

## **UNPRECEDENTED COURT BATTLE OVER ACCESS TO RECORDS BETWEEN THE CALIFORNIA LEGISLATURE AND JUDGE OVERSIGHT AGENCY**

### EVENT

Hearing on historic lawsuit filed by Commission on Judicial Performance (CJP) against State Auditor to block access to investigative and disciplinary records of California's judges.

### DATE & TIME

9:30 a.m.  
August 4, 2017

### PLACE

San Francisco Superior Court  
Department 302  
400 McAllister Street  
San Francisco, CA 94102

### WHY IMPORTANT

The Commission on Judicial Performance was established in 1960 and is charged with investigating complaints against judges and issuing disciplines accordingly. The mandate of the CJP is "to protect the public, enforce rigorous standards of judicial conduct and maintain public confidence in the integrity and independence of the judicial system."<sup>1</sup>

The agency has operated in near complete secrecy, without a single audit, public or private, since its inception. Last year, activists pressured the Legislature to take action against the CJP, alleging that the agency was failing in its duty to protect the public by sweeping complaints of misconduct under the rug, without explanation, transparency, or accountability. On August 10, 2016, the California Legislature ordered an audit of the Commission on Judicial Performance for the first time in the agency's 57-year history.

On October 21, 2016, the CJP filed a lawsuit against the State Auditor to block access to the CJP's investigative and disciplinary records. The CJP claims it is entitled to keep its records secret, alleging it's not accountable to anyone, including the California Legislature and taxpayers. The Auditor begs to differ.

The CJP hired the high-power firm of Kerr & Wagstaffe, LLP to attempt to block access. The Auditor hired the equally high-powered Moskovitz Appellate Team to stand firm.

The judicial branch fears the State Auditor after a 2015 audit of the State Bar found that the bar posed a "risk to public safety" for its failure to appropriately discipline and disbar unethical attorneys, and had also misappropriating funds. Likewise, in 2011, the Judicial Council received a scathing review for its own misappropriation of public funds.

The most important and powerful agents in the judicial branch are the judges. What is the Commission on Judicial Performance hiding? Does the agency pose an even greater risk to public safety than the State Bar by failing to investigate, discipline, and remove bad judges from our benches? Only a full audit can tell.

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<sup>1</sup> <https://cjp.ca.gov>

With the ongoing recall of Judge Persky, the recently exposed racist Halloween Party scandal of the Judicial Council, and the ongoing financial debacles up and down the state involving misappropriation of construction and operating funds for courthouses, costing taxpayers hundreds of millions of dollars, the public has little trust in the ethics of the judicial branch or how it conducts its business.

The opening brief of the CJP has been filed, as well a response brief by the Auditor, which sizzles.

The matter is set for hearing at 9:30 a.m. on August 4, 2017, in San Francisco Superior Court. The public will be present to demonstrate its support for the Auditor.