Social Media, Ethics & Campaigns

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Tennessee Judicial Conference

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The Judicial Ethics Committee has been asked to provide an ethics opinion as to whether judges may utilize social media such as Facebook, Twitter, LinkedIn, and MySpace and, if so, the extent to which they may participate. As we will explain, while the Code of Judicial Conduct allows judges to do so, it must be done cautiously. For the purposes of this opinion, we shall utilize Facebook to refer to social media, for it is one of the most widely-used sites and appears to operate in a fashion similar to others.

Maryland Judicial Ethics Committee Opinion No. 2012-07 explains the services offered by Facebook:

Facebook is used by millions of people worldwide. After joining this networking site, participants create personal profile pages containing various types of information about themselves, and then send “friend requests” to others, through a process known as “friending.” Typically, “Facebook friends” are people who knew one another before joining the site, have mutual acquaintances and/or common interests. By becoming “friends,” they are able to see photos, videos and other information posted by or about one [an]other on their respective Facebook pages. Many people post their thoughts, views and opinions on almost any subject, as well as details of their daily lives. Moreover, unless specific privacy settings are used to limit those with whom information is shared, others in the network can view that information. Thus, information posted by a judge on a social networking site can be quickly and widely disseminated, and possibly beyond its intended audience.

Several provisions of the Code of Judicial Conduct are relevant to this question.

Tennessee Supreme Court Rule 10, Canon 1, Rule 1.2 requires that “judge[s] shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.” Comments to this rule provide, in pertinent part, Comment [1], that it applies to “both the professional and personal conduct of a judge”; Comment [2], that “[a] judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens”; Comment [3], “[c]onduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary”; and Comment [5], that a judge must avoid “conduct [that] would create in reasonable minds a perception that the judge violated [the Code of Judicial Conduct] or engaged in other conduct that reflects adversely on the judge’s honesty,
impartiality, temperament, or fitness to serve as a judge.”

Rule 1.3 provides that “[a] judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so.”

Canon 2, Rule 2.4(B) and (C) provides, in part, that “[a] judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge’s judicial conduct or judgment”; and that “[a] judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.”

Rule 2.9(A) provides that “[a] judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter[.]”

Rule 2.11 sets out the procedures for disqualification in situations where the judge has a conflict or there is an appearance that this is the case. Of particular relevance to a judge’s use of social media are subsections (A)(1) and (A)(5), providing that the impartiality of a judge might be reasonably questioned if it appears the judge “has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of facts that are in dispute in the proceeding”; or, the judge “has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.” Additionally, a judge’s use of social media may require that the judge “disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification.” Rule 2.11, Comment [5].

Canon 3, Rule 3.1 sets out the extent to which judges may participate in non-judicial activities:

A judge may engage in personal or extrajudicial activities, except as prohibited by law or this Code. However, when engaging in such activities, a judge shall not:

(A) participate in activities that will interfere with the proper and timely performance of the judge’s judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge;
(C) participate in activities that would appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality.

Judicial ethics committees of several states have addressed this question, with the majority concluding that judges may utilize social networking sites, but must do so with caution. See Maryland Judicial Ethics Committee Opinion No. 2012-07 (“While they must be circumspect in all of their activities, and sensitive to the impressions such activities may create, judges may and do continue to socialize with attorneys and others.); Florida Judicial Ethics Advisory Opinion 2009-20 (while judges may participate in social media, they may not “friend” lawyers who may appear before them); Oklahoma Judicial Ethics Advisory Opinion 2011-3 (judges may participate in social media, “friending” those who do not “regularly appear or [are] unlikely to appear in the Judge’s court”); Massachusetts Judicial Ethics Committee Opinion 2011-6 (judges may participate in social media but “may only ‘friend’ attorneys as to whom they would recuse themselves when those attorneys appeared before them”).

California Judicial Ethics Committee Opinion 66 sets out several matters a judge should consider before participating in a particular social media site:

(1) the nature of the site, the more personal sites creating a greater likelihood that “friending” an attorney would create an appearance of favoritism;

(2) the number of persons “friended” by the judge, with the greater the number of friends resulting in less likelihood of an appearance that any one “friend” would be in a position to influence the judge;

(3) the judge’s procedure for deciding whom to friend, such as allowing only some attorneys to become “friends,” while excluding others; and

(4) how regularly an attorney who is a friend appears in the judge’s court, the more frequent the appearance, the greater the likelihood of the appearance of favoritism.

Maryland Judicial Ethics Committee Opinion No. 2012-07 concludes that “the mere fact of a social connection” does not create a conflict, but, quoting California, “[i]t is the nature of the [social] interaction that should govern the analysis, not the medium in which it takes place.”

Accordingly, we conclude that, while judges may participate in social media, they must do so with caution and with the expectation that their use of the media likely will be
scrutinized various reasons by others. Because of constant changes in social media, this committee cannot be specific as to allowable or prohibited activity, but our review, as set out in this opinion, of the various approaches taken by other states to this area makes clear that judges must be constantly aware of ethical implications as they participate in social media and whether disclosure must be made. In short, judges must decide whether the benefit and utility of participating in social media justify the attendant risks.

FOR THE COMMITTEE:

_____________________________________________
ALAN E. GLENN, JUDGE

CONCUR:

CHANCELLOR THOMAS R. FRIERSON, II
JUDGE CHERYL A. BLACKBURN
JUDGE JAMES F. RUSSELL
JUDGE BETTY THOMAS MOORE
JUDGE PAUL B. PLANT
JUDGE SUZANNE BAILEY
A judge may participate in electronic social networking, but as with all social relationships and contacts, a judge must comply with relevant provisions of the Code of Judicial Conduct and avoid any conduct that would undermine the judge's independence, integrity, or impartiality, or create an appearance of impropriety.1

In this opinion, the Committee discusses a judge’s participation in electronic social networking. The Committee will use the term “electronic social media” (“ESM”) to refer to internet-based electronic social networking sites that require an individual to affirmatively join and accept or reject connection with particular persons. 2

Judges and Electronic Social Media

In recent years, new and relatively easy-to-use technology and software have been introduced that allow users to share information about themselves and to post information on others' social networking sites. Such technology, which has become an everyday part of worldwide culture, is frequently updated, and different forms undoubtedly will emerge.

Social interactions of all kinds, including ESM, can be beneficial to judges to prevent them from being thought of as isolated or out of touch. This opinion examines to what extent a judge’s participation in ESM raises concerns under the Model Code of Judicial Conduct.

Upon assuming the bench, judges accept a duty to “respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.” 3 Although judges are full-fledged members of their communities, nevertheless, they “should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens....”4 All of a judge’s social contacts, however made and in whatever context, including ESM, are governed by the requirement that judges must at all times act in a manner “that promotes public confidence in the independence, integrity, and impartiality of the judiciary,” and must “avoid impropriety and the appearance of impropriety.”5 This requires that the judge be sensitive to the appearance of relationships with others.

The Model Code requires judges to “maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives.”6 Thus judges must be very thoughtful in their interactions with others, particularly when using ESM. Judges must assume that comments posted to an ESM site will not remain within the circle of the judge’s connections. Comments, images, or profile information, some of which might prove embarrassing if publicly revealed, may be electronically transmitted without the judge's knowledge or permission to persons unknown to the judge or to other unintended recipients. Such dissemination has the potential to compromise or appear to

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1 This opinion is based on the ABA Model Code of Judicial Conduct as amended by the ABA House of Delegates through August 2012. The laws, court rules, regulations, rules of professional and judicial conduct, and opinions promulgated in individual jurisdictions are controlling.

2 This opinion does not address other activities such as blogging, participation on discussion boards or listserves, and interactive gaming.

3 Model Code, Preamble [1].

4 Model Code Rule 1.2 cmt. 2.

5 Model Code Rule 1.2. *But see* Dahlia Lithwick and Graham Vyse, "Tweet Justice," Slate (April 30, 2010), (describing how state judge circumvents ethical rules prohibiting ex parte communications between judges and lawyers by asking lawyers to "de-friend" her from their ESM page when they're trying cases before her; judge also used her ESM account to monitor status updates by lawyers who appeared before her), article available at http://www.slate.com/articles/news_and_politics/jurisprudence/2010/04/tweet_justice.html.

6 Model Code, Preamble [2].
compromise the independence, integrity, and impartiality of the judge, as well as to undermine public confidence in the judiciary.\(^7\)

There are obvious differences between in-person and digital social interactions. In contrast to fluid, face-to-face conversation that usually remains among the participants, messages, videos, or photographs posted to ESM may be disseminated to thousands of people without the consent or knowledge of the original poster. Such data have long, perhaps permanent, digital lives such that statements may be recovered, circulated or printed years after being sent. In addition, relations over the internet may be more difficult to manage because, devoid of in-person visual or vocal cues, messages may be taken out of context, misinterpreted, or relayed incorrectly.\(^8\)

A judge who participates in ESM should be mindful of relevant provisions of the Model Code. For example, while sharing comments, photographs, and other information, a judge must keep in mind the requirements of Rule 1.2 that call upon the judge to act in a manner that promotes public confidence in the judiciary, as previously discussed. The judge should not form relationships with persons or organizations that may violate Rule 2.4(C) by conveying an impression that these persons or organizations are in a position to influence the judge. A judge must also take care to avoid comments and interactions that may be interpreted as \textit{ex parte} communications concerning pending or impending matters in violation of Rule 2.9(A), and avoid using any ESM site to obtain information regarding a matter before the judge in violation of Rule 2.9(C). Indeed, a judge should avoid comment about a pending or impending matter in any court to comply with Rule 2.10, and take care not to offer legal advice in violation of Rule 3.10.

There also may be disclosure or disqualification concerns regarding judges participating on ESM sites used by lawyers and others who may appear before the judge.\(^9\) These concerns have been addressed in judicial ethics advisory opinions in a number of states. The drafting committees have expressed a wide range of views as to whether a judge may “friend” lawyers and others who may appear before the judge, ranging from outright prohibition to permission with appropriate cautions.\(^10\) A judge who has an ESM connection with a lawyer or party who has a pending or impending matter before the court must evaluate that ESM connection to determine whether the judge should disclose the relationship prior to or at the initial appearance of the person before the court.\(^11\) In this regard, context is significant.\(^12\) Simple

\(^7\) See Model Code Rule 1.2 cmt. 3. \textit{Cf.} New York Jud. Eth. Adv. Op. 08-176 (2009) (judge who uses ESM should exercise appropriate degree of discretion in how to use the social network and should stay abreast of features and new developments that may impact judicial duties). Regarding new ESM website developments, it should be noted that if judges do not log onto their ESM sites on a somewhat regular basis, they are at risk of not knowing the latest update in privacy settings or terms of service that affect how their personal information is shared. They can eliminate this risk by deactivating their accounts.


\(^10\) See discussion in \textit{Geyh, Alfini, Lubet and Shaman, JUDICIAL CONDUCT AND ETHICS (5th Edition, forthcoming), Section 10.05E.}

\(^11\) California Judges Assn. Judicial Ethics Comm. Op. 66 (need for disclosure arises from peculiar nature of online social networking sites, where evidence of connection between lawyer and judge is widespread but nature of connection may not be readily apparent). \textit{See also} New York Jud. Eth. Adv. Op. 08-176 (judge must consider whether any online connections, alone or in combination with other facts, rise to level of close social relationship requiring disclosure and/or recusal); Ohio Opinion 2010-7 (same).

\(^12\) Florida Sup. Ct. Jud. Eth. Adv. Comm. Op. 2010-06 (2010) (judge who is member of voluntary bar association not required to drop lawyers who are also members of that organization from organization’s ESM site; members use the site to communicate among themselves about organization and other non-legal matters). \textit{See also} Raymond McKoski,
designation as an ESM connection does not, in and of itself, indicate the degree or intensity of a judge’s relationship with a person. 13

Because of the open and casual nature of ESM communication, a judge will seldom have an affirmative duty to disclose an ESM connection. If that connection includes current and frequent communication, the judge must very carefully consider whether that connection must be disclosed. When a judge knows that a party, a witness, or a lawyer appearing before the judge has an ESM connection with the judge, the judge must be mindful that such connection may give rise to the level of social relationship or the perception of a relationship that requires disclosure or recusal. 14 The judge must remember that personal bias or prejudice concerning a party or lawyer is the sole basis for disqualification under Rule 2.11 that is not waivable by parties in a dispute being adjudicated by that judge. The judge should conduct the same analysis that must be made whenever matters before the court involve persons the judge knows or has a connection with professionally or personally. 15 A judge should disclose on the record the information the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification even if the judge believes there is no basis for the disqualification. 16 For example, a judge may decide to disclose that the judge and a party, a party’s lawyer or a witness have an ESM connection, but that the judge believes the connection has not resulted in a relationship requiring disqualification. However, nothing requires a judge to search all of the judge’s ESM connections if a judge does not have specific knowledge of an ESM connection that rises to the level of an actual or perceived problematic relationship with any individual.

Judges’ Use of Electronic Social Media in Election Campaigns

Canon 4 of the Model Code permits a judge or judicial candidate to, with certain enumerated exceptions, engage in political or campaign activity. Comment [1] to Rule 4.1 states that, although the Rule imposes "narrowly tailored restrictions" on judges' political activities, "to the greatest extent possible," judges and judicial candidates must “be free and appear to be free from political influence and political pressure.”

Rule 4.1(A)(8) prohibits a judge from personally soliciting or accepting campaign contributions other than through a campaign committee authorized by Rule 4.4. The Code does not address or restrict a judge’s or campaign committee’s method of communication. In jurisdictions where judges are elected, ESM has become a campaign tool to raise campaign funds and to provide information about the candidate. 17 Websites and ESM promoting the candidacy of a judge or judicial candidate may be

"Reestablishing Actual Impartiality as the Fundamental Value of Judicial Ethics: Lessons from ‘Big Judge Davis’,” 99 Ky. L.J. 259, 291 (2010-11) (nineteenth century judge universally recognized as impartial despite off-bench alliances, especially with Abraham Lincoln); Schwartz, supra note 9 (“Judges do not drop out of society when they become judges…. The people who were their friends before they went on the bench remained their friends, and many of them were lawyers.”) (quoting New York University Prof. Stephen Gillers).

14 See, e.g., New York Judicial Ethics Advisory Opinion 08-176, supra n. 8. See also Ashby Jones, “Why You Shouldn’t Take It Hard If a Judge Rejects Your Friend Request,” WALL ST. J. LAW BLOG (Dec. 9, 2009) (“‘friending’ may be more than say an exchange of business cards but it is well short of any true friendship”); Jennifer Ellis, “Should Judges Recuse Themselves Because of a Facebook Friendship?” (Nov. 2011) (state attorney general requested that judge reverse decision to suppress evidence and recuse himself because he and defendant were ESM, but not actual, friends), available at http://www.jlellis.net/blog/should-judges-recuse-themselves-because-of-a-facebook-friendship/. 15 See Jeremy M. Miller, “Judicial Recusal and Disqualification: The Need for a Per Se Rule on Friendship (Not Acquaintance),” 33 PEPPERDINE L. REV. 575, 578 (2012) (“Judges should not, and are not, expected to live isolated lives separate from all potential lawyers and litigants who may appear before them…. However, it is also axiomatic that justice, to be justice, must have the appearance of justice, and it appears unjust when the opposing side shares an intimate (but not necessarily sexual) relationship with the judge.”).
16 Rule 2.11 cmt. 5.
established and maintained by campaign committees to obtain public statements of support for the judge's campaign so long as these sites are not started or maintained by the judge or judicial candidate personally. 18

Sitting judges and judicial candidates are expressly prohibited from "publicly endorsing or opposing a candidate for any public office." 19 Some ESM sites allow users to indicate approval by applying "like" labels to shared messages, photos, and other content. Judges should be aware that clicking such buttons on others' political campaign ESM sites could be perceived as a violation of judicial ethics rules that prohibit judges from publicly endorsing or opposing another candidate for any public office. 20 On the other hand, it is unlikely to raise an ethics issue for a judge if someone "likes" or becomes a “fan” of the judge through the judge's ESM political campaign site if the campaign is not required to accept or reject a request in order for a name to appear on the campaign's page.

Judges may privately express their views on judicial or other candidates for political office, but must take appropriate steps to ensure that their views do not become public. 21 This may require managing privacy settings on ESM sites by restricting the circle of those having access to the judge’s ESM page, limiting the ability of some connections to see others, limiting who can see the contact list, or blocking a connection altogether.

Conclusion

Judicious use of ESM can benefit judges in both their personal and professional lives. As their use of this technology increases, judges can take advantage of its utility and potential as a valuable tool for public outreach. When used with proper care, judges' use of ESM does not necessarily compromise their duties under the Model Code any more than use of traditional and less public forms of social connection such as U.S. Mail, telephone, email or texting.

21 See Nevada Comm'n on Jud. Disc. Op. JE98-006 (Oct. 20, 1998) ("In expressing his or her views about other candidates for judicial or other public office in letters or other recorded forms of communication, the judge should exercise reasonable caution and restraint to ensure that his private endorsement is not, in fact, used as a public endorsement.").
APNewsBreak: Woodworth prosecutor seeks own removal over Facebook posts

ST. LOUIS — A local prosecutor who inherited the long-running case of a Chillicothe man facing a third murder trial in his neighbor's shooting death wants to be removed because of Facebook posts he thinks pose a conflict of interest by linking him to efforts to free the twice-convicted felon.

Livingston County Prosecutor Adam Warren was appointed to the case last week after a northwest Missouri judge barred the state attorney general from again prosecuting Mark Woodworth in Cathy Robertson's 1990 death. The judge said that previous prosecutorial missteps and a Robertson family private investigator's "secret investigation" on behalf of the county tainted evidence used to convict Woodworth.

The Associated Press obtained a written request filed by Warren on Monday in Platte County Circuit Court, citing a "social media position which may cast a prejudgment claim" on his ability to independently review the evidence against Woodworth before deciding whether to again file murder charges. Rhonda Oesch, Cathy Robertson's daughter, said the family met with Warren a day or two after his Jan. 29 appointment to discuss several concerns about his involvement, including online comments made by Woodworth supporters suggesting Warren would not prosecute.

Oesch said she and one of her sisters also hired Warren within the past two years to handle real estate transactions. Like many small-town prosecutors in Missouri, Warren works for the county part time while also keeping a private practice in Chillicothe.

A letter to Warren signed by 12 members of the Robertson family also cites his unsuccessful 2012 campaign for attorney general, in which Warren lost a Republican primary election to Ed Martin, who in turn was defeated by incumbent Chris Koster, a Democrat.

"Your (past) campaign for attorney general makes us nervous that there remains an incentive to embarrass the Attorney General's Office by not litigating the case," the letter reads.

"There has to be complete objectivity," Oesch said in an interview Wednesday. "We would like to see someone with no appearance of impropriety."

Warren said he was invited to participate in a pro-Woodworth Facebook group but never joined the closed group. He said that while the Robertsons' other concerns "did not amount to anything," he asked to be removed "out of an abundance of caution" and after consulting with ethics experts at The Missouri Bar, which licenses the state's lawyers.

"I've got to be very careful," he said. "I can already tell that whatever happens, it's going to be a point of contention."

On Wednesday, Platte Circuit Judge Owens Lee Hull Jr. set a Feb. 14 evidentiary hearing on Warren's request to step down.

More than two decades ago, the family's previous concerns with the reluctance of a Warren predecessor to file charges against Woodworth led to the appointment of the Missouri Attorney General's Office.

Woodworth, 39, has been free on bail for nearly one year after the Missouri Supreme Court overturned his second conviction in Robertson's death, saying prosecutors failed to share evidence that could have helped his defense. The evidence was a series of letters shared among Robertson's husband Lyndel, who survived the shooting and initially
identified another suspect; a former Livingston judge; and ex-prosecutor Doug Roberts. It was Roberts' reticence to file charges that led Lyndel Robertson to ask the judge to remove the local prosecutor and instead summon a team of special prosecutors from Jefferson City.

Woodworth was 16 when Cathy Robertson was shot and killed Nov. 13, 1990, in a farm home outside Chillicothe, about 90 miles northeast of Kansas City. Lyndel Robertson was a business partner of Woodworth's father, but the two families had a falling out after the shooting. He was first convicted in the death in 1995. That conviction was overturned on appeal, but a second jury found Woodworth guilty four years later and sentenced him to life in prison.

In a court motion opposing Warren's request to appoint a special prosecutor, Woodworth's attorneys cite the earlier efforts to remove a local prosecutor as part of the victim's family's "long history of inappropriately attempting to influence the case."

"They're just throwing mud against the wall, hoping something will stick," said defense lawyer Bob Ramsey. "The Robertsons have been playing this game since at least 1992."

Hull's call for "an independent review of this case by a prosecutor unburdened by past participation" follows a similar conclusion in 2012 by Boone County Circuit Judge Gary Oxenhandler, who also recommended a review by an independent prosecutor and called Woodworth's earlier convictions a "manifest injustice."

The Platte County judge has also tossed out key ballistics evidence that was used to implicate Woodworth at his previous trials, ruling that the bullet and weapon could have been tainted by private investigator Terry Deister and a British ballistics expert hired to aid prosecutors. The Missouri Court of Appeals' Western District upheld Hull's ruling that the suspected murder weapon and the bullet surgically removed from Lyndel Robertson's liver two years later may have been improperly handled.

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Judge removed from divorce case after sending one party a Facebook friend request

Posted Jan 29, 2014 5:40 AM CST
By Stephanie Francis Ward

A Florida judge who sent a Facebook friend request—which was rebuffed—to a litigant in a divorce she was presiding over has been removed from the case, the Wall Street Journal Law Blog reports.

Judge Linda D. Schoonover reached out to litigant Sandra Chace ex parte with the friend request, according to a Florida Fifth District Court of Appeal opinion (PDF). Chace did not accept the request after her lawyer advised her not to.

According to the Wall Street Journal, Chace’s lawyer alleged that when she denied Schoonover’s friend request, the judge retaliated by giving her most of the marital debt in her divorce, and giving her husband, Robert Loisel Jr., a larger alimony award.

The opinion, published Jan. 24, overturns a prior order that found that Chace’s motion for disqualification was legally insufficient.

“It seems clear that a judge’s ex parte communication with a party presents a legally sufficient claim for disqualification, particularly in the case where the party’s failure to respond to a Facebook ‘friend’ request creates a reasonable fear of offending the solicitor,” the opinion states. “The ‘friend’ request placed the litigant between the proverbial rock and a hard place: either engage in improper ex parte communications with the judge presiding over the case, or risk offending the judge by not accepting the ‘friend’ request.”

The American Bar Association examined the issue of judges and “electronic social networking” last year. The finding, Formal Opinion 462 (PDF), holds that judges can use social media, but must comply with relevant provisions of the Code of Judicial Conduct, and avoid anything that would “undermine the judge’s independence, integrity, or impartiality, or create an appearance of impropriety.”

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AUGUSTA, Kan. — A Kansas judge has caused a stir by doing something millions of people do every day — “liking” a post on a Facebook page.

Butler County District Judge Jan Satterfield was among a few dozen people who clicked the “like” button several weeks ago on a Facebook post by the campaign of Sheriff Kelly Herzet. The post read, “Soooooo... I was thinking that we could get to 200 likes by 6/18. That’s only 88 more. Wouldn’t that be cool?”

The judge’s action drew an objection from Lee White, a former Butler County resident now living in California who supports Herzet’s opponent in the Aug. 7 Republican primary, the Augusta Gazette reported.

White filed a complaint with the Kansas Commission of Judicial Qualifications, arguing that Satterfield’s “like” violated the judicial canons of ethics that prohibit a judge from “publicly endorsing or opposing another candidate for any public office.”

White told the Gazette that the commission informed him it would address his complaint at its Aug. 10 meeting.

Satterfield, who served 11 years as the county prosecutor before she was elected to the bench in 2010, said last week that she wasn’t aware of the complaint. She also said she had never endorsed a candidate.

“I will vote like anyone else, but judges can’t endorse candidates,” Satterfield said.

In an e-mail to the newspaper, White said the Facebook flap “seems trivial on the surface,” but that it raises ethical issues.

“With the growth of social media, the court system needs to define how its rules for judges apply in cyberspace,” he wrote. “I hope the commission and perhaps even the Kansas Supreme Court will do so in this case.”

White said he had no malice toward Satterfield, calling her “a nice woman who has done much for the children of Butler County.”

However, he added, “her ‘liking’ Sheriff Kelly Herzet’s Facebook post could be construed as showing bias toward a department whose deputies appear regularly before the court.”

Herzet, a longtime member of the sheriff’s department, was appointed sheriff last year when the previous sheriff retired. He faces Andover resident Carl Enterkin in the GOP primary, which will decide the sheriff’s race because no other candidates are running.

Herzet apologized on his Facebook page last week to people caught in the online controversy.

“While it is my intent to remain positive throughout this campaign, I feel it is my responsibility to make everyone aware of this and let you know that we understand if you choose to UNLIKE this page as a result of these attacks on you and your constitutional freedom of speech,” the sheriff wrote.

Also see: Is ‘liking’ on Facebook a First Amendment right?