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Illinois Supreme Court Rules Committee
222 North LaSalle Street
Chicago, IL 60601

Re: Proposal to Adopt a Version of the 2007
ABA Model Code of Judicial Conduct

Dear Committee Members:

This is a letter of support for the proposal of the Illinois Judicial Ethics Committee (IJE) that the Illinois Supreme Court adopt a revised version of the 2007 ABA Model Code of Judicial Conduct. Although I no longer live in Illinois, I have been admitted to practice in Illinois since 1967 and still participate in the Chicago Bar Association and the Illinois State Bar Association. There are various reasons to adopt the IJE proposal.

First, the 2007 ABA Model Code is simply the national standard. As the IJE report notes, at least 37 states have adopted a version of the Model Code, and most of the remaining states are considering whether to do so. The adjacent states of Indiana, Iowa, Kentucky, and Missouri are among the states that have already approved a form of the Model Code.

Second, as the de facto national standard, the ABA Model Code is tested as part of the Multistate Professional Responsibility Examination (MPRE), which is currently required for all applicants seeking admission to practice in Illinois and 48 other states [all except Wisconsin] and the District of Columbia. MPRE test items concerning the Model Code can make up 2 to 8% of the questions on any administration of the MPRE. See www.ncbex.org. The MPRE was first required in Illinois in 1980. All Illinois lawyers, including Illinois judges, admitted since 1980 have already studied and been examined on the ABA Model Code. So moving to a set of rules based on the Model Code should not be traumatic.

Third, because the Model Code is the de facto national standard, most all the scholarship and commentary on judicial ethics is focused on the ABA Model Code. Adopting the Model Code will give Illinois judges expanded sources of guidance to resolve local issues based on the experience of the entire nation.

Fourth, the IJE has proposed several useful improvements to the ABA Model Code, including the following items:

a. the inclusion of new provisions throughout the Code regarding the use of social media. These provisions are timely, thoughtful, and appropriate; and should be adopted.

b. the inclusion in Rule 2.3 of new provisions regarding retaliation [new paragraph E] and non-discrimination and anti-harassment [new paragraph F]. These new provisions are thoughtful and appropriate; and should be adopted.

c. revised Rule 3.15 appropriately consolidates economic interest reporting obligations in one report. This provision should also be adopted.

Thank you for this opportunity to comment on the proposal.

Sincerely,

Robert A. Creamer