

MEMBER SPOTLIGHT: JUDGE KENNETH K. SO

[Judge Kenneth K. So](#) is an Executive Committee member of CJEO, a former presiding judge, and currently a judge on assignment in criminal trials at the Superior Court of San Diego County. Below, he answers questions from Sanna Singer, CJEO Staff Attorney and Editor of *The Source*, about hot topics in judicial ethics.

Q: You were one of the original 12 members appointed to CJEO in 2009. How were you involved in judicial ethics prior to that point?

A: My first introduction to judicial ethics, other than reading [the] Judge Rothman [treatise, California Judicial Conduct Handbook (Rothman)] and attending New Judge Orientation and Judicial College, was with the California Judges Association Judicial Ethics Committee. I was a member there for two years, responding to questions that judicial officers had that needed immediate attention.

Q: How has CJEO evolved over the past decade? What has or hasn't changed about CJEO's role or the nature of its opinions?

A: Throughout its existence, CJEO has tried to give the best advice possible for judicial officers. Since the beginning, I think the role has been the same. How the committee responds to requests for opinions may have changed somewhat. Rather than zeroing in on individual questions, the committee has looked at ethics from an increasingly broader view. The committee addresses issues that commonly come up for judicial officers. There is an emphasis on helping both judicial officers and the public understand the rules that judicial officers need to follow. We are trying to provide the method and tools for a judicial officer to work through an ethical issue and, at the same time, allow the public to understand all the factors a judicial officer must consider.

Q: Have your background as a former presiding judge and other leadership positions shaped your perspective on judicial ethics? Do supervisors face unique challenges?

A: Supervisors and presiding judges do have added obligations under the canons. I think it is important that we educate and inform the judicial officers who are undertaking those positions about their unique responsibilities. Sometimes, when one becomes a supervisor, there are so many things occurring that it can be easy to overlook those obligations without a reminder. As a former presiding judge, assistant presiding judge, and criminal supervising judge, I understand what it's like to face those types of supervisory ethical issues on a regular basis.

Q: In your opinion, what are some of the most interesting, novel, or unexpected judicial ethics issues that have come up in the last 10 years?

A: I think social media use and posting issues are the most interesting. Because of all the types of technology and social media platforms that are in existence and common today, these issues really are quite novel. Our opinion this past April ([CJEO Expedited Opinion 2021-042, Social](#)

[Media Posts About the Law, the Legal System, or the Administration of Justice](#)) addressed some of those issues, but I am certain other ethical questions regarding social media will keep coming up. I really never thought, for example, that in a jury trial I would have to give an instruction saying, “please don’t tweet about this,” but I do that regularly. There is a relationship between the instructions we are giving to jurors and litigants and what a judge should or should not do on social media.

Q: Has the pandemic raised any special questions with respect to judicial ethics?

A: There have been quite a few questions involving judicial ethics, for example, questions dealing with applying COVID-related protocols in courts. However, I am not sure that I would characterize them as “special” so much as another overlay of facts in analyzing what a judicial officer must do to act ethically.

Q: So, is it really a lesson in flexibility, that the field of judicial ethics has to move and evolve with the times?

A: Well, yes. There are always going to be certain new facts that come up. The canons need to be analyzed with those new facts in mind, and pandemic-related factual issues are coming fast and furious at this time.

Q: What advice would you give to a new judge who is facing an ethical issue but doesn’t know where to look for guidance?

A: I have told a lot of new judicial officers that the first place I would look, if I was dealing with an ethical issue, would be Rothman. That is what I consider to be the premier guidance for ethical questions. If you can’t find the answer there, you can call the California Judges Association hotline or inquire with CJEO. With those three options available, I am convinced you are going to get the right answer. I encourage people to start by reading Rothman because that is how you really begin to understand the rules. It provides a list of each of the canons, with interpretations and decisions, and it’s a ready reference for a wide range of issues. To me, that is the tried-and-true place to start.

Q: Is there anything else you would like to tell *The Source* about your experience with CJEO?

A: Overall, the committee tries in its opinions to give judicial officers a road map or template to enable them to figure out an ethical issue independently. Sometimes writing these opinions can be challenging because the issues can be quite thorny or complicated. But, then again, that is part of what makes the process fun.

Judge Kenneth K. So was appointed to the bench in 1994 and has previously served as Presiding Judge (2007–2009), Assistant Presiding Judge (2006–2007), Presiding Judge of the Superior Court Appellate Division (2003–2005), and Supervising Criminal Judge (1999–2001) of the Superior Court of San Diego County. Judge So has been a member of the Judicial Council since 2008 and has served on several of its committees. He also previously served on the California

Judges Association Judicial Ethics Committee and is active in the Bench-Bar Coalition and the American Inns of Court.