



**CALIFORNIA SUPREME COURT
COMMITTEE ON JUDICIAL ETHICS OPINIONS**
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CJEO Draft Formal Opinion 2022-020

JUDICIAL CONSULTATIONS WITH OTHER JUDGES

Public Comments Submitted

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Comment 1

Submitted by: Hon. William Bedsworth

Received: September 13, 2022

Subject: Submission: Public Comments on CJEO Draft Formal Opinions (2022-020)

This is a good idea. Long overdue. But you might want to suggest — perhaps require — the judge to give the parties a chance to respond to any NEW ideas the non-deciding colleague brings up. If the colleague just says, "No, I find that argument unconvincing," or "I think the words of the contract mean this," there is no need to give the parties another chance. But if the colleague raises a *new* point the deciding judge finds convincing, one that has not been argued, that should be given to the parties with a chance to respond.

Comment 2

Submitted by: Hon. Barbara Kronlund

Received: September 22, 2022

Subject: Submission: Public Comments on CJEO Draft Formal Opinions (2022-020)

Thank you for this helpful Opinion. I teach Mandatory Ethics, and the Novak opinion has caused much concern and confusion to the trial bench. I think this Opinion will be very useful to judges who are trying to figure out what they may and may not do in regard to seeking assistance and consultation with other judges.

What I've encountered is that quite a few judges consult with recently-retired judges, or not-so-recently-retired judges from their Courts. As a matter of habit, they go to their mentors for assistance with their cases. But myself and several other judges who are very involved with Judicial Ethics discussed this practice, and we all determined that it's not proper for judges to discuss their cases with retired judges who are not sitting on assignment, and are therefore not under the Canons. In essence, retired judges not sitting on assignment are the same as the general public, for purposes of evaluating this Opinion.

Therefore, I highly recommend in light of this wide-spread practice of consulting retired colleagues, and the misconception that it's allowed, that you revise this Opinion to define which "judges" sitting judges may consult with, and to specifically explain that we trial judges are not permitted to consult with retired judges who are not sitting on assignment, and are not subject to the Canons.

Page 2 at the very top of the Opinion references "judges" for the first time and should have an explanation and definition right at the outset. Page 8, 2nd full paragraph, in the 2nd line, references"among judicial colleagues...", again offering an opportunity to remind sitting judges who their "judicial colleagues" are with whom they may ethically consult.

Thank you for your great work, and for considering my comments.

Sincerely,

Barbara A. Kronlund
San Joaquin County Superior Court

Comment 3

Submitted by: Dr. Bryan Borys on behalf of Los Angeles County Superior Court

Received: September 27, 2022

Subject: Submission: Public Comments on CJEO Draft Formal Opinions (2022-020)

On behalf of the Los Angeles Superior Court, thank you for the opportunity to comment on this draft formal opinion regarding judicial consultation with other judges. The Los Angeles Superior Court is in favor of the draft opinion as written.