Judy Perry Martinez
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Dear President Martinez,

Fix the Court typically works with federal lawmakers, judges and administrators to encourage the federal judiciary to become more open and accountable. Recently, though, an issue on the state level has come to our attention that we believe would benefit greatly from the ABA's guidance and intervention: the inadequate financial disclosure guidelines for state judges and the inconsistent, often scant access granted to the public to review these reports.

State judiciaries, like their federal counterparts, each have some type of annual disclosure requirement. But too often, judges are able to avoid divulging certain securities transactions, who's sending them gifts, who's paying for their junkets and who's giving them perks like free memberships to social clubs and sweetheart loan deals. (Ironically, federal judges' reports are often more thorough than state judges'.) That state courts habitually erect barriers for the press and regular citizens to obtain these disclosures increases the likelihood that statutory conflicts of interest are going unnoticed, harming litigants and the public trust.

In 2013, the Center for Public Integrity released a report on financial disclosures for state supreme court justices and found that nationwide, limited information was required and reporting guidelines were slack. In their evaluation, 42 top state courts, plus the District of Columbia's, received failing grades, and no state received an A or a B.

Revisiting this problem seven years later, it's clear little has changed. Illinois does not require its top judges to disclose the quantity of stock ownership and does not require disclosure of stocks valued less than $5,000. Kentucky's judges are somehow not required to name the company in which they own stock, just the industry. New York outlines a process for judges to request exemption from disclosure filings, and routinely allows judges to file late with impunity. Diligence be damned, Hawaii judges can simply check a box stating their finances haven't changed from one year to the next. Even states like Florida and Texas, whose disclosures are more thorough than most, do not automatically post judge's reports online, instead requiring the public to jump through hoops to receive public records.

What's more, most states permit their judges to file reports for one year well into the summer of the next year, meaning there may be a significant lag when it comes to the accuracy of the information disclosed.

Just as the ABA promotes the tenets of legal ethics, with its model codes of conduct implemented at nearly every level of the state and federal court system, we hope the ABA will consider developing a national standard for disclosures that courts can use to improve transparency and accountability. These guidelines would include categories like judges' outside income, debts, gifts, investments and travel reimbursements, and would establish value floors or ranges. They might also include recommendations for how to grant the public access to these reports.

The remedy for obfuscation, as so often is the case, is sunlight, and the ABA is well-situated to lead this effort. Thank you for your consideration.

Sincerely,
Gabe Roth
Executive Director
Fix the Court