



**JUDICIAL MISCONDUCT INVOLVING
BREACH OF PRESIDING OR SUPERVISING JUDGES' DUTIES**

(Commission on Judicial Performance & Supreme Court Cases)

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Failure to Take Appropriate Corrective Action

A presiding judge failed to take appropriate corrective action after receiving reliable information about serious wrongdoing by another judge on the court. [Com. on Jud. Performance, Ann. Rept. (2011), Private Admonishment 9, p. 24.]

Failure to Properly Supervise Judicial Officer

As Family Law Supervising Judge, Judge Schnider was responsible for supervising then-Commissioner Ann Dobbs. When Judge Schnider became supervising judge, he was informed that the commissioner had problems with delay in deciding her cases. Judge Schnider was aware that the commissioner was not deciding all of her cases in a timely manner, but failed to take sufficient action to ensure that she did so. Over a two-year period, the court's monthly reports of cases under submission showed Commissioner Dobbs had cases in the 30 to 60 day and 60 to 90 day categories but, contrary to the requirements of the rules of court, Judge Schnider did not contact the commissioner to alert her and discuss ways to ensure that the cases would be timely decided. During the same period, the reports indicated a number of cases under submission for more than 90 days. The commissioner informed Judge Schnider that the cases had been decided or that the submission dates were erroneous or had been vacated. Judge Schnider took no action to verify these representations or to determine whether the commissioner was in compliance with the law governing the vacating of submission dates, which often she was not. Judge Schnider reduced the number of cases assigned to Commissioner Dobbs, but she still did not complete all of her cases on time. On two occasions, he gave her a week off to complete her submitted cases, yet she did not decide any cases either week and Judge Schnider took no action to determine whether she had decided any cases. Judge Schnider also became aware that several of the commissioner's cases that had not been decided in 90 days were also not listed in the court's reports of cases under submission, but he took no action to determine why the cases were not being reported. Judge Schnider also failed to promptly respond to at least three complaints from family law litigants about the commissioner's delay. The judge took almost seven months to respond to a complaint about a delay of nearly five years; when he did, he conceded the delay. He never responded to two other complaints of delays of eleven and six months respectively or to two letters from an attorney about lengthy delays she had in two cases before Commissioner Dobbs. In light of the commissioner's previous history of problems with delay and her consistent failure to follow through on her assurances that she would promptly decide her delayed cases and provide him with her responses to complaints from litigants, the commission found Judge Schnider's continued reliance on the commissioner's promises was unreasonable. [*Public Admonishment of Former Judge Robert A. Schnider* (2009).]

Failure to Handle/Respond to Complaints Involving SJOs; Failure to Report Discipline

A presiding judge did not properly respond to a complaint about a delay of more than a year in the issuance of a final statement of decision by a commissioner in a family law case. The judge's closing letter to the litigant stated there was no merit to the complaint even though the commissioner had admitted the substantial delay. [Com. on Jud. Performance, Ann. Rept. (2010), Advisory Letter 22, p. 27.]

A supervising judge failed to report a written reprimand of a subordinate judicial officer to the Commission on Judicial Performance as required by California Rules of Court, rule 10.703. [Com. on Jud. Performance, Ann. Rept. (2009), Advisory Letter 12, p. 19.]

A judge who was responsible for handling complaints about subordinate judicial officers under California Rules of Court, rule 10.703, failed to ensure the appropriate handling of litigants' complaints about a subordinate judicial officer. [Com. on Jud. Performance, Ann. Rept. (2009), Advisory Letter 13, p. 19.]

A judge who was responsible for handling complaints against subordinate judicial officers under California Rules of Court, rule 10.703, failed to ensure timely responses to litigants' complaints about a subordinate judicial officer. [Com. on Jud. Performance, Ann. Rept. (2009), Advisory Letter 14, p. 19.]

A judge who was responsible for the handling of complaints against subordinate judicial officers under California Rules of Court, rule 10.703, approved a supervising judge's decision not to report a written reprimand of a subordinate judicial officer to the Commission on Judicial Performance, notwithstanding the reporting requirements of rule 10.703. [Com. on Jud. Performance, Ann. Rept. (2009), Advisory Letter 15, pp. 19-20.]

A presiding judge failed to supervise a court commissioner. The presiding judge failed to respond to a litigant's complaint that the commissioner had not decided a case for more than a year. [Com. on Jud. Performance, Ann. Rept. (1988), Advisory Letter 44, p. 16.]

A presiding judge appeared to ignore a citizen's complaint about a court-appointed official. [Com. on Jud. Performance, Ann. Rept. (1987), Advisory Letter, p. 11.]

A presiding judge who appeared to ignore two letters of complaint about a court commissioner was reminded of his responsibility under Court Rule 532-5(18) to supervise court-appointed personnel. [Com. on Jud. Performance, Ann. Rept. (1987), Advisory Letter, p. 11.]

In addition, between 1990 and 2002, 16 presiding judges received advisory letters for failing to have a procedure for handling complaints about commissioners and referees or for failing to respond to complaints about subordinate judicial officers in a timely manner. During that time, one judge received a private admonishment for repeated failure to respond to SJO complaints and indifference to the duty of the presiding judge to handle such complaints.

Beginning in about 2001, the commission stopped routinely disciplining presiding judges for the handling of SJO complaints and adopted an “amnesty program.” Now when the commission receives correspondence from an individual indicating that a presiding judge has not responded for more than 90 days to a complaint against an SJO covered under California Rules of Court, rule 10.703, commission staff sends an “amnesty” letter to the presiding judge asking about the status of the SJO complaint. If the SJO complaint is handled within 30 days, no further action will be taken by the commission. If the presiding judge informs the commission that the investigation of the matter is protracted and still pending, the commission will monitor the matter until notified of its conclusion. This facilitates prompt resolution of matters that may have fallen through the cracks without resorting to disciplinary action.

If a presiding judge has repeated problems with timely resolution of SJO complaints or when multiple complaints are delayed, the commission might not employ the “amnesty” approach, and the presiding judge may become the subject of a CJP investigation and may be subject to discipline.

Failure to Circulate List of Cases Under Submission and to Discharge Other Responsibilities with Respect to Case Management and Timely Disposition of Cases

Judge Reinholtsen failed to decide approximately 20 matters within 90 days of being taken under submission while he was the presiding judge of the court. As presiding judge, Judge Reinholtsen was obligated by law (Cal. Rules of Court, rule 10.603(c)(3)) to ensure that no cause under submission remained undecided for more than 90 days, and had the duty to supervise the court’s calendar, apportion the business of the court among the several departments of the court as equally as possible, and reassign cases between departments as convenience or necessity requires. The commission found that since Judge Reinholtsen had the ability to assign and reassign cases and to arrange assistance to ensure that matters were timely decided during his tenure as presiding judge, he could not be excused from the duty to decide matters within 90 days during that period. [*Public Admonishment of Judge Dale A. Reinholtsen* (2015).]

A presiding judge failed to diligently discharge administrative responsibilities with respect to case management and timely disposition of cases. [Com. on Jud. Performance, Ann. Rept. (2015), Advisory Letter 1, p. 24.]

In addition to other misconduct involving delay in decision-making, receipt of salary when cases were under submission for more than 90 days and submission of false salary affidavits, when Judge Kirihara was presiding judge, he failed to circulate each month to each judge of the court a complete list of all causes that had been under submission for more than 30 days, as required by the California Rules of Court. [*Public Admonishment of Judge John D. Kirihara* (2012).]

Failure to Report Judicial Absence Due to Disability

A presiding judge failed to report under Rules of Court a judge’s lengthy absence due to illness. [Com. on Jud. Performance, Ann. Rept. (1985), Advisory Letter, p. 6.]

Improprieties Related to Disqualification of Other Judges

A supervising judge signed an order in a case to which the judge was not assigned, at the request of a judicial officer, knowing that the judicial officer was recused from the case. [Com. on Jud. Performance, Ann. Rept. (2006), Advisory Letter 10, p. 32.]

A presiding judge improperly ordered another judge to obtain the presiding judge's approval before recusing himself from cases. [Com. on Jud. Performance, Ann. Rept. (1995), Advisory Letter 22, p. 25.]

Exceeding the Judge's Authority

In addition to other misconduct, Judge Fielder reviewed an ex parte application for a temporary stay of enforcement of an order entered by Judge Cory Woodward pending a hearing on a motion for new trial. Because the application for a stay was being made ex parte, Judge Fielder's approval as supervising judge was required prior to filing. The declaration in support of the statement of disqualification of Judge Woodward for cause included statements questioning Judge Woodward's ability to hear the case, references to allegations of "inappropriate behavior and/or misconduct between Judge Woodward and his staff," resulting in "tremendous pressure placed upon Judge Woodward, Judge Woodward's family and other issues." The declaration also stated that Judge Woodward had been "quietly swept aside" from one assignment and placed in a different branch of the court. After reviewing the ex parte application and declaration, Judge Fielder called the associate attorney who had filed the application into chambers and told him that the declaration of another attorney that was submitted with the statement of disqualification should be toned down before it was filed. Because he believed the comments about Judge Woodward's family were "mean-spirited and unnecessary," Judge Fielder may have asked the attorney if he thought the family "deserved this kind of treatment in a public document." Although Judge Fielder told the commission he did not think he said he would not allow the documents to be filed, the attorney concluded, based on Judge Fielder's statements, that the declaration needed to be modified before the judge would permit it to be filed. The documents were modified, resubmitted and filed. [*Public Admonishment of Judge John L. Fielder* (2015).]

Responding to an improper ex parte communication from a party's attorney, a supervising judge, without notice or a hearing, modified a judgment entered against that party by a pro tem judge. [Com. on Jud. Performance, Ann. Rept. (2004), Advisory Letter 12, p. 24.]

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