



UNIVERSITY OF THE
PACIFIC
McGeorge School of Law

Capital Center for
Public Law & Policy

“Judicial Ethics and Accountability: At Home and Abroad”

Friday and Saturday
April 9-10, 2010

Supported by:
The Sierra Health Foundation

Co-Sponsored by:
World Affairs Council of Northern California, Sacramento Chapter
Ethics Across the Professions Initiative

Chair: *Paul D. Paton, Professor of Law and Director, Ethics Across the Professions Initiative,
University of the Pacific, McGeorge School of Law*

What does it mean to be an ethical judge? How can judges preserve independence yet remain accountable? After a year in which a new Justice was confirmed to the Supreme Court, a Supreme Court decision offered the potential to transform judicial elections across the country, sanctions were considered for judges because of their internet postings and activities, and politicians in California blamed the judiciary for the cost of government business, this Symposium will consider issues of ethics, accountability and independence for the judiciary in America and internationally. Domestic experts will be joined by members of the judiciary and international tribunals for a wide-ranging and timely set of discussions of pressing issues, reflecting on recent events and charting the way forward.

FRIDAY – APRIL 9

8:30 a.m. – Continental Breakfast and Program Registration

9:00 a.m. – Introductory Remarks and Welcome

Elizabeth Rindskopf Parker, Dean, University of the Pacific, McGeorge School of Law
Paul D. Paton, Professor of Law and Director, Ethics Across the Professions Initiative, University of the Pacific, McGeorge School of Law

9:10 a.m. – Panel One: The Ethical Judge

What does it mean for a judge to be “ethical”? How should judges overcome implicit (or explicit) bias? Does appointment to the bench mean leaving personal, professional, moral or political identity behind? Why did Justice Sotomayor’s comments about her own identity and experience attract such attention and controversy? Can judicial ethics be taught?

Panelists:

Honorable John F. Irwin, Nebraska Court of Appeal, Fourth Judicial District
Richard Devlin, University Research Professor, Dalhousie University, Schulich School of Law, Canada
Bradley Wendel, Professor of Law, Cornell Law School

Moderator: *Paul D. Paton, Professor of Law and Director, Ethics Across the Professions Initiative,
University of the Pacific, McGeorge School of Law*

10:30 a.m. – Coffee Break



11:00 a.m. – Panel Two: Judicial Elections, Financing and the Independence of the Bench

When do campaign contributions threaten the independence of the judiciary? How might judicial elections be reconciled with expectations of impartiality and ethical conduct by judges once they are on the bench? Are judicial appointments the answer or simply an invitation to other problems? And how might judicial conduct be monitored and regulated without compromising judicial integrity? Panelists will consider whether what happened in West Virginia in the *Caperton* case was an anomaly or the natural outgrowth of the present system, and address next steps in the aftermath of the United States Supreme Court's 2009 decision on election financing, conflicts of interest, and the constitutional right to due process. Is an Inspector General for the Courts the answer?

Panelists:

Charles G. Geyh, Associate Dean for Research and John F. Kimberling Professor of Law, Indiana University Maurer School of Law

Meryl Justin Chertoff, Adjunct Professor of Law and Director, The Sandra Day O'Connor Project on the State of the Judiciary, Georgetown Law, and Co-Director, Justice and Society Project, Aspen Institute

Ronald Rotunda, Doy & Dee Henley Chair and Distinguished Professor of Jurisprudence, Chapman University School of Law

Dmitry Bam, Fellow, Stanford Center on the Legal Profession, Stanford Law School

Moderator: Leslie Gielow Jacobs, Professor of Law and Director, Capital Center for Public Law & Policy, University of the Pacific, McGeorge School of Law

12:30 p.m. – Luncheon: “47 Traditions, One Court: Reflections on Judging Ethically in an International Context at Strasbourg”

Keynote Address:

The Honorable Mr. Justice John Hedigan, The High Court, Dublin, Ireland

1:45 p.m. – Panel Three: The California Commission for Impartial Courts

The California Commission for Impartial Courts was created following the 2006 Summit of Judicial Leaders, held in the wake of threats against the independence of state judiciaries across the country. The Commission's Final Report, released in December 2009, contains 71 recommendations designed to elevate standards of judicial campaign conduct, tighten judicial finance regulations, improve methods of judicial selection and retention, increase transparency, and better educate the public about the judicial branch. Panelists will discuss the work of the Commission, analyze the Final Report and discuss prospects for implementation of its recommendations.

Panelists:

Justice Richard D. Fybel, California Court of Appeal, Fourth Appellate District, Santa Ana

Justice Ronald B. Robie, California Court of Appeal, Third Appellate District, Sacramento

Mary-Beth Moylan, Professor of Law and Director, Global Lawyering Skills, University of the Pacific, McGeorge School of Law

Moderator: Elizabeth Rindskopf Parker, Dean, University of the Pacific, McGeorge School of Law

3:00 p.m. – Coffee Break

3:15 p.m. – Panel Four: Roundtable – Judges, (in) Civility and the Media

What responsibility do judges, lawyers and the public have for public perception of the judiciary? Does civility in the courtroom matter, and how can it be balanced against “zealous advocacy”? Do civility principles and requirements stifle legitimate adversarial behavior? Are media portrayals of judges and courts part of the problem, or the solution? Should judges speak out? What impact did media coverage of the Sotomayor confirmation have on public perceptions of the judiciary and the judicial branch?



Panelists:

Eli Wald, Charles W. Delaney Jr. Associate Professor of Law, Sturm College of Law, University of Denver
Robert A. Hawley, Deputy Executive Director, State Bar of California, Adjunct Professor, University of the Pacific, McGeorge School of Law
Judge Loren McMaster, Superior Court of California, County of Sacramento

Moderator: Steven A. Block, Esq., The Law Office of Steven A. Block, Sacramento, CA

4:30 p.m. – Closing Remarks

SATURDAY – APRIL 10

8:30 a.m. – Continental Breakfast and Conference Registration

9:00 a.m. – Introductory Remarks and Welcome

Paul D. Paton, Professor of Law and Director, Ethics Across the Professions Initiative, University of the Pacific, McGeorge School of Law

9:10 a.m. – Panel Five: Regulating Ethics: Judicial Education and Codes of Conduct

How should judges be regulated? How should they be taught? Can American values be transmitted to judges internationally, and what might we learn from the experience of other systems? Panelists will consider the creation and implementation of judicial codes of conduct in domestic and comparative perspective, as well as efforts to educate judges in emerging post-conflict states.

Panelists:

Sarah Cravens, Assistant Professor of Law, University of Akron School of Law
Mark Harrison, Osborn Maledon, Chair, ABA Joint Commission to Evaluate the Code of Judicial Conduct 2002-2007
James E. Moliterno, Vincent Bradford Professor of Law, Washington & Lee University School of Law

10:30 a.m. – Coffee Break

11:00 a.m. – Panel Six: Ethics for Judges and Tribunals: An International Perspective

What is the role of the "national judge" in international courts and tribunals? Can the insights provided by a national perspective on law, language and culture counter concerns about impartiality and independence? Practices adopted will be assessed from the perspective of an anthropologist as well as experienced judges from common and civil law countries.

Panelists:

Leigh Swigart, Ph.D., Director of Programs in International Justice and Society, International Center for Ethics, Justice and Public Life, Brandeis University
Judge Fausto Pocar, Appeals Chamber, International Criminal Tribunal for the Former Yugoslavia and International Criminal Tribunal for Rwanda
The Honorable Mr. Justice John Hedigan, The High Court, Dublin, Ireland

Moderator: Linda Carter, Professor of Law and Director of the Legal Infrastructure and International Justice Institute, University of the Pacific, McGeorge School of Law

12:30 p.m. – Closing Remarks