RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL

(a) A lawyer representing a party in a matter pending before a tribunal shall not:

(1) seek to influence a judge, juror, member of the jury venire, or other official by means prohibited by law;

(2) communicate *ex parte* with a juror or member of the jury venire except as permitted by law;

(3) unless authorized to do so by law or court order, communicate *ex parte* with the judge or other official regarding a matter pending before the judge or official;

(4) engage in conduct intended to disrupt a tribunal, including:

(A) failing to comply with known local customs of courtesy or practice of the bar or a particular tribunal without giving opposing counsel timely notice of the intent not to comply;

(B) engaging in undignified or discourteous conduct that is degrading to a tribunal; or

(C) intentionally or habitually violating any established rule of procedure or evidence; or

(5) communicate with a juror or prospective juror after discharge of the jury if:

(A) the communication is prohibited by law or court order;

(B) the juror has made known to the lawyer a desire not to communicate; or

(C) the communication involves misrepresentation, coercion, duress or harassment.

(b) All restrictions imposed by this rule also apply to communications with, or investigations of, family members of a juror or of a member of the jury venire.

(c) A lawyer shall reveal promptly to the court improper conduct by a juror or a member of the jury venire, and improper conduct by another person toward a juror, a member of the jury venire, or the family members of a juror or a member of the jury venire.

(d) For purposes of this rule:

(1) *Ex parte* communication means a communication on behalf of a party to a matter pending before a tribunal that occurs in the absence of an opposing party, without notice to that party, and outside the record.

(2) A matter is “pending” before a particular tribunal when that tribunal has been selected to determine the matter or when it is reasonably foreseeable that the tribunal will be so selected.

Comment

[1] Many forms of improper influence upon a tribunal are proscribed by criminal law. Others are specified in the North Carolina Code of Judicial Conduct, with which an advocate should be familiar. A lawyer is required to avoid contributing to a violation of provisions. This rule also prohibits gifts of substantial value to judges or other officials of a tribunal and stating or implying an ability to influence improperly a public official.

[2] To safeguard the impartiality that is essential to the judicial process, jurors and members of the jury venire should be protected against extraneous influences. When impartiality is present, public confidence in the judicial system is enhanced. There should be no extrajudicial communication with members of the jury venire prior to trial or with jurors during trial by or on behalf of a lawyer connected with the case. Furthermore, a lawyer who is not connected with the case should not communicate with a juror or a member of the jury venire about the case.

[3] After the jury has been discharged, a lawyer may communicate with a juror unless the communication is prohibited by law or court order. The lawyer must refrain from asking questions or making comments that tend to harass or embarrass the juror or to influence actions of the juror in future cases, and must respect the desire of the juror not to talk with the lawyer. The lawyer may not engage in improper conduct during the communication.

[4] Vexatious or harassing investigations of jurors or members of the jury venire seriously impair the effectiveness of our jury system. For this reason, a lawyer or anyone on the lawyer’s behalf who conducts an investigation of jurors or members of the jury venire should act with circumspection and restraint.

[5] Communications with, or investigations of, members of the families of jurors or the families of members of the jury venire by a lawyer or by anyone on the lawyer’s behalf are subject to the restrictions imposed upon the lawyer with respect to the lawyer’s communications with, or investigations of, jurors or members of the jury venire.

[6] Because of the duty to aid in preserving the integrity of the jury system, a lawyer who learns of improper conduct by or towards a juror, a prospective juror, or a member of the family of either should make a prompt report to the court regarding such conduct.

[7] The impartiality of a public servant in our legal system may be impaired by the receipt of gifts or loans. A lawyer, therefore, shall not give or lend anything of value to a judge, a hearing officer, or an official or employee of a tribunal under circumstances which might give the appearance that the gift or loan is made to influence official action.

[8] All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings, a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which the judge presides in circumstances which might have the effect or give the appearance of granting undue advantage to one party. For example, a lawyer should not communicate with a tribunal by a writing unless a copy thereof is promptly delivered to opposing counsel or to the adverse party if unrepresented. Ordinarily, an oral communication by a lawyer with a judge or hearing officer should be made only upon adequate notice to opposing counsel or, if there is none, to the opposing party. A lawyer should not condone or lend himself or herself to private importunities by another with a judge or hearing officer on behalf of the lawyer or the client.

[9] The advocate's function is to present evidence and argument so that the cause may be decided according to law. Refraining from abusive or obstreperous conduct is a corollary of the advocate's right to speak on behalf of litigants. A lawyer may stand firm against abuse by a judge but should avoid reciprocation; the judge's default is no justification for similar dereliction by an advocate. An advocate can present the cause, protect the record for subsequent review, and preserve professional integrity by patient firmness no less effectively than by belligerence or theatrics.

[10] As professionals, lawyers are expected to avoid disruptive, undignified, discourteous, and abusive behavior. Therefore, the prohibition against conduct intended to disrupt a tribunal applies to conduct that does not serve a legitimate goal of advocacy or a requirement of a procedural rule and includes angry outbursts, insults, slurs, personal attacks, and unfounded personal accusations as well as to threats, bullying, and other attempts to intimidate or humiliate judges, opposing counsel, litigants, witnesses, or court personnel. Zealous advocacy does not rely upon such tactics and is never a justification for such conduct. This conduct is prohibited both in open court and in ancillary proceedings conducted pursuant to the authority of the tribunal (e.g., depositions). See comment [11], Rule 1.0(n). Similarly, insults, slurs, threats, personal attacks, and groundless personal accusations made in documents filed with the tribunal are also prohibited by this Rule. “Conduct of this type breeds disrespect for the courts and for the legal profession. Dignity, decorum, and respect are essential ingredients in the proper conduct of a courtroom, and therefore in the proper administration of justice.” *Atty. Grievance Comm’n v. Alison*, 565 A.2d 660, 666 (Md. 1989). See alsoRule 4.4(a) (prohibiting conduct that serves no substantial purpose other than to embarrass, delay, or burden a third person) and Rule 8.4(d) (prohibiting conduct prejudicial to the administration of justice).

[11] The duty to refrain from disruptive conduct applies to any proceeding of a tribunal, including a deposition or mediation. See Rule 1.0(n).

History Note: Statutory Authority G.S. 84-23

Adopted by the Supreme Court: July 24, 1997

Amendments Approved by the Supreme Court: March 1, 2003; March 5, 2015; April 5, 2018; March 17, 2019

Ethics Opinion Notes

CPR 16. A lawyer or group of lawyers may contribute to a judge's campaign in a reasonable amount.

CPR 183 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/reference-only-opinions/cpr-183/). An attorney who represents a judge may not appear before the judge.

CPR 225. It is permissible for an attorney to appear before his brother judge if the lawyer for the adverse party and his client consent.

CPR 226. Although an attorney may not appear before his brother judge without the consent of the parties, his partners and associates may.

CPR 283. The fact that a law firm's secretary is the spouse of a magistrate does not disqualify members of the law firm from practicing criminal law before the magistrate.

CPR 318. The fact that an attorney's spouse is a judge's secretary does not disqualify the attorney from practicing before the judge.

CPR 337. After a jury trial, an attorney may communicate with jurors as to why they decided issues as they did and their opinions of the attorney's performance, unless such is prohibited by court rule.

RPC 122 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/rpc-122/). Opinion rules that a member of the attorney general's staff may not consult ex parte with a trial court judge if it is likely that that lawyer will represent the state in the appeal of the case.

RPC 214 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/rpc-214/). Opinion rules that a lawyer may not send a jury questionnaire directly to prospective members of the jury but, if the questionnaire is sent out by the court, such communications are not prohibited.

RPC 237 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/rpc-237-withdrawn/). Opinion rules that a lawyer may not communicate with the judge before whom a proceeding is pending to request an ex parte order unless opposing counsel is given adequate notice or unless authorized by law.

97 Formal Ethics Opinion 1 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/97-formal-ethics-opinion-1/). Opinion rules that a lawyer may appear in court before a judge the lawyer represents in a personal matter provided there is disclosure of the representation and all parties and lawyers agree that the relationship between the lawyer and the judge is immaterial to the trial of the matter.

97 Formal Ethics Opinion 3 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/97-formal-ethics-opinion-3-withdrawn/). Opinion rules that a lawyer may engage in an ex parte communication with a judge regarding a scheduling or administrative matter only if necessitated by the administration of justice or exigent circumstances and diligent efforts to notify opposing counsel have failed.

97 Formal Ethics Opinion 5 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/97-formal-ethics-opinion-5-withdrawn/). Opinion rules that a lawyer must give the opposing counsel a copy of a proposed order simultaneously with the lawyer's submission of the proposed order to a judge in an ex parte communication.

98 Formal Ethics Opinion 12 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/98-formal-ethics-opinion-12-withdrawn/). Opinion sets forth the disclosures a lawyer must make to the judge prior to engaging in an ex parte communication.

98 Formal Ethics Opinion 13 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/98-formal-ethics-opinion-13-withdrawn/). Opinion restricts informal written communications with a judge or judicial official relative to a pending matter.

98 Formal Ethics Opinion 20 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/98-formal-ethics-opinion-20/). Opinion rules that, subject to a statute prohibiting the withholding of the information, a lawyer's duty to disclose confidential client information to a bankruptcy court ends when the case is closed although the debtor's duty to report new property continues for 180 days after the date of filing the petition.

2001 Formal Ethics Opinion 15 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/2001-formal-ethics-opinion-15-withdrawn/). Opinion rules that a lawyer may not communicate ex parte with a judge in reliance upon the communication being "permitted by law" unless there is a statute or case law specifically and clearly authorizing such communications or proper notice is given to the adverse party or counsel.

2003 Formal Ethics Opinion 17 - Withdrawn (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/2003-formal-ethics-opinion-17-withdrawn/). Opinion rules that an attorney may only provide a judge with additional authority post-hearing if the communication is permitted by the rules of the tribunal and a copy of the writing is furnished simultaneously to opposing counsel.

2014 Formal Ethics Opinion 8 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/2014-formal-ethics-opinion-8/). Opinion rules that a lawyer may accept an invitation from a judge to be a "connection" on a professional networking website, and may endorse a judge. However, a lawyer may not accept a legal skill or expertise endorsement or a recommendation from a judge.

2019 Formal Ethics Opinion 4 (https://www.ncbar.gov/for-lawyers/ethics/adopted-opinions/2019-formal-ethics-opinion-4/). Opinion discusses the permissibility of various types of communications between lawyers and judges.

2019 FORMAL ETHICS OPINION 4

Search Adopted Opinions

COMMUNICATIONS WITH JUDICIAL OFFICIALS

Adopted: July 16, 2021

Opinion discusses the permissibility of various types of communications between lawyers and judges.

In connection with the adoption by the Council of the opinion below on July 16, 2021, the following prior ethics opinions were withdrawn: RPC 237, 97 FEO 3, 97 FEO 5, 98 FEO 12, 98 FEO 13, 2001 FEO 15, 2003 FEO 17.

The Ethics Committee has issued a number of opinions interpreting and applying the Rules of Professional Conduct to various lawyer-judge communications. *See* RPC 237, 97 FEO 3, 97 FEO 5, 98 FEO 12, 98 FEO 13, 2001 FEO 15, 2003 FEO 17. However, these opinions—spanning 30 years—were based upon different iterations of the Rules of Professional Conduct. This opinion addresses and clarifies a lawyer's responsibilities under the current Rules of Professional Conduct in communicating with a member of the judiciary while acting in a representative capacity. As a result, upon adoption of the present opinion, the State Bar Council withdrew the aforementioned opinions.

This opinion addresses a lawyer's professional responsibility in communicating with a member of the judiciary during the course of litigation where the opposing party is represented by counsel. While this scenario is common, it is very possible that a lawyer may need to communicate with a member of the judiciary during the course of litigation where the opposing party is self-represented. A lawyer's professional responsibility to avoid improper communications with the tribunal applies equally to situations where the opposing party is represented and where the opposing party is pro se. To preserve the integrity of and instill confidence in the justice system, a lawyer should take great care to ensure his or her conduct in communicating with a tribunal is compatible with the Rules of Professional Conduct, particularly when dealing with an unrepresented party.

Lawyers communicate with judges on a daily basis. Communicating with members of the judiciary is required for the effective representation of clients and the administration of justice. Lawyers' communications with judges generally fall into one of three categories: 1) clearly permissible communications, e.g., formal pleadings and arguments during public proceedings and other communications authorized by law or court order; 2) clearly prohibited communications, e.g., spontaneous, in-person ex parte communications about the merits of a case; and 3) informal communications (e.g., email communications about scheduling dilemmas). This opinion primarily addresses informal communications.

Communication between lawyers and the courts by way of formal filings are the backbone of an effective justice system. The submission to a tribunal of formal written communications, such as pleadings and motions, pursuant to the tribunal's rules of procedure does not create the appearance of granting undue advantage to one party. Presuming the filings comply with the Rules of Civil Procedure, the local rules, and any other requirements imposed by law or court order, such communication is entirely permitted under the Rules of Professional Conduct.

The Rules of Professional Conduct impose some limits on lawyers' communications with judges. These limits are designed to ensure fair and equal access to the presiding tribunal by the parties and their representative counsel. To this end, Rule 3.5(a)(3) prohibits a lawyer from communicating ex parte with a judge or other official unless authorized to do so by law or court order. Rule 3.5(d) defines "ex parte communication" as "a communication on behalf of a party to a matter pending before a tribunal that occurs in the absence of an opposing party, without notice to that party, and outside the record."

The following are some common scenarios involving informal communications with judges.

Inquiry #1:

Lawyer A represents Wife in a domestic case against Husband, who is represented by Lawyer B. Lawyer A's young child is sick, requiring Lawyer A to stay home to care for his child for the rest of the week. Lawyer A is scheduled to appear in court for a hearing in Wife and Husband's domestic case tomorrow but can no longer attend the hearing due to childcare issues. May Lawyer A inform the court of his inability to attend court and informally request that the hearing be continued by email or text message to the judge presiding in the domestic case, without copying Lawyer B?

Opinion #1:

No. The definition of ex parte communications encompasses all communications concerning a matter that is pending before a tribunal, including scheduling issues. Rule 3.5(d). The Rules of Professional Conduct do not exempt scheduling matters from the prohibition on ex parte communications. Accordingly, although ex parte communications concerning scheduling matters are often limited and innocent in nature, they are prohibited unless authorized by law or court order. In this instance, Lawyer A's communication is sent a) on behalf of himself and his client, b) concerning a matter pending before the tribunal (the domestic proceeding), c) outside of the record, d) without notice to the opposing counsel, and e) in the absence of opposing counsel. Accordingly, Lawyer A's communication is an ex parte communication with the court, and thus prohibited unless authorized by law or court order. *See* Rules 3.5(a)(3) and (d).

Inquiry #2:

Same scenario as Inquiry #1. Does Lawyer A cure the ex parte nature of his communication by sending an email or text message to all judges in his district concerning his inability to attend court that week and requesting all hearings for which he is responsible during the week be continued, without copying Lawyer B or any other opposing counsel or party?

Opinion #2:

No. If Lawyer A has a matter pending and the communication is sent to the judge presiding in that matter, amongst other judges, the communication remains ex parte and is prohibited. *See* Opinion #2. If Lawyer A has multiple cases pending, the single, generic communication described in this inquiry may constitute multiple instances of prohibited ex parte communication.

Inquiry #3:

Same scenario as Inquiry #1. May Lawyer A inform the court of his inability to attend the day's hearing and informally request that the hearing be continued via email or text message to the presiding judge, with Lawyer B copied on the email or text message?

Opinion #3:

Yes, provided the communication is not prohibited by law, local rules, or the presiding judge, and does not address the merits of the underlying case (see Opinion #4, below). Pursuant to Rule 3.5(d), a communication by a lawyer to a judge is a prohibited ex parte communication if made "in the absence of an opposing party" (or in the absence of opposing counsel). A communication to a judge that is simultaneously provided to the opposing party/counsel is not made "in the absence of an opposing party" and therefore is not an "ex parte communication" as defined in Rule 3.5. This is true of both hard copy communications and electronic communications, including text messaging and emails.

Lawyers are encouraged to remember that simultaneous provision of a communication does not necessarily result in simultaneous receipt of that communication. When possible and appropriate, a lawyer should provide reasonable advance notice to opposing counsel of the need and intention to communicate with the presiding judge about the subject of the communication.

However, even a communication that is not a prohibited ex parte communication may nevertheless be prohibited by law or court order, including local rules or administrative orders entered by the tribunal. A presiding judge or the rules of a tribunal may also provide guidance and/or instruction to lawyers concerning such communications, as the Rules of Professional Conduct are not meant to disable or abridge "the inherent powers of the court to deal with its attorneys." N.C. Gen. Stat. § 84-36. Lawyers are advised to review all relevant laws and court orders, including local rules, prior to engaging in such communication.

Inquiry #4:

Same scenario as Inquiry #2. May Lawyer A communicate his inability to attend the hearing and informally request a continuance via email or text message to the presiding judge, with Lawyer B copied on the email or text message, if the email or text message contains additional argument from Lawyer A on the matter to be heard by the court in the upcoming proceeding?

Opinion #4:

No. Even though such a communication may not be a prohibited ex parte communication, it is still improper. Unsolicited communications addressing the merits of the underlying matter made outside the ordinary or approved course of communication with the court are prejudicial to the administration of justice in violation of Rule 8.4(d). As noted above, the purpose of the prohibition on ex parte communications is to ensure fair and equal access to the presiding tribunal by parties and their counsel. Allowing one party unfettered access to make off-the-record arguments to the presiding judge via electronic communication undermines the principle of fair and equal access to the presiding judge. *See* Rule 3.5 cmt. [8] ("All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings, a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which the judge presides in circumstances which might have the effect or give the appearance of granting undue advantage to one party."). It is also antithetical to the notion that cases are tried in a public forum rather than in private discussions behind closed doors. Providing notice and copying the opposing party/counsel on such a communication does not remedy these problems. Unless the communication is authorized by law or court order, or unless the communication is solicited by the presiding judge, informal communications that address the merits of the case are improper and constitute misconduct under Rule 8.4(d).

Inquiry #5:

Judge has instructed Lawyers A and B to send trial briefs concerning a pending motion to the judge via email, with a copy to opposing counsel. May Lawyers A and B submit substantive argument on the merits of a pending matter via email as the court has requested?

Opinion #5:

Yes. If the presiding judge has instructed counsel to communicate directly with the court, the communication is not a prohibited ex parte communication under Rule 3.5 and is not prejudicial to the administration of justice under Rule 8.4(d) even if the requested communication will be on the merits of a pending matter. This conclusion applies to any appropriate request from a judge to all counsel for communication, including trial briefs and proposed orders. Again, the Rules of Professional Conduct are not meant to disable or abridge "the inherent powers of the court to deal with its attorneys." N.C. Gen. Stat. § 84-36. The presiding judge has the authority to determine how counsel are to communicate with the court; except as prohibited by law or court rule, such communications are within the discretion and preference of the tribunal and the presiding official.

District Court Judges Conference
October 2023

Examples of statutes authorizing *ex parte* communications

****This list is intended to identify commonly cited statutes and appellate cases that authorize ex parte communications; it is not intended to identify every statutory or case law authorization for an ex parte communication.**

Statutes - general

1A-1, Rule 6 Requests and orders for extensions of time under the Rules of Civil Procedure.

1A-1, Rule 65(b) Civil temporary restraining order may be obtained without notice to adverse party upon certain conditions.

7A-39(c) Cancellation of court in catastrophic conditions. States that nothing in section prevents a judge from exercising any in chambers or ex parte jurisdiction conferred by law during emergency or catastrophic conditions. Seems to apply to all courts.

Statutes – explicit (mostly)

1-119 Ex parte cancellation of lis pendens.

19-2.3 Ex parte orders in nuisance proceedings.

5A-23(a) A show cause order for civil contempt "may be issued on the motion and sworn statement or affidavit of one with an interest in enforcing the order, including a judge, and a finding by the judicial official of probable cause to believe there is civil contempt."

7A-216 Small claims. Judge, magistrate, or clerk may, on oral or written ex parte motion of defendant, or on own motion, order plaintiff to perfect statement of claim before proceeding.

7B-303(d) Abuse and neglect complaints; if director of social services believes juvenile in need of immediate protection, director may seek ex parte order from the court.

7B-323(a1) Court to determine at ex parte hearing whether director of social services made diligent efforts to locate individual for notice in an abuse, neglect, dependency proceeding.

7B-502(a) Court may issue order for nonsecure custody ex parte in an abuse, neglect, dependency proceeding.

7B-1003(c)	Pending appeal of an abuse, neglect, dependency proceeding, if court enters ex parte order modifying original order, court shall give notice to interested parties.
7B-1004	After appeal, if court enters ex parte order modifying original abuse, neglect, dependency order, court shall give notice to interested parties.
7B-2606	After appeal of juvenile delinquency adjudication or disposition order, if court enters ex parte order modifying original order, court shall give notice to interested parties.
15A-263	Issuance of ex parte order for pen register or trap and trace device
15A-293	Issuance of ex parte order for electronic surveillance
15A-294	Appeals following granting of motion to suppress intercepted electronic communications
15A-908	Criminal discovery protective orders
35A-1207	Emergency orders in incompetency proceedings before the clerk
48-3-607	Ex parte order regarding custody following consent for adoption of minor child
48-3-705	Application for ex parte order from clerk regarding relinquishment for adoption of minor child
50-13.5(d)(3)	Temporary order for child custody which changes living arrangements may only be made ex parte upon finding that child is exposed to substantial risk of bodily injury or sexual abuse, or substantial risk of abduction or removal from the state.
50B-2	Court may issue ex parte DVPO under certain circumstances.
50C-6(a), (e)	Temporary civil no-contact order may be issued ex parte under certain circumstances.
95-265	Temporary civil workplace no-contact order may be issued ex parte (Chapter 95, Dept of Labor, Article 23, Workplace Violence Prevention).
108A-106(d)	Court may issue immediate emergency order ex parte (Chapter 108A, Social Services, Article 6, Protection of Abused, Neglected, or Exploited Disabled Adult Act).
108A-117(c)	Court may issue ex parte order granting delay of customer notice upon application for subpoena by investigating entity (Chp. 108A, Social Services, Article 7, Protection of Disabled and Older Adults from Financial Exploitation).

Cases

State v. Ballard, 333 N.C. 515 (1993)(criminal defendant is entitled to ex parte hearing on request for appointment of a psychiatric expert).

State v. Bates, 333 NC 523 (1993)(criminal defendant has right to ex parte hearing on request for funds to hire a forensic investigator).

State v. Gray, 347 N.C. 143 (1997) – overruled on other grounds by *State v. Long*, 354 N.C. 534 (2001)(prosecutor entitled to request ex parte order for internal revenue records).

But see

State v. Phipps, 331 N.C. 427 (1992)(indigent defendant is not entitled to an ex parte hearing on motion for expert assistance on fingerprint identification).

See also

State v. White, 340 N.C. 264, 277 (1995)(an indigent defendant's request for an investigator is not entitled to an ex parte hearing because an investigator is more analogous to a fingerprint expert than a psychiatric expert).

State v. Garner, 136 N.C. App. 1, 8-10 (1999)(court discusses Ballard, Phipps, and White, and concludes that defendant was not prejudiced by trial court's denial of an ex parte hearing for an eyewitness identification expert).

State v. Prevatte, 356 N.C. 178 (2002)(court determined no error in denial of defendant's request for ex parte hearing on his motion for new counsel).

Judicial Standards Commission

Formal Advisory Opinion 2010-08: Judge should not sign an ex parte subpoena or order to produce medical records in a civil case without identifying specific authority in the Health Insurance Portability and Accountability Act (HIPAA) HIPPA for the ex parte communication.