



JUDICIAL MISCONDUCT INVOLVING POLITICAL OR CAMPAIGN ACTIVITY

(Commission on Judicial Performance & Supreme Court Cases)

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Improper Support or Opposition – Non-Judicial Candidates of Political Parties

In addition to other non-campaign related misconduct, a judge solicited contributions for a candidate for judicial office from attorneys appearing before the judge. [Com. on Jud. Performance, Ann. Rept. (2015), Advisory Letter 21, p. 26.]

In addition to other non-campaign related conduct, the judge engaged in political activity on behalf of a candidate for a non-judicial office that was contrary to canon 5; the activity also involved abuse of the prestige of office. [Com. on Jud. Performance, Ann. Rept. (2013), Private Admonishment 5, p. 20.]

In addition to other misconduct, while former Judge Zellerbach was actively considering running for district attorney, the judge addressed a gathering of the county's District Attorney's Association on the subject of its endorsement of a candidate for district attorney. The judge recommended that the association delay its decision about whom to endorse, referred to public criticism of policies adopted by the incumbent district attorney, and compared the way the office had run when he worked there with the way it was being run at that time. The commission found that by recommending that the association delay its endorsement decision, the judge engaged in political activity that may have created the appearance of political bias or impropriety, and gave the appearance that he was opposing a candidate for non-judicial office. [*Public Admonishment of Former Judge Paul E. Zellerbach* (2011).]

In addition to other misconduct, both campaign related and otherwise, after becoming a candidate for judicial office, the judge did not promptly remove endorsements of non-judicial candidates which the judge had made prior to becoming a candidate. When contacted by the State Bar about these endorsements, the judge provided a date on which the judge became a candidate, without ensuring that the date was accurate. The date provided was inaccurate, which created the impression that the judge had promptly removed the improper endorsements. [Com. on Jud. Performance, Ann. Rept. (2011), Private Admonishment 4, p. 23.]

A judge publicly endorsed a candidate for non-judicial office. The judge promptly arranged to have the endorsement removed. [Com. on Jud. Performance, Ann. Rept. (2010), Advisory Letter 9, p. 25.]

A judge was listed in an endorsement of a candidate for non-judicial office. Although the endorsement was unauthorized, the judge failed to seek a retraction or otherwise ameliorate the problem. [Com. on Jud. Performance, Ann. Rep. (1997), Advisory Letter 23, p. 22.]

Within a calendar year a judge contributed slightly more than \$500 to a candidate for non-judicial office in violation of campaign contribution limits contained in canon 5A(3). There were mitigating circumstances. [Com. on Jud. Performance, Ann. Rept. (1993), Advisory Letter 16, p. 18.]

A judge gave the appearance of soliciting contributions from attorneys and their clients to the election campaign of a candidate for non-judicial office. [Com. on Jud. Performance, Ann. Rept. (1992), Advisory Letter 12, p. 14.]

A political meeting was held at a judge's house. The invitation stated that the meeting would be held "at the home of _____ and _____" and gave the name of the judge and the judge's spouse. [Com. on Jud. Performance, Ann. Rept. (1992), Advisory Letter 24, p. 16.]

A judge invited judges and court commissioners to an open house for a candidate for non-judicial office. The invitation was on court memorandum stationery. [Com. on Jud. Performance, Ann. Rept. (1992), Advisory Letter 29, p. 16.]

In addition to other misconduct not involving political activity, the judge made political contributions from his own campaign funds to non-judicial candidates in patent violation of canon 7. [*Public Reproval of Judge Calvin P. Schmidt* (1989).]

A judge endorsed a candidate for city council, thereby violating canon 7A(1)(b). [Com. on Jud. Performance, Ann. Rept. (1989), Advisory Letter 24, p. 25.]

A judge violated canon 7 by the nature of the judges' activity in the local club of a political party. [Com. on Jud. Performance, Ann. Rept. (1989), Advisory Letter 28, p. 25.]

A judge was a featured speaker at a campaign function for a candidate for non-judicial office. [Com. on Jud. Performance, Ann. Rept. (1987), Advisory Letter, p. 11.]

A judge publicly endorsed candidates for non-judicial office and attempted to influence matters within the ambit of other officials. [Com. on Jud. Performance, Ann. Rept. (1987), Advisory Letter, p. 11.]

A judge's name appeared as a "sponsor" on a political mailing for a candidate for non-judicial office. [Com. on Jud. Performance, Ann. Rept. (1986), Advisory Letter, p. 4.]

A judge arranged for a political mailer which appeared to pair the judge with, and to constitute an endorsement of, a candidate for non-judicial office. [Com. on Jud. Performance, Ann. Rept. (1986), Advisory Letter, p. 5.]

A judge authorized the written use of the judge's name as an endorsement of a candidate for non-judicial office. [Com. on Jud. Performance, Ann. Rept. (1986), Advisory Letter, p. 5.]

A judge made political contributions inconsistent with canon 7. [Com. on Jud. Performance, Ann. Rept. (1986), Advisory Letter, p. 5.]

Violations of the Political Reform Act

A judge failed to comply with a Political Reform Act regulation regarding election campaign committees. [Com. on Jud. Performance, Ann. Rept. (2016), Advisory Letter 18, Advisory Letter 19, p. 29.]

Judge Brehmer was disciplined for conduct during his campaign for judicial office, the judge and his treasurer received a number of cash contributions in amounts in excess of the monetary limit set by law, failed to disclose a number of contributions and the true source of a loan to the campaign, deposited a campaign loan into the judge's personal bank account rather than his campaign account in violation of law and failed to timely file a number of campaign reporting statements. The judge entered into a stipulation with the Fair Political Practices Commission (FPPC) admitting three violations of the Political Reform Act (PRA) and paying a \$5,500 fine. Both the FPPC and the commission found no evidence of any intent to conceal information from the public on the part of the judge. In the commission's view, the violations of the PRA were the result of a failure to oversee sufficiently the work of an inexperienced campaign treasurer handling the campaign's reporting requirements. [*Public Admonishment of Judge Charles R. Brehmer* (2012).]

In addition to other misconduct both campaign related and otherwise, the judge failed to file the paperwork required by law to begin soliciting campaign contributions. [Com. on Jud. Performance, Ann. Rept. (2011), Private Admonishment 4, p. 23.]

In addition to other non-campaign related misconduct, the judge's campaign disclosure form failed to provide the street address of a donor, as required by law. [Com. on Jud. Performance, Ann. Rept. (2008), Advisory Letter 17, p. 28.]

In addition to other non-campaign related misconduct, the judge failed to comply with campaign reporting requirements. [Com. on Jud. Performance, Ann. Rept. (2007), Private Admonishment 7, p. 31.]

In addition to other misconduct, Judge Hall was removed from office for, during her campaign for reelection, illegally commingling campaign and personal funds, and filing four sworn false campaign statements, in order to avoid disclosure of her same-sex partner as the source of a \$20,000 contribution or loan. [*Inquiry Concerning Judge Diana R. Hall* (2006) 49 Cal.4th CJP Supp. 146.]

Judge Benson was disciplined for conduct during his campaign for judicial office, the judge failed to disclose a \$71,000 loan from his father, which he had deposited in his personal bank account. He subsequently dispersed the loan in two increments to his campaign account, listing himself on campaign statements as the source of the funds. [*Public Admonishment of Judge Stephen E. Benson* (2006).]

In addition to other non-campaign related misconduct, the judge failed to report receipt of a campaign contribution as required by law. [Com. on Jud. Performance, Ann. Rept. (2004), Private Admonishment 4, p. 22.]

A judge admitted violations of the Political Reform Act in connection with the judge's reelection campaign. There was no evidence of intent to conceal information from the public. [Com. on Jud. Performance, Ann. Rept. (1997), Advisory Letter 21, p. 22.]

A judge failed to comply with campaign reporting requirements. [Com. on Jud. Performance, Ann. Rept. (1997), Advisory Letter 22, p. 22.]

A judge admitted violations of the Political Reform Act. Although the judge was negligent in failing to take any steps to ensure that the judge's inexperienced campaign committee complied with the law, there was no evidence of intent to conceal campaign finance information. [Com. on Jud. Performance, Ann. Rept. (1996), Advisory Letter 25, pp. 25-26.]

Knowing or Reckless Misrepresentations About Self or Opponent

A judge made a misrepresentation in campaign materials regarding the judge's experience. [Com. on Jud. Performance, Ann. Rept. (2015), Advisory Letter 10, p. 25.]

While a judge was a candidate for judicial office, the judge's campaign materials created a false impression about the judge's prior judicial experience. [Com. on Jud. Performance, Ann. Rept. (2011), Advisory Letter 21, p. 26.]

A candidate for judicial office misrepresented the qualifications and present position of an opponent in the campaign. [Com. on Jud. Performance, Ann. Rept. (2010), Advisory Letter 10, p. 25.]

In addition to other campaign-related misconduct, for conduct during Former Judge McGraw's campaign for reelection, in two interviews with a television reporter, the judge denied having used his court computer to access Internet sites containing sexually explicit materials, denied having spoken with his presiding judge about the matter and denied having been disciplined by the commission. These statements were false and misleading. [*Censure and Bar of Former Judge Vincent J. McGraw* (2003).]

A judge's campaign literature misrepresented the judge's professional experience. [Com. on Jud. Performance, Ann. Rept. (2002), Advisory Letter 11, p. 24.]

In addition to other non-campaign related misconduct, Judge Van Voorhis was disciplined for conduct during the judge's campaign for judicial office. The judge misrepresented his marital status. He and his wife had been divorced before the campaign but continued to live together. The judge referred to her as "my wife" in his campaign literature and in public. [*Public Repeal of Judge Bruce Van Voorhis* (1992).]

A judge failed to exercise any control over the judge's campaign committee. With apparent disregard of the truth, the committee published what seemed to be defamatory falsehoods about a law firm with which the judge's opponent had been associated and which still practiced in the county. [Com. on Jud. Performance, Ann. Rept. (1991), Advisory Letter 16, p. 12.]

On a declaration of candidacy, a judge deliberately gave an incorrect and misleading home address. [Com. on Jud. Performance, Ann. Rept. (1988), Advisory Letter 42, p. 15.]

Use of Public or Court Resources for Campaign

A judge used the court’s email system to send an email to court personnel endorsing a judicial candidate. [Com. on Jud. Performance, Ann. Rept. (2014), Advisory Letter 19, p. 23.]

A judge engaged in improper political activity during the judge’s campaign for judicial office by distributing campaign literature on county property. [Com. on Jud. Performance, Ann. Rept. (2010), Advisory Letter 8, p. 25.]

In addition to other campaign misconduct, the judge used court resources in connection with campaign activities. [Com. on Jud. Performance, Ann. Rept. (2009), Private Admonishment 2, p. 18.]

In addition to other campaign related misconduct, Former Judge McGraw engaged in, or involved court employees in, improper campaign activities in and around the courthouse, including using the court’s interoffice mail system to distribute several hundred Petitions in Lieu of Filing Fees with a request to collect signatures in support of the judge’s candidacy; engaging court employees and staff in conversations about his campaign during working hours, including asking employees to obtain signatures on the Petitions in Lieu of Filing Fees; and asking for other assistance. Former Judge McGraw also distributed a campaign brochure containing a photograph of himself and members of his judicial staff, without obtaining their permission or consent to include the photo in his brochure. When apprised of issues with his distribution of the petitions and brochures, the judge ceased using them. [*Censure and Bar of Former Judge Vincent J. McGraw* (2003).]

While running for reelection, at the end of a court session, Judge Fletcher had a group photograph taken of court staff and others who appeared before him. The clerk and the public defender initially declined as they did not want to be involved in the judge’s campaign but the judge insisted and told them it was just a personal memento. The photo later appeared as a “Paid Political Advertisement” in the local newspaper. “By insisting (over objections) that everyone participate, securing cooperation by stating that the picture was simply a personal memento, and failing to disclose his intent to use the picture in his campaign, petitioner committed prejudicial misconduct both in taking and using the picture for campaign purposes. This resulted in the judge being removed from office. (See *Gonzalez v. Commission on Judicial Performance* (1983) 33 Cal.3d 359, p. 374 [“exploitation of judicial office for political ends seriously and impermissibly undermines public esteem for the impartiality and integrity of the judiciary”].)” [*Fletcher v. Commission on Judicial Performance* (1998) 19 Cal.4th 865.]

Failure to Disclose Campaign Contributions

Judge Walsh received a public admonishment for, after being reelected in June 2012, engaging in a pattern of failing to disclose the campaign contributions of attorneys who appeared before him,

in violation of Code of Civil Procedure section 170.1, subdivision (a)(9)(C), which requires judges to disclose on the record campaign contributions of \$100 or more received from a party or lawyer in a matter that is before the court. In one instance, in July 2012, Judge Walsh presided over a hearing on a defendant's motion for summary judgment without disclosing on the record that he had received a \$1,499 contribution from the defendant's lead attorney, a \$1,000 contribution from that attorney's law partner, and a \$250 contribution from the plaintiff's attorney. The commission found that the judge's failure to disclose campaign contributions after the election deprived the parties and attorneys appearing before him of information to which they were entitled and could give rise to public distrust in the independence and impartiality of the judiciary. [*Public Admonishment of Henry J. Walsh* (2016).]

Miscellaneous

A judge engaged in inappropriate fundraising efforts on behalf of a candidate for judicial office that included distribution of written materials that demeaned the judicial office. [Com. on Jud. Performance, Ann. Rept. (2009), Private Admonishment 2, p. 18.]

In addition to other misconduct not involving political activity, in late September 1994, Judge Hiber gave his clerk \$250 in cash and asked her to donate the money in her name to the campaign of a candidate for non-judicial office. The clerk did as the judge requested. The judge's conduct gave the appearance that the judge was attempting to conceal that he was the source of a political contribution. [*Public Admonishment of Judge Harvey H. Hiber* (1998).]

A judge engaged in activities which suggested that the judge had political influence and access to high officials. The commission considered this to be "political activity inappropriate to the judicial office," in violation of canon 7. [Com. on Jud. Performance, Ann. Rept. (1990), Advisory Letter 25, p. 24.]

A judge, who was standing for reelection, made speeches to jurors which could reasonably have been understood as electioneering. The judge also ran campaign advertisements which appeared to promise certain rulings. [Com. on Jud. Performance, Ann. Rept. (1988), Private Admonishment F, p. 10.]

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