



**CALIFORNIA SUPREME COURT
COMMITTEE ON JUDICIAL ETHICS OPINIONS**

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CJEO Oral Advice Summary No. 2014-007

[Posted May 2, 2014]

**JUDICIAL REVIEW OF EX PARTE APPLICATIONS FOR FAMILY LAW
CONTEMPT ORDERS**

I. Question:

CJEO was asked to clarify or extend [CJEO Formal Opinion 2014-004](#), or to provide an independent opinion addressing judicial review of ex parte applications for contempt orders. The request posed the following question:

Does a judicial officer breach the ethical obligations (as stated in CJEO Formal Opinion 2014-004) to avoid having ex-parte communication with a party in viewing family law contempt applications, i.e. reading them and/or signing them or rejecting them, without prior notice having been given to the opposing party and or counsel?

CJEO made the discretionary decision to provide oral advice in response to this request (Cal. Rules of Court, rule 9.80 (j)(1); CJEO Rules, rule 7(b)).

II. Oral Advice Provided:

[CJEO Formal Opinion 2014-004](#) clearly states the ethical rule that ex parte communications are prohibited unless expressly authorized by law under canon 3B(7)(c) of the California Code of Judicial Ethics. The opinion also clearly states that it addresses only the extent to which ex parte communications are authorized by the family law rules of court governing ex parte applications for non-domestic-violence emergency orders (Cal. Rules of Court, rules 5.151 et seq.). The opinion's analysis is clearly limited to the question of whether the screening procedures used under a specific local rule allow ex parte communications that are not authorized by those family law rules of court. Given these express limitations, there is no basis for a clarification or extension of CJEO Formal Opinion 2014-004 to discuss ex parte applications for family law contempt orders, which are governed by other laws pertaining to general civil and family law contempt proceedings (Code of Civil Procedure §§ 1211(b), 1211.5; Family Law Code § 292). The Judicial Council Forms mandated for use under those statutes provide procedures for authorized judicial review of ex parte communications (Family Law Code § 292(c); JCC FL-410, 411, and 412). An independent CJEO advisory opinion is not necessary to explain those forms or otherwise provide a legal opinion interpreting the contempt statutes.



This oral advice summary is advisory only (Cal. Rules of Court, rules 9.80(a), (e); Cal. Com. Jud. Ethics Opns., Internal Operating Rules & Proc. (CJEO) rules 1(a), (b)). It is based on facts and issues, or topics of interest, presented to the California Supreme Court Committee on Judicial Ethics Opinions in a request for an opinion (Cal. Rules of Court, rule 9.80(i)(3); CJEO rules 2(f), 6(c)), or on subjects deemed appropriate by the committee (Cal. Rules of Court, rule 9.80(i)(1); CJEO rule 6(a)).

