



NCSC

National Center for State Courts

Center for Judicial Ethics

Ex part communications

CourtClass *Ethics in Brief*

www.ncsc.org/cje

American Bar Association *Model Code of Judicial Conduct* (2007)

[RULE 2.9 Ex Parte Communications](#)

Cases

[In the Matter of Curran, Determination](#) (New York State Commission on Judicial Conduct November 14, 2017)

Based on an agreed statement of facts, the New York State Commission on Judicial Conduct publicly admonished a judge for, after arraiging a defendant and entering an order of protection, receiving unsolicited ex parte information from 2 sources claiming that the defendant had violated the order of protection, failing to disclose the communications, repeating the information as fact during a pre-trial conference, and reiterating the accusations when he accepted a plea agreement, sentenced the defendant, and issued a 6-month order of protection.

Disciplinary Counsel v. Stuard, 901 N.E.2d 788 (Ohio 2009)

Accepting the findings and recommendations of the Board of Commissioners on Grievances and Discipline, the Ohio Supreme Court publicly reprimanded a judge for ex parte communications in which the judge asked the assistant prosecutor to prepare a sentencing order in a death penalty case. The assistant prosecutor was also publicly reprimanded.

In the Matter of Kaufman, 416 S.E.2d 480 (West Virginia 1992)

Following the recommendation of the Judicial Hearing Board, the West Virginia Supreme Court of Appeals publicly admonished a judge for an ex parte telephone call he made to the president of one of a corporate parties to a case.

[Inquiry Concerning Scaff](#) (Florida Supreme Court May 28, 2020)

Based on a stipulation, the Florida Supreme Court publicly reprimanded a judge for routinely conducting first appearances without complying with the rules of criminal procedure and statutes and engaging in improper ex parte communications with defendants, witnesses, litigants, family members, and others regarding cases or matters pending, impending, or likely to come before him.

In the Matter of Diamond, 70 A.3d 600 (New Jersey 2013)

Adopting the [findings and recommendation of the Advisory Committee on Judicial Conduct](#), which the judge accepted, the New Jersey Supreme Court publicly reprimanded a judge for an ex parte conversation in which he advised the prosecutor about issues relevant to the admission of evidence in a pending DWI matter.

Kennick v. Commission on Judicial Performance, 787 P.2d 591 (California 1990)

The California Supreme Court removed a judge for his practice of having social visits with two favored attorneys on days when they were appearing in his court, in addition to other misconduct.

In re Justin, 809 N.W.2d 126 (Michigan 2012)

Adopting the findings of fact and recommendation of the Judicial Tenure Commission, the Michigan Supreme Court removed a judge from office for dismissing cases and inappropriately disposing of cases without holding hearings and without notice to or the authorization of the prosecuting attorney, including fixing traffic citations issued to himself, his spouse, and his staff, in addition to other misconduct.

Questions?

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