

COMMISSION ON JUDICIAL PERFORMANCE  
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FOR RELEASE  
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JUDICIAL PERFORMANCE COMMISSION ISSUES  
PUBLIC ADMONISHMENT OF JUDGE PATRICK CONNOLLY

The Commission on Judicial Performance has publicly admonished Judge Patrick Connolly of the Los Angeles County Superior Court. The public admonishment concerns Judge Connolly engaging in a course of conduct that reflected embroilment with a criminal defense attorney and abusing his authority.

During trial before Judge Connolly in July 2010, at sidebar, the defense attorney stated that a courtroom observer had reported seeing the prosecutor signal a prosecution witness by shaking her head. Judge Connolly indicated the allegation would be taken up at a later time. After the defendant was acquitted, an order to show cause was set for hearing. Thereafter, Judge Connolly reset the hearing six times over the course of more than six months. At the outset of this series of hearings, Judge Connolly contacted a judge in a different courthouse to obtain information and transcripts relating to another possible contempt matter involving the same defense attorney. Without ever having cited either the prosecutor or the defense attorney for contempt or issuing an order to show cause regarding contempt, Judge Connolly conducted an ex parte evidentiary hearing on February 3, 2011 for the apparent purpose of obtaining evidence that could be used in future contempt proceedings. Judge Connolly met ex parte before the hearing with an attorney from the district attorney's office who was representing the prosecutor; the substance of their discussion was not disclosed to the defense attorney. Judge Connolly excluded the prosecutor and her counsel from the first portion of the hearing, which related to the conduct of the defense attorney. The defense attorney was excluded from the second portion of the hearing, which related to the conduct of the prosecutor, and was not afforded the opportunity to hear the testimony of the witnesses or to cross-examine them. After the hearing, the judge informed the defense attorney that he was going to have contempt proceedings against the defense attorney, and that he would file an order to show cause re contempt by February 23, 2011; he ordered the defense attorney back to court on that day. On February 23, 2011, Judge Connolly told the defense attorney that he was taking the matter off calendar but was checking into consolidating it with the possible contempt in the other courthouse and considering the imposition of sanctions.

The commission found that Judge Connolly abused his authority by setting a series of post-trial hearings regarding the defense attorney's statements during trial without citing either attorney for contempt or issuing an order to show cause regarding contempt. If Judge Connolly was exercising his contempt power when he set these hearings, as he asserted before the commission, he was obliged to follow the procedures for imposing contempt. The commission

noted that the statement underlying this series of unauthorized hearings did not appear to have constituted contempt of court. The commission also found, and Judge Connolly acknowledged, that his contact with another judge in an unrelated case was improper embroilment and could be perceived as reflecting bias and an abuse of power. The commission further found that the evidentiary hearing the judge conducted on February 3, 2011, and the ex parte manner in which it was conducted, constituted an abuse of authority. Judge Connolly's determination to proceed with an evidentiary hearing when there was no cause pending before him gave the appearance that he was conducting an independent investigation into the attorneys' conduct, which was beyond the scope of his authority. He further violated the defense attorney's procedural rights by excluding him from the hearing over his objection with no legal basis, and by failing to give him notice of the specific subjects of his inquiry. The commission found that the judge engaged in improper ex parte communications by meeting in chambers with the deputy district attorney representing the prosecutor before the February 3, 2011 hearing and by failing to disclose the substance of the communication to the defense attorney.

The commission found that Judge Connolly violated his duty to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary (canon 2A of the Code of Judicial Ethics), to be faithful to the law (canon 3B(2)), to perform judicial duties without bias and to refrain from speech or other conduct that would reasonably be perceived as bias or prejudice (canon 3B(5)), to not initiate, permit or consider ex parte communications (canon 3B(7)), to promptly notify all other parties of the substance of an ex parte communication and allow an opportunity to respond (canon 3B(7)(b), formerly 3B(7)(d)), and to maintain high standards of conduct (canon 1).

The commission considered as an aggravating factor Judge Connolly's prior discipline. In 2010, Judge Connolly received a private admonishment for his use of profanity in a judicial profile interview and in chambers discussions with attorneys.

The public admonishment is available on the commission's website at <http://cjp.ca.gov> (under "Pending Cases - Press Releases & Documents" and "Public Discipline & Decisions") and at the commission's office. Judge Connolly is represented by attorney Reg A. Vitek of San Diego.

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The commission is composed of three judges, two lawyers and six public members. The chairperson is Honorable Erica R. Yew of the Santa Clara County Superior Court.

For further information about the Commission on Judicial Performance, see the commission's website at <http://cjp.ca.gov>.