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## PRESS RELEASE

### Hearing on Draft Rules Governing Judicial Misconduct Complaints

(see [http://Judicial-Discipline-Reform.org/judicial\\_complaints/DrCordero\\_draft\\_rules.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_draft_rules.pdf) of 13oct7)

The Committee on Judicial Conduct and Disability of the Judicial Conference of the U.S. has released for public comment its Draft Rules Governing Judicial Conduct and Disability Proceedings under 28 U.S.C. §351-364. They aim at implementing the recommendations contained in the Breyer Report issued by the Judicial Conduct and Disability Act Study Committee, chaired by Justice Stephen Breyer and appointed by the Late Chief Justice William Rehnquist.

A one half-day hearing in the whole nation on those Rules is planned to commence at 10:00 a.m. on Thursday, September 27, 2007, in the U.S. Courthouse at 225 Cadman Plaza East, Brooklyn, New York. Your attendance is encouraged in view of the importance of determining whether the only rules for disciplining complained-about judges, written and to be implemented by their own peers, will work any better than the current ones.

Hence, you are invited to distribute this e-mail to your contacts and mailing list and to display it prominently on your website.

If you want to petition that the judges hold a hearing on the Draft Rules where you live, send your request to Circuit Judge Ralph Winters, Chair of the Committee on Judicial Conduct and Disability at [JudicialConductRules@ao.uscourts.gov](mailto:JudicialConductRules@ao.uscourts.gov).

The Committee has required from those that have requested to testify at the hearing that they give in advance a written indication of their intended testimony. Dr. Richard Cordero, Esq., of Judicial Discipline Reform (<http://Judicial-Discipline-Reform.org>), requested and was granted the opportunity to testify. To comply with the Committee's requirement, Dr. Cordero provided an indication of his intended testimony on those Draft Rules.

Bellow is the table of contents of Dr. Cordero's written indication as well as the link to the PDF file containing his preliminary comments on the Draft Rules. Your comments and suggestions on them are welcome; sent them to [DrRCordero@Judicial-Discipline-Reform.org](mailto:DrRCordero@Judicial-Discipline-Reform.org).

- I. Comments on the Draft Rules (see [http://Judicial-Discipline-Reform.org/judicial\\_complaints/DrCordero\\_on\\_rules.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_on_rules.pdf), which contains a copy of the Draft Rules and the announcement of the hearing)
- II. Whether the Rules' underlying basis, the Report of the Breyer Committee, provided any analysis not already available in, and not in contradiction with, the statistics since 1996 of the Administrative Office of the U.S. Courts on complaints filed under the Judicial Conduct and Disability Act of 1980
  - A. The system of handling judicial conduct and disability complaints is fundamentally flawed due to judges' bias and dominating interest in self-preservation because it is based on the chief circuit judges reviewing complaints against their peers and friends

- B. The conflict of interests inherent in a chief circuit judge reviewing a complaint against the circuit court's or even his own appointee, that is, a bankruptcy judge appointed under 28 U.S.C. §152(a)(1) or (3), respectively
- III. Whether the Rules or the Breyer Report deal with the fundamental institutional problems that have affected the application of the Judicial Conduct and Disability Act since its enactment in 1980
- A. The fundamental problem of lack of checks and balances to control the conduct of federal judges and the dynamics of interdependent survivability of members of close and powerful groups, two factors that have prevented the removal of any federal judges from the bench except seven judges in the 218 years since the adoption of the U.S. Constitution in 1789, by the count of the Federal Judicial Center ([www.fjc.gov/history/home.nsf](http://www.fjc.gov/history/home.nsf) >Judges of the United States>Impeachments of Judges)
- IV. Whether the Rules have the potential to render effective the Federal Judiciary's current mechanism of self-discipline by requiring that the Judiciary and its members be accountable for their administration of justice and perform their duty to safeguard the integrity of judicial process
- A. Evidence that the Supreme Court has tolerated for years the systematic dismissal of misconduct complaints, thereby signaling that neither the Act nor the Rules were to be taken seriously
  - B. The Judicial Conference has known that the Act and the current rules for its implementation are ineffective given that in the 27 years of the Act it has issued only 15 opinions under it, and that for years in a row the judicial councils have not allowed a single complaint to make it even to its Committee for the Review of Judicial Council Conduct and Disability Decisions (now known as the Judicial Conference Committee on Judicial Conduct and Disability)
  - C. How self-discipline through peer review is ineffective to prevent that judges appointed for life and as a matter of fact unimpeachable elevate themselves above the law, where they enjoy the privilege of having justice applied to them in private given that complaints against them are treated confidentially and by peer judges, who lack impartiality due to their reputational interest, or even self-preservation interest, in their complained-about peers being found above reproach
  - D. The need for an independent board of citizens neither appointed by nor related to the judiciary, otherwise for a panel of three retired judges from circuits other than that of the complained-about judge, to enforce in public proceedings rules of judicial discipline and accountability aimed at providing persons injured by complained-about judges an effective remedy, that is, compensation, and at holding judges to the standard of "Equal Justice Under Law"

(2<sup>nd</sup> Press Release: [http://Judicial-Discipline-Reform.org/judicial\\_complaints/press\\_release\\_26sep7.pdf](http://Judicial-Discipline-Reform.org/judicial_complaints/press_release_26sep7.pdf) )