

**ANTHONY M. KENNEDY INN OF COURT
TEAM 8
MCLE MATERIALS**



**"170.SICK" — LIFE AT THE
INTERSECTION OF CCP § 170.6
AND RULES OF PROFESSIONAL
CONDUCT RULE 8.3**

OVERVIEW

I. Topic: Intersection between 170.6 removal for cause and Cal Rule Prof Responsibility 8.3, also known as the ‘Snitch Rule.’

Cal. Rules of Prof'l Conduct 8.3(a)

A lawyer shall, without undue delay, inform the State Bar, or a tribunal* with jurisdiction to investigate or act upon such misconduct, when the lawyer knows* of credible evidence that another lawyer has committed a criminal act or has engaged in conduct involving dishonesty, fraud,* deceit, or reckless or intentional misrepresentation or misappropriation of funds or property that raises a substantial* question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects.

Cal. Code Civ. Proc. § 170.6

A judge, court commissioner, or referee of a superior court of the State of California shall not try a civil or criminal action or special proceeding of any kind or character nor hear any matter therein that involves a contested issue of law or fact when it is established as provided in this section that the judge or court commissioner is prejudiced against a party or attorney or the interest of a party or attorney appearing in the action or proceeding.

II. Other Relevant California Rules:

Cal Bus & Prof Code § 6068: Duties as an attorney

Cal. Rules of Prof'l Conduct, Rule 3.3: Candor Toward the Tribunal*

Cal. Rules of Prof'l Conduct, Rule 5.1: Responsibilities of Managerial and Supervisory Lawyers

Cal. Rules of Prof'l Conduct, Rule 5.2: Responsibilities of a Subordinate Lawyer

- 5.2(b)(A subordinate lawyer does not violate these rules or the State Bar Act if that lawyer acts in accordance with a supervisory lawyer’s reasonable* resolution of an arguable question of professional duty.”

Cal. Rules of Prof'l Conduct, Rule 8.2: Judicial Officials

Cal. Rules of Prof'l Conduct, Rule 8.4: Misconduct

Cal. Rules of Prof'l Conduct, Rule 8.5: Disciplinary Authority; Choice of Law

III. Relevant Decisions:

CCP 170.6 - *Solberg v. Superior Court* (1977) 19 Cal.3d 182

Pickett v. Superior Court (2012) 203 Cal.App.4th 887

IV. Articles of Interest:

Nick Robins-Early, *Elon Musk's lawyers succeed in challenge to remove OpenAI case judge*, The Guardian (May 8, 2024),

<https://www.theguardian.com/technology/article/2024/may/08/elon-musk-openai-case-judge-disqualified>

Bob Egelko, *D.A.s Brooke Jenkins and Pamela Price have wildly different approaches — but both want to disqualify judges*, San Francisco Chronicle (April 7, 2023)

<https://www.sfchronicle.com/politics/article/price-jenkins-disqualify-judges-17883065.php>

David A. Rosen, *Legal Ethics: Client Trust Account Requirements, The New "Snitch" Rule, And Conflicts Of Interest*, Advocate Magazine (2024 February)

<https://www.advocatemagazine.com/article/2024-february/legal-ethics-client-trust-account-requirements-the-new-snitch-rule-and-conflicts-of-interest>

Wendy L. Patrick, *California joins the rest of the nation in adopting the 'snitch rule'*, Daily Journal (June 26, 2023),

<https://www.dailyjournal.com/articles/373523-california-joins-the-rest-of-the-nation-in-adopting-the-snitch-rule>

Garrett Leahy, *California 'snitch rule' requires lawyers report illegal conduct of peers*, The San Francisco Standard (August 3, 2023),

<https://sfstandard.com/2023/08/03/california-new-snitch-rule-stop-lawyers-misconduct/>

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