Rules comments coming separately. Pls acknowledge receipt.

Sent from my iPhone

Begin forwarded message:

From: Paul Horvitz <paul.horvitz@gmail.com>
Date: October 20, 2018 at 12:23:46 PM EDT
To: CodeandConductRules@ao.uscourts.gov
Subject: Substitute Comments on Code of Conduct

From; Paul Horvitz, Waltham MA
(The comments are not submitted on behalf of any entity.)

Dear Sir or Madam:
I previously submitted separate comments on the Code and the Rules. You have emailed me a note stating that the Rules comments were accepted. I have not heard whether the Code comments were accepted. Further, I have ADDED one comment on the Code, based on recent events. Therefore, would you please consider the attached redline PDF as my submitted comments on the Code and advise whether these are accepted. If you require combined comments, please let me know and I will provide them.
Regards,
PH

SUBSTITUTE Comments on: Code of Conduct for U. S. Judges

Submitted by:
Paul F. Horvitz
35 Crescent St. Apt 519
Waltham, MA 02453

Code of Conduct for U.S. Judges

1. Personnel

> Canon 3 B.(4)
> A judge should practice civility, by being patient, dignified, respectful, and courteous, in dealings with all federal employees and federal elected officials, including court personnel and chambers staff. A judge should not engage in any form of harassment of court personnel. A judge should not engage in retaliation for reporting of allegations of such misconduct. A judge should seek to hold court personnel who are subject to the judge's control to similar standards in their own dealings with other court personnel.

Argument:
Millions of Americans witnessed an instance of impatient, undignified, and disrespectful behavior by a federal judge as the judge was questioned by a female U.S. Senator during a confirmation hearing before the Senate Judiciary Committee on September 27, 2018. Publicly addressing a female U.S. Senator in a hostile manner does not signal the kind of respectful gender relationships that workplace conduct rules envision. Because federal judges on rare occasions testify before Congress and, during a confirmation process and other rare occasions, may come into frequent contact with Executive and Legislative Branch employees, there is no reason to restrict the field of personnel to those in the Judicial Branch.

2. Prior Work

> Commentary to Canon 3B(4). A judge should neither engage in, nor tolerate, workplace conduct that is reasonably interpreted as harassment, abusive behavior, or retaliation for reporting such conduct. The duty to refrain from retaliation reaches retaliation against any former workplace colleague, including former judiciary personnel, as well as current judiciary personnel.

Argument:
A judge should be barred from using his or her judicial authority or standing to retaliate against any individual who worked with the judge prior to his or her appointment to the bench and brings forward a credible case of improper behavior of a sexual nature against the judge. This situation would apply, for example, to judges nominated for an Appeals Court or Supreme Court seat. Unfortunately, it is not difficult to imagine a judge using his or her authority to seek to silence or intimidate a voice that may threaten the nomination.

3. Public Comments

> Canon 3A(6). The admonition against public comment about the merits of a pending or impending matter, including a judicial misconduct complaint, continues until the appellate process is complete. If the public comment involves a case or misconduct complaint involving from the judge's own court, the judge should take particular care so that the

1

comment does not denigrate public confidence in the judiciary's integrity and impartiality, which would violate Canon 2A. A judge may comment publicly on proceedings in which the judge is a litigant in a personal capacity, but not on mandamus proceedings when the judge is a litigant in an official capacity (but the judge may respond in accordance with Fed. R. App. P. 21(b)).

Argument:

End Comments