

July 19, 2016

In Support of Strengthening the California Commission on Judicial Performance (CJP)

Dear California State Legislators:

Katy's Exposure is a nationally recognized blog of which the mission is to expose environmental health threats and those responsible. The blog primarily focuses on the misapplication of science and law in state and federal toxic torts; and in state and federal policies. Our work has been cited as reference for a United States Occupational Safety Health Administration (OSHA) publication, in multiple medical journal publications, and by multiple investigative reporters.

Public confidence in the California courts is at an all-time low for what strongly appears to be good cause. California's judicial system is the largest in the United States. It frequently holds itself out as a model for the world. Yet, in a 2015 State Integrity Investigation by Center for Public Integrity, California received what we believe to be a well-deserved "F" for judicial accountability.

The CJP provides the only ethics-oversight of California's nearly 2,000 judges and justices, who preside over more than 8 million cases annually. The outcome of each toxic tort case has a lifelong impact on the persons involved. California appellate published opinions often times establish case laws which may impact toxic torts and the lives of the environmentally-disabled throughout California and the United States.

We have witnessed multiple instances of oddly-flawed-logic in appellate published opinions indicative of questionable judicial ethics and judicial bias against the environmentally disabled. The flawed-logic has caused the proliferation and misapplication of erred case law that has harmed the lives of thousands.¹

In the past decade, the CJP has publicly disciplined only 65 judges out of 11,097 complaints received for judicial ethics violations - less than .6% of all complaints have resulted in CJP public reprimand. To our knowledge, the CJP has never publicly disciplined an appellate justice - 0% of all complaints received.

By its own report, the CJP has acknowledged that only 1.45% of complaints by litigants (i.e. members of the public) have resulted in any type of judicial discipline by the CJP. The CJP withholds all information from the public about dismissed complaints and complaints that result in private discipline. This leaves harmed-parties to continue to be damaged by an unethical act of a privately admonished jurist; and the jurist to receive no real punishment for the unethical act.

The low CJP discipline rates and the veil of secrecy which shrouds them, appear to be primary contributing causers for the "F" in integrity in California's courts.

¹ Three examples of ethically-questionable choices to publish opinions harmful to the environmentally-disabled nationwide: *Rattan v. United Services Automobile Assn.* (2000) - 101 Cal. Rptr. 2d 6, 84 Cal. App. 4th 715; *Coldwell Banker Residential Brokerage Co., v. Superior Court (Salazar)* (2004) 117 Cal.App.4th 158, -- Cal.Rptr.3d; *Sycamore Ridge Apartments LLC v. Naumann* (2007) 157 Cal.App.4th 1385 157 Cal.App.4th 1385

Appointed and elected jurists are public officials subject to voter re-election every six years. As informed voters, the public is entitled to know about judicial misconduct. Yet, the CJP withholds information that may impact voter decisions. Such practices are contrary to the public's best interest.

According to a 2012 Stanford Law Review article, California has the lowest rate of contested judicial elections in the United States, at 8%. If no challenger chooses to run against an incumbent judge who is seeking to retain their judicial seat, the incumbent automatically retains their seat without their name even appearing on the ballot -- no matter how many CJP secreted-reprimands they may have tucked-away. Inability to vote-out unethical and unchallenged incumbent jurists and inability for the public to know which jurists have been found by the CJP to be unethical and/or inept, makes the need for CJP effective and transparent oversight even more crucial for the protection of the public.

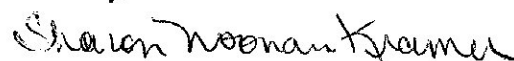
For these reasons, Katy's Exposure Blog supports the following:

1. A performance and financial audit of the CJP by the State Auditor. This will assist the CJP to ensure that its policies and procedures are aligned with its constitutional mandate to protect the public. An audit would aid to instill public confidence that the CJP will provide effective oversight in the future.
2. Following dismissal of a complaint: disclosure of the complaint, the judge's response, and the CJP's decision, along with a brief explanation and the votes of commission members should be made publicly available. This will aid to ensure that the CJP is providing effective oversight.
3. CJP reporting of the number of complaints by county and by judge should be made publicly available. This will identify problematic counties and judges in need of discipline and/or further ethics education. This will aid to ensure that the CJP is providing effective oversight.
4. Private CJP disciplines should not be permitted. The CJP should not be allowed to withhold information from the public about proven (not merely alleged) judicial misconduct, while leaving the public unaware that they may have life-changing decisions made for them by an unethical and/or inept judge. All CPJ discipline records being made available for public view will aid to ensure that the CJP is providing effective oversight of California's judges and justices.
5. Implementation of a state law which mandates that the names of incumbent judges appear on the ballot when being considered for judicial-seat retention -- even when there is no challenger to the judicial-seat. This, coupled with greater CJP transparency and oversight, will aid the public to assist the CJP when protecting the courts from judicial misconduct.

The sole ethics-oversight agency of California's judiciary, CJP, plays a critical role in a fair justice system. It seems non-prudent for such an important state agency to operate in autocratic secrecy.

As such, in best interest of California and United States citizens; Katy's Exposure Blog respectfully requests that the California Legislature make greater transparency, accountability, and oversight of the California courts and the Commission on Judicial Performance top legislative priorities.

Sincerely,



Sharon Noonan Kramer
Co-Proprietor