judges, Respondent failed to take any corrective action until the Commission began receiving complaints.

Another Indiana judge’s administrative failures delayed the release of 10 defendants from incarceration, a consequence that the Indiana Supreme Court found “particularly egregious.” *In the Matter of Brown*, 4 N.E.3d 619 (Indiana 2014) (removal for this and other misconduct). The judge failed to maintain court files and records in an organized manner that allowed access when needed, resulting in delays. The Court found:

Case files were removed from the file drawers and often stored in the Respondent’s secure office beyond the reach of others who needed to access them and without any indication of which files were being kept in the Respondent’s office. The difficulty locating files was time-consuming and delayed the processing of pleadings and cases. The Respondent often blamed clerk’s office employees for missing files that were later found in the Respondent’s own office.

In addition, the judge failed to complete paperwork showing that defendants were being released and failed to train, instruct, and supervise the

The importance of these administrative duties is demonstrated by the significant harm to litigants and serious repercussions for the court system that are described in judicial discipline cases addressing a breach of these rules.

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commissioner and other court staff to up-date court records and correctly fill out, and catch errors in, minute entries. As a result, there were delays for from three days to 22 days in the release of 10 defendants. Despite being alerted after several of the delays, the judge did not immediately take any action, and more defendants had their releases delayed.

Inexperience, negligence, pride, or ineptitude

In Louisiana, at least 11 convictions had to be overturned on appeal when the trial judge failed to produce transcripts for the appellate record. *In re Hunter*, 823 So. 2d 325 (Louisiana 2002) (removal).

The judge's poor supervision and management had caused a high turnover in court staff, including court reporters and minute clerks. In the approximately six years after she took the bench, the judge had 44 full-time employees in five positions, far exceeding the number for any other judge in the court. The judge frequently replaced minute clerks and took the unusual step of serving as her own minute clerk for lengthy periods. The court reporter's tapes were totally disorganized, resulting in many missing tapes that could not be found for lengthy periods or were lost. The judge assigned court reporters to other court jobs, preventing the court reporters from promptly preparing transcripts and organizing tapes. The judge sometimes did not timely assign the preparation of transcripts to court reporters following an order from the court of appeal to produce a transcript.

The judge failed to produce transcripts or to produce timely and accurate transcripts for appeals in 29 cases. In 17 of those cases, the judge refused to comply with orders to prepare transcripts until the appellate court threatened her with contempt.

In 11 of the cases, convictions were reversed by the court of appeal because transcripts were missing. The Louisiana Supreme Court noted that the number of reversals "will likely increase as cases pending in the appellate pipeline and in the court of appeal proceed to final judgment," requiring "retrials that tax an already over-burdened criminal justice system." The record in the disciplinary proceeding included the testimony of the families of several victims of defendants whose convictions were reversed due to the judge's failure to produce transcripts.

The Court also noted "the widespread reporting of the judge's reversals in the local media, coupled with the negative view of the people who have actually come before the judge's court" meant that "the judge's unprofessional conduct has undoubtedly inflicted significant damage on her court in particular and the judiciary in general." The Court acknowledged there was no proof that the judge "maliciously intended to fail . . . , but the fact is that she did fail in performing her administrative duties and supervising staff, whether stemming from inexperience, negligence, or pride, as the respondent asserts, or just personal or professional ineptitude."

Examples of administrative failures for which judges have been disciplined:

- A judge failed to effectively oversee court administration and to ensure the proper training of his court staff, resulting in a staff that was unqualified to perform even basic court clerk functions and leaving the court in total disarray with files stacked in random locations, municipal and justice court files commingled, some matters never entered into the case management system, and numerous final disposition reports unprocessed and located in various places throughout the court offices. [*Inquiry Concerning Sulley, Order*](#) (Arizona Supreme Court September 23, 2014).
- A judge failed to properly manage and supervise his staff and to oversee the daily operation of his court, resulting in inordinate delays and confusion in the processing of cases; failed to timely seek the assistance of the administrative office of the courts when a backlog began to accumulate and to take action after becoming aware of the issues; and failed to use the inherent powers of the court over its budget to seek sufficient funds to carry out the court's powers and duties. [*In the Matter of Gunter, Stipulation, order of consent, and agreement*](#) (Nevada Commission on Judicial Discipline May 18, 2018).
- A judge failed to supervise a judicial assistant who was not performing their duties, failed to perform his own administrative duties, and failed to answer his phone when on call. [*In re Humke, Stipulation and order of consent to discipline*](#) (Nevada Commission on Judicial Discipline June 8, 2018).
- A judge did "little to nothing" to supervise his court clerks and failed to check fine notices prepared by the clerks, which resulted in improper fines in some cases. [*In the Matter of Piraino, Determination*](#) (New York State Commission on Judicial Conduct July 30, 2014).
- A judge's court failed to forward demands for change of judge to the district court, resulting in several criminal cases being dismissed for lack of a speedy trial; failed to process approximately 19 other municipal court cases over six months; failed to notify the police department of dispositions of traffic citations and to report violations to the state licensing authority; and failed to dispose of approximately 145 cases involving "long form" complaints processed by the police department. [*In the Matter of Berg, 653 N.E.2d 32*](#) (North Dakota 2002).
- A judge failed to ensure that his court staff was properly trained and adequately supervised, resulting in long delays, poor customer service, rude and discourteous demeanor, and errors in numerous cases. [*Public Admonition of Jones*](#) (Texas State Commission on Judicial Conduct September 9, 2009).

Backlogs and discrepancies

One judge's administrative failures received international, national, regional, and extensive local press attention with headlines such as "Dallas Traffic Judge 22,000 Cases Behind," "Mind-Boggling' Backlog Leads to

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Audit of Dallas Judge,” “Panel Accuses Dallas JP of Letting Work Pile Up,” “Wheels of Justice Don’t Spin as Fast for Some JPs,” and “Judge’s Backlog Staggering.” *In re Rose*, 144 S.W.3d 661 (Review Tribunal Appointed by the Texas Supreme Court 2004) (removal).

The judge took office in 1989. His court began to have administrative problems at least as early as April 1992. In March 2001, a special project team created by the county removed a backlog of 20,373 citations on which the judge’s court had not performed any work, some from as far back as 1998. The team relieved the court of the responsibility of entering those cases into the accounting system; the court only had to enter cases filed in March 2001 and thereafter. Nonetheless, the court immediately began to accumulate a backlog of unprocessed citations.

Moreover, between 1992 and 2002, the judge’s court frequently failed to file monthly reports, and the auditor’s periodic cash counts found numerous discrepancies in deposits, monthly activity reports, and employees’ time and attendance records. An audit of the court for 1993 through 1995 found that 72.5% of receipts “contained errors in deposit coding and/or in the amount collected.” The court had a backlog of 2610 traffic cases and 1044 bad-check cases that had not been entered into the justice of the peace accounting system but were included in activity reports.

In the spring of 1998, the auditor told the judge that his chief clerk was “grossly incompetent.” The judge took no action. In April 2000, the auditor again discussed the clerk with the judge. The judge told the auditor that during the judge’s 1975 campaign for Congress, his clerk “had helped him greatly,” that “he was very, very loyal” to his clerk,” and that he “would remain with him as his chief clerk as long as he was the justice of the peace.”

In February 2001, the auditor’s staff found “stacks of case files with checks” in the bookkeeper’s office. Inside the safe, they found items “were kind of mashed in there.... It was just kind of pushed in there. There was money shoved in all kinds of places in there that we had to pull out.” They found undeposited funds from as far back as September 2000, including \$107,942.51 in cash and \$123,276.70 in checks. The audit also found unreceipted “loose cash” totaling \$1,367 and an unexplained cash shortage of \$1,158.74.

In February 2021, the county commissioners filed a complaint with the State Commission on Judicial Conduct alleging that the judge “is continually and repeatedly ignoring his obligation to deposit monies as required” by statute, estimating that the judge was holding between \$300,000 and \$400,000 in undeposited funds, including between \$150,000 and \$200,000 in cash. The complaint also reported that the judge had failed to process 7,400 cases over two months.

On March 9, 2001, the judge fired his clerk, but the problems continued.

The Commission found that the judge repeatedly failed to perform non-discretionary ministerial acts regarding depositing, receipting, and accounting of funds as required by state law and filing reports as required by the state and the county. It also found that the judge occasionally failed

to timely schedule and hear cases and, during substantial periods, allowed cases to be entered into the system at a pace so slow that enormous backlogs developed. The Commission found thousands of instances of negligent, persistent, and unjustifiable failure by the judge to timely execute the business of the court, dozens of instances of failing to file timely monthly activity reports, and tens of thousands of instances of backlogs in case activity.

Rejecting the judge's argument that an elected judge cannot be removed for "the insufficiencies of his court staff, who are not his employees, rather than his own personal misconduct," the Review Tribunal stated that a judge may be disciplined for the conduct of those under their direction and control and that a judge, who necessarily delegates some of the court's responsibilities to staff, retains the obligation to see to it that their staff fulfills the responsibilities delegated.

Financial mandates

In its [annual report for 2022](#), the New York State Commission on Judicial Conduct noted that it had over the years "publicly disciplined approximately 125 town and village justices for significant violations of the various rules regarding the handling of court funds," and had cautioned approximately 250 other judges for relatively minor violations. It urged those judicial officers "to take their fiduciary responsibilities seriously and, when they need help, to consult with their local Supervising Judge, the court system's City, Town and Village Court Resource Center, and/or the State Magistrates Association." Further, it explained:

In recent years, the Commission has become aware of several jurisdictions in which court clerks were prosecuted and convicted for the theft of court funds. While increased reliance on computers, accounting software, electronic banking and wire transfers has tended to increase the ability to perform audits and reconciliations on the one hand, it has also made it easier for computer-savvy employees to evade oversight by a computer-challenged judge.

The Commission reminded "town and village justices that it is their responsibility to account for court funds and to certify compliance with applicable financial mandates in reports to the State Comptroller."

Where a judge does not perform the financial responsibilities personally, he or she must exercise rigorous oversight of the court staff to whom such responsibilities have been assigned. That means reviewing the work of staff, performing spot checks to correlate the bail or fine assessed in a particular case with the amount actually collected, or periodically initiating an independent audit.

Where court staff have been convicted of theft of court funds, the local judges may not be publicly disciplined if they had made reasonable efforts at oversight but were deceived by an employee who cleverly hid the evidence of theft. But where the pertinent judges exercised little to no effort at oversight, they may be subject to public discipline for the failure to supervise that led to theft, notwithstanding their own innocence as to the theft itself.

The Review Tribunal stated that a judge may be disciplined for the conduct of those under their direction and control, and a judge, who necessarily delegates some of the court's responsibilities to staff, retains the obligation to see to it that their staff fulfills the responsibilities delegated.

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Examples of financial mismanagement for which judges have been disciplined:

- An independent audit revealed deficiencies in the operation of a judge's court, specifically in the handling of cash payments and other financial management duties; another audit found \$112,588.97 in undeposited funds in the court offices, over \$65,600 of which was in opened and unopened mail on top of a desk. Credit card payments were not consistently posted to the case management system, and many were not sent to the bank. There was evidence of theft, but the extent was difficult to determine given the general office disarray and breakdown in record-keeping. [*Inquiry Concerning Sulley, Order*](#) (Arizona Supreme Court September 23, 2014).
- A judge failed to report or remit court funds in a timely manner to the Office of the State Comptroller as required and failed to cooperate with the state office of court administration and town officials in their investigation of his failure to perform his duties, including his failure to timely process and/or deposit fine payments or pleas; his failure to timely report or remit funds to the comptroller according to law; his improper suspensions of drivers' licenses; his failure to lift license suspensions after fees had been paid; and his failure to address complaints from litigants who had difficulty reaching him or his office. [*In the Matter of Persons, Determination*](#) (New York State Commission on Judicial Conduct February 23, 2023).
- Despite state comptroller reports identifying deficiencies in his court's financial records and procedures, a judge failed to adequately supervise his court clerks and failed to diligently discharge his administrative duties, resulting in missing court funds attributed to malfeasance by a court clerk. [*In the Matter of Cavotta, Determination*](#) (New York State Commission on Judicial Conduct July 19, 2007).
- A judge's inadequate supervision of his court clerk, who was also his wife, enabled her to falsify entries in court records to conceal the receipt of over \$3,000 in court funds that were not deposited or remitted as required. [*In the Matter of Jarosz, Determination*](#) (New York State Commission on Judicial Conduct May 28, 2003).
- A judge failed to properly supervise the court clerk, allowing the clerk to steal over \$10,000 from funds held by the court. *In the Matter of Berg*, 653 N.E.2d 32 (North Dakota 2002).
- Relying on a staff member, a magistrate failed to reconcile his accounts, and, on a number of occasions, the deposit slip totals did not match daily deposit totals, cash was removed from deposits and replaced with checks, checks were not included on the daily deposit slip, and money and checks were not promptly deposited. *In the Matter Hudson*, 690 S.E.2d 72 (South Carolina 2010).

- A part-time master-in-equity failed to supervise an employee, who embezzled over \$600,000 from the court account. *In the Matter of Evans*, 638 S.E.2d 64 (South Carolina 2006).
- A judge failed to supervise his office manager, allowing her to embezzle over \$96,500 from the court over five years. *In the Matter of Hensley*, 627 S.E.2d 716 (South Carolina 2006).
- A judge failed to ensure that procedures for depositing funds paid to the court complied with an administrative order issued by the chief justice and failed to review bank statements monthly, as required by the administrative order, allowing a court employee's embezzlement of over \$14,000 to go undiscovered. *In the Matter of Cantrell*, 638 S.E.2d 51 (South Carolina 2006).
- A judge failed to maintain court records, receipts, or bank statements to document the payment of court costs collected by court staff and failed to supervise his staff to ensure that the court's business was conducted in a timely, efficient, and lawful manner. [Public Reprimand of Cedillo](#) (Texas State Commission on Judicial Conduct May 15, 2014).

Agreed resignations

As one of their tools in resolving complaints, some judicial conduct commissions will agree to close a matter against a judge if the judge agrees to resign or retire and never to serve in judicial office again, and that agreement is made public. In 2023, complaints against 15 state judicial officers were resolved in that manner. As the agreements entered by the Texas State Commission on Judicial Conduct note, these dispositions reflect that both the commission and the judge want to resolve "this matter without the time and expense of further disciplinary proceedings."

The details of the procedures and agreements differ from state-to-state.

In Georgia, the option is available only before public, formal charges are filed by the investigative panel of the Judicial Qualifications Commission. A rule provides that, if the panel finds that there is reasonable cause to believe that a judge "committed misconduct it may propose to the judge . . . an agreement by the judge to resign or retire," with a comment that notes that such an agreement "will often be the best means of resolving matters in which the judge's misconduct or incapacity is serious and readily provable." [Rule 17D\(2\)\(a\), Rules of the Georgia Judicial Qualifications Commission](#). The comments explain that "there is no need to continue the process" and delay the judge leaving office "if a judge believes that his or her removal from office or involuntary retirement would be the likely result of the full process. . . and if the Investigative Panel believes that this result would be a fair disposition of the matter and is in the interests of justice . . ."

The agreement must be in writing. “In the agreement, the judge may admit to all or certain of the allegations against him or her, or agree that such allegations could be properly proved in a hearing, or neither confirm nor deny the allegations” The rule explains that the agreement “is a contract between the judge and the Investigative Panel, is not reviewed or approved by the Hearing Panel or the Supreme Court and is not a court order.” Finally, it states that “if the judge violates the agreement, the Investigative Panel may seek to enforce the agreement as a contract with the judge, or it may seek to rescind the agreement and direct the Director to file formal charges.”

To avoid “speculation about judges who resign or retire under other circumstances,” the Commission must file with the state supreme court a public report that indicates that “the judge is resigning or retiring in light of an investigation by the Commission.” For example, in 2022, the Commission reported that it had initiated a preliminary investigation of a complaint to determine whether the chief judge of a county probate court had failed to properly supervise employees’ management of court funds, employed unqualified individuals, improperly used notary services, improperly issued marriage licenses, and failed to regularly attend to his duties. [In re Brazier, Report of disposition](#) (Georgia Commission on Judicial Qualifications July 7, 2022). During the investigation, the judge notified the Commission that he intended to resign and then submitted his resignation to the governor. In the consent agreement, which is attached to the report, the judge agreed that “he will not seek, request, or accept any elected or appointed judicial office in the future” and stated that he understands that if he does, the investigative panel “may seek to enforce or rescind” the agreement, proceed with a full investigation, and file formal charges based on the complaint. The agreement notes that it “does not constitute an admission to the acts that the Investigative Panel was investigating prior to his resignation.” The agreement states: “In light of Judge Brazier’s resignation, his agreement not to seek, request, or accept any elected or appointed judicial office in the future, and in lieu of proceeding with further investigation, the Investigative Panel has determined that resolving the above-referenced Complaint with this Consent Agreement is ‘a fair disposition of the matter and is in the interests of justice.’”

Forever disqualified

The public agreements in Texas begin with a brief description of the basis for the Commission proceeding, for example, that “the Commission received a complaint from a Confidential Complainant concerning Judge Krause’s non-performance of his judicial duties.” [Krause, Voluntary agreement to resign from judicial office in lieu of disciplinary action](#) (Texas State Commission on Judicial Conduct May 13, 2024). The agreements, which are public, provide:

[The judge] shall be forever disqualified from judicial service in the State of Texas, including (a) sitting or serving as a judge, (b) standing for election or appointment to a judicial office, and/or (c) performing or exercising any

As the agreements entered by the Texas State Commission on Judicial Conduct note, these dispositions reflect that both the commission and the judge want to resolve “these matters without the time and expense of further proceedings.”

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judicial duties or functions of a judicial officer, including but not limited to the performance of wedding ceremonies.

The agreements also recite, *inter alia*:

- No findings of fact or conclusions of law have been made.
- The judge “does not admit guilt, fault, or liability regarding the matters contained in the complaints referenced above.”
- “The parties agree that the allegations of judicial misconduct, if found to be true, could result in disciplinary action” against the judge.
- Any violation of the agreement by the judge will constitute judicial misconduct under the state constitution.
- The Commission may enforce the agreement “through any legal process necessary, including any injunctive relief,” and the judge will be required to bear the costs and attorneys fees of that action.

Equitable remedy

In New Mexico, when a judge agrees to leave office permanently after formal proceedings have been filed, the Judicial Standards Commission files a petition to accept a stipulation in lieu of further proceedings, and the New Mexico Supreme Court grants the petition and orders the permanent resignation or retirement of the judge. Attached to the petition are the notice of formal proceedings describing the allegations against the judge and also the judge’s response. The petition may note that the judge requested that the matter be disposed of in that manner. The stipulation describes the purpose of the disposition.

- It “ensures finality for the Commission, Respondent, and witnesses and allows them to rely upon the binding *Stipulation* and Court orders.”
- “The *Stipulation* is an equitable remedy that complies with Respondent’s request to resign in lieu of further disciplinary proceedings, ensures the public’s continued confidence and trust in the judiciary, and provides for judicial economy and best serves the interests of justice and the judiciary.”

The Court’s order provides a comprehensive description of its effect:

- “Respondent shall never again hold, become a candidate for, run for, or stand for election to any New Mexico judicial office in the future.”
- “Respondent shall never seek, accept appointment to, or serve *pro tempore* for any New Mexico judicial office in the future. New Mexico judicial office includes the posts of judge in probate court, municipal court, magistrate court, metropolitan court, district court, Court of Appeals, and justice of the Supreme Court.”
- “Respondent shall never again hold or exercise any judicial authority in the State of New Mexico including the judicial authority to officiate at weddings.”

The stipulation states:

- The judge agrees not to “make any public misrepresentations concerning this inquiry, the facts and circumstances of Respondent’s permanent resignation, the Commission’s proceedings, or the disposition.”
- The stipulation “is specifically enforceable by the Commission before the Supreme Court.”
- The judge acknowledges that, “based upon the *Stipulation*, his resignation is permanent, and if he seeks judicial office in the future, the Commission will act to enforce the agreement, to find contempt, and/or to pursue other proper remedy.”
- The judge agrees that if they violate the stipulation, “all charges in the *Notice of Formal Proceedings* . . . shall be deemed admitted by the Respondent, will be used against Respondent in future proceedings before the Commission and the Supreme Court and may constitute obstruction of Commission business and contempt.”
- The judge “gives up any and all motions, defenses, objections, or requests that the Respondent has made or raised, or could assert hereafter, in or concerning the Commission’s proceedings.”

The pleadings are filed under seal, but are generally unsealed when the Court grants the petition. *See, e.g., In the Matter of Khalsa, Order* (New Mexico Supreme Court July 3, 2023) (granting a petition to accept a stipulation to permanent resignation in lieu of further disciplinary proceedings; in a notice of formal proceedings, the Commission had alleged that the judge had been arrested and charged with operating a motor vehicle under the influence of intoxicating liquor or drugs and related offenses).

Confidentiality waived

In New York, when resigning or retiring in lieu of discipline, a judge agrees to waive confidentiality so that the stipulation becomes public when the State Commission on Judicial Conduct accepts it and closes the proceeding. The stipulation describes the allegations that the Commission had informed the judge it is investigating or that it has made in a formal complaint, depending on the stage of the proceedings at which the judge resigns or retires. The stipulation further states that the judge affirms that, having vacated their judicial office, they “will neither seek nor accept judicial office at any time in the future,” understands that if they abrogate the terms of the agreement and hold any judicial position, the proceedings will be revived and the matter will proceed to a hearing before a referee. *See, e.g., In the Matter of DeProspo, Decision and order* (New York State Commission on Judicial Conduct January 26, 2023) (accepting a stipulation based on the judge’s resignation and affirmation that he will not seek or accept judicial office in the future; the Commission had filed a formal complaint alleging that, while presiding over emergency applications filed by unrepresented petitioners seeking temporary orders of protection, the judge was disrespectful, disparaging,

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sarcastic, and discourteous); [In the Matter of Soules. Decision and order](#) (New York State Commission on Judicial Conduct May 2, 2024) (accepting a stipulation based on the judge’s resignation and his affirmation that he will not seek or accept judicial office in the future; the Commission had authorized an investigation after the judge was arrested and charged with felonies for possession and sale of cocaine and after it received a complaint alleging that the judge invoked his judicial office with police to get a ride home after he had been stranded; during the investigation, the judge pleaded guilty to one felony count of criminal sale of a controlled substance).

Recent cases

“No filter”

Adopting the findings of a special committee that had been appointed to investigate, the Ninth Circuit Judicial Council publicly reprimanded and admonished a U.S. District Judge for the District of Alaska for (1) subjecting his chambers staff to a hostile work environment, including unwanted, offensive, or abusive sexual conduct and harassment; (2) fostering a sexualized relationship with a clerk during and after her clerkship and, in the weeks following her clerkship when she was an Assistant U.S. Attorney, engaging in two sexual encounters with her; and (3) being dishonest with the committee. [In re Complaint of Judicial Misconduct \(Kindred\). Order and certification](#) (9th Circuit Judicial Council May 23, 2024). The Council also asked the judge to resign and certified the matter to the U.S. Judicial Conference to consider impeachment; the judge resigned effective July 8.

The judge created the hostile chambers environment by failing to establish and maintain professional boundaries between himself and his staff. The Council noted that the judge acknowledged that treating his law clerks as friends was “his ‘original sin.’” The Council stated:

Judge Kindred appeared to have no filter as to the topics he would discuss with the clerks. He discussed his past dating life, his romantic preferences, his sex life, the law clerks’ boyfriends and dating lives, his divorce, [and] his interest in and communications with potential romantic or sexual partners

Much of the inappropriate chambers atmosphere was created digitally through the “extraordinary volume” of texts the judge sent his law clerks that “lacked any connection to the clerks’ legitimate job duties and were often sexual in nature.” In these messages, the judge “ridiculed his judicial colleagues, divulged personal details of his marital life, and made inappropriate comments about sex, drinking, and drugs.” For example, the judge made comments such as “I’m just gonna pay for [a law clerk’s boyfriend’s] next a** tattoo;” “You’re going to the big leagues. You might be better in the

The judge created the hostile chambers environment by failing to establish and maintain professional boundaries between himself and his staff.

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butt leagues;” “I’ve never been invited to an orgy by a stranger before;” “I got asked out by a waitress which actually made me feel way less insecure about being single again, which was nice;” and “So it looks like I might need a judicial tinder profile.” He told his law clerks, “Who gives a f**k about ethics, we need to get you paid;” joked about “punching multiple Supreme Court justices;” and said he’d bring Patrón, heroin, and “whip-its” to a dinner party. The Council found:

Crude, sexual, personal, and vulgar messages appear throughout the 628 pages of text messages that Judge Kindred exchanged in a chambers group chat and individually with the law clerk at the center of this investigation. No reasonable person would characterize these text messages as dignified, respectful, and courteous dealings with court personnel.

The Council emphasized that, although “a judge has broad latitude in managing his or her chambers and fostering meaningful and friendly relationships with chambers staff,” such discretion “assumes that the judge will establish a professional chambers environment with appropriate boundaries. A judge can establish meaningful relationships and encourage a productive work environment without subjecting staff to crude or sexual jokes and comments.”

The Council’s recognition of “the inherent power imbalance” between judges and clerks foiled the judge’s attempt to implicate his clerks in the inappropriate chambers atmosphere. The Council acknowledged that “the law clerks appeared at times to initiate or reciprocate Judge Kindred’s communications about personal matters,” and humored him “when he overstepped boundaries with them.” However, the Council concluded that the clerks’ behavior was driven in part by their desire “to preserve good relations with the judge” and their need for a good reference from him, “especially if they sought to remain in Alaska, where the legal community is very small.” The Council also noted that, in the few instances when clerks tried to discuss his inappropriate behavior with the judge, he “belittled or ostracized” them.

Rejecting the judge’s argument, the Council emphasized that a lack of a “sinister intent” is not a defense to sexual harassment claims, particularly in light of a judge’s “special obligations to observe ethical constraints regardless of intent.” The Council explained that the judge failed to appreciate that the rules “are not framed in terms of intent. The touchstone is what is inappropriate to a reasonable person on the receiving end of the conduct.”

With respect to his sexualized relationship with one clerk during and after her clerkship when she was a federal prosecutor, the Council rejected the judge’s excuse that in his view their relationship was consensual. The Council stated, “regularly subjecting the law clerk to topics of a sexual nature and thus normalizing discussions of a sexual nature throughout the course of her clerkship is unquestionably inappropriate.” The Council also found that the judge had shown “highly questionable judgment” by bringing the clerk to his chambers late in the evening, when they had both been drinking, after she became a federal prosecutor.

As an aggravating factor, the Council cited the judge's failure to take responsibility, which gave it "no confidence that he will ever conduct himself in a way befitting his office or in a way that promotes public confidence in the judiciary." The Council noted that the judge portrayed himself as the victim of difficult circumstances, including becoming a new judge just before the pandemic shut down the courthouse, and that he "often hedged, cast blame on others, claimed not to remember significant details of the events," "provided vague responses to questions," and added "many irrelevant and unpersuasive qualifications" to his admissions. The Council emphasized that the judge "does not squarely acknowledge that his interactions with the law clerks had no legitimate place in any workplace, let alone a federal judge's chambers," noting "such lack of awareness is particularly troubling given his admission that he had likely received training on workplace harassment at previous jobs."

Finally, the judge's numerous false statements during the investigation constituted additional misconduct. The Council gave several examples of the judge "after multiple opportunities to disclose the truth," eventually admitting to "the Council most of the conduct he disputed to the Committee, conduct that was ultimately proven by the messages." The Council found that this "pattern of deceit" may also constitute grounds for impeachment.

"A personal brand of justice"

Based on the judge's waiver of his right to a formal complaint and public hearing, the Minnesota Board on Judicial Standards publicly reprimanded a judge for, in probation sentencing orders in at least five cases, restricting the defendants' voting rights, contrary to a statute that he sua sponte held was unconstitutional. [*In the Matter of Quinn, Public reprimand*](#) (Minnesota Board on Judicial Standards June 27, 2024).

Effective July 1, 2023, the Minnesota legislature amended Minnesota Statutes §201.014, subdivision 2a to provide: "An individual who is ineligible to vote because of a felony conviction has the civil right to vote restored during any period when the individual is not incarcerated for the offense" In March 2023, the Chief Judge issued an order that stated:

Effective July 1, 2023, the probation, supervised release, and conditional release condition which prohibits those convicted and sentenced of a felony offense, including stays of imposition, from registering to vote and voting is AMENDED, as follows: "You may register to vote and vote provided you are not incarcerated in a state, federal or local jail."

After receiving the Chief Judge's order, the judge conducted his own research and analysis of the 2023 amendments.

In October, the judge began issuing probation sentencing orders that restricted the voting rights of defendants. The orders stated:

1. Minnesota Statutes section 201.014, subdivision 2a (2023) is unconstitutional.

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2. Defendant, having been convicted of a felony offense, is not eligible to vote until the civil right to vote has been otherwise restored.
3. Defendant is prohibited by the Constitution of the State of Minnesota from registering to vote, or voting, or attempting to register to vote, or attempting to vote. To do so is a criminal act which can be investigated, charged, prosecuted, and tried in the normal course. If conviction enters on such an allegation, stayed or executed prison time may be imposed. These rights are suspended until Defendant serves the sentence and completes supervised release, or completes probation, and Defendant's civil rights are restored.

The orders also incorporated a 15-page memorandum of law in which the judge explained his legal arguments in detail.

As a result of his “deliberate decision” not to apply §201,014, subdivision 2a, the judge issued sentencing orders that deprived five defendants of the voting rights restored under the amended statute. Three of the defendants sought review.

Granting writs of prohibition in those three cases, the Court of Appeals held that the judge exceeded his “lawful authority by independently raising and deciding an issue involving the constitutionality of a statute without the issue being raised by a party and without giving the parties notice and an opportunity to be heard.” The court stated that the judge’s *sua sponte* orders violated the principle of “party presentation,” which provides that parties raise the issues to be decided and judges play the “role of neutral arbiter,” and that his “*sua sponte* supplemental sentencing order declaring a legislative act unconstitutional is outside the sentencing authority granted to district courts by the legislature.”

In its reprimand, the Board concluded that the judge’s “deliberate actions outside the scope of his judicial authority are more than ‘legal errors’ that now stand corrected by the Court of Appeals—they are also serious violations of the Code of Judicial Conduct.” It explained:

Judge Quinn's proper role and authority in sentencing cases under Rules 1.1, 1.2 and 2.2 is to follow and "uphold and apply" statutes as enacted by the Minnesota legislature, not to overrule them on his own initiative, based on his own opinions and conclusions.

Judge Quinn created his own probation conditions directly contradicting state statute. His sentencing orders not only defy the limits of his own judicial power, but also limit defendants' voting rights, and effectively impose harsher sentences than authorized under Minnesota law. Evidence in the record, including Judge Quinn's own statements to the Board, shows that Judge Quinn planned to impose these sentencing orders on an ongoing basis, establishing an intended pattern of thwarting application and enforcement of the law.

The Board stated that it did not view the judge’s conduct as an expression of his judicial independence, but of his “disregard for the authority of the state legislature.”

Lawless judicial conduct—the administration, in disregard of the law, of a personal brand of justice in which the judge becomes a law unto himself—is as threatening to the concept of government under law as is the loss of judicial independence. We see no conflict between judicial independence and accountability. Indeed, a lack of judicial accountability may itself be the greatest danger to judicial independence.

The Board also found that the judge violated the code by issuing the sentencing orders “sua sponte without the request of any party, without any briefing on the constitutionality of the statute, and without providing notice or opportunity to be heard to the parties or to the Attorney General of Minnesota.” Further, it concluded:

Judge Quinn did not act as a neutral arbiter over issues raised, framed and argued by the parties in cases presented to him. Instead, he undertook his own investigation of a particular statute of personal interest to him. On his own initiative, without consulting with anyone other than his law clerk, Judge Quinn formulated and executed a plan to declare the statute unconstitutional and create his own conditions of probation limiting defendants' voting rights, using a form order and memorandum of law that he could issue in multiple cases.

Through these actions, Judge Quinn violated his duties of impartiality and fairness, and failed to ensure the parties' right to be heard on their important legal interests, instead surprising them with unexpected constitutional rulings without advance notice.

The Board stated that it took no position on the merits of the judge's arguments that the statutory amendments were unconstitutional. It explained:

What matters—and what gives rise to this public reprimand in this case—are the actions Judge Quinn took on his own initiative, outside of his judicial role, motivated by his belief that his oath of office required it. Judge Quinn violated the Code and exceeded his judicial authority through his conduct as detailed here—not because of his legal conclusions, or the content of his arguments.

The Board noted that, in 2021, it had publicly reprimanded the judge for abusing the prestige of judicial office and for publicly endorsing and publicly opposing candidates for public office on Facebook. [*In the Matter of Quinn. Public reprimand*](#) (Minnesota Board on Judicial Standards March 9, 2021).

“At the wrong time and in the wrong manner”

In an exercise of its superintending authority, the Arkansas Supreme Court publicly admonished a judge for entering an order that purported to stay the Court's mandate regarding attorneys carrying firearms in the courthouse and that made “disparaging remarks” about the Court's decision. *Steinbuch v. Pulaski County Circuit Court*, 689 S.W.3d 56 (Arkansas 2024). “Given his failure to recognize the severity of his actions,” the Court also ordered the judge to complete additional judicial ethics education.

In its reprimand, the Board concluded that the judge's “deliberate actions outside the scope of his judicial authority are more than ‘legal errors’ that now stand corrected by the Court of Appeals—they are also serious violations of the Code of Judicial Conduct.”

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The judge had presided over a civil action involving whether licensed attorneys in Arkansas are “officers of the court” and thus authorized by statute to carry firearms in courthouses. Granting the defendants’ motion to dismiss, the judge ruled that the plaintiffs misread the statute and their interpretation would be unconstitutional.

On appeal, the Arkansas Supreme Court held that “officers of the court” as used in the statute included attorneys, that the statute allows attorneys to possess handguns in courthouses, and, therefore, that the judge had erred when he denied the plaintiffs’ petition for a declaratory judgment. According to the Court, its “charge on remand was not complex—Judge Welch was instructed to ‘enter an order consistent with this opinion.’”

On remand, the judge entered a temporary order that referred to the Court’s opinion as the “‘Lawyer/Officer-of-the court Carry’ Opinion (‘LOCO,’ hereafter)” The order stated that the Court’s opinion “creates a new class of unlicensed, heretofore untrained, armed lawyers in courthouses of the State, in apparent conflict with the myriad of legislative enactments promoting carry permits” The judge stayed “further implementation of ‘The Lawyer/Officer-of-the court Carry’ Opinion” and invited the sheriff, police chiefs, and district court representatives “to attend and submit input, on application, as Amici” at a hearing that was scheduled for August.

Six days later, the Court granted the plaintiffs’ request for emergency relief, vacated the judge’s order, and re-assigned the case. The Court also gave the judge notice that his order may have violated the code of judicial conduct and provided him with an opportunity to appear for a hearing or to file a written response. The judge “declined the opportunity to be heard in person and chose to submit a written response through counsel.”

The Court summarized the judge’s response.

First, Judge Welch understood this court’s mandate . . . , which reversed and remanded his prior decision, as a charge to conduct further proceedings. He took that as his duty to consult with others, issue a variety of orders, and implement the court’s decision as he deemed practical and appropriate, and “that is what . . . Judge [Welch] did.” He was wrong. . . .

Second, Judge Welch explains that he meant no disrespect to this court but that his “style, diction, and delivery are consistent with the vigorous written debate that has defined our judiciary for over a century.” He believes he properly exercised his right of free speech but “admits that some of its characterizations should not have survived the editor’s pen . . . [and that his] diction may have deserved greater care and forethought.” He also suggests that injury to reputation should not quash the right to free speech and that he spoke on a matter concerning the safe administration of justice.

The Court found that the judge’s order undermined public confidence in the judiciary.

Labeling and referring to an opinion by the Supreme Court of Arkansas as “LOCO” erodes public confidence. . . . To suggest that this court created a class of armed lawyers is dangerous, and it undermines the public’s understanding of the judiciary’s role. . . . [W]e interpreted a statute passed by

the Arkansas General Assembly. We interpret laws, we do not make them, and Judge Welch’s suggestion to the contrary damages the public’s view of the separation of powers and the role of the judiciary.

The Court also stated that the judge’s “response does not demonstrate that he understands the severity of his conduct.”

Suggesting that his comments were consistent with “the vigorous written debate that has defined our judiciary for over a century” is misguided. A trial court is not “participating in rigorous debate” when it receives a mandate from an appellate court and issues an order staying most of it and labeling it as “LOCO.” That is disingenuous. Imagine if circuit courts across this state were to ignore mandates and stay orders of the Supreme Court of Arkansas and our Court of Appeals. It would be unprofessional, rebellious, and harmful to the public’s confidence in the judiciary’s ability to follow its own rules. As judges, we must follow our established framework if we expect others to do the same. Judge Welch’s actions had no place on the bench, and it is disheartening that, when given an opportunity to reflect, he failed to recognize the impact of his actions. The public must have confidence that judicial orders will be followed and that appellate mandates will be carried out.

The Court also found that the judge had not performed his duties impartially or left “his personal views behind him,” violating Rule 2.2.

Judge Welch made it clear in his written order that he disagreed with this court’s interpretation of the statute and with the statute itself. His opinion was sprinkled with disparaging remarks about the court’s interpretation of the statute. He then purported to stay an opinion and a mandate of the Supreme Court of Arkansas for three months because he “believe[d] a need for restraint pending the Hearing [was] required before the influx of Lawyers Officers.” Judge Welch exceeded the role of circuit judge by staying our decision.

Judge Welch had earlier declared the statute unconstitutional; on appeal, this court disagreed and concluded that Judge Welch had erred by denying the plaintiffs’ petition for declaratory judgment. On remand, any learned judge would know that the next step is to enter judgment for the plaintiffs—not to stay the supreme court’s order and sua sponte attempt to create an administrative scheme that redefines the legislation and this court’s mandate. A declaratory-judgment action seeks a declaration one way or another. It does not ask a judge to initiate and create an administrative scheme for application of a statute. That is not the role of the circuit court.

In addition, the Court noted that the judge had described how on remand, he had toured the North Little Rock District Court Complex, reviewed layouts of other courthouses, and met with numerous colleagues and county officials. The Court stated that “this is independent fact-finding and ex parte communication,” contrary to the principle of fair and impartial treatment.

The Court also found that the judge’s reference to the Court’s opinion as “LOCO” was an example of using demeaning nicknames or negative stereotyping that is a manifestation of bias or prejudice according to a

“Judge Welch expressed his frustration at the wrong time and in the wrong manner.”

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comment to Rule 2.3 of the code. Noting that the judge hears cases in the civil-commitment mental health court, it stated:

He should be more circumspect with his word choice. Using the Spanish word loco, meaning crazy, cavalierly referring to another court's judicial order in a joking manner exceeds the bounds of appropriate judicial behavior. And when given an opportunity to respond, to admit only that he should have had better editing skills, suggests a lack of judicial maturity and reflection.

The Court concluded:

Judges must be circumspect in their official roles and while presiding over a case. Judge Welch expressed his frustration at the wrong time and in the wrong manner. This court does not make law. His actions as a member of the Arkansas Bar were unacceptable and indeed fell far below what we expect from a member of the judiciary.

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