

COMMISSION ON JUDICIAL PERFORMANCE



V 12/15

CASE NO. 1

A judge castigated and threatened action against a social worker for filing a dependency petition because the judge disagreed with the social worker's evaluation of the case.

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



AUTHORITY

Commission established as an independent state agency by voter approval of an amendment to the California Constitution in 1960

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AUTHORITY

Jurisdiction includes all active California judges and former judges for conduct that occurred while a judge

Shared authority with local courts over commissioners and referees (Prop 221, 1998)

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AUTHORITY

Responsible for investigating complaints of judicial misconduct and judicial incapacity, and for disciplining judges

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MANDATE

According to the California Supreme Court, the purpose of a commission disciplinary proceeding is not punishment, but rather---

- the protection of the public
- the enforcement of rigorous standards of judicial conduct, and
- the maintenance of public confidence in the integrity and independence of the judicial system.

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CONFIDENTIALITY

Complaints, investigations and the identity of the complainant are confidential.

Complaints and witness statements are not given to the judge unless they are required to be turned over in discovery. There is no discovery unless and until formal charges are filed (typically, only 1 to 3 cases a year).

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MEMBERSHIP

Appointed by the Supreme Court:

- 2 Trial Court Judges
- 1 Appellate Justice

Appointed by the Assembly Speaker:

- 2 Public Members

Appointed by the Senate Rules Committee:

- 2 Public Members

Appointed by the Governor:

- 2 Attorneys
- 2 Public Members

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COMMISSION PROCEDURES

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REVIEW OF COMPLAINTS



The commission reviews and votes to take action on every complaint.

The commission receives 1,100 - 1,200 complaints each year.

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What is judicial misconduct?

Violation of the Code of Judicial Ethics

Legal Error Plus

(Oberholzer v. Commission on Judicial Performance (1999) 20 Cal.4th 371)

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LEGAL ERROR

A judicial decision or administrative act later determined to be incorrect legally is not itself a violation of this code.

Canon 1

Code of Judicial Ethics

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LEGAL ERROR

However, a judge who commits legal error which, in addition, clearly and convincingly reflects bad faith, bias, abuse of authority, disregard for fundamental rights, intentional disregard for the law, or any purpose other than the faithful discharge of judicial duty is subject to discipline. (*Oberholzer v. CJP* (1999) 20 Cal.4th 371; CJP Rule 111.4.)

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INVESTIGATIONS

The commission authorizes an investigation when a complaint makes a prima facie showing of misconduct.

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CONTACTING THE JUDGE

Unless the commission closes an inquiry or investigation based on information received from other sources, the judge will be:

informed in writing of the allegations, and

given an opportunity to respond.

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CONFIDENTIALITY

When contacted about the allegations, the judge is not told the identity of the complainant or the identity of any witnesses.

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FORMAL PROCEEDINGS

- ▶ In the most serious cases, the commission may institute formal proceedings.
- ▶ A hearing is conducted which is like a civil trial.

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FORMAL PROCEEDINGS

- ▶ At this point in the proceedings, the judge is entitled to discovery. The complaint is turned over only if it is a witness statement or is otherwise discoverable.

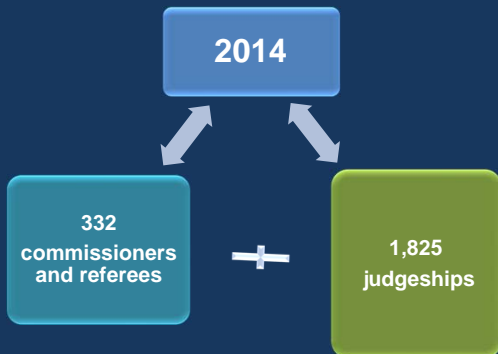
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SANCTIONS

- ADVISORY LETTER
- PRIVATE ADMONISHMENT
- PUBLIC ADMONISHMENT
- PUBLIC CENSURE
- REMOVAL FROM OFFICE, INVOLUNTARY RETIREMENT

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AUTHORIZED JUDICIAL POSITIONS



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COMPLAINTS RECEIVED AND INVESTIGATED - 2014

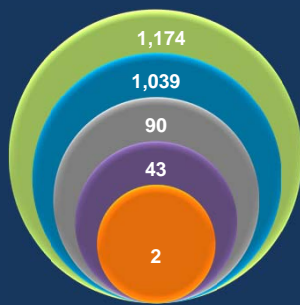
New complaints considered:

1,212 complaints about judges*
90 complaints about SJO's

* The 1,212 complaints named a total of 882 different judges

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CASE DISPOSITIONS IN 2014



Total Case Dispositions

Closed After Initial Review

Investigated and Closed Without Discipline

Discipline Imposed

Resignation or Retirement

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DISCIPLINE 2014

• Advisory Letters	29
• Private Admonishments	9
• Public Admonishments	3
• Public Censure	2
• Removal From Office	0
Total	43

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TYPE OF COURT CASE UNDERLYING COMPLAINTS CONCLUDED IN 2014

	Total Complaints	Cases Discipline Imposed
Criminal	38%	28%
General Civil	26%	20%
Family Law	17%	22%
Small Claims/ Traffic	7%	0%
All Others	8%	4%
No Court Case	4%	26%

SOURCE OF COMPLAINTS CONCLUDED IN 2014

	Total Complaints	Cases Discipline Imposed
Litigant/Family/Friend	89%	36%
Attorney	3%	20%
Judge/Court Staff	2%	14%
All Other Complainants	4%	14%
Non-Complaint Source (includes anonymous letters, news reports)	2%	16%

MOST PREVALENT TYPES OF MISCONDUCT RESULTING IN DISCIPLINE (2005-2014)

• Demeanor/decorum	117
• On-bench abuse of authority	73
• Disqualification/disclosure	57
• Failure to ensure rights	55
• Bias/appearance of bias not directed toward a particular class	47
• Ex parte communications	37
• Abuse of contempt/sanctions	33

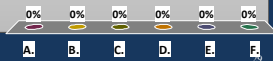
CASE NO. 2

A judge excused a represented party from the stand without offering the opposing party, a pro per litigant, an opportunity for cross-examination; the judge had offered the represented party's counsel the opportunity to cross-examine the pro per litigant.

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Should discipline be imposed?

- A. No
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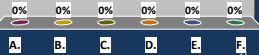
CASE NO. 3

The judge told parents in one family law case that they were rotten and then suggested they should have their child taken from them, told the mother she was "a train wreck" and "a liar" who deserved to have a cell door closing behind her, and referred to the mother as a "total human disaster."

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
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- F. Removal



CASE NO. 4

In a family law case, the judge threatened to put both parents in jail, although he later told them that he could not do this without citing them for contempt and conducting a hearing.

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- A. No
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- C. Private admonishment
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- E. Censure
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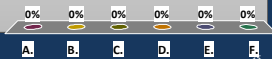
CASE NO. 5

In a family law case, the judge remarked that if the mother “had been smart enough,” her son would not have had to go through the process of changing schools, and said, “[n]ow your son is screwed.”

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- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 6

In a family law case, the judge expressed concern that the children “might do something stupid and thuggish because their father is stupid and thuggish[,]” threatened to jail the parents and take away their children, told them that they could be in jail until their children were adults if he was “in the wrong mood” the next time he saw them, and told them that life was too short to let children “be tortured by rotten parents like you two.”

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 7

In a family law case, the judge described a father's claim that he would get a job as "pie in the sky," and said that the father was making this claim even though he admittedly was "morbidly obese and at risk of dying any time...."

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



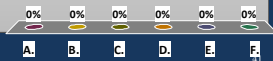
CASE NO. 8

In a family law case, the judge told parents that if they were exposing their daughter to “one-fifth of the attitude” they were showing the judge, they “might as well have her start walking the streets as a hooker.”

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 9

In numerous cases, mostly involving pro per litigants, the judge injected the judge’s personal views or made remarks that were discourteous or created the appearance that the judge was acting as an advocate or lacked impartiality. There were mitigating factors, including corrective measures taken by the judge to change the judge’s behavior.

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 10

In a family law case, the judge made an undignified and discourteous remark about a pro per litigant's weight during a hearing on the litigant's motion to reduce support payments.

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- B. Advisory Letter
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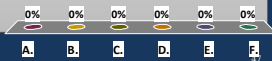
CASE NO. 11

A judge failed to give a pro per litigant an opportunity to respond before holding the litigant in contempt. In another matter, the judge's treatment of a pro per family law litigant was discourteous and gave rise to an appearance of embroilment.

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 12

A judge appeared to treat the parties to an action unevenly by excusing an instance of tardiness by defense counsel while sanctioning the in pro per plaintiff for the same act.

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 13

A judge made sarcastic and demeaning remarks to a pro per litigant in family court, including mocking the litigant's use of a legal term.

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



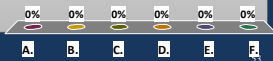
CASE NO. 14

In a juvenile case, a judge made a grossly improper order which was intended to frighten the child into better behavior.

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Should discipline be imposed?

- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal



CASE NO. 15

The judge engaged in an ex parte email exchange with a lawyer who regularly appeared before him in juvenile dependency matters. The email concerned a case pending before the judge, in which the attorney was appearing. The email message read in part:

I am considering summarily rejecting [the father's attorney's] requests. Do you want me to let [the father's attorney] have a hearing on this, or do we cut [the attorney] off summarily and run the risk the third DCA reverses?... I say screw [the father] and let's cut [the attorney] off without a hearing. O.K.? By the way, this message will self-destruct in five seconds...

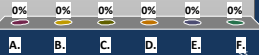
The attorney replied: "Your honor, I don't feel comfortable responding ex-parte on how you should rule on a pending case."

The judge responded: "chicken."

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- A. No
- B. Advisory Letter
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CASE NO. 16

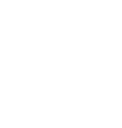
At the dispositional hearing in a juvenile delinquency case involving a Hispanic male charged with sexual intercourse with his sister, the judge made remarks including, "You are lower than an animal"; "Mexican people, after 13 years of age, it's perfectly alright to go out and act like an animal"; and "Maybe Hitler was right."

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- A. No
- B. Advisory Letter
- C. Private admonishment
- D. Public admonishment
- E. Censure
- F. Removal





CJP Website



<http://cjp.ca.gov>

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