

CLE: Gift or Gifts: Judicial Ethics Limitations

Class length: 60 minutes

Instructor: Prof. Martin Mitchell

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When we put on the judicial robe, we do not cast away all social conventions and customs. However, those same customs and conventions have different limitations and responsibilities to ensure that judges uphold the law fairly and independently.

There is no question that judges who accept cash or other goods of value to determine a case or controversy in a certain way are not upholding their responsibility under judicial ethics rules and likely are engaged in criminal acts. The lecture will discuss several examples of judges who have been convicted of bribery.

At the other end of the spectrum, one can not imagine a judge being criticized for accepting a drawing made in school by their minor child.

But does this fit within the definition of a “gift”. “Gift” means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other similar item having monetary value according to the Judicial Conference Regulations of Gifts. But there are exceptions.

So, what are the areas in between? What counts as a gift? Does it matter who is presenting the gift? Why are they presenting the gift? Or what type of item is being gifted? What about gifts to and from family members? Gifts of food and hospitality? Free travel and tours?

We will look at and discuss opinions from various state bars on these issues to analyze the distinctions and limits.

This lecture does not cover limitations by the OGE on federal employees and does not cover reporting requirements on members of the federal judiciary.

References:

Code of Conduct for US Judges

Judicial Conference Regulations of Gifts

Kentucky Judicial Ethics Opinion, JB-86, March 7, 1995

New York Judicial Ethics Opinions 15-122, 17-87, 17-80, 18-124

New York Judicial Ethics Opinions on travel, 21-95, 18-64, 21-35, 22-105, 09-186, 10-46