

## ANSWER TO THE COMPLAINT

Re: Matter of Van Henri White

### I. THE PARTY FILING THIS ANSWER

Name Van Henri White

Street Address [REDACTED]

City and County City of Rochester and County of Monroe County

State and Zip Code New York 14620

Telephone Number [REDACTED]

E-mail Address [REDACTED]@thelegalbrief.com

### II. THE ANSWER TO THIS COMPLAINT

Charge I.

Respondent admits to the factual allegations in Charge I and agrees that his words showed favor or partiality towards the victims of violence and their families. This incident occurred less than two weeks after my appointment and I, admittedly, resorted to practices (i.e., moments of silence) which were entirely acceptable in other positions which I have held in public service. However, because such statements (such as the one referenced in paragraph 9) might be misunderstood as showing favor or partiality to the victims and a bias against the accused, the Respondent no longer uses moments of silence. Through various CLEs, other forms of professional development sessions which I have attended, and just with the passage of time on the bench, I have learned that, if practiced consistently, a variety of “procedural justice” techniques create multiple opportunities to show understanding, empathy, respect, and support to all the parties in my courtroom – without having to appear biased or partial to one side or the other.

Charge II.

Respondent admits to the factual allegations in Charge II and agrees that his actions showed partiality towards the victims of violence and their families. While the Respondent, prior to and after the incident alleged in Charge II, did exercise great diligence by sending numerous written inquiries to the Judicial Advisory Committee (see attachment A), the Respondent failed to fully appreciate how important factual “nuisances” (e.g. participating in an anti-violence demonstration which was contemporaneously close in time and location to the death of a child and the arraignment of the suspect) could negatively impact the perception that the court system will be impartial in all things.

As a result, even though I continue to receive invitations to participate in anti-violence marches and meetings, I have not participated in any public marches or demonstrations for quite some time. Instead, before accepting any further invitations, I will continue to seek written guidance (as I have in the

past) from the Advisory Committee on Judicial Ethics – particularly where there might be some factual “nuisance” that might significantly affect the conduct which might otherwise be acceptable. Finally, I have enrolled in several continuing education courses which continue to bring clarity to these important ethical issues. (See Exhibit B.)

### Charge III.

Respondent admits to the factual allegations in Charge III insofar as: (i) nearly twenty years before becoming a judge the Respondent had created a website (thelegalbrief.com) for his civil rights law practice (ii) during the twenty + years that the Respondent was engaged in the private practice of law he created well over one hundred videos and audio messages generally informing citizens of their rights; and (iii) nearly four to five years before becoming a judge, the Respondent created the video referenced in paragraph 24. While the Respondent is very proud of the impact thelegalbrief website had on educating an often-uninformed urban community of its rights, he understood that allowing such chronologically old posts to remain on his website while he was a judge would not be appropriate. Accordingly, prior to becoming a judge, the Respondent removed all the video and written content which he believed would be construed as giving legal advice or where the topics were “controversial” in nature.

Regrettably, the time during which the mayor informed the Respondent that he was going to be appointed and his actual appointment was very brief. In the Respondent’s effort to close his practice and remove all inappropriate content on thelegalbrief website, the Respondent must have missed the approximately four-year-old thelegalbrief video (which was buried deep into the website posts) referenced in paragraph 24. The Respondent regrets that he missed removing that entire video segment. Moreover, because the Respondent could not absolutely guarantee that he had removed all inappropriate content in the two decade’s old website (where there were literally over a thousand posts), the Respondent (AFTER first giving Commission Counsel Notice) closed the entire website.

Reference is also made to Facebook post where the Respondent identifies himself as a City Court Judge and is pictured in his judicial robe. See paragraphs 22 – 23. The Respondent believed that since these posts fell within the campaign “window”, they did not violate Ethical Rules. While I do continue to post items on Facebook, I exercise great caution when doing so. Most of my posts are personal in nature. However, on occasion I do post matters relating to important community activities taking place at the courthouse. For example, when I was invited to bring my Civil Rights Museum on Wheels to the Hall of Justice and Chief Judge Rowan D. Wilson and Presiding Justice Gerald J. Whalen got aboard the bus and took pictures, I asked Seventh Judicial District Chief Administrative Judge William Taylor whether it was OK to post the pictures. Only after we discussed the idea of me posting those images, did I post them on Facebook.

## **MITIGATING FACTORS**

In addition to the Answers propounded above, the Respondent respectfully draws the Commissions attention to the following factors:

- A. Each of the Claims referenced above occurred within the first six months of the Respondent’s appointment to the bench. (Charges One and Two occurred within the first three months.) However, the Respondent understands that given the rights which are at stake for the parties before the court, there is little to no time for a

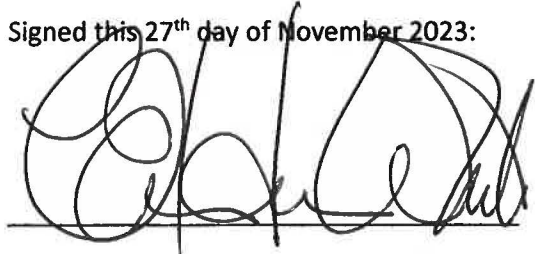
“learning curve”. Indeed, the record reflects that the Respondent understood the importance of learning his new role (including ethical considerations) and that he aggressively sought out (on multiple occasions prior to and after the charged conduct) professional development opportunities as well as guidance from the Advisory Committee on Judicial Ethics. (See Exhibit A and B) This was done to ensure compliance. But, as has already been conceded, despite his efforts, the Respondent, unfortunately, was not always successful in this regard.

- B. As the instant charges reflect, the diverse experiences that a new judge brings to the bench can result in the diverse candidate having some challenges with respect to transitioning to his/her new role. Having conceded that point, the Commission should also know that the Respondent’s believes that his diverse background has had some positive impact on the local justice system and area community. In the less than two years on the bench the Respondent:
- (1) during the winter 2022 created, along with a local organization known as the Healthy Baby Network, a six-session discussion group so that sentenced defendants can discuss important life changing topics like goal setting, violence prevention, parenting, and relationships. (See Exhibit C.)
  - (2) during the summer of 2023 created, with the support of Chief Administrative Judge William Taylor and the Urban League of Rochester and Action for A Better Community, the first of its kind courthouse Career and College Fair. Over 25 employers and colleges set up tables in the Hall of Justice so that defendants leaving their various courtrooms could explore on their own all the life-changing opportunities which were available to them. (See Exhibit D.)
  - (3) also, during the summer of 2023 arranged to have the Civil Rights Museum on Wheel visit the Hall of Justice (summer 2023) where everyone (from persons just walking by the Hall of Justice to the Chief Judge of the Court of Appeals) could sit in a 1950’s era transit bus and learn and/or be inspired by the laws and the people who changed America’s legal system for the better.
  - (4) during the spring of 2023, the Respondent, as a member of the board of directors of the non-profit organization The Center for the Study of Civil and Human Rights Laws (CFSCHRL, created a new website (cfschrl.com replacing thelegalbrief.com). This new website focuses on legal history and legal education - not providing legal advice. (For more detail, please go to CFSCHRL.com. )
  - (5) during the fall of 2023, as a member of the board of directors of CFSCHRL, Respondent lead the expanded the use of the Civil Rights Museum on Wheel to include educational and inspiring re-enactments of the Montgomery Bus Boycott. (Please go to [https://13wham.com/news/local/community-encouraged-to-get-on-the-bus-and-watch-historical-civil-rights-reenactment.](https://13wham.com/news/local/community-encouraged-to-get-on-the-bus-and-watch-historical-civil-rights-reenactment))

**VERIFICATION**

I, VAN HENRI WHITE, do hereby verify, under oath and under penalty of perjury, that the forgoing facts are true and accurate.

Signed this 27<sup>th</sup> day of November 2023:



Van Henri White



Notary

State of New York  
County of Monroe  
This Subscribed and Sworn to me  
on the 28 day of November 20 23



NEŞE BAYKAL  
Notary Public, State of New York  
No. 01BA6046822  
Qualified in Monroe County  
Commission Expires August 14, 20 26

**EXHIBIT A**

**EXHIBIT A**

**Hon. Van H. White**

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**From:** Laura L. Smith  
**Sent:** Thursday, July 21, 2022 2:10 PM  
**To:** Hon. Van H. White  
**Cc:** Gina Patterson  
**Subject:** Your Inquiry

**Importance:** High

Dear Judge White,

I just tried returning your call to the Advisory Committee, but your mailbox was full and I could not leave a message.

**Today:** If you get this message before 5pm today, please give me a call back at [REDACTED].

**Tomorrow:** I'll be out of the office tomorrow, but my colleague Gina Patterson is fully briefed on your inquiry and can discuss with you. **Gina** can be reached at [REDACTED].

Laura L. Smith, Esq.  
Chief Counsel  
New York State Advisory Committee on Judicial Ethics  
25 Beaver Street, 8th floor  
New York, NY 10004  
Toll Free: 1 -866-795-8343  
Office Telephone: [REDACTED]  
Website: [www.nycourts.gov/ip/acje](http://www.nycourts.gov/ip/acje)

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/s/ Van Henn

Van Henri White  
Rochester City Court Judge

**Hon. Van H. White**

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**From:** Gina Patterson  
**Sent:** Friday, July 22, 2022 12:09 PM  
**To:** Hon. Van H. White  
**Subject:** Your inquiry

As discussed, for your consideration:

<https://www.nycourts.gov/ipjudicialethicsopinions/89-139.htm>

<https://www.nycourts.gov/ipjudicialethicsopinions/14-31.htm>

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**Timing:** Inquiries received by August 29 will be considered at the Committee's September 8th meeting.

Gina Patterson, Esq.  
Assistant Deputy Counsel  
New York State Advisory Committee on Judicial Ethics  
10004  
598  
[gov/ip/acje](http://www.nycourts.gov/ip/acje)





## Hon. Van H. White

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**From:** Hon. Van H. White  
**Sent:** Friday, July 29, 2022 5:33 PM  
**To:** Gina Patterson  
**Subject:** RE: Your inquiry

Thank you. All of this was very helpful. Have a great weekend!

**From:** Gina Patterson <[REDACTED]@nycourts.gov>  
**Sent:** Friday, July 29, 2022 1:04 PM  
**To:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Subject:** Your inquiry

As discussed, for your consideration:

**Social media:**

<https://www.nycourts.gov/ipjudicialethicsopinions/08-176.htm>

<https://www.nycourts.gov/ipjudicialethicsopinions/20-58.htm>

<https://www.nycourts.gov/ipjudicialethicsopinions/14-05.htm>

<https://www.nycourts.gov/ipjudicialethicsopinions/21-40.htm>

**Judicial speech/political activity:**

[https://www.nycourts.gov/ipjudicialethicsopinions/20-92\\_20-93.htm](https://www.nycourts.gov/ipjudicialethicsopinions/20-92_20-93.htm)

<https://www.nycourts.gov/ipjudicialethicsopinions/17-38.htm>

<https://www.nycourts.gov/ipjudicialethicsopinions/07-19.htm>

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Gina Patterson, Esq.  
Assistant Deputy Counsel  
New York State Advisory Committee on Judicial Ethics  
25 Beaver Street, 7<sup>th</sup> Floor  
New York, NY 10004  
Tel. [REDACTED]  
[www.nycourts.gov/ip/acje](http://www.nycourts.gov/ip/acje)

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**Hon. Van H. White**

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**From:** Gina Patterson  
**Sent:** Wednesday, August 3, 2022 3:57 PM  
**To:** Hon. Van H. White  
**Subject:** RE: Seeking ethical guidance on the appropriateness of the attached moment of silence

Judge White,

While the ACJE does not have the authority “approve” your statement, we can help to flag any potential ethics issues. I have reached out the co-chairs for their feedback on this question and to determine whether submission of a written inquiry would be warranted. I will give you a call tomorrow.

Thank you,  
Gina

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**From:** Hon. Van H. White [REDACTED]@nycourts.gov>  
**Sent:** Tuesday, August 2, 2022 5:45 PM  
**To:** Gina Patterson <[REDACTED]@nycourts.gov>  
**Subject:** Seeking ethical guidance on the appropriateness of the attached moment of silence

Ms. Patterson:

Good afternoon. I want to thank you, again, for the guidance you and the Committee have given me since I was sworn in just two weeks ago. In fact, if I may, I’d like to follow up on some guidance the Committee provided me regarding whether it was appropriate to call for a moment of silence.

While you indicated that the use of a moment of silence was appropriate, I thought it might be helpful if you/Committee had the opportunity to review the exact words that I choose to share when I requesting a moment of silence. That statement is written below.

In drafting this statement, I’ve stayed away from words or phrases which might draw into question my capacity to act impartially. In fact, it is my hope , that this statement will promote public confidence in the judiciary insofar as it has the court recognizing, the significant and varied, challenges which many face in our community.

Finally, in order to avoid even the appearance that I am being “one sided”, my intention is to read this statement and ask for a moment of silence every day that I am in court.

Your comments and thoughts on this statement would be much appreciated.

• \* \*

I am asking that you all join me for a moment of silence before we begin calling today's court calendar. You may be asking "why is he asking us to do this?" Well we know that by reading news headlines and/or social media posts that there are those outside of this courtroom, right now, who are suffering or experiencing some type of loss. The loss which they are experiencing may be financial due to the loss of employment; or because of an arrest they may be dealing with the loss of their freedom; or in the case of violence, they may, tragically, be dealing with the loss of human life. You may know some of these folks. You may not. But as Dr. King once said "We are tied together in a single garment of destiny...whatever affects one directly, affects all indirectly". This is particularly so in the case of violence in our community. So it is in that spirit that I ask you to join me in a moment of silence...with the hope that all those experiencing challenges or any type of loss will find the strength to endure and ultimately overcome.

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**Hon. Van H. White**

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**From:** Hon. Van H. White  
**Sent:** Thursday, August 18, 2022 4:37 PM  
**To:** CLE\_NYSJI  
**Cc:** Edna Ortiz; Courtney M Canfield; burchwhiteb@[REDACTED]  
**Subject:** New Judge's School for 2023

To Whom It May Concern:

I was recently appointed to Rochester City Court in July of 2022. As a consequence, I did not have a chance to attend New Judges School in 2022 – which I understand was held during the first week of 2022. Have the dates for the 2023 New Judge’s School been set yet? I’d like to make certain that I do not schedule any cases for that week in January 2023. I’d also like to know when registration will begin and what the cost is for that session. Please let me know or provide the link to the site that might provide me the information that I am seeking. Thank you.

Respectfully,

Van Henri White  
Rochester City Court Judge



**Hon. Van H. White**

---

**From:** Hon. Van H. White  
**Sent:** Tuesday, August 23, 2022 12:49 PM  
**To:** Edna Ortiz  
**Cc:** Courtney M Canfield  
**Subject:** RE: New Judge's School for 2023

That's my wife. I generally copy her in on all correspondence that relates to my calendar when it comes to commitments out of town and/or community meetings that I attend overnight.

**From:** Edna Ortiz <[REDACTED]@nycourts.gov>  
**Sent:** Tuesday, August 23, 2022 12:36 PM  
**To:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Cc:** Courtney M Canfield <[REDACTED]@nycourts.gov>  
**Subject:** RE: New Judge's School for 2023

Judge-who is Burch White copied in on this email? And does this person conduct business with the courts?

**From:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Sent:** Thursday, August 18, 2022 4:37 PM  
**To:** CLE\_NYSJI <[REDACTED]@nycourts.gov>  
**Cc:** Edna Ortiz <[REDACTED]@nycourts.gov>; Courtney M Canfield <[REDACTED]@nycourts.gov>; burchwhiteb@[REDACTED]  
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Respectfully,

Van Henri White  
Rochester City Court Judge

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**Hon. Van H. White**

---

**From:** Hon. Teresa Johnson  
**Sent:** Tuesday, August 23, 2022 3:33 PM  
**To:** Hon. Van H. White; Edna Ortiz; Courtney M Canfield  
**Cc:** Hon. Charles Crimi  
**Subject:** RE: Judge's School

Hi,

You will be in civil part 7 in January. I will certainly figure out coverage for the days you have to be away for new judges' school once they have been decided. I knew that the dates would not have been set this far in advance.

**From:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Sent:** Tuesday, August 23, 2022 3:27 PM  
**To:** Edna Ortiz <[REDACTED]@nycourts.gov>; Courtney M Canfield <[REDACTED]@nycourts.gov>  
**Cc:** Hon. Teresa Johnson <[REDACTED]@nycourts.gov>; Hon. Charles Crimi <[REDACTED]@nycourts.gov>  
**Subject:** Judge's School

Edna and Courtney:

Last week I sent an email to the New York State Judicial Institute asking for details regarding "New Judge's School for 2023". This week, by phone, the Institute's representatives confirmed that I am their list to be contacted once the date is set. (They will be sending out dates sometime in November of this year.) I have been told that the classes/seminar will take place over the course of 3 days and will take place sometime within the first three weeks of January 2023. While I know we are not scheduling matters that far out, I just wanted to make certain we kept that commitment in mind as we go forward. Thank you!

Van

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**Hon. Van H. White**

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**From:** Hon. Van H. White  
**Sent:** Thursday, September 8, 2022 12:26 PM  
**To:** Gina Patterson  
**Subject:** Ethical question

Good morning Ms. Patterson:

Several years ago I wrote a children's book. It is entitled HEROES. Basically, it's a colorful book which tells young people that "not all super heroes have capes" and that many heroes actually live among us in our neighborhoods and in our own homes. On occasion, I have defendants who bring their young children to court with them. Am I allowed to give away copies of my book to these children and their parents?

Respectfully,

Van Henri White  
Rochester City Court Judge



**Hon. Van H. White**

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**From:** Gina Patterson  
**Sent:** Friday, September 9, 2022 11:29 AM  
**To:** Hon. Van H. White  
**Subject:** Your inquiry

As discussed, for your consideration:

<https://www.nycourts.gov/ipjudicialethicsopinions/16-06.htm>

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**Hon. Van H. White**

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**From:** Gina Patterson  
**Sent:** Thursday, October 6, 2022 10:20 AM  
**To:** Hon. Van H. White  
**Subject:** RE: Judge's participation in marches

Good morning Judge,

I apologize for the delay in responding to your question, as I was out of the office earlier this week.

To address some of the nuances of when a judge may participate in a march, I suggest looking at Opinion 20-92/93: [https://www.nycourts.gov/ipjudicialethicsopinions/20-92\\_20-93.htm](https://www.nycourts.gov/ipjudicialethicsopinions/20-92_20-93.htm)

I'd be glad to discuss this with you further over the phone as it pertains to your question. I'll be in the office today if you'd like to call. As always, if your question is not directly addressed by prior opinions, you are also welcome to write in to the Committee for a written opinion.

Thanks,  
[REDACTED]  
[REDACTED]

---

**From:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Sent:** Monday, October 3, 2022 4:15 PM  
**To:** Gina Patterson <[REDACTED]@nycourts.gov>  
**Subject:** Judge's participation in marches

Good morning Ms. Patterson:

You had previously sent me an Opinion with respect to whether judges can participate in community marches. Opinion 17-38. I have used that opinion to guide my decisions on whether to participate in community gatherings or marches. I'm wondering if you have any other decisions that I might review.

For example, I recently participated in a gathering of citizens in a very distressed and violent part of our city. There have been many shootings and homicides in this part of our City so the community gathered there and formed a "human chain" on the sidewalk.

The organizers were very clear that it was a “silent” human chain. In other words while you could talk to the people standing nexting to you, there were to be no speeches or calling out to vehicles or passersby.

The only signs that organizers passed out and some participants carried (which I did not) were signs that said “No Mas” to violence. There were no political signs or speeches calling for any sort of criminal justice reform or endorsing any candidates. Everyone was basically just saying “Stop the violence.”

The location of the gathering was in front of a Latin public food market (La Marketa) and a prominent Catholic Church. Just days before a three year old child was shot about an eight of a mile from the gathering. But sadly there are very few streets within that community that haven’t seen a shooting or homicide. Indeed, that was the point of the march.

I have been invited back to participate and I would like to go and support their message of non-violence. Accordingly, I would appreciate your sending me other opinions which will ensure that I have a comprehensive understanding of any ethical limitations in this area. As always, thank you.

Van White  
Rochester City Court Judge

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**Hon. Van H. White**

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## Hon. Van H. White

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**From:** Gina Patterson  
**Sent:** Thursday, October 6, 2022 10:20 AM  
**To:** Hon. Van H. White  
**Subject:** RE: Judge's participation in marches

Good morning Judge,

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[REDACTED]

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Van White  
Rochester City Court Judge

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## Hon. Van H. White

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**From:** Hon. Van H. White  
**Sent:** Tuesday, October 18, 2022 2:42 PM  
**To:** Advisory Committee on Judicial Ethics  
**Cc:** Gina Patterson  
**Subject:** Request for an advisory opinion on whether it is ethically permissible for a judge to attend an anti-violence event.

Good afternoon. My name is Van Henri White. I was recently appointed to Rochester City Court. I am also a candidate for a ten year term on City Court. That election is scheduled for November 8, 2022. I am seeking a written advisory opinion with respect to whether a sitting judge may join citizens who decide to hold hands in public show of support for those who wish the violence to end in our community.

A group of those citizens, concerned about the escalating violence in Rochester, recently asked me to join them in the creation of a "silent human chain" against violence. Basically the "human chain" consisted of citizens standing (and holding hands) on the side walk of one of our City's major thoroughfares which runs through the heart of one of the most violent neighborhoods in our City.

The social media post announcing the event simply stated "enough is enough! The community is tired. Join us in an emergency. 'No Mas 'human chain' against violence in the community."

At the event the only signs that organizers passed out and some participants carried (which I did not) were signs which said "No Mas" to violence. There were no political signs or speeches calling for any sort of criminal justice reform or endorsing any candidates. Everyone was basically just saying "Stop the violence."

The location of the peaceful antiviolence gathering was in front of a Latin public food market (La Marketa) and a prominent Catholic Church. LaMarketa was created for such public gatherings. However, just days before a three year old child was shot about an eight of a mile (about one and a half blocks) from the gathering. Sadly there are not too many blocks/streets within that community where there has not been a shooting or homicide. Indeed, that was the point of the gathering.

However, before agreeing to their request, I thought it was important to review what Advisory Opinions I could find on the subject. One of those opinions (Opinion 17-38) had been shared with me previously by the staff of the NYSACJE when I inquired whether there was any prohibition against judges participating in marches. As you are probably aware, Opinion 17-38 states that participation in marches is permissible so long as: (a) the march is not co-sponsored by or affiliated with any political organization; (b) the march does not support or oppose any political party or candidate for election; (c) the judges participation will not involve the judge in impermissible political activity; (d) and the judges participation will not insert him or her unnecessarily into public controversy.

After reviewing Opinion 17-38, the only thing that was unclear to me was... “would my participation in an anti-violence march insert me ‘unnecessarily into a public controversy’”? In other words, is a judge’s participation in an activity which discourages or even condemns violence tantamount to him/her “unnecessarily entering into a public controversy”? To answer that question, I, once again, turned to the searchable advisory opinions by NYSACJE.

Two opinions seemed to address this issue directly - Opinion 15-113 and Opinion 18-110. In Opinion 15-113, the NYSACJE opined that it was ethically appropriate for a judge to address an audience of persons (including “key community players”, social service providers, law enforcement, etc.) who had gathered for the purpose of discouraging (those deemed most at risk of violence) from engaging in gun violence.

Significantly, in Opinion 15-113, NYSACJE stated that the judge’s proposed statement which would “*encourage the participants to continue to lead law-abiding lives, and to take advantage of social service resources being made available to them...*” was permissible under the applicable ethical rules. Emphasis added.

NYSACJE Opinion 18-110 also seemed to be instructive on this issue as well. In that opinion, NYSACJE stated that a City Court judge’s presence at a Mayor’s anti-violence event for youth was permissible conduct. While this particular judge, in Opinion 18-110, did not have a speaking role (cf Opinion 15-113 wherein the judge’s proposed unequivocal anti-violence remarks were deemed permissible), NYSACJE did conclude that “*the community benefits from having judges, take an active part in community affairs, whenever possible, including in community efforts to prevent juvenile delinquency, and reduce violence.*” Emphasis added.

Taken together, I read Opinions 15-113, 18-110, and 17-38 to state that judges may participant in anti-violence events and that judges can even speak at those anti-violence events. Accordingly, I accepted the invitation by community residents and leader to join them in their human chain against violence and public demonstration of peace.

I concede, however, that there might be different interpretations of the ethical rules and advisory opinions which seek to uphold and preserve the impartiality of the judiciary. I am hopeful that your body can give me some guidance on how I should proceed when I get similar requests. Unfortunately, because there will be more violence in our community, I fully anticipate that I will get similar requests.

I would like to be able to join citizens at these peace/anti-violence gatherings because I believe that “the community benefits from having judges take an active part in community affairs” (Opinions 13-13 and 15-113) - “including community efforts to prevent juvenile delinquency and reduce violence” (Opinions 18-110 and 15-13, and 99-77).

However, because I also believe that it is important that judges give deference to the ethical rules which have been developed “to promote public confidence in the integrity and impartiality of the judiciary”, I am looking forward to your clarifying guidance on this very important issue. Thank you, in advance, for your thoughtful consideration of this very important question. Thank you.

Respectfully

Van Henri White



Participants were asked to hold hands on the sidewalk. The organizers were very clear that it was to be a “silent” human chain. In other words, while you could talk to the people standing next to you, there were to be no calling out to vehicles or pedestrian passersby.

At the beginning of the event... just a few people spoke. These speakers were gather in front of La Marketa – a public market created for public gatherings. The few speakers that did speak either called on “people” to stop the violence. While one speaker did call form more community resources, no one from law enforcement spoke. I was not asked nor did I volunteer to speak.

Nor did I.

I have been invited back to participate and I would like to go and support their message of non-violence. Accordingly, I would appreciate your sending me other opinions which will ensure that I have a comprehensive understanding of any ethical limitations in this area. As always, thank you.

## Opinion 16-06

January 28, 2016

**Digest:** (1) A full-time judge may generally publicize his/her book and participate in book signing and other promotional events the publisher organizes, but where the work is a children's book unrelated to the law, the judge may not personally participate in promotions that specifically target attorneys or the legal profession. Thus, the judge may participate in book-signing events at libraries, schools, civic organizations, or shopping centers, but not at bar associations or law firms. The judge may spread news of its publication to friends, family or the general public, but may not aim at attorneys. The judge may read the book at a school, provide complimentary copies to friends, family, libraries, and members of the public and advise, on request, where the book may be purchased. (2) A judge who has written a children's book may permit the use of his/her judicial title and a photograph, taken while wearing his/her judicial robe, on the book's back cover.

**Rules:** 22 NYCRR 100.2; 100.2(A); 100.2(C); 100.4(A)(1)-(3); 100.4(B); 100.4(C)(3); 100.4(D)(1)(a)-(c); 100.4(H)(1); Opinions 15-182; 13-89; 10-95; 10-84; 06-105; 05-28; 02-133; 01-58; 90-73.

**Opinion:**

A full-time judge who wrote a children's book, being published by a commercial publisher, asks about participating in certain promotional activities. Specifically, the judge asks if he/she may participate in a book signing the publisher organized at a library, school, a civic organization, a bar association, a law firm, or a shopping center; spread the news that the book has been published, whether in person, in writing, or through social media, to friends and family, attorneys, or the general public; give complimentary copies of the book to friends, family, attorneys, libraries and members of the public; tell people, on request, where the book may be purchased; permit the publisher to mention the judge's judicial status; appear in judicial robes on the book's back cover; and read the book at the judge's children's elementary school.

A judge must always avoid even the appearance of impropriety (see 22 NYCRR 100.2) and must always act to promote public confidence in the judiciary's integrity and impartiality (see 22 NYCRR 100.2[A]). Although "[a] judge may speak, write, lecture, teach and participate in extra-judicial activities" (22 NYCRR 100.4[B]), such extra-judicial activities must not interfere with his/her judicial office and must not (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) detract from the dignity of judicial office; or (3) interfere with the proper performance of judicial duties (see 22 NYCRR 100.4[A][1]-[3]). Moreover, a judge must not lend the prestige of judicial office to advance private interests (see 22 NYCRR 100.2[C]), convey or permit others to convey the impression that they are in a special position to influence the judge (see *id.*), or engage in financial and business dealings that (1) may reasonably be perceived to exploit the judge's judicial position; (2) involve the judge with any business or organization that ordinarily will come before the judge; or (3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the judge's court (see 22 NYCRR 100.4[D][1][a]-[c]).

In Opinion 05-28, the Committee advised:

[R]ather than spell out the various kinds of extra-judicial activities in which a judge may engage, it was determined [In adopting the Rules Governing Judicial Conduct] that it was more appropriate simply to acknowledge that judges may participate in activities outside the realm of their judicial office, without any necessity to delineate permissible categories of conduct. Otherwise, a delineation might (erroneously) be seen as precluding that which is not specified. It thus follows that as a matter of judicial ethics, a judge - just like a non-judge - may engage in a myriad of activities mentioned in 100.4(B), provided of course, the particular activity, or conduct in connection therewith does not contravene any other provision of the Rules Governing Judicial Conduct.

In the Committee's view, most of the described promotional activities do not raise any ethical problems. For example, a judge who authors a book "may participate in traditional book-signing events and public discussions of the book," provided that he/she abides by the applicable restrictions on judicial speech and conduct (Opinions 15-182; see also 10-84). Additionally, the Committee has consistently stated a judge, participating in permissible extra-judicial activity, need not hide his/her judicial identity (see Opinions 10-84) and, therefore, may permit the use of his/her judicial title and a photograph, taken while wearing his/her judicial robe, on the back cover of a book he/she wrote (see Opinions 15-182; 13-89; 06-105).

The Committee has previously advised that a judge who authored a book about a particular area of law may appear at bookstores, law schools and bar associations to attend and participate in book-signing events and speak about his/her book, provided these extra-judicial activities do not interfere with the judge's judicial duties (see Opinion 15-182 fn 3 [observing that prior opinions in this area can be heavily fact-specific and encouraging judges to write in for guidance on their own particular circumstances]). Since the Rules specifically authorize judges to engage in avocational pursuits such as speaking, writing, lecturing, teaching and participating in the undertakings of organizations devoted to the law, the legal system or the administration of justice, the Committee concluded the judge may engage in book signing events for his/her law book at bar associations and law schools (see *id.*; see also 22 NYCRR 100.4[B]; 100.4[C][3]).

The inquiring judge, by contrast, has written a children's book which is unlikely to have any special appeal to the legal community separate from the judge's judicial status. The Committee therefore believes this judge should not promote his/her children's book at a law firm or bar association, as it could, at the very least, create an appearance the judge is lending the prestige of judicial office to advance his/her private interests (see 22 NYCRR 100.2[C]; Opinion 02-133 [a judge may not participate in a book-signing at the courthouse, as this would impermissibly lend the prestige of judicial office to advance the judge's private interests]).

In these circumstances, it would be virtually impossible to separate the judge's judicial position from the judge's private avocational activities. A judge's appearance at a law firm to promote his/her book could also potentially create an appearance that the firm is in a special position to influence the judge (see generally 22 NYCRR 100.2[C]; Opinion 01-58 [a full-time judge should not provide instruction in legal writing and advocacy skills if limited to one private law firm]; see also 22 NYCRR 100.4[D][1][a]-[c]; 100.4[H][1] [source of judge's extra-judicial compensation must not create an appearance of impropriety]; cf. Opinion 10-95 [noting that a full-time judge who offers online legal commentaries for sale to the public must refrain from direct involvement with marketing, sales, billing, collections and accounting practices]). Moreover, the judge should not promote his/her children's book specifically to attorneys, to avoid any appearance of pressure or misuse of judicial office (cf. Opinions 06-105; 90-73 [a judge must avoid appearance of coercion]).

Thus, this judge may participate in promoting his/her children's book by participating in book-signing events at libraries, schools, civic organizations, or shopping centers, but not at bar associations or law firms. The judge may spread the news of his book to friends, and family, and the general public, but may not specifically target attorneys. The judge may read the book at an elementary school, provide complimentary copies to friends, family, libraries, and members of the public and advise, on request, where the book may be purchased. The judge may also permit the use of his/her judicial title and a photograph, taken while wearing his/her judicial robe, on the book's back cover (see Opinions 15-182; 13-89; 06-105).

**Opinion 89-139**

December 5, 1989

**Digest:** A judge may serve as chair of the committee on law for a fraternal order provided that his duties do not require the judge to give legal advice to the organization or to any of its members.

**Rules:** 22 NYCRR 100.5(b); Canon 5B of the Code of Judicial Ethics

**Opinion:**

A Supreme Court Justice asks whether he may accept a position as chair of a committee on law for a fraternal order of which the judge has been a member for many years. The judge states that the committee reports upon proposed amendments of the constitution and statutes of the organization and gives advice to the leadership of the organization about claims against the order, and matters relating to its rituals and practices as they may conflict with some statute, rule, or regulation of a particular jurisdiction.

Section 100.5(b) of the Rules of the Chief Administrator provides in part:

A Judge may participate in civic and charitable activities that do not reflect adversely upon impartiality or interfere with the performance of judicial duties. A judge may serve as an officer, director, trustee or nonlegal advisor of an educational, religious, charitable, fraternal or civic organization not conducted for the economic or political advantage of its members, subject to the following limitations:

(1) A judge shall not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before him or her or will be regularly engaged in adversary proceedings in any court.

The judge may accept the position of chair of the law committee, provided that his duties are restricted to intra-organizational matters and the inner workings of the fraternal order. As chair, the judge may not give legal advice or opinions relating to claims against the organization and possible conflicts between the organization's activities and statutes, rules or regulations, since section 100.5(b) prohibits a judge from acting as a legal advisor to a fraternal organization.

Opinion 14-31

April 8, 2014

Dear :

This responds to your inquiry (14-31) asking whether it is ethically permissible for you to lecture, as part of a training program for appellate and trial prosecutors, on effective and ineffective techniques when litigating in the Appellate Division. Only prosecutors and law enforcement personnel will be in attendance.

A judge may speak, write, lecture, teach and participate in educational programs, conferences, symposia, etc., on matters about the law, legal system, and administration of justice (*see* 22 NYCRR 100.4[B]). However, a judge must not be perceived as giving strategic or tactical advice on a partisan basis. That would appear improper and would cast doubt on the judge's ability to be impartial (*see* 22 NYCRR 100.2). Thus, it is ethically impermissible to give partisan advice on litigation strategy. However, it is ethically permissible to lecture the same audience on appellate law and practice in general, but without comment on pending or impending cases (*see* 22 NYCRR 100.3[B][8]).

Enclosed, for your convenience, are Opinions 12-44; 09-84; 08-49; 06-77 and Joint Opinion 03-84/03-89, which address this issue.

Very truly yours,

George D. Marlow, Assoc. Justice  
Appellate Division, First Dept. (Ret.)  
Committee Chair

Encls.

## Opinion 20-92/20-93

June 18, 2020

**Digest:** On these facts, a judge may not participate in a silent “walk for justice.”

**Rules:** 22 NYCRR 100.0(V); 100.2; 100.2(A); 100.3(B)(8); 100.4(A)(1)-(3); 100.5(A)(1); Opinions 17-108; 17-38; 16-85; 15-26/15-44; 10-59; 04-91.

**Opinion:**

Two judges ask if they, or judges under their supervision, may participate in an informal “walk for justice” organized by a bar association in response to the death of an African-American man in police custody. Widely shared video of George Floyd’s death has sparked nationwide protests concerning racism and police misconduct. Both criminal charges and civil litigation against the officers are ongoing or reasonably foreseeable.

According to the organizers, the silent walk is open to all members of the legal community and will be entirely peaceful. There will be no speeches. Participants will walk silently on the sidewalk past governmental buildings and “take a knee” in front of a depiction of the U.S. Constitution, “as a way to both remember George Floyd” and to recognize judges and court personnel at every level “who strive every day to accomplish Dr. King’s goal of justice for everyone.” The organizers intend the walk to be not only “a time for quiet reflection or thought” but also, simultaneously, “a time for action,” as the walk will “visually demonstrate and let it be known that the legal community ... is committed to remembering George Floyd [and] acknowledging the injustice of his death.” The organizers further state “George Floyd and ... countless others ... have been denied justice for so long and far too long.”

A judge must always avoid even the appearance of impropriety (see 22 NYCRR 100.2) and must always act in a manner that promotes public confidence in the judiciary’s integrity and impartiality (see 22 NYCRR 100.2[A]). A judge may generally engage in extra-judicial activities that do not cast reasonable doubt on the judge’s capacity to act impartially as a judge, do not detract from the dignity of judicial office, do not interfere with the proper performance of judicial duties, and are not incompatible with judicial office (see 22 NYCRR 100.4[A][1]-[3]). However, a judge must not make any public comment on a pending or impending matter in any court within the United States or its territories (see 22 NYCRR 100.3[B][8]) and must not “directly or indirectly engage in any political activity” unless an exception applies (22 NYCRR 100.5[A][1]).

We have previously applied these rules to judges’ participation in certain high-profile public events. In Opinion 17-38, we considered whether judges could participate in a March for Science. Although this high-profile march was “apparently non-partisan” and “intended to recognize the importance of scientific endeavors and rational thought in society,” we said “judges must be careful to monitor the agenda and positions taken by organizers of the March,” including its “publicly reported affiliations and sponsorships in the period leading up to the event” (*id.*). Even if a judge concluded there was no “political party or candidate” involved, we advised that he/she “must be careful not to be ‘associated with matters that are the subject of litigation or public controversy’” and, further, ensure that his/her own participation “will not insert him/her unnecessarily into public controversy” (*id.*).

In Opinion 04-91, we said a Family Court judge may not attend a tree planting and candlelight vigil on behalf of crime victims in the judge’s county. The annual “Victims’ Rights: America’s Values” event was co-sponsored solely by two government agencies, and the speakers were county officials, victims, and probation personnel. As in prior years, participants would display photographs of loved ones and read a roll call of victims. Although the judge proposed to attend the event without speaking, we said (*id.*):

The purposes of the ceremony are admirable, but ... they are heavily weighted in favor of one side that comes before the court in a setting that is understandably highly emotional. These purposes include expressing intense sympathy for victims and their families, offering them moral support and counseling, and, implicitly if not explicitly, advocating on behalf of victims’ rights. The judge’s presence among victims and counselors, while candles are lit, trees planted, victims’ names read, and victims’ pictures displayed, and while speakers are expressing support for their victims’ rights, would under the circumstances create a risk of an appearance of public identification with victims’ rights and victims.

Thus, we concluded the judge must not attend because his/her “mere presence would create an appearance of particular sympathy toward one side in court and therefore an appearance of partiality” (*id.*).

We reaffirmed this conclusion in 2015, noting that the candlelight vigil and the tree planting ceremony were designed as “highly emotional events to attract substantial media attention” (Opinion 15-26/15-44). Indeed, we emphasized this aspect in clarifying why and how the vigil differed from permissible domestic violence programs (*id.*):

Where the event’s overall context is not so one-sided and intensely emotional as to raise reasonable questions about the judge’s ability to be impartial, the Committee believes no appearance of impropriety is created by the judge’s mere attendance at such an event. Indeed, a judge who attends such events may have an opportunity to engage in one-on-one conversations with members of the public that could promote public confidence in the judiciary and dispel possible misconceptions about the judge’s role and responsibilities in cases involving claims of domestic violence [emphasis in original].

We also considered whether judges could participate silently in a grassroots organization’s local rally, march or demonstration, similar to “a rally recently held in opposition to the so-called Trump Muslim Ban” (Opinion 17-38). Here, we said judges may not attend or participate because it involved “great public controversy, which is also the subject of litigation” (*id.*).

Indeed, the prohibition stands even if other attendees or the general public do not know the judge’s judicial status, because “[c]oncealing one’s name and judicial status does not ordinarily render prohibited [political] conduct permissible” (Opinion 16-85). In sum, as we recognized in Opinion 17-38:

The prohibition on political activity is a heavy burden. However, it is one individuals must accept if they wish to take on the sensitive and critically important role of judges in the Unified Court System, because it is absolutely necessary to maintain an impartial judiciary both in practice and perception.

**Application to the Present Inquiry**

This inquiry requires us to again walk the tightrope of the need for judicial independence amid controversial public events but here, the rope is thinly stretched across the sinews of our profession, our nation’s sense of racial justice and the constitutional justice we are sworn to uphold. We recognize this silent “walk for justice” has some features that distinguish it from prior opinions. It is organized by the legal community, for the legal community, and will be silent with no speeches. However, even the silence will speak volumes about the purpose of the walk and emphasize the commitment of the participants. For example, kneeling for a moment of silence in front of the U.S. Constitution is itself a powerful but controversial symbol of a participant’s allegiance to the walk’s purpose.

Critically, the organizers’ invitation and description contain a strong emotional appeal based on Mr. Floyd’s death, a matter involving “great public controversy, which is also the subject of litigation” (Opinion 17-38). Thus, the walk, although silent, is expressly designed to communicate to the public certain views in connection with a specific incident, involving a named individual, that is the subject of litigation and intense public controversy. This is problematic under the public comment rule while civil or criminal litigation involving Mr. Floyd is pending or “reasonably foreseeable” (22 NYCRR 100.3[B][8]; 100.0[V] [defining “impending proceeding”]).

We strongly believe that racial justice should not be controversial. But, in this instance, the controversy surrounds not just the broad principle of racial justice but many fact-specific controversies concerning the impact of race on the criminal justice system, police tactics in interactions with African-Americans and minority communities, the legal doctrine of qualified immunity, and the need for law enforcement accountability. These and other such issues are already a part of many pending disputes in the Unified Court System. Similar issues, involving competing legal principles and disputed facts, will surely come before New York’s judges at every

level of the judiciary. In the face of these controversies, judges must inspire confidence on all sides that they can be just and fair to all litigants in all proceedings. Participation in a high-profile silent "walk for justice," organized around an intensely emotional appeal concerning a man whose death in police custody has roiled the nation in ongoing protests, could "create an appearance of particular sympathy toward one side in court" and necessarily cast doubt on the judge's ability to be impartial (Opinion 04-91; *see also* Opinions 17-108 [prayer event to honor child abuse victims and survivors]; 10-59 [candlelight vigil for those affected by domestic violence]).

Thus, we conclude judges should not participate in this walk.

## Hon. Van H. White

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**From:** Laura L. Smith  
**Sent:** Thursday, October 20, 2022 11:33 AM  
**To:** Hon. Jaclene Agazarian; Hon. Tamika A. Coverdale; Hon. Samuel Davis; Dale Fong-Frederick; Hon. Sara Litman; Hon. Marie F. McCormack; Hon. Michael Montesano; Hon. Joseph Nocella; Hon. Cheryl Roberts; Michael E. Ryan; Hon. Norman A. Sammut; Hon. Van H. White; Hon. Gary Wilson  
**Cc:** Hon. Lillian Wan; Hon. Margaret T. Walsh  
**Subject:** Judicial Ethics Training & Materials  
**Attachments:** COVER MEMO - NEWLY APPOINTED STATE-PAID JUDGES 2022.pdf; How To Use Our Website-2022.pdf; 2022 New Judges Slideshow.pdf

Dear JJ. Agazarian, Coverdale, Davis, Fong-Frederick, Litman, McCormack, Montesano, Nocella, Roberts, Ryan, Sammut, White, and Wilson,

We understand you are new judges first appointed to state-paid judicial office in July 2022 or later.

In case it may be helpful, we would like to give you an opportunity to watch a recorded video of our Introduction to Judicial Ethics program. Please note that the recording was made in mid-2020; our cover memo highlights key updates since then.

Here is the link: [Introduction to Judicial Ethics](#)

We are providing these resources informally, for you to review as needed in your own discretion. However, our hope is that this video and the attached materials will help you avoid even inadvertent ethical missteps.

Please do not hesitate to reach out to any of the Committee's members or staff for guidance on ethics questions that might arise during your tenure.

Laura L. Smith, Esq.  
Chief Counsel  
New York State Advisory Committee on Judicial Ethics  
25 Beaver Street, 8th floor  
New York, NY 10004  
Toll Free: 1-866-795-8343

Office Telephone: [REDACTED]

Website: <https://ww2.nycourts.gov/ip/acje>

Please be CAREFUL when clicking links or opening attachments.



**Hon. Van H. White**

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**From:** Advisory Committee on Judicial Ethics  
**Sent:** Thursday, October 20, 2022 10:01 AM  
**To:** Hon. Van H. White  
**Subject:** RE: Request for an advisory opinion on whether it is ethically permissible for a judge to attend an anti-violence event.

Dear Judge White,

This email confirms receipt of your inquiry #22-160, which will be heard and on the agenda at the **Committee's October 27, 2022** meeting. You may call us afterward at 866-795-8343 to find out what the Committee decided.

Sincerely,

Advisory Committee on Judicial Ethics /FL

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**From:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Sent:** Tuesday, October 18, 2022 2:42 PM  
**To:** Advisory Committee on Judicial Ethics <part100@nycourts.gov>  
**Cc:** Gina Patterson [REDACTED]@nycourts.gov>  
**Subject:** Request for an advisory opinion on whether it is ethically permissible for a judge to attend an anti-violence event.

Good afternoon. My name is Van Henri White. I was recently appointed to Rochester City Court. I am also a candidate for a ten year term on City Court. That election is scheduled for November 8, 2022. I am seeking a written advisory opinion with respect to whether a sitting judge may join citizens who decide to hold hands in public show of support for those who wish the violence to end in our community.

A group of those citizens, concerned about the escalating violence in Rochester, recently asked me to join them in the creation of a "silent human chain" against violence. Basically the "human chain" consisted of citizens standing (and holding hands) on the side walk of one of our City's major thoroughfares which runs through the heart of one of the most violent neighborhoods in our City.

The social media post announcing the event simply stated "enough is enough! The community is tired. Join us in an emergency. 'No Mas 'human chain' against violence in the community."

At the event the only signs that organizers passed out and some participants carried (which I did not) were signs which said “No Mas” to violence. There were no political signs or speeches calling for any sort of criminal justice reform or endorsing any candidates. Everyone was basically just saying “Stop the violence.”

The location of the peaceful antiviolence gathering was in front of a Latin public food market (La Marketa) and a prominent Catholic Church. LaMarketa was created for such public gatherings. However, just days before a three year old child was shot about an eighth of a mile (about one and a half blocks) from the gathering. Sadly there are not too many blocks/streets within that community where there has not been a shooting or homicide. Indeed, that was the point of the gathering.

However, before agreeing to their request, I thought it was important to review what Advisory Opinions I could find on the subject. One of those opinions (Opinion 17-38) had been shared with me previously by the staff of the NYSACJE when I inquired whether there was any prohibition against judges participating in marches. As you are probably aware, Opinion 17-38 states that participation in marches is permissible so long as: (a) the march is not co-sponsored by or affiliated with any political organization; (b) the march does not support or oppose any political party or candidate for election; (c) the judges participation will not involve the judge in impermissible political activity; (d) and the judges participation will not insert him or her unnecessarily into public controversy.

After reviewing Opinion 17-38, the only thing that was unclear to me was... “would my participation in an anti-violence march insert me ‘unnecessarily into a public controversy’”? In other words, is a judge’s participation in an activity which discourages or even condemns violence tantamount to him/her “unnecessarily entering into a public controversy”? To answer that question, I, once again, turned to the searchable advisory opinions by NYSACJE.

Two opinions seemed to address this issue directly - Opinion 15-113 and Opinion 18-110. In Opinion 15-113, the NYSACJE opined that it was ethically appropriate for a judge to address an audience of persons (including “key community players”, social service providers, law enforcement, etc.) who had gathered for the purpose of discouraging (those deemed most at risk of violence) from engaging in gun violence.

Significantly, in Opinion 15-113, NYSACJE stated that the judge’s proposed statement which would “*encourage the participants to continue to lead law-abiding lives, and to take advantage of social service resources being made available to them...*” was permissible under the applicable ethical rules. Emphasis added.

NYSACJE Opinion 18-110 also seemed to be instructive on this issue as well. In that opinion, NYSACJE stated that a City Court judge’s presence at a Mayor’s anti-violence event for youth was permissible conduct. While this particular judge, in Opinion 18-110, did not have a speaking role (cf Opinion 15-113 wherein the judge’s proposed unequivocal anti-violence remarks were deemed permissible), NYSACJE did conclude that “*the community benefits from having judges, take an active part in community affairs, whenever possible, including in community efforts to prevent juvenile delinquency, and reduce violence.*” Emphasis added.

Taken together, I read Opinions 15-113, 18-110, and 17-38 to state that judges may participate in anti-violence events and that judges can even speak at those anti-violence events. Accordingly, I accepted the invitation by community residents and leader to join them in their human chain against violence and public demonstration of peace.

I concede, however, that there might be different interpretations of the ethical rules and advisory opinions which seek to uphold and preserve the impartiality of the judiciary. I am hopeful that your body can give me some guidance on how I should proceed when I get similar requests. Unfortunately, because there will be more violence in our community, I fully anticipate that I will get similar requests.

I would like to be able to join citizens at these peace/anti-violence gatherings because I believe that “the community benefits from having judges take an active part in community affairs” (Opinions 13-13 and 15-113) - “including community efforts to prevent juvenile delinquency and reduce violence” (Opinions 18-110 and 15-13, and 99-77).

However, because I also believe that it is important that judges give deference to the ethical rules which have been developed “to promote public confidence in the integrity and impartiality of the judiciary”, I am looking forward to your clarifying guidance on this very important issue. Thank you, in advance, for your thoughtful consideration of this very important question. Thank you.

Respectfully

Van Henri White

Participants were asked to hold hands on the sidewalk. The organizers were very clear that it was to be a “silent” human chain. In other words, while you could talk to the people standing next to you, there were to be no calling out to vehicles or pedestrian passersby.

At the beginning of the event... just a few people spoke. These speakers were gather in front of La Marketa – a public market created for public gatherings. The few speakers that did speak either called on “people” to stop the violence. While one speaker did call form more community resources, no one from law enforcement spoke. I was not asked nor did I volunteer to speak.

Nor did I.

I have been invited back to participate and I would like to go and support their message of non-violence. Accordingly, I would appreciate your sending me other opinions which will ensure that I have a comprehensive understanding of any ethical limitations in this area. As always, thank you.

Please be CAREFUL when clicking links or opening attachments.

**Hon. Van H. White**

---

**From:** Glenn G. Galbreath <[REDACTED]>  
**Sent:** Monday, October 24, 2022 11:30 AM  
**To:** Hon. Van H. White  
**Subject:** RE: Advisory opinion

Great  
Ggg

Glenn G. Galbreath  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

-----Original Message-----

**From:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Sent:** Monday, October 24, 2022 11:22 AM  
**To:** Glenn G. Galbreath [REDACTED]  
**Subject:** Re: Advisory opinion

I'm sorry I just got out of court but will send a follow up email within the next hour.

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**From:** Glenn G. Galbreath [REDACTED]  
**Sent:** Monday, October 24, 2022 10:37:40 AM  
**To:** Hon. Van H. White <[REDACTED]@nycourts.gov>  
**Subject:** Advisory opinion

Judge White,

I thought I would send this draft version of the facts you anticipate for the upcoming demonstration and I wanted to be sure that it is accurate, so please comment..

As a result of an increase in violence generally in the community and the recent fatal shooting of a young child, the inquiring judge, in a non-leadership and non-speaker role, participated in a legal, public, apolitical, non-partisan, non-controversial demonstration where the participants held hands together creating a "human chain" as they stood on a side walk in support of the end of violence in their community. The Advisory Committee on Judicial Ethics may not comment on past conduct of judges, and the inquiring judge is not asking for that, but is asking whether the judge may participate in future demonstration(s) that arise under the same circumstances as existed with the earlier demonstration. Thus, the judge is asking if the judge may participate in a future demonstration that is organized by a local minority community group to show support for the opposition to the general increase in gun violence and the recent death of a very young child by gun violence. The demonstration will be held in a legal and public neighborhood gathering place. The participants would stand next to each other holding hands and creating a "human chain" in support of the end to gun violence in the community. While some political leaders might attend, there would be few speakers and the focus would be limited to ending violence. Nothing controversial, political or partisan would be done or communicated that might imply a lack of judicial impartiality because of the judge's attendance. While there may be some media present and it is possible the judge might be photographed or identified by others, the judge would not facilitate it, would not speak at the demonstration or be connected with advertising the demonstration.

Also, you were going to send me information about the organization organizing the demonstration.

Have you been formally invited to the demonstration? Details?

Copies of the advertising for the demonstration?

If you have additional information about media attention or political reaction that would be helpful.

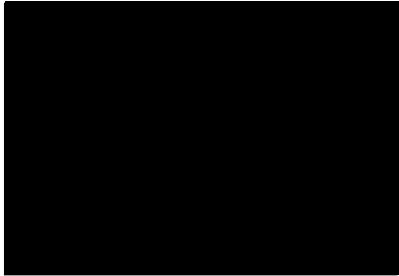
Anything else that you can think of about this, please send to me.

I need to get a draft out to the committee and because the assignment came in late, I was already "past due" on my draft when it was assigned to me, so please send me anything you have quickly.

Thanks

Glenn

Glenn G. Galbreath



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**Hon. Van H. White**

---

**From:** Laura L. Smith  
**Sent:** Friday, December 2, 2022 10:54 AM  
**To:** Hon. Van H. White  
**Subject:** 22-160  
**Attachments:** 22-160.pdf

Dear Judge White,

As requested, here is Opinion 22-160. A hard copy will follow in due course by regular mail.

Laura L. Smith, Esq.  
Chief Counsel  
New York State Advisory Committee on Judicial Ethics  
25 Beaver Street, 8th floor  
New York, NY 10004  
Toll Free: 1 -866-795-8343  
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Opinion 22-160

October 27, 2022

Digest: On the facts presented, a judge may not participate in a public demonstration against gun violence.

Rules: 22 NYCRR 100.2; 100.2(A); 100.3(A); 100.3(B)(8); 100.4(A)(1)-(3); 100.5(A)(1); Opinions 21-152; 20-92/20-93; 18-110; 17-108; 17-38; 15-113; 15-26/15-44; 13-34; 10-59; 08-191; 04-91.

Opinion:

A judge asks if it is ethically permissible to participate in a silent demonstration organized by a local not-for-profit civic organization. As proposed, community members will gather and hold hands to symbolically show their opposition to gun violence, in reaction to both the recent death of a local child and an overall increase in local incidents of gun violence. Some participants will hold signs with slogans such as “Stop the Violence” or “No More,” but the judge will not hold any signs. The organizers will instruct participants to remain silent and engage only in law-abiding and peaceful behavior. The judge will not help organize or promote the demonstration, and will not take any substantial or prominent role at the event. We note the judge presides in a court that hears criminal cases.

The judicial duties of a judge take precedence over all the judge’s other activities (*see* 22 NYCRR 100.3[A]). A judge must always avoid even the appearance of impropriety (22 NYCRR 100.2) and act in a manner that promotes public confidence in the judiciary’s integrity and impartiality (*see* 22 NYCRR 100.2[A]). In general, a judge may engage in extra-judicial activities that do not (1) cast reasonable doubt about the judge’s capacity to act impartially; (2) detract from the dignity of judicial office; or (3) interfere with the proper performance of judicial duties and are not incompatible with judicial office (*see* 22 NYCRR 100.4[A][1]-[3]). A judge must not publicly comment on a pending or impending matter in any court within the United States or its territories (*see* 22 NYCRR 100.3[B][8]) and must not “directly or indirectly engage in any political activity” unless an exception applies (22 NYCRR 100.5[A][1]).

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This inquiry once again requires us to “walk the tightrope of the need for judicial independence amid controversial public events” (Opinion 20-92/20-93). We here consider three lines of prior opinions.

### 1. Events Seeking to Discourage Violence Among Targeted Populations

We have addressed a judge’s participation as a speaker or silent supporter at certain anti-violence events seeking to dissuade a specific audience from engaging in, or continuing to engage in, violence. Relevant factors have included the identity of the audience, the balance of speakers, and whether the event is likely to be seen as a law enforcement program.

In Opinion 13-34, we said a judge may not lecture at an anti-violence program for young people detained at a local correctional facility who are “either awaiting disposition of an unresolved case or are awaiting sentence” and could appear before the judge as criminal defendants. We considered the perspective of a person who hears the judge’s anti-violence presentation while detained at a correctional facility, and “is then brought before the same judge” for sentencing or other judicial determinations and concluded the judge’s impartiality might reasonably be questioned (*id.*). We also perceived a risk of impermissible *ex parte* communications, even if unintentional (*see id.*).

By contrast, in Opinion 15-113, we advised that a judge may serve as the introductory speaker at a Criminal Justice Services Division program which sought to discourage gun violence among individuals the Division deemed “most at risk.” The invited audience consisted of probationers and parolees with no pending charges, and other speakers included both law enforcement personnel and Legal Aid attorneys. We emphasized the overall balance of speakers, the preventative purpose of the program, and the fact that the audience members were not currently detained or incarcerated (Opinion 15-113). Although not highlighted in the opinion, we also note the event was to take place on neutral ground, i.e., a courthouse, rather than at correctional or law enforcement facilities as in Opinion 13-34.

In Opinion 18-110, we advised that a city court judge may attend the mayor’s anti-violence outreach event for “street group members and their associates” as an audience member with no speaking role. Since the event was preventative in nature and the

speakers would “include service providers, community members, and law enforcement representatives who wish to dissuade attendees from resorting to violence,” we concluded the program could not reasonably be seen as an impermissible law enforcement event and was unlikely to cast doubt on the judge’s ability to be impartial (*id.*).

We note that each of these anti-violence programs was organized with a specific audience or demographic in mind, and featured speakers on topics unlikely to involve any discussion of pending or impending cases.

## 2. Advocacy Events for Domestic Violence or Abuse Victims

Extra-judicial activities that seek to further “society’s goal of extricating domestic violence victims from abusive relationships” (Opinion 08-191) have different ethical implications based on their purpose and participants, among other factors (see Opinion 15-26/15-44 [identifying four different categories]). Indeed, it “is critical to maintain both the appearance and the reality of impartiality” in matters involving charges of domestic violence or abuse (Opinion 17-108).

Consequently, we have said a judge may not attend “advocacy events for crime victims, particularly where the occasion is highly emotional or likely to attract substantial public attention and interest” (Opinion 21-152). As we explained in Opinion 15-26/15-44 (citations omitted):

[A] judge should not attend a candlelight vigil held for those affected by domestic violence and should not attend a tree planting on behalf of certain crime victims in the judge’s county. The Committee was concerned that a judge’s mere presence at either of those events “would create an appearance of particular sympathy toward one side in court and therefore an appearance of partiality.”

In such instances, we found the event itself was “so extraordinarily one-sided in nature” that the judge’s mere attendance “would necessarily cast doubt on [the judge’s] ability to be impartial” (*id.* [citations omitted]).

Likewise, in Opinion 17-108, we said a judge may not attend a “Call to Service and Compassion Workshop” honoring child abuse victims and survivors and their families, hosted by a child advocacy

center, and lead a prayer at the event. We analogized it to the candlelight vigil and tree planting events for domestic violence victims, with similar emotional resonance. Thus, we again concluded that the judge's presence and participation would "create an appearance of particular sympathy toward one side in court" and necessarily cast doubt on the judge's ability to be impartial.

### 3. Protests, Rallies, Marches, and Demonstrations

In this third line of opinions, our determinations are necessarily fact-specific and we have declined to state *categorically* whether judges may "participate, without speaking, in a local rally, march or demonstration sponsored by grassroots organizations" (Opinion 17-38). However, we opined that such events "would generally be prohibited political activity, subject to specific facts fitting within a narrow exception to the blanket prohibition" (*id.*). For example, we advised that a judge may not participate in a grassroots organization's "rally ... in opposition to the so-called Trump Muslim Ban" because it clearly involves great public controversy, which is also the subject of litigation" (*id.*).

In that same opinion, we also addressed whether judges may participate in a March for Science. Our starting point was that the march "purports to be a non-partisan gathering advocating for a recognition of the importance of scientific endeavors and rational thought in society" (Opinion 17-38). Notwithstanding this apparently neutral purpose, we noted "conflicting reports about the full agenda" of the march (*id.*), and we set forth a multi-factor test for a judge to assess the propriety of participating as facts develop. The first two elements are relatively straightforward: the judge must not participate in the march unless the judge determines it "is not co-sponsored by or affiliated with any political organization" and "does not support or oppose any political party or candidate for election" (*id.*). The third element similarly bars the judge from joining the march unless the judge determines that participating "will not involve the judge in impermissible political activity" (*id.*). The fourth element is the most expansive. Even when a judge determines no "political party or candidate" is involved, a judge "must be careful not to be 'associated with matters that are the subject of litigation or public controversy'" and, further, ensure that the judge's own participation "will not insert him/her unnecessarily into public controversy" (*id.*).

For these reasons, we subsequently advised judges not to participate in an informal silent and peaceful "walk for justice" organized by a bar association in response to the death of George

Floyd, an African-American man who died in police custody (see Opinion 20-92/20-93). We noted that the organizers intended the walk to be not only “a time for quiet reflection or thought” but also, simultaneously, “a time for action,” as the walk will “visually demonstrate and let it be known that the legal community ... is committed to remembering George Floyd [and] acknowledging the injustice of his death.” On those facts, we concluded:

Participation in a high-profile silent “walk for justice,” organized around an intensely emotional appeal concerning a man whose death in police custody has roiled the nation in ongoing protests, could “create an appearance of particular sympathy toward one side in court” and necessarily cast doubt on the judge’s ability to be impartial.

\* \* \*

While the judge’s question here appears to be a matter of first impression, we draw some principles from our precedent to give judges guidance going forward.

First, unlike the anti-violence events in Opinions 13-34, 15-113, and 18-110, this is not a structured event intended to persuade a targeted audience not to engage in violence in the future. Unlike a moderated forum or a planned speaker addressing an intended “at risk” audience, this is a protest or demonstration aimed at the public at large. It is more akin to a candlelight vigil or a silent walk for justice, in that it aims to direct the public’s attention to a current social problem, in an effort to end complacency with the status quo. In essence, it is a call to action - even though it does not specify what actions should be taken (*cf.* Opinion 20-92/20-93 [“kneeling for a moment of silence in front of the U.S. Constitution is itself a powerful but controversial symbol”]).

While we understand the advertising for this demonstration does not invoke the name of specific gun victim(s), we find it is more similar to the Walk for Justice discussed in Opinion 20-92/20-93 than the March for Science discussed in Opinion 17-38 because it focuses on issues that are likely to come before the courts. It is surely fair to say that, if a March for Science is “advocating for a recognition of the importance of scientific endeavors and rational thought in society” (Opinion 17-38), those objectives do not have any clear intersection with matters that are likely to result in litigation. By contrast, any given incident of gun violence -

especially one involving young and/or multiple victims - is likely to result in litigation. Most predictably, there may be criminal charges against the individual who allegedly pulled the trigger and any purported accomplices. In some instances, civil claims and even criminal charges may ensue against a wide spectrum of others who allegedly facilitated or failed to stop the shooter.<sup>1</sup>

Moreover, questions about how to end gun violence in America are intensely partisan and political. In New York, recent legislative amendments and constitutional challenges have raised the temperature of this debate. There are many fact-specific controversies about the root causes of gun violence, the proper function, interpretation and application of the Second Amendment, and what restrictions should apply to the possession and use of firearms.

Participation in a public anti-gun violence demonstration, organized around an emotional appeal concerning not only a statistical increase in gun violence but also at least one recent high-profile incident involving the death of a local child, could “create an appearance of particular sympathy toward one side in court” and necessarily cast doubt on the judge’s ability to be impartial (Opinions 20-92/20-93; 04-91; 17-108; 10-59). This is also important where, as here, the judge may be called upon to preside in *criminal* matters involving gun violence, as judges must “carefully protect rights of an accused and hold offenders accountable only after a legally sound plea or conviction,” even when it may be natural to “feel strong sympathy” for victims (Opinion 15-26/15-44).

Accordingly, we conclude the inquiring judge should not participate in the described demonstration against gun violence.

---

<sup>1</sup> The breadth of litigation theories that have been asserted in such matters may also reflect a partisan divide. Gun-control advocates may hope to hold accountable the gun’s manufacturer, seller, or owner. Conversely, those who prioritize a constitutional right to gun ownership may focus more on alleged deficiencies in mental health services or other social interventions.

## Opinion 17-38

March 16, 2017

**Digest:** (1) A judge who wishes to participate in a high-profile, apparently non-partisan march, whose purpose is to recognize the importance of scientific endeavors and rational thought in society, must monitor the march's agenda and publicly reported affiliations and sponsorships in the period leading up to the event. The judge must not participate in the march unless the judge determines (a) the march is not co-sponsored by or affiliated with any political organization; (b) the march does not support or oppose any political party or candidate for election; (c) the judge's participation will not involve the judge in impermissible political activity; and (d) the judge's participation will not insert him/her unnecessarily into public controversy.

(2) A judge may not (a) call a Senate Committee to express an opinion on a pending federal executive branch appointment; (b) sign a MoveOn.org petition concerning a federal executive branch appointment, whether as a private citizen or otherwise; or (c) participate in a local political rally, march or demonstration sponsored by grassroots organizations, even if he/she would refrain from any speaking role.

**Rules:** 22 NYCRR 100.0(M); 100.3(A); 100.4(A)(1)-(3); 100.4(C)(1); 100.5(A)(1); 100.5(A)(1)(g); Opinions 16-169; 16-85; 15-210; 14-117; 13-189/14-02; 13-17; 06-93; 04-24; 02-116; 98-101; 97-36; 92-21.

### Opinion:

Several full-time judges ask if they may join in activities bearing an arguably political or quasi-political component. Specifically, they wish to join in an upcoming March for Science, weigh in on certain federal executive branch appointments, and participate in certain unspecified local political rallies, marches, or demonstrations organized by grassroots organizations.

A judge's judicial duties take precedence over all his/her other activities (*see* 22 NYCRR 100.3[A]). Thus, all extra-judicial activities must be compatible with judicial office and must not (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) detract from the dignity of judicial office; or (3) interfere with the performance of judicial duties (*see* 22 NYCRR 100.4[A][1]-[3]). A full-time judge must not appear at a public hearing before an executive or legislative body or official except on matters relating to the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests (*see* 22 NYCRR 100.4[C][1]). As for political activities, Section 100.5(A)(1) provides:

Neither a sitting judge nor a candidate for public election to judicial office shall directly or indirectly engage in any political activity except (i) as otherwise authorized by this section or by law, (ii) to vote and to identify himself or herself as a member of a political party, and (iii) on behalf of measures to improve the law, the legal system or the administration of justice. Prohibited political activity shall include:

(a) acting as a leader or holding an office in a political organization; (b) ... being a member of a political organization other than enrollment and membership in a political party; (c) engaging in any partisan political activity, provided that nothing in this section shall prohibit a judge or candidate from participating in his or her own campaign for elective judicial office ...; (d) participating in any political campaign for

any office or permitting his or her name to be used in connection with any activity of a political organization; (e) publicly endorsing or publicly opposing (other than by running against) another candidate for public office; (f) making speeches on behalf of a political organization or another candidate; (g) attending political gatherings; (h) soliciting funds for, paying an assessment to, or making a contribution to a political organization or candidate; or (i) purchasing tickets for politically sponsored dinners or other functions, including any such function for a non-political purpose.

Thus, Section 100.5 starts with an across-the-board prohibition of *any* direct or indirect political activity by judges before delineating three discrete exceptions to the blanket prohibition. Accordingly, the ensuing recitation of examples of specific prohibited political activities can by no means be seen as all-encompassing or comprehensive, lest the broad reach of the prohibition be eviscerated.

Nevertheless, this Committee recognizes that a blanket prohibition of all political activity is a heavy burden to impose on judges, many of whom hold elective offices. As a result, our prior opinions have advised that judges may engage in certain public advocacy activities where the judge has a clear and direct personal interest at stake (*see* 22 NYCRR 100.4[C][1]). Thus, a judge may circulate a petition to force a referendum on a proposed sale of a nearby parcel of land owned by the local school district (*see* Opinion 16-169); speak at a public hearing regarding power lines to be located near judge's house (*see* Opinion 06-93); and speak about the proposed re-zoning of property owned by the judge (*see* Opinions 02-116; 92-21). In addition, a judge may write to a governmental authority about a proposed traffic light near the judge's home (*see* Opinion 97-36) or to the State Liquor Authority regarding the renewal of a liquor license for an establishment near the judge's home (*see* Opinion 04-24).

In each of the above cases, the Committee advised judges they may engage in political activity related to the judges' personal interests. However, the Committee has been unwavering in insisting upon the narrow-tailoring of these exceptions in order to preserve the preeminent principle that the breadth of the prohibition against political activity must remain robust. In Opinion 13-189/14-02, for example, this Committee found that "a judge's association may seek repeal or amendment of specific SAFE Act provisions which affect them as sitting judges, as such provisions clearly relate to the administration of justice." Nevertheless, the same Opinion found that "a judges' association may not seek the repeal of the SAFE Act in its entirety, as the law, when considered as a whole appears to relate primarily to highly controversial gun control issues which do not clearly and directly implicate the law, the legal system or the administration of justice within the meaning of the Committee's prior opinions" (*id.*).

Given the Rule's language and the Committee's prior opinions, the starting point for an inquiry about political activity is one of prohibition, with discrete and narrow exceptions drawn only after a careful analysis of all of the factors informing the decision.

### 1. March For Science

The judges first ask if they may attend the "March For Science" scheduled for April 22, 2017 in several cities. The March is, unquestionably, a high-profile event, and judges should very carefully consider the risks of publicly associating themselves with it in light of ongoing media coverage and possible changes in its purpose, activities, sponsorship, and/or affiliations.

According to the inquiry, the stated mission of the March For Science is to refrain from silence as persons who value science in their lives. On this basis, the March For Science purports to be a

non-partisan gathering advocating for a recognition of the importance of scientific endeavors and rational thought in society. However, a review of media reports regarding the March for Science reveals that the March has only recently been proposed and organized and, as such, there are conflicting reports about the full agenda of the March as it develops. Therefore, judges must be careful to monitor the agenda and positions taken by organizers of the March. Judges must be careful not to be “associated with matters that are the subject of litigation or public controversy” (Opinion 98-101). Judges must also avoid involvement with “political organizations,” which this Committee has defined as any “group whose principal purpose is to further the election or appointment of candidates to political office” (22 NYCRR 100.0[M]; see Opinion 15-210).

Should the March For Science or its organizers become involved in or suggest they will become involved in litigation related to the March’s agenda, advocate for or against the election or appointment of specific individuals to public office, or become the subject of public controversy, then judges should not attend the March For Science because it will be more of a platform for political protest against the perceived preference among some individuals and groups which ignore or discredit the scientific consensus in favor of what others perceive to be “junk” science, disconnected from critical thinking and fact-based solutions. If that be the case, the March may be seen as related primarily to highly controversial environmental issues such as global warming and resource depletion, matters that do not clearly and directly implicate the law, the legal system or the administration of justice in a manner consistent with this Committee’s prior Opinions. The Committee also trusts that a judge will exercise discretion and leave the area on the day of the March if the judge finds that political signs unexpectedly dominate the occasion.

In sum, a judge who wishes to participate in a high-profile, apparently non-partisan march intended to recognize the importance of scientific endeavors and rational thought in society must monitor the march’s agenda and publicly reported affiliations and sponsorships in the period leading up to the event. The judge must not participate in the march unless the judge determines (a) the march is not co-sponsored by or affiliated with any political organization; (b) the march does not support or oppose any political party or candidate for election; (c) the judge’s participation will not involve the judge in impermissible political activity; and (d) the judge’s participation will not insert him/her unnecessarily into public controversy.

## 2. Federal Executive Branch Appointments

The judges next ask if they may call a Senate Committee to express, as private citizens, an opinion on a federal executive branch appointment. They give, as an example, the appointment of Stephen K. Bannon to the National Security Council. This executive branch appointment does not clearly pertain to the law, the legal system or the administration of justice, and the Committee perceives no direct, personal interest these judges could possibly have in this appointment. The judges’ proposed intervention in the appointment is thus impermissible under the rules and prior opinions (see 22 NYCRR 100.4[C][1]; 100.5[A][1]).

The inquiring judges also ask if they may sign a petition electronically as a private citizen. As an example, the judges wish to sign a petition prepared by MoveOn.org to oppose the President’s decision to seat Stephen K. Bannon on the National Security Council. There may potentially be instances where a judge would be permitted to sign a petition either electronically or in person. This would be most likely, for example, if the petition directly related to a specific personal interest of the judge - *i.e.*, in circumstances where a judge would be permitted to appear before a governmental body or write a letter to the editor or otherwise publicly express his/her views on a matter involving the judge’s personal interests (see *e.g.* Opinions 16-169; 06-93; 04-24; 02-116; 97-36; 92-21). Even in such cases, however, a judge is not free to sign *all* conceivable petitions relating



to his/her personal interests or relating to improvement of the law, the legal system or the administration of justice. For example, a judge may not sign a legislator's petition regarding a proposed change in the law, where the petition is framed as a partisan political initiative designed to garner statements of public support for the individual legislator (see Opinion 13-17). In the Committee's view, a judge also should not sign a petition sponsored by MoveOn.org, which the Committee has already identified as a "political organization" under the Rules (see Opinion 14-117; 22 NYCRR 100.0[M]).

Thus, regarding the specific example given, these judges may not sign a MoveOn.org petition concerning a federal executive branch appointment, whether as private citizens or otherwise.

### 3. Grassroots Rallies, Marches, and Demonstrations

Finally, the judges ask if they may participate, without speaking, in a local rally, march or demonstration sponsored by grassroots organizations. As an example, the judges list a rally recently held in opposition to the so-called Trump Muslim Ban. But, 22 NYCRR 100.5(A)(1)(g) specifically prohibits judges from attending political gatherings. This is another general question that, like signing an electronic petition, would generally be prohibited political activity, subject to specific facts fitting within a narrow exception to the blanket prohibition. As to the specific example these judges provided, participation in such a gathering is impermissible. Clearly, it involves great public controversy, which is also the subject of litigation.

The Committee would also remind judges that "[c]oncealing one's name and judicial status does not ordinarily render prohibited [political] conduct permissible" (Opinion 16-85).

The prohibition on political activity is a heavy burden. However, it is one individuals must accept if they wish to take on the sensitive and critically important role of judges in the Unified Court System, because it is absolutely necessary to maintain an impartial judiciary both in practice and perception.

**EXHIBIT B**

**EXHIBIT B**

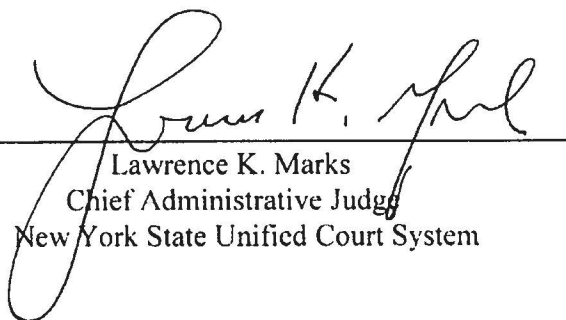
***2021 Judicial Campaign Ethics  
Training Program***

**CERTIFICATE OF COMPLETION  
ISSUED AUGUST 2021**

**Van Henri White, Esq.**

**Candidate for County Court  
Monroe County  
Seventh Judicial District**

**November 2021**

  
\_\_\_\_\_  
Lawrence K. Marks  
Chief Administrative Judge  
New York State Unified Court System

\_\_\_\_\_  
August 15, 2021  
Date



# NEW YORK CLE CERTIFICATE OF ATTENDANCE

MAY BE USED ONLY FOR PROGRAMS ACCREDITED BY THE NYS CLE BOARD. ALL INFORMATION MUST BE ENTERED BY THE CLE PROVIDER.

This certificate is issued under §1500.4(b)(12) of the NYS CLE Program Rules and under §10(B) of the NYS CLE Board Regulations and Guidelines. By issuing this certificate, the CLE provider verifies that the attorney named below completed this program. **Attorneys must retain their certificates of attendance for at least four (4) years from the date of the program.**

## A. Attorney and Program Information

Hon. Van White

▲ Name of Attorney

Seventh Judicial District Training  
Fall Fest - 10th Annual Fall Festival & Training

▲ Title of Program

November 2, 2022

▲ Date(s) of Attendance (For self-study programs, indicate date attorney completed program.)

The Woodcliff Hotel

▲ Location of Program (City, State)

Location Not Applicable (Check only for self-study programs.)

## B. Format of Program

(Check only the format completed by the attorney to whom this certificate is issued.)

- 1. Traditional Live Classroom Format
- 2. Fully Interactive Videoconference

Live Simultaneous Transmission

(webconference, teleconference, webcast, videoconference, satellite broadcast, etc.)

- 3. Questions Allowed During Program (Synchronous Interactivity)
- 4. Questions Not Allowed During Program

- 5. On-Demand/Recorded (Audio/Video)
- 6. Other (Describe)

Newly admitted attorney format restrictions (except as provided in §2(A) and §2(F) of the Regulations):

- Formats 1 & 2 - acceptable for credit in any category
- Format 3 - unacceptable for Skills credit
- Formats 4 & 5 - unacceptable for Skills or Ethics and Professionalism credit

## C. Attorney's Method of Participation (Check only one)

- Group Setting, or
- Individual/Self-Study (including an attorney individually dialing in or logging in to a webconference, teleconference or webcast, or individually viewing/listening to a recorded program)

## D. Level of Difficulty (Check only one)

The **content** of the course is appropriate for:

- BOTH newly admitted and experienced attorneys (transitional/nontransitional), or
- ONLY experienced attorneys (nontransitional), or
- ONLY newly admitted attorneys (transitional)

## E. Credit for Attendance

Award credit in accordance with §8(A)(4)(a) of the Regulations. Enter number of credits earned in each category:

For Newly Admitted and/or Experienced Attorneys:

1.0 Ethics and Professionalism  
Skills

Law Practice Management

1.0 Areas of Professional Practice

For Experienced Attorneys Only:

2.0 Diversity, Inclusion and Elimination of Bias

In accordance with §10(B)(2) of the Regulations, for multiple breakout sessions, provider should attach a sheet indicating the sessions attended by the attorney.

## F. Credit for Faculty Participation

Award credit in accordance with §3(D) of the Regulations. Select participation type and enter number of credits earned in each category:

For Experienced Attorneys Only:

- Speaker
- Panel Member
- Moderator
- Law Competition Faculty

Ethics and Professionalism

Skills

Law Practice Management

Areas of Professional Practice

Diversity, Inclusion and Elimination of Bias

## G. CLE Provider Information

New York State Judicial Institute

▲ Provider Organization

84 North Broadway

▲ Address

(914) 824-5800

▲ Telephone

Honorable Kathie E. Davidson, Dean

▲ Provider Agent Name

*Kathie E. Davidson*

▲ Provider Agent Signature

The CLE Provider: (Check only one)

- has been certified as an Accredited Provider by the NYS CLE Board, or
- has had this individual course accredited by the NYS CLE Board as:

▲ Course Number

This certificate may NOT be used to award CLE credit to New York attorneys under New York's Approved Jurisdiction policy.



# NEW JUDGES

## SEMINAR \* 2023

*January 4, 2023 - January 13, 2023*

# Certificate of Completion

AWARDED TO

*Hon. Van H. White*

*for successfully completing the 2023 New Judges Seminar*

*Kathie E. Davidson*

Hon. Kathie E. Davidson  
Dean, New York State Judicial Institute

*January 25, 2023*

Date





# NEW YORK CLE CERTIFICATE OF ATTENDANCE

Issued under NYS CLE Program Rules §1500.4(b)(12) and NYS CLE Board Regulations & Guidelines §10(B)

This certificate may be used only for courses accredited by the NYS CLE Board.

All information must be entered by the CLE provider.

Attorneys must retain their certificates of attendance for at least four (4) years from the date of the program.

## A. Attorney & Program Information

Attorney Name: Hon. Van White

Program Title: 7th JD Fall Fest:  
Judicial Ethics & Discipline: Fall  
2023 Update

Attendance Date(s): October 11, 2023

## B. Credit for Attendance

Enter the number of credits earned in each category.

For Newly Admitted and/or Experienced Attorneys:

2.0 Ethics & Professionalism

       Skills

       Law Practice Management

       Areas of Professional Practice

       Cybersecurity, Privacy & Data Protection-Ethics

       Cybersecurity, Privacy & Data Protection-General

For Experienced Attorneys Only:

       Diversity, Inclusion & Elimination of Bias

## C. Credit for Faculty Participation

Enter the participation type and number of credits.

For Experienced Attorneys Only:

Speaker

Moderator

Panel Member

Law Competition Faculty

       Ethics & Professionalism

       Skills

       Law Practice Management

       Areas of Professional Practice

       Cybersecurity, Privacy & Data Protection-Ethics

       Cybersecurity, Privacy & Data Protection-General

       Diversity, Inclusion & Elimination of Bias

New York State CLE Board

[www.nycourts.gov/attorneys/cle](http://www.nycourts.gov/attorneys/cle) • Revised 01/2023

## D. Format Completed by Attorney

1. Traditional Live Classroom

2. Live Simultaneous Transmission – Questions Allowed During Program (e.g., webconference, teleconference, videoconference)

3. Live Simultaneous Transmission – Questions Not Allowed During Program (e.g., webcast, broadcast)

4. Fully Interactive Videoconference

5. Prerecorded/On-Demand

6. Other (Describe): \_\_\_\_\_

## E. Attorney's Method of Participation

Individual (log-in, dial-in, self-study)

Group (physically seated together)

## F. Course Content is Appropriate for:

BOTH newly admitted & experienced attorneys, or

ONLY experienced attorneys, or

ONLY newly admitted attorneys

## G. Provider Information

Provider Organization: New York State  
Judicial Institute

Address: 84 North Broadway, White Plains NY 10603

Telephone: 914-824-5800

Email: CLE\_NYSJI@nycourts.gov

Provider Agent Name: Hon Kathie E. Davidson, Dean

Provider Agent Signature: *Kathie E. Davidson*

The CLE Provider:

has been certified as an Accredited Provider by the NYS CLE Board, or

has had this individual course accredited by the NYS CLE Board as Course #: \_\_\_\_\_

This certificate may NOT be used to award CLE credit to New York attorneys under New York's Approved Jurisdiction policy.



# NEW YORK CLE CERTIFICATE OF ATTENDANCE

Issued under NYS CLE Program Rules §1500.4(b)(12) and NYS CLE Board Regulations & Guidelines §10(B)

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All information must be entered by the CLE provider.

Attorneys must retain their certificates of attendance for at least four (4) years from the date of the program.

## A. Attorney & Program Information

Attorney Name: Hon. Van White

Program Title: 7th JD Fall Fest:  
Jury Issues from A-Z and this Fall's  
COA Criminal Docket Highlights

Attendance Date(s): October 11, 2023

## B. Credit for Attendance

Enter the number of credits earned in each category.

**For Newly Admitted and/or Experienced Attorneys:**

- Ethics & Professionalism
- Skills
- Law Practice Management
- 1.0 Areas of Professional Practice
  - Cybersecurity, Privacy & Data Protection-Ethics
  - Cybersecurity, Privacy & Data Protection-General

**For Experienced Attorneys Only:**

- Diversity, Inclusion & Elimination of Bias

## C. Credit for Faculty Participation

Enter the participation type and number of credits.

**For Experienced Attorneys Only:**

- Speaker       Moderator
- Panel Member    Law Competition Faculty

- Ethics & Professionalism
- Skills
- Law Practice Management
- Areas of Professional Practice
  - Cybersecurity, Privacy & Data Protection-Ethics
  - Cybersecurity, Privacy & Data Protection-General
  - Diversity, Inclusion & Elimination of Bias

## D. Format Completed by Attorney

- 1. Traditional Live Classroom
- 2. Live Simultaneous Transmission – Questions Allowed During Program (e.g., webconference, teleconference, videoconference)
- 3. Live Simultaneous Transmission – Questions Not Allowed During Program (e.g., webcast, broadcast)
- 4. Fully Interactive Videoconference
- 5. Prerecorded/On-Demand
- 6. Other (Describe): \_\_\_\_\_

## E. Attorney's Method of Participation

- Individual (log-in, dial-in, self-study)
- Group (physically seated together)

## F. Course Content is Appropriate for:

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- ONLY experienced attorneys, or
- ONLY newly admitted attorneys

## G. Provider Information

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This certificate may be used only for courses accredited by the NYS CLE Board.

All information must be entered by the CLE provider.

Attorneys must retain their certificates of attendance for at least four (4) years from the date of the program.

## A. Attorney & Program Information

Attorney Name: Hon. Van White

Program Title: 7th JD Fall Fest:  
Mistakes Were Made: A Compilation  
of Reversals to Learn From

Attendance Date(s): October 11, 2023

## B. Credit for Attendance

Enter the number of credits earned in each category.

For Newly Admitted and/or Experienced Attorneys:

       Ethics & Professionalism

       Skills

       Law Practice Management

1.0 Areas of Professional Practice

       Cybersecurity, Privacy & Data Protection-Ethics

       Cybersecurity, Privacy & Data Protection-General

For Experienced Attorneys Only:

       Diversity, Inclusion & Elimination of Bias

## C. Credit for Faculty Participation

Enter the participation type and number of credits.

For Experienced Attorneys Only:

Speaker

Moderator

Panel Member

Law Competition Faculty

       Ethics & Professionalism

       Skills

       Law Practice Management

       Areas of Professional Practice

       Cybersecurity, Privacy & Data Protection-Ethics

       Cybersecurity, Privacy & Data Protection-General

       Diversity, Inclusion & Elimination of Bias

New York State CLE Board

[www.nycourts.gov/attorneys/cle](http://www.nycourts.gov/attorneys/cle) • Revised 01/2023

## D. Format Completed by Attorney

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4. Fully Interactive Videoconference

5. Prerecorded/On-Demand

6. Other (Describe): \_\_\_\_\_

## E. Attorney's Method of Participation

Individual (log-in, dial-in, self-study)

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All information must be entered by the CLE provider.

Attorneys must retain their certificates of attendance for at least four (4) years from the date of the program.

## A. Attorney & Program Information

Attorney Name: Hon. Van White

Program Title: 7th JD Fall Fest:  
Youth Part & Family Court  
Interplay: The mystery revealed

Attendance Date(s): October 11, 2023

## B. Credit for Attendance

Enter the number of credits earned in each category.

For Newly Admitted and/or Experienced Attorneys:

- Ethics & Professionalism
- Skills
- Law Practice Management
- 1.0 Areas of Professional Practice
  - Cybersecurity, Privacy & Data Protection-Ethics
  - Cybersecurity, Privacy & Data Protection-General

For Experienced Attorneys Only:

- Diversity, Inclusion & Elimination of Bias

## C. Credit for Faculty Participation

Enter the participation type and number of credits.

For Experienced Attorneys Only:

- Speaker       Moderator
- Panel Member    Law Competition Faculty

- Ethics & Professionalism
- Skills
- Law Practice Management
- Areas of Professional Practice
  - Cybersecurity, Privacy & Data Protection-Ethics
  - Cybersecurity, Privacy & Data Protection-General
  - Diversity, Inclusion & Elimination of Bias

## D. Format Completed by Attorney

- 1. Traditional Live Classroom
- 2. Live Simultaneous Transmission – Questions Allowed During Program (e.g., webconference, teleconference, videoconference)
- 3. Live Simultaneous Transmission – Questions Not Allowed During Program (e.g., webcast, broadcast)
- 4. Fully Interactive Videoconference
- 5. Prerecorded/On-Demand
- 6. Other (Describe): \_\_\_\_\_

## E. Attorney's Method of Participation

- Individual (log-in, dial-in, self-study)
- Group (physically seated together)

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Provider Agent Name: Hon Kathie E. Davidson, Dean

Provider Agent Signature: *Kathie E. Davidson*

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**EXHIBIT C**

**EXHIBIT C**



# Healthy Baby Network

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“No Cap” discussion groups are the result of a collaborative effort (among the organizations listed below) who felt that men of color (particularly those engaged in the criminal justice system) needed a place to have open, honest, and reflective conversations about where they are at and where they are going in their lives. Therefore, the goal of these “No Cap” rap sessions is to provide opportunities for men (between the ages of 18-55) to talk about life challenges and what it will take to overcome those challenges.

Men attending these discussion groups will meet twice a month with each session lasting three hours. Session One: “Uncomfortable Conversations About Masculinity”; Session Two: “Keeping Relationships Real and Respectful”; Session Three: “How to Keep a Levelled Head When it Feels Like all Hell is Breaking Loose Around You: A discussion about how to respond to violence in our community.”; Session Four: “Excellence Through Employment, Entrepreneurship, and Education of Self”; Session Five: “Communication: What and how you say something may determine who listens and what happens next.”; Session Six: Goals: “Where are you going, how and when are you going to get there?”

After each session, organizations and agencies will be available to make referrals and provide support in the areas of housing, education, job training, mental health, etc. After the six sessions are completed, participants will be provided with a Certificate of Completion. Finally, where appropriate, case workers will be assigned to support participants in their ongoing efforts to bring positive and productive change in their lives and in the lives of those they love and care for.



## Partners:

Healthy Baby Network    Urban League    Ubuntu Village Works  
Black Agenda Group    Gandhi Institute    Elijah Institute of Family Development  
The Office of Violence Prevention Programs City of Rochester

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To register contact Carl Scott: (585) 867-0289 or email: [carl@healthy-baby.net](mailto:carl@healthy-baby.net)

*Every Parent. Every Baby*

693 East Ave, Suite 200, Rochester, NY 14607 \* Phone: (585) 546 4930 \* Fax: (585) 546 3021  
[www.healthy-baby.net](http://www.healthy-baby.net)



**NO CAP DISCUSSION GROUP REFERRAL FORM.  
PLEASE READ CAREFULLY.**

**\*\*PLEASE PRINT LEGIBLY. TAKE THIS FORM TO YOUR FIRST "NO CAP" DISCUSSION GROUP AND GIVE IT TO A REPRESENTATIVE OF THE HEALTHY BABY NETWORK WHEN YOU SIGN IN.\*\***

NAME OF DEFENDANT: \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

CONTACT NUMBER: ( \_\_\_\_ ) \_\_\_\_\_ - \_\_\_\_\_

CONTACT EMAIL: \_\_\_\_\_

CHARGE(S): \_\_\_\_\_

SENTENCING COURT: \_\_\_\_\_

JUDGE: \_\_\_\_\_

**YOU HAVE AGREED TO ATTEND THE FOLLOWING "NO CAP" DISCUSSION PROGRAM:**

"No Cap" Consists of Six Discussion Sessions. Each No Cap Discussion Session lasts three hours each. All sessions will take place at East High School which is located at 1801 E. Main Street. (Please enter building on Ohio Street side. There is parking there.) The sessions will begin **promptly** at 11:00 am. (Sign-in begins at 10:30 am.) Breakfast will be served.

October 15, 2022, at 11:00 am Session One: **"Uncomfortable conversations about masculinity"**.

October 29, 2022, at 11:00 am Session Two: **"Keeping relationships real AND respectful."**

November 19, 2022, at 11:00 am Session Three: **"How to keep a level head when it feels like all hell is breaking loose around you: A discussion about how to respond to violence in our community."**

November 26, 2022: Session Four: **"Excellence Through Employment, Entrepreneurship, and Education of Self."**

December 3, 2022: Session Five: **"Communication: What and how you say something may determine who listens and what happens next."**

December 17, 2022: Session Six: **"Where are you going, how and when are you going to get there?"**

\*In order to obtain a Certificate of Completion, Defendants must attend ALL SIX SESSIONS. The Healthy Baby Network will keep a record of your attendance and will ensure that each Defendant, who completes all six sessions, will receive their Certificate of Completion. Each Defendant is responsible for providing their Certificate of Completion to the Court at the "Control/Return Date" established by the Judge/Clerk of the Court.

\*Whenever possible, Defendants are encouraged to begin with Session One. However, a referral can be made at any time and Defendants can begin with the session that is available when they enroll. A new round of dates will be announced (with the very same session topics) which will allow each Defendant to complete all six No Cap sessions.

**YOU ARE RESPONSIBLE FOR REGISTERING FOR NO CAP. PLEASE CALL 867-0289 TO REGISTER AND TO GET FURTHER DETAILS & ACCESSIBILITY NEEDS. PLEASE REVIEW THE ATTACHED RULES FOR PARTICIPATING IN NO CAP DISCUSSIONS.**



**PARTICIPATION IN NO CAP DISCUSSIONS REQUIRES ADHERENCE TO THE FOLLOWING RULES. PLEASE READ CAREFULLY, SIGN BELOW, AND THE GIVE THIS FORM TO A REPRESENTATIVE FROM HEALTHY BABY NETWORK. THANK YOU.**

Participants must bring an official form of photo ID. (NYS DMV Driver's license is preferred. However, any form of photo identification - e.g., work ID badge - is acceptable.)

Participants must be on time.

Participants cannot be under the influence of alcohol, drugs, or other controlled substances. (If impairment is detected (alcohol and/or drugs), individuals will not be allowed to participate.)

Participants are not allowed to smoke.

Participants must respect the role of the facilitators to facilitate the discussions.

Participants must respect other participants' right to be heard without interruption and without judgment.

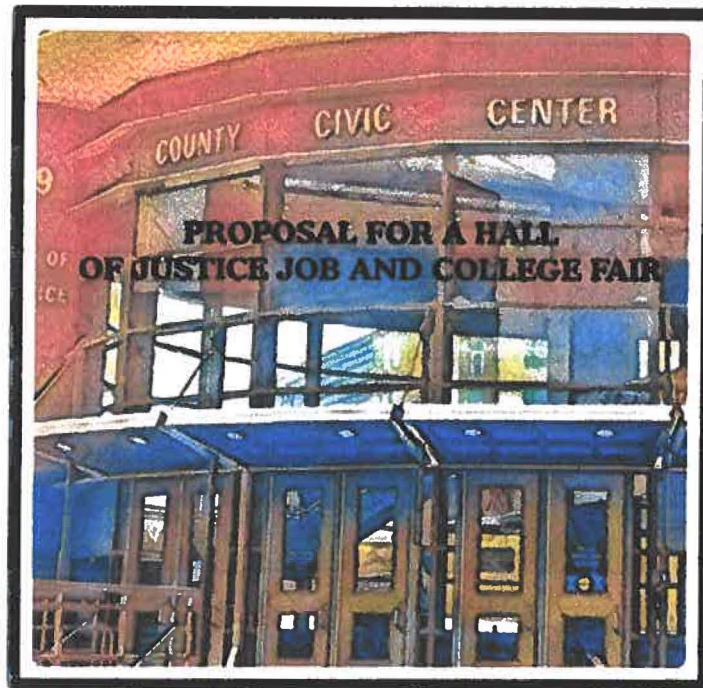
DEFENDANT'S SIGNATURE: \_\_\_\_\_

PLEASE PRINT DEFENDANT'S NAME: \_\_\_\_\_

DATE: \_\_\_\_\_, \_\_\_\_\_, 202\_\_

**EXHIBIT D**

**EXHIBIT D**



**PRESENTED TO:**

- The Honorable William Taylor, Chief Administrative Judge for the Seventh Judicial District

**PREPARED BY:**

- The City of Rochester, Action for a Better Community, and R.C.C. Judge Van Henri White

**PROPOSED DATE AND TIME:**

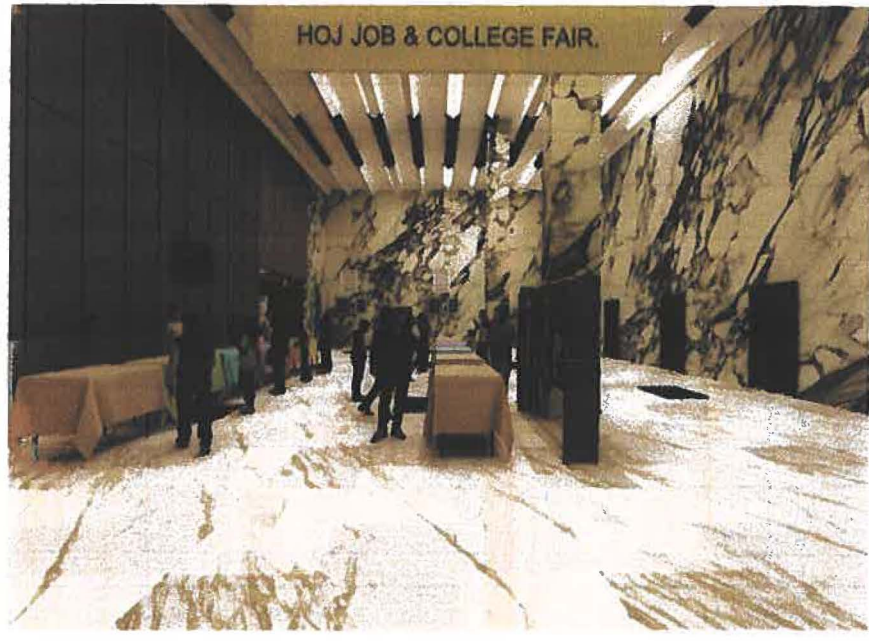
- October 4, 2023 from 9:00 am to 1:30 pm.

**OBJECTIVES:**

- provide HOJ visitors with the chance to discover the wide variety of employment, job readiness, and educational opportunities available to them in our area
- provide judges, defense lawyers, probation and parole officers, who are having courtroom conversations with defendants about employment and educational challenges, to immediately refer those individuals to agencies, companies, and businesses, who can provide, in real time, assistance and identify real opportunities
- provide Monroe County public and private employers/educators with an opportunity to recruit prospective employees/students who, themselves, are looking for life changing opportunities
- expand and build upon the notion that the HOJ can be a place of opportunity and hope.

**SPECIFIC SET UP LOCATIONS:**

- Hall of Justice First Floor Plaza in two locations
- Presently configured for sixteen 6 foot tables in the two areas depicted below





## **PARTICIPANTS AND SPONSORERS:**

- BLE • Training and Employment
- Action for a Better Community
- REOC YAMTEP RAWNY BOCES
- AMERICORP
- CEO PATHSTONE CCFS
- FLPPS
- ROCHESTER POLICE DEPARTMENT
- CITY OF ROCHESTER
- TOGETHER NOW- MY WAY FINDER ROCHESTER WORKS
- FLEET GENIUS EMPLOYMENT LIVINGSTON ASSOCIATES
- EDUCATION: PATHWAYS TO MCC
- MONROE COMMUNITY COLLEGE
- FOUR BRANCHES OF THE ARMED SERVICES





YOU'RE INVITED TO A  
**CAREER FAIR**

Hall of Justice Atrium  
99 Exchange Blvd.

WEDNESDAY  
**OCT. 4**  
9 a.m. – 3 p.m.

HOSTED BY:  
**The Seventh  
Judicial District  
City of Rochester  
and  
Action for a  
Better Community**

FOR MORE INFORMATION CONTACT:  
[Shawn.Futch@cityofrochester.gov](mailto:Shawn.Futch@cityofrochester.gov) or  
[CPFox@nycourts.gov](mailto:CPFox@nycourts.gov)



Malik D. Evans, Mayor



City of Rochester, NY  
Rochester City Council