

MEMBER SPOTLIGHT: JUSTICE JUDITH L. HALLER (RET.)

[Justice Judith L. Haller](#) (Ret.) has been a member of CJEO since 2013 and recently retired from the Court of Appeal, Fourth Appellate District, Division One. Below, she answers questions from Sanna Singer, CJEO Staff Attorney and Editor of *The Source*, about hot topics in judicial ethics.

Q: You were appointed to serve as a member of CJEO in 2013. What drew you to the field of judicial ethics?

A: *Around 1996, a colleague recommended that I apply for the California Judges Association (CJA) ethics committee, which I did, and later became committee vice-chair and chair, in 2001 and 2002. I really enjoyed the committee's process and thought it was an incredibly helpful resource for judges. Virtually all inquiries we received at that time were from trial judges who needed immediate ethics advice because something was occurring while they were on the bench or would be occurring very soon. I was so impressed with how the ethics committee members, who were experienced and well versed in the canons, responded to those inquiries.*

When giving judicial ethics advice, I have always thought it critical to determine whether the conduct is actually prohibited by the canons or whether it's a matter of best practices. For example, in my early days on the CJA ethics committee, we received questions about whether a judge's spouse could host a political fundraiser for a nonjudicial candidate at the judge's home. Because the spouse is not subject to the canons, our job as advisors was to make clear the conduct was not prohibited, but also point out where it may be fraught with potential problems for the judge.

While a member of the CJA ethics committee, I became aware of the interest in creating an ethics committee that could look at more systemic problems, which became CJEO. I was always of the view that CJEO would not replace CJA, but that CJEO would provide a concurrent service by examining issues that were widespread and that had broader application well beyond individual questions and answers.

When I was asked to join CJEO, I was honored because I knew the way the committee resolved ethical questions would have far-reaching impacts and that our formal and informal opinions would have precedential value. For example, if CJEO has given advice and a judge has followed that advice, that would be relevant in a subsequent Commission on Judicial Performance (CJP) proceeding.

Q: You spent the majority of your judicial career as an appellate court justice. In your experience, what are some judicial ethics questions or situations that frequently arise for appellate justices?

A: *Like trial judges, appellate justices tend to have questions about disqualification, often arising from the relationship between the appellate justice and the trial judge. Is it professional only, or is it social and professional? At what point should an appellate justice disqualify if a relationship with a trial judge has bled into the personal realm? Similarly, is there something about the justice's relationship with a party or material witness in the case on appeal that requires disqualification? The disqualification analysis is similar to that of a trial judge, but may subtly differ, depending on the circumstances.*

I have also encountered questions about whether an appellate justice may serve on certain commissions that are outside the scope of the judicial branch, whether a justice can attend certain political events or rallies, and questions related to gifts.

Q: When colleagues ask you for judicial ethics advice, what resources do you refer them to?

A: *Typically, I ask some follow-up questions to help clarify the nature of the question and to better understand the facts so we can determine which canons may apply. In terms of resources, I always suggest starting with the canons, followed by [the Judge] Rothman [treatise, California Judicial Conduct Handbook]. In recent years, I also refer colleagues to [CJEO's website](#). It is user-friendly, allowing the judge to quickly navigate to every opinion the committee has written on a particular issue and to research [annotated versions of the code](#) that include CJP disciplinary decisions relating to each canon.*

Q: Congratulations on your recent retirement. As you know, the ethical landscape is a bit different for retired judges. What do you think are some ethical questions that commonly come up for judges transitioning to retirement?

A: *One of the main issues is whether the judge plans to affiliate with a private mediation provider in retirement. There are very specific canons governing this area, and retiring judges and justices should review them carefully. Another issue is whether a judge or justice plans to participate in the Temporary Assigned Judges Program, in which case the judge should have a good grasp on which canons still apply. Judges also need to think through whether they are going to allow their law license to lapse, become an inactive member, or go in a different direction, such as affiliating with a law firm. Questions about gift restrictions also come up often when one is transiting to retirement.*

On the other hand, once a judge retires completely and does not choose to sit on assignment, there are very few constraints, as the committee recently discussed in one of our expedited opinions [[CJEO Expedited Opinion 2022-047, Fundraising by Retired Judges Engaged in Private Dispute Resolution Services](#)].

Q: You have served several times as a special master in disciplinary proceedings by the Commission on Judicial Performance. Do you feel your experience on CJEO has given you a unique perspective in the disciplinary process?

A: *I think having served on both the CJA ethics committee and CJEO has given me a broad background and familiarity with the canons. I'm not sure I would characterize it as a unique perspective, but rather that this experience has given me very useful tools while sitting as a special master. I also believe my experience as a special master informs my work on CJEO in terms of considering the practical implications of our opinions. I'll return to a theme I mentioned earlier, which is that as a special master, your job is to evaluate the facts, determine whether those facts have been established by the CJP prosecuting attorney, and then conclude whether the established facts represent a violation of the code. In other words, the special master is making a conclusion about whether a code violation has occurred rather than determining whether certain conduct was a good idea or not.*

Q: Are there particular CJEO opinions that you find yourself frequently revisiting or referring others to?

A: *One of the opinions I refer to frequently is our formal opinion about providing advice to family members [[CJEO Formal Opinion 2021-017, Providing Close Family Members With Advice that Implicates Legal Issues](#)]. Judges know they are prohibited from practicing law, but often have questions about what kind of advice they can give. The opinion was particularly challenging to write because the practice of law is difficult to pinpoint definitionally. Some conduct clearly constitutes the practice of law, for example, making a court appearance or submitting a pleading on behalf of a friend or family member. Other types of conduct fall into a grey area, for example, helping an adult child evaluate a settlement offer. The opinion is important because it provides an analytical framework that judges can turn to for guidance.*

I also find myself revisiting our various opinions on disqualification questions, as well as our opinion on attending demonstrations and rallies [[CJEO Formal Opinion 2020-014, Judicial Participation in Public Demonstrations and Rallies](#)], which is very relevant in the current social climate. In addition to these individual opinions, I have to put in another plug for [CJEO's website](#) because it is such an invaluable resource where judges can go directly to opinions that provide context, if not the answers, to a wide variety of ethics questions.

Q: Just for fun, are there any new or old hobbies that you are looking forward to spending more time on in retirement?

A: *I really love to work in my yard. I don't consider myself to be a particularly knowledgeable gardener by any stretch, but I find it therapeutic to pull weeds, trim hedges, and plant shrubs and flowers that make my yard look nice, especially when listening to baseball and football games on my transistor radio. I'm definitely looking forward to having more time for that.*

Justice Haller (Ret.) was appointed to the Superior Court of San Diego County in 1989 and served on the court's executive committee. In 1994, she was elevated to the Fourth Appellate District of the Court of Appeal, Division One, where she served until her retirement in October 2022. Justice Haller is a former chair and vice-chair of the California Judges Association Judicial Ethics Committee and has served several times as a special master in disciplinary proceedings by the California Commission on Judicial Performance. She also served on the Commission on the Future of California's Court System from 2014 to 2017. Justice Haller is the recipient of numerous awards, including the Bernard E. Witkin Award from the Law Library Justice Foundation of San Diego County (2003) and the Joan Dempsey Klein Distinguished Jurist Award from the California Women Lawyers (2014).