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**CJEO Expedited Opinion<sup>1</sup> 2021-039**

*[Posted February 17, 2021]*

**GIFT EXCHANGES BETWEEN JUDGES AND THEIR STAFF**

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<sup>1</sup> The California Supreme Court Committee on Judicial Ethics Opinions (CJEO) issues **Expedited Opinions**, formerly known as **Oral Advice Summaries**, pursuant to California Rules of Court, rule 9.80(i)(1) [eff. Jan. 1, 2021]. Expedited Opinions are issued to requesting judicial officers following a discretionary decision by CJEO to address the ethical issues raised in an expedited process that does not include posting draft opinions for public comment, as required for CJEO Formal Opinions. The CJEO Expedited Opinions are published in full, without identifying information regarding the requesting judicial officer, to provide information and analysis to the bench and public regarding judicial ethics.

## I. Question

A judge has asked the committee to advise on whether judges may exchange gifts with courtroom staff to celebrate birthdays and holidays.

## II. Advice Provided

Judges may exchange modest gifts with their courtroom staff but, when giving or accepting gifts, judges should treat all staff equally and maintain proper decorum. Judges should not give any gifts that might (1) pressure staff to reciprocate, (2) be offensive, demeaning, or otherwise inappropriate, or (3) be perceived as harassment.

## III. Discussion

### **A. Judges are generally permitted to exchange gifts with their courtroom staff, but should try to treat their courtroom staff equally**

Judges are encouraged to maintain good relations with their courtroom staff and to foster a healthy work environment. (Rothman et al., Cal. Judicial Conduct Handbook (4th ed. 2017) § 6:27, p. 367 (Rothman) [observing that judges depend on the goodwill of their staff to ensure proper courtroom operations].) Acknowledging birthdays, holidays and other special occasions can be an appropriate way to build morale among a judge and his or her staff. On such occasions, there is no ethical impediment for a judge to exchange modest gifts with staff as part of the celebrations. (*Ibid.* [noting that a judge may accept a gift from staff under Cal. Code Jud. Ethics, canon 4D(6)(a)<sup>2</sup> because the judge would be disqualified from hearing a case involving staff]; Cal. Judges Assn., Jud. Ethics Com., Opn. No. 70 (2015) at pp. 1-2 (California Judges Association Opinion No. 70).)

When giving gifts to their courtroom staff, judges must take care that they show no bias or favoritism. (*Inquiry Concerning Saucedo* (2015) 62 Cal.4th CJP Supp. 1, 79 (*Saucedo*).) To

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<sup>2</sup> All further references to canons and the code are to the California Code of Judicial Ethics.

the extent reasonably possible, judges should endeavor to treat their staff equally. For example, judges should not give holiday gifts to different staff members that are significantly disproportionate. Similarly, judges should not celebrate the birthdays of certain of their staff while ignoring the birthdays of others. Judges also should be sensitive to and respect the fact that staff may come from different faiths and traditions. To the extent reasonably possible, judges should tailor any gifts that they give to align with the heritage and belief systems of their staff.

### **B. Judges cannot pressure staff to exchange gifts**

Judges cannot pressure their courtroom staff to give a gift, even if such pressure is implicit. For example, some staff might feel that an expensive or extravagant gift should be reciprocated, particularly when such a gift is received from a workplace supervisor such as a judge. For that reason, judges should take into account both the power and financial imbalances between themselves and their staff, and keep any gifts modest. (See CJEO Formal Opinion No. 2014-005, *Accepting Gifts of Little or Nominal Value Under the Ordinary Social Hospitality Exception*, Cal. Supreme Ct., Com. Jud. Ethics Opns, pp. 7, 11-14 [discussing what constitutes “ordinary social hospitality” under canon 4D(6)(g)].) Judges should not solicit staff for a group gift. In addition, judges can reduce the risk that staff feel coerced into giving a gift by telling them that there is no obligation or expectation that they reciprocate any gifts they receive. (Cal. Judges Assn. Opn. No. 70, *supra*, at p. 2.)

### **C. Judges cannot give gifts that are offensive, demeaning, or otherwise inappropriate, or that would be perceived as harassment**

Judges must demonstrate professionalism at all times and maintain appropriate decorum with their courtroom staff. (Rothman, § 6:27, pp. 370-371.) Judges cannot give gifts that are offensive or demeaning, for example by being obscene, profane or degrading in any way to the recipient or to others. (*Inquiry Concerning Block* (Dec. 9, 2002) CJP No. 167, p. 4 [judge disciplined for playing practical joke on court interpreter].) In addition, judges cannot give gifts that would be perceived as harassing, for example if given in the expectation of fostering a

romantic or sexual relationship with a staff person. (*Saucedo, supra*, 62 Cal.4th at pp. CJP Supp. 2, 18, 57-58.)

#### **IV. Conclusion**

Judges are allowed to give to and receive modest gifts from their courtroom staff to celebrate birthdays and holidays, and are encouraged to do so when the gift exchange boosts employee morale and fosters a healthy courtroom work environment. To the extent reasonably possible, judges must treat their courtroom staff equally, and cannot give gifts that are inappropriate or harassing, or of a nature or value that results in an expectation of, or the perceived expectation of, a need for reciprocity.



*This expedited opinion is advisory only. (Cal. Rules of Court, rule 9.80(a), (e); Cal. Supreme Ct. Com. Jud. Ethics Opns. (CJEO), Internal Operating Rules & Proc. rule 1(a), (b).) It is based on facts and issues, or topics of interest, presented to the California Supreme Court Committee on Judicial Ethics Opinions in a request for an opinion (Cal. Rules of Court, rule 9.80(i)(2); CJEO rules 2(f), 6(c)), or on subjects deemed appropriate by the committee (Cal. Rules of Court, rule 9.80(i)(1); CJEO rule 6(a)). The conclusions expressed in this expedited opinion are those of the committee and do not necessarily reflect the views of the California Supreme Court or any other entity. (Cal. Rules of Court, rule 9.80(b); CJEO rule 1(a).)*