

THE AGE OF ERODING TRUST: WHAT IS YOUR DUTY?

Presented by:

Team 3 – Anthony M. Kennedy Inn of Court

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I. OVERVIEW

Diminished public confidence in the courts and the resulting strain on the orderly administration of justice provide the backdrop for this program. It dramatizes how misinformation and disrespect challenge the justice system, asking how lawyers and judges should respond when faith in institutions is eroding and what ethical boundaries guide those responses.

II. KEY ISSUES & SCENES

1. “BenchTruth”

- **Summary:** Grant Powers, host of the talk show BenchTruth, names Judge Quibble his “Bench Swine of the Week.” Powers claims Judge Quibble’s personal checking account at Second Choice National Bank proves corruption. He alleges Second Choice “bankrolls Big-Pharma, Medium-Plastics, and Little-Broccolini.”
- **Key Risk:** Public rumors, exaggeration, or politically framed commentary can deepen cynicism about judicial integrity and reinforce perceptions of partisan influence. This scene sets the stage for later questions about how the bench can uphold *Canon 1* (Integrity and Independence of the Judiciary) and *Canon 2A* (Promoting Public Confidence in the Judiciary), and how the bar can do the same in this age of eroding trust.

2. “Judge Quibble’s Court”

- **Summary:** Judge Quibble opens court in Possum Ridge County, managing a packed docket while a high-profile trial looms. A self-represented parolee, Parnell, appears remotely, drinks whiskey, insults the judge, and repeats BenchTruth conspiracy lines about “Big Pharma and Little Broccolini.” Frustrated, Judge Quibble revokes all remote appearances, stating that decorum requires in-person attendance. Plaintiff Marbury’s counsel, Taylor Brooks, brings a motion to disqualify the judge under Code of Civil Procedure §170.1, citing the judge’s routine bank account at Second Choice National Bank. Defendant Madison’s counsel, Drew Dunn, argues the motion is frivolous and grounded in conspiracy rhetoric. Judge Quibble denies the motion, notes he is the only judge in the courthouse and there is no legitimate basis for recusal, and expects a CCP §128.5 motion to follow.
- **Key Risk:** Counsel’s motion to disqualify Judge Quibble, grounded in speculation about a routine bank account, tests the boundary between zealous advocacy and frivolous conduct under *Rule 3.1* (Meritorious Claims). The judge’s frustration-driven revocation of remote appearances raises concerns under *Canon 2A* (Promoting Public Confidence in the Judiciary). The scene reflects declining decorum and questions whether remote technology has weakened respect for judicial proceedings. Broader doubts about impartiality, often shaped by political rhetoric, challenge both bench and bar to sustain confidence in the judicial process.

3. “BenchTruth Part Two”

- **Summary:** Powers continues his BenchTruth crusade, expanding his allegations to include Judge Quibble’s involvement with the American Inns of Courts, which he portrays as a “shady secret society” that includes “some of the most notorious activist judges.” A lawyer, paid for the appearance, agrees to an interview and disingenuously validates the narrative.

- **Key Risk:** *Canon 2A* (Promoting Public Confidence in the Judiciary) calls on judges to promote confidence in the courts, but *Canon 4A* (Extrajudicial Activities) limits how they can respond. Lawyers, with more freedom to speak, have greater power to harm if they spread misinformation, raising issues under *Rule 8.4* (Misconduct). The scene also highlights how public attacks on institutions such as the American Inns of Court—misjudged as secretive or partisan—erode trust in the profession’s integrity. When public confidence is eroding, what responsibility do lawyers have to avoid becoming part of the problem, and how can judges uphold their duty to inspire trust when they are limited in what they can say?

4. “Big Trial in a Small Town”

- **Summary:** A key witness for the defense refuses to appear in person due to fear of ICE presence at the courthouse. The judge, who previously banned remote appearances, must decide whether to reconsider the rule to secure “exculpatory” testimony in this high-profile criminal case.
- **Key Risk:** Enforcing a categorical ban on remote appearances may promote uniformity yet could also impede a criminal defendant’s constitutional right to present a meaningful defense. The scene also raises questions about courthouse safety and access to justice; specifically, how courts should respond when litigants or witnesses fear immigration enforcement, and whether accommodations for people with uncertain immigration status are appropriate. How should judges and lawyers balance courtroom management, constitutional guarantees, and concerns about immigration enforcement while upholding *Canon 3B(7)* (Right to Be Heard), *Canon 3B(4)* (Courtesy and Dignity), *Canon 2A* (Promoting Public Confidence in the Judiciary), and *Rule 3.1* (Meritorious Claims)?

5. “BenchTruth Part Three”

- **Summary:** Powers returns to his BenchTruth show, telling viewers that Judge Quibble is “making up special rules for illegal immigrants” and allowing them to ignore subpoenas. Powers’s segment escalates misinformation into outrage, claiming that “the rule of law is under attack.” He ends with a direct appeal to the audience, urging them to “restore confidence in our system of justice,” ironically extolling the very civic virtue he has undermined.
- **Key Risk:** Public attacks on judges often conflate facts with speculation, causing lasting damage to confidence in the courts. Lawyers and judges must decide how to respond without fueling the controversy or appearing partisan. Under *Canon 2A* (Promoting Public Confidence in the Judiciary) and *Canon 4A* (Extrajudicial Activities), both words and silence can shape public perception. This scene asks when it is wiser to speak, when restraint better serves justice, and how to protect the judicial branch’s dignity and independence in an age of viral misinformation.

III. RULES & AUTHORITIES

1. California Code of Judicial Ethics

- “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. . . .” (*Canon 1.*)

- ii. “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. A judge shall not make statements, whether public or nonpublic, that commit the judge with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of judicial office.” (*Canon 2A.*)
- iii. “A judge shall be faithful to the law regardless of partisan interests, public clamor, or fear of criticism, and shall maintain professional competence in the law.” (*Canon 3B(2).*)
- iv. “A judge shall require order and decorum in proceedings before the judge.” (*Canon 3B(3).*)
- v. “A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers and of all staff and court personnel under the judge’s direction and control.” (*Canon 3B(4).*)
- vi. “A judge shall perform judicial duties without bias or prejudice. A judge shall not, in the performance of judicial duties, engage in speech, gestures, or other conduct that would reasonably be perceived as (a) bias, prejudice, or harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment.” (*Canon 3B(5).*)
- vii. “A judge shall require lawyers in proceedings before the judge to refrain from (a) manifesting, by words or conduct, bias, prejudice, or harassment based upon race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, or (b) sexual harassment against parties, witnesses, counsel, or others. This canon does not preclude legitimate advocacy when race, sex, gender, gender identity, gender expression, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, political affiliation, or other similar factors are issues in the proceeding.” (*Canon 3B(6).*)
- viii. “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. . . .” (*Canon 3B(7).*)
- ix. “A judge shall conduct all of the judge’s extrajudicial activities so that they do not (1) cast reasonable doubt on the judge’s capacity to act impartially, (2) demean the judicial office, (3) interfere with the proper performance of judicial duties, or (4) lead to frequent disqualification of the judge.” (*Canon 4A.*)

2. California Rules of Court

- i. California Rules of Court, rule 10.603(a) (*Authority and duties of presiding judge*): “The presiding judge is responsible, with the assistance of the court executive officer, for leading the court, establishing policies, and allocating resources in a manner that promotes access to justice for all members of the public, provides a forum for the fair and expeditious resolution of disputes, maximizes the use of judicial and other resources, increases efficiency in court operations, and enhances service to the public.”

3. Rules of Professional Conduct

- i. *California Rules of Professional Conduct*, Rule 3.1(a) (*Meritorious Claims and Contentions*): “A lawyer shall not: (1) bring or continue an action, conduct a defense, assert a position in litigation, or take an appeal, without probable cause and for the purpose of harassing or maliciously injuring any person; or (2) present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by a good faith argument for an extension, modification, or reversal of the existing law.”
- ii. *California Rules of Professional Conduct*, Rule 8.4 (*Misconduct*): “It is professional misconduct for a lawyer to . . . (c) engage in conduct involving dishonesty, fraud, deceit, or reckless or intentional misrepresentation; (d) engage in conduct that is prejudicial to the administration of justice[.]”

4. Constitutional Provisions

- i. U.S. Const. amend. VI – Compulsory Process Clause: “In all criminal prosecutions, the accused shall enjoy the right . . . to have compulsory process for obtaining witnesses in his favor.”
- ii. U.S. Const. amend. VI – Confrontation Clause: “In all criminal prosecutions, *the accused* shall enjoy the right . . . to be confronted with the witnesses against him.” (emphasis added)
- iii. U.S. Const. amend. XIV – Due Process Clause: “No state shall . . . deprive any person of life, liberty, or property, without due process of law[.]”

5. Case Law

- i. *Maryland v. Craig*, 497 U.S. 836 (1990): The Supreme Court recognized that face-to-face confrontation may yield to other interests—such as protecting vulnerable witnesses (a child abuse victim in that case)—if reliability of testimony is preserved, offering guidance for remote testimony issues.
 - The Ninth Circuit has permitted videoconference testimony under the standard delineated in *Craig*, which pertained to defendant rights under the Confrontation Clause of the Constitution. *See United States v. Carter*, 907 F.3d 1199, 1206–08 (9th Cir. 2018). Under *Craig*, courts will uphold the use of live videoconference testimony when it “is necessary to further an important policy” and “the reliability of the testimony is otherwise assured.” *Carter*, 907 F.3d. at 1208 (quoting *Craig*, 497 U.S. at 850, 857). Reliability is based on several safeguards inherent in open court testimony: (1) the testimony is given under oath; (2) there is opportunity for live cross-examination; and (3) the factfinder is able to observe the witness’s demeanor. *See Craig*, 497 U.S. at 845–46.
- ii. *Crane v. Kentucky*, 476 U.S. 683, 690 (1986): The federal Constitution guarantees a criminal defendant the right to present a meaningful defense, “whether rooted directly in the Due Process Clause of the Fourteenth Amendment . . . the Compulsory Process or Confrontation Clauses of the Sixth Amendment.”

6. Secondary Sources

- i. 21A Am. Jur. 2d Criminal Law § 1038, *Violation of right to compulsory process, generally* (May 2025 Update): “The exclusion of a criminal defendant’s evidence implicates his or her Sixth Amendment right to compulsory process. Indeed, a

criminal defendant's right to compulsory process is violated if relevant evidence is excluded without sufficient justification. When determining whether a violation of a criminal defendant's right to compulsory process has occurred, courts examine two questions: (1) whether the trial court's refusal to allow the defendant to call witnesses in his or her favor was arbitrary; and (2) whether those witnesses could have presented testimony that would have been relevant and material to the defense."

7. Articles

- i. Suzanne Monyak, *DOJ's No. 2 Official Asks Lawyers to Join 'War' Against Judges*, Bloomberg Law (Nov. 7, 2025).
- ii. Nigel Duara, *California Law Forbids Ice from Making Arrests at Courthouses. Officers Are Showing up Anyway*, CalMatters (Sept. 23, 2025), <https://calmatters.org/justice/2025/09/ice-courthouse-arrests/>.
- iii. *Attacks on Judiciary Have Far-Reaching Effects, Panelists Say*, ABA (July 3, 2025), <https://www.americanbar.org/news/abanews/aba-news-archives/2025/07/attacks-on-judiciary-far-reaching/>.
- iv. Laura N. Pérez Sánchez, *Attacks on Judges Undermine Democracy, Warns Justice Jackson*, N.Y. Times (May 1, 2025), <https://www.nytimes.com/2025/05/01/us/politics/supreme-court-justice-jackson.html>.
- v. Melissa Goldin, *FACT FOCUS: Posts Falsely Claim Federal Judiciary Members Are in Secret Club, Undermining Trump*, AP News (Mar. 21, 2025), <https://apnews.com/article/fact-check-john-roberts-secret-club-judges-1ca4b4046447baf999903251ffb114e7>.
- vi. Adam Liptak, *Confidence in U.S. Courts Plummet to Rate Far Below Peer Nations*, N.Y. Times (Dec. 17, 2024), <https://www.nytimes.com/2024/12/17/us/gallup-poll-judiciary-courts.html>.
- vii. David F. Levi & Mitu Gulati, *The Withering of Public Confidence in the Courts*, Judicature, Bolch Judicial Institute at Duke Law, Vol. 108, No. 3 (2024), <https://judicature.duke.edu/articles/the-withering-of-public-confidence-in-the-courts/>.
- viii. Taylor Benninger et al., *Virtual Justice? A National Study Analyzing the Transition to Remote Criminal Court*, Stanford Criminal Justice Center (Aug. 2021), <https://law.stanford.edu/wp-content/uploads/2021/08/Virtual-Justice-Final-Aug-2021.pdf>.

8. Additional Resources

- i. California Department of Justice, *Securing Equal Access to Justice for All: Guidance and Model Policies to Assist California's Superior Courts in Responding to Immigration Issues* (2024), <https://oag.ca.gov/sites/all/files/agweb/pdfs/immigration/court.pdf>.
- ii. ACLU, *Immigration Enforcement at Courthouses: A Resource for Attorneys* (n.d.), <https://courts.ca.gov/sites/default/files/courts/default/2024-12/btb24-2h-5.pdf>.