



# Dear Ethics Lawyer<sup>TM</sup>

**The Legal Ethics Project.** Supporting professionalism with information.

**Q:** Dear Ethics Lawyer,

A judge has had an important motion under advisement for 22 months. I fear he may have misplaced or forgotten about it and may need a prompt. My client is also quite impatient and does not understand the delay. May I call the judge, or stop by chambers to inquire if and when a decision will be made, or if anything additional is needed from the parties? Are there other approaches that are appropriate?

**A:** Model Rule 3.5(a) states that a lawyer shall not communicate ex parte with a judge "during the proceeding unless authorized to do so by law or court order." This rules out the call or casual stop-by. The Ethics Lawyer recommends that you attempt to enlist your opposing lawyer for a joint call or stop-by or a joint email or letter, as that will also deflect (or at least distribute) any annoyance the judge may have for being asked about the delay in doing their job. Even better, perhaps a joint call to the judge's bailiff or clerk would do the trick. If the opposing counsel (who may not be as anxious to get the ruling) is not up for it, that leaves you with the option of a written inquiry or request for a status conference, appropriately copied to your opponent to avoid the ex parte contact.

***The Ethics Lawyer***

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## About Dear Ethics Lawyer

The twice-monthly "Dear Ethics Lawyer" column is part of a training regimen of the Legal Ethics Project, authored by [Mark Hinderks](#), former managing partner and counsel to an AmLaw 132 firm; Fellow, American College of Trial Lawyers; and speaker/author on professional responsibility for more than 25 years. Mark leads Stinson LLP's [Legal Ethics & Professional Responsibility](#) practice, offering advice and "second opinions" to lawyers and law firms, consulting and testifying expert service, training, mediation/arbitration and representation in malpractice litigation. The submission of questions for future columns is welcome: please send to [mark.hinderks@stinson.com](mailto:mark.hinderks@stinson.com).

Discussion presented here is based on the ABA Model Rules of Professional Conduct, but the Model Rules are adopted in different and amended versions, and interpreted in different ways in various places. Always check the rules and authorities applicable in your relevant jurisdiction – the result may be completely different.