



JUDICIAL MISCONDUCT INVOLVING TECHNOLOGY

(Commission on Judicial Performance & Supreme Court Cases)

State of California
Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102-3660
(415) 557-1200
FAX (415) 557-1266
<https://cjp.ca.gov>

JUDICIAL MISCONDUCT INVOLVING TECHNOLOGY

Categories

Email or Internet Ex Parte Communications	2
Emails over Court Computer System.....	3
Cell Phone Calls During Court Proceedings	4
Internet/ Social Media Postings	4
Prohibited Use	6

Email or Internet Ex Parte Communications

The judge conducted an online search about a litigant, and failed to disclose both the independent investigation and the resulting ex parte information. [Com. on Jud. Performance, Ann. Rept. (2022), Advisory Letter 9, p. 33.]

Commissioner Friedenthal viewed litigants' Internet posts concerning court matters pending before him. [*Public Admonishment of Commissioner Alan Friedenthal* (2012).]

A judge independently conducted online investigations and considered information not part of the record and not properly subject to judicial notice. The judge also relied on and drew inferences from this information before giving the parties notice or an opportunity to be heard, thereby prejudging the matter. [Com. on Jud. Performance, Ann. Rept. (2012), Private Admonishment 1, p. 24.]

A judge participated in an ex parte communication by email with a district attorney about a pending case. [Com. on Jud. Performance, Ann. Rept. (2007), Advisory Letter 13, p. 32.]

In addition to other misconduct, while presiding over a trial, a judge investigated one party's expert witness on the Internet. [Com. on Jud. Performance, Ann. Rept. (2004), Private Admonishment 3, p. 22.]

While assigned to handle juvenile dependency matters, Judge Caskey sent emails to an attorney who regularly appeared before him that commented on a case then pending before the judge. One email suggested prejudgment of a matter before the judge and suggested that the judge had aligned himself with one side in the proceeding. Certain language used in reference to the father, ("I say screw [the father] and let's cut [the attorney] off without a hearing. OK?"), gave the appearance of bias and animus, and was inconsistent with a judge's obligations to be impartial and to maintain the dignity of the court. The judge's

one-word response (“chicken”) to the attorney’s refusal to communicate about a pending case displayed a joking attitude toward the attorney’s ethical concerns. [*Public Admonishment of Judge Gregory M. Caskey* (1998).]

Emails over Court Computer System

The judge used the judge’s court email, which included the judge’s judicial title, to advance a personal interest. [Com. on Jud. Performance, Ann. Rept. (2020), Private Admonishment 4, p. 54.]

The judge inadvertently used the judge’s court email to communicate with opposing parties in a matter over which the judge did not preside. In part, the judge acted as a mediator by seeking to facilitate an agreement between the parties. In part, the judge engaged in the practice of law by acting as an advocate on behalf of one of the parties. [Com. on Jud. Performance, Ann. Rept. (2020), Private Admonishment 5, p. 54.]

In addition to other misconduct, Judge Woodward was disciplined for using the court’s computers to regularly exchange personal emails or texts that were not of an overtly sexual nature, but were unrelated to court business. [*Censure of Judge Cory Woodward* (2014).]

A judge used the court’s email system to send an email to court personnel endorsing a judicial candidate. [Com. on Jud. Performance, Ann. Rept. (2014), Advisory Letter 19, p. 23.]

A judge’s remarks in emails to judicial colleagues failed to promote public confidence in the integrity and impartiality of the judiciary. There was additional misconduct. [Com. on Jud. Performance, Ann. Rept. (2013), Advisory Letter 21, p. 23.]

In addition to other misconduct, a judge sent a highly accusatory and inaccurate email to the attorneys in a case that had been before the judge, without investigating the facts and ascertaining from the attorneys what had occurred. [Com. on Jud. Performance, Ann. Rept. (2012), Advisory Letter 28, p. 27.]

In addition to other misconduct, the judge sent an inappropriate flirtatious email to a female court employee. [Com. on Jud. Performance, Ann. Rept. (2011), Private Admonishment 2, p. 23.]

Judge MacEachern’s deceitful email asking the court’s travel coordinator to submit a claim for travel reimbursement to which the judge knew she was not

entitled, sent during court hours from the courthouse on the court's email system, was conduct in a judicial capacity and willful misconduct, which resulted in Judge MacEachern's removal from office. [*Inquiry Concerning Judge Kelly A. MacEachern* (2008) 49 Cal.4th CJP Supp. 289.]

A judge used the court computer to forward to judicial officers a satirical email that promoted negative stereotypes about people from a certain country, apparently realizing that it would be offensive to at least one judge whose ancestors were from that country. [Com. on Jud. Performance, Ann. Rept. (2008), Advisory Letter 6, p. 26.]

A judge circulated an email over the court's computer system that contained offensive material. Recipients of the emails included court personnel. [Com. on Jud. Performance, Ann. Rept. (2007), Advisory Letter 15, p. 32.]

A judge sent inappropriate emails, apparently intended as humor, over the court's computer system. Recipients of the emails included court personnel. [Com. on Jud. Performance, Ann. Rept. (2007), Advisory Letter 16, p. 32.]

A judge's email to other judges gave the appearance of ethnic bias in the discharge of administrative responsibilities. [Com. on Jud. Performance, Ann. Rept. (2006), Private Admonishment 5, p. 31.]

Cell Phone Calls During Court Proceedings

In addition to other misconduct, a judge took two personal cell phone calls in open court during court proceedings and left the bench for at least five minutes for each call, returning without explanation or apology. [Com. on Jud. Performance, Ann. Rept. (2009), Advisory Letter 2, p. 18.]

Internet/ Social Media Postings

The judge maintained an email account and social media accounts with identifying information that cast doubt on the judge's capacity to act impartially. The judge posted a comment on social media that constituted an improper use of the judge's title and position to promote the pecuniary interest of another. The judge's misconduct was aggravated by prior discipline. [Com. on Jud. Performance, Ann. Rept. (2020), Private Admonishment 9, p. 54.]

Commissioner Gianquinto maintained a public Facebook page that identified him as "Jj Gianquinto," stated that he "works at Kern County," and contained photos of him recognizable by the public. Commissioner Gianquinto's Facebook page

did not identify him as a commissioner. During that time period, Commissioner Gianquinto posted and re-posted information on his public Facebook page that reflected, among other things, anti-Muslim sentiment, anti-immigration sentiment, anti-Native American sentiment, anti-same-sex marriage sentiment, a position on the controversial issue of shooting deaths by police officers, strong opposition to then-presidential candidate Hillary Clinton, contrasting praise for then-presidential candidate Donald Trump, an accusation that President Barack Obama was trying to transform the United States from a Judeo-Christian nation into Islam, a lack of respect for the federal justice system, and contempt for the poor.

The presiding judge notified Commissioner Gianquinto in writing that a number of the Facebook posts were “of significant concern,” and that there was a concern about the “content and impression a member of the public might have upon review of the posts.” The letter attached copies of the posts. Commissioner Gianquinto represented to the presiding judge and to the commission that he had made his public Facebook page private and deleted all of the posts included with the presiding judge’s letter. But, he had not done so. The commissioner’s Facebook page remained public, and six of the posts included with the presiding judge’s letter, as well as posts of a similar nature that were not included in the presiding judge’s investigation, were still on the page for almost three months after he was notified by the presiding judge. When he was alerted to the fact that the posts were still visible, the commissioner immediately sought further assistance, deleted the offending posts, and increased the privacy settings on his Facebook profile. [*Public Censure of Former Commissioner Joseph J. Gianquinto* (2018).]

The judge engaged in misconduct in connection with a social media account. [Com. on Jud. Performance, Ann. Rept. (2018), Advisory Letter 15, p. 29.]

The judge made a comment on social media about a matter over which he did not preside. [Com. on Jud. Performance, Ann. Rept. (2018), Advisory Letter 20, p. 29.]

The judge failed to exercise diligence in monitoring social media associated with the judge’s name. [Com. on Jud. Performance, Ann. Rept. (2018), Private Admonishment 2, p. 27.]

A judge’s social media activities created an appearance of impropriety and an appearance of partiality. [Com. on Jud. Performance, Ann. Rep (2014), Advisory Letter 9, p. 22.]

A judge made disparaging comments about an attorney during a hearing on the attorney's motion for attorney's fees and in a tentative ruling that the judge posted on the court's website. [Com. on Jud. Performance, Ann. Rept. (2010), Advisory Letter 14, p. 26.]

A judge commented on a pending criminal case in response to questions from participants in a legal forum on the Internet. [Com. on Jud. Performance, Ann. Rept. (1995), Advisory Letter 30, p. 26.]

Prohibited Use

On four occasions, former Judge Seeman caused court personnel to access Department of Motor Vehicles registration records to obtain information regarding the license plates of vehicles belonging to certain individuals for a purpose unrelated to the faithful discharge of his judicial duties. The judge's conduct violated Vehicle Code section 1808.45, and canons 1, 2, 2A, and 3B(11) (a judge shall not use for any purpose unrelated to judicial duties nonpublic information acquired in a judicial capacity). [*Censure and Bar of Former Judge Paul D. Seeman* (2013).]

Notwithstanding prior discipline, counseling, warnings from his presiding judges, and cautionary advice from the California Judges Association, Judge Coates abused the prestige of office and misused court resources (including the court's fax machine, computer and email) in several instances for personal, non-court related purposes. [*Public Admonishment of Judge Robert C. Coates* (2009).]

A judge engaged in extensive use of a court computer during court hours over a period of at least two years for a purpose specifically prohibited by court policy. [Com. on Jud. Performance, Ann. Rept. (2004), Private Admonishment 5, p. 22.]

Former Judge McGraw was disciplined for conduct that included making false and misleading statements during his 2002 campaign for reelection in response to questions posed by a television reporter and threatening to bring a legal action in an attempt to dissuade the publication of facts concerning him that he knew to be true. The reporter's questions concerned the judge's use of the computer in his chambers to access Internet sites containing sexually explicit materials and the commission's imposition of a private admonishment in 1999 for such conduct. [*Censure and Bar of Former Judge Vincent J. McGraw* (2003).]

Judge Hyde was removed from office for asking his clerk to access restricted Department of Motor Vehicles records for personal reasons (accessing the driving record of a driver who had angered the judge by "cut[ting] me off"). The

judge had previously been disciplined for asking court employees to access DMV records to obtain information regarding motorists that was not related to court business (accessing the names of high school classmates for a reunion). [*Inquiry Concerning Judge D. Ronald Hyde* (2003) 48 Cal.4th CJP Supp. 329, 339.]

A judge abused his judicial office when he utilized the court's computer to obtain for a friend confidential information from computerized records of the Department of Motor Vehicles, which the judge then disclosed to his friend, in violation of the Vehicle Code and in disregard of canons 2, 2A and 2B. [*Public Admonishment of Judge Thomas A. Smith* (1996).]

Rev. 3/2023