



CODE OF JUDICIAL ETHICS

Provincial Court of British Columbia

Revised 1994

PREFACE

"Quis custodiet ipsos custodes?" -Juvenal

"Qui Custodiet Custodes"

The correct exercise of judicial authority necessarily requires self-discipline. Otherwise, authority becomes oppression. This is the fundamental reason for which the Code is offered.

After much work by a number of judges, the Code was adopted by the Provincial Judges Association of British Columbia at its Annual General Meeting September 18, 1976, and pursuant to the Provincial Court Act by the Judicial Council of the Court pursuant to Section 13(e) of the Act December 3, 1976.

This Code was updated in language only in June of 1993.

This Code of Judicial Ethics not only meets professional needs but in a social sense goes directly to the judge's credibility.

In attempting to define the ideal of proper judicial conduct it serves both as a guide and a standard.

DEFINITIONS

In this Code of Judicial Ethics, so far as the context does not indicate differently, the following definitions shall apply:

- a) "Act" Provincial Court Act
R.S.B.C. 1979, C. 341
- b) "Association" Provincial Court Judges'
Association of British Columbia
(formerly known as
Provincial Judges Association
of British Columbia)
- c) "Council" Judicial Council pursuant to
Section 12 of the Provincial
Court Act

RULES OF CONDUCT

SECTION 1

PERSONAL COMPORTMENT

Rule 1.00- Judges must be truly independent and must avoid all conflict of interest.

CONSIDERATIONS:

- 1.01 Independence of judges requires both material and intellectual autonomy.
- 1.02 Judges are subject only to that authority which emanates from the Provincial Court Act.
- 1.03 Judges must always beware of a possible conflict of interest where their financial affairs are involved.

Rule 2.00- Judges must devote themselves entirely to the exercise of their judicial function.

CONSIDERATIONS:

- 2.01 The rule conforms with Section 8 of the Act.
- 2.02 The essence of this rule is the assurance that the impartiality of judges is never placed in doubt.
- 2.03 Upon accepting an appointment to the bench, judges consent voluntarily to the acceptance of certain advantages as well as certain prohibitions.
- 2.04 Subject to any legislation to the contrary, and as long as judicial functions do not suffer, judges may without remuneration or honorarium:
 - a) participate in legal activities. Without limiting the generality of the foregoing, judges may teach law, attend conferences, write articles or treatises, work on committees;
 - b) participate in activities related to the community, to charities, to the arts, and to sports, it being recognized that a judge isolated from society is one who cannot keep in touch with its evolution. However, judges should not participate in fund-raising activities.

Rule 3.00-Judges should maintain their competence, both through their own work, and by participation in all programs of general education or upgrading.

CONSIDERATIONS:

- 3.01 All parties concerned have a right to presume that judges have the general legal knowledge and the aptitudes required to be Provincial Court judges.
- 3.02 The Chief Judge should see to the swearing-in and orientation of any judge appointed.
- 3.03 Judges should endeavour to remain up to date on any changes in the law in those areas where they will be called upon to exercise their functions and to reflect upon the spirit and the letter of the law which it is a judge's duty to apply.
- 3.04 In the field of permanent judicial education, judges have a duty to cooperate with the organization dealing with refresher courses.

Rule 4.00- Everywhere and at all times, judges should behave irreproachably.

CONSIDERATIONS:

- 4.01 Judges should always conduct themselves properly.
- 4.02 Judges should expect to be constantly scrutinized by the public. Consequently they should also voluntarily impose upon themselves certain restrictions on their behaviour, their associations and their public appearances.
- 4.03 Judges should respect and comply with the law and should conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

SECTION 2

IN THE EXERCISE OF THE JUDICIAL
FUNCTION

**Rule 5.00- Judges should be impartial,
diligent and courageous.**

CONSIDERATIONS:

- 5.01 Judges should not be influenced by partisan interest, public opinion, or fear of criticism.
- 5.02 Judges should not lend their prestige to the promotion of other interests.
- 5.03 In all matters of which they are seized or on which they expect to sit, judges have the duty not to hear or receive before judgment any representations, verbal or written, in the absence or without knowledge of the parties and their counsel.

Rule 6.00- Judges must be objective.

CONSIDERATIONS:

- 6.01 By being aware that judges are marked like all of the world with human nature, they should be constantly on guard to maintain their objectivity.
- 6.02 In the course of hearings judges should refrain from making any observations which might indicate their thinking or their decisions.
- 6.03 Judges should remain above the parties, their counsel, and the dispute itself.

Rule 7.00- The role of judges is to render justice within the framework of the law.

CONSIDERATIONS:

7.01 Although the two expressions can be viewed in the same light, a distinction is made here between the administration of justice and the rendering of justice.

7.02 By their oath of office judges have the duty to apply the law.

7.03 In this era of multi-disciplinary approaches, judges may in certain circumstances have recourse to advice from others in order to assist them in rendering justice.

7.04 In conjunction with the previous considerations, judges should always be conscious of the responsibility which is theirs alone: that is, the final decision, the burden of which they must carry.

Rule 8.00-Judges should refrain from criticizing openly or publicly the quality of the administration of justice or the conduct of judges, other than through the appropriate channels.

CONSIDERATIONS:

- 8.01 Maintaining the *status quo* is no more virtuous than change for change's sake. With this in mind, judges' daily experiences may place them in a position to formulate suggestions for the improvement of judicial institutions.
- 8.02 In such a case, judges may make recommendations and representations provided that these are done through the intermediary of the Chief Judge (or the Association).

Rule 9.00- Reasons for judgment should be given and if reserved should be rendered within a reasonable time.

CONSIDERATIONS:

- 9.01 The parties before the court have every right to know the outcome of any hearing as soon as possible.
- 9.02 A party has the right to be told in clear language the reasons behind a particular decision.
- 9.03 Explicit reasons should be given for all judgments.

SECTION 3

HEARINGS

Rule 10.00- Judges should:

- a) sit at those times and in those places to which they are assigned by their Chief Judge pursuant to the statutory powers assigned to the latter, and,**
- b) conduct hearings and make their decisions with all due diligence, and,**
- c) make themselves available to assist their colleagues on those occasions when their own work ends prematurely.**

CONSIDERATIONS:

- 10.01 Time is an aspect of justice, and justice must at times move slowly. With this in mind, this rule emphasizes speed and efficiency.
- 10.02 Frequent adjournments during a particular case may weaken the evidence and may result in the failure to properly emphasize certain elements in the evidence to the detriment of the parties and of the public interest.
- 10.03 Justice delayed can often be justice denied.

**Rule 11.00- In the exercise of their
judicial functions, judges should
maintain their serenity at all times.**

CONSIDERATIONS:

- 11.01 Judges will always be the object of criticism since the aim of their work is to make rulings between the opposing parties.
- 11.02 Judges should make every effort to be calm, patient, and to remain above criticism in order to guard against the loss of their serenity.
- 11.03 The personal problems of judges should never bear so heavily upon them that they lose the serenity necessary to the proper performance of their duties.
- 11.04 The atmosphere surrounding work of judges should promote peace of mind.
- 11.05 Serenity implies good sense and an evenness of attitude.

Rule 12.00- When presiding at a hearing, the conduct of judges should reflect the seriousness and gravity of judicial proceedings.

CONSIDERATIONS:

12.01 Judges on the bench should maintain an impassive attitude.

12.02 When it is necessary to remand a matter to another date, judges should explain succinctly to those present the reasons for such an adjournment.

12.03 Complaints regarding the conduct of hearings should not be voiced by judges from the bench or in any other public forum, but rather should be discussed with the Chief Judge or the Association.

Rule 13.00- In the light of their duty to maintain order and decorum during hearings, judges should display firmness with courtesy, and at all times be patient, deliberate and dignified.

CONSIDERATIONS:

13.01 Within the bounds of decency, the law, and the rules of practice, judges should always allow counsel to fulfill their obligations with all due vigour and persistence.

13.02 Should counsel lose control, fall into the use of invective, or generally conduct themselves casually or with arrogance, judges should avoid meeting them on this level, and should instead work to return the hearing to that level of good sense and decorum necessary to the sound administration of justice.

13.03 Judges should always remind those appearing before them that they have a duty to observe the rules of basic good manners.

Rule 14.00- Judges should treat all those appearing before them with deference and respect.

CONSIDERATIONS:

14.01 Many witnesses must make certain sacrifices to appear in court and may find this task a very difficult one; judges should therefore be patient and refrain from directing any comment which might be interpreted by such persons to be derogatory.

14.02 Many witnesses are appearing in court for the first time and are unaware of the basic rules of court. It therefore falls to the judge to briefly instruct witnesses as to what is expected of them in the performance of their duties.

Rule 15.00- Judges should attend in Court at the time designated.

CONSIDERATIONS:

- 15.01 The role of punctuality in the administration of justice cannot be overestimated.
- 15.02 In the absence of any specific rules of practice, it is the duty of the Chief Judge to set hours of court sittings and to ensure that all parties are well advised of such hours.

SECTION 4

GENERAL

**Rule 16.00- Judges who infringe these
judicial guidelines offend the honour and
dignity of the Provincial Court of British
Columbia.**