

COMMISSION ON JUDICIAL PERFORMANCE  
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FOR RELEASE  
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JUDICIAL PERFORMANCE COMMISSION ISSUES  
PUBLIC ADMONISHMENT OF JUDGE JAIME R. ROMÁN

The Commission on Judicial Performance has publicly admonished Judge Jaime R. Román of the Sacramento County Superior Court. The public admonishment concerns Judge Román's abuse of his authority and violation of due process rights of individuals appearing before him on four separate occasions.

During trial in one case, after the court clerk instructed a witness to raise his right hand to swear him in during a trial in 2010, the witness made a hand gesture. After the witness finished testifying that day, Judge Román ordered the witness to spend three days in jail for contempt for having "flipped off the clerk during the administration of the oath." However, before sentencing him, Judge Román did not inform the witness that he was being charged with contempt of court, nor give the witness the opportunity to speak on his own behalf. Although the witness offered an explanation, Judge Román had already sentenced him to jail. Judge Román contended that he "went a step further" than he was required to and appointed counsel for the witness, but he did not do this until the next day after the witness had spent the night in jail. The commission stated that it is misconduct for a judge to use the contempt power to incarcerate someone without following correct contempt procedures, which include notice and the opportunity to be heard. The commission determined that Judge Román's actions constituted abuse of the contempt power, abuse of authority and violated the witness's due process rights. Judge Román also failed to follow proper contempt procedures after incarcerating the witness by failing to issue a written order reciting the evidentiary facts supporting the contempt finding as required by statute as the basis for the contemnor's right of appeal.

During the same 2010 trial, Judge Román conducted a proceeding after an assistant public defender (APD) failed to appear in court for a conference at the end of the previous day. Without giving the APD prior notice that the judge was contemplating a monetary sanction, the judge heard the APD's explanation and then sanctioned the APD \$150. The commission determined that Judge Román abused his authority and violated the APD's due process rights by not giving the APD prior notice that he was contemplating a monetary sanction prior to ordering the sanction and never stating the statutory basis for the sanction.

The commission also determined that, in a family law matter in 2012, Judge Román abused his authority and violated the due process rights of both the respondent's counsel and the respondent by issuing awards of sanctions, attorneys fees and costs totaling \$59,000 without notice or an opportunity to respond. The opposing party had not requested these awards and the court had not given notice that any of the awards were contemplated. In his response to the commission, Judge Román admitted that he erred in issuing the awards, but stated it was a harmless mistake that he corrected immediately upon notice that no motion had been made. In the commission's view, the scope of the violations precluded treating the conduct as a mistake. To the contrary, the commission determined that Judge Román's orders raised an appearance of lack of impartiality and

embroilment, in addition to an abuse of authority and violation of the respondent's and her attorney's right to due process.

The commission further determined that, in a child custody matter in 2012, Judge Román abused his authority and violated the father's due process rights when he ordered him to turn over alleged belongings of the parties' teenage child in response to the mother's untimely ex parte demand. Judge Román was aware that the requirement for notice of an ex parte request for relief had not been satisfied, and contended to the commission that "untimely notice notwithstanding," the father was able to appear and contest the motion through his counsel of record. In the commission's view, the implication that counsel was necessarily aware of the facts that the father would have been able to present regarding ownership of the property was unsupported and inconsistent with the purpose of timely notice and due process. Further, in the commission's view, nothing in the mother's declaration constituted the required affirmative factual showing on personal knowledge of any immediate, significant and irreparable injury or danger, or other statutory basis for granting relief without notice.

The public admonishment is available on the commission's website at <http://cjp.ca.gov> (under "Pending Cases - Press Releases & Documents" and "Public Discipline & Decisions") and at the commission's office. Judge Román is represented by Arthur J. Harris, Esq., of San Francisco.

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The commission is composed of three judges, two lawyers and six public members. The chairperson is Anthony P. Capozzi, Esq. Commission member Hon. Thomas M. Maddock was recused from this matter.

For further information about the Commission on Judicial Performance, see the commission's website at <http://cjp.ca.gov>.