

Why Can't I Talk to the Judge?

"Ex Parte" Contact with the Judge is Not Allowed

What is an "*ex parte* communication"?

"*Ex parte*" is a Latin phrase meaning "on one side only; by or for one party." An *ex parte* communication occurs when a party to a case, or someone involved with a party, talks or writes to or otherwise communicates directly with the judge about the issues in the case without the other parties' knowledge. Under the Texas Code of Judicial Conduct, judges may not permit or consider "*ex parte* communications" in deciding a case unless expressly allowed by law. This ban helps judges decide cases fairly since their decisions are based only on the evidence and arguments presented to the court and the applicable law. It also preserves public trust in the legal and court system.

What is a "party"?

"Party" refers to any person or organization who sues or is sued. In a civil case, the party who initiates the lawsuit is called the plaintiff (or, sometimes, the petitioner or complainant). In a criminal case, it is the State of Texas that initiates the criminal action.

Why are judges not allowed to consider *ex parte* communications?

Would you like it if the judge spoke to the other parties about your case without your knowledge? Probably not! What if the judge allowed the Officer to come in and chat about your ticket, and the officer asked the Judge to "give it to you good because you had an attitude"! The rule banning *ex parte* communications ensures that the court process is fair and that all parties have the same information as the judge who will be deciding the case. When all parties have the same information, a party who disagrees with the information can contest it in court.

What if I want to tell the judge something about my case?

If you want to tell the judge about your case or ask the judge to take a certain action in your case, you should file a written motion with the clerk of the court in which your case was filed explaining what relief you are seeking and why you are entitled to that relief. ("Relief" means what you are asking the court to do.)

Make sure you attach the appropriate documentation showing that a copy of the motion was served on all the other parties and explaining how (e.g., by personal delivery, or mail, postage prepaid) and when service was made. Usually, the judge will schedule a hearing. During the hearing, you will have the opportunity to explain your position to the judge in court. Judges must make their decisions based only on the relevant facts or issues of the case and the applicable laws. Therefore, please be sure that the facts or issues that you plan to tell the judge about are relevant to your case. This helps ensure that your case will proceed more quickly.

If you send a letter or other document directly to the judge without providing a copy of it to every other party on your case (or the party's attorney, if the party has an attorney), the judge or court staff will be required to notify all parties (or their attorneys) about your communication so the other parties can respond to it. This is called "disclosure" and helps to ensure that your case is handled fairly. You may also cause your case to be delayed or even dismissed. Also, the court may "strike" (delete or ignore) any evidence affected by your *ex parte* communication.

Can I ask the judge to keep information I share in a letter or document confidential?

No. Sometimes people will send a letter or document to the judge and ask the judge not to tell the other party. Although you may have information that you want the judge to know about and keep in confidence, the judge is still required to disclose any *ex parte* communications to all parties.

Can I ever communicate directly with the court?

Yes. Certain *ex parte* communications to a judge or court personnel are allowed by law. For example, if you are contesting a citation (commonly called a "ticket") for a traffic infraction, the law allows you to submit a written explanation directly to the court. Also, communications regarding case scheduling or status are allowed.

Is there anything I can do if I disagree with the judge's decision in my case?

If you believe the judge made the wrong decision in your case, you may have the right to file an "appeal," asking an "appellate court" to review the decision the judge made in your case. The process for filing an appeal is explained in the Hawai'i Rules of Appellate Procedure. There is no right of appeal in small claims cases.