

The Editorial

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Junk Ethics

By The Editors

Earlier this month, the annual judicial conference of the D.C. Circuit featured two days of panels that were organized by the George Mason University Law and Economics Center. Various academics discussed and debated “The Nature of the Judicial Process,” “Democracies Ancient and Modern,” International Law: The Debate over First Principles,” and “Empirical Law and Economics.” This year, George Mason will also provide the academic content for the annual conferences of the Second and Eighth Circuits and of nine state court systems.

Does the D.C. circuit conference sound like a “judicial junket” favoring corporate interests? That’s the misleading epithet that a left-wing outfit called the Community Rights Counsel, which works through the courts to promote environmental collectivism at the expense of individual property rights, has flung against similar academic programs that the George Mason center offers for interested federal and state judges throughout the year. George Mason’s nonpartisan programs in economics, philosophy, and history have received high acclaim from judges across the political spectrum, including Justice Ruth Bader Ginsburg. But the Community Rights Counsel, with funding from the likes of George Soros, has waged a campaign of junk ethics charges against them.

In part spurred by the favorable media attention that the Community Rights Counsel’s false claims have received, a judicial advisory commission is currently reviewing the rules governing programs like George Mason’s. It meets today, and may adopt new rules that would put these programs to an end. This would be disservice to the public interest in good judging — and to the cause of academic freedom.

George Mason has carefully structured its programs to comply with judicial-ethics guidelines, and a federal ethics panel has specifically approved their structure. Indeed, one judicial opinion has condemned the Community Rights Counsel for “character assassination” of judges who take part in programs like George Mason’s. The programs take place in nice locations, away from the distractions of everyday work, and provide lodging and meals to, as well as cover the travel expenses (up to \$500) of, attending judges. But far from being vacations, the programs are academically intensive, and participants are assigned hundreds of pages of difficult materials to read in advance. Offerings in 2006 include a colloquium on David Hume, “Origins of the American Revolution,” and “Economics of Tort Law.” George Mason does not sponsor or subsidize any entertainment or recreational events, and spouses have to pay their own way even though ethics rules would permit their costs to be covered.

The Community Rights Counsel wildly alleges that the programs are “vehicles for corporate underwriters to lobby federal judges.” But only 15 percent of the funding comes from corporations, and no corporation provides more than 2 percent. No support is targeted at particular programs. No corporate representatives attend the programs or have any role in determining curriculum. And the identity of the various supporters is kept confidential, precisely to eliminate any risk that attending judges could be partial towards these supporters. Moreover, any violation of these rules would likely be exposed, as George Mason is a state university open to

public scrutiny.

The Community Rights Counsel's junk ethics charges should not conceal its real agenda. Just as a lawyer defending a guilty client fears an intelligent jury, the Community Rights Counsel evidently has reached the quite reasonable conclusion that the better educated judges are in the fields of economics, philosophy, and history, the less likely they will be to accept its legal positions. But academic freedom — and outstanding academic quality — should not be sacrificed on the altar of the Community Rights Counsel's ideology.

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