

1 **RULE 3.8 Appointments to Fiduciary Positions**

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3 (A) A judge shall not accept appointment to serve in a *fiduciary* position, such as
4 executor, administrator, trustee, guardian, attorney in fact, or other personal representative,
5 except for the estate, trust, or person of a *member of the judge’s family*, and then only if such
6 service will not interfere with the proper performance of judicial duties.

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8 (B) A judge shall not serve in a *fiduciary* position if the judge as *fiduciary* will likely
9 be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or
10 ward becomes involved in adversary proceedings in the court on which the judge serves, or one
11 under its appellate jurisdiction.

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13 (C) A judge acting in a *fiduciary* capacity shall be subject to the same restrictions on
14 engaging in financial activities that apply to a judge personally.

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16 (D) If a person who is serving in a *fiduciary* position becomes a judge, he or she must
17 comply with this rule as soon as reasonably practicable, but in no event later than six months
18 after becoming a judge.

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21 **Comment**

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23 [1] A judge should recognize that other restrictions imposed by this code may conflict
24 with a judge’s obligations as a fiduciary; in such circumstances, a judge should resign as
25 fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge
26 under Rule 2.11 because a judge is deemed to have an economic interest in shares of stock held
27 by a trust if the amount of stock held is more than *de minimis*.

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30 **Comparison to Ohio Code of Judicial Conduct**

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32 Rule 3.8(A), (B), and (C) are substantially the same as Ohio Canon 4(D)(1), (2), and (3).
33 There is no Ohio Canon comparable to Rule 3.8(D).

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36 **Comparison to ABA Model Code of Judicial Conduct**

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38 Rule 3.8 is identical to Model Rule 3.8. Ohio chose to adopt a six-month compliance
39 window in division (D).