

**Stop—Right Now,  
Thank You Very Much!**

**RICO Suave, Creative Freedom  
and Judicial Impartiality**

**The Anthony M. Kennedy American Inn of Court**

**Team 8**

**Select Legal Authorities**

**May 20, 2025**

MCLE Credit: 1.25 Hours (Legal Ethics)

*The Anthony M. Kennedy Inn of Court certifies that this activity has been approved for MCLE credit by the State Bar of California.*

## CALIFORNIA RULES OF PROFESSIONAL CONDUCT

### Rule 1.6 Confidential Information of a Client

(a) A lawyer shall not reveal information protected from disclosure by Business and Professions Code section 6068, subdivision (e)(1) unless the client gives informed consent,\* or the disclosure is permitted by paragraph (b) of this rule.

Comment

Duty of confidentiality

[1] Paragraph (a) relates to a lawyer's obligations under Business and Professions Code section 6068, subdivision (e)(1), which provides it is a duty of a lawyer: "To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client." A lawyer's duty to preserve the confidentiality of client information involves public policies of paramount importance. (In *Re Jordan* (1974) 12 Cal.3d 575, 580 [116 Cal.Rptr. 371].) Preserving the confidentiality of client information contributes to the trust that is the hallmark of the lawyer-client relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or detrimental subjects. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know\* that almost all clients follow the advice given, and the law is upheld. Paragraph (a) thus recognizes a fundamental principle in the lawyer-client relationship, that, in the absence of the client's informed consent,\* a lawyer must not reveal information protected by Business and Professions Code section 6068, subdivision (e)(1). (See, e.g., *Commercial Standard Title Co. v. Superior Court* (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr.393].)

Lawyer-client confidentiality encompasses the lawyer-client privilege, the work-product doctrine and ethical standards of confidentiality

[2] The principle of lawyer-client confidentiality applies to information a lawyer acquires by virtue of the representation, whatever its source, and encompasses matters communicated in confidence by the client, and therefore protected by the

lawyer-client privilege, matters protected by the work product doctrine, and matters protected under ethical standards of confidentiality, all as established in law, rule and policy. (See *In the Matter of Johnson* (Rev. Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179; *Goldstein v. Lees* (1975) 46 Cal.App.3d 614, 621 [120 Cal.Rptr. 253].) The lawyer-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or be otherwise compelled to produce evidence concerning a client.

#### Rule 3.4 Fairness to Opposing Party and Counsel

A lawyer shall not:

. . .

(f) knowingly\* disobey an obligation under the rules of a tribunal\* except for an open refusal based on an assertion that no valid obligation exists; . . .

#### Rule 3.5 Contact with Judges, Officials, Employees, and Jurors

. . .

(b) Unless permitted to do so by law, an applicable code of judicial ethics or code of judicial conduct, a rule or ruling of a tribunal,\* or a court order, a lawyer shall not directly or indirectly communicate with or argue to a judge or judicial officer upon the merits of a contested matter pending before the judge or judicial officer, except:

(1) in open court;

(2) with the consent of all other counsel and any unrepresented parties in the matter;

(3) in the presence of all other counsel and any unrepresented parties in the matter;

(4) in writing\* with a copy thereof furnished to all other counsel and any unrepresented parties in the matter; or

(5) in ex parte matters.

## CALIFORNIA RULES OF JUDICIAL ETHICS

### CANON 1- A JUDGE SHALL UPHOLD THE INTEGRITY\* AND INDEPENDENCE\* OF THE JUDICIARY

An independent, impartial,\* and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity\* and independence\* of the judiciary is preserved. The provisions of this code are to be construed and applied to further that objective. A judicial decision or administrative act later determined to be incorrect legally is not itself a violation of this code.

#### ADVISORY COMMITTEE COMMENTARY: Canon 1

Deference to the judgments and rulings of courts depends upon public confidence in the integrity\* and independence\* of judges. The integrity\* and independence\* of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they must comply with the law\* and the provisions of this code. Public confidence in the impartiality\* of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violations of this code diminish public confidence in the judiciary and thereby do injury to the system of government under law. The basic function of an independent, impartial,\* and honorable judiciary is to maintain the utmost integrity\* in decisionmaking, and this code should be read and interpreted with that function in mind.

### CANON 2 - A JUDGE SHALL AVOID IMPROPRIETY\* AND THE APPEARANCE OF IMPROPRIETY\* IN ALL OF THE JUDGE'S ACTIVITIES

#### A. Promoting Public Confidence

A judge shall respect and comply with the law\* and shall act at all times in a manner that promotes public confidence in the integrity\* and impartiality\* of the judiciary.

#### ADVISORY COMMITTEE COMMENTARY: Canons 2 and 2A

Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety\* and appearance of impropriety.\* A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as

burdensome by other members of the community and should do so freely and willingly.

CANON 3 – A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE  
IMPARTIALLY, COMPETENTLY, AND DILIGENTLY

...

B. Adjudicative Responsibilities

...

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the full right to be heard according to law.\* Unless otherwise authorized by law,\* a judge shall not independently investigate facts in a proceeding and shall consider only the evidence presented or facts that may be properly judicially noticed. This prohibition extends to information available in all media, including electronic. A judge shall not initiate, permit, or consider ex parte communications, that is, any communications to or from the judge outside the presence of the parties concerning a pending\* or impending\* proceeding, and shall make reasonable efforts to avoid such communications, except as follows:

(a) Except as stated below, a judge may consult with other judges. A judge presiding over a case shall not engage in discussions about that case with a judge who has previously been disqualified from hearing that case; likewise, a judge who knows\* he or she is or would be disqualified from hearing a case shall not discuss that matter with the judge assigned to the case. A judge also shall not engage in discussions with a judge who may participate in appellate review of the matter, nor shall a judge who may participate in appellate review of a matter engage in discussions with the judge presiding over the case.

A judge may consult with court personnel or others authorized by law,\* as long as the communication relates to that person's duty to aid the judge in carrying out the judge's adjudicative responsibilities.

In any discussion with judges or court personnel, a judge shall make reasonable efforts to avoid receiving factual information that is not part of the record or an evaluation of that factual information. In such consultations, the judge shall not abrogate the responsibility personally to decide the matter.

For purposes of Canon 3B(7)(a), “court personnel” includes bailiffs, court reporters, court externs, research attorneys, courtroom clerks, and other employees of the court, but does not include the lawyers in a proceeding before a judge, persons who are appointed by the court to serve in some capacity in a proceeding, or employees of other governmental entities, such as lawyers, social workers, or representatives of the probation department.

(b) A judge may initiate, permit, or consider ex parte communications, where circumstances require, for scheduling, administrative purposes, or emergencies that do not deal with substantive matters provided:

(i) the judge reasonably believes that no party will gain a procedural or tactical advantage as a result of the ex parte communication, and

(ii) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication and allows an opportunity to respond.

(c) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law\* to do so or when authorized to do so by stipulation of the parties.

(d) If a judge receives an unauthorized ex parte communication, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(8) A judge shall dispose of all judicial matters fairly, promptly, and efficiently. A judge shall manage the courtroom in a manner that provides all litigants the opportunity to have their matters fairly adjudicated in accordance with the law.\*

...

#### E. Disqualification and Disclosure

(1) A judge shall disqualify himself or herself in any proceeding in which disqualification is required by law.\*

(2) In all trial court proceedings, a judge shall disclose on the record as follows:

(a) Information relevant to disqualification. A judge shall disclose information that is reasonably relevant to the question of disqualification under Code of Civil Procedure section 170.1, even if the judge believes there is no actual basis for disqualification.

## STATUTES

### California Business & Professions Code § 6068

It is the duty of an attorney to do all of the following:

(a) To support the Constitution and laws of the United States and of this state.

(b) To maintain the respect due to the courts of justice and judicial officers.

...

(d) To employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e)(1) To maintain inviolate the confidence, and at every peril to himself or herself to preserve the secrets, of his or her client.

### California Evidence Code § 352. Discretion of court to exclude evidence

The court in its discretion may exclude evidence if its probative value is substantially outweighed by the probability that its admission will (a) necessitate undue consumption of time or (b) create substantial danger of undue prejudice, of confusing the issues, or of misleading the jury.

### California Evidence Code § 352.2. Artists' creative expression as evidence in criminal proceedings; admissibility

(a) In any criminal proceeding where a party seeks to admit as evidence a form of creative expression, the court, while balancing the probative value of that evidence against the substantial danger of undue prejudice under Section 352, shall consider, in addition to the factors listed in Section 352, that: (1) the probative value of such expression for its literal truth or as a truthful narrative is minimal unless that expression is created near in time to the charged crime or crimes, bears a sufficient level of similarity to the charged crime or crimes, or includes factual detail not otherwise publicly available; and (2) undue prejudice includes, but is not limited to, the possibility that the trier of fact will, in violation of Section 1101, treat the expression as evidence of the defendant's propensity for violence or general criminal disposition as well as the possibility that the evidence will explicitly or implicitly inject racial bias into the proceedings.

(b) If proffered and relevant to the issues in the case, the court shall consider the following as well as any additional relevant evidence offered by either party:

(1) Credible testimony on the genre of creative expression as to the social or cultural context, rules, conventions, and artistic techniques of the expression.

(2) Experimental or social science research demonstrating that the introduction of a particular type of expression explicitly or implicitly introduces racial bias into the proceedings.

(3) Evidence to rebut such research or testimony.

(c) For purposes of this section, “creative expression” means the expression or application of creativity or imagination in the production or arrangement of forms, sounds, words, movements, or symbols, including, but not limited to, music, dance, performance art, visual art, poetry, literature, film, and other such objects or media.

(d) The question of the admissibility of a form of creative expression shall be heard in limine and determined by the court, outside the presence and hearing of the jury, pursuant to Section 402. The court shall state on the record its ruling and its reasons therefor.

California Code of Civil Procedure § 128. Powers of courts; contempt orders; execution of sentence; stay pending appeal; orders affecting county government

(a) Every court shall have the power to do all of the following:

(1) To preserve and enforce order in its immediate presence.

(2) To enforce order in the proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority.

(3) To provide for the orderly conduct of proceedings before it, or its officers.

(4) To compel obedience to its judgments, orders, and process, and to the orders of a judge out of court, in an action or proceeding pending therein.

(5) To control in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a judicial proceeding before it, in every matter pertaining thereto.

...

(b) Notwithstanding Section 1211 or any other law, if an order of contempt is made affecting an attorney, his or her agent, investigator, or any person acting under the

attorney's direction, in the preparation and conduct of any action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt except for the conduct as may be proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.

...

California Code of Civil Procedure § 170.1 - Grounds for disqualification

(a) A judge shall be disqualified if any one or more of the following are true:

...

(6)(A) For any reason:

(i) The judge believes his or her recusal would further the interests of justice.

(ii) The judge believes there is a substantial doubt as to his or her capacity to be impartial.

(iii) A person aware of the facts might reasonably entertain a doubt that the judge would be able to be impartial.

(B) Bias or prejudice toward a lawyer in the proceeding may be grounds for disqualification.

...

California Code of Civil Procedure § 170.2. Circumstances not constituting grounds for disqualification

It shall not be grounds for disqualification that the judge:

(a) Is or is not a member of a racial, ethnic, religious, sexual or similar group and the proceeding involves the rights of such a group.

(b) Has in any capacity expressed a view on a legal or factual issue presented in the proceeding, except as provided in paragraph (2) of subdivision (a) of, or subdivision

(b) or (c) of, Section 170.1.

California Code of Civil Procedure § 1209. Acts or omissions constituting; stay of sentence pending appeal

(a) The following acts or omissions in respect to a court of justice, or proceedings therein, are contempts of the authority of the court:

(1) Disorderly, contemptuous, or insolent behavior toward the judge while holding the court, tending to interrupt the due course of a trial or other judicial proceeding.

...

(4) Abuse of the process or proceedings of the court, or falsely pretending to act under authority of an order or process of the court.

(5) Disobedience of any lawful judgment, order, or process of the court.

...

(9) Any other unlawful interference with the process or proceedings of a court.

...

(c) Notwithstanding Section 1211 or any other law, if an order of contempt is made affecting an attorney, his or her agent, investigator, or any person acting under the attorney's direction, in the preparation and conduct of an action or proceeding, the execution of any sentence shall be stayed pending the filing within three judicial days of a petition for extraordinary relief testing the lawfulness of the court's order, the violation of which is the basis of the contempt, except for conduct proscribed by subdivision (b) of Section 6068 of the Business and Professions Code, relating to an attorney's duty to maintain respect due to the courts and judicial officers.

### **CASES**

*People v. Hin* (2025) 17 Cal.5<sup>th</sup> 401: Trial court's admission of a rap song into evidence at the guilt and penalty phases of a criminal trial was an abuse of discretion under Evidence Code section 352, but was harmless error that did not constitute a due process violation. Court did not decide whether recently enacted Evidence Code section 352.2 applied retroactively.

## ARTICLES/OTHER RELEVANT RESOURCES

Michael Saponara, *A Timeline of Young Thug's YSL RICO Trial*, Billboard, November 1, 2024:  
<https://www.billboard.com/lists/young-thug-ysl-rico-trial-timeline/june-14-2022-gunna-releases-statement-claiming-hes-innocent/>

Eric Levenson and Christina Maxouris, *Young Thug's attorneys say prosecution is misrepresenting evidence and lyrics in racketeering trial*, CNN, November 28, 2023:  
<https://edition.cnn.com/2023/11/28/us/young-thug-trial-opening>

Cyrus Moulton, *Young Thug — and his rap lyrics — are on trial. Northeastern experts say the case raises legal and ethical concerns*, Northeastern Global News, June 21, 2024:  
<https://news.northeastern.edu/2024/06/21/young-thug-trial-lyrics/>

Joe Coscarelli, *Judge in Young Thug Trial Is Ordered Off the Case*, New York Times, July 15, 2024:  
<https://www.nytimes.com/2024/07/15/arts/music/young-thug-trial-judge-removed.html>

[Attached]