



Ethics and Professionalism Committee
Meeting

November 19, 2010
Indiana Judicial Center
1:15 pm

- I. Judge Vorhees called the meeting to order.

Attendees: Judge Marianne Vorhees, Chair, Judge Marc Kellams, Judge Timothy Oakes, Judge Michael Robbins, Judge Gary Smith, Judge Heather Welch, and Diane Mains, Staff Assistant

- II. The May 7, 2010, meeting minutes were reviewed. Judge Vorhees has not received any communication from the Supreme Court on the Committee's resolutions in response to the *Caperton* case.

- III. Discussion Items

A. Old business

1. The Committee continued discussion on the appropriateness of an attorney under JLAP contract practicing in front of his or her monitoring judge, particularly in smaller counties. Judge Vorhees spoke with Ms. Harrell who indicated that after further thought on this issue, that a judge should not hear cases of a monitored attorney who frequently practices in front of the monitoring judge.

The Committee recommends that if the monitored attorney does practice before the monitoring judge on an infrequent basis, the judge should determine on a case by case basis whether or not recusal is required. Members are concerned that the monitoring judge may run into problems because the judge may not breach contract confidentiality by disclosing the monitoring relationship to the other party in the case.

Judge Vorhees will explore the possibility of including language in the monitoring contract to establish parameters for the situations in which the monitored attorney practices before the monitoring judge with Ms. Harrell.

2. Committee continued discussion of Rule 2.9(C) and the potential for unintended, negative consequences resulting from the prohibition on

internet research of current cases. Diane reported that the Criminal Law Policy Committee does not intend to issue an advisory opinion on the interpretation of IC 11-8-8-22. Committee members would like to continue to explore this issue. Diane will research practices in other states and report back to the Committee.

3. Judge Vorhees and Ms. Meiring will continue to work on the ethics FAQ booklet for new judges and keep the Committee apprised of their progress.

B. New business

1. The Committee discussed membership changes. Diane will contact Chief Judge Robb to inquire whether she intends to continue to serve on the Committee. Judge Sobecki, Daviess Superior Court, completed his second term on the Committee in September. The vacancy left by Judge Sobecki will not be filled at this time.
2. Judge Vorhees has drafted a best practices article on dealing with "Rambo" attorneys for the members' review and input by November 30, 2010, as a follow-up to the Annual Meeting session. Comments and edits are to be sent to Diane. Diane will contact Jim Maguire, STAD, to inquire about publishing this article in the *Court Times*. Members inquired whether the Disciplinary Commission has statistical data on ethical violations filed against attorneys by judicial officers for possible inclusion in this article. Diane will contact Mr. Witte to determine if any relevant statistics are currently maintained.
3. In response to concerns raised by a non-member judicial officer, members discussed the extent of permissible political activity by senior judges under the Code of Judicial Conduct. The Code exempts senior judges from Rules 4.1 and 4.5. Judge Vorhees will draft a letter to the Chief Justice to ascertain whether he wants the Committee to review this issue.

IV. The next meeting will be held on Friday, March 4, 2011, beginning at 1:30 pm at the Indiana Judicial Center office.

V. Judge Vorhees adjourned the meeting at 2:45 pm.