

The Guide - Volume 2

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CHAPTER 3: PART-TIME JUDICIAL OFFICERS

A. Conflict-of-Interest Rules for Part-time Magistrate Judges

The Judicial Conference, pursuant to 28 U.S.C. § 632(b), has adopted the following Conflict-of-Interest Rules applicable to part-time magistrate judges.⁽¹⁾

1. A part-time magistrate judge, his or her partners and associates, may appear as counsel in any civil action in any court or governmental agency, including matters in which the United States is a party or has a direct and substantial interest, but they may not appear in cases in which the part-time magistrate judge has been involved in connection with his or her official duties.
2. A part-time magistrate judge, his or her partners and associates, may appear as counsel in any matter before the Internal Revenue Service, other than in those matters in which the part-time magistrate judge has been involved in connection with his or her official duties.
3. A part-time magistrate judge may appear as counsel in a criminal action in any state court, but is precluded from appearing as counsel in any criminal action in any court of the United States.
4. A part-time magistrate judge's partners and associates may appear as counsel in any criminal action in any state court and in any federal court other than in the district in which the part-time magistrate judge serves, provided that the part-time magistrate judge has not been involved in such criminal proceeding in connection with his or her official duties.
5. A part-time magistrate judge is precluded from using his or her official office to refer cases to his or her partners, associates, or to others.
6. Generally, a part-time magistrate judge represents conflicting interests when, in behalf of the Government, it is his or her official duty to take certain action or contend for that which duty to another would require him or her to oppose.
7. A part-time magistrate judge who is assigned additional duties under Section 636(b) or who conducts civil proceedings with the consent of the parties under Section 636(c) of Title 28, United States Code, may not appear as counsel in any case, civil or criminal, in the district court for which he or she is appointed. This prohibition shall not extend to a part-time magistrate judge whose additional assignments are limited to the review of prisoner petitions, service as a special master in a specified case, the receipt of indictments returned by grand juries, or the conduct of arraignments.
8. A part-time magistrate judge may not use his or her official position in any way to promote his or her private law practice. In this regard, he or she may not use his or her official stationery in the conduct of his or her law practice nor include his or her official title on general office letterhead.

⁽¹⁾ Conflict-of-Interest Rules 1 through 6 were adopted by the Judicial Conference at its March 1969 session (1969 Conf. Rept., pp. 32-33). Rule 7 was adopted by the Conference at its October 1969 session and amended at its March 1977 and March 1991 sessions (1969 Conf. Rept., p. 79; 1977 Conf. Rept., pp. 27-28; 1991 Conf. Rept., p. 14). Rule 8 was adopted at the October 1972 session (1972 Conf. Rept., p. 68).