



State of California
Commission on Judicial Performance
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April 22, 1997

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Dear Ms. Yeamans:

I am writing to inform you about commission action following your letters of complaint dated May 16, 1996, May 24, 1996 and December 2, 1996. The commission has considered the matter and taken an appropriate corrective action. Please be advised that this is the extent of the notice and disclosure allowed by Commission Rule 102(e).

The commission has asked me to express its appreciation for your advising us about this matter. Bringing this matter to our attention has served a useful purpose. Thank you for taking the time to write.

Very truly yours,

A handwritten signature in cursive script that reads "Mark Jacobson".

Mark Jacobson
Staff Counsel

MJ:bmt/L0421yea

IV.
CASE SUMMARIES

8. A judge appeared to condone improper conduct by a prosecutor.
9. A judge issued a defective ruling which was misleading and detrimental to the parties.
10. In the courthouse, a judge improperly solicited donations to charitable organizations. The judge also failed to make necessary disclosures.

ADVISORY LETTERS

The Commission advises caution or expresses disapproval of a judge's conduct in an advisory letter. The Commission has issued advisory letters in a variety of situations. An advisory letter may be issued when the impropriety is isolated or relatively minor, or when the impropriety is more serious but the judge has demonstrated an understanding of the problem and has taken steps to improve. An advisory letter is especially useful when there is an appearance of impropriety. An advisory letter might be appropriate when there is actionable misconduct offset by substantial mitigation.

In 1997, the Commission issued 43 advisory letters. The advisory letters are summarized below.

Disclosure and Disqualification

A number of advisory letters were issued concerning judges failing to disqualify themselves when disqualification was required (Canon 3E) or failing to make appropriate disclosures to those appearing before them.

- 1. A judge failed to disclose the judge's friendship with an attorney who was appearing before the judge. In another case, the judge responded to a motion to disqualify the judge by contacting the moving party ex parte.
2. A judge failed to adequately disclose the judge's social relationship with an attorney who was appearing before the judge.
 3. A judge's handling of a criminal matter reflected apparent embroilment. After being disqualified, the judge took actions in the case which were not among the actions permitted by

Code of Civil Procedure section 170.4.

4. A judge failed to disclose a business relationship with an attorney appearing before the judge. After recusing, the judge made comments which appeared to disparage the attorney who brought the disqualification motion.
5. When an attorney who was performing legal services for the judge appeared before the judge, the judge failed to recuse or to properly disclose the relationship.
6. A judge reacted improperly to peremptory challenges, displaying embroilment and hostility. In a separate matter, the judge communicated ex parte with one side during a case.

On-Bench Abuse of Authority

Acts in excess of judicial authority may constitute misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. (See *Gonzalez v. Commission on Judicial Performance* (1983) 33 Cal.3d 359, 371, 374; *Cannon v. Commission on Judicial Qualifications* (1975) 14 Cal.3d 678, 694.)

7. A judge increased a defendant's bail when the defendant behaved disruptively in court.
8. A judge revoked a defendant's own recognizance status under circumstances which gave rise to an appearance of retaliation for the defendant's refusal to accept a plea bargain.
9. A judge allowed an attorney to participate in a small claims matter under circumstances in which attorney participation was prohibited by law.
10. A judge dismissed a criminal case after having been reversed by a higher court for a dismissal under equivalent circumstances in a different case. The appellate decision in the earlier case was cited to the judge before the judge dismissed the case.
11. A judge failed to personally approve orders which required judicial approval.
12. A judge read a police report aloud in open court under circumstances not permitted by law.