



**CALIFORNIA SUPREME COURT
COMMITTEE ON JUDICIAL ETHICS OPINIONS**

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CJEO Oral Advice Summary No. 2013-001

[Issued September 4, 2013]

**DISCLOSURE WHEN A JUDGE'S SPOUSE SERVES ON A CITY
COMMISSION**

I. Question:

Is disclosure required when a judge's spouse has been appointed as a city utility commissioner and the judge hears cases involving the city?

The question was asked by a judge whose spouse was recently nominated by the mayor to serve as a city utility commissioner. Commissioners are responsible for setting policy only as to the utility itself. As a proprietary department, the utility manages and controls its own assets and funds. Commissioners are volunteers; they are not paid and are not city employees. The commissioners meet as a board once or twice per month. The judge frequently hears cases involving the city, but questioned whether disclosure is necessary when the utility itself is not a party and neither the actions nor policies of the utility are implicated in the dispute.

II. Oral Advice Provided:

Disclosure is required when a judge's spouse has been appointed as an unpaid commissioner of a city utility and the judge hears cases involving the city. As a general rule, information relevant to the question of disqualification must be disclosed. (Cal. Code of Jud. Ethics, canon 3E; Rothman, Cal. Judicial Conduct Handbook (3d ed. 2007), § 7.72, p. 380.) In this instance, disqualification would be required when the city is a party only if the judge's spouse were employed by the city or if the spouse had a relationship with the city as a director, advisor or other active participant in city affairs (Code Civ. Proc., §§ 170.1 subds. (a)(3) & (a)(4), 170.5 subd. (b); Rothman, *supra*, § 7.16, pp. 307-308.) The facts presented do not mandate disqualification every time the city is a party because the judge's spouse is not a city employee nor an active participant in the affairs of the city itself. Reaching that conclusion necessarily requires consideration of the spouse's relationship to the city and whether he or she is an active participant in policy and affairs. Consideration of those distinguishing facts makes them relevant to the question of disqualification, thereby requiring disclosure whenever the city is a party. (Canon 3E.)



This oral advice summary is advisory only (Cal. Rules of Court, rule 9.80(a), (e); Cal. Com. Jud. Ethics Opns., Internal Operating Rules & Proc. (CJEO) 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)(3); CJEO rule 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)).