

ETHICS ADVISORY PANEL
Opinion #92-90, Request #321
Issued November 18, 1992

An attorney seeks Panel advice concerning the ethical propriety of inviting judges to an annual holiday party. The attorney states that invited attorneys are to pay for the cost of the party while invited judges are to attend as guests. The attorney asks whether this procedure is ethically appropriate.

The Panel believes that this opinion requires the consideration of both the Rhode Island Rules of Professional Conduct and the Rhode Island Canons of Judicial Ethics. Rule 3.5(a) entitled "Impartiality and Decorum of the Tribunal" is applicable to this inquiry. The Rules states that:

A lawyer shall not:

(a) seeks to influence a judge, juror prospective juror or other official by means prohibited by law;

Rule 8.4(f) entitled "Misconduct" equally applies and states that:

It is professional misconduct for a lawyer to:

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

Canon 21 of the Rhode Island Canons of Judicial Ethics states the following:

(a) neither a judge nor a member of the judge's family residing in the judge's household should accept a gift, bequest, favor or loan from litigants, or from lawyers or from others whose interest are likely to be submitted to the judge for judgment.

The Panel cites South Carolina Opinion 88-16 which discusses Gifts to Judges. The opinion states that a judge and members of his/her family are precluded from receiving any gift of value from a lawyer or anyone who may come before that judge. A judge may attend a social function sponsored by a lawyer provided that the lawyer does not use the judge's presence improperly. A judge may not, however, attend sports invitationals sponsored by a single law firm or lawyer. A judge may attend a testimonial dinner in his honor but may not accept any gift from individual lawyers or potential litigants.

In Rhode Island Opinion #91-41 (dated 8/18/91) the Panel discussed the ethical propriety of an attorney sending flowers to a judge who was hospitalized. The Panel cited an Illinois Supreme Court case decided under the Code of Professional Responsibility which set forth a practical standard of assessing the ethical propriety of conferring kindness upon members of the judiciary. (See In Re: Corboy, Tuite et al., 528 N.E.2d 694 (1988)). This Court held that it was not improper for an attorney to treat the judiciary with "ordinary social hospitality." A few factors to consider include the monetary value of the gift, the social practices and customs associated with gifts, the relationship between the judge and the donor, and the particular circumstances surrounding the gifts.

In light of the above referenced opinions, the Panel believes that it would be ethically appropriate to invite members of the judiciary to a holiday event. Because the monetary value is minimal, holiday parties are customary, and the party will be hosted by the court bench/bar committee and those attorneys who regularly appear before the judges, and not one person or one law firm. This invitation constitutes "ordinary social hospitality."