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TO: Supreme Court Justices and Senior Justices
Court of Appeals Judges and Senior Judges
Circuit Court Judges
District Court Judges
Retired Judges Subject to Recall

FROM: Chief Justice Donald W. Lemons

Donald W. Lemons

DATE: January 10, 2019

RE: Revisions to Canon 4 of the Canons of Judicial Conduct

Questions from judges as well as bar associations prompt this communication with you. The Court has approved two new comments to Canon 4 which make it clear that judges are permitted to accept complimentary membership in bar and law related organizations. The new comments further clarify that judges are permitted to accept a waiver of registration fees and complimentary meals and lodging at bar or law related functions.

It is important for judges to remain actively engaged with bar organizations and the legal community. Historically, it was common practice for judges to receive complimentary annual memberships to bar or law related organizations, and for these organizations to provide judges with complimentary meals and lodging when judges attended annual meetings of bar or law related organizations.

In 2015, however, the Conflicts of Interest Act ("COIA") was amended and a \$100 gift cap was imposed on public officials, including judges. This gift cap prevented judges from being able to continue accepting complimentary membership in most bar or law related organizations, or complimentary attendance at meetings, since many bar organizations are registered lobbyists or lobbyist principals.

In 2017, COIA was amended to remove judges from the gift cap. Code § 2.2-3103.1(J). COIA now states that judges may accept gifts with a value in excess of \$100 as long as the acceptance of such a gift does not violate the Canons of Judicial Conduct. Canon 4E(5)(a) specifically permits a judge to accept an invitation to a bar related function or activity. Canon 4I(1)(b) permits a judge to accept reimbursement for the cost of travel, food, and lodging incurred in extra-judicial activities permitted by the Canons.

Memorandum to all Justices and Judges
January 10, 2019
Page Two

The Court has adopted new commentary to Canons 4E(5) and 4I to make clear that judges are permitted to accept complimentary membership in bar or law-related organizations, and to accept complimentary registration, meals and lodging at bar or law related functions. Any such gifts may be subject to reporting requirements as set forth in § 2.2-3114 of the Code of Virginia. As Canon 6B indicates, these requirements and Canon 4I(2) do not apply to retired judges and senior judges and justices.

I hope this memo is helpful to you.

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday, the 10th day of January, 2019.

It is ordered that Section III of the Rules for Integration of the Virginia State Bar, Part Six of the Rules of Court, be amended, to become effective immediately.

Amend Comments on Canon 4 to read as follows:

SECTION III. CANONS OF JUDICIAL CONDUCT FOR THE COMMONWEALTH OF VIRGINIA.

* * *

Canon 4. A Judge May Engage in Extra-Judicial Activities Designed to Improve the Law, the Legal System, and the Administration of Justice, and Shall Conduct Any Such Extra-Judicial Activities in a Manner That Minimizes the Risk of Conflict with Judicial Obligations.

* * *

Comment on subdivision E(5)(a). — Acceptance of an invitation to a law related function is governed by Section 4E(5)(a).

A judge may accept complimentary membership in a bar or law related organization. When accepting an invitation to a bar or law related function, the judge may accept a waiver of registration fees, as well as reimbursement for travel, meals and lodging, as set out in Canon 4I(1)(b). Any such gifts may be subject to reporting requirements as set forth in § 2.2-3114 of the Code of Virginia.

* * *

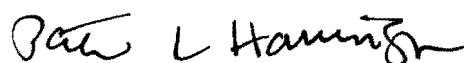
Comment on subdivision I. — The Canons do not prohibit a judge from accepting honoraria or speaking fees provided that the compensation is reasonable and commensurate with the task

performed. A judge should ensure, however, that no conflicts are created by the arrangement. A judge must not appear to trade on the judicial position for personal advantage. Nor should a judge spend significant time away from court duties to meet speaking or writing commitments for compensation. In addition, the source of the payment must not raise any question of undue influence or the judge's ability or willingness to be impartial.

See Canon 4E(5)(a) regarding acceptance of invitations to attend bar and law related functions. In addition to the expense reimbursement provided for by Canon 4H(1)(b), a judge may also accept complimentary food and lodging, where appropriate to the occasion, provided to the judge and the judge's spouse or guest. Any such gifts may be subject to reporting requirements as set forth in § 2.2-3114 of the Code of Virginia.

A Copy,

Teste:

A handwritten signature in black ink, appearing to read "Paul L. Hamilton". The signature is written in a cursive, flowing style.

Clerk