

KING COUNTY BAR ASSOCIATION
FAIR CAMPAIGN PRACTICES COMMITTEE

OPINION: MISLEADING CONDUCT

The Fair Campaign Practices Committee has frequently been called upon to consider complaints of judicial campaign advertising giving the misleading impression that a candidate was an incumbent. Such advertising would violate CJC(7)(B)(1)(c)(iii) which provides that a candidate for judicial office should not “knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent.” Examples of misrepresentations of the kind that should be avoided include the following:

1. Use of judicial robes in campaign advertising by candidates who are not incumbents for the position for which they are running, unless the candidate is, at the time of the campaign, a judge (but not a pro tem or administrative law judge), provided the candidate clearly states his or her present judicial position and does not use the robes in such a way as to invite viewers to draw the erroneous conclusion that the candidate is an incumbent for the position sought.
2. Use of the title “judge” by lower court judges running for positions on higher courts in contexts that do not make their actual status clear. For example, a judge on the Seattle Municipal Court who seeks election to the King County Superior Court could create a false impression of incumbency by use of the term "Judge [Name] for Superior Court" unless he or she also clearly stated his or her present judicial position in the same advertising, e.g., "Municipal Court Judge [Name] for Superior Court."
3. Use of signs that arrange and use the candidate’s name and the word “judge” in such a way as to invite viewers to draw the erroneous conclusion that the candidate is an incumbent judge.