



Ethics and Professionalism Committee
Meeting

October 16, 2009
1:30 pm
Indiana Judicial Center

- I. Judge Vorhees called the meeting to order, member introductions were made and an overview of the Committee's past activities was offered.

Attendees: Judge Marianne Vorhees, Chair, Judge Timothy Oakes, Judge Michael Robbins, Judge Evan Roberts, Magistrate John Sedia, Judge Gary Smith, Judge Dean Sobecki, Judge William Vance, Adrienne Meiring, Advisor, and Diane Mains, Staff Assistant

II. Discussion Items

- a. Attorneys under JLAP monitoring practicing in front of the monitoring judge: members discussed the need to maintain the attorney's confidentiality and whether judicial disqualification is appropriate in these situations. Judge Vorhees will speak with Ms. Terry Harrell to determine what type of guidance she is looking for from the Committee.
- b. The potential for unintended, negative consequences resulting from the prohibition on internet research of current cases: Rule 2.9(C) does not permit any independent research on information related to a case in front of the judge without the parties' approval. An amendment, effective January 1, 2010, will permit judges to take judicial notice of existing court records with the permission of the parties. Judge Vorhees will send out an email to Committee members asking them to send in issues or concerns related to Rule 2.9(C). Diane will compile and maintain the information received. The Committee will revisit this issue at a later time to determine if further action is warranted.
- c. Non-attorneys (i.e. paralegals, CPAs, out-of-state [unlicensed in Indiana] attorneys, corporate officers, personal representatives, etc.) filing documentation with the Court: judges experience varied situations in which individuals are practicing law without a license. A situation

occurred in which a law clerk represented a family member in another court, informal opinion indicated that law clerks hold a position similar to commissioners and magistrates and are prohibited from practicing law outside of the clerkship. Judge Vorhees will send out an inquiry via list-serve to determine the number of law clerks statewide in order to help the Committee decide whether to make a recommendation for amendment to the Code of Conduct or seek a formal advisory opinion on this issue. Committee will recommend to the Judicial Education Committee to consider training for judges and clerks on how to identify and respond to the unlicensed practice of law.

- d. The use of "stand-by" counsel in criminal cases with pro-se defendants: this issue was held for discussion at the next committee meeting.
- e. Mediators preparing documents in family law matters (mentioned by the Chief Justice a month or so ago): issue has been addressed via the September 24, 2009, amendment to Alternative Dispute Resolution Rule 2.7 with the new subsection (F).
- f. Judicial efforts to improve and promote civility among attorneys and litigants in the courtroom: members discussed the need for judicial education (tools and strategies) for dealing with incivility, perhaps building on the contempt session offered at the Annual Meeting. Committee will recommend to the Judicial Education Committee to consider a future training session on this topic.
- g. Ethics training for court staff: Diane reported that training materials developed by a work group comprised of Indiana Judicial Center and State Court Administration Staff based on the provisions in the Judicial Code of Conduct applicable to staff were included in the Annual Meeting binder materials for the judges to use. Feedback on this material is welcome.

III. Judge Vorhees adjourned the meeting.