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REVIEW & OUTLOOK

Free to Be FREE

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Congratulations to federal appellate Judge Danny Boggs, who was vindicated this month on a question of judicial ethics. His victory is shared by all federal judges who attend privately funded judicial seminars with the honorable goal of learning something.

As we recently wrote, an outfit called the Community Rights Counsel (CRC) had filed complaints against Judge Boggs and three other federal judges on the board of the Montana-based Foundation for Research on Economics and the Environment. FREE, like many universities and institutes, hosts judicial seminars in which judges take a few days in a nice locale to bone up on a subject. But Community Rights, which has a regulate-and-litigate approach to nature, was offended by FREE's belief in free-market environmentalism, and argued that any affiliation with the group undermined the judges' impartiality. Three of them resigned from the board.


Judge Boggs stood his ground, however, and last week saw the complaint against him dismissed with prejudice. Chief Judge James Loken of the Eighth Circuit, who was designated to investigate the matter, listed the numerous Codes of Conduct that not only allow judges to attend educational seminars but actually encourage them to do so.

No judge would ever be able to learn anything, Judge Loken wrote, if he had to drop out "whenever CRC or another interest group decides to label a seminar program biased or unbalanced." He also demolished CRC's other complaints against FREE, noting the foundation doesn't litigate or take official positions, that it gets its funding from a wide variety of sources, and that attendees viewed the seminars as balanced and "valuable judicial education."

All of this rebuts the claim made in recent letters to us from CRC founder Douglas Kendall and Senator John Kerry claiming that judges' attendance at these seminars was a simple question of bad ethics. Judge Loken went out of his way to expose CRC's real motives for filing the complaints, taking aim at a particularly nasty allegation that CRC had made about a different judge on FREE's board.

"These allegations typify the character assassination that is all too common in our Nation's Capital, much of it intended to further the accuser's legislative agenda. By use of this tactic, it is the complainant who is undermining public confidence in the integrity and impartiality of the judiciary,

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not the judges complained of." Well said.

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