



**JUDICIAL MISCONDUCT INVOLVING TECHNOLOGY**  
**(Commission on Judicial Performance & Supreme Court Cases)**

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## **JUDICIAL MISCONDUCT INVOLVING TECHNOLOGY**

### **Email or Internet Ex Parte Communications**

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**

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**

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).]

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