

27th Annual AB 1058 Child Support Training Conference

“Kindness is language the deaf can hear and the blind can see.”

-Mark Twain

JUDICIAL ETHICS



Self-Awareness
Required

**27th Annual AB 1058 Child Support
Training Conference**
September 1, 2023



Eight Pillars of Being a Judge

- Awareness of Being a Judge
- Mindfulness in the Courtroom
- The Rule of Law
- Do Not Make Assumptions
- Professional Distance
- Honesty & Integrity
- Righteousness & Courage
- Accountability & Humility

California Canons of Judicial Ethics



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CALIFORNIA CODE OF JUDICIAL ETHICS

Amended by the Supreme Court of California effective July 1, 2020; adopted effective January 15, 1996; previously amended March 4, 1999, December 13, 2000, December 30, 2002, June 18, 2003, December 22, 2003, January 1, 2005, June 1, 2005, July 1, 2006, January 1, 2007, January 1, 2008, April 29, 2009, January 1, 2013, January 21, 2015, August 19, 2015, and December 1, 2016, and October 10, 2018.

Preface

Preamble

Terminology

Canon 1. A judge shall uphold the integrity and independence of the judiciary.

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

Canon 3. A judge shall perform the duties of judicial office impartially, competently, and diligently.

Canon 4. A judge shall so conduct the judge's quasi-judicial and extrajudicial activities as to minimize the risk of conflict with judicial obligations.

Canon 5. A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.

Canon 6. Compliance with the Code of Judicial Ethics.

Resources

- **CJA Ethics Hotline**
(916) 239-4068
(866) 432-1CJA
- **California Supreme Court Committee on Judicial Ethics Opinions (CJEO)**
www.judicialethicsopinions.ca.gov



Hypotheticals

- Also Provided in the Handout
- Be Prepared to Discuss with Your Table



Do You or Don't You?

You are in a trial for a modification of child support. One parent is represented and the other is not. The unrepresented parent (SRL) argues that the timeshare has changed to 0%. The attorney moves to admit a police report to support their contention that the other parent is frustrating the parenting schedule and not allowing the client to visit the child. The SRL parent is boisterous, discourteous and belligerent while being examined. Yet, when speaking to you, they are courteous and respectful.



Do You or Don't You?

The tension is now evident because the attorney is responding in kind to the SRL's antics.

1. Do you interject an objection on the SRL's behalf?
 - a. You notice in the I & E that the SRL is a paralegal.
2. Do you admonish the "belligerent" SRL? Do you Admonish the "reactive" Attorney?

Canon 2, Canon 3B(4),
Canon 3B(5), Canon 3B(6),
Canon 3B(7)

3. Do you...
 - a. It... hearing
 - b. Do you tell a joke to lighten the mood?



Breakout Group Assignments

- Identify which authorities apply in answering the questions for your assigned hypo.
- Every group should do the Disclosure vs. Disqualification hypos *plus*:
 - Groups 1 & 2 – Pronouns in court
 - Groups 3 & 4 – It's been a LONG YEAR
 - Groups 5 – You have rights, don't you?
 - Groups 6 – Doing a good deed?
- If you have time, do the rest of the hypos above.



Pronouns in court

You call the child support case of Judy Jones v. Eric Jones.

As the parties approach counsel table, you notice that Eric Jones (Biological Father) appears with long hair; wearing makeup, including lipstick; earrings; a dress; and high heels.

- Would you ask the party to share their pronouns?

Canon 2

Canon 3B(5) & (6)

People v. Zarazua (2022) 85 Cal. App. 5th 639



It's been a LONG YEAR

It's the holiday season and after the year we've had, everyone is in a celebratory mood. In addition, you've just finished a long trial and counsel and the parties were very appreciative of your courtroom proficiency in handling the matter. The attorneys send you a fruit basket and the parties send your staff flowers and gift cards. You learn of the gifts when they arrive because they apparently coordinated the gifts to arrive on the same day [yes, these parties parted ways on friendly terms due to your handling of the matter.] To top it off, they posted their gratitude on FB/Instagram.



It's been a LONG YEAR

What are the ethical concerns presented here?

Canon 1, Canon 2,
Canon 3, Canon 4D(5)



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You have rights, don't you?

Judge does not support increased taxes for high earners. Judge's spouse gives Judge a t-shirt which says "No Wealth Tax" on it. Judge knows that Judge cannot wear the t-shirt in a public setting. However, there is an upcoming BBQ for Judge's family. Judge's siblings and Judge have very different thoughts on a wealth tax. Judge wears the t-shirt to the BBQ with the intent of provoking a discussion with Judge's siblings in the hopes that Judge's siblings will have a better understanding of Judge's position on this issue. Judge poses for pictures with family members while wearing the t-shirt.



You have rights, don't you?

What are the ethical concerns presented here?

Canon 2B(1), Canon 3B(5),
Canon 4A, Canon 5A(2)



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Disclosure vs. Disqualification

You are an active member of a National service group [i.e. Kiwanis/Lions Club] and the Lieutenant Governor for your region is a litigant in your courtroom. You have not interacted with the Lt. Governor but know them by sight and you have attended many functions where they have been present.

- Do you Disclose?
- Do you Disqualify/Recuse?



It's your job

A bench officer has a duty to decide any proceeding in which he or she is not disqualified.

- CCP Sec. 170, cf.: CRC, rule 10.608(1); Canon 3B(1).

Canon 3E(2)

Required to disclose information relevant to the question of disqualification even if judge believes no basis for disqualification.



CCP 170.1 Disqualification

- Personal knowledge of disputed facts
- Served as lawyer
- Financial interest in subject matter
- Party is relative within the 3rd degree
 - Lawyer is relative or former relative to 2nd degree
- Further interest of justice
- Doubts ability to be impartial
- Appearance of inability to be impartial
- Bias or prejudice towards a lawyer



Disclosure vs. Disqualification

Does your answer change if the litigant is the spouse of the Lieutenant Governor? (You've only seen the spouse on one occasion but have never spoken to them?)

- Do you Disclose?
- Do you Disqualify/Recuse?

Canon 2C, Canon 4A,
Appendix E



Disclosure vs. Disqualification

You are a frequent patron of a restaurant that has patio dining and the best pasta dish. You frequent the establishment on a weekly basis. You have established a friendly relationship with the owner. Today, before you is the top server of the establishment. You know they are the top server because the owner has shared what a great worker the server is and has shared that the server makes “really good tips.” You have never been given a number by the owner, but you know you have left a 20% tip when you’ve dined at the establishment for EVERY server you have encountered.

- Do you Disclose?
- Do you Disqualify/Recuse?



Gifts

What is the Gift Limit in 2023?

A. \$100

B. \$250

C. \$530

D. \$750

CCP §170.9



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Efficiency vs. Due Process

To expedite the processing of Orders After Hearing, court staff prepare the orders and send them to the LCSA who thereafter serves the orders on the other parties. Occasionally, the LCSA in reviewing the order finds that the orders are inconsistent with their notes (e.g., the wrong party is ordered to provide health insurance for the minors). When this occurs, the LCSA returns the order to the court with a note stating which part of the order conflicts with their understanding of what was ordered in court. Court staff often seek your direction on how to proceed.



Efficiency vs. Due Process

Is this communication with the LCSA permitted?

- A. No, it's an ex parte communication; no exceptions.
- B. Yes, since the communication is only between the LCSA and court staff.
- C. Yes, communications for administrative purposes are allowed as long as no party will gain an advantage and the commissioner promptly notifies all parties of the substance of the communication and allows an opportunity to respond.
- D. Yes, but only if authorized to have these communications by the stipulation of the parties.

Canon 3B(7)



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Efficiency vs. Due Process

Would the answer change if it were a Self-Help Center attorney preparing the order?



Breakout Group Assignments

- Identify which authorities apply in answering the questions for your assigned hypo.
 - Groups 1 & 2 – Is it the right thing to do?
 - Groups 3 & 4 – Should you vs. Can you
 - Groups 5 – Your Job vs. Your Child's Health
 - Groups 6 – It's been a LONG day.
- If you have time, do the rest of the hypos above.



Is it the right thing to do?

As a public official, you see it as your duty to encourage responsible behavior during the upcoming “Triple Threat” (COVID, RSV, & Flu). Part of that, in your opinion, is getting fully vaccinated. On your social media page, you post a photo of yourself getting the vaccines with a caption that says, “Stay safe and get vaccinated!”

What are the ethical concerns presented here?



Is it the right thing to do?

- What if there is an issue before your court whereby one party wants reimbursement for the Covid vaccine for a child and the other parent does not want to reimburse because the parent does not believe in the vaccine?

Canon 2B(1), Canon 3B(5),
Canon 3E(3)(a), Canon 4A



Should You vs. Can You

Your daughter is in the local Girl Scout troop, and it's time to sell Girl Scout cookies. After selecting your favorites to purchase yourself (thin mints and tagalongs, of course!), you sit down with your daughter to plan out her sales strategy, including suggesting to your daughter who she should go to, to solicit to buy cookies. This is the first selling season since your appointment to the bench. In prior years, you would walk around the neighborhood with your daughter as she sold cookies and sit at a table at a local grocery store as she sold cookies.



Should You vs. Can You

What are the ethical concerns presented here?



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Should You vs. Can You

What if instead of selling cookies, could you work at her Girl Scout troops' fireworks booth stocking the merchandise in the back?

Canon 1, Canon 3A,
Canon 4A(3), Canon 4A(3)(b),
Canon 4C(3)(d)(i), Canon 4C(3)(d)(iv)



Your Job vs. Your Child's Health

You are deeply concerned about your kid's school's decision to use Roundup as a weed killer on the school grounds. You are aware that the active ingredient in Roundup is a probable carcinogen, and you don't want it anywhere near your child. You send an e-mail to your school's principal expressing your concern, and the principal refers you to the school board saying the decision is out of her hands. You speak at the next school board meeting and even get other parents to write letters expressing their opposition to the use of Roundup on school campuses.



Your Job vs. Your Child's Health

What are the ethical concerns presented here?



Canon 2A, Canon 2B(2), Canon 3A,
Canon 3B(5), Canon 3E(3)(a),
Canon 4A, Canon 4C(1)



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It's been a LONG day

Judge is presiding over a particularly contentious hearing. The parties and attorneys are arguing, and the issues are legally and factually difficult. Judge has, in the past, been very clear with courtroom staff that they are not to show favoritism toward any of the professionals or litigants who come into the courtroom.



It's been a LONG day (cont.)

On the second day of the hearing, the Judge is on the bench awaiting the arrival of the attorneys and parties. When Attorney 1 arrives in the courtroom, the Judge inquired of Attorney 1 how the attorney was doing, how traffic was and what the attorney's plans were for the weekend.

Both parties for the hearing were seated in the back of the courtroom. The second attorney arrived during the conversation with the Judge and Attorney 1. Judge and Attorney 2 had no conversation until the Judge called the matter.



It's been a LONG day (cont.)

After hearing evidence and argument, the Judge then takes the matter under submission. When everyone has left the courtroom, the Judge asks their courtroom clerk how the courtroom clerk would decide the case and which party the courtroom clerk believed more.

What are the ethical concerns presented here?

Canon 1
Canon 4B(7)



The background features a large, faint, circular seal. The outer ring of the seal contains the text "CALIFORNIA COUNCIL OF AMERICAN-SOVIET FRIENDSHIP" at the top and "1926" at the bottom. Inside this ring, there is a smaller circle with the word "EUREKA" at the top, surrounded by a row of stars. The central part of the seal depicts a woman in classical attire holding a torch and a scale, with a landscape and other figures in the background.

Participation in Demonstrations and Rallies

CJEO Formal Opinion 2020-014

Cannot participate in public demonstration if:

- Participation may undermine public's confidence in the judiciary
- The event relates to an issue that is likely to come before the courts
- Participation violates the law
- Appearance of lending prestige of office



Surveys/Evaluations

Surveys and evaluations will be available on the participant hub.

Please respond.

Your input provides valuable insight for future planning and helps improve future presentations.



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The background features a large, faint, circular seal of the Judicial Council of California. The seal contains the text "JUDICIAL COUNCIL OF CALIFORNIA" around the perimeter, "EUREKA" at the top, and "1926" at the bottom. The central image depicts a woman holding a scale of justice, a bear, and a ship.

**Questions??
Thank you for
attending!**