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## request to talk

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Wednesday, September 10, 2025 at 10:41:29 PM Mountain Daylight Time

Senior Judge Kate Appleby

To: Alf Brandt

Hiya.

I've had an inquiry from one of our judges about the source of scholarship funding for conference attendance. You may receive a direct inquiry, but I'd also like an opportunity to discuss it with you. Do you have a few minutes to talk soon? I've got conference attendance tomorrow (Thu 2:00 to 4:00 MDT) and Fri (10:00-11:30). Otherwise, I'm available including evenings and the weekend. Will also want your thoughts on the agenda for next week. Thanks.

K

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Thursday, September 11, 2025 at 9:00:00 AM Mountain Daylight Time

Alf Brandt

To: Senior Judge Kate Appleby

Yes, I can talk later this morning. Judge Valencia already asked me about this issue, which I have copied below, including my response.

Alf



Alf W. Brandt, Esq.

Director, Justice Solutions and Innovation



Judicial College Building/MS 358 | Reno, Nevada



hz line

[www.judges.org](http://www.judges.org)



Our records do not show you receiving a scholarship for *Dividing the Waters*. I think the Judicial Council paid the tuition and conference fee for you and the other Utah judges. I can confirm that fact if you like, but I recall addressing Utah judge tuition a couple of months ago.

We do not have any sponsors for *Dividing the Waters* other than the state judiciaries that contribute to the program (WA, NM, UT, CA, NV and CO). Each state gets benefits based on the level of their contribution. Four states, which contribute \$50K, get tuition scholarships for five judges, but those states do not include Utah.

Please let me know if you wish to discuss this issue by phone. This program does not raise the issues addressed in your court attorney's email.

Alf




**Alf W. Brandt, Esq.**

*Director, Justice Solutions and Innovation*





**Judicial College Building/MS 358 | Reno, Nevada**



 hz line

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**From:** Judge Jennifer Valencia   
**Sent:** Wednesday, September 10, 2025 2:19 PM  
**To:** Alf Brandt   
**Subject:** Fwd: attending Dividing the Waters conference in Montana on NJC scholarship



**[EXTERNAL EMAIL]**

Hi Alf,

I'm wondering if you would know where the source of NJC's funding for the scholarships to attend the DTW conference comes from? I'm in the midst of a pretty massive GRAMA request pertaining to ELI and CJP that you're probably aware of. The administrative office of the courts here in Utah is reconsidering whether I should attend and/or would need to cover all expenses myself if I choose to attend (depending on the funding source for the conference scholarship). I've attached the most recent advice from our legal counsel if it's helpful to understand the request for this information.

Thank you,  
Judge Valencia

----- Forwarded message -----

**From:** **Jace Willard**   
**Date:** Tue, Sep 9, 2025 at 4:22 PM  
**Subject:** attending Dividing the Waters conference in Montana on NJC scholarship  
**To:** Judge Jennifer Valencia  >

Judge Valencia:

We spoke briefly yesterday regarding the ethical propriety of your planned attendance at an upcoming Dividing the Waters conference in Montana. I believe your primary concern was that tuition, travel, and lodging for the conference will be provided by an NJC scholarship.

When we spoke, I discounted your concern based largely on the reputability of the NJC and the fact that it receives its funding from a wide variety of sources. See NJC website pages [here](#) ("Financial support from individual contributors and foundations, as well as the Bureau of Justice Assistance (BJA), the National Highway Traffic Safety Administration (NHTSA), the Federal Motor Carrier Safety Administration (FMCSA), state IOLTA funds, the American Institute of

Certified Public Accountants (AICPA) and several state traffic safety agencies provide financial assistance for judicial education and training for the nation's judiciary. Individual states may also have sources of funding available." and [here](#) ("The NJC Endowment includes many individual endowments, often established to honor individuals and benefit judges of certain types or from specific locations.") (linking to [this list](#) of individual endowments).

After further consideration of the relevant rules (see esp. [CJC Rules 3.13 and 3.14](#)), however, and particularly the factors set forth in [comment \[3\] to CJC Rule 3.14](#), I recommend that you ask specifically about the source of the funding for the conference and your scholarship to ensure it is not, for example, a corporation, law firm, or special interest group involved or likely to be involved in Utah litigation. See [Utah Inf. Op. 88-10](#) (judge's participation in expenses-paid seminar located in another country and sponsored by organization in Washington, DC, would not create appearance of impropriety where purpose of seminar was discussion of domestic issues of international scale and organization was not likely to be party or have interest in Utah case); [In re Aguinda, 241 F.3d 194, 206 \(2d Cir. 2001\)](#) ("Judges should be wary of attending presentations involving litigation that is before them or likely to come before them without at the very least assuring themselves that parties or counsel to the litigation are not funding or controlling the presentation. . . . Where parties or counsel to them fund or control such a presentation, the appearance created bears too great a resemblance to an ex parte contact.") (citing [In re Sch. Asbestos Litig., 977 F.2d 764, 781-85 \(3d Cir. 1992\)](#)); [Ariz. Adv. Op. 00-02](#) (surveying authorities and concluding in relevant part: "Attendance at educational programs funded by corporations or foundations but hosted by universities or judicial colleges that independently determine course content are permissible with reduced or free tuition. Here, given the insulation of the judiciary from the source of the funding and the independent determination of course content, the committee believes there is little chance of an appearance of impropriety. Nonetheless, the judge should inquire into the names of businesses and foundations sponsoring the law-related educational programs. If the sponsoring business or foundation is in litigation before the court, the judge should not attend. If the sponsoring business or foundation is likely to be in litigation before the court, the judge should not attend unless the judge pays his or her own expenses. If, in the future, a sponsoring organization appears before the judge, the judge should consider whether recusal is necessary under the facts and circumstances or, if not, disclosing information relevant to the issue of disqualification to the parties even if the judge believes there is no real basis for disqualification.") (emphasis added).

And of course I assume your scholarship would only be provided on the same terms as other applicants. [N.Y. Adv. Op. 19-127](#) (concluding that judge may attend out-of-state NJC course and may apply for and accept NJC scholarship provided on same terms as other applicants).

I hope that's helpful. Please let me know if you have other questions or concerns!

Thanks,

Jace

--



Jace Willard  
Associate General Counsel





**Alf W. Brandt, Esq.**

*Director, Justice Solutions and Innovation*



**Judicial College Building/MS 358 | Reno, Nevada**



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**Alf W. Brandt, Esq.**

*Director, Justice Solutions and Innovation*



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**From:** Judge Jennifer Valencia [REDACTED] >

**Sent:** Wednesday, September 10, 2025 2:19 PM

**To:** Alf Brandt [REDACTED]

**Subject:** Fwd: attending Dividing the Waters conference in Montana on NJC scholarship

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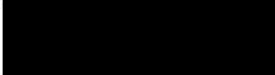
Thanks,

Jace

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Jace Willard  
Associate General Counsel



*450 South State Street P.O. Box 140241 Salt Lake City, UT 84114-0241*

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**From:** Senior Judge Kate Appleby [REDACTED] >  
**Sent:** Wednesday, September 10, 2025 9:41 PM  
**To:** Alf Brandt [REDACTED]  
**Subject:** request to talk

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K

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**Attachments:**

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