

**DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE**

515 FIFTH STREET, N.W., BUILDING A, ROOM 246
WASHINGTON, D.C. 20001
(202) 727-1363

June 14, 2021

The Honorable Anna Blackburne-Rigsby
Chief Judge
District of Columbia Court of Appeals
430 E Street, N.W.
Washington, D.C. 20001

The Honorable Anita Josey-Herring
Chief Judge
Superior Court of the District of Columbia
500 Indiana Avenue, N.W.
Washington, D.C. 20001

Dear Chief Judges Blackburne-Rigsby and Josey-Herring:

In recent years, the Commission on Judicial Disabilities and Tenure for the District of Columbia (“the Commission”) has noted an increase in complaints with respect to actual or perceived *ex parte* communications by judges of the District of Columbia courts. The allegations and concerns expressed have covered a range of circumstances that include *ex parte* communications during Court proceedings, in chambers, and after dismissal of a case. The potential impact of such communications on the administration of justice is very real, as it directly affects every litigant’s perception of whether a judge was fair, impartial, and provided an opportunity for all parties to be heard. The Commission reminds judges of the importance and significance of Canon 2 of the Code of Judicial Conduct for the District of Columbia Courts. Specifically,

Rule 2.9 provides that, with limited exceptions, “[a] judge shall not initiate, permit, or consider *ex parte* communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending* or impending matter.” Rule 2.9 and its commentary offers guidance to judges in the event a judge comes into contact with *ex parte* information.

Other rules may be implicated where Rule 2.9 is at issue. For example, Rule 2.6 provides that “[a] judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.” Further, Rule 2.2 governs **impartiality and fairness** to all parties in litigation.


The Commission recognizes that judges often face unpredictable and challenging situations in the performance of their duties, however, compliance with Rule 2.9 must be followed when such occasions arise.

The Honorable Anna Blackburne-Rigsby
The Honorable Anita Josey-Herring
June 14, 2021
Page Two

The Commission recommends that the Chief Judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals consider additional training for judges of their Court to discuss events that may increase the risk of *ex parte* communications, as well as guidance in handling circumstances where a judge receives *ex parte* information, inadvertently or otherwise.

The Commission requests the Chief Judges to circulate this letter to the judges of their Court, so they may be aware of the Commission's concern regarding this matter. The Commission makes this recommendation in accordance with its mission to maintain public confidence in the judiciary and to assure that judges continue to be ever attentive to the fair and impartial administration of justice.

DISTRICT OF COLUMBIA COMMISSION
ON JUDICIAL DISABILITIES AND TENURE



Jeannine C. Sanford, Esq.
Chairperson

JCS/cjh