

## RESOLUTION 02-10-2017 (REVISED AS AMENDED)

### DIGEST

#### Judges: Judicial Disclosure and Ruling on Disqualification Motion

Adds Code of Civil Procedure section 170.10 to require judges to disclose personal connections and prohibit a challenged judge from ruling on disqualification.

### RESOLUTIONS COMMITTEE ANALYSIS

#### History:

No similar resolutions found.

#### Reasons:

This resolution adds Code of Civil Procedure section 170.10 to require judges to disclose personal connections that a reasonable person might consider relevant to the issue of an appearance of bias, and would prohibit a challenged judge from ruling on disqualification

The Resolutions Committee initially recommended disapproval of this resolution. The full Conference voted to approve.

### TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to add Code of Civil Procedure section 170.10 to read as follows:

- 1    § 170.10  
2        (a) Upon assignment of a case for trial, the trial judge shall disclose any personal  
3        connections between the judge and any of the parties and their attorneys that a reasonable person  
4        might consider relevant to the issue of an appearance of bias.  
5        .  
6        (b) The trial judge assigned shall not rule on any motion to disqualify that judge.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** Bar Association of Northern San Diego County

### STATEMENT OF REASONS

The Problem: Current law does not require a judge to disclose any personal connections between the judge and any of the parties or their attorneys. Personal connections between the judge and one of more of the parties or their attorneys may reveal a basis for disqualification or reason why a party may want to file a preemptory challenge.

Current law allows the challenged judge to rule on the motion to disqualify that judge. Having another judge rule on the motion for disqualification provides a more neutral decision maker for this decision.

The Solution: This resolution requires a trial judge to disclose personal connections with parties and lawyers and prohibiting a challenged judge from ruling on disqualification.

**IMPACT STATEMENT**

The resolution does not affect any other law, statute or rule other than those expressly identified.

**CURRENT OR PRIOR RELATED LEGISLATION:**

None known.

**AUTHOR AND PERMANENT CONTACT:** Carla DiMare, Esq., P.O. Box 1668, Rancho Santa Fe, California 92067, (858) 775-0707

**RESPONSIBLE FLOOR DELEGATE:** David R. Moore, Moore & Skiljan, 7700 El Camino Real, Ste. 207, Carlsbad, CA 92009; 760-944-7700 x1