

# **Why Can't I Talk to the Judge?**

## **A Citizens Guide**

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### **How Can I Communicate with the Judge?**

If you want to tell the judge about your case or if you want to ask the judge to take certain actions in your case, you should not call or write the judge directly. Instead, you should mail a written motion or letter to the clerk of the judge's court or drop off that document in person at the clerk's office. A motion is a request to a court for a desired ruling or order. In your written motion, you should explain what you want the court to do and why you feel that outcome is appropriate. Be sure to list the case number and caption (the case title) on any documents that you send or give to the clerk. Note that you may be required to pay a filing fee when you file your motion or letter.

If you do file a written motion or letter with the clerk, you must also send a copy of that document to every other party involved in the case (or to each party's attorney, if the other parties are represented by attorneys). This is called "service." Be sure to attach to your motion or letter a document stating that you have in fact sent a copy of your motion or letter to all of the other parties, and explaining how (for example, by personal delivery or by mail) and when that service was done. (That statement about your service of the document is called a "certificate of service."). Be sure to keep a copy of everything you file for your own records.

After your motion or letter has been filed in the clerk's office, the judge or judges on the case will consider it, along with any responses from the other parties. The court may schedule a hearing on the request or may rule on it based solely on the written information that you and other parties have filed.

### **Ex Parte Communication**

Two of the most important principles of the American judicial system are Fairness and Equal Treatment for All Persons.

To ensure fairness and equal treatment, judges are not allowed by their ethics rules to receive what are called ex parte communications. The term "ex parte" is a Latin phrase that means "of or from one side or party."

In other words, judges cannot hear matters (evidence) from one side in a case without the other side being present at the time. If the parties are represented by attorneys, both attorneys must be present. That is why judges hear case testimony in the courtroom where everyone is present. Pre-trial

conferences can occur in the judge's office, but only when all the attorneys in the case are present. One reason behind these procedures is so that the judge does not hear evidence selected by one side without the other side having an opportunity to dispute or explain the evidence.

Another reason for the rules regarding communications with judges is to give the public confidence in the judicial system. It is extremely important that the public knows that no one has an "inside track" in the court system, that "back room deals" are not being struck.

The integrity of the system requires that the judges only consider evidence presented in an open trial or evidence agreed to by the parties or their attorneys. Judges can be disciplined for not following these rules.

A paramount goal of the court system is fair and equal treatment for all persons. The rule banning ex parte communications ensures that the court process is fair and that all the parties have the same information as the judge who will decide the case. When all parties have the same information, any party who wants to explain or to contest that information can do so, and all parties can feel confident that the judge's decision is based solely on the relevant law and on the evidence and arguments presented to the court by the parties in the courtroom and in their written filings.

## **Improper Communication with the Judge**

If you send a letter or other document directly to the judge without providing a copy of it to every other party in your case (or to each party's attorney, if the parties have attorneys), the judge or court staff will be required to notify the other parties about your communication so that those other parties can respond to it.

If you have not shared your document with the other parties, further hearings in your case might be delayed, and the judge might "strike" (that is, might delete or ignore) any evidence discussed in your ex parte communication. Some people send letters or other documents to a judge and ask the judge not to tell the other parties. Although there may be some information that you want the judge to know about and to keep in confidence, the judge is nonetheless required to disclose that information to all of the other parties involved in the case.

## **Some Exceptions**

The law does provide some limited times a citizen may communicate directly with a judge. For example, victims of crime may send a letter directly to the court, and prisoners may communicate with the judge on how they are being treated by the sheriff. Also, judges may hear ex parte emergency requests for temporary restraining orders when the other parties cannot be notified in the short time before hearings on those requests. In certain situations, judges may also consider ex parte information presented during settlement conferences in civil cases, as well as ex parte communications about scheduling matters.