

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|----------------------------------|---|-----------------------------------|
| OHIO COUNCIL 8 AMERICAN | : | |
| FEDERATION OF STATE, | : | |
| COUNTY AND MUNICIPAL | : | |
| EMPLOYEES, AFL-CIO, et al | : | |
| | : | |
| Plaintiffs, | : | Case No. 1:10-cv-00504-SJD |
| | : | |
| v. | : | Judge Susan J. Dlott |
| | : | |
| SECRETARY OF STATE | : | |
| JENNIFER BRUNNER, et al | : | |
| | : | |
| Defendant. | : | |

**NOTICE OF AMENDED RULES TO THE
OHIO CODE OF JUDICIAL CONDUCT**

Now comes Defendants Ohio Supreme Court, Ohio Disciplinary Counsel, and Ohio Board of Commissioners on Grievances and Discipline and inform the Court and the parties that the Ohio Code of Judicial Conduct has been amended. A true copy of the amended rules is attached to this notice.

Respectfully submitted,

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Ohio Attorney General

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and related Defendants

CERTIFICATE OF SERVICE

This will certify that the foregoing *Notice of Amended Rules to the Ohio Code of Judicial Conduct* was filed electronically on August 11, 2010. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

/s/ Richard N. Coglianese
RICHARD N. COGLIANESE

AMENDMENTS TO THE OHIO CODE OF JUDICIAL CONDUCT

The Supreme Court of Ohio adopted the following amendments to the Ohio Code of Judicial Conduct (Rule 4.2(B) and (C) and Comment [2] and Rule 4.4(A) and Comment [1]), effective August 12, 2010.

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RULE 4.2 Political and Campaign Activities of Judicial Candidates

* * *

(B) *A judicial candidate* shall not do any of the following:

(1) Jointly raise funds with a candidate for nonjudicial office, except as permitted by division (C) of this rule;

(2) Appear in a joint campaign advertisement with a candidate for nonjudicial office, except as permitted by division (C) of this rule;

(3) Expend funds in a judicial campaign that have been contributed to the *judicial candidate* to promote his or her candidacy for a nonjudicial office;

~~(4) After the day of the primary election, identify himself or herself in advertising as a member of or affiliated with a political party.~~

(C) *A judicial candidate* may do any of the following:

(1) Conduct joint fundraising activities with other *judicial candidates*;

(2) Appear in joint campaign advertisements with other *judicial candidates*;

(3) Participate with *judicial* and nonjudicial *candidates* in fundraising activities organized or sponsored by a *political party*;

(4) Appear with other candidates for public office on slate cards, sample ballots, and other publications of a *political party* that identify all of the candidates endorsed by the party in an election;

(5) Seek, accept, or use endorsements from any person or *organization*;

(6) State in person or in advertising that he or she is a member of, affiliated with, nominee of, or endorsed by a *political party*;

~~(7) From the day on which he or she becomes a judicial candidate through the day of the primary election, identify himself or herself in person or in advertising as a member of or affiliated with a political party.~~

Comment

[1] A judicial candidate remains subject to Rules 4.1, 4.3, and 4.4, in addition to the requirements of this rule. For example, a candidate continues to be prohibited from soliciting funds for a political party, knowingly making false or misleading statements during a campaign, or making certain promises, pledges, or commitments related to future adjudicative duties. See Rule 4.1(A), 4.3, and 4.4(F).

[2] In elections for judicial office, a candidate may be nominated by or otherwise publicly identified or associated with a political party. This relationship may be maintained through the period of the campaign, ~~although and~~ a judicial candidate may include political party affiliation or ~~membership~~ similar designations in his or her campaign ~~advertising only through the date of the primary election~~ communications. Although these affiliations and others may be communicated to the electorate, a judicial candidate should consider the effect that partisanship has on the principles of judicial independence, integrity, and impartiality.

* * *

RULE 4.4 Campaign Solicitations and Contributions

(A) A judicial candidate shall not personally solicit or campaign contributions, except as expressly authorized in this division, and shall not personally receive campaign contributions. A judicial candidate may establish a campaign committee to manage and conduct a campaign for the candidate, subject to the provisions of this Code. The judicial candidate is responsible for ensuring that his or her campaign committee complies with applicable provisions of this Code and other applicable law. A judicial candidate may solicit campaign contributions in the following manner:

(1) A judicial candidate may make a general request for campaign contributions when speaking to an audience of twenty or more individuals;

(2) A judicial candidate may sign letters soliciting campaign contributions if the letters are for distribution by the judicial candidate's campaign committee and the letters direct contributions to be sent to the campaign committee and not to the judicial candidate.

* * *

Comment

[1] A judicial candidate is prohibited from personally soliciting campaign contributions ~~or~~ and personally receiving campaign contributions. These limitations protect four vital interests: (1) avoiding the appearance of coercion or *quid pro quo*, especially when a judicial candidate engages in a one-on-one solicitation of a lawyer or party who appears before the court; (2) preserving both the appearance and reality of an impartial, independent, and noncorrupt judiciary; (3) ensuring the public's right to due process and fairness; and (4) furthering the public trust and confidence in the impartiality of the judicial decision-maker. Rule 4.4(A) recognizes that some forms of solicitation are less coercive and less intrusive than others and permits a candidate to engage in solicitations that are less personal and directed at a wider audience. Likewise, public Public employees subject to the direction or control of a judicial candidate are prohibited from soliciting or receiving campaign contributions.

[2] A judicial candidate may establish a judicial campaign committee to solicit and accept campaign contributions, manage the expenditure of campaign funds, and generally conduct the campaign. In so doing, the campaign committee shall follow the provisions of the rule regarding the solicitation and receipt of contributions. A campaign committee shall follow all time guidelines controlling when judicial fundraising shall begin and end in reference to a particular judicial election.

[3] The campaign committee may accept contributions that do not exceed the limitations established for individuals, organizations, and political parties. The judicial candidate is responsible under Rule 4.2(A)(3) for compliance by his or her campaign committee with the limitations established on campaign solicitations and contributions.

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