Guide to Judiciary Policy

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§ 1110 Conflict-of-Interest Rules for Part-Time Magistrate Judges

§ 1110.10 Overview

(a) Under 28 U.S.C. § 632(b), the Judicial Conference has adopted the following Conflict-of-Interest Rules applicable to part-time magistrate judges.

(b) Conflict-of-Interest Rules 1 through 6 were adopted by the Judicial Conference at its March 1969 session (JCUS-MAR 69, pp. 32-33). Rule 7 was adopted by the Conference at its October 1969 session and amended at its March 1977 and March 1991 sessions (JCUS-OCT 69, p. 79; JCUS-MAR 77, pp. 27-28; JCUS-MAR 91, p. 14). Rule 8 was adopted at the October 1972 session (JCUS-OCT 72, pp. 67-68).

§ 1110.20 Text of Rules

(1) A part-time magistrate judge, his or her partners, and his or her associates, may appear as counsel in any civil action in any court or governmental agency, including matters in which the United States is a party or has a direct and substantial interest, but they may not appear in cases in which the part-time magistrate judge has been involved in connection with his or her official duties. (JCUS-MAR 69, pp. 32-33.)

(2) A part-time magistrate judge, his or her partners, and his or her associates, may appear as counsel in any matter before the Internal

Revenue Service, other than in those matters in which the part-time magistrate judge has been involved in connection with his or her official duties. (JCUS-MAR 69, pp. 32-33.)

(3) A part-time magistrate judge may appear as counsel in a criminal action in any state court, but is precluded from appearing as counsel in any criminal action in any court of the United States. (JCUS-MAR 69, pp. 32-33.)

(4) A part-time magistrate judge's partners and associates may appear as counsel in any criminal action in any state court and in any federal court other than in the district in which the part-time magistrate judge serves, provided that the part-time magistrate judge has not been involved in such criminal proceeding in connection with his or her official duties. (JCUS-MAR 69, pp. 32-33.)

(5) A part-time magistrate judge is precluded from using his or her official office to refer cases to his or her partners, associates, or to others. (JCUS-MAR 69, pp. 32-33.)

(6) Generally, a part-time magistrate judge represents conflicting interests when, on behalf of the government, it is his or her official duty to take certain action or contend for that which duty to another would require him or her to oppose. (JCUS-MAR 69, pp. 32-33.)

(7) A part-time magistrate judge who is assigned additional duties under Section 636(b) or who conducts civil proceedings with the consent of the parties under Section 636(c) of Title 28, United States Code, may not appear as counsel in any case, civil or criminal, in the district court for which he or she is appointed. This prohibition shall not extend to a part-time magistrate judge whose additional assignments are limited to the review of prisoner petitions, service as a special master in a specified case, the receipt of indictments returned by grand juries, or the conduct of arraignments. (JCUS-OCT/NOV 69, p. 79; JCUS-MAR 77, pp. 27-28; JCUS-MAR 91, p. 14.)

(8) A part-time magistrate judge may not use his or her official position in any way to promote his or her private law practice. In this regard, he or she may not use his or her official stationery in the conduct of his or her law practice nor include his or her official title on general office letterhead. (JCUS-OCT 72, p. 68.)

§ 1120 Part-Time Magistrate Judge Accepting Fees for Service as a Special Master

§ 1120.10 Overview

At the April 1976 session (JCUS-APR 76, pp. 19-20), the Judicial Conference adopted the following statement of policy concerning special master references to part-time magistrate judges.

§ 1120.20 Policy

A part-time magistrate judge is precluded from accepting fees, in addition to the salary set for his or her position by the Conference, for services performed as a special master, whether or not such service is rendered in the magistrate judge's official capacity, and further, that no fees should be taxed against the litigants for such service.

Note: The prohibition against the taxing of fees against the litigants applies only to payment for the services performed by the part-time magistrate judge, and not to other necessary costs incident to the reference.