

1 APPLICATION

2 The Application section establishes when the various Rules apply to a judge or
3 judicial candidate.

4 I. APPLICABILITY OF THIS CODE

5 **(A) The provisions of the Code apply to all full-time judges. Parts II through IV**
6 **of this section identify those provisions that apply to three distinct categories of**
7 **part-time judges. Canon 4 applies to judges and judicial candidates.**

8 **(B) A judge, within the meaning of this Code includes a court commissioner.**

9 **(C) A “full-time” judge, within the meaning of this Code, includes any judge of**
10 **a court of record. A “full-time” judge also includes a judge of a court not of record**
11 **who:**

12 **(1) serves in a court whose judicial weighted caseload measure, as approved**
13 **by the Judicial Council, shows the need for at least 1.0 judges; or**

14 **(2) serves in more than one court whose total judicial weighted caseload**
15 **measure, as approved by the Judicial Council, shows the need for at least 1.0**
16 **judges.**

17 **(D) Paragraphs (C)(1) and (C)(2) apply on the day of the judge’s appointment**
18 **for judges appointed on or after January 1, 2013, and they apply on January 2,**
19 **2017 for judges appointed before January 1, 2013.**

20 COMMENT

21 [1] The Rules in this Code have been formulated to address the ethical obligations of
22 any person who serves a judicial function and are premised upon the supposition that a
23 uniform system of ethical principles should apply to all those authorized to perform
24 judicial functions.

25 [2] The determination of which category and, accordingly, which specific Rules apply
26 to an individual judicial officer depends upon the facts of the particular judicial service.

27 II. ACTIVE SENIOR JUDGE

28 **An active senior judge appointed under Rule 11-201 of the Rules of Judicial**
29 **Administration is not required to comply:**

30 (A) at any time with Rules 3.4 (Appointments to Governmental Positions) and
31 3.8 (Appointments to Fiduciary Positions);

32 (B) with Rule 3.9 (Service as Arbitrator or Mediator), except while serving as a
33 judge; or

34 (C) at any time with Rule 3.11(B) (Financial, Business, or Remunerative
35 Activities).

36 **COMMENT**

37 [1] For the purposes of this section, an active senior judge is subject to this Code
38 during any term of office to which he or she has been appointed to serve.

39 **III. PART-TIME JUSTICE COURT JUDGE**

40 A part-time justice court judge , including an active senior justice court judge
41 appointed under Rule 11-203 of the Rules of Judicial Administration,

42 (A) is not required to comply:

43 (1) with Rules 2.10(A) and 2.10(B) (Judicial Statements on Pending and
44 Impending Cases) and 3.14 (Reimbursement of Expenses and Waivers of Fees or
45 Charges) except while serving as a judge; or

46 (2) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.8
47 (Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator),
48 3.10 (Practice of Law), and 3.11 (Financial, Business, or Remunerative Activities));
49 and

50 (B) shall not practice law in the court on which the judge serves nor act as a
51 lawyer in a proceeding in which the judge has served as a judge or in any other
52 proceeding related thereto.

53 **COMMENT**

54 [1] When a part-time justice court judge is no longer serving as a judge, that person
55 may act as a lawyer in a proceeding in which he or she has served as a judge or in any
56 other proceeding related thereto only with the informed consent of all parties, and
57 pursuant to any applicable Rules of Professional Conduct.

58 **IV. JUDGE PRO TEMPORE**

59 **A judge pro tempore appointed under Rule 11-202 of the Rules of Judicial**
60 **Administration shall not practice law in the same small claims division in which**
61 **the judge serves. The same small claims division means the courthouse at which**
62 **the judge serves and includes small claims appeals heard at that courthouse. A**
63 **judge pro tempore is not required to comply:**

64 **(A) except while serving as a judge, with Rules 1.2 (Promoting Confidence in**
65 **the Judiciary), 2.4 (External Influences on Judicial Conduct), 2.10 (Judicial**
66 **Statements on Pending and Impending Cases), or 3.2 (Appearances before**
67 **Governmental Bodies and Consultation with Government Officials); or**

68 **(B) at any time with Rules 3.4 (Appointments to Governmental Positions), 3.6**
69 **(Affiliation with Discriminatory Organizations), 3.7 (Participation in Educational,**
70 **Religious, Charitable, Fraternal, or Civic Organizations and Activities), 3.8**
71 **(Appointments to Fiduciary Positions), 3.9 (Service as Arbitrator or Mediator),**
72 **3.10 (Practice of Law), 3.11 (Financial, Business, or Remunerative Activities), 3.13**
73 **(Acceptance and Reporting of Gifts, Loans, Bequests, Benefits, or Other Things**
74 **of Value), 4.1 (Political and Campaign Activities of Judges and Judicial**
75 **Candidates in General), 4.2 (Political and Campaign Activities of Judges in**
76 **Retention Elections), and 4.3 (Activities of Judges Who Become Candidates for**
77 **Nonjudicial Office).**

78 **V. SENIOR JUDGE**

79 **A senior judge is not required to comply with the provisions of this Code.**

80 **VI. TIME FOR COMPLIANCE**

81 **A person to whom this Code becomes applicable shall comply immediately**
82 **with its provisions, except that as to Rules 3.8 (Appointments to Fiduciary**
83 **Positions) and 3.11 (Financial, Business, or Remunerative Activities) compliance**
84 **shall occur as soon as reasonably possible, but in no event later than one year**
85 **after the Code becomes applicable to the judge.**

86 **COMMENT**

87 **[1] If serving as a fiduciary when selected as judge, a new judge may,**
88 **notwithstanding the prohibitions in Rule 3.8, continue to serve as fiduciary, but only for**

89 that period of time necessary to avoid serious adverse consequences to the
90 beneficiaries of the fiduciary relationship and in no event longer than one year. Similarly,
91 if engaged at the time of judicial selection in a business activity, a new judge may,
92 notwithstanding the prohibitions in Rule 3.11, continue in that activity for a reasonable
93 period but in no event longer than one year.