

Contacting Judges Before Hearings.

Judge Greg Galler

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Is it ever a good idea to contact a judge to share information you have about a case that the judge is hearing? Sometimes people send in letters in support of - or against - someone charged with a crime. Other times, judges receive letters in divorce cases to provide background about the family. Sometimes correspondence is received advising that someone that will be in court is particularly untruthful. While the practices of individual judges may vary, the rules provide that judges can't consider or even look at such submissions.

Our legal system is built on a concept known as due process. Part of that includes something called procedural due process. That means that certain procedures and rules are followed by everyone involved including attorneys, parties, court staff, and judges too.

Judges are prohibited from considering anything regarding a case that is not presented strictly according to the rules. Those rules provide detailed procedures about how information can properly reach a judge. Among other things, the rules require that notice be properly given to all other parties, and that time, service, and filing requirements be met. Any contact with a judge about a case - for any purpose - outside the strict boundaries of the rules is prohibited as being *Ex Parte*.

Ex Parte, is a Latin term meaning by, for, or on behalf of one party only. Judges, as neutrals, are prohibited from having *ex parte* contact except in the rarest circumstances. A letter sent to a judge in advance of a hearing would almost certainly be an improper *ex parte* contact.

Mail sent to a judge is normally first opened and reviewed by the judge's staff. If a letter appears to be an *ex parte* submission, staff members will typically inform the judge of their belief. If it is *ex parte*, judges then direct their clerks to return the letter to the sender with a note explaining that the judge cannot and did not review it.

This does not mean that judges don't care about obtaining useful information about their cases. It only means that judges must strictly comply with the rules. If someone feels that they have relevant information about a case, they may consider contacting an attorney in the case who would likely be able to properly submit the information to the judge.

Sometimes attorneys also violate this rule. Many think that they can send a letter to a judge as long as they also send a copy to the other attorney on the case. However, this is still an improper *ex parte* contact as it does not comply with the notice and service requirements of the law.

Judges want to receive all relevant information that will help them determine a just outcome in each case. However, just outcomes are reached when judges receive information in full accordance with the rules of procedure.

Judge Galler is chambered in Washington County. If you have a general question about the law or courts for Judge Galler, send your question to the editor of this newspaper. Learn more about Judge Galler, or listen to a podcast of his columns at www.judgegreggaller.com.