

Self represented
litigants--
ENSURING
ACCESS TO
JUSTICE IN A
NEUTRAL
COURT

AB1058 Child Support
Conference

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JUDGE MARK JUHAS

How we started





Where we are now

WHY SELF REPRESENT?

Real or perceived
expense of
representation

Decreases in funding
for legal services/
mismatched capacity
and need

Society's trend
toward self-help
versus institutional
help

Court will do the
right thing, lawyer or
not

“My case is not that
complicated”

I am my own best
representative

Unable to afford
representation

Mistrust of the legal
system

Do-it-yourself
publications, kits
and websites

Mentimeter Poll

How do people feel when they come to court for child support?

Go to
www.menti.com

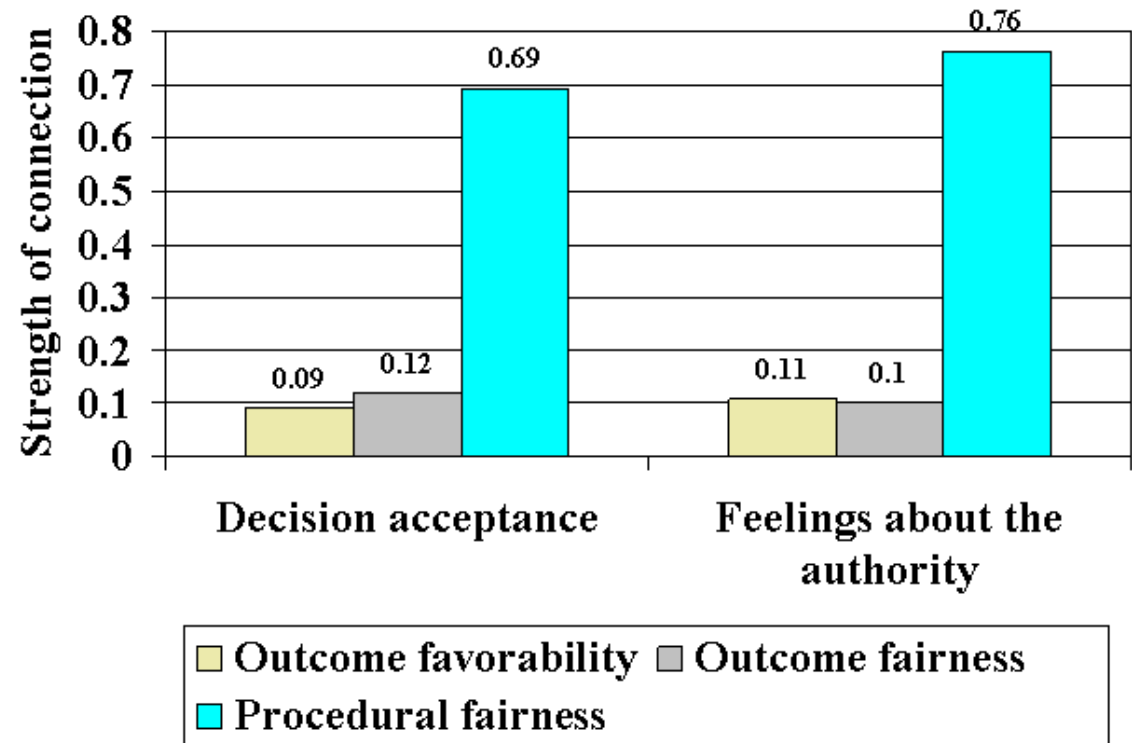
OR

Enter the code:
3579 7947

Scan the QR code:



Why People accept decisions





PROCEDURAL
FAIRNESS --
what matters

- ◆ Four key elements:
 - ◆ Voice
 - ◆ Neutrality
 - ◆ Respect
 - ◆ Trust

WHAT DOESN'T MATTER

Income

Education

Gender

Ethnicity

We are all the same



Mentimeter Poll

What do people want from the court?

Go to
www.menti.com

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Enter the code:
3579 7947

Scan the QR code:



Equality



Equity



Justice



Overarching obligation

Dispose of
cases on the
merits

Judicial canon 3B(8)

A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A judge shall manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law.

Commentary to 3B(8)

The obligation of a judge to dispose of matters promptly and efficiently must not take precedence over the judge's obligation to dispose of the matters fairly and with patience. For example, when a litigant is self-represented, a judge has the discretion to take reasonable steps, appropriate under the circumstances and consistent with the law and the canons, to enable the litigant to be heard.

ALWAYS ASK

AM I TRYING TO BE
FAIR?

AM I BEING
PERCEIVED AS FAIR?

IS IT?

◆ LEGAL
ADVICE

◆ LEGAL
INFORMATION



WHAT WE CAN DO

- ◆ Explain procedures
- ◆ Provide forms/access to forms
- ◆ Liberally construe pleadings
- ◆ Ask questions
- ◆ Allow in evidence
- ◆ Provide information about next steps

WHAT WE CANNOT DO

**Allow
violation of
orders**

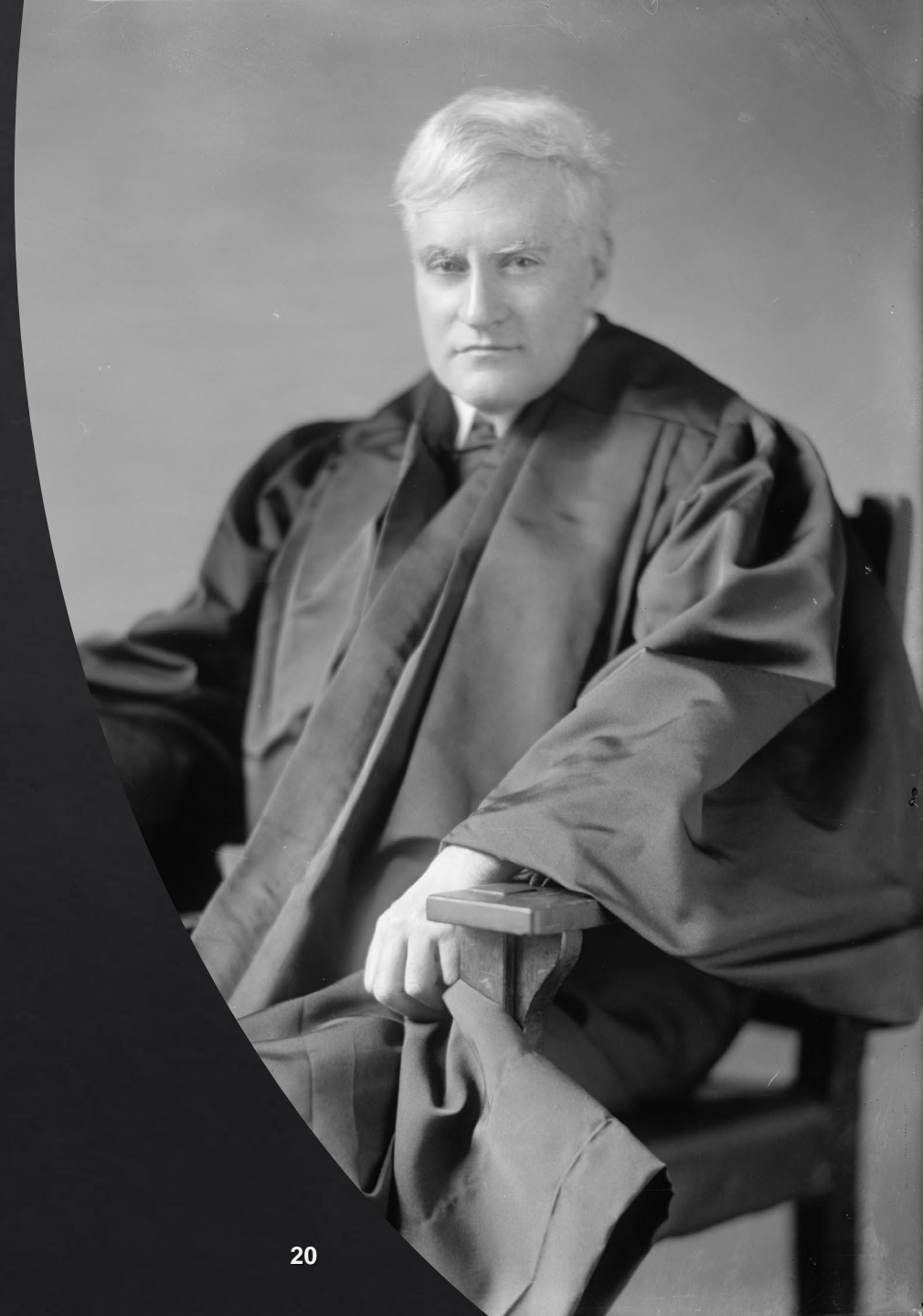
**Allow
unreasonable
delay**

**Allow
negative
affect on
access**

**Allow SRL to
“game”
system**

**Become SRL’s
lawyer**

“We may try to see things as objectively as possible. None the less, we can never see them with any eyes except our own.”



Code of Ethics
for California Court Employees

Tenet One - Impartiality

◆ Provide impartial and evenhanded treatment of all persons

Tenet One - Impartiality

Court employees must remember that they are often dealing with people who may be having one of the worst experiences of their lives. They must offer to angry, confused, and sometimes deceitful court users the same level of competent and impartial help that they provide to those who are pleasant and appreciative.

Tenet Three - Professionalism

Behave toward all persons with respect, courtesy, patience, and responsiveness, acting always to promote public esteem in the court system.

Tenet Three - Professionalism

A professional knows every aspect of his or her job and can provide complete, understandable answers to the public's questions. A professional never criticizes a co-worker in public nor denigrates a court user at any time.

Tenet Seven – Prohibition Against Giving Legal Advice

Serve the public by providing accurate information about court processes that is as helpful a possible without taking one side over the other, or appearing to favor one side of a case.

Tenet Seven – Prohibition Against Giving Legal Advice

- ❖ Court employees can and should provide information that is within their own level of professional training and experience, so long as the information does not compromise the neutrality of the court or the court's appearance of neutrality. For example, court employees can and should patiently explain how to file forms and pay fines, and should clarify legal language and the court's policies attendant to procedural due process and assist self-represented litigants in court self-help centers. They should provide litigants with information about non-profit legal services agencies, certified lawyer referral service programs and courtbased self-help assistance... Court employees must not give any legal or procedural information that tends to favor one side of a case.

Tenet Nine – Service and Competency

Provide accurate information as requested in a competent, courteous, and timely manner. Improve personal work skills and performance through continuing professional education and development.

Tenet Nine – Service and Competency

A major responsibility of all court employees is to provide accurate and timely information. When providing information, whether orally or in writing, present it in as easily understandable a format as the inquiry allows, and avoid legal jargon whenever possible.

Tenet Ten - Discrimination

Guard against and, when necessary, repudiate any act of discrimination or bias based on race, religion, color, national origin, ancestry, physical or mental disability, mental condition, marital status, sex, age, sexual orientation, or other personal choices and characteristics

Tenet Ten - Discrimination

Each day court employees assist users of court services of many races, religions, national origins, languages, sexual orientations, and varieties of personal abilities and appearance. They may deal with accused felons, child abusers, participants in painful dissolutions, those grieving from an injury or loss of a loved one, or people experiencing any one of numerous kinds of human pain or dysfunction. **Court employees are expected to treat each other and each user of court services equally and with compassion.** Equal access to the court system and equal treatment for all are the cornerstones of the administration of justice.

People visit or contact the court

- ❖ May be having one of the worst days of their lives
- ❖ Probably don't understand the procedures they need
- ❖ Stand to lose a lot if things don't go well
- ❖ Are experiencing stress
- ❖ Feel like the situation is out of their control

Empathy and Understanding

- ◇ “I can tell that you really care about your children.”
 - ◇ “I can tell that this is really hard for you.”
 - ◇ “That sounds incredibly frustrating. I’m so sorry.”
 - ◇ “I know, these forms are hard for everyone.”
 - ◇ “Sounds like you’ve been trying really hard.”
-
- ◇ Use the name of the child - we’re here to talk about _____ (post-it note, form, cheat sheet for judicial officer)

How to handle “legal advice” questions

- ◆ Rather than starting your response with “I can’t do that but...” you can start with “Let me tell you what I can do...”
- ◆ Refer to the self-help website [.scourts.ca.gov](http://www.scourts.ca.gov)

Self-Help Guide to the California Courts

Resources and information to help you navigate your court case, including step-by-step guides for following procedures and help with understanding your options.

What would you like to do?



Get help with papers I was served

Look up by form number to understand your options. (Find the form number in the upper right or upper left corner of your papers.)

Choose form



Go

Start a court case

Find your case type to get started

Choose case type



Go

Work on my court case

Take the next step, update an order, see all the options during or after your case

Choose case type



Choose action



Go

Get information about a legal topic

Get general information and learn about your options

Choose topic



Go

Look up a court case or citation

Find a traffic ticket or court case using the county court's website

Choose County



Go

Get help from the court

Find self-help centers, forms, interpreters, disability access, and more

Choose resource



Go

Onramps (I was served...)

For someone served, explains:

- What the papers mean
- Important deadlines
- If they have a court date
- Options to respond
- What happens if they ignore papers
- Where to get help

WHAT DO THESE PAPERS MEAN?

Request for Order (form FL-300)

If you received a *Request for Order* (form FL-300), it means the other person in your family law case is asking the judge to make a decision. The court sets a date to hear from both sides (a **hearing**) before it makes a decision.

WHAT THIS FORM TELLS YOU

Hearing date and time

What the other person is asking the judge to decide

Orders made before the hearing

STREET ADDRESS: CITY: STATE: ZIP CODE: TEL. NUMBER NO. FAX NO. E-MAIL ADDRESS: ATTORNEY FOR (NAME)		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH/NAME:		
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:		
REQUEST FOR ORDER <input type="checkbox"/> CHANGE <input type="checkbox"/> TEMPORARY EMERGENCY ORDERS <input type="checkbox"/> <input type="checkbox"/> Child Custody <input type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Spousal or Partner Support <input type="checkbox"/> Child Support <input type="checkbox"/> Domestic Violence Orders <input type="checkbox"/> Attorney's Fees and Costs <input type="checkbox"/> Property Control <input type="checkbox"/> Other (Specify):		CASE NUMBER:
NOTICE OF HEARING		
1. TO (name(s)): <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> Other Parent/Party <input type="checkbox"/> Other (specify):		
2. A COURT HEARING WILL BE HELD AS FOLLOWS:		
a. Date: _____ Time: _____ <input type="checkbox"/> Day: _____ <input type="checkbox"/> Room: _____		
b. Address of court: <input type="checkbox"/> same as listed above <input type="checkbox"/> other (specify): _____		
3. WARNING to the person served with the Request for Order: The court may make the requested orders without you if you do not file a Responsive Declaration to Request for Order (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form FL-320-INFO for more information.)		
PAGE 1		(Forms FL-300, 300C and 300-REV-07/08 provide information about completing this form.)

Hearing date and time

Step-by-step

How to ask for a Fee Waiver

1

Gather the information you need



You may need information about your income and expenses to fill out the fee waiver form.

If you receive public benefits, you only need to check which benefit you receive on the form. You don't need to fill out the part about your income or expenses.

If your household income is below a set amount, you will need to fill out information about your household income. You might need to look at copies of paystubs or other documents with your income, to fill out the forms.

If you can't afford the fee and your household's basic needs, you will need to fill out information about your income and expenses. You might need to look at things like paystubs, bills, and bank statements, to fill out the forms.

1

Fill out Request for Order form

Request for Order ([form FL-300](#))

Use this form to tell the court:

- What you want it to order
- Why it should order what you're asking for

For child support, use item 3 on page 3, and "Facts to Support" (item 10 on page 4).

What are examples of Facts to Support my Request (item 10)? ▾

The form says Petitioner and Respondent. Which am I? ▾

2

Fill out the Income and Expense Declaration

- *Income and Expense Declaration* ([form FL-150](#))

This form asks how much money you earn and how you spend your money.

- Attach proof of your income (like paystubs) from the past two months to the form.
- Do not attach a copy of your last year's taxes. Bring a copy (if you have one) to the hearing.

When people don't understand or are frustrated by the procedure

- 1) If they are upset, show empathy and understanding
- 2) Explain the procedure and make it clear that it is based on the law
- 3) Explain the reason for the procedure
- 4) Provide an example that demonstrates why the law is fair
- 5) Define any legalese

SRL cases

Information can be incomplete

Information may be disorganized

Information rarely all relevant

Information can be pretty “raw”

LITIGANT Demeanor

Nervousness

Pace and manner
of language

Body language

Common
knowledge may
not equal correct
knowledge

We are not as good
at interpreting non-
verbal cues as we
think we are

Culture

OPEN ENDED QUESTIONS

“Could you give me a little more information about _____”

“Help me understand _____”

“Can you give me some specific details about that?”

“Why is this important?”

“What else do you want me to know?”



DISRUPTIVE LITIGANT

How disruptive are they?

How might their behavior affect others?

If they aren't abusive, is it an option to allow them to vent? (If so, how long?)

What should you do to determine if there are cognitive issues?

DISRUPTIVE LITIGANT

Demeanor (calm,
confident, respectful)

Acknowledge their
emotions (keeping
professional distance)

Provide structure and
direction (ground
rules, process
overview, small steps)

Give them something
constructive to do
(paraphrase, take
notes, etc.)

OVERALL

- ◆ Explain the process
- ◆ Be active
- ◆ Minimize barriers to appropriate interaction
- ◆ Model the behaviors you want to see
- ◆ Understand your decision fatigue point



“Decide you
must, how to
serve them
best”