

SHOULD I DELAY APPEAL UNTIL MY COMPLAINT OF JUDICIAL MISCONDUCT IS CONCLUDED?

No. You must proceed with whatever remedy is available to you within the court system to correct any judicial errors you believe were committed in your case. Your complaint of judicial misconduct is a matter totally independent of your litigation.

CAN I REMOVE THE JUDGE ON MY CASE IF I FILE A COMPLAINT AGAINST THE JUDGE?

No. An allegation of judicial misconduct is not a substitute for removal procedure. You should seek your attorney's advice as to the procedure for removing a judge on your case or refer to K.S.A. 20-311d.

EXAMPLES OF FUNCTIONS THE COMMISSION CANNOT PERFORM

- ◆ The Commission does not have the power to release inmates from jail or prison.
- ◆ The Commission cannot change the sentence of any court or reduce terms of inmates in prison or jail.
- ◆ The Commission cannot change custody rulings made by judges in divorce cases.
- ◆ The Commission does not have the power to alter the amount of child support set by judges in domestic cases.
- ◆ The Commission does not have the power to change the judge in any case.
- ◆ The Commission cannot remove a defendant's attorney.
- ◆ The Commission cannot change the decision of any judge.

Commission on Judicial Qualifications



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STATE OF KANSAS



**COMMISSION ON
JUDICIAL
QUALIFICATIONS**

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The Commission on Judicial Qualifications was established by the Supreme Court of the State of Kansas on January 1, 1974.

The Commission was created by the Court under the authority granted by Article III, Section 15 of the Kansas Constitution and in the exercise of the inherent powers of the Supreme Court.

The Commission is charged with assisting the Supreme Court in the exercise of the Court's responsibility in judicial disciplinary matters. The Commission consists of fourteen members including six active or retired judges, four lawyers, and four non-lawyers. All members are appointed by the Supreme Court and serve four-year terms.

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WHAT IS JUDICIAL MISCONDUCT?

Judicial misconduct is any violation of the Code of Judicial Conduct which may include, but is not limited to, misconduct in office, failure to perform duties, or the inability, physically or mentally, to perform duties. Judicial misconduct does not include erroneous application of the law or matters within the discretion of the trial judge. These rulings can be appealed to a higher court.

DOES THE COMMISSION HAVE JURISDICTION OVER LEGAL MATTERS?

The Commission does not have the authority to act as a court of review, determining the legal or factual validity of any judge's decision. An appeal must be filed with a higher court.

DOES THE COMMISSION GIVE LEGAL ADVICE?

The Commission cannot give legal advice to citizens or represent clients.

I BELIEVE A JUDGE IN THE STATE OF KANSAS HAS VIOLATED THE CODE OF JUDICIAL CONDUCT. HOW DO I REGISTER A COMPLAINT?

Initial inquiries and/or a complaint form can be obtained by contacting the Commission Office or can be accessed on-line at www.kscourts.org under "Commission on Judicial Qualifications." The complaint must be in writing and signed. It should identify the conduct or action believed to be improper and should provide specific details and facts. If further information is needed, you will be contacted.

IS MY COMPLAINT CONFIDENTIAL?

The Commission and its staff are bound by a rule of confidentiality unless there is an exception as provided by Supreme Court Rule 607(a). The Commission may, however, ask the judge for a response to the complaint. In that event, the judge would be provided a copy of the complaint.

Pursuant to Supreme Court Rule 607(b), the rule of confidentiality does not apply to the complainant or to the respondent judge.

WHAT WILL THE COMMISSION DO WITH MY COMPLAINT?

When a complaint is received, it is reviewed to determine that it is within Commission jurisdiction, and inquiry may be made to verify allegations.

Undocketed/Docketed Complaints

The Commission, at a regular meeting, carefully reviews all allegations and determines whether they remain undocketed or will be docketed.

Undocketed complaints are those which facially do not state a violation and no further investigation is required. Docketed complaints are those which warrant further investigation and receive a docket number. The judge may be asked to respond to the complaint. If an allegation involves legal issues or for some other reason is not within the Commission's jurisdiction, it will be dismissed. The Commission may also take the following action:

- ◆ Issue a letter of informal advice
- ◆ Issue a letter of caution
- ◆ Issue a cease and desist order, either private or public
- ◆ File a notice of formal proceedings

Formal Proceedings

Once a notice of formal proceedings is filed by the investigative panel, the judge has an opportunity to answer and a public hearing is set. The hearing is conducted by a hearing panel which has no knowledge of the investigation or prior deliberations. At such a hearing, the judge has the right to defend against the charges and to be represented by a lawyer. Witnesses and documents may be subpoenaed. If no violation is found, the complaint will be dismissed. If a violation of the Code of Judicial Conduct is found or a disability which is seriously interfering with the judge's ability to perform judicial duties, the Commission may take the following action:

- ◆ Admonish the judge
- ◆ Issue an order of cease and desist
- ◆ Recommend that the Supreme Court retire, censure, suspend, or remove the judge

HOW LONG DOES IT TAKE TO RESOLVE A COMPLAINT OF JUDICIAL MISCONDUCT?

A panel of the Commission meets each month, but the panels alternate months. Final disposition may take several months, depending on the complexity of the matter.