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Dear Colleague:

According to Cannon Seven of the Code of Conduct for United States Judges, a federal judge should not "publicly endorse or oppose a candidate for public office."

The Code of Conduct also notes that a "judge should participate in establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved."

As this *Wall Street Journal* Opinion article (23 June 2004) points out, apparently we have a Judge in the Second Circuit who believes that Code of Conduct does not apply to him.

Sincerely,



W. Todd Akin
Member of Congress

Politics From the Bench

In case you've been living on Pago Pago and haven't heard, American liberals loathe President Bush. But even those of us who hear this every day are surprised at the recent remarks by federal judge Guido Calabresi.

A Clinton appointee to the Second Circuit Court of Appeals, Judge Calabresi has most recently been known for his decisions devising new definitions of gender discrimination or barring the Boy Scouts from taking part in charity drives. But according to the *New York Sun*, the judge told a conference of liberal lawyers in Washington, D.C. this weekend that "In a way that occurred before but is rare in the United States ... somebody came to power as a result of the illegitimate acts of a legitimate institution that had the right to put somebody in power. That is what the Supreme Court did in Bush versus Gore. It put somebody in power."

It's striking enough for any judge to accuse his superiors of "illegitimate acts," but Mr. Calabresi rolled on. "The reason I emphasize that is because that is exactly what happened when Mussolini was put in by the king of Italy." Ditto

Hindenburg's installment of Hitler, said the former dean of Yale Law School, adding that, while Mr. Bush is no Hitler, Americans should defeat him nonetheless to cleanse the democratic system.

For the record, Mr. Bush won the last election under every single vote recount, including those painstakingly run by the media. But phony history aside, Mr. Calabresi's remarks violate the judicial Code of Conduct that says judges may not "publicly endorse or oppose a candidate for public office." He surely understands this, since he made a point of noting that his comments about expelling Mr. Bush had "nothing to do with the politics of it. It's got to do with the structural reassertion of democracy." Sure.

The code of conduct isn't a political invention, but was devised by judges themselves to protect the integrity and independence of the judiciary. When judges start letting their partisan passions interfere with their, well, judgment, it's time for their colleagues to start imposing some discipline, if not sanctions.