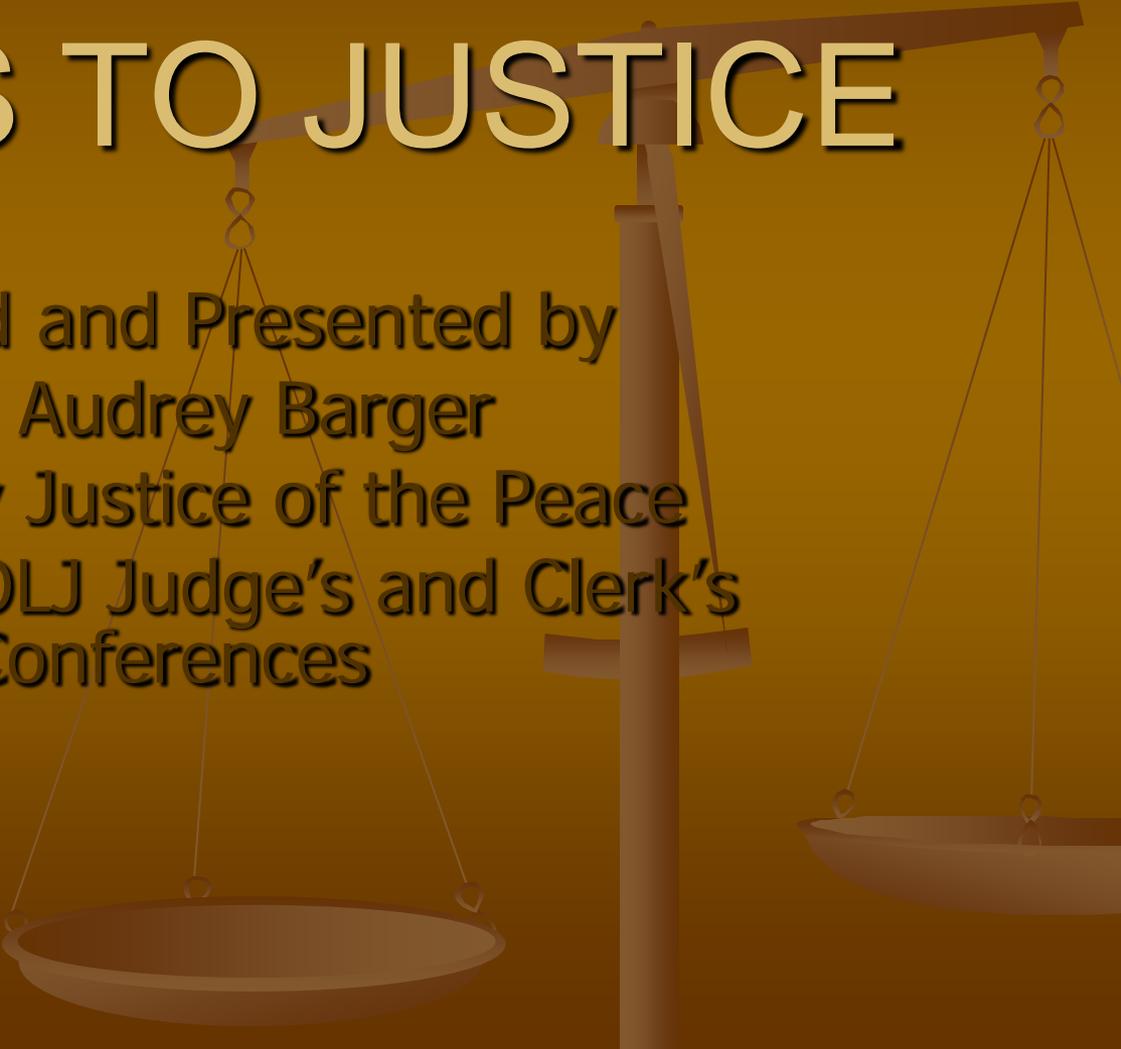


ACCESS TO JUSTICE



Prepared and Presented by
Hon. Audrey Barger
Hill County Justice of the Peace
Fall 2012 COLJ Judge's and Clerk's
Conferences

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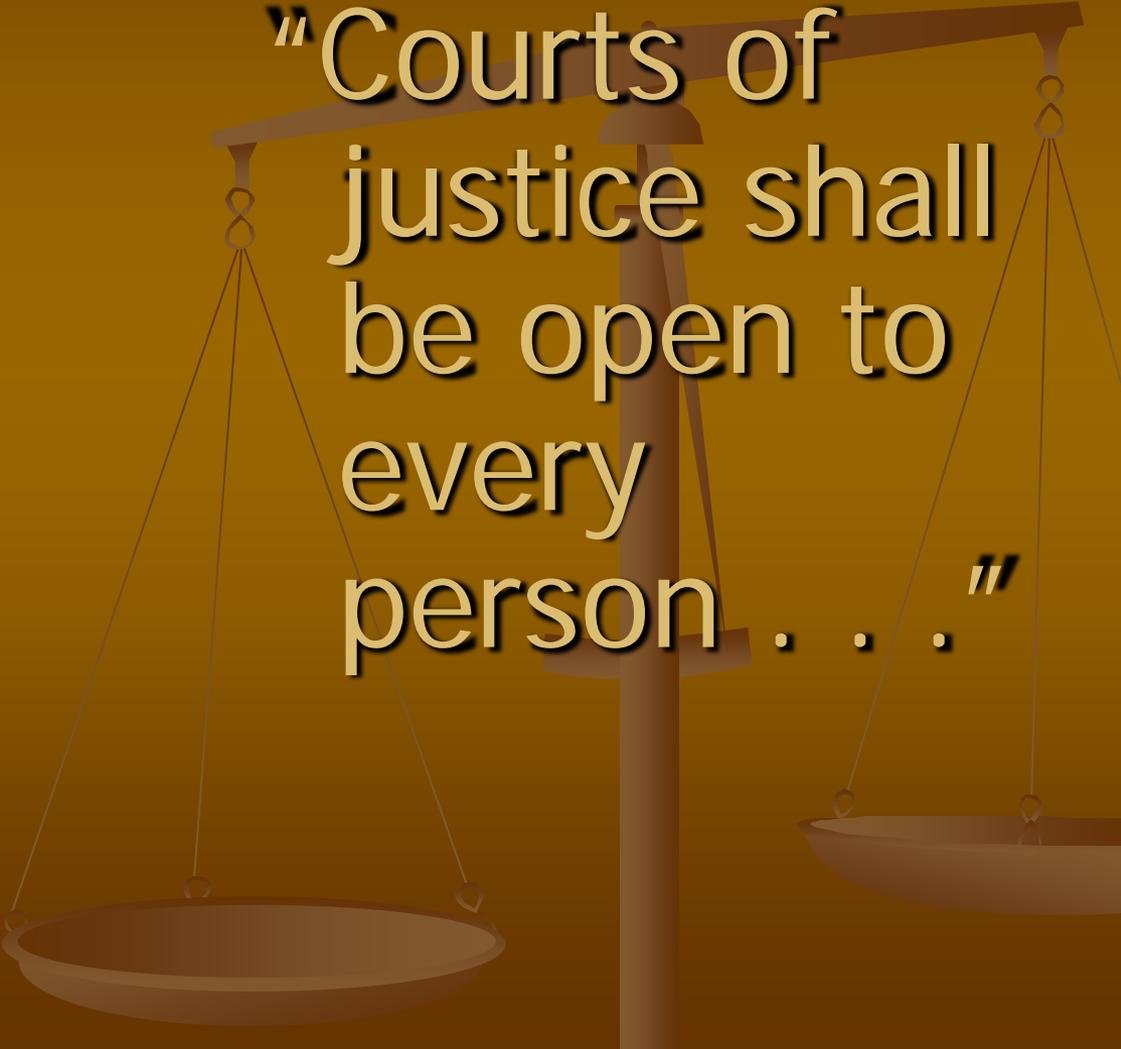
COURTS OF LIMITED JURISDICTION

- Art. II, Section 16

*The Constitution
of the
State of Montana*

"The Administration of
Justice"

"Courts of
justice shall
be open to
every
person"



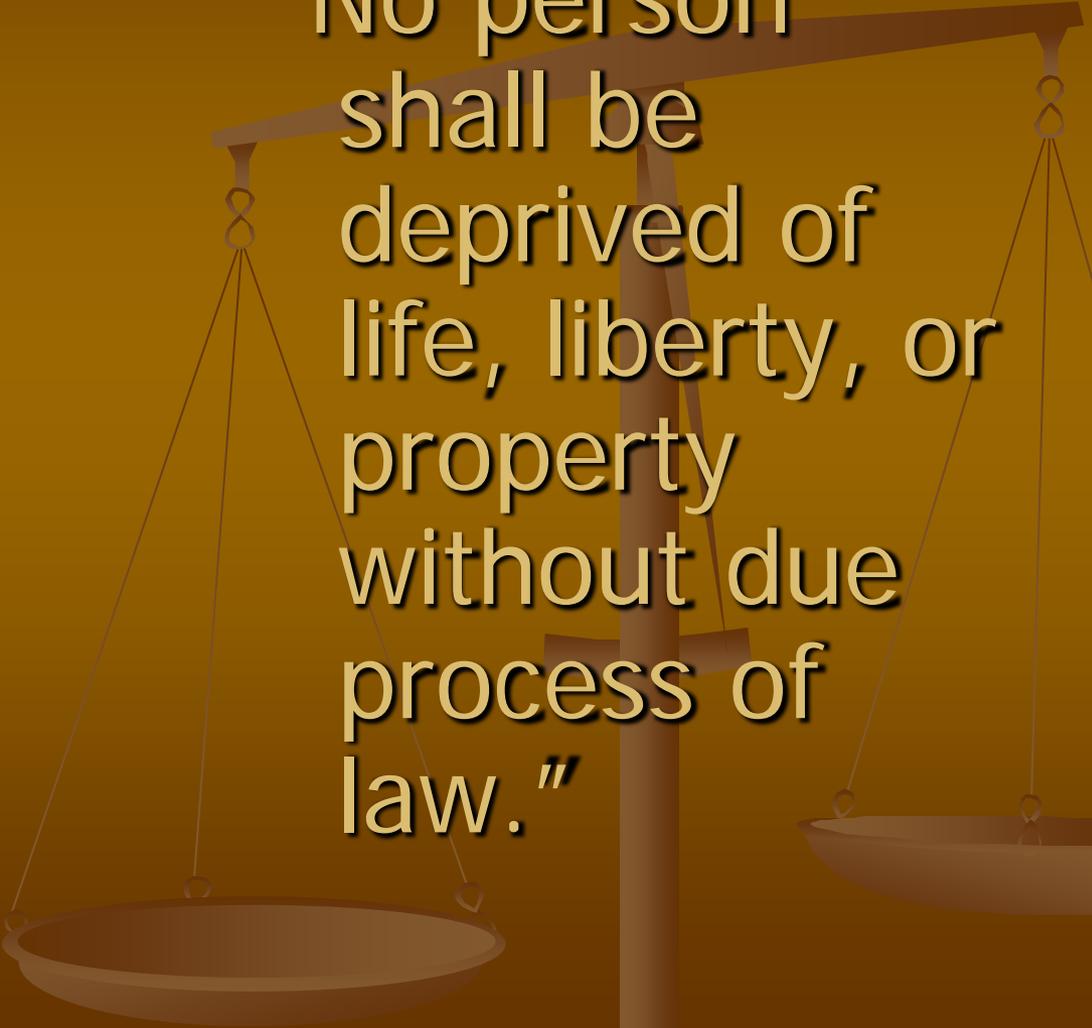
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COURTS OF LIMITED JURISDICTION

- Art. II, Section 17

*The Constitution
of the
State of Montana*

"Due Process of Law"



"No person shall be deprived of life, liberty, or property without due process of law."

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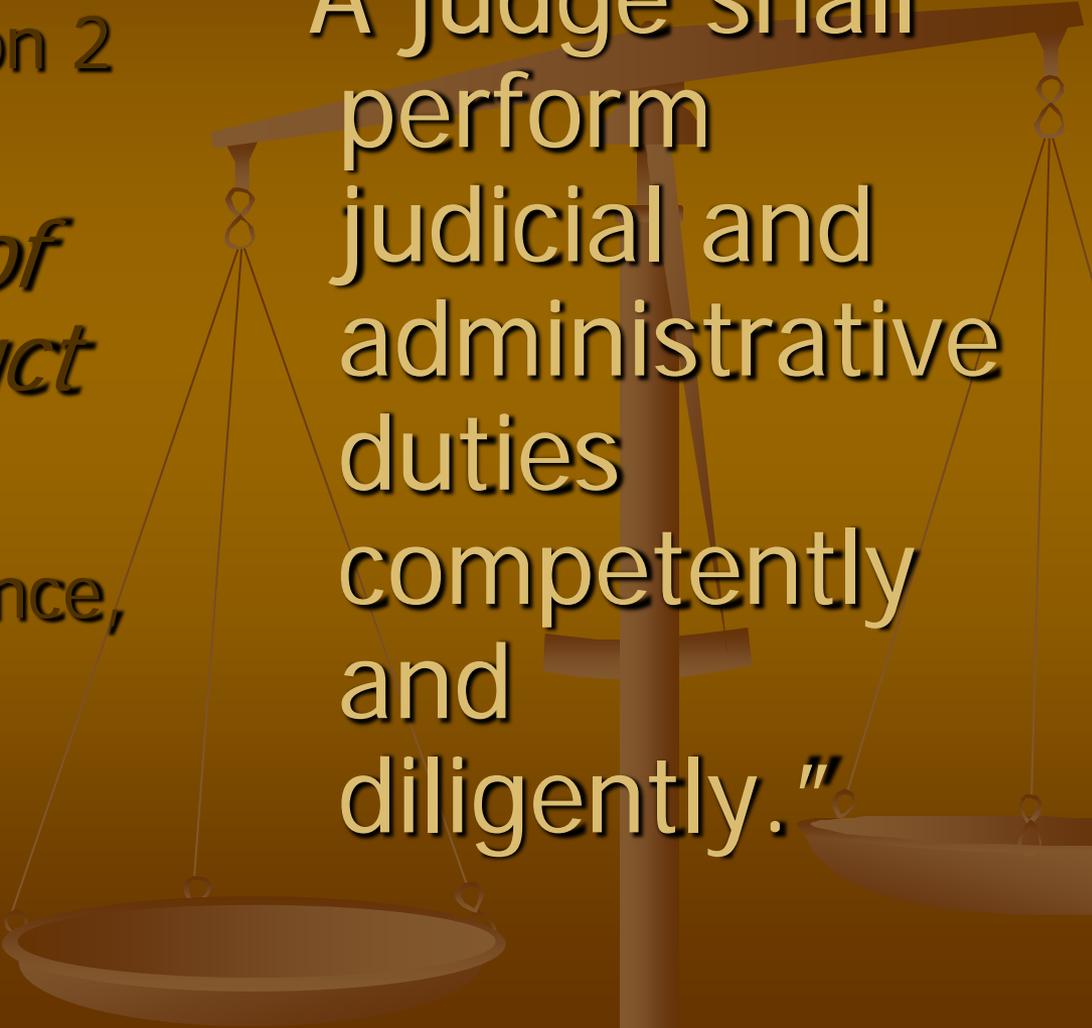
COURTS OF LIMITED JURISDICTION

- Rule 2.5(A) - Canon 2

*Montana Code of
Judicial Conduct*

"Competence, Diligence,
and Cooperation"

"A judge shall
perform
judicial and
administrative
duties
competently
and
diligently."



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- Rule 2.5(A) - Canon 2 – Comment (4)

Montana Code of Judicial Conduct

“In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or (continued)

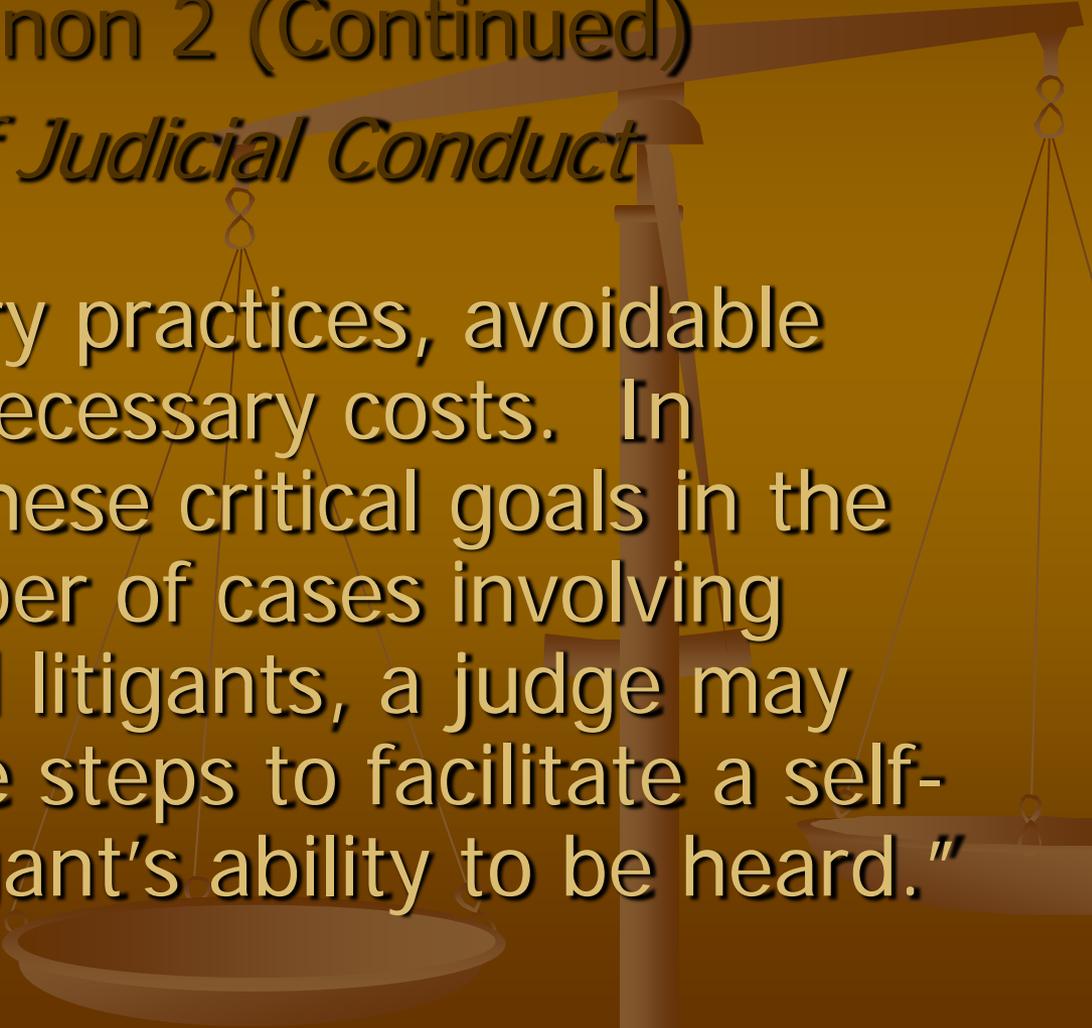
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COURTS OF LIMITED JURISDICTION

- Rule 2.5(A) - Canon 2 (Continued)

Montana Code of Judicial Conduct

eliminate dilatory practices, avoidable delays, and unnecessary costs. In accomplishing these critical goals in the increasing number of cases involving self-represented litigants, a judge may take appropriate steps to facilitate a self-represented litigant's ability to be heard."



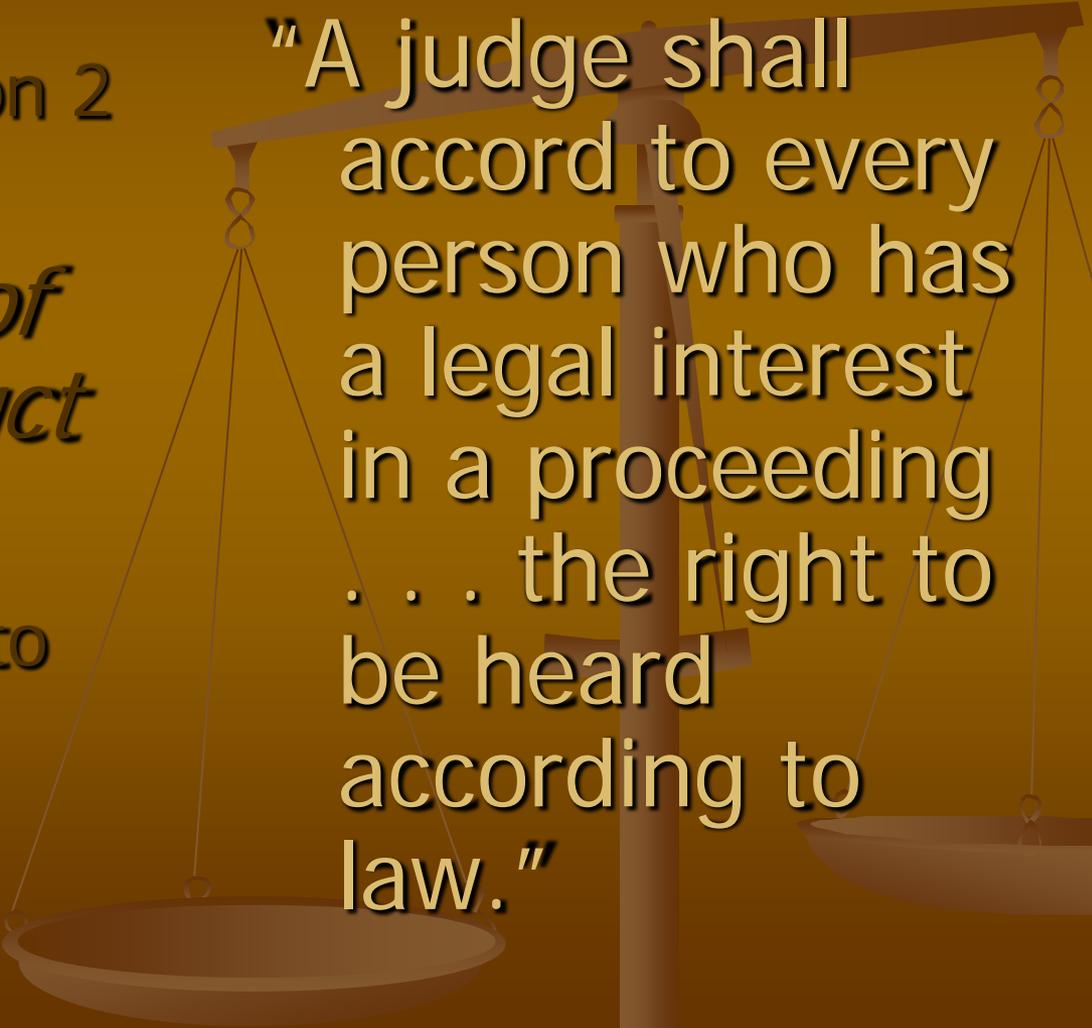
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COURTS OF LIMITED JURISDICTION

- Rule 2.6(A) - Canon 2

Montana Code of Judicial Conduct

“Ensuring the Right to
be Heard”



“A judge shall
accord to every
person who has
a legal interest
in a proceeding
. . . the right to
be heard
according to
law.”

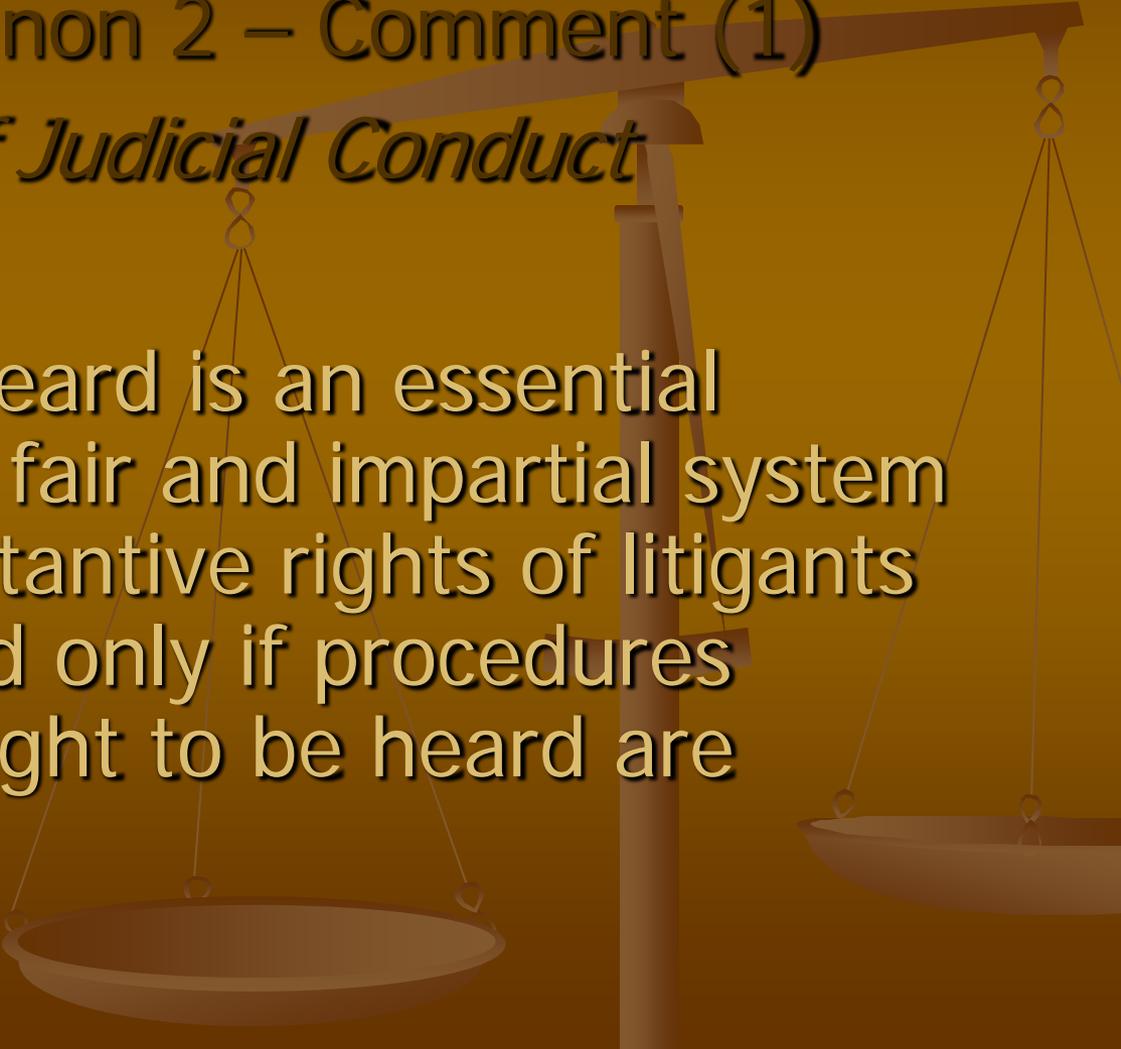
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COURTS OF LIMITED JURISDICTION

- Rule 2.6(A) - Canon 2 – Comment (1)

Montana Code of Judicial Conduct

“The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.”



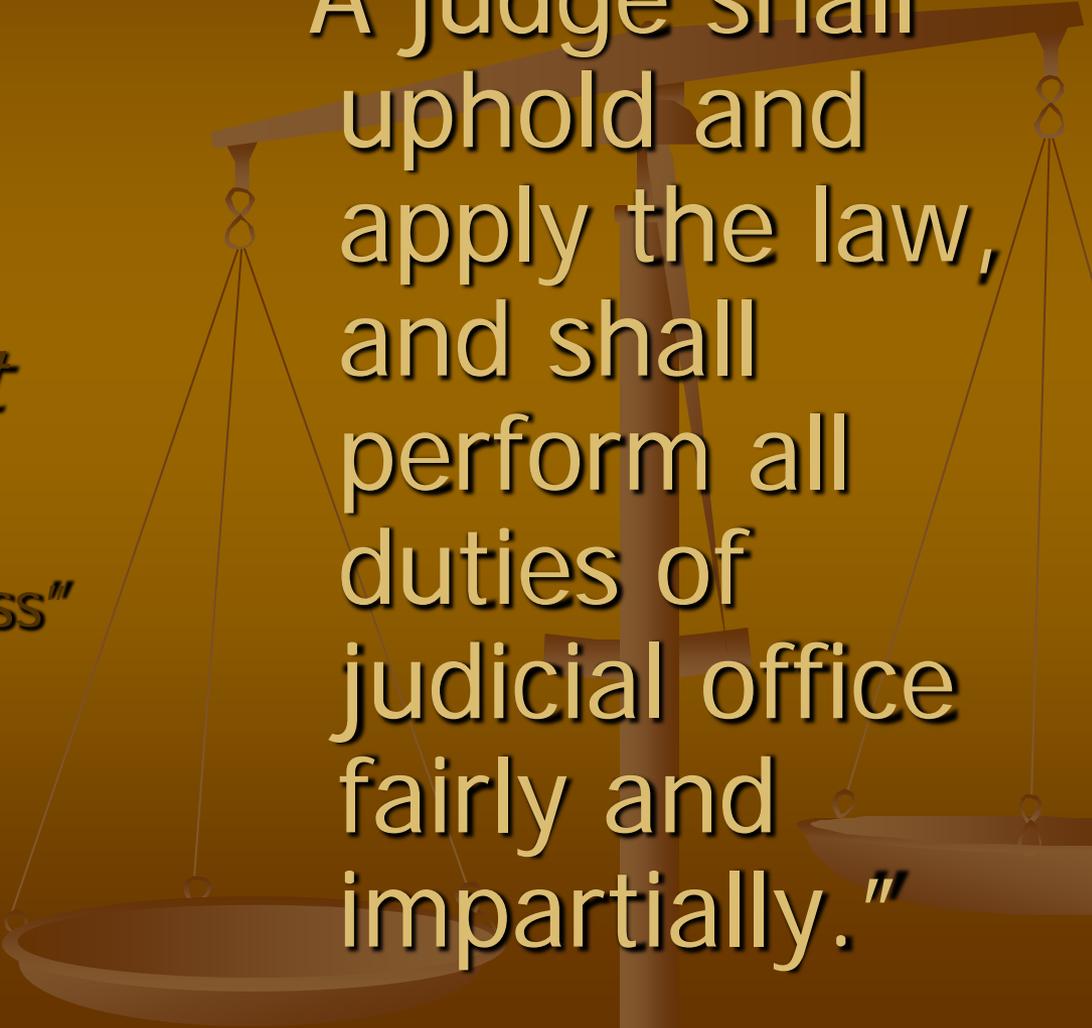
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COURTS OF LIMITED JURISDICTION

- Rule 2.2 - Canon 2

*Montana Code of
Judicial Conduct*

"Impartiality and Fairness"



"A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."

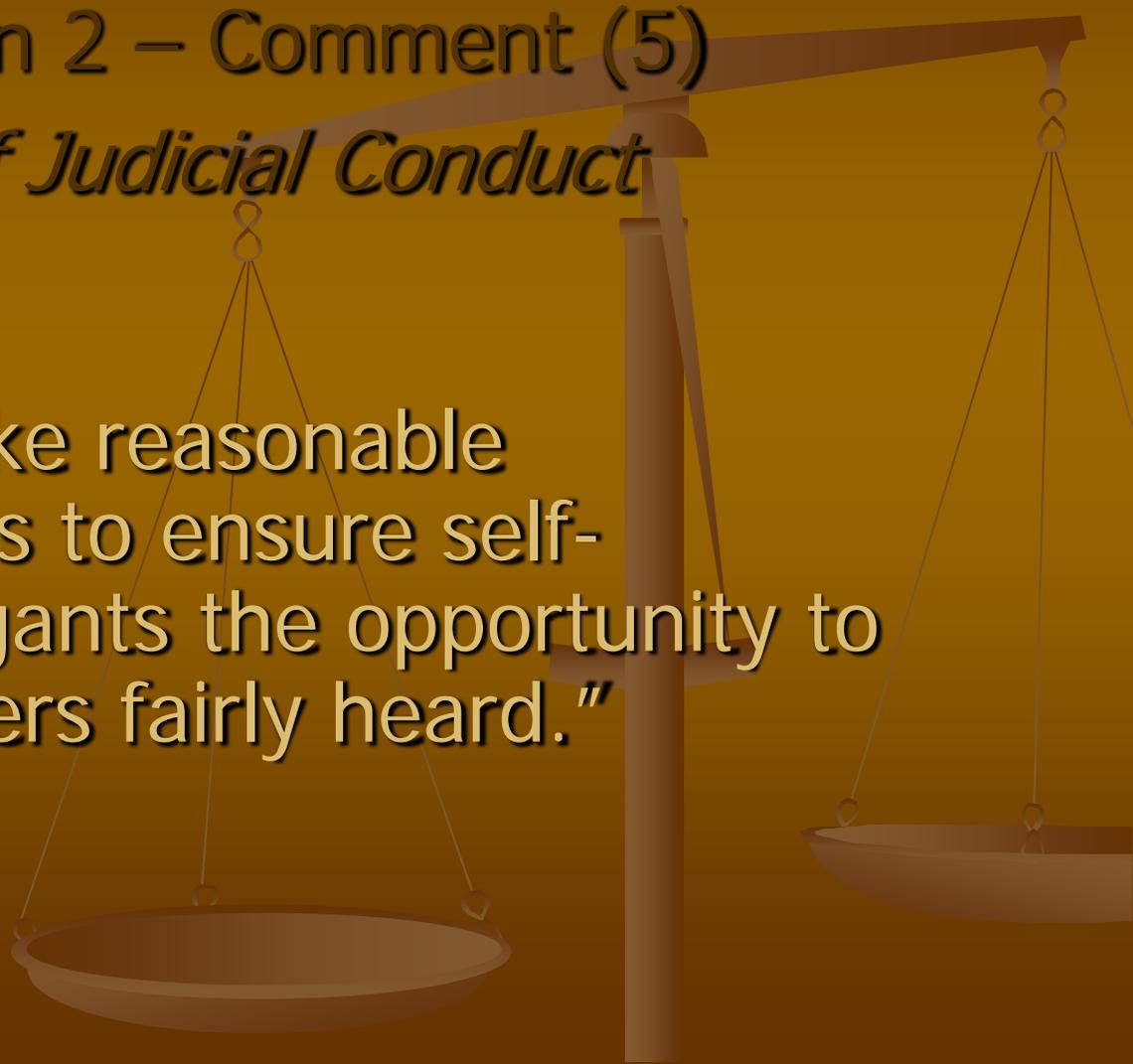
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- Rule 2.2 - Canon 2 – Comment (5)

Montana Code of Judicial Conduct

“A judge may make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard.”



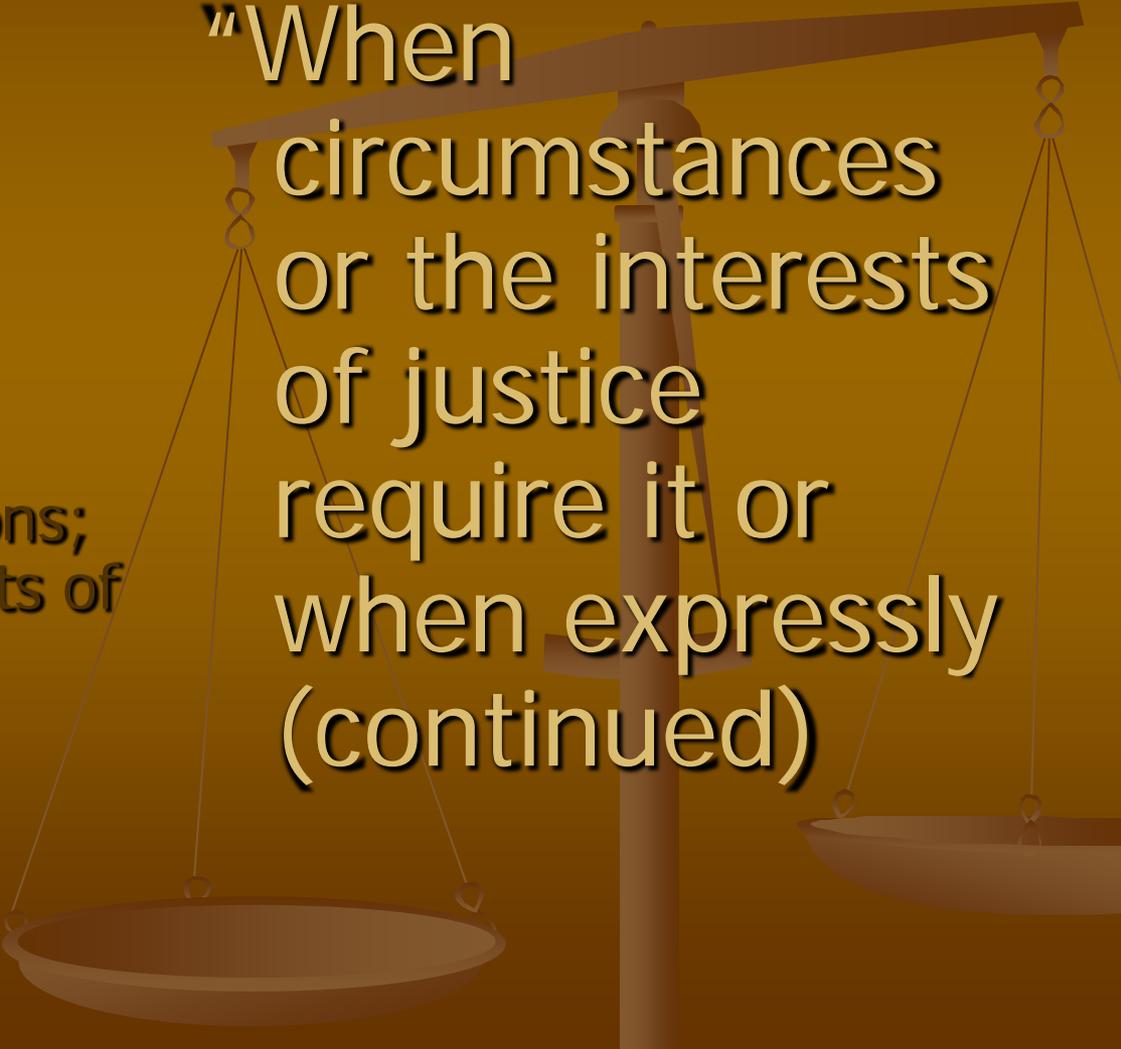
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COURTS OF LIMITED JURISDICTION

- Rule 2.9(D) - Canon 2

*Montana Code of
Judicial Conduct*

"Ex Parte Communications;
Investigations – Courts of
Limited Jurisdiction"



"When
circumstances
or the interests
of justice
require it or
when expressly
(continued)"

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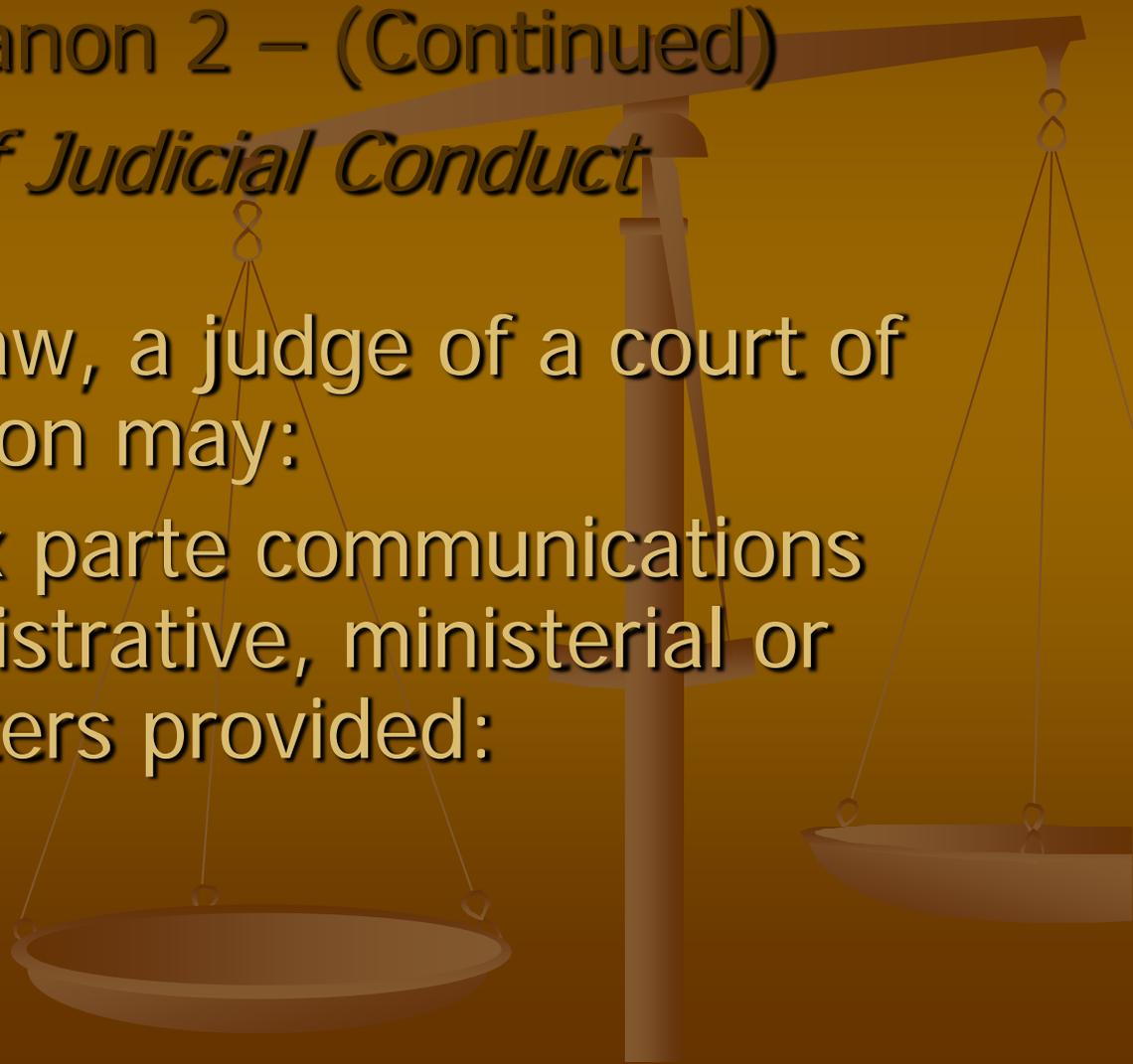
COURTS OF LIMITED JURISDICTION

- Rule 2.9(D) - Canon 2 – (Continued)

Montana Code of Judicial Conduct

authorized by law, a judge of a court of limited jurisdiction may:

(1) engage in ex parte communications involving administrative, ministerial or scheduling matters provided:



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- Rule 2.9(D) - Canon 2 – (Continued)

Montana Code of Judicial Conduct

(a) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication; and

(b) the judge notifies all other parties, if necessary to prevent any party from gaining a procedural or tactical advantage."

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COURTS OF LIMITED JURISDICTION

- Rule 2.9(D) - Canon 2 – Comment (1)

Montana Code of Judicial Conduct

“This Rule is tailored to accommodate the unique circumstances in which Montana’s courts of limited jurisdiction operate. This rule acknowledges that these courts exist in both large metropolitan and isolated rural locations; that the judge’s of these courts may (continued)

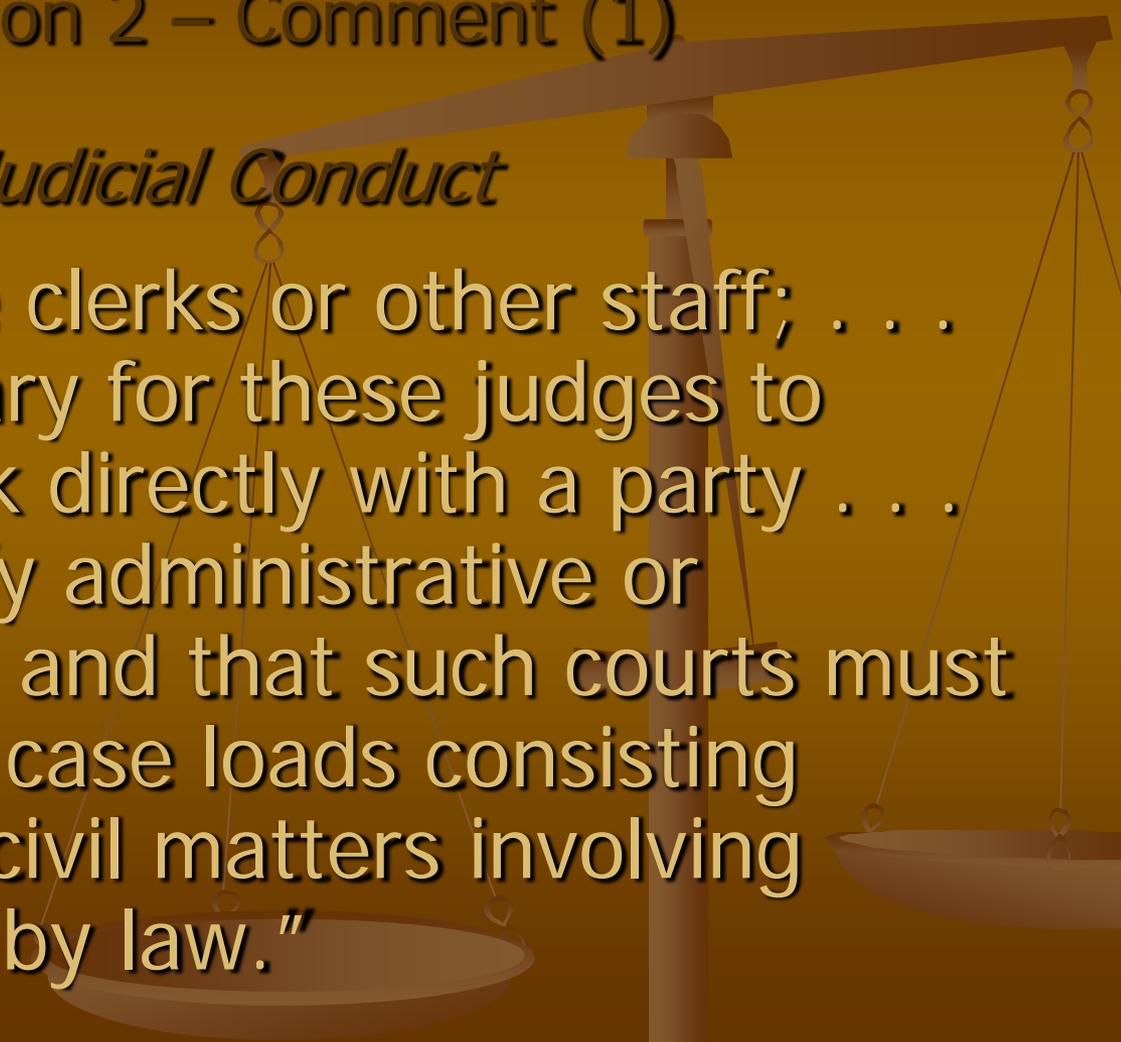
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COURTS OF LIMITED JURISDICTION

- Rule 2.9(D) - Canon 2 – Comment (1)
(Continued)

Montana Code of Judicial Conduct

or may not have clerks or other staff;
that it is necessary for these judges to
sometimes speak directly with a party
to verify or clarify administrative or
ministerial facts; and that such courts must
administer large case loads consisting
primarily of civil matters involving
amounts limited by law.”



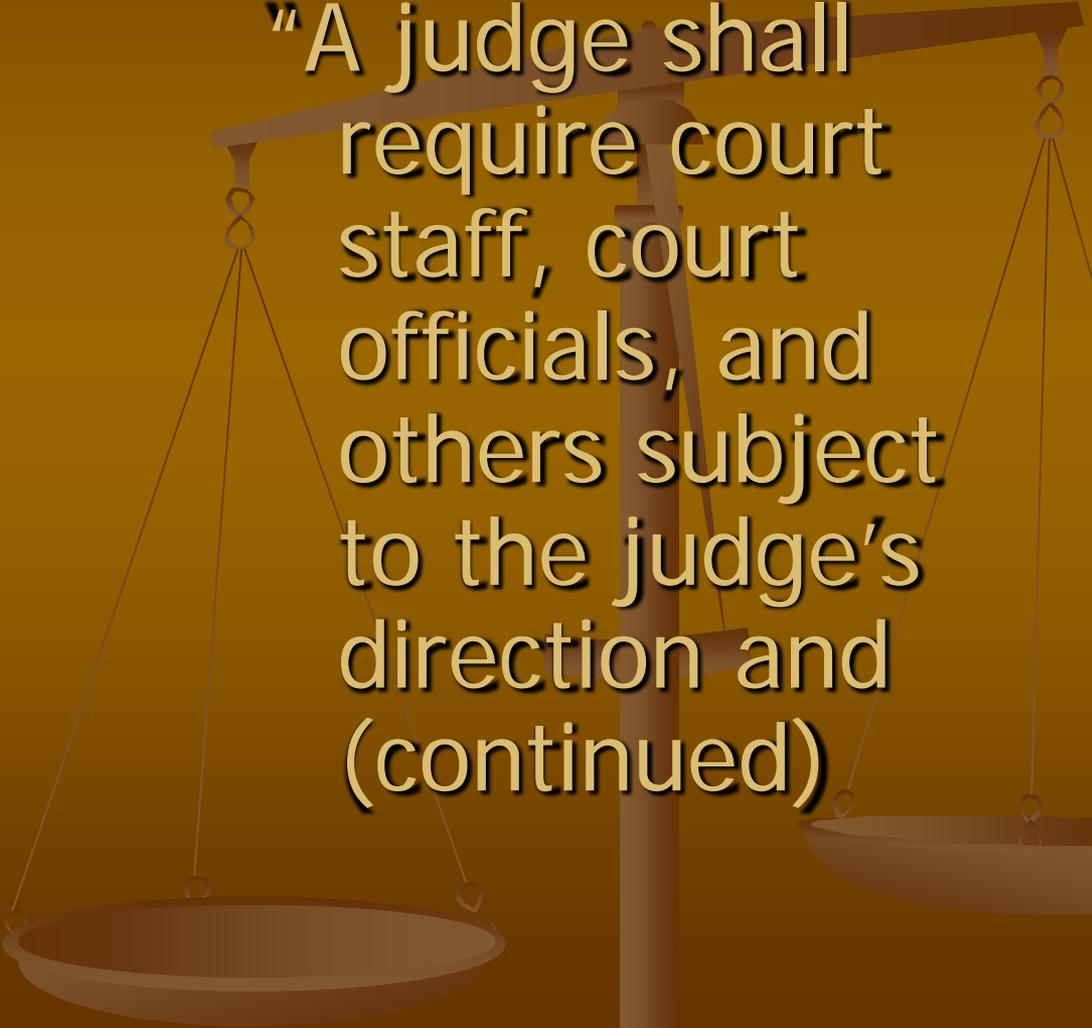
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COURTS OF LIMITED JURISDICTION

- Rule 2.13(A) - Canon 2

*Montana Code of
Judicial Conduct*

"Supervisory Duties"



"A judge shall
require court
staff, court
officials, and
others subject
to the judge's
direction and
(continued)

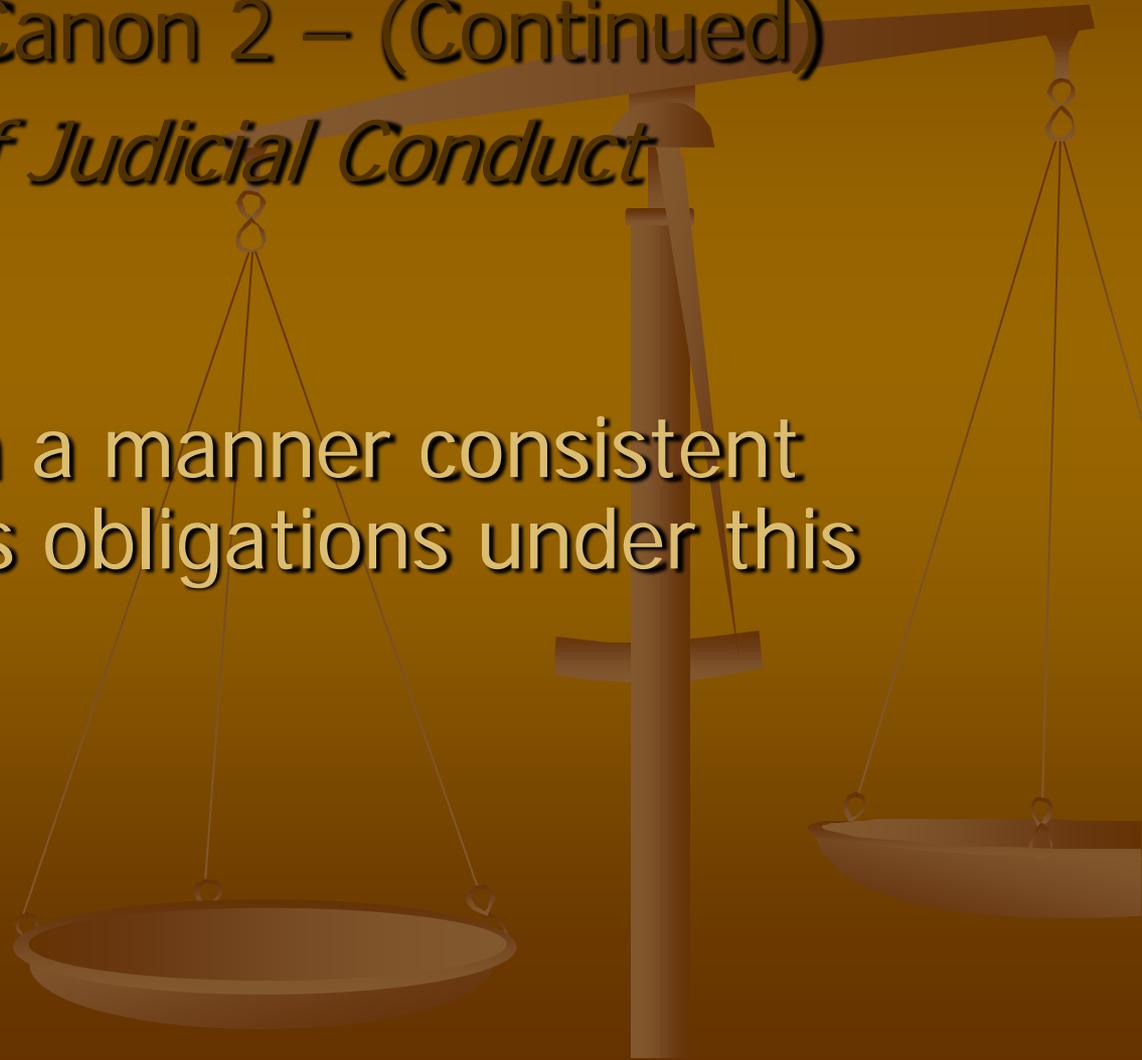
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- Rule 2.13(A) - Canon 2 – (Continued)

Montana Code of Judicial Conduct

control to act in a manner consistent with the Judge's obligations under this Code."



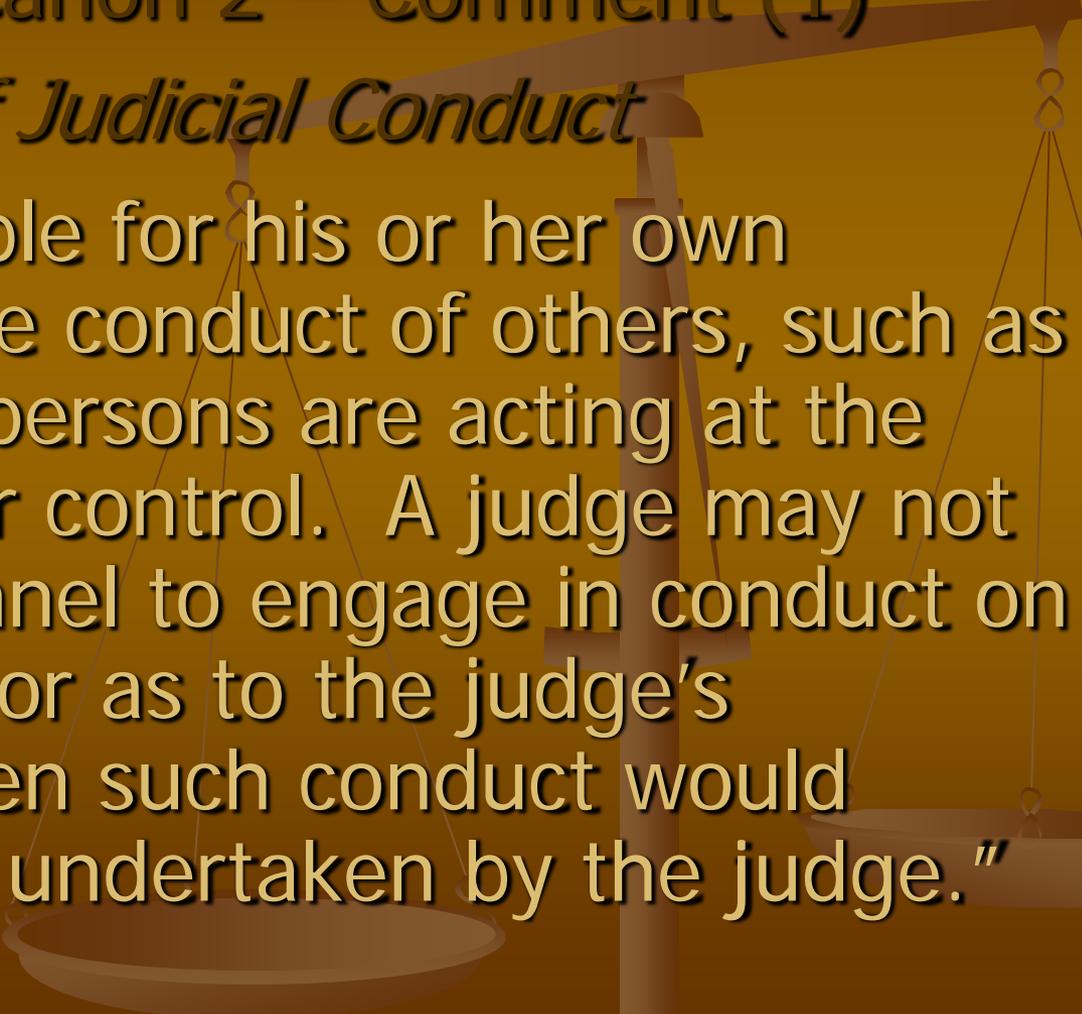
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- Rule 2.13(A) - Canon 2 – Comment (1)

Montana Code of Judicial Conduct

"A judge is responsible for his or her own conduct and for the conduct of others, such as staff, when those persons are acting at the judge's direction or control. A judge may not direct court personnel to engage in conduct on the judge's behalf or as to the judge's representation when such conduct would violate the Code if undertaken by the judge."



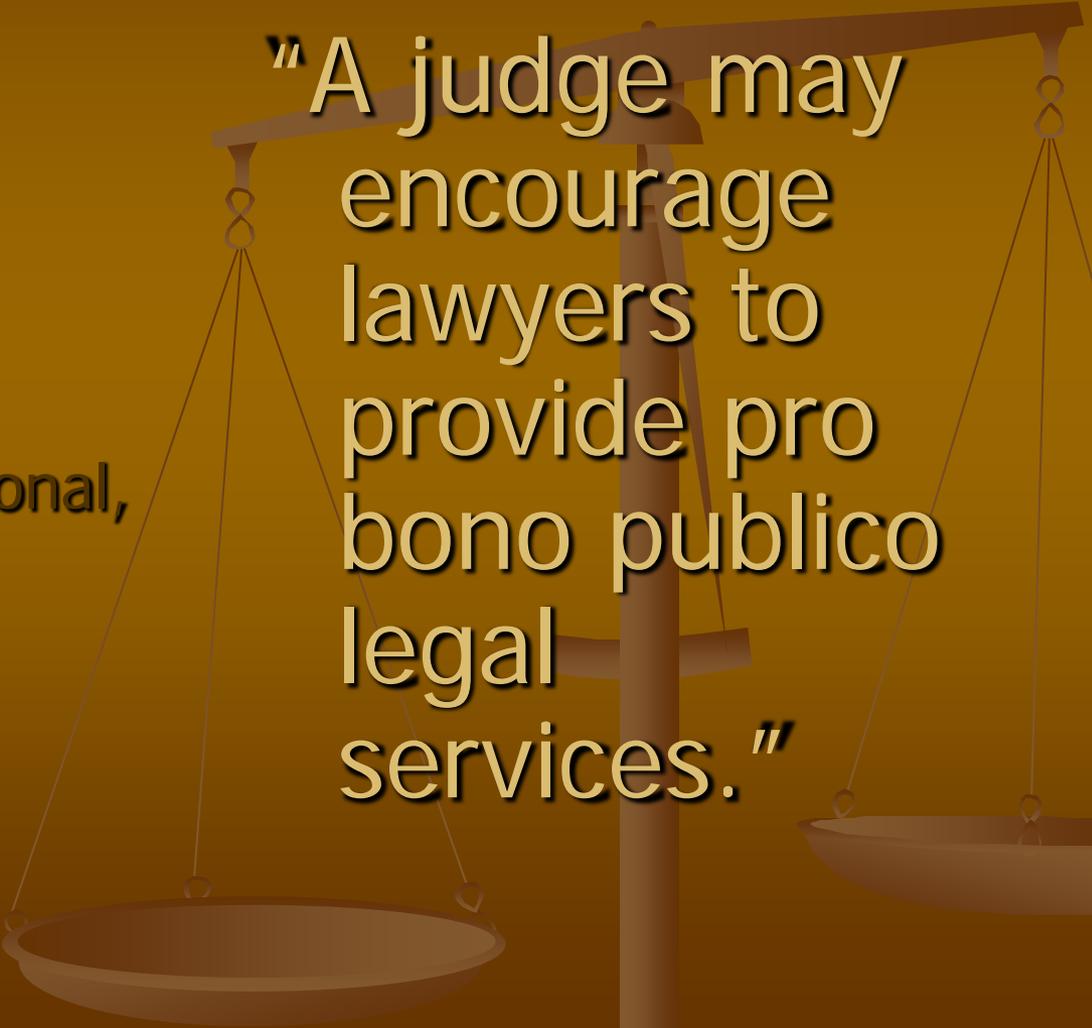
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- Rule 3.7(B) - Canon 3

*Montana Code of
Judicial Conduct*

"Participation in Educational,
Religious, Charitable,
Fraternal, or Civil
Organizations and
Activities"



"A judge may encourage lawyers to provide pro bono publico legal services."

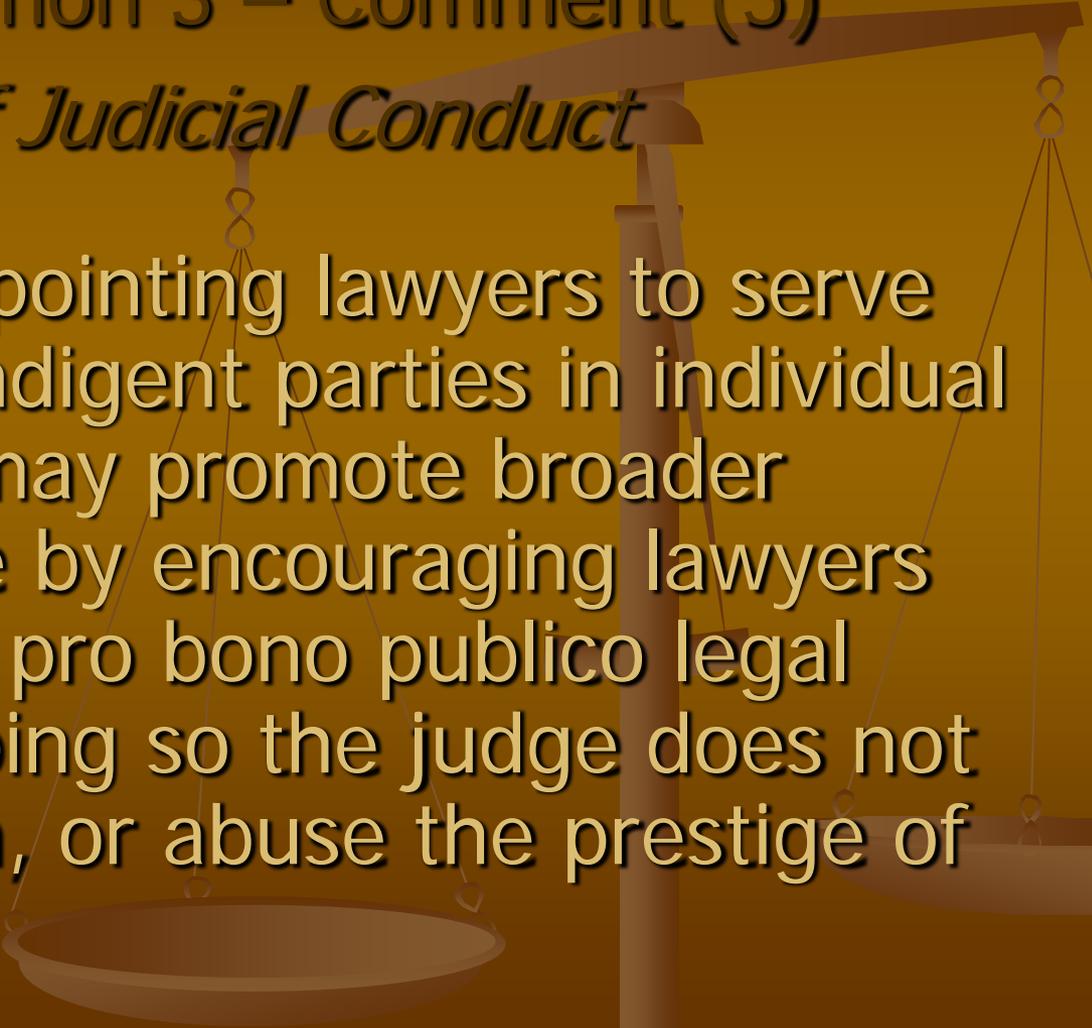
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COURTS OF LIMITED JURISDICTION

- Rule 3.7(B) - Canon 3 – Comment (5)

Montana Code of Judicial Conduct

“In addition to appointing lawyers to serve as counsel for indigent parties in individual cases, a judge may promote broader access to justice by encouraging lawyers to participate in pro bono publico legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office.”



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COURTS OF LIMITED JURISDICTION

- Rule 3.7(B) - Canon 3 – Comment (6)

Montana Code of Judicial Conduct

- ” . . . a judge may provide leadership in improving equal access to the justice system; developing public education programs; engaging in outreach activities to promote the fair administration of justice; and convening and participating in advisory committees and (continued)

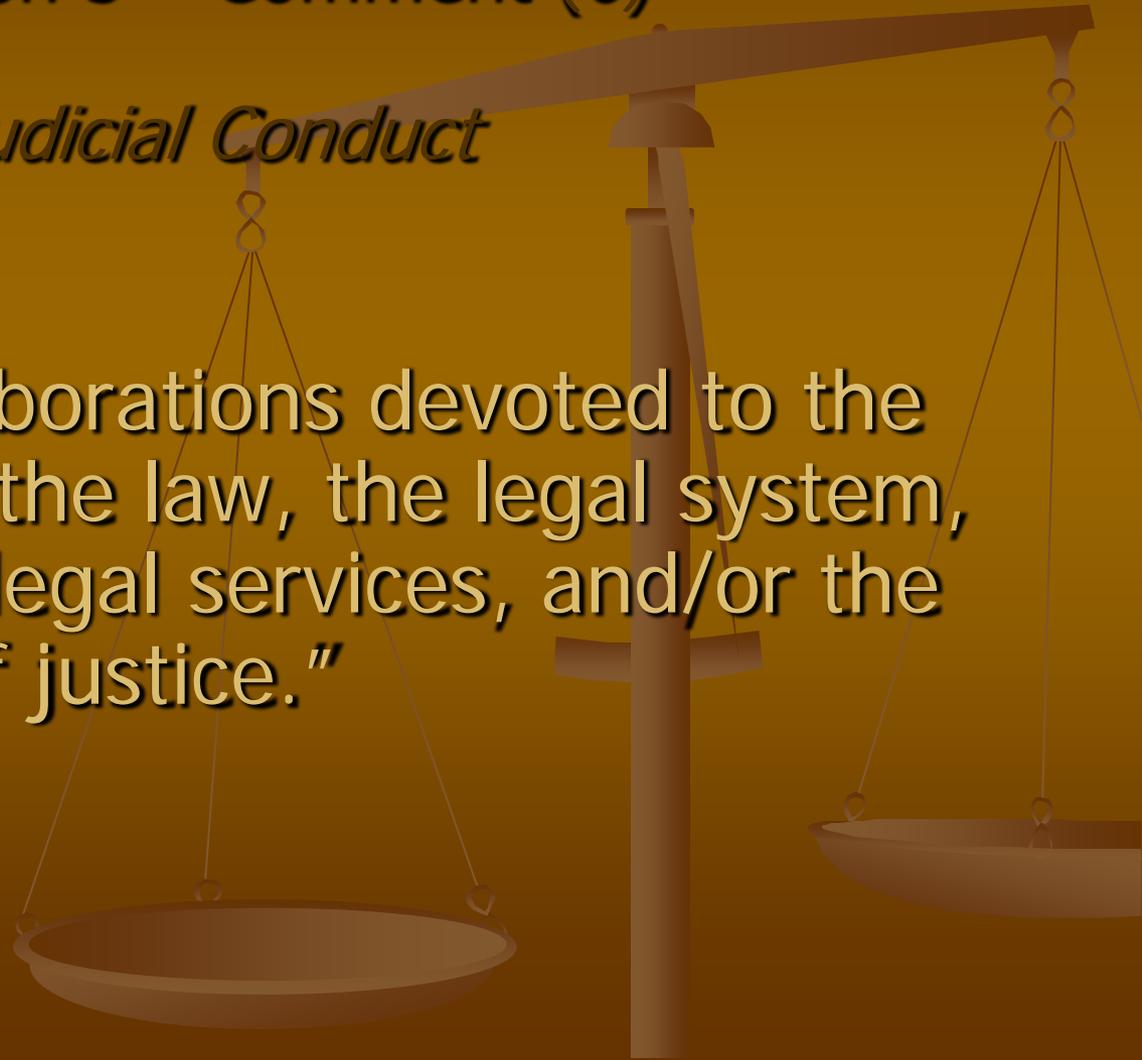
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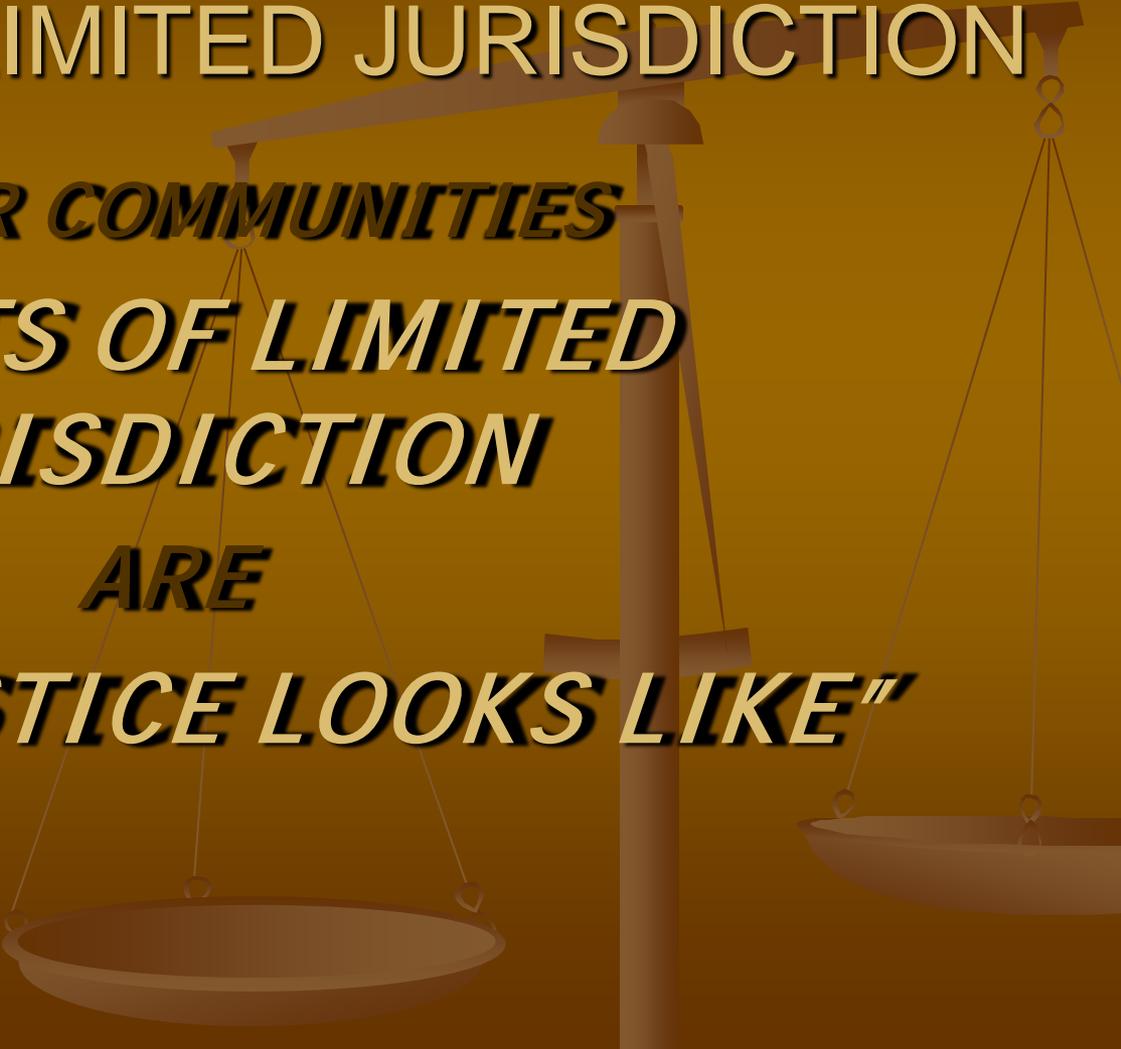
- Rule 3.7(B) - Canon 3 – Comment (6)
(Continued)

Montana Code of Judicial Conduct

community collaborations devoted to the improvement of the law, the legal system, the provision of legal services, and/or the administration of justice.”



ACCESS TO JUSTICE COURTS OF LIMITED JURISDICTION



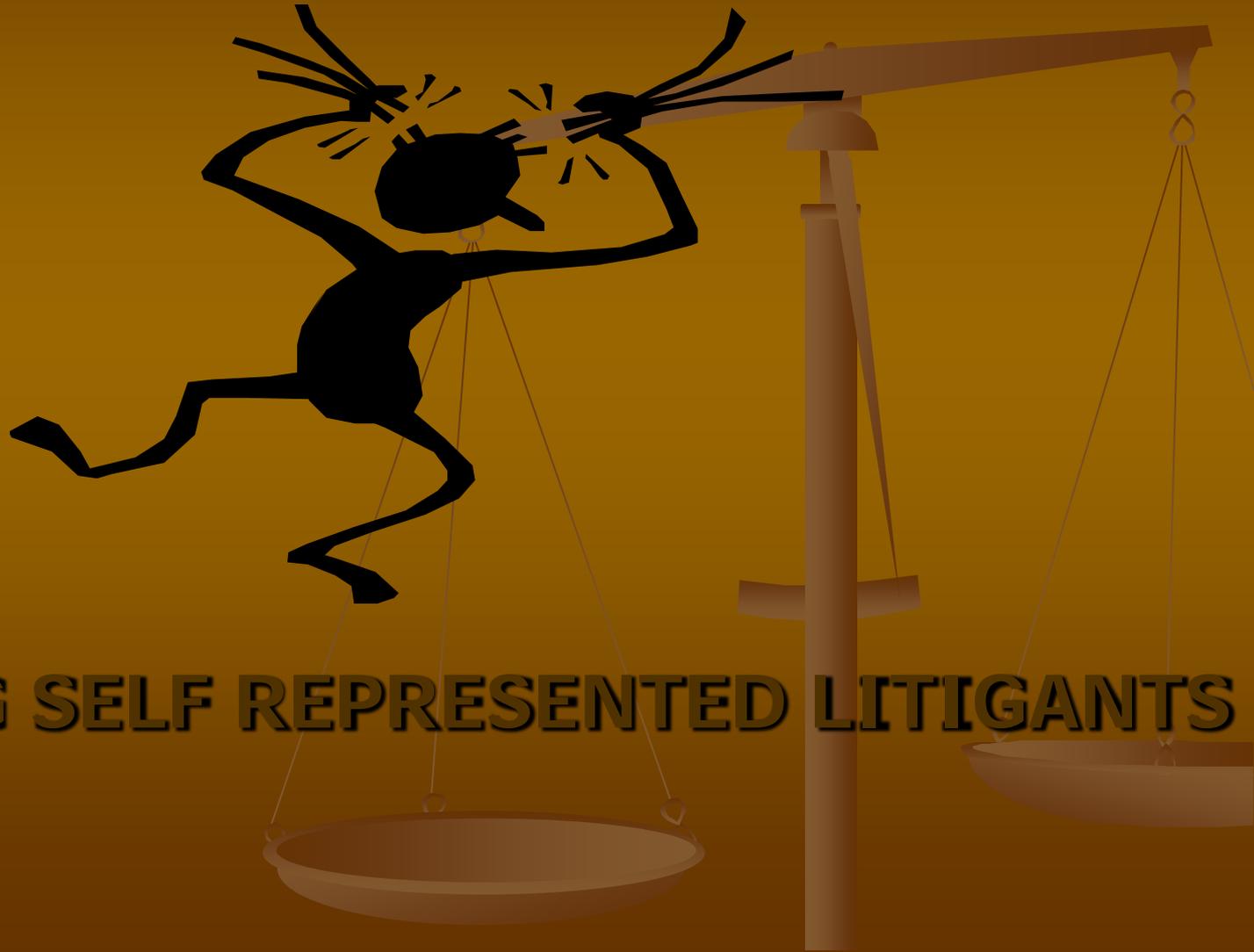
*TO OUR COMMUNITIES
COURTS OF LIMITED
JURISDICTION*

ARE

"WHAT JUSTICE LOOKS LIKE"

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ASSISTING SELF REPRESENTED LITIGANTS

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SYSTEM DRAINED AND OVERLOADED



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THERE ARE TOOLS AVAILABLE



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Montana Supreme Court Court Help Program

- *Self Help Law Program Administrator
Erin Farris*
- *Pro Bono Coordinator
Patricia Fain*

