Judicial Fundraising in Canada

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1. Introduction

The extent to which judges should be involved in fundraising for civic and charitable causes is an important issue of judicial ethics. The default principle adopted by judicial councils in Canada precludes judges from fundraising subject to only minor exceptions. Yet anecdotal evidence indicates that some Canadian judges fundraise in breach of this principle. This raises the question of whether there should be a change to the principle so as to allow judges greater scope for fundraising activities. The aim of this article is to review the ethical principles for judicial fundraising and evaluate whether they require modifications for the modern Canadian judiciary.

2. Hypothetical Scenarios

The proposed changes to the judicial ethics rules about fundraising are set out in the final section of this article, taking the current rules contained in *Ethical Principles* as a starting point. The changes can be further explored by considering a series of hypothetical scenarios. In these all of the organizations referred to should be understood to be registered charities.

1. A judge’s daughter attends a private school. The judge solicits donations for the school’s capital campaign from (i) other judges and (ii) other parents whose children attend the school.

2. A judge solicits donations for Mothers Against Drunk Driving Canada (MADD) from (i) other judges, (ii) lawyers and (iii) members of the public.

3. A judge solicits donations for the Faculty of Law, Western University, from (i) other judges, (ii) lawyers and (iii) members of the public.

4. A judge solicits donations for the Canadian Forum on Civil Justice, a national non-profit organization dedicated to advancing civil justice reform through research and advocacy, from (i) other judges, (ii) lawyers and (iii) members of the public.

5. A judge solicits pledges, which subsequently become donations, from members of the public for his or her participation in a run in support of breast cancer research.

6. A team of ten runners solicits pledges, which subsequently become donations, from members of the public for their participation in a run in support of breast cancer research. A judge is a member of the team.

7. A judge gives a speech about (a) the administration of justice or (b) his or her career at a fundraising event for (i) his or her daughter’s private school, (ii) MADD Canada, (iii) the Canadian Forum on Civil Justice and (iv) the Faculty of Law, Western University. Promotional materials for the event indicate that he or she will be speaking.

8. A judge gives a speech about (a) the administration of justice or (b) his or her career at a fundraising event for a political party. Promotional materials for the event indicate that he or she will be speaking.

9. A judge waits tables at a fundraising event for (i) his or her daughter’s private school, (ii) MADD Canada, (iii) the Canadian Forum on Civil Justice and (iv) the Faculty of Law, Western University. Promotional materials for the event indicate that he or she will be waiting tables.

10. A judge’s services as a chef are auctioned off at a fundraising event for (i) his or her daughter’s private school, (ii) MADD Canada, (iii) the Canadian Forum on Civil Justice and (iv) the Faculty of Law, Western University. The judge will cook dinner for the highest bidder at (a) the bidder’s home or (b) the judge’s home.

11. As part of a fundraising campaign, the Faculty of Law, Western University identifies a judge as one of its graduates. The judge, with his or her consent, is pictured in the campaign brochure and quoted in support of the institution.

12. A judge chairs a fundraising event for (i) his or her daughter’s private school, (ii) MADD Canada, (iii) the Canadian Forum on Civil Justice and (iv) the Faculty of Law, Western University. He or she is involved in planning and implementing the event but does not ask anyone for funds.

13. A judge serves on a fundraising committee for (i) his or her daughter’s private school, (ii) MADD Canada, (iii) the Canadian Forum on Civil Justice and (iv) the Faculty of Law, Western University. He or she is involved in strategy for and planning of the fundraising campaign but does not ask anyone for funds.

3. Proposed Rule Amendments Relating to Fundraising

C. Civic and Charitable Activity

1. Judges are free to participate in civic, charitable and religious activities subject to the following considerations:

(a) Judges should avoid any activity or association that could reflect adversely on their impartiality or interfere with the performance of judicial duties.

(b) Judges should not solicit funds (except from judicial colleagues or family members or for appropriate judicial purposes) or lend the prestige of judicial office to such solicitations. However, judges may:

(i) assist a civic, charitable or religious organization or an organization concerned with the law, the legal system or the administration of justice in planning relating to fund raising.

(ii) appear or speak at or receive an award or other recognition at a fund raising event for an organization concerned with the law, the legal system or the administration of justice, and in connection with that event be featured in its promotion.

(c) Judges should avoid involvement in causes or organizations that are likely to be engaged in litigation.

(d) Judges should not give legal or investment advice.

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