UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GLENN T. SUDDABY
Chief U.S. District Court Judge

James M. Hanley Federal Building
P.O. Box 7367, 100 S. Clinton St.
Syracuse, New York 13261-7367
(315) 234-8580

January 12, 2018

Re: Advisory Opinion

Dear Bar President:

Please see the attached memorandum containing "Advisory Opinion from the Judicial Conference Committee on Codes of Conduct for United States Judges Concerning Judges Attendance at Events Sponsored by Law Firms".

The Judges of the Northern District of New York very much enjoy participating with the Bar in many different outside functions for educational, CLE, public outreach, academic and social events, to list a few.

We hope that the enclosed Advisory Opinion will help inform on some of the guidelines, restrictions, and concerns that a Judge should consider before deciding whether their participation is appropriate. We circulate to inform with the hope that it will facilitate Judicial attendance and participation should that be a desired goal of the event or function being planned.

Sincerely,

Hon. Glenn T. Suddaby
Chief U.S. District Judge

GTS/kee
Enc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GLENN T. SUDDABY
Chief U.S. District Court Judge

James M. Hanley Federal Building
P.O. Box 7367, 100 S. Clinton St.
Syracuse, New York 13261-7367
(315) 234-8580

January _, 2018

Memo To: New York State Bar
Northern District of New York Federal Court Bar Association
Northern New York County Bar Associations

From: Glenn T. Suddaby, Chief U.S. District Court Judge
Northern District of New York

Subject: Advisory Opinion from the Judicial Conference Committee on Codes of Conduct for United States Judges Concerning Judges Attendance at Events Sponsored by Law Firms

The Committee on the Codes of Conduct (the "Committee") has responded to an inquiry concerning the attendance of judges at events sponsored by law firms. This response is advisory only and based solely on the judgment of the Committee members. Many of the proscriptions of the Code of Conduct for United States Judges (the "Code") are cast in general terms, and the Code is "to be construed so it does not impinge on the essential independence of judges in making judicial decisions." *Commentary to Canon 1.*

The specific inquiry related to an invitation to a judge from a law firm and a local community college inviting judges to sample local beer and spirits. The invitation describes the event as an opportunity to learn about the college's "educational programs and distilling while sampling local beer and spirits with light hors d'oeuvres by [the college's] culinary program." The program's list of events includes introductory remarks from the community college president, with a keynote address from the president of a brewery. The event will be hosted at the law firms's office and tastings will be offered by local breweries and distilleries. The event is limited and donations to the college's minority mentorship program are requested.

The second inquiry involved an invitation from the dean of a law school, inviting a judge to join them for "Lunch with the Judiciary" at the law school. It appears that the invitation was extended to other members of the local, state and federal judiciary, with special guest a Judge of the Third Circuit of Appeals. The lunch is sponsored by a local law firm and is to be held prior to an afternoon Continuing Legal Education ("CLE") program following the lunch.

The inquiry suggested that it may be an improper practice for judges to attend an event sponsored by a single law firm. The advisory opinion is meant to define the ability of judges to attend single law-firm sponsored programs as advantageous for circulation to the New York State and Federal Bar Associations.

The inquiry illustrates that judges are invited to attend and participate in a broad range of events involving diverse law-firm sponsors, audiences, and subject matter, and it is difficult to provide a bright line rule for all such invitations. The Committee has issued Advisory Opinions *(No. 17 - Acceptance of Hospitality and Travel Expense Reimbursements from Lawyers; No. 93 - Extrajudicial Activities Related to the Law; No. 87 - Participation in Continuing Legal Education Programs; No. 105 - Participation in Private*

Law-Related Training Programs) that bear on the topic of judicial acceptance of hospitality from lawyers and participation in extrajudicial activities, including law related training and CLE programs. These opinions provide guidance on the many factors that may apply in deciding whether a judge should accept a particular invitation.

Even if the Committee were to limit its response to events sponsored by a single law firm, there is no definitive prohibition on judicial attendance. For example, in Advisory Opinion No. 17, the Committee opined that judges may attend cocktail parties hosted by law firms in connections with bar association gatherings or an infrequent dinner commemorating a firm's significant anniversary. Advisory Op. No. 17. The Committee also identified no ethical impediment to judges and court employees attending a law-firm sponsored reception held at a local museum on Constitution Day for newly naturalized citizens and their families, following a court naturalization ceremony. See Compendium §2.9 (a-2); Private Op. Judges also "may accept invitations to receptions and dinners at law-related functions sponsored by organizations that litigate regularly before the court, where judges' attendance will be educational and informative, the event provides an appropriate forum for public outreach by the court, a diverse group of litigants attends, and judges are willing to offer similar outreach to others." Compendium §2.10(d-1). Further, the Committee found no prohibition against a judge attending a lunch, funded by a law firm, where it was part of an annual meeting program held by the American College of Bankruptcy. Private Op. The Committee also found no reason to prohibit the judge from attending a dinner, hosted directly by a law firm but not part of the official program of the American College of Bankruptcy because the dinner was connected to the meeting dedicated to improvement of the law, and there were no special circumstances regarding the meal which would give the impression that the sponsoring firm was in a position to influence the judge. *Id.*

Because the Committee cannot address every possible type of invitation, event, meal, reception or program sponsored by a law firm, this response is therefore limited to the examples provided. Both of those examples implicate several of the same provisions of the Code. Canon 2 advises judges to act with integrity and impartiality and counsels against lending "the prestige of the judicial office" to advance the private interests of others or allowing " others to convey the impression that they are in a special position to influence the judge." Canon 4 permits judges to engage in extrajudicial activities, which include law-related pursuits and civic, charitable, educational and social activities, but cautions that judges "should not participate in extrajudicial activities that detract from the dignity of the judge's office, interfere with the performance of the judge's official duties, reflect adversely on the judge's impartiality, lead to frequent disqualification, or violate the limitations [of Canon 4]." Also relevant to the examples are the Judicial Conference Regulation on Gifts. Section 620.25(a) and (b) of the Gift Regulations exclude frm the definition of a gift "social hospitality based on personal relationships" and "modest items, such as food and refreshments, offered as a matter of social hospitality." Finally, any fund-raising goals should be considered vis-á-vis the reason for the judiciary's attendance, and a judge should not attend if doing so would lend "the prestige of the judicial office" or convey that the host is "in a special position to influence the judge." Canon 2.

In the first example, the beer and spirits tasting, is co-hosted by a law firm and held at the law firm's office, but does not appear to be a law-related activity. Instead, the invitation suggests it is a social event and fundraiser for the college's minority mentorship program. While Canon 4C, *inter alia*, purportedly limits judges to the planning stage of fund-raising activities for nonprofit law-related, civic, charitable, educational, religious, or social organizations." the Commentary to Canon 4C clarifies that "judge[s] may attend fund-raising events of law-related and other organizations." However, in evaluating attendance, a judge should consider whether the beer tasting is open to the public or is part of a marketing campaign geared to clients of the law firm. In the latter case, attendance at the event may lend the judge's prestige to the law firm or may convey to other that the law firm is in a special position to influence the judge, both of which contravene Canon 2. A judge also should consider whether the co-sponsors have cases pending before the judge or if the law firm or its clients regularly appear in the judge's court, as well as any fund-raising objectives of the event. In the absence of specific information regarding these factors, the Committee cannot advise on attendance, other than caution judges to scrutinize the ethical criteria herein.

The second example, Lunch with the Judiciary, is a luncheon hosted by a law school, with the meal

sponsored, and presumably paid for, by a law firm. The lunch is held in connection with a CLE program offered jointly by the law school and the Federal Bar Association ("FBA"). As indicated above, a judge may attend a social event connected to a bar association or similar function where there is no special circumstance giving the impression that the sponsor is in a position to influence the judge. Private Op. However, as with the previous example, Canon 2 concerns may override judicial participation. Thus, prior to attendance, a judge should consider whether, amongst other things, the luncheon is open to all member of the FBA or only to members of the sponsoring firm. If the invitation is not open to the entire FBA membership, it may imply special access to the attending judges by the sponsoring law firm, which runs afoul of Canon 2B. As such, it would be improper for judges to attend.

The Committee treats all inquiries and responses as confidential and will disclose information about them only in the narrow circumstances described in the Committee's confidentiality policy. See Guide to Judiciary Policy, Vol. 2B, Ch.1 § 130. As the recipient of this letter, you may use it as you please.