



Guideline Points for Response by the American College of Trial Lawyers to Attacks on Judges and Justices

The College will respond only if we can do so within 48 hours of the event giving rise to our response.

The Executive Committee (EC) will consider first whether a response should come from the State or Province Committee, rather than the EC. Placing the responsibility with the EC allows for responding more quickly than a State or Province Committee can respond. When the reason calling for the College to respond is “clearly local,” however, it is better for the State or Province Committee to be speaking.

1. Any threat, even if implicit, of physical violence or injury.
2. Any threat to jurors or witnesses.
3. Any attempt to cause fear or humiliation of the judge or to chill the judge’s independence.
4. A public official’s interference or attempted interference, in a pending case.
5. A public official’s statements that intend, or appear to intend, intimidation of a judge in his/her decision, before or after the decision. Evaluation of the College’s response to intimidation must take into account that public officials are free to advocate publicly for a particular ruling on a pending case or legal issue and to criticize a judge’s decision. The College will face a recurring judgment call to distinguish the public official’s freedom of expression from the intention or goal of intimidation.
6. Any attack on a judicial body because of any given ruling(s). To illustrate, former President Trump’s declaration that the Ninth Circuit was “a lawless disgrace” following one trial judge’s immigration ruling.
7. The College will be alert to prosecutors facing attacks for prosecutorial decisions they have made. Recognizing that these attacks do not aim at judges, we know these attacks threaten the safety of prosecutors and their families.
8. The College should condemn the attack on a judge for an opinion because [s]he was influenced by a political lobby (as Governor Newsome did re Judge Roger Benitez, in a gun case); because [s]he has an ethnic or religious affiliation (as former President Trump did regarding Judge Gonzalo Curial); or because [s]he was beholden to the President who appointed her, when the intemperate criticism of the judge altogether ignored the applicable legal principles and analysis—i.e. the merits—of the ruling.
9. Characterizing a judge as being of a certain perspective/bias/allegiance calls for our engagement. One illustration is the claim that, a case with this judge means “justice is for sale.”
10. Legislative attacks on the judiciary in reprisal for unpopular (with a majority of the legislature) judicial rulings.

These guidelines are not “ranked” or listed in order of importance.