

Wyoming Supreme Court Judicial Ethics Advisory Committee

W.S.C.J.E.A.C. Advisory Opinion 2012-01

This opinion is in response to a request regarding the reporting requirements under Rule 3.15(A)(3) where a judge's motel, meals, and travel are arranged by and paid for directly by the sponsor of an extrajudicial activity.

Factual Background. Judge participates in an extrajudicial activity ("EA") as permitted by the Wyoming Code of Judicial Conduct (Code). The EA holds three meetings per year, which meetings are 4 to 5 days in length. For each meeting, the EA staff arrange for, and the EA directly pays for motel accommodations, most meals, and travel for each EA participant. Judge submits an expense form to the EA and is reimbursed for the actual expenses which have been paid from the Judge's personal funds; these reimbursed expenses are typically \$100-300 per meeting and less than the \$1,000 threshold for reporting reimbursements under Rule 3.15(A)(3). Judge has never seen a motel bill, does not know how the cost or value of meals would be computed as the meals are almost always banquet-type meals, and while flight itineraries are provided, the cost of the flight may or may not be indicated on the itinerary.

Questions Presented. Should the amount or value of the motel accommodations, meals and travel arranged and paid for directly by the EA be reported under Rule 3.15(A)(3)? If so, how may a judge properly report such items under Rule 3.15(A)(3)?

Response. Yes, the amount or value of the motel accommodations, meals and travel arranged and paid for directly by the EA should be reported under Rule 3.15(A)(3). A judge may properly fulfill the reporting requirements of Rule 3.15(A)(3) by disclosing those items which were paid for directly by the EA and either (a) providing a reasonable estimate of the amount or value of the items paid for directly by the EA or (b) stating that the cost or value of the items paid for directly by the EA is unknown.

Rationale and Discussion.

Rule 3.14(A) provides that a judge "may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses . . . from sources other than the judge's employing entity, if the expenses . . . are associated with the judge's participation in extrajudicial activities permitted by this Code." The reimbursement for expenses is to be limited to the actual costs reasonably incurred, and if the judge accepts reimbursement of expenses, that acceptance is to be publicly reported as required by Rule 3.15.

Rule 3.15 of the Rules of Judicial Conduct provides, in pertinent part, as follows:

Rule 3.15 Reporting Requirements:

- (A) A judge shall publicly report the amount or value of:

- (1) compensation received for extrajudicial activities as permitted by Rule 3.12;
 - (2) gifts and other things of value as permitted by Rule 3.13(C), unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed \$250.00; and
 - (3) reimbursement of expenses and waiver of fees or charges permitted by Rule 3.14(A), unless the amount of reimbursement or waiver, alone or in the aggregate with other reimbursements or waivers received from the same source in the same calendar year, does not exceed \$1,000.00.
- (B) When public reporting is required by paragraph (A), a judge shall report the date, place, nature of the activity for which the judge received any compensation; the description of any gift, loan, bequest, benefit, or other thing of value accepted; and the source of reimbursement of expenses or waiver or partial waiver of fees or charges.
- (C) The public report required by paragraph (A) shall be made at least annually, except that for reimbursement of expenses and waiver or partial waiver of fees or charges, the report shall be made within thirty days following the conclusion of the event or program.

* * *

The language used to describe reportable events under Rule 3.15(A)(3) does not specifically address those situations where motel accommodations, meals and travel are arranged and paid for directly by the EA on behalf of a judge who participates in an extrajudicial activity.

A judge who participates in an EA and pays the cost of the motel accommodations, meals and travel expenses to attend the extrajudicial activity from the judge's personal funds and then seeks and accepts reimbursement of those expenses is required to report the acceptance of that reimbursement under Rule 3.15(A)(3) [if the dollar threshold is met]. When the EA makes those arrangements and pays these expenses directly so a judge attends the extrajudicial activity without the need of advancing judge's personal funds and then having to seek reimbursement, the judge has accepted the benefit of the payment of those expenses, and should likewise report under Rule 3.15(A)(3) the cost or value of those expenses which were paid on judge's behalf.

Consequently, "reimbursements of expenses" to be reported under Rule 3.15(A)(3) includes not only the reimbursement of expenses for travel, food, lodging, or other incidental expenses paid from a judge's personal funds, but also the cost or value of expenses for travel, food, lodging, or other incidental expenses arranged by and paid for by the sponsor of an extrajudicial activity on the judge's behalf.

The preamble of the Wyoming Code of Judicial Conduct expresses the need to ensure public confidence by engaging in judicial conduct that demonstrates integrity. Publicly reporting a judge's

acceptance of the payment of a judge's reasonable and necessary expenses for travel, food, lodging or other incidental expenses associated with a judge's participation in extrajudicial activities as permitted by the Code, furthers the express purpose of protecting the integrity of the judiciary. This is true whether the reporting is of the acceptance of payment by way of a reimbursement made to the judge for use of his personal funds or the reporting of the cost or value of the travel, food, lodging or other incidental expenses arranged and paid for on judge's behalf by the sponsor of the extrajudicial activity.

In those instances where travel, food, lodging or other incidental expenses are arranged and paid for on a judge's behalf by the sponsor of the extrajudicial activity, disclosure that the EA paid for those items and then either providing a reasonable estimate or stating that the cost or value of the items paid is unknown furthers the purpose of protecting the integrity of the judiciary, while not placing an undue burden upon the reporting judge.

Conclusion. Under Rule 3.15(A)(3), if the threshold amounts are met, a judge who accepts reimbursements of expenses for travel, food, lodging or other incidental expenses associated with the judge's participation in extrajudicial activities permitted by the Code, should report not only the reimbursement of expenses paid from a judge's personal funds, but also the cost or value of expenses for travel, food, lodging or other incidental expenses arranged by and paid for on judge's behalf by the sponsor of an extrajudicial activity. The reporting obligation can be met by disclosure that the sponsor of the extrajudicial activity paid for those items and then either providing a reasonable estimate or stating that the cost or value of the items paid is unknown.

FINALIZED AND EFFECTIVE this 10th day of April, 2012 by the Wyoming Supreme Court Judicial Ethics Advisory Committee.