



**NEWS RELEASE**

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**FOR IMMEDIATE RELEASE**

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## **Supreme Court Committee Provides Guidance on Disqualification of Judges Who Previously “Served as a Lawyer in the Proceeding”**

*Supreme Court Committee on Judicial Ethics Opinions advises that judges are not disqualified when they did not actively participate in the matter*

SAN FRANCISCO—The California Supreme Court Committee on Judicial Ethics Opinions (CJEO) has adopted a formal advisory opinion concluding that a trial judge is not disqualified from presiding over a criminal case if the judge appeared in that case as a deputy district attorney, but only for a brief, non-substantive matter such as a scheduling conference.

[CJEO Formal Opinion 2015-007](#) advises that a judge who previously appeared in a case as a deputy district attorney on a nonsubstantive matter—without active participation in the prosecution—is not disqualified to hear the case, because such an appearance would not raise a reasonable doubt as to impartiality. The committee concludes that disqualification where there is no perception of impartiality impedes the administration of justice and defeats the purposes of the statute.

In CJEO Formal Opinion 2015-007, the committee examines:

- The language and legislative history of the disqualification statutes and concludes that the term “served as a lawyer in the proceedings” is intended to include any active participation as an attorney for a party that could create a reasonable doubt as to impartiality.
- Case law from California and other jurisdictions and concludes that active participation does not include a brief appearance on a scheduling or uncontested matter where special knowledge about the case is not gained and no opinion or bias about the matter could be formed.

The committee previously [invited the public to comment](#) on this advisory opinion in draft form. Those comments submitted with a waiver of confidentiality are posted for public view on

the CJEO website. All of the comments the committee received were carefully considered by the CJEO members when adopting CJEO Formal Opinion No. 2015-007.

CJEO is an independent committee appointed by the Supreme Court to help inform the judiciary and the public concerning judicial ethics topics. CJEO was established as part of the court’s constitutional responsibility to guide the conduct of judges and judicial candidates (Cal. Const., art. VI, § 18, subd. (m)). In making appointments to serve on CJEO, the Supreme Court considers a wide range of judicial experience, including factors such as a strong background in judicial ethics, experience as a presiding judge, courtroom experience in a variety of settings, and service in courts of different size throughout the state. The current twelve CJEO members are justices, judges, a commissioner, and a retired bench officer who have served in courts of various sizes throughout the state.

CJEO publishes formal opinions, issues confidential informal opinions, and provides oral advice on proper judicial conduct pursuant to the California Code of Judicial Ethics and other authorities (Cal. Rules of Court, rule 9.80(e)(1)). CJEO acts independently of the Supreme Court, the Commission on Judicial Performance, the Judicial Council, and all other entities (rule 9.80(b)).

For more information about CJEO, visit the [CJEO website](#) and [view the members’ page](#), call toll-free at 1-855-854-5366, or email [Judicial.Ethics@jud.ca.gov](mailto:Judicial.Ethics@jud.ca.gov).

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*The Supreme Court established the Committee on Judicial Ethics Opinions (CJEO) to help inform the judiciary and the public concerning judicial ethics topics. (Cal. Rules of Court, [rule 9.80](#).) CJEO publishes formal advisory opinions, issues confidential written opinions, and provides oral advice on proper judicial conduct pursuant to the [California Code of Judicial Ethics](#) and other authorities. In providing its advisory opinions, the committee acts independently of the Supreme Court, the Commission on Judicial Performance, the Judicial Council, and all other entities. (Cal. Rules of Court, rule 9.80(b).) The Supreme Court is responsible for adopting the Code of Judicial Ethics, which guides the conduct of judges on and off the bench (Cal. Const., Art.VI, § 18, subd. (m).)*

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