A. Means, motive, and opportunity of federal judges to engage in, and so to coordinate their, wrongdoing as to make it their institutionalized modus operandi and render their Judiciary a safe haven for wrongdoing

28. Coordinated wrongdoing in the Federal Judiciary[7] is driven by (a) the most effective means, to wit, lifetime unaccountable power to decide over people's property, liberty, and lives; (b) the most corruptive motive, *money!*, staggering amounts of money in controversy between litigants; and (c) the opportunity to put both in play in millions of practically unreviewable cases.[8]

1. The means of unaccountable power

a. Only 8 federal judges impeached and removed in over 224 years: de facto unimpeachability and irremovability

29. The unaccountable power of federal judges[9] is revealed by the official statistics of the Federal Judiciary. They are published by its Administrative Office of the U.S. Courts (AO)[10] and its

---

[7] For an overview of the structure of the Federal Judiciary, see http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/FederalCourtsStructure.aspx

[8] The statements made in this proposal concern directly the Federal Judiciary and its judges. However, they are indirectly applicable to state judges for similar reasons, namely, they too are held unaccountable by their peers, who expect reciprocal treatment; by the executives who appointed or nominated them and are loath to expose subsequently their own appointees' unethical or criminal conduct; and by the legislatures, who fear their power, as the executives also do, to declare their signature laws unconstitutional. Such unaccountability encourages riskless wrongdoing.

What also varies among all of them is the mode of access to a justiceship: Federal district and circuit judges and the justices are the only ones nominated by the President and confirmed by the Senate to their justiceships for life. Although federal bankruptcy judges and magistrates are appointed by life-tenured judges for renewable terms[61], their terms are routinely renewed and the effect is similar to a life appointment. All state judges are either appointed for a term, which may be renewable, or run for their judgeships in judicial elections. The practical importance of differences in mode of access to a judgeship is lessened by the similar effect of being held unaccountable and its resulting perverse assurance that their wrongdoing is riskless.

[9] Generally in this proposal, "judges" means U.S. Supreme Court justices; U.S. bankruptcy, district, and circuit court judges (the latter are those of the Courts of Appeals for the 13 federal circuits), and magistrates, unless the context requires the term to be given a more restrictive or expansive sense.

[10] **a)** AO assists only in the administration of the federal courts and has no adjudicative functions; http://www.uscourts.gov/ContactUs/ContactUs2.aspx.

b) It was established under title 28 of the U.S. Code, section 601 (28 U.S.C. §601); http://Judicial-Discipline-Reform.org/docs/28usc601-603_Adm_Off.pdf. Its director and deputy director are appointed and removable by the chief justice of the U.S. Supreme Court after consulting with the Judicial Conference [9[a]], id; http://Judicial-Discipline-Reform.org/docs/J_THogan_Named_AO_Director.pdf.

Federal Judicial Center[11]. Although thousands and thousands of federal judges have served since their Judiciary was created in 1789 under Article III of the U.S. Constitution[12] –2,131 were in office on 30sep11[13]-, the number of those removed in more than 223 years since then is only 8![14]

30. It follows as a historic fact that once confirmed as a judge, a person can do whatever he wants without fear of losing his job. If your boss had such assurance of irremovability, would you trust her to make any effort to maintain "good Behaviour"[12] and treat you fairly rather than cut corners at your expense and abusing your rights at her whim?

31. In recent years, there have been about four times more judges than the 535 members of Congress. Yet, in those years, there have been more members showing 'bad Behaviour' than judges so doing in well over two hundred years.[15] It is not possible that those who were

---

c) AO's official statistics are posted at http://www.uscourts.gov/Statistics.aspx. Those relevant to this proposal have been collected for the various years covered by online postings, tabulated, analyzed, and together with links to the originals posted on http://Judicial-Discipline-Reform.org, from which they can be retrieved using the links provided hereunder.

d) For statistics on state courts, see Court Statistics Project, National Center for State Courts; http://www.ncsconline.org/D_Research/csp/CSP_Main_Page.html.

[11] The Federal Judicial Center is the Federal Judiciary's research and educational body; http://www.fjc.gov/. It was established under 28 U.S.C. §620; http://Judicial-Discipline-Reform.org/docs/28usc620-629_Fed_Jud_Center.pdf. The chairman of its board is the chief justice of the U.S. Supreme Court; id. >§621, subsection (a), paragraph (1) (§621(a)(1)).

[12] **a)** Cf. U.S. Constitution, Article III, Section 1: "The Judges…shall hold their Offices during good Behaviour…and…receive a Compensation, which shall not be diminished during their Continuance in Office"; **b)** http://Judicial-Discipline-Reform.org/docs/US_Constitution.pdf

[13] http://Judicial-Discipline-Reform.org/statistics&tables/num_jud_officers.pdf >njo:13

[14] Federal Judicial Center, http://Judicial-Discipline-Reform.org/statistics&tables/impeached_removed_judges.pdf**.** To put this in perspective, "1 in every 31 adults [in the U.S.] were [sic] under correctional supervision at yearend '08"; Probation and Parole in the U.S., 2008, Lauren E. Glaze and Thomas P. Bonczar, Bureau of Justice Statistics, U.S. Department of Justice, BJS Bulletin, dec9, NCJ 228230, p.3; http://bjs.ojp.usdoj.gov/index.cfm?ty=dcdetail&iid=271; and http://Judicial-Discipline-Reform.org/docs/statistics&tables/correctioneers/correctional_population_1in31.pdf**.**

If the "1 in every 31" statistic is applied arguendo to the 2,146 federal judges on the bench on 30sep10, then 69 of them should have been incarcerated or on probation or parole. Hence, the current number of 1 judge under any such type of correctional supervision –U.S. District Judge Samuel Kent of the Southern District of Texas, incarcerated on charges of sexual misconduct– defies any statistical refinement to bring it within the scope of the corresponding correctional supervisee number pertaining to the general population

[15] **a)** Some of the members of Congress who in the past few years have been incarcerated, expelled, censured, or investigated by a congressional ethics committee –let alone any investigated by the U.S. Department of Justice– or have resigned under the pall of scandal or publicly acknowledged their ethical violations are Larry Craig, John Conyers, Duke Cunningham, Tom Delay, John Doolittle, John Ensign, Mark Foley, William "Dollar Bill" Jefferson, Christopher Lee, Eric Massa, John Murtha, Bob Ney, Richard Pombo, Charles Rangle,

recommended, nominated, endorsed, and confirmed to judgeships in an eminently political process conducted by politicians in "Washington[, a place that] is dominated by the culture of corruption"[16a], could have turned out to be so astonishingly consistent in their "good Behaviour". The corrupt, tainted as they are, could not have bestowed incorruptibility on those whom they chose as judges, aside from the fact that no one could do so on anybody else. It is more likely that they put in office judges whom they expected either to uphold the legislation that they had passed or would pass to enact their political agenda[17] or to be lenient toward them if on charges of their own corruption[16b] they had to face those judges or their peers in future. This explains

---

Rick Renzi, James Traficant, Ted Stevens, Anthony Weiner, David Wu; http://www.ethics.senate.gov/public/index.cfm/annualreports; Cf. http://www.crewsmostcorrupt.org/mostcorrupt; https://www.judicialwatch.org/corrupt-politicians-lists/

b) Congressional approval is up. But barely; Ed O'Keefe; Inside the 112th Congress, *The Washington Post*, 12jun12; http://www.washingtonpost.com/blogs/2chambers/post/congressional-approval-is-up-but-barely/2012/06/11/gJQApSiZVV_blog.html;

c) Gallup's trend line on congressional approval in Why 'Fast and Furious' is a political loser; Chris Cillizza and Aaron Blake; The Fix, *The Washington Post*, 26jun12; http://www.washingtonpost.com/blogs/the-fix/post/why-fast-and-furious-is-a-political-loser/2012/06/25/gJQA80p42V_blog.html?wpisrc=nl_pmfix

[16] **a)** Speaker of the U.S. House of Representatives Nancy Pelosi, in addition to so denouncing Washington, promised in 2006 "to drain the swamp of corruption in Washington"; http://Judicial-Discipline-Reform.org/docs/corruption_culture_dominates_Washington.pdf. **b)** Members of Congress trade in companies while making laws that affect those same firms, Dan Keating, David S. Fallis, Kimberly Kindy and Scott Higham, *The Washington Post*, 23jun12; http://Judicial-Discipline-Reform.org/docs/Legal_news.pdf >Ln:111.

[17] **a)** President Franklin D. Roosevelt had key elements of his New Deal legislation declared unconstitutional by Supreme Court justices that advocated a free market and did not approve of his market regulation aimed at correcting both some of the excesses that had led up to the Great Depression of 1929 and the widespread poverty that the latter had brought about. He countered with his 1937 court packing proposal: He attempted to increase from 9 to 15 the number of justices with his own supporters, whose votes would nullify those of the justices opposing his legislation. His proposal failed because it was deemed an abuse of the Executive trying to manipulate the Judiciary and deprive it of its independence.

This historical event stands as a reminder to the executive and legislative branches of how vulnerable they are if the judiciary wants to retaliate against them for investigating judges for wrongdoing: The judges can close ranks and simply and without raising any suspicion declare their programmatic legislation unconstitutional. For President Obama and the Democrats in Congress such legislation would be the health care and Dodd–Frank Wall Street reform acts. Yet, the judges are even more vulnerable, as shown below.(jur:92§d).

b) This event highlights the oddity of all the 2012 presidential nominee candidates having criticized federal judges openly and harshly for being either "activist" or "liberal"; http://Judicial-Discipline-Reform.org/docs/Rep_candidates_fed_judges_12.pdf >act_j:61. Those are subjective notions that only appeal to like-minded people. By contrast, this proposal is founded on the broader basis of objective evidence of the judges' wrongdoing, which is apt to outrage people of all persuasions and stir them up to demand that the media and the authorities investigate and hold them accountable and undertake judicial reform.

why corrupt politicians and the peers who condone(jur:88§§a-d) their corruption disregard complaints about 'badly behaving' judges. If they investigated and disciplined those judges, they would antagonize not only those under investigation, but also turn into their enemy the whole class of them, a specially dangerous one: life-tenured, in practice unimpeachable, bias-longholding federal judges. Corrupt politicians and their condoners fear that if they ended up being indicted and brought before those judges and their peers, the judges would take that opportunity to retaliate against them and teach others a lesson: *Don't you ever mess with us!*

b. Systematic dismissal of 99.82% of complaints against judges and up to 100% of denials of petitions to review dismissals

32. Under the Judicial Conduct and Disability Act of 1980[18a] any person can file a complaint against a federal judge for misconduct. But of the 9,466 complaints filed during the 1oct96-30sep08 12-year period reported online(jur:10; cf. jur:12-14), 99.82% were dismissed with no investigation [19a,b]. Since these complaints are kept confidential, they are not available to the public, who is thereby prevented from reviewing them to detect either patterns or trends concerning any individual judge or all judges as a class, or the gravity and reliability of the allegations.

33. Moreover, in the 13-year period to 30sep09, the all-judge judicial councils of the federal circuits, charged with their respective administrative and disciplinary matters, have systematically denied complainants' petitions to review[18b] such dismissals[19c]. In fact, the district and circuit judges on the Judicial Council of the Second Circuit[18f], including Then-Judge Sonia Sotomayor during her stint there[20] as member of the Circuit's Court of Appeals[18g], denied 100% of those petitions (jur:11) during FY96-09.[19d] Thereby they pretended that in that 13-year period not a single one of their 2nd Circuit complained-against peers engaged in conduct suspect enough to warrant the review by the Council of the dismissal by the CA2 chief judge of the corresponding complaint.

34. They also pretended that all of the many judges that during that period belonged on a rotating basis to that 13-member Council happened to come through their independent exercise of personal judgment to the unfailingly consistent conclusion that, not even the same chief judge, but rather, the successive chief judges were correct in every one of their complaint dismissals whose review was petitioned to the Council. To illustrate how utterly contrived and thus impossible this permanently coincidental eye to eye seeing is it suffices to try to imagine hundreds of cases each with particular factual and legal issues within any given category of cases in which nevertheless the fewer, eight associate justices of the Supreme Court invariably agreed with the decisions made by one or successive chief justices during a 13-year period. Is there an issue with varying

---

[18] **a)** http://Judicial-Discipline-Reform.org/docs/28usc351-364.pdf; **b)** id. >§352(c); **c)** >§353; **d)** >§354(a)(1)(A), (C); **e)** >§351(d)(1); 363; **f)** http://www.ca2.uscourts.gov/judcouncil.htm; **g)** http://www.ca2.uscourts.gov/

[19] **a)** Table S-22. Report of Action Taken on Complaints [previously Table S-23 or S-24]; AO, Judicial Business of the U.S. Courts; http://www.uscourts.gov/Statistics/Judicial Business.aspx; **b)** collected and relevant values tabulated, http://Judicial-Discipline-Reform.org/statistics&tables/judicial_misconduct_complaints.pdf >Cg:1 & 5a/fn.18; **c)** id. >Cg:6; **d)** id. >Cg:3, row 63, Cg:7 and 48; **e)**id. >Cg:4, 6; **f)** fn109b >2482§XV. Appendix/CA:2180: *DeLano*, 06-4780-CA

[20] http://Judicial-Discipline-Reform.org/docs/J_Sotomayor_Jud_Council_member.pdf

circumstances on which you have invariably agreed with another person for the last 13 years?

35. This denial of 100% -and even anything close to it- of petitions for review of peer wrongdoing complaint dismissal reveals perfect implicit or explicit coordination between judicial peers to reciprocally protect themselves on the understanding that 'today I dismiss a complaint against you, tomorrow you dismiss any against me or my buddies whatever the charge…*no questions asked!*' This establishes complicit collegiality among judicial peers: They provide to each other the wrongful benefit of such reciprocal protection at the expense of complainants, who are deprived of any rightful relief from the cause for complaint. They also impair the integrity of both the administration of justice and themselves, for partiality toward peers replaces "the equal protection of the laws" required by the 14th, and through it, the 5th Amendments[12]; and breaches the oath that they took to "do equal right to the poor [in judicial connections] and to the rich [in judicial decision-making power to reciprocate a wrongful benefit]"[90].

36. Realizing how totally rigged is the handling of complaints filed under the Judicial Conduct Act[18a] and how intolerably it condemns lawyers to keep suffering at the hands of federal judges, the two largest and most influential bar associations in New York City managed to set up an alternative complaint mechanism with the Court of Appeals for the Second Circuit. It provides for these three parties to appoint a "Joint Committee on Judicial Conduct [whose] mission is to serve as an intermediary between members of the bar and the federal courts"[21a]. By those terms, only lawyers can file a complaint with that Committee.[21b] This means that the pro ses that filed 49.2%[64] of the appeals in FY11 (the year to 30sep11) in the federal courts of appeals and the rest of the non-lawyer public are left out and must continue to file under the Act complaints that have an average 99.82%(jur:24¶32) chance of being dismissed.

c. Complaint dismissal without any investigation constitutes automatic abusive self-conferral of the wrongful professional benefit of immunity from discipline

37. Although a chief judge can appoint an investigative committee to investigate a complaint[18c] and a council can "conduct any additional investigation that it considers to be necessary"[18d], years go by without a single committee being appointed and any additional investigation being conducted in any of the 12 regional circuits[22a] and 3 national courts[18e]. As a result, the complained-against judges have gotten scot-free without the statistics reporting *for 13 years nationwide* but 1 single private censure and 6 public ones out of 9,466 complaints.[19e] This is .07% or 1 in every 1,352.

---

[21] **a)** Press release of Chief Judge John M. Walker of the Court of Appeals for the Second Circuit, jointly with Bettina B. Plevan, President of the Association of the Bar of the City of New York, and Joan Wexler, President of the Federal Bar Council, announcing the continuing and new members of the Joint Committee on Judicial Conduct, originally created in 2001; http://Judicial-Discipline-Reform.org/NYCBar_FBC/Comm_JudConduct_17nov5.pdf. **b)** But that Committee too knows better than to even acknowledge receipt of a professionally prepared complaint supported with abundant evidence and involving even two chief circuit judges in covering up a bankruptcy fraud scheme run by judges of the 2nd Circuit; http://Judicial-Discipline-Reform.org/NYCBar_FBC/to_ComJudConduct_19jun6.pdf.

[22] **a)** http://www.uscourts.gov/Court_Locator.aspx; **b)** http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/DistrictCourts.aspx

The judges have arrogated to themselves the power to effectively abrogate in self-interest that Act[18a] of Congress granting the people the right to complain against them and to petition for review of the dismissal of their complaints.[23]

38. Through complaint dismissal judges also obtain another wrongful professional benefit in addition to self-exemption from discipline, namely, the dispatch through expediency of their judicial work of administering justice. This type of benefit is increased when they resort to their means for wrongdoing, that is, unaccountable judicial decision-making power, to get rid of cases through the expedient of summary orders and perfunctory "not for publication" and "not precedential" decisions(jur:43§1).

d. Abusive self-granted immunization for even malicious and corrupt acts

39. The Supreme Court has protected its own by granting judges absolute immunity from liability for violating §1983 of the Civil Rights Act[24], although it applies to "every person" who under color of law deprives another person of his civil rights.[25] "This immunity applies even when the judge is accused of acting maliciously and corruptly".[id.] The Court has also assured judges that "A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority"[26]. Appeals from decisions holding malicious judges harmless are not a remedy: Most litigants cannot afford to appeal and ignore how to, especially if pro se. Since more than 99% of appeals to the Supreme Court are denied[27], appeals offer no deterrence.

40. This self-immunization from liability is coupled with the systematic dismissal of complaints against them(jur:24§b). Through both mechanisms, judges self-ensure their historic de facto beyond prosecution status and unimpeachability. They enable them to remain unaccountable. Their unaccountability engenders an irresistible inducement to abuse their judicial power: risklessness. Their wrongdoing does not imperil either their office, their compensation, or their good repute. It has no downsize; only the upside of some illegal or unethical benefit, which may be material, professional, or social. Unaccountability renders the power that they wield not just enormous, but

---

[23] **a)** Complaint statistics are reported under 28 U.S.C. §604(h)(2), http://Judicial-Discipline-Reform.org/docs/28usc601-613_Adm_Off.pdf, to Congress, which in self-interest ignores the Judiciary's nullification of its Act, the harm to the people that it represents notwithstanding. **b)** Cf. http://Judicial-Discipline-Reform.org/docs/SCt_knows_of_dismissals.pdf

c) On the history leading to the sham drafting and adoption of the new rules for federal judges to process complaints against their peers so as to ensure the continued self-immunization against any investigation and discipline through systematic dismissal of complaints see fn.105b.

[24] http://Judicial-Discipline-Reform.org/docs/42usc1981_civil_rights.pdf

[25] **a)** *Pierson v. Ray*, 386 U.S. 547 (1967); http://Judicial-Discipline-Reform.org/docs/Pierson_v_Ray_jud_immunity.pdf; **b)** id.; but see J. Douglas's dissent.

[26] *Stump v. Sparkman*, 435 U.S. 349 (1978); http://Judicial-Discipline-Reform.org/docs/Stump_v_Sparkman_absolute_immunity.pdf

[27] http://Judicial-Discipline-Reform.org/statistics&tables/SCt/SCt_caseload.pdf.

also absolute, which is the key element in power becoming absolutely corruptive.[28]

e. All meetings held behind closed doors; no press conferences held

41. To evade accountability, they hold all their adjudicative, administrative, disciplinary, and policy-making meetings behind closed doors[29] and never appear at a press conference. That cloaks their operations in actual secrecy. In the same vein, the unreviewability in practice of their decisions, discussed next(jur:28§3), cloaks them in virtual secrecy. The Federal Judiciary has adopted actual and virtual secrecy as its institutional policy and the cover in practice of its judges' wrong and wrongful conduct and decisions. It is the most expedient and inexpensive measure to prevent detection of wrongdoing…*close the doors!*…and a powerful inducement to engage in it.

2. The corruptive motive of money

42. Two chief justices have stated the critical importance that federal judges attach to their salaries.[30] Unfortunately for them, they do not fix their own salaries. However, just the bankruptcy judges in only the 1,536,799 consumer bankruptcies filed in calendar year 2010 ruled on $373 billion[31].

---

[28] Here are applicable the aphorisms of Lord Acton, Letter to Bishop Mandell Creighton, April 3, 1887: "Power corrupts, and absolute power corrupts absolutely".

[29] http://judicial-discipline-reform.org/Follow_money/unaccount_jud_nonjud_acts.pdf >2

[30] **a)** "I will reiterate what I have said many times over the years about the need to compensate judges fairly. In 1989, in testimony before Congress, I described the inadequacy of judicial salaries as "the single greatest problem facing the Judicial Branch today." Eleven years later, in my 2000 Year-End Report, I said that the need to increase judicial salaries had again become the most pressing issue facing the Judiciary." Chief Justice William Rehnquist, 2002 Year-end Report on the Federal Judiciary, p.2. http://www.supremecourtus.gov/publicinfo/year-end/2002year-endreport.html; and http://Judicial-Discipline-Reform.org/docs/Chief_Justice_yearend_reports.pdf >CJr:79

b) "[Administrative Office of the U.S. Courts] Director Mecham's June 14 letter to you makes clear that judges who have been leaving the bench in the last several years believe they were treated unfairly… [due to] Congress's failure to provide regular COLAs [Cost of Living Adjustments]…That sense of inequity erodes the morale of our judges." Statement on Judicial Compensation by William H. Rehnquist, Chief Justice of the United States, Before the National Commission on the Public Service, July 15, 2002. http://www.supremecourtus.gov/publicinfo/speeches/sp_07-15-02.html; and http://Judicial-Discipline-Reform.org/docs/CJ_Rehnquist_morale_erosion_15jul2.pdf

c) "Congress's inaction this year vividly illustrates why judges' salaries have declined in real terms over the past twenty years…I must renew the Judiciary's modest petition: Simply provide cost-of-living increases that have been unfairly denied!" U.S. Chief Justice John Roberts, Jr., 2008 Year-end Report on the Federal Judiciary, p. 8-9. http://www.supremecourt.gov/publicinfo/year-end/year-endreports.aspx >2008;

d) http://Judicial-Discipline-Reform.org/statistics&tables/SCt/SCt_yearend_reports.pdf >yre:144-146; **e)** id. >yre:9-10; 29; 40-43; 52-53; 62; 109-114; 129

[31] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_dollar_value.pdf

To that number must be added the $10s of billions in commercial bankruptcies that they ruled on. The other federal judges also ruled on $10s of billions at stake in cases before them, such as those dealing with antitrust, breach of contract, eminent domain, fraud, patents, product liability, licensing and fines by regulatory agencies, etc. Their unaccountable power endows their wrongful ruling on such massive amount of money with the most irresistible attribute: risklessness. Judges with an 'eroded morale' and the motive to correct what they feel to be the 'inequity of their judicial salaries'[30b] can wield their means of unaccountable power to risklessly resort to helping themselves to a portion of that mind-boggling amount of money.[32]

43. The money motive also drives judges to abuse their judicial decision-making power to obtain other material benefits, such as saving money due on taxes by filing bogus annual financial disclosure reports(jur:104¶¶236,237). Whether their motive is to gain material, professional, or social benefits through the wrongful exercise of their means for wrongdoing, that is unaccountable decision-making power, judges have ample opportunity to do so.

3. Opportunity for wrongdoing in millions of practically unreviewable cases

a. In the bankruptcy and district courts

44. The opportunity for individual and coordinated wrongdoing presents itself in the cases brought before judges for adjudication. That opportunity is amplest and most irresistible in the bankruptcy courts. There litigants are most numerous and vulnerable. Those courts are the port of entry into the Federal Judiciary of 80% of all federal cases.[33] Moreover, consumers filed 1,516,971 of the 1,571,183 bankruptcy cases filed in the year to March 31, 2011.[34] The great majority of consumers are individuals appearing in court pro se, for they are bankrupt and lack the money to hire lawyers. They also lack the knowledge of the law necessary to detect bankruptcy judges' wrong or wrongful decisions, let alone to appeal.[35] As a result, only 0.23%[36]

---

[32] 1 Timothy 6:10: 'Money is a root of all evil and those pursuing it have stabbed many with all sorts of pains'. The integration of this biblical warning and Lord Acton's aphorism, fn.28, produces another insightful statement about human conduct: When unaccountable power, the key component of absolute power, strengthens the growth and is in turn fed by the root of all evil, money, the result is that both corrupt absolutely and inevitably.

[33] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_as_percent_new_cases.pdf

[34] **a)** http://Judicial-Discipline-Reform.org/statistics&tables/latest_bkr_filings.pdf;

b) The most comprehensive set of statistics on cases are collected in the Annual Report of the Director of the Administrative Office of the U.S. Courts; http://www.uscourts.gov/Statistics/JudicialBusiness.aspx

[35] **a)** "Pro se filings are growing around the country and it is very difficult for a pro se filer to understand and successfully traverse the system," said Chief Bankruptcy Judge Judith Wizmur (D. NJ)." *Warning! Read This Before Filing Bankruptcy Pro Se*, The Third Branch, Newsletter of the Federal Courts, vol. 40, Number 12, December 2008; http://Judicial-Discipline-Reform.org/docs/Warning_bkr_pro_se_filers_TTB_dec8.pdf.

b) "While individuals can file a bankruptcy case without an attorney or "pro se," it is extremely difficult to do it successfully. It is very important that a bankruptcy case be filed and handled correctly. The rules are

of bankruptcy court decisions are reviewed by the district courts and fewer than .08%[37] by the circuit courts.[38]

45. Even litigants represented by lawyers do not fare much better necessarily. The bankruptcy bar is a specialized group of lawyers and they appear before the same bankruptcy judges repeatedly.[113b] Hence, it is not in the interest of those lawyers to provide their clients with zealous representation if that means challenging the judges by raising objections in the courtroom and taking appeals from their rulings and decisions. Doing so can provoke a judge into retaliating against the lawyers directly by disregarding or fabricating facts; misapplying the rules despite their clear wording or precedent; imposing burdensome requirements without any support in law or practical justification; time and again ruling and ruling untimely late against their motions; and indirectly by having court clerks enter the briefs and motions in the docket with dates that are wrong and detrimental to the lawyers' interest, when they enter those papers at all because they were not 'accidentally lost or misplaced'; schedule the hearings of their motions for the worst possible time, when it is likely that the judge will 'run out of time' and a rescheduling is needed, which may also be necessary when the clerks 'inadvertently set the hearing in conflict with the judge's previous commitment to deliver the keynote speech at the annual meeting of the bar's ethics committee'; etc.

46. This type of chicanery does happen even to the elite bankruptcy lawyers who represent the

---

very technical, and a misstep may affect a debtor's rights….Debtors are strongly encouraged to obtain the services of competent legal counsel"; http://www.uscourts.gov/FederalCourts/Bankruptcy/BankruptcyResources/FilingBankruptcyWithoutAttorney.aspx.

[36] Although 6,142,076(G1) bankruptcy cases were filed during FY05-09, only 14,249 were appealed or withdrawn to the district courts(G7). These appeals (and withdrawals) represented a miniscule 0.23%(H7), less than a quarter of one percent or 1 of every 431 bankruptcy cases. Bankruptcy appeals can also be taken to the Bankruptcy Appellate Panels or BAPs, set up under 28 U.S.C. §158(b)(1)[61a], which are composed of three bankruptcy judges. However, they only exist in 5 of the 12 regional circuits; http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/Bkr_App_Panels.pdf. In any event, there were only 4,154 BAP appeals(G8). Hence, the total of bankruptcy appeals to either the district courts or the BAPs was 18,403(G9), which still represents a miniscule 0.3%(H9) of all FY05-09 bankruptcy cases(G1) or 1 of every 334, that is, 3 of every 1,000. By either calculation, as a practical matter, whatever a bankruptcy judge decides (or rules) stands. These figures are keyed to the (Table) at fn.33. Cf. http://Judicial-Discipline-Reform.org/docs/28usc158b_BAP_unconstitutional.pdf

[37] During the 5-year period of FY05-09, only 4,097(G10) bankruptcy appeals were taken to the circuit courts; compared to the 6,142,076(G1) cases filed in the bankruptcy courts, such appeals were a meager 0.07%(H10). This means that in 99.93% of the cases, bankruptcy judges did not have to fear a challenge in the circuit courts, for only 1 of every 1,499 bankruptcy cases made it to a circuit court. To put this in perspective, although bankruptcy cases constituted 79%(H5) of all new cases during that period, they only represented 1.31% of the appeals to the circuit courts(H11). Indeed, a bankruptcy judge can do anything he wants because the odds of him being taken on appeal to the circuit court, never mind of being reversed, are negligible. These odds engender the boldness of impunity. These figures are keyed to the (Table) at fn.33.

[38] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_non-biz&pro_se&appeals.pdf

creditors in big bankruptcy cases, that is, those where the assets of the debtor are worth at least $100 million and all the way to billions of dollars, involving, for example, banks; store chain retailers; communications, shipping, and multinational companies; real estate developers, etc.

> By a series of procedural maneuvers Bankruptcy Judge Balick sent the secured creditors [in the Continental Airlines bankruptcy] home with nothing at all. Two and a half months into the case, the secured creditors filed a request for adequate protection [against the decline in the value of their collateral during the bankruptcy case]. Ordinarily, a bankruptcy court will rule on such a request within 30 to 60 days. Judge Balick held the hearing…six months after the request. Then she delayed her ruling for almost an additional year. *Courting Failure; How Competition for the Big Cases is Corrupting the Bankruptcy Courts*, Lynn M. LoPucki; University of Michigan (2005); e-book ed., Chapter 2.
>
> When Houston-based Enron filed its bankruptcy in New York, the New York court retained the case over the objection of some of Enron's major creditors. The court allowed Kenneth Lay, the apparent perpetrator of one of the biggest frauds in history, to remain as CEO long enough to choose a successor who flatly refused to take action against him [on behalf of Enron and its shareholders]. Ignoring a motion for appointment of a trustee filed by major creditors, the New York court left unindicted members of Enron's corrupt management in control through the crucial stages of the case. Apparently pleased with what they saw, the fraudulent managements of three other big companies, Global Crossing, Adelphia, and Worldcom, [engaged in forum shopping too] and filed those companies' cases in New York. Id., Chapter 10.

47. The above concerns creditors represented by top bankruptcy lawyers, who may charge $400, $500, $600 or more per hour and in addition bill for armies of assistants researching the law and devising strategy. Even they are denied their rights and made to suffer losses in the millions and tens of millions of dollars by wrongdoing bankruptcy judges. The latter are appointed, reappointed, and upheld by appellate judges that allow them to take off on ego trips in pursuit at the very least of the non-material benefit of the power, prestige, and deferential treatment that come from favoring big, headline grabbing debtors in their courts; through such debtors the judges send the message to similar big ones that they can expect the same favor if they shop into their courts rather than into other judges' when filing for bankruptcy relief from their well-heeled creditors. Would it be consistent with human nature and its reflection in institutional systems to expect any of the bankruptcy judges, who are assured by their Judiciary of impunity, jur:21§1, for their law-contemptous and self-interested abuse of the rich, not to deal equally or even more abusively with poorer debtors and creditors, never mind if also appearing pro se[35], from whom they can extract risklessly even material benefits, jur:27§2, as well as other social and professional ones? Do mob bosses' soldiers who handle ruthlessly even the toughest of bullies turn into Mother Theresa of Calcutta when dealing with the weaklings[34] of their hoods who have no choice, jur:28§3, but to turn to them for protection?

1) The power to remove clerks without cause allows judges to abuse them as executioners of their wrongdoing orders

48. The judge can have the same retaliatory effect indirectly through their clerks. He can order them to take all sorts of damaging actions against challenging lawyers, such as lose or misplace the briefs and motions that they file; change their filing dates so that they miss their deadlines and are late and inadmissible, but make the filings of their opposing counsel appear timely filed even

if they are late; doctor the transcripts and entries in the record to support the judges' predetermined decision…after all, who is there to investigate the unaccountable judges' relations to bankruptcy lawyers or anybody else, including their clerks, whom they appoint?

49. On the contrary, the open-ended conferral of power on clerks could mislead them into thinking that they can do anything. Is it likely that after reading the following provision they feel that the Nuremberg principle, i.e., following orders is no excuse for committing a crime, does not apply to them?

> 28 U.S.C. §956. Powers and duties of clerks and deputies. The clerk of each court and his deputies and assistants shall exercise the powers and perform the duties assigned to them by the court.

50. Clerks who refuse to obey a judge's order to do wrong can find themselves without a job on the spot, for they are subject to removal without cause, that is, the judges can capriciously and arbitrarily terminate their livelihood for any and no reason at all.

> 28 U.S.C. §156. Staff (a)…the bankruptcy judges for such district may appoint an individual to serve as clerk of such bankruptcy court. The clerk may appoint, with the approval of such bankruptcy judges, and in such number as may be approved by the Director, necessary deputies, and may remove such deputies with the approval of such bankruptcy judges.[39]

51. The clerks and employees of the other courts also work at the mercy of the judges, who wield over them the same power of removal without cause, as provided for in the Judicial Code:[40]

a) Provisions in the Judicial Code, 28 U.S.C.[40], enabling removal without cause

<table>
<tr><th>Supreme Court</th><th>Courts of Appeals</th><th>District Courts</th><th>U.S. Court of Federal Claims</th><th>Court of Internat'. Trade</th></tr>
<tr><td rowspan="3">§671 Clerk and deputies
§672. Marshall
§673. Reporter
§677. Administrative Assistant to the Chief Justice</td><td rowspan="3">§332(f)(2) Circuit executive
§711. Clerks and employees
§713. Librarians
§714. Criers and messengers
§715. Staff attorney and technical assistants</td><td>§751 Clerks</td><td>§791. Clerk and its deputies and employees
§795. Bailiffs and messengers</td><td rowspan="3">§871. Clerk, chief deputy clerk, assistant clerk, deputies, assistants, and other employees
§872. Criers, bailiffs, and messengers</td></tr>
<tr><td>Bankruptcy Courts</td><td>Court of Appeals for the Federal Circuit</td></tr>
<tr><td>§156</td><td>§332(h)(1)</td></tr>
<tr><td colspan="2">Administrative Office of the U.S. Courts</td><td>§601</td><td>Federal Judicial Center</td><td>§624(1)</td></tr>
</table>

52. There is no statutory provision in the Judicial Code making 5 U.S.C. Government Organization and Employees, governing appointments and other personnel actions in the competitive service, mostly in the Executive Branch, applicable to the employees of the Judicial Branch.

---

[39] http://Judicial-Discipline-Reform.org/docs/28usc151-159_bkr_judges.pdf

[40] http://Judicial-Discipline-Reform.org/docs/28usc_2011.pdf

> 5 U.S.C §2102. The competitive service. (a) The ''competitive service'' consists of— …(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute….[41]

53. How precariously these court employees hang to their jobs becomes starkly evident by contrasting the curt provision for their removal without cause to those concerning magistrates:

> 28 U.S.C. §631(i) Removal of a magistrate judge during the term for which he is appointed shall be only for **incompetency, misconduct, neglect of duty, or physical or mental disability**, but a magistrate judge's office shall be terminated if the conference determines that the **services performed by his office are no longer needed**. Removal shall be by the judges of the district court for the judicial district in which the magistrate judge serves; where there is more than one judge of a district court, **removal shall not occur unless a majority of all the judges of such court concur** in the order of removal; and when there is a tie vote of the judges of the district court on the question of the removal or retention in office of a magistrate judge, then removal shall be only by a concurrence of a majority of all the judges of the council.…(emphasis added)

54. On the other hand, clerks can execute the orders to engage in wrongdoing confidently that no harm will come to them as a consequence. They can be sure that the judges extend to them the impunity that they have enjoyed for the last 223 years since the creation of the Judiciary in 1789 during which only 8 federal judges have been impeached and removed.[14] This explains why also lawyers find that doing wrong for or with a bankruptcy judge is completely safe. Moreover, being in the good graces of bankruptcy judges has historically proved to be very profitable.

2) Congress's 1979 finding of "cronyism" between bankruptcy judges and lawyers and its failed attempt to eliminate it

55. A corrupt and harmful relation between bankruptcy judges and the bankruptcy bar has a very long history. Congress acknowledged its existence and tried to eliminate it by adopting FRBP 2013.[42] The Advisory Committee[43] summarized the Congressional findings in its Note in 1979 to

---

[41] http://Judicial-Discipline-Reform.org/docs/5usc_2011.pdf

[42] The Federal Rules of Bankruptcy Procedure, FRBkrP, with the Notes of the Advisory Committee, current after incorporation of all amendments are at http://uscode.house.gov/download/downloadPDF.shtml >112th Congress, 1st Session (2011) (2006 Edition and Supplement V) [or http://uscode.house.gov/pdf/2011/] > Thursday, April 12, 2012 7:21 AM 13385045 2011usc11a.pdf; http://Judicial-Discipline-Reform.org/docs/FRBkrP_notes_3jan12.pdf. For the Bankruptcy Code, 11 U.S.C., see fn.47a.

To find the text of a rule in force at a given point in time, go to the official link above and click on the year in question and on the equivalent of 2010usc11a.pdf for the chosen year; or consult *Bankruptcy Code, Rules and Forms*, *2010 ed.,* published by West Thomson, which also provides information on amendment and applicability dates and contains the official Notes as well as other editorial enhancements; http://west.thomson.com/productdetail/160035/22035157/productdetail.aspx?promcode=600582C43556&promtype=internal. Amended rules become effective each December 1 as proposed by the Supreme Court to Congress by the preceding May 1 and not modified by the latter; fn.40 >§§2072-2075.

[43] "The Committee on Rules of Practice and Procedure and the Advisory Committee on the Federal Rules of Bankruptcy Procedure, Judicial Conference of the United States[91a], prepared notes explaining the

that rule (at the time titled Rule 2005)[44] thus:

> A basic purpose of the rule [that "The clerk shall maintain a public record listing fees awarded by the court (1) to trustees and attorneys, accountants, appraisers, auctioneers and other professionals employed by trustees[45a], and (2) to examiners"] is to prevent what Congress has defined as "cronyism." Appointment or employment, whether in a chapter 7 or 11 case, should not center among a small select group of individuals unless the circumstances are such that it would be warranted. The public record of appointments to be kept by the clerk will provide a means for monitoring the appointment process.
>
> Subdivision (b) provides a convenient source for public review of fees paid from debtors' estates in the bankruptcy courts. Thus, public recognition of appointments, fairly distributed and based on professional qualifications and expertise, will be promoted and notions of improper favor dispelled. This rule is in keeping with the findings of the Congressional subcommittees as set forth in the House Report of the Committee on the Judiciary, No. 95-595, 95th Cong., 1st Sess. 89-99 (1977). These findings included the observations that there were **frequent appointments of the same person**, contacts developed between the bankruptcy bar and the courts, and **an unusually close relationship between the bar and the judges** developed over the years. A major purpose of the new statute is **to dilute these practices and instill greater public confidence in the system**. Rule 2005 implements that laudatory purpose. (emphasis added)

56. To eliminate this "cronyism", Congress also deprived bankruptcy judges of the power to appoint trustees and prohibited them from presiding over, or even attending, the meeting of creditors with the debtors. Instead, it provided for the U.S. trustees, who are government officers belonging to the Executive Branch and appointed by the attorney general[46a], to appoint private trustees for chapters 7, 11, 12, and 13 cases[46b], who are paid, not by the government, but rather from commissions out of the bankruptcy estate. However, it is the bankruptcy judge presiding over a case who determines whether a private trustee earns her requested per case "reasonable compensation for actual, necessary services rendered"[47] and "reimbursement for actual, necessary

---

purpose and intent of the amendments to the rules. The Committee Notes may be found in the Appendix to Title 11, United States Code, following the particular rule to which they relate." Rep. Lamar Smith, Chairman of the Committee on the Judiciary of the House of Representatives, Foreword to the Federal Rules of Bankruptcy Procedure, 1dec11; http://judiciary.house.gov/about/procedural.html >Federal Rules of Bankruptcy Procedure as of 1dec11; http://Judicial-Discipline-Reform.org/docs/FRBkrP_1dec11.pdf.

[44] Cf. http://Judicial-Discipline-Reform.org/docs/FRBP_Rules_Com_79.pdf >Rule 2005

[45] **a)** fn.62 >11 U.S.C. §327. Employment of professional persons. **b)** Id. >§341; . **c)** cf. fn.169

[46] **a)** http://Judicial-Discipline-Reform.org/docs/28usc581-589b_US_trustees.pdf >§581

b) Id. >§589 "(a) Each United States trustee…shall - (1) establish, maintain, and supervise a panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7 of title 11…(b) If the number of cases under chapter 12 or 13 of title 11 commenced in a particular region so warrants, the United States trustee for such region may, subject to the approval of the Attorney General, appoint one or more individuals to serve as standing trustee, or designate one or more assistant United States trustees to serve in cases under such chapter."

[47] **a)** http://Judicial-Discipline-Reform.org/docs/11usc_Bkr-Code_11.pdf;

b) id. on compensation of trustee >§330(a)(1)(A) and (4) and 331; and **(1)** if under Chapter 7 >§§326(a) and 330(b),; **(2)** if under Chapter 13 •if a panel or standing trustee >§§326(b),

expenses"[48]. If the judge finds that the trustee's request does not meet such criteria, the trustee ends up having invested her effort and time in the case for naught and paying out of her own pocket the expenses incurred; otherwise, she receives a diminished amount or even a pittance on the dollar. This is more likely to happen to trustees who challenge the bankruptcy judge than to those that, like the ones that judges used to appoint, acquiesce in whatever the judge says. Nothing has changed.

57. Bankruptcy judges can still feel it very unfair that they have to do all the hard and time-consuming work of signing trustees' requests for compensation for the trustees' services rendered or reimbursement for their expenses incurred or at least so claimed, but it is the trustees who get all the money. The judges cannot have failed to realize that all the trustees' work is worthless without their approving signature; the latter is what makes their work valuable. That signature has economic value. Why should their duty or personal integrity force them to give it for free? Given the historic and statistical near certainty that a federal judge will not be removed(jur:21§a) or even disciplined(jur:24§b) regardless of the nature and gravity of his wrongdoing, it is reasonable to infer from 'the totality of circumstances' –just as jurors are required to do when sitting on a civil case or even a criminal one, where the defendant risks forfeiture of his liberty and even his life– that bankruptcy judges may have forced trustees to enter into deals providing for the judges' approval of the trustees' compensation or reimbursement claims in exchange for a cut in cash, in kind, or a service. After all, who will be the wiser in the "absence of effective oversight"?(jur:35§3) Nothing has changed.

58. In fact, the bankruptcy judge still has the power to remove the trustee. It suffices for the judge to remove the trustee from one single case for the law to operate the trustee's automatic removal from all her cases.[47c] Although this provision requires that the judge's removal be "for cause", what constitutes "cause" is not defined or illustrated.(cf. jur:32¶53) This allows the judge to dangle over the trustee the threatening power of capricious and arbitrary removal however disguised as "cause".

59. Hence, it can prove costly for the trustee to be assertive and object to the judge's statements, let alone rulings, not to mention appeal from his decisions, as if the trustee's right and fiduciary duty to present her case zealously on behalf of the creditors that she represents actually existed in reality.[54] Refusing to share with the judge any of the money that she has legitimately worked for can be construed as an act of sanctionable ungratefulness and intolerable insubordination. It can provoke the judge into removing her 'for insufficient understanding of the intricacies of bankruptcy law revealed repeatedly during her performance before this court in this and numerous other cases'…and the trustee is out there in the cold, crowded lobby of the clerk's office begging for a discount rate appointment as the criminal defender of penniless defendants, holding in front of her eyes shot with disbelief the only thing colorful in her life: her pink slip from a retaliating unaccountable judge.

60. This power of removal –the counterpart of power of appointment– creates a relation of total

---

330(c), and 1326(a)(2)-(3); and ●if a standing trustee >§1326(b)(2) and 28 U.S.C. §586(e), fn.46a;

c) id. >§324; **d)** id. >§1325. Confirmation of plan [of debt repayment to creditors];

e) id >§1302(b)(2)(B) and§1326(a)(2); **f)** id >§322

[48] Reimbursement of expenses, id. >§330(a)(1)(B) and §331

dependence of the trustee on the judge's good will. Consequently, the trustee treats the judge's assessment or findings of facts and remarks or statements on the law with servile deference, adopting the same self-preserving attitude of a clerk who receives from the judge an order to engage in wrongdoing or be removed without cause[49]. Nothing has changed.

61. Therefore, so long as the judge keeps, for instance, confirming[47d] a Chapter 13 trustee's recommendations of debtors' plans for debt repayment[47e] and approving the trustee's final reports[50] and final accounts, and discharges her from liability on her performance bond posted in her cases[47f], the trustee will have the opportunity to keep earning a commission on her pending cases and recommending the confirmation of new ones. Every case is yet one more pretext to earn a commission[51] and file compensation and reimbursement claims. This gives rise on the part of the judge-trustee tandem to assembly line, indiscriminate acceptance of every bankruptcy petition regardless of its merits. It is condoned by the officers of the Executive Office of the U.S. Trustee(EOUST).

3) Congress's finding in 2005 of "absence of effective oversight" in the bankruptcy system shows that pre-1979 "cronyism" has not changed, which explains how a bankruptcy petition mill brings in the money and a bankruptcy fraud scheme grabs it

62. U.S. Trustees are duty-bound to ensure the conformance of bankruptcy cases to the law, prevent the latter's abuse, and prosecute fraud.[52] They are also responsible for impaneling and supervising the private trustees[53] that deal directly with the debtors as representatives of the

---

[49] **a)** jur:30§1); **b)** http://Judicial-Discipline-Reform.org/docs/DrCordero_DeLano_WDNY_21dec5.pdf >Pst:1281§§c-d

[50] See in jur:66§2 the analysis of the shockingly unprofessional and perfunctory "Report" on the DeLanos' repayment plan scribbled by Chapter 13 Trustee George Max Reiber and approved by WDNY Bankruptcy Judge John C. Ninfo, II; http://Judicial-Discipline-Reform.org/Follow_money/Tr_Reiber_Report.pdf

[51] fn.47a >§330(c) (on payment to the trustee of no less than $5/month from any distribution under a plan of debt repayment, which creates a perverse incentive to rubberstamp any bankruptcy relief petition and as many as possible)

[52] fn.46 >§586(a)(3) and (3)(F)

[53] **a)** Id. §586(a)(1)

b) See also U.S. Trustee Manual, U.S. Department of Justice:

> §2-2.1 Pursuant to 28 U.S.C. §586(a), the United States Trustee must supervise the actions of trustees in the performance of their responsibilities.
>
> §2-3.1 The primary functions of the United States Trustee in chapter 7 cases are the estab-lishment, maintenance, and supervision of panels of trustees, and the monitoring and supervision of the administration of cases under chapter 7 of the Bankruptcy Code.

http://www.justice.gov/ust/eo/ust_org/ustp_manual/index.htm >Chapter 7 Case Administration

> §4-3.1 The primary responsibilities of the United States Trustee in chapters 12 and 13 cases are the appointment of one or more individuals to serve as standing trustees; the supervision of such individuals in the performance of their duties; and the supervision of the administration of cases

estate for the benefit of creditors[54]. Yet, the deficient review of the trustees' case handling by the Executive Office of the U.S. Trustees (EOUST)[159d] is a contributing factor at the root of the abuse and fraud that Congress found in the bankruptcy system when it adopted a bill in 2005 with a most revealing title:

> "The purpose of the bill [Bankruptcy Abuse Prevention and Consumer Protection Act] is to improve bankruptcy law and practice by restoring personal responsibility and integrity in the bankruptcy system…[to] respond to…the **absence of effective oversight to eliminate abuse in the system** [and] deter serial and abusive bankruptcy filings." (emphasis added) [55]

63. A glaring "absence of effective oversight" is revealed by the successive U.S. Trustees for Region 2 and their Assistant U.S. trustee in Rochester, NY.[159b,c] Although private, standing trustees are required by regulation to handle their cases personally under pain of removal[56], these U.S. Trustees allowed two of their standing trustees to amass an unmanageable 7,289 cases and bring them before the same judge[113a;114b]. By comparison, a judicial emergency is defined as "any vacancy in a district court where weighted filings are in excess of 600 per judgeship"[57].

---

under chapters 12 and 13.
http://www.justice.gov/ust/eo/ust_org/ustp_manual/index.htm >Ch. 12 & 13 Case Administration

c) For similar supervisory responsibilities under state law, see Rules of Professional Conduct, 22 NYCRR Part 1200 [NY Codification of Codes, Rules, and Regulations], Rule 5.1(b); http://www.courts.state.ny.us/rules/jointappellate/index.shtml; with enhanced bookmarks to facilitate navigation also at http://Judicial-Discipline-Reform.org/docs/NYS_Rules_Prof_Conduct.pdf.

[54] fn.47a >§323 Role and capacity of trustee. (a) The trustee in a case under this title is the representative of the estate.

Senate Report 95-989 underlay the adoption of the Bankruptcy Reform Act of 1978, Pub. L. No 95-598 (1978), and consequently, constitutes the foundation of the current Bankruptcy Code of Title 11. It analyzed 11 U.S.C. §704. Duties of trustee, thus: "The trustee's principal duty is to collect and reduce to money the property of the estate for which he serves…He must be accountable for all property received. And must investigate the financial affairs of the debtor.…If advisable, the trustee must oppose the discharge of the debtor, which is for the benefit of general unsecured creditors whom the trustee represents. The trustee is required to furnish such information concerning the estate and its administration as is requested by a party in interest".

[55] **a)** HR Report 109-31 accompanying the Bankruptcy Abuse Prevention and Consumer Protection Act, Pub. L. 109-8, 119 Stat. 23, of April 20, 2005. The Report described the Act as "Representing the most comprehensive set of reforms in more than 25 years"; http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_reports&docid=f:hr031p1.109.pdf; and http://Judicial-Discipline-Reform.org/docs/BAPCPA_HR_109-31.pdf.

b) See also http://Judicial-Discipline-Reform.org/docs/ineffective_oversight.pdf >1:§I.

[56] 28 CFR §58.6(10); http://Judicial-Discipline-Reform.org/docs/28_cfr_58.pdf

[57] "Beginning in December 2001, the definition of a judicial emergency [is] any vacancy in a district court where weighted filings are in excess of 600 per judgeship, or any vacancy in existence more than 18 months where weighted filings are between 430 and 600 per judgeship, or any court with more than one authorized judgeship and only one active judge." Federal Judicial Caseload, Recent Developments, 2001, prepared by the Office of Human Resources and Statistics of the Administrative Office of the U.S. Courts (AO), p. 13, fn. 15; http://Judicial-Discipline-

4) The incompatibility of the trustee's long list of duties with allowing him to amass thousands of cases if his overseers intend to require his discharge of them conscientiously and competently

64. Handling a bankruptcy case requires the trustee to discharge a wide variety of complex and time-consuming duties to liquidate estate assets under Chapter 7, reorganize the bankrupt entity under Chapter 11, or execute a repayment of debts plan under Chapters 12 and 13 of the Bankruptcy Code(11 U.S.C)[47]. Some duties are repetitive and can last for three or five (§§1225(b)(1)(C) and 1322(a)(4) and (d)(2)); a claim of fraud may keep the case open longer(§1328(e)) as does the trustee's liability on his performance bond(§322(d)). They may involve dealing with dozens, hundreds, thousands or more creditors. They and the debtors may move for a review of even agreed-upon terms allegedly impacted so substantially by an alleged change in circumstances as to warrant modification of terms(§1127(d-f), 1144; 1323(c), 1329(a)). Some duties require the trustee to exercise good judgment, which debtors or creditors may challenge as bad judgment by suing the trustee(§323), thus tying up his attention, time, and resources even more with one single case. Among the trustee's duties are the following:

a. "investigate the financial affairs of the debtor", 11 U.S.C. §704(4)[58a], and to that end

   1) review the bankruptcy petition and schedules containing the debtor's supporting statement of financial affairs, both filed under oath and the penalty of perjury;

   2) seek and cross-check corroborating documents and assets, and interview persons;

b. move to dismiss a case or convert it to one under another chapter of the Bankruptcy Code if "the granting of relief would be an abuse of the provisions of chapter", §707(b)(1);

c. "If the debtor is engaged in business, then in addition to the duties specified in §1302(b), the trustee shall perform the duties", §1302(c):

   1) "investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan";

   2) "file a statement of any investigation conducted, including any fact ascertained pertaining to

---

Reform.org/docs/FedJud_Caseload_2001.pdf >p. 13, fn.15.

Cf. 2008 Annual Report of the AO Director, p. 38; http://www.uscourts.gov/FederalCourts/UnderstandingtheFederalCourts/AdministrativeOffice/DirectorAnnualReport.aspx >Director's Annual Report, 2008; and http://Judicial-Discipline-Reform.org/docs/AO_Dir_Report_08.pdf.

[58] **a)** Most of the trustee's duties set forth in §704 of Chapter 7 are also applicable to trustees under Chapters 11, 12, and 13 together with others added therein and elsewhere in the Bankruptcy Code; fn.47 >§§1106, 1202, and 1302.

b) If the trustee is also an attorney, as many are, she must also comply with the due diligence requirement of FRBkrP 9011, fn.42, which in pertinent part provides thus: "(b) By presenting to the court (whether by signing, filing, submitting, or later advocating) a petition, pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances…(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;…"

> fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor, or to a cause of action available to the estate; and transmit a copy thereof to…"

d. "advise…and assist the debtor in performance under the plan", §1302(b)(1);

e. "ensure that the debtor commences making timely payments under §1326", §1302(b)(4),

f. "furnish such information concerning the estate and the estate's administration as is requested by a party in interest", §704(7), which requires the trustee to satisfy the requests for such information not only from the creditors that she represents, but also from all those included in the much broader notion of "party in interest", and to that end:

   1) correspond, talk on the phone, and meet face-to-face with such parties,

   2) identify who may have such information and where it may be held,

   3) request such information, even by issuing subpoenas, defending against motions to quash them, and moving for sanctions for failure to comply;

   4) ascertain, by number crunching if necessary, the validity of the information obtained, for false information is no information at all and furnishing it does not meet the requirement of due diligence imposed on a person with fiduciary responsibility, such as the trustee[58b];

g. "convene and preside at a meeting of creditors", §341, which requires that she:

   1) ensure that notice goes out to the identified creditors;

   2) find a place large enough to accommodate them;

   3) arrange for communications equipment to ensure that creditors can question the debtor and hear his answers;

   4) conduct the meeting personally, as provided for under C.F.R. §58.6(a)(10)[56];

   5) "orally examine the debtor";

h. "collect (after adequate investigation of the debtor's inherently self-serving and thus suspect statement of financial affairs so that the trustee can establish that circumstances obtain under which "the court shall presume abuse exits", §707(b)(2)(A)(i)) and reduce to money the property of the estate for which such trustee serves (for instance, by organizing an auction that gives the widest timely notice possible of its date, place, and assets on the block to all those likely to be buyers so as to ensure that the largest percentage of the property is sold for the highest bid in a fair bidding contest so as to maximize the proceeds for the estate available for distribution to the creditors), and close such estate as expeditiously as is compatible with the best interests of parties in interest", §704(a)(1);

i. "ensure that the debtor shall perform his intentions as specified in…[his] schedule of assets and liabilities", §704(a)(3) and §521(2)(B);

j. "file…period reports and summaries of the operation of such business" "authorized to be operated", §704(8);

k. give notice and attend hearings before using, selling, or leasing estate property, §363;

l. operate the business of the debtor, §§721, 1108, 1203, 1204, or 1304;

m. "obtain unsecured credit and incur unsecured debt in the ordinary course of business",

§364;

n. “appear and be heard at any hearing that concerns the value of a property subject to a lien, confirmation of a plan or modification of it”, §1302(b)(1);

o. "make a final report and file a final account of the administration of the estate with the court and with the United States trustee", §§704(a)(9);

p. raise all sort of motions, give notice, read the opposing parties’ answer, prepare to argue them, attend the hearing and argue them, and do likewise with respect to their motions;

q. sue others and defend if sued, §323;

r. etc., etc., etc.,

65. Can the EOUST Trustees(jur:35¶62) reasonably believe that one private trustee can discharge, never mind do so competently, all those duties, many of which she is bound to perform personally, with respect to thousands of cases that may take years to close? [cf.113a,114b] Would you feel that a trustee that took on such overwhelming workload had any intention of zealously representing your interests as a creditor? If you were a debtor, would you be concerned that such trustee would make an effort, let alone a serious one, to find out whether you had concealed assets and self-servingly valued those declared or would you realize that she had spread herself so thinly as to signal that she would not investigate the whereabouts of your assets and merely rubberstamp whatever declaration you made about them?

5) The trustee's interest in developing a bankruptcy petition mill and the judges' in running a bankruptcy fraud scheme

66. A standing trustee’s annual compensation is computed as a percentage of a base, e.g., "ten percent of the payments made under the [debtor's repayment] plan"(11 U.S.C. §586(e)(1)(B) and (2))[47]. As a matter of law, "In determining the amount of reasonable compensation to be awarded to a trustee, the court shall treat such compensation as a commission, based on section 326."(§330(a)(7)) Hence, it is in the trustee's interest to increase the base by having debtors pay more so that her commission may in turn be a proportionally higher amount. Increasing the base could require ascertaining whether in the statement of financial affairs and schedules supporting his bankruptcy relief petition the debtor undervalued his assets and declared only some of them while concealing others, whose whereabouts must be determined through investigation. Any indicia that the debtor may have squirreled away assets into a rainbow pot for a post-discharge golden life must be pursued in order to enlarge the estate available for repaying the creditors.

67. Such investigation, however, takes time, effort, and money initially paid out of the trustees' pocket and reimbursed only if the judge finds that her expenses were "for actual and necessary services"(§330) The trustee may also be paid a lump sum per case or per distribution under a repayment plan.(§§330(b) and (c), and 326). Consequently, an investigation can adversely affect the trustee’s economic interest, for it can lead to the dismissal of the case due to the debtor's abuse of the provisions for bankruptcy relief(§707(b)(1)) or the non-confirmation of his debt repayment plan. If so, the case will no generate a stream of percentage commissions flowing to the trustee(§§1326(a)(2) and (b)(2)). To top it off she can be left holding the bag of investigative expenses! All the judge needs to do is state that 'no reasonable trustee would have wasted resources to investigate the good faith of a bankruptcy petition that on its face was obviously

abusive and doomed to dismissal'.

68. The alternative is obvious too: Never mind investigating, not even cases patently suspect of abuse, just take in as many cases as you can as trustee and make up in the total of small easy commissions and lump sums from a huge number of cases what you could have earned in commissions from assets that you added to the estate by sweating it out and risking your money to recover. Of necessity, such a strategy redounds to the creditors' detriment since fewer assets are brought into the estate for their liquidation proceeds to be distributed to them or for those assets to be taken into account in drawing up a reorganization or repayment plan. When the trustee takes it easy, the creditors take a heavy loss, whether by receiving less on the dollar or by spending a lot of money, effort, and time investigating the debtor just to get what was owed them to begin with. Conversely, that strategy benefits the debtor…provided he is not greedy and wants to keep it all to himself and instead is willing to show his appreciation for all the hard work that the trustee is not willing to do on behalf of the estate and the creditors that she represents[54].

69. The income maximizing motive of the trustee has a natural and perverse consequence: As it becomes known that she has no time but rather an economic disincentive to investigate the financial affairs of debtors, ever more debtors with ever less deserving cases for relief under the Bankruptcy Code go ahead and file their petitions. What is worse, as people not even with debt problems yet catch on to how easy it is to get a bankruptcy relief petition rubberstamped, they have every incentive to live it up by binging on their credit as if there were no repayment day, for they know there is none, just a petition waiting to be filed in order to wipe out much of their debt.

70. The debtor begins by filing in court a voluntary bankruptcy petition, which grants him relief through the initial automatic stay of creditors' efforts to collect their debts(§§301(b); 1201(a); 1301(a)). If the creditors file the petition, it is involuntary and the court issues the order of relief.(§303(h)) The common allegation underlying a petition for asset liquidation and distribution, reorganization of a going business and debt restructuring, or debt repayment plan is that the debtor owes too much relative to the assets that he has or the income that he earns to repay his creditors. So he voluntarily asks the judge to be discharged of part or all of his debt; or he keeps living or doing business on credit until the creditors force him into involuntary bankruptcy and asks the court to require the debtor to pay them. In either scenario, the debtor may claim exemption(Form 6. Schedule C-Property Claimed as Exempt; fn.112 >D:35=W:55) of assets from the reach of creditors and dispute what creditors claim is owed them and its value.

71. For their part, the creditors may challenge the exemptions in order to keep the estate as large as possible, that is, the pool of assets that the trustee is charged with either liquidating so as to pay from the proceeds the debtors' debts or otherwise taking into account in determining the debtor's ability to repay under a plan. The creditors may also try to find any concealed assets to ensure that the largest estate is taken as the basis for determining how much they get on the dollar of debt owed them.

72. Under such adversarial circumstances, the trustee is the representative of the estate[54]. As such, she must take an active role in advocating the creditors' interest; she is not an arbiter who passively takes in the facts and claims submitted to her by the parties in controversy for fair and impartial adjudication. Yet, the U.S. Trustee allows a single trustee to amass thousands of cases.[113a,114b] This is unnecessary and unjustifiable given that any number of trustees can be impaneled. What they earn comes from the estates that they represent, not from taxpayers' money.

73. As for the judge, he keeps approving the trustee's actions by simply signing her recommendations for approving bankruptcy petitions and her claims for reimbursement. Consequently, the trustee has neither the time nor the incentive to do little more than the bare minimum. On the contrary, her interest lies in rubberstamping bankruptcy petitions for approval by the judge so as to ensure as effortlessly and risklessly as possible an ever-greater stream of percentage commissions or lump sums per case or distribution. Thereby she develops a bankruptcy petition mill…but only if the bankruptcy judge plays along. That is likely to happen, for the judge too is driven by the money motive[30]. In addition, he has the means, his unaccountable judicial decision-making power(jur:21§1), and the opportunity in thousands of practically unreviewable cases to pursue that motive by running a bankruptcy fraud scheme[60]. What is more, he is irresistibly drawn to run it because its risklessness is all but totally assured by the history of de facto unimpeachability and his peers' common interest in reciprocal cover-up dependent survival. This situation of no downside, just ever growing profits lays the basis for collegial complicity between the judge and the trustee, and by extension the "professional persons" [45a] employed by the latter. All of them benefit as wrongdoing insiders of the bankruptcy and legal systems.

74. The risklessness of their wrongdoing is further assured by the fact that nobody has both the power and the interest to challenge the judge effectively. The trustee is subservient to the bankruptcy judge, who can remove her(jur:34¶58) and who determines whether she gets any reimbursement for her expenses. So their relation becomes one of junior-senior partner connivance: The trustee develops the bankruptcy petition mill that feeds petitions into the bankruptcy fraud scheme run by the bankruptcy judge with other judges. The later include the judges to whom his decisions are appealed, that is, the district judges and the circuit judges who appointed him(jur:43¶80), all of whom share the money motive. Other bankruptcy and legal system insiders benefit too as junior partners thanks to the judges' power to decide whether they win or lose their cases before him or whether they keep their jobs or are removed without cause(jur:30§1). The fewer are involved in the scheme, the tighter the judges' control over it, the less risk that somebody becomes unruly or careless and exposes everybody else, and the fewer the shares into which the pie of profit has to be divided.

75. As for the pro se debtors, they may not even realize that they are being abused; but even if they do, their slight understanding of the law can only allow them to whimper in front of the judge or his appellate peers. Moreover, when bankruptcy is a debtor's artifice to conceal assets from his creditors and get a discharge of the debts he owes them, the debtor is already predisposed to any proposal for further wrongdoing so long as it benefits him too. He may be in that collusive mindframe even when his bankruptcy is legitimate. The enormous stress caused by his worst financial predicament ever may have made him desperate to get any relief even if by acquiescing in wrongdoing.

76. For similar reasons, creditors can be willing accomplices, for they either want to get paid for non-existent or inflated debts or risk never receiving payment on their legitimate debts or only after heavily discounted to a few cents on the dollar. Neither the debtor has money nor the creditor wants to throw good money after bad in a protracted court battle with insiders who have superior knowledge and the power to prevail. If nevertheless they challenge the trustee, they must do so before her bankruptcy judge, who has no interest in reviewing their complaints fairly and impartially only to let the trustee lose the money from which he is expecting his senior partner cut.

77. Given the enormous amount of money at stake(jur:27§2), the absence of honest and "effective

oversight"(jur:35§3) causes the bankruptcy system to break down; the system of justice suffers the same profound detriment. The U.S. Trustees and the bankruptcy judges are not the only ones that have failed to provide such oversight. The chief circuit judges and judicial councils charged with the duty to process complaints against judges systematically dismiss them(jur:24§b) in the interest, not of justice, but rather "cronyism"(jur:32§2). So have the Department of Justice and the FBI[159] as they pursue the presidents' interest in not antagonizing judges that can retaliate by declaring the adopted pieces of their legislative agenda unconstitutional[17]. Consequently, the bankruptcy system has become the fiefdom of unaccountable judicial lords that risklessly abuse their power to pursue their money motive[30]. Together with other insiders, they either prey on both debtors and creditors or turn some into their accomplices to exploit others. The law of the land is replaced by "local practice"[59] to produce a bankruptcy fraud scheme mounted on individual trustees' bankruptcy petition mills. Therein begins the grinding of Equal Justice Under Law through contemptuous disregard of due process and substantive rights. It continues in the appellate courts through the judges' coordination that has turned wrongdoing into their institutionalized modus operandi.(jur:49§4)

6) The economic harm that a bankruptcy fraud scheme inflicts on litigants, the rest of the public, and the economy

78. Bankruptcy fraud causes injury in fact directly to the debtors and the creditors whose property rights are disregarded, their suppliers of goods, services, and financing who get paid late or not at all and who in turn go bankrupt or must raise their prices to recoup their loss or scale down their operation because their projected income is not coming in. A bankruptcy fraud scheme run by judges is even more harmful.[60] Instead of the law being used to prevent, discover, and eliminate fraud, the very ones entrusted with its application corrupt it into the instrument for operating and covering up fraud in a more coordinated, insidious, and efficient way.

79. A fraud scheme can wreak economic harm on so many people as to endanger the national economy itself. Just think of the tens of thousands of employees, retirees, and investors that lost their jobs, pensions, or life savings overnight when ENRON, Lehman Brothers, and Bernie Maddox went bankrupt. The economic shockwaves of their collapse reached those people first and then travelled through them to all the restaurants, transportation, leasing, credit card, and entertainment companies, hotels, landlords, and so many others who no longer had them as their patrons as they did before. Through this transmission belt mechanism, fraud losses are socialized. It is only more obvious in how it spreads when the scheme collapses, but it is also at work while the scheme is in operation, only more insidiously. A judge-run bankruptcy scheme that operated on the $373 billion at stake just in the 1,536,799 consumer bankruptcies filed in CY10 cannot fail to injure the public at large.

---

[59] http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_local_practice.pdf

[60] How a Fraud Scheme Works, Its basis in the corruptive power of the lots of money available through the provisions of the Bankruptcy Code and unaccountable judicial power; http://Judicial-Discipline-Reform.org/Follow_money/How_fraud_scheme_works.pdf

b. In the circuit courts

1) Summary orders, «not for publication» and «not precedential» decisions

80. Even when a bankruptcy decision reaches the court of appeals of the respective circuit, it is reviewed by the very circuit judges that appointed the bankruptcy judge for a 14-year renewable term.[61] They are biased toward affirmance, lest a reversal impugn their judgment for having appointed an incompetent or dishonest bankruptcy judge. Moreover, a reversal would require circuit judges to deal with the Bankruptcy Code's intricate statutory provisions and their rules of application and forms[62] and the Federal Rules of Bankruptcy Procedure[63] and write a decision identifying the reversible error, stating the extent to which it impaired the appealed decision, and setting forth how to avoid repeating it on remand. This can be avoided by rubberstamping "Affirmed"…*next!*

81. What is *next!* can very well be an appeal by a pro se, for in FY10 in the circuit courts 30.4% of all bankruptcy appeals, in particular, and a whopping 48.6% of all appeals, in general, were pro se.[64] That characterization is fatal because those courts calculate their "adjusted filings [by] weighting pro se appeals as one-third of a case"[65a]. It derives from "[w]eighted filings statistics[, which] account for the different amounts of time district [and circuit] judges take to resolve various types of civil and criminal actions"[65b]. That weight is given a pro se case at filing time, that is, not after a judge has read the brief and knows what she is called upon to deal with[65c], but rather when the in-take clerk receives the filing sheet, sees that the filer is unrepresented, and takes in the same filing fee as that paid by a multinational company that, like Exxon in the Exxon Valdez Alaska oil spill case, can tie up the courts for 20 years. The experience of "[t]he Federal Judiciary['s] techniques for assigning weights to cases since 1946"[id.] shows that right then and there judges discount the importance that they will attribute to that pro se case and, consequently, the time that they will dedicate to solving it. Would it be reasonable to expect circuit judges with this statistically based biased mindframe to accord bankruptcy pro se cases, already decided by their bankruptcy appointees, Equal Justice Under Law?

82. This perfunctory treatment of the substantial majority of all appeals to the circuit courts can be

---

[61] **a)** http://Judicial-Discipline-Reform.org/docs/28usc151-159_bkr_judges.pdf >§152. Appointment of bankruptcy judges (a)(1); **b)** Cf. Magistrates are appointed by district judges for a term of eight years, if full time, and four years, if part time; 28 U.S.C. §631(a) and (e); http://Judicial-Discipline-Reform.org/docs/28usc631-639_magistrates.pdf

[62] 11 U.S.C.; http://Judicial-Discipline-Reform.org/docs/11usc_Bkr-Code_10.pdf

[63] http://Judicial-Discipline-Reform.org/docs/FRBkrP_1dec11.pdf

[64] http://Judicial-Discipline-Reform.org/statistics&tables/bkr_appeals&pro-se.pdf

[65] **a)** 2010 Annual Report of the Director of the Administrative Office of the U.S., p.40; http://Judicial-Discipline-Reform.org/docs/AO_Dir_Report_10.pdf; **b)** id. >p.26, 28; **c)** Pro ses do not fare any better when they are in front of the judge, as shown by a study in state courts. "Numbers are hard to come by, but what little research that exists on the topic supports the notion that going it alone [before a judge as a pro se party] is a losing proposition"; Crisis in the courts: Recession overwhelms underfunded legal services, Kat Aaron, Project Editor, Investigative Reporting Workshop at American University School of Communication; 14feb11; http://Judicial-Discipline-Reform.org/docs/KAaron_Crisis_in_courts.pdf

inferred from the representative statement that "Approximately 75% of all cases are decided by summary order. Pursuant to Interim Local Rule, summary orders may be cited, but have no precedential authority." [66]. Summary orders have no opinion or appended explanatory statement. They are no-reason[67], self-serving fiats of raw judicial power to ensure the needed unaccountability to cover up laziness, expediency, and wrongdoing.[68] They constitute a breach of contract for adjudicatory services entered into by a court and a litigant upon the latter's payment of the required court fee but not rendered by the court and deceptively substituted with a 5¢ form rubberstamped overwhelmingly with a predetermined "Affirmed". Even an additional 15% of cases are disposed of by opinions with reasoning so perfunctory and arbitrary that the judges themselves mark them "not for publication"[69] and "not precedential"[70].

83. In brief, up to 9 out of every 10 appeals are disposed of through a high-handed ad hoc fiat of unaccountable power either lacking any reasoning or with too shamefully substandard an explanation to be even signed by any member of a three-judge panel, which issues it "per curiam". They are neither to be published nor followed in any other case by any other judge of that circuit court or any other court in that circuit or anywhere else in the country. Until 2007, they could not even be cited. They still represent the betrayal of a legal system based on precedent aimed at fostering consistency and reliable expectations and intended to require that judges adjudicate cases neither on their whimsical exercise of power in a back alley nor personal notions of right and wrong, but rather by their fair, impartial, and public application of the rule of law. Through their use, federal judges show contempt for the fundamental principle that "Justice should not only be done, but should manifestly and undoubtedly be seen to be done"[71]. Non-precedential decisions constitute an expedient contrived by the judge to satisfy his need for an outcome rather than a considered and considerate statement laying its foundation in the law as previous applied and

---

[66] **a)** Second Circuit Handbook, pg.17; http://Judicial-Discipline-Reform.org/docs/CA2Handbook_9sep8.pdf. **b)** On circuit judges' policy of expedient docket clearing through the use of summary orders and the perfunctory case disposition that such orders mask and encourage, see http://Judicial-Discipline-Reform.org/docs/CA2_summary_orders_19dec6.pdf.

[67] Justice Marshall stated in his dissent in *Greenholtz v.Inmates of the Nebraska Penal & Correctional Complex, 442 U.S. 1, 40 (1979)*: "[A]n inability to provide any reasons suggests that the decision is, in fact, arbitrary".

[68] In *Ricci v. DeStefano*, aff'd per curiam, including Judge Sotomayor, 530 F.3d 87 (2d Cir., 9 June 2008); http://Judicial-Discipline-Reform.org/docs/Ricci_v_DeStefano_CA2.pdf, CA2 Judge Jose Cabranes sharply criticized the use of a meaningless summary order and an unsigned per curiam decision, id. >R:2, as a "perfunctory disposition" of that case; id. >R:6.

[69] http://Judicial-Discipline-Reform.org/SCt_nominee/JSotomayor_v_Equal_Justice.pdf >§§2-3

[70] **a)** Federal Rules of Appellate Procedure, Rule 32.1 (FRAP); http://Judicial-Discipline-Reform.org/docs/FRAppP_1dec11.pdf

b) Unpublished opinions; Table S-3; U.S. Courts of Appeals –Types of Opinions or Orders Filed in Cases Terminated on the Merits After Oral Hearings or Submission on Briefs During the 12-Month Period Ending 30sep; Judicial Business of the U.S. Courts; http://www.uscourts.gov/Statistics/JudicialBusiness.aspx, collected at http://Judicial-Discipline-Reform.org/statistics&tables/perfunctory_disposition.pdf.

[71] *Ex parte McCarthy*, [1924] 1 K. B. 256, 259 (1923). Cf. "Justice must satisfy the appearance of justice", *Aetna Life Ins. v. Lavoie et al.*, 475 U.S. 813; 106 S. Ct. 1580; 89 L. Ed. 2d 823 (1986).

providing guidance for the future conduct of not only the parties, but also the rest of the public.

84. Imagine what Thomas Jefferson would have said of 5¢ summary orders given what he did say of opinions written by the Supreme Court as a whole, i.e., per curiam, instead of the justices' traditional seriatim opinions written individually by each of them in each case: (spelling as in the original)

> The Judges holding their offices for life are under two responsibilities only. 1. Impeachment. 2. Individual reputation. But this practice compleatly withdraws them from both. For nobody knows what opinion any individual member gave in any case, nor even that he who delivers the opinion, concurred in it himself. Be the opinion therefore ever so impeachable, having been done in the dark it can be proved on no one. As to the 2d guarantee, personal reputation, it is shielded compleatly. The practice is certainly convenient for the lazy, the modest & the incompetent. It saves them the trouble of developing their opinion methodically and even of making up an opinion at all. That of seriatim argument shews whether every judge has taken the trouble of understanding the case, of investigating it minutely, and of forming an opinion for himself, instead of pinning it on another's sleeve. It would certainly be right to abandon this practice in order to give to our citizens one and all, that confidence in their judges which must be so desirable to the judges themselves, and so important to the cement of the union.
> The Letters of Thomas Jefferson: 1743-1826; Letter to Justice William Johnson Monticello, October, 27, 1822; http://Judicial-Discipline-Reform.org/docs/Legal_news.pdf >Ln:99.

2) Systematic denial of review by the whole court of decisions of its panels

85. To ensure that those decisions stand, circuit judges systematically deny litigants' petitions to have the decision of their respective 3-circuit judge panel reviewed by the whole circuit court, that is, their petitions for en banc review.[72] In the year to 30sep10, out of 30,914 appeals terminated on the merits only 47 were heard en banc, which is .15% or 1 in every 658 appeals.[73] To be sure, not every decision of a panel is followed by a petition for en banc review, after all, why waste more effort, time, and another $10,000, $20,000 or even much more on having a lawyer research, write, and file such a petition or the opportunity cost of doing so oneself since circuit judges in effect have unlawfully abrogated the right to it?[74] Thereby judges protect each other from review of wrong and wrongful decisions, implicitly or explicitly coordinating their en banc denials on the reciprocity agreement *'if you don't review my decisions, I won't review yours*'.

86. To facilitate denying out of hand a petition, they use those "not for publication" and "not precedential" markings as coded messages indicating that the panel in question made such short shrift of the appeal before it that it cranked out an unpublishable or non-binding decision so that the rest of the court need not bother taking a second look at it. They all have better things to do,

---

[72] fn.70.a >FRAP 35. En banc determination

[73] http://Judicial-Discipline-Reform.org/docs/statistics&tables/en_banc_denials.pdf

[74] CA2 Chief J. Dennis Jacobs wrote that "to rely on tradition to deny rehearing in banc starts to look very much like abuse of discretion"; *Ricci,* fn.68 >R:26.

such as work on an opinion where they will introduce a novel legal principle or make case law or which they hope will be praised with inclusion in a law school casebook; write their own books or law review articles; prepare for a class that they teach to earn extra income[75] and whose students will rate their performance and post the ratings for public viewing; or get ready for a seminar where they can enhance their reputation or hobnob with VIPs. Litigants are just no match for any of these 'better things'. What are they going to do? Complain in the Supreme Court to the judges' own colleagues and former peers and expect the justices to agree to review the complaint so that they can incriminate themselves by criticizing what they used to and still do?

87. Circuit judges are life-tenured. Not even the Supreme Court can remove or demote them, cut their salary –which neither Congress nor the president can cut either[12]– or, for that matter, do anything else to them. Reverse their decision? Why would they care! At least two judges concurred in any decision appealed from a 3-judge circuit court panel to the Supreme Court. Consequently, the responsibility for the reversal is diffused, that is, if any is felt. Circuit judges are not accountable to the justices –neither are district, bankruptcy, nor magistrate judges–. Instead, circuit judges take care of their appointees, the bankruptcy judges. They do so by 'taking out' any bankruptcy decision that against all odds has slipped their de facto unreviewability because the parties were able emotionally, financially, and intellectually to appeal twice, first to the district court and then to the circuit court. The circuit judges simply wield their unaccountable power to dispose of the appealed decision with another of their meaningless summary orders and non-published, in practice secret, opinions. By so doing, the circuit judges can make their bankruptcy appointee immune to his or her own wrong or wrongful decision; and they can boast about their good judgment in having appointed such a competent, fair, and impartial bankruptcy judgeship candidate.

3) De facto unreviewable bankruptcy decisions

88. In 1oct09-30sep10 FY10 there were 1,596,355 bankruptcy filings in the 90 bankruptcy courts[76a], but only 2,696[76b] in the 94 district courts, and merely 678 in the 12 regional circuit courts[76c]. Hence, the odds of having a bankruptcy decision reviewed are, approximately speaking, 1 in 592 in district court and 1 in 2,354 in circuit court. If the appeal is by a pro se, the review will be pro forma and the affirmance issued as a matter of coordinated expediency. Even if the parties are represented by counsel, the district judge knows that he can mishandle the appeal in favor of her bankruptcy colleague because if the appealed decision happens to be one of those odd ones that are further appealed, the circuit judges will take of care of their appointee with their own affirmance. All of them know for sure that the odds of a bankrupt party being able to afford an appeal to the Supreme Court are infinitesimal, let alone the odds of the Court exercising its discretionary jurisdiction to agree to take up the case for review. As a result, they all can allow themselves to give free rein to the money motive: Even a small benefit ill-gotten from some of those 1,596,355 new bankruptcy cases plus the scores pending, which form in the aggregate a

---

[75] Regulations on Outside Earned Income, Honoraria, and Employment, and on Gifts, Judicial Conference of the U.S.; http://Judicial-Discipline-Reform.org/docs/jud_officers_outside_income&gifts.pdf

[76] **a)** fn.30 >Table F, lbf:39; **b)** http://Judicial-Discipline-Reform.org/statistics&tables/bkr_stats/bkr_to_dis_court.pdf >bd:8; **c)** fn.64 >Table S-4, pr:106

mind-boggling pool of money[31], adds up quickly to a very large benefit, such as a massive amount of ill-gotten money to be divvied up in a coordinated fashion.

c. In the Supreme Court

1) Capricious, wasteful, and privacy-invading rules bar access to review in the Supreme Court

89. The odds of seeking and obtaining review in the Supreme Court are truly infinitesimal. To begin with, just to print the brief and record in the capricious booklet format[77a] required by the justices calls for typesetting by a specialized commercial firm[78]. Neither Kinkos nor Staples sell the special paper that must be used[77b], let alone print it. That can cost $50,000 and even $100,000 depending on the size of the record, which can run to tens and even hundreds of thousands of pages.

90. The justices impose this booklet format requirement on anybody who cannot prove his destituteness. To prove it and be granted leave to print the record on regular 8.5" x 11" paper, a party must first petition for leave to proceed *in forma pauperis*, i.e., as a poor person. This must be done by the petitioner filing a motion disclosing his private financial information and serving it on every other party.[77c] This only works to the advantage of a served party with deep pockets or one that wants to exploit the petitioner's financial weakness. The requirement of filing and serving that financial disclosure motion in connection with a printing and stationery matter totally unrelated to the merits of the case violates the right to privacy. It aggravates the unreasonable waste of the booklet format requirement, which itself violates the controlling principle applicable in the bankruptcy and district courts: Procedural rules "should be construed and administered to secure the…inexpensive determination of every action and proceeding""[79].

91. Then one must add the cost of writing the initial brief, for instance, by petitioning for a writ of certiorari or by other jurisdiction.[80] This can cost as much as $100,000. That is money, effort, and emotional energy that go to waste in the overwhelming majority of cases: The Supreme Court exercises its discretionary power to take or reject cases for review and denies more than 97% of petitions for review on certiorari, which constitute the bulk of the filings that it receives.[81] If it takes up a case, then another brief, the brief on the merits, must be written[82a],

---

[77] **a)** Supreme Court Rules, Rule 33.1. "*Booklet Format:* (a) Except for a document expressly permitted by these Rules to be submitted on 8½-by 11-inch paper, see, *e. g.,* Rules 21, 22, and 39, every document filed with the Court shall be prepared in a 6⅛-by 9¼-inch booklet format using a standard typesetting process (*e. g.,* hot metal, photocomposition, or computer typesetting) to produce text printed in typographic (as opposed to typewriter) characters.…**b)** (c) Every booklet-format document shall be produced on paper that is opaque, unglazed, and not less than 60 pounds in weight, and shall have margins of at least three-fourths of an inch on all sides. The text field, including footnotes, may not exceed 4⅛ by 7⅛ inches." http://Judicial-Discipline-Reform.org/docs/SCt_Rules.pdf;
c) id. >Rule 39. Proceedings ***In Forma Pauperis*** and Rules 12.1 and 4 and 29.3

[78] cf. http://brescias.com/legal_us_supr.html

[79] Rule 1001 of the Federal Rules of Bankruptcy Procedure, fn.63; and Rule 1 of the Federal Rules of Civil Procedure, http://Judicial-Discipline-Reform.org/docs/FRCivP_1dec11.pdf

[80] fn.77 >Rules 10 and 17-20, respectively

[81] **a)** http://Judicial-Discipline-Reform.org/statistics&tables/SCt/SCt_caseload.pdf;

which can cost even more than $100,000. In addition, there is the fee for the time that the attorney who will argue the case before the Court must invest in preparing alone and with his battery of assistants that will drill him in mock sessions, for all of whom a fee is also charged. Then there is the fee for the actual arguing and any expense of travelling to Washington, D.C., and room and board. Add to this the cost of preparing and arguing motions and applications that any of the parties may make.[82b] No wonder, having a case adjudicated by the Supreme Court can cost well over $1,000,000![83]

2) Unreviewability of cases and unaccountability of judges breeds riskless contempt for the law and the people

92. The man in the street cannot realistically think of exercising his "right" to appeal to the Supreme Court, never mind a debtor that is bankrupt or a creditor fearful of throwing good money after bad. As an approximate comparison, consider that while 2,013,670 cases were filed in the bankruptcy, district, and circuit courts in FY10[4], only 8,205 were filed in the Supreme Court, which is .4% or 1 in every 245.[84] But even as to those cases that made it to the Court, on average for the 2004-2009 terms, the Supreme Court heard arguments in only 1 in every 113 cases on its docket, disposed of only 1 in every 119, and wrote a signed opinion in only 1 in every 133.[81a] For every one of the Court's 73 signed opinions in its 2009 term –FY10– there were 27,584 filed in all courts. How the Court takes up a case for discretionary review by granting a petition for a writ of certiorari is arbitrary and even shocking, for it is not even the justices who choose which cases to hear. Instead, as many as eight of the nine justices pool their law clerks, who have just graduated from law school, and let them in the "cert pool" pick and choose the cases to be heard by the Court.[81b,c]

93. That is the fate of the overwhelming majority of cases: They die **a)** of complicit indifference to wrongs and cold rejection at the door of the manor of the lords of the land of law; **b)** by execution of summary and unpublished orders of circuit lords; **c)** through contempt of law and fact by district lords, who in effect 'convert'[85a] U.S. courts to their respective *"my court!"*[85b]; or

---

cf. http://Judicial-Discipline-Reform.org/docs/statistics&tables/cert_petitions.pdf;

b) http://Judicial-Discipline-Reform.org/docs/Sen_Specter_on_SCt.pdf; see also

c) Legal Experts Propose Limiting Justices' Powers, Terms; *By Robert Barnes; Washington Post* Staff Writer; Monday, February 23, 2009; page A15; "proposal by Duke University law professor Paul D. Carrington, signed by 33 others from different stations on the political spectrum"; http://Judicial-Discipline-Reform.org/docs/Limiting_justices_powers_WP_23feb9.pdf

[82] **a)** fn.77a >Rule 24; **b)** id. >Rules 21-23

[83] A priceless win at the Supreme Court? No, it has a price, by Reporter Robert Barnes, *The Washington Post*, 25july11: A big victory at the Supreme Court isn't priceless, after all. It costs somewhere north of $1,144,602.64; http://Judicial-Discipline-Reform.org/docs/WP_Price_win_at_SCt_25jul11.pdf

[84] http://Judicial-Discipline-Reform.org/statistics&tables/caseload/1judicial_caseload.pdf

[85] **a)** To "convert" means to detain something unlawfully that initially was held lawfully.

b) "That legal rules constrain judges and make them do things is a magnificent illusion but an illusion nonetheless. There may indeed be a rule that tells a judge to do X, but with a little effort the judge can

d) under the feet of bankruptcy lords, who are sure that however outrageously they exact money from, or mishandle it in, the cases in the fiefs with which they have been enfeoffed, practically no debtor or creditor in bankruptcy has the knowledge or resources to embark on a protracted and very costly battle of appeal, for the great majority of them are broke, pro se, or barely able to afford a lawyer to fill out the bankruptcy forms. Unreviewability breeds arrogance. Coordination assures favorable review and risklessness. Appointers' review of their appointees' decisions allows their favorable bias and self-interest to nullify their impartiality from the outset. In addition, there is the steadily growing trend of public opinion that sees even the Supreme Court not as the single branch above the political fray, but rather politicized, the last bastion where corporate America imposes its will on the rest of the people and where big money has the last word.[86] These judgeship conditions and legal process circumstances turn federal justices and judges into Judges Above the Law. As such, they administer to themselves what they deny everybody else: Unequal Protection *From* the Law.

4. Wrongdoing as the institutionalized modus operandi of the class of federal judges, not only the failing of individual rogue judges

a. The absence of an independent and objective inspector general of the Federal Judiciary allows the Judiciary to escape oversight and be in effect above constitutional checks and balances

94. There are 73 inspectors general[87] established under the Inspector General Act in order:

> to create independent and objective units—
>
> (1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 12(2);
>
> (2) to provide leadership and coordination and recommend policies for activities designed (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) **to prevent and detect fraud and abuse** in, such programs and operations; and (3) to provide a means for keeping the head of the establishment and the Congress fully and currently informed about problems and deficiencies relating to the administration of such programs and operations and the necessity for and progress of corrective action;…[88a] (emphasis added)

---

always find a rule that tells the judge not to do X. Judging is not following the rules but rather deciding which rules to follow." *Courting Failure; How Competition for the Big Cases is Corrupting the Bankruptcy Courts,* Lynn M. LoPucki; University of Michigan (2005); e-book, p. 42.

[86] Approval Rating for Justices Hits Just 44% in New Poll; Adam Liptak and Allison Kopicki; *The New York Times*; 7jun12; http://www.nytimes.com/2012/06/08/us/politics/44-percent-of-americans-approve-of-supreme-court-in-new-poll.html?pagewanted=all

[87] Cf. U.S. House Rep Darrell Issa, Chairman of the House Oversight and Government Reform Committee to Inspectors General, 3aug12; http://Judicial-Discipline-Reform.org/docs/OGRC_Inspectors_General_3aug12.pdf.

[88] **a)** 5 U.S.C. Appendix; http://Judicial-Discipline-Reform.org/docs/5usc_app_Inspector_General.Act.pdf

95. These inspectors general are established by Congress yet they supervise not only entities created by it, but also the departments of the Executive as part of the checks and balances that the Constitution allows the three branches of government to exercise upon each other. Congress learns officially about what is going on in the Judiciary through the latter's internally-prepared, and thus self-serving statements because Congress has provided:

    a. that "[t]he Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation"; under 28 U.S.C. §331, 8th paragraph,[91e] and

    b. that the Director of the Administrative Office of the U.S. Courts, who is "appointed and subject to removal by the Chief Justice…after consultating with the Judicial Conference", "shall…submit to the annual meeting of the Judicial Conference…a report of the activities of the Administrative Office and the state of the business of the courts, together with the statistical data submitted to the chief judges of the circuits…, and the Director's recommendations, which report, data and recommendations shall be public documents", and "submit to Congress and the Attorney General copies" thereof; under 28 U.S.C. §§601 and 604(a)(2) and (3)[10], respectively; and

    c. that "[t]he Director shall include in his annual report…a summary of the number of complaints filed with each judicial council under [28 U.S.C. §§351-364[18a]], indicating the general nature of such complaints and the disposition of those complaints in which action has been taken"; 28 U.S.C. §§601 and 604(h)(2)[10].

96. In addition, Congress learns unofficially about the Federal Judiciary because of the tradition initiated by Chief Justice Warren Burger to issue a yearend report on the Judiciary(fn.30 >yre:2).

97. However, for no constitutional reason at all, but only because of Congress's[15] and the Executive's[17a] prioritizing their own interest over that of good government and the people, there is no "independent and objective" inspector general of the Federal Judiciary to "prevent and detect fraud and abuse". As a result, fraud and abuse in the Federal Judiciary fester unchecked, corrupting its mission and what the people are entitled to receive from it: the fair and impartial administration of Equal Justice Under Law.

b. Individual fraud deteriorates the moral fiber of people until it is so widespread and routine as to become the institutionalized way of doing business

98. A series of fraudulent bankruptcies tolerated by the courts, not to mention concocted by them, contaminates with fraud every other activity of the judiciary. They provide judges and their complicit insiders with training in its operation; reveal to them their multifarious potential for securing undeserved benefits; and creepily eats away at their inhibitions to the practice of fraud. This process leads to the application of the principle that if something is good, more of it is better. Hence, they expand their fraudulent activity. From making fraudulent statements in an office or a courtroom, insiders and judges move on to handling fraudulently documents in the office of the clerk of court by manipulating whether they are docketed and, if so, when and with

---

b) Cf. http://Judicial-Discipline-Reform.org/docs/Sen_Sensenbrenner_on_Judicial_IG.pdf; and **c)** http://Judicial-Discipline-Reform.org/Follow_money/S2678_HR5219.pdf

what date, to whom they are made available among litigants and the public, and even whether they are transmitted to other courts. All this requires more elaborate ways of concealing fraud, of laundering its proceeds, of developing methods to ensure that everybody copes with the increased work and that nobody grabs more than their allotted share. These activities need coordination. There develops an internal hierarchical structure, with a chain of command, a suite of control mechanisms, and a benefits scale.

99. All this developed in the courts gradually, as did fraud in the industry of collateralized mortgage derivatives: questionable but profitable practices paved the way to unethical ones that led to fraudulent and even more profitable ones which were neither punished nor prohibited, but rather celebrated with smugness and envy, copied freely with enhancements, and pursued by even the best and brightest financial minds with uncritical, unrestrained greed as the new business model. So it has occurred in the courts. As the practice of fraud turns into a profitable routine, fraudsters become adept at it. Greedier too, of course. They also turn complacent and sloppier at concealing it. When they and others get into a relaxed mood at a holiday party or a judicial junket or into the stressed condition of work overload or an emergency, the fraudsters crow over how smart they are at beating the system; flaunt their inexplicable wealth; and reflexively resort to an expedient course of action in disregard of the law. With increasing speed, exceptions to the rules become the normal way of doing business. A new pattern of conduct develops because 'that's how we do things here'. It openly becomes the "local practice"[59].

100. Non-fraudsters put it together and it hits them: There are benefits to be made and injury to be avoided by going along with the wrongful "local practice". Some take the saying 'if you cannot beat them, join them' even further and either demand to be cut in or offer their own unlawful contribution as payment for their admission into the "practice". So grows the number of people participating in coordinated wrongdoing by fraud or who come to know about it but keep it quiet to avoid retaliation. Neither those who practice fraud nor those who want to stay out of trouble have any interest in reviewing according to law cases that can expose it, outrage the public, and give rise to media and official investigations.

101. With the extension of the series of fraudulent bankruptcies, fraud becomes what smart people do. No bankruptcy insiders do it more smartly than judges do. They do it risklessly in reliance on their unaccountability(jur:21§1) and through self-immunization by abusing their system of self-policing through systematic dismissal with no investigation of complaints against them (jur:24§b). Free from the constraint of due process and enjoying a lightened workload through expediency measures(jur:43§1), judges can divert energy and resources from the proper functions of administering bankruptcy relief and supervising the bankruptcy system to the illegitimate objective of practicing fraud and covering it up. In the same vein, they abuse their power to immunize other insiders of the legal and bankruptcy systems from the tortious or criminal consequences of their "absence of effective oversight".

102. Progressively, the judges and the insiders get rid of ever more ethical scruples, legal constraints, and practical obstacles. They increase their abuse of their unaccountable power to take maximum advantage of every adjudicative, administrative, supervisory, and disciplinary opportunity. Through this constantly growing fraudulent practice, they pursue their motive, whether it is to gain a wrongful benefit or evade a rightful detriment, into bankable realities.

103. As the practice of fraud increases in frequency and expands into other areas of the bankruptcy and legal systems, it eviscerates slice by slice the integrity of judges, both their personal and institutional integrity. By the same token, fraud becomes the factor that coalesces the judges into

a compact class. Its members, those who have practiced it as much as those who have tolerated it, become dependent on one another to survive. Everyone is aware that each one can dare the others "if you bring or let me down, *I take you with me!*" Unless a judge resigns or can face the emotional and practical consequences of being ostracized(jur:62¶133 >quotation), he must go along with the others, whether doing her share or looking the other way(jur:88§§a-d).

104. By this process of pragmatic evolution and moral abrasion, judges become individually unfaithful to their oath to administer justice impartially and fairly through the application of the rule of law. They transfer their loyalty to each other. Their commitment is to the operation of the activity that has become most profitable and requires constant coordination: schemes based on fraud. Schemes are more or less complex sets of unlawful and unethical interpersonal relations and procedures aimed at obtaining a wrongful benefit. They developed progressively. Neither Maddox, Lehman Brothers, nor ENRON became pervaded by fraud overnight. The Federal Judiciary has had more than 223 years since its creation in 1789, during which only 8 judges have been removed(jur:21§a), to have one practice of individual wrongdoing followed with impunity by others which in turn were followed by the collective coordination of several practices by several judges. The driver was the pursuit of a benefit. Through the scheme, it was increased and obtained more effectively and risklessly. Gradually the conviction formed in the institutional psyche that their members were unaccountable and immune from adverse consequences. Step by step, the practice of wrongdoing became accepted, routine, and ever more widespread until it was turned into their institutionalized modus operandi(jur:49§4). Increasing coordination of wrongdoing made it possible. It has produced organically functioning fraud schemes, whether it is the systematic dismissal of complaints against their peers and up to 100% denial year after year of motions to review(jur:24§b); the systematic denial of motions en banc to protect each other's wrong and wrongful decisions from review(jur:45§2); the pro forma[213] filing of annual financial disclosure reports(jur:104¶¶236,237) enabling concealment of assets[107a] to evade taxes and launder money of its illegal origin[107c]; and the most elaborate and beneficial scheme since it is the main source of assets(jur:27§2) to conceal, the bankruptcy fraud scheme(jur:66§§2-3). The safe operation of these schemes is ensured by the judges' mutually dependent survival, which has changed the character of their institution: the Federal Judiciary has become, not the bastion of justice, but rather the safe haven for wrongdoers. That status has developed from the nature of judicial wrongdoing(jur:133§4), where its practitioners judge their peers so that they can elevate themselves and become convinced by the facts that they are Judges Above the Law.[89]

c. A class of wrongdoing priests protected by the Catholic Church 's cover up makes credible the charge of a class of judges protected by the Federal Judiciary's cover up

105. It would be a feat of naiveté or self-interest to believe that federal judges as a class, not just individually, cannot engage in coordinated wrongdoing as their institutionalized modus operandi. Far worse than that has already been proven beyond a reasonable doubt: Priests, who dedicated their lives to inculcating in others, and helping them live by, the teachings of a loving and caring God, have been convicted of sexually abusing children. It has also been shown that while they were giving in to their abusive pedophilic desires, they were being protected by the Catholic Church as a matter of institutional policy implemented for decades. Consequently, archdioceses

[89] http://Judicial-Discipline-Reform.org/docs/Dynamics_of_corruption.pdf

and dioceses of the Church, not just individual priests, in the United States alone, never mind Europe, have been held liable for compensatory damages exceeding in the aggregate $2 billion.

106. Hence, it is humanly and institutionally possible for federal judges to become corrupt as a class: They cannot claim that God chose them for his ministry because of some special disposition of their souls toward self-denial and altruism.[30] Far from it, they were nominated and appointed by the main components of the "swamp of corruption" that top politicians have described Washington as being[16]. Their taking their oath of office to "do equal right to the poor and to the rich [and] to uphold the Constitution and the laws thereunder"[90] did not confer upon them any more incorruptibility than did upon the priests the oath that they took to obey God and the Church on behalf of their fellow men and women. Interjecting at every opportunity when talking to them "Your Honor here" "Your Honor there" year in and year out does not in any way makes them honorable. It only makes them aware that people fear the power that they wield to make them win or lose cases, and with that dramatically affect lawyers' livelihood or their clients' property, liberty, or even lives. That address form goes to their heads and makes them arrogant: Judges Above the Fearful.

107. Making it even highly probable that federal judges have become corrupt as a class is something more basic than such deferential treatment, something much more prevalent than a despicable pedophilic deviance that affects only a very small percentage of the population. Indeed, judges have allowed themselves to be driven by the most mainstream, insidious, and pernicious motive that dominates our national character just as it dominates Washington[15]: *money!*(jur:27§2) Money is what lies at the core of the controversy in most cases or what is used to compensate the infringement of a right or the failure to perform a duty; what is exacted to impose a penalty.

108. Moreover, federal judges have something else that even the movers and shakers of Washington, let alone the rest of the population, lack: They not only have power over the inertia of money, that is, power to decide whether it stays with he who has it or flows to him who has a claim on it …or simply wants it. They also have power over the legal process in which the inertia of money is decided. In practice, their power is absolute, for it is vast and wielded unaccountably(jur:21 §1). That kind of power corrupts absolutely.[32] The absolute character of their power is special: They have been invested with the power to police themselves by handling the complaints filed against their peers[18a]. They blatantly abuse that power by systematically dismissing those complaints to self-exempt from any discipline[19]. They also enter collusive relationships with the other two branches of government[23a], which in self-interest[17a] do not hold them accountable (jur:81§1). Their power is even held beyond the investigative scope of the media, which out of fear of retaliation has shirked from their duty to investigate and expose judges' professional performance and individual conduct just as the media do the politicians'(jur:4¶¶10-14).

109. The unaccountable power of federal judges enables them to do anything they want and answer for it to nobody but themselves. In various ways similar to the priests and the Catholic Church, judges by either statute or their own election or appointment fill on a permanent or rotating basis positions with administrative functions, such as chief of court, circuit justice, and chair of a committee of the Federal Judiciary. Since they do not have outsiders dropped as wrenches into their machinery –as is the secretary of defense in the military-, when one after the other holds those positions they simply cover up the past and present wrongs that they and their peers did or are doing as judges or individuals. From those administrative positions, not only do they reciprocally ensure their mutual survival, but also wield additional power to enforce class loyalty.

---

[90] http://judicial-discipline-reform.org/docs/28usc453_judges_oath.pdf

d. Life-tenured, in practice unimpeachable district and circuit judges and Supreme Court justices are fundamentally equals

110. Even the most recently confirmed nominee to a district judgeship keeps her job for life…"during good Behaviour". If she behaves badly, not even the Judiciary can fire her; only Congress can remove a judge through the process of impeachment, which is hardly ever used(jur:21¶29). In addition, Congress itself cannot penalize her by diminishing her compensation, for the Constitution prohibits doing so.[12] No judge is the employer of any other judge with the right to tell her how to perform or not to perform her job, with the exception of remanding a decision to a court for 'further proceedings not inconsistent with this order of reversal' and the granting of a mandamus petition filed by a litigant. Even the chief justice of the Supreme Court, who is also the Chief Justice of the United States, is not the boss of any other judge, not even of a bankruptcy judgeship appointed for a 14-year term by the circuit judges of the respective circuit court or a magistrate judge appointed for a shorter term by the district judges of the respective district court.[61] After all, the Constitution does not set one court over another; instead, it reserves to Congress almost the exclusive power to determine the relative exercise of jurisdiction between the courts.

> Const. Art III. Section 1. The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish….
>
> Section 3.…In all Cases affecting Ambassadors [or where] a State shall be a Party, the supreme Court shall have original jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

111. In fact, the highest policy-making and disciplinary body of the Federal Judiciary, the Judicial Conference of the U.S.[91a-f], has no more statutory authority than to "submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business"[91g].

---

[91] **a)** The 27-judge Judicial Conference is composed of 14 chief judges, that is, those of the 12 regional circuits (circuits 1-11 and the D.C. circuit), the national Federal Circuit, and the Court of International Trade as well as a representative district judge chosen by the circuit and district judges of each of the 12 regional circuits; see map of the circuits(jur:20). Its presiding member is the chief justice of the Supreme Court. A bankruptcy and a magistrate judge attend its meetings as non-voting observers. The Conference only deals with administrative and disciplinary matters. As the highest such body of the Federal Judiciary it makes policies for the whole Judiciary, which are developed at its behest by its all-judge committees, which report to it at its biannual meetings in March and September.

b) Cf. http://judicial-discipline-reform.org/statistics&tables/JudConf_Reports.pdf

c) The Conference also supervises the Administrative Office of the U.S. Courts[10], which implements those policies; **d)** http://www.uscourts.gov/FederalCourts/JudicialConference.aspx and

e) http://Judicial-Discipline-Reform.org/docs/28usc331_Jud_Conf.pdf. **f)** Some members of the Conference are replaced at its September meeting[221] when their 3-5-year service ends; http://www.uscourts.gov/FederalCourts/JudicialConference/Member ship.aspx.

g) e) > §331 4th para.

112. But the Judicial Conference has no authority, whether constitutional or statutory, to demote a judge for having many opinions reversed on appeal or promote her for having a perfect score of opinions upheld. She can sell just as many well-argued books explaining her reversed decisions. Her arguments can subsequently be adopted by other judges and courts. In fact, no judge, justice, or body of the Federal Judiciary has any authority to permanently promote a judge to a higher court or demote her to a lower one and modify her title and salary accordingly. Neither judges nor the Judiciary are authorized to recommend to the President whom to nominate for such elevation and not even the President can demote a judge. If circuit judges do not like a lower court decision, that is tough luck for them. In such event, they cannot get rid of it by merely rubberstamping an order of dismissal as if it were the Supreme Court's ridding itself of a petition for certiorari by a having a clerk issue its denial form. Instead, circuit judges have to negotiate among themselves the grounds for reversal and then sit down to write a decision identifying the reversible error to make it possible to avoid it on remand. It is much easier for circuit judges to affirm a lower court decision that they do not like but cannot easily agree on the reason therefor and be done with it.[68] A district judge does not have to negotiate an agreement with anybody to dispose of a bankruptcy judge's decision however he wants. It follows that being reversed is career-wise inconsequential as is being affirmed. No number of remands is going to force a life-tenured district or circuit judge to resign. Given the historical record(jur:21§a), no impeachment is going to be commenced on that ground against her, let alone end in her removal.

113. The same holds true for everything else they do or do not do. Life-tenured judges cannot be fired or have their compensation diminished because they do not keep 9-5 hours. Working 60 hour/weeks does not get a judge promoted to a higher court by a chief judge. The latter does not wield over his peers anything remotely similar to a company CEO's power over his employees. The chief earns no commendation from anybody from squeezing higher productivity from his peers; he only gets animosity and ill will from them. Thus, there is no upside or downside for a judge for doing or letting others do more or less than what he or they are supposed or want to do. Judges are not going to protest too loudly because one of theirs is lazy, sloppy, or uses 'court time' for his own activities, for they too want to enjoy the same freedom to manage their time however they want. A mumbled snide remark, a frown while looking away, a cold shoulder is basically the way for a judge to protest his colleague's failure to carry his own burden while taking too many liberties with his time management. Litigants cannot force any of them to work hard and write meaningful decisions. They are for all practical purposes equals and free agents.

114. However, it is not wise for those judges' career to turn a peer into an enemy. That peer may become an enemy for life given that federal district and circuit judges and the justices can stay put forever, their 'bad Behaviour' notwithstanding[12]. Quibbling about legal points and policy matters is perfectly acceptable. But disturbing the collegiality among professionally conjoined brethren and sisters by exposing the wrongdoing of any of them is an attack against the very survival of the whole judicial class and its privilege: Their unaccountability and in effect unimpeachability, which have rendered them Judges Above the Law.(jur:21§1) An investigation by outsiders of any one judge may take a life of its own that can soon get out of control, causing a judge to give up many more or one higher up 'honcho' in plea bargaining in exchange for leniency, who could in turn do the same. Soon everybody is tarnished or even incriminated for their own wrongdoing or their condonation of that of others. That the judges are determined to prevent or stop at all costs, whether with a stick or a carrot.

e. Enforcing class loyalty: using a stick to subdue a judge threatening to expose their peers' wrongdoing

1) Not reappointing, banishing, 'gypsying', and removing a bankruptcy or magistrate judge

115. Bankruptcy judges can hardly have gotten the idea that they were term-appointed to exercise independent judgment and apply the law to ensure due process of law with disregard for what is really at stake in bankruptcy court: *money!*(jur:27§2) To begin with, a bankruptcy judge can exercise authority under the Bankruptcy Code, that is, 11 U.S.C.[62], "except as otherwise provided by…rule or order of the district court"[92a]. This means that a district court can order the withdrawal to itself of any bankruptcy case in the hands of one of its bankruptcy judges.[92b] Consequently, a bankruptcy judge has little incentive to do the right thing in handling a case before him, for he knows that it can be undone after the case has been withdrawn from him by the district court. Likewise, he is aware that the district court and the circuit's judicial council are keeping tabs on whether to allow him to remain on his job depending on his understanding of his real role: to direct the flow of money according to, not the Code or the Rules of Procedure[63,79], but rather "local practice"[93]: The district court, which can uphold decisions appealed to it from the bankruptcy judge, and the judicial council, which can deny petitions to review the dismissal of misconduct complaints against him(jur:24§b), assure the judge's riskless exercise of judicial power to take advantage of the opportunity afforded by every case to make the money(jur:27§2) at stake flow[60] among bankruptcy system insiders[169]. From the point of view of that court and the council, the judge has no excuse not to do what he is supposed to regardless of what the law or any general or local rule[94] may require him to do.

116. Nevertheless, assume that the bankruptcy judge is principled enough to refuse to deviate from the law or the rules. In that event, the stick may run him away:

> 28 U.S.C. §152(b)(1) The Judicial Conference…shall, from time to time…determine the official duty stations of bankruptcy judges and places of holding court.
>
> §152(d) With the approval of the Judicial Conference and each of the judicial councils involved, a bankruptcy judge may be designated to serve in any district adjacent to or near the district for which such bankruptcy judge was appointed.

117. Those "places of holding court" may be nothing more than a stool and a rickety table with no connection to the bankruptcy court's Case Management/Electronic Case Files System[95], a subtle warning of what happens when a bankruptcy judge becomes fully 'disconnected' from the goodwill of those who decide whether he remains stationed in the Judiciary or is banished to a punishing place. Indeed, since the federal bankruptcy system has nationwide coverage, what exactly is "near" the appointment district? Pursuant to that vague provision, the headstrong bankruptcy judge can be banished so far from his home as to make it impossible for him to commute every day, thus forcing him to find accommodations there, come home perhaps on weekends, and suffer the consequent disruption to his personal and family life.

---

[92] **a)** fn.61a >28 U.S.C. §151; **b)** id. >§157(d); **c)** id. >§152(e)

[93] http://Judicial-Discipline-Reform.org/docs/DrCordero_v_DeLano_local_practice.pdf

[94] http://Judicial-Discipline-Reform.org/docs/DrRCordero-JudCoun_local_rule5.1h.pdf

[95] http://www.uscourts.gov/FederalCourts/CMECF.aspxf; cf. http://www.nywb.uscourts.gov/cmecf.html

118. An exceptional bankruptcy judge may refuse to resign as intended by the banishers. Instead, he may insist on safeguarding his personal integrity and that of the bankruptcy system. Dealing with him may require the swinging of a bigger stick. To begin with, the circuit court may not reappoint him at the expiration of his 14-year term. What is more, the circuit council[96] may remove him during his term. The council includes district judges, one or more of whom are members of the district court to which the bankruptcy judge belongs[cf.18f]; hence the importance of the tabs that the district court keeps on the bankruptcy judge's performance or rather his docility. The council may remove him on charges of "incompetence, misconduct, neglect of duty, or physical or mental disability" [92c].

119. The risk to the council may require it to swing its authority hard enough to effect his removal: Circuit judges on the council together with other peers on the circuit court constituted the majority that chose a person to be appointed bankruptcy judge, thereby vouching for his integrity and competence. Quite obviously, those appointing judges as well as the council would be highly embarrassed, perhaps even incriminated, if their own bankruptcy appointee turned around and exposed the wrongdoing of any other judge, never mind a member of the circuit court or the council itself. The fear of embarrassment or incrimination may be so justified as to be a constant and conduct determining factor: The appointing circuit judges and the circuit and district judges on the council may have known about such wrongdoing but tolerated it or should have known about it had they performed with due diligence their duty to uphold personally the integrity of the institution of which they are members, the Judiciary, and to supervise collectively the administration of justice in the circuit, as provided for in the Code of Conduct for U.S. Judges[123a]:

> Canon 1: A Judge Should Uphold The Integrity and Independence of The Judiciary.
>
> > An independent and honorable judiciary is indispensable to justice in our society. A judge should maintain and enforce high standards of conduct and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

120. It follows that the circuit judges have an interest in appointing as bankruptcy judge a person who they know will play by the "local rules"[93], as opposed to the law of the land adopted by Congress, for bankruptcy judges to handle money. A bankruptcy trustee, lawyer, or clerk may fit the bill if he has consistently acquiesced in the rulings and 'rules' of the bankruptcy judges before whom he practices or for whom he works. If upon his appointment to a bankruptcy judgeship he instead starts to object to and expose the wrongdoing of judges, the council, out of the self-interest of its members or under pressure from other judges, will rather sooner than later consider his removal as a preemptive damage control measure.

121. That constant threat of being removed weighs on the bankruptcy judge. He would really show "mental disability" if he thought for a nanosecond that, if removed, he would simply go back to

---

[96] Each federal judicial circuit has a judicial council, which is composed only of circuit and district judges of that circuit, in equal numbers, to whom is added its chief circuit judge as presiding and voting member. The council has administrative and disciplinary functions only; it does not adjudicate cases, although its members, as judges, do. The council's circuit judge members may have been among the members of the circuit court at the time that that court appointed(fn.61a) the bankruptcy judge whose removal is under consideration by the council; http://Judicial-Discipline-Reform.org/docs/28usc332_Councils.pdf.

practice bankruptcy law as any other lawyer before the same bankruptcy and district courts because they would not hold a grudge against him. Instead, he must picture his post-removal subsistence with him in the queue before a dilapidated public defender's office scrounging for an appointment to defend at a discounted, public rate a penniless criminal defendant. How many people have the strength of character to risk a salary of $160,080[97a] to do the right thing in the face of such dire consequences rather than simply flow with the current and the money by treating judicial wrongdoing with knowing indifference(jur:90§b) and willful ignorance(jur:91§c)?

122. Similarly, the district judges of the district court that appointed a magistrate judge have the authority both not to reappoint and to remove him[97c]. However, a more subtle means can be adopted to teach a too-by-the-book magistrate to get real or quit: If the Judicial Conference of the United States has provided that the magistrate may be required to serve on an itinerant basis, the district judges can 'gypsy' him and specify that he perform menial, humiliating duties. To stick can be made to be felt on his pocket too.[97b] If that does not do it, the Conference can simply beat his office out of existence.

> 28 U.S.C. §631(a)…Where the conference deems it desirable, a magistrate judge may be designated to serve in one or more districts adjoining the district for which he is appointed. Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate judge in the adjoining district or districts. (See also fn.100)
>
> §631(i)…a magistrate judge's office shall be terminated if the conference determines that the services performed by his office are no longer needed.
>
> §635(a) Full-time…magistrate…shall be allowed their actual and necessary expenses incurred in the performance of their duties, including the compensation of such legal assistants as the Judicial Conference, on the basis of the recommendations of the judicial councils of the circuits, considers necessary, and the compensation of necessary clerical and secretarial assistance.

2) Ostracizing 'temporarily' a district or circuit judge to inhospitable or far-flung places

123. A district or circuit judge who did not understand that judges do not turn on judges and certainly not on justices, who are allotted to the circuits as circuit justices[98], could find himself or herself designated and assigned 'temporarily' to another court under 28 U.S.C. §§291-297[99];

---

[97] **a)** fn.61a >§153(a) "Each bankruptcy judge shall…receive as full compensation for his services, a salary at an annual rate that is equal to 92 percent of the salary of a judge of the district court…", which is $174,000, as provided for under 5 U.S.C. §5332 Schedule 7. Judicial Salaries; fn.211. **b)** Full-time magistrate judges receive "salaries to be fixed by the [Judicial C]onference pursuant to section 633 [entitling the Conference to "change salaries of full-time and part-time magistrates judges, as the expeditious administration of justice may require"] at rates…up to an annual rate equal to 92 percent of the salary of a judge of the district court" ; fn.61b >§634(a). **c)** fn.61b >§631(a) and (i)

[98] http://Judicial-Discipline-Reform.org/docs/28usc41-49_CAs.pdf >§42. Allotment of Supreme Court justices to circuits

[99] http://Judicial-Discipline-Reform.org/docs/28usc291-297_assign_judges.pdf

28 U.S.C. §291(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.

§292(d) The Chief Justice may designate and assign temporarily a district judge of one circuit for service in another circuit, either in a district court or court of appeals, upon presentation of a certificate of necessity by the chief judge or circuit justice of the circuit wherein the need arises.

124. Thanks to global warming, winters in the federal judicial district of Alaska are quite pleasant, the temperature seldom dropping below -30°F. Being transferred there not only provides a refreshing start from zero for a judge's career, but also has a rather cooling effect on his temperament after he has unhealthily heated up by holding on to trifling disciplinary matters normally disposed of promptly, such as misconduct complaints dispatched through systematic dismissals(jur:24§b). If the judge prefers a tropical climate where in a brighter sun he can learn to make light of his peers' wrongdoing, he can be accommodated with an assignment to any of the Freely Associated Compact States, i.e., the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau. No doubt all the other judges will learn a lesson from his post cards about his laid-way-back and certainly very Pacific life. It is obvious why those courts are more appropriately referred to as 'reeducation' courts rather than dump courts, which is not a nice name. Being nice to each other is key in the Federal Judiciary…unless a judge is packed with integrity and ready to travel the narrow road to godforsaken courts.

28 U.S.C. §297 Assignment of judges to courts of the freely associated compact states.

(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states…[100]

125. Moreover, a circuit judge who gets the idea that she can reform the Judiciary from her elevated position inside it can be disabused by being 'demoted' 'temporarily' to hold district court in any distant district in her circuit or even in another circuit to which she has already been transferred to from her own circuit. What exactly is 'temporary' with respect to district and circuit judges, who have life appointments? Since all it takes is to invoke the standard most easily satisfied, namely, "in the public interest", is an assignment to hold trials between inmates in a district centered around a penitentiary lost in the middle of the dessert within the scope of 'temporary' if it is for 5 years?

28 U.S.C. §291(b) The chief judge of a circuit or the circuit justice may, in the public interest, designate and assign temporarily any circuit judge within the circuit, including a judge designated and assigned to temporary duty therein, to hold a district court in any district within the circuit.

126. It is true that the chief justice, as presiding member of the Judicial Conference, and the other members of it, whether chief circuit judges or elected district judges, are equals. Aside from the chief justice being the one who calls its biannual meetings as well as special meetings[101], they all have one vote and no one has a statutory right to draw up exclusively the agenda of their

[100] If a recommendation of the Judicial Conference for amendment of §297 is adopted, "magistrate judges and territorial judges may be assigned temporarily to provide service to the freely associated compact states"; Judicial Conference Report, 15mar11, page 14; fn.91b >jcr:1036.

[101] fn.91b >jcr:822; 901

meetings.

127. However, no judge has an interest in antagonizing the chief justice, or for that matter his associate justices. For one thing, complaints cannot be filed against a justice since the justices are not subject to the Judicial Conduct and Disability Act[18a]; nor can it somehow be claimed that a justice violated the Code of Conduct for U.S. Judges[123a] because the justices are not subject to it either[102]. Moreover, the chief justice has an interest in protecting the associate justices because they hold the votes that can give him a consistent majority capable of becoming known as the [Chief Justice] Doe Court. The justices can retaliate against judges that attack or disrespect them by banishing or 'demoting' them(jur:58¶¶123,125). They can also agree to review their decisions appealed to them only to reverse them or lash out against them in a majority opinion upheld on other grounds or a dissent opinion. Both types of opinions carry more prestige and are more widely read and quoted than any opinion issued by lower court judges. They can be used to shame and embarrass a judge that needs to be taught a lesson: a judge is not to cross a justice.

f. The carrot of reputational benefit among equals: rewarding class solidarity with an at-pleasure or term-limited appointment

128. Judges' unaccountability and de facto unimpeachability(jur:21§1) have generated irresistible attraction toward wrongdoing…ever more of it and more boldly as the impunity following an act of wrongdoing increases their confidence that no harm will come to them if they repeat the same or similar type of wrongdoing and even if they engage in wrongdoing that is bolder to the same extent as their impunity confidence is greater. This self-reinforcing process has caused wrongdoing to become pervasive. It explains why no judge may be willing to agree to be hit with the stick for his wrongdoing when he knows that everybody is actively doing some type of wrong or passively looking the other way from the wrongdoing of others. Hence the need also for the carrot as conduct modifier or inducer.

129. Judges that go with the flow of their peers rather than stand on principles can reap a benefit in several manners in addition to getting away with their own wrongdoing and its profit. For instance, a district judge can be 'promoted' to temporary duty on a circuit court under 28 U.S.C. §292(d)(jur:48¶84). Carrots can also be dangled before the eyes of judges or fed to them in the form of appointment to prestigious administrative positions and committees within the Judiciary. While being so appointed does not bring an increase in salary, the prestige that it carries amounts to public recognition of not only a judge's competence, but also his forgiving attitude toward his peers: He or she will stick by them no matter what, even by dismissing 100% of petitions for review of complaint dismissals(jur:24¶33).

130. No such recognition need be expected by sticklers for applying to their peers the valuable, integrity-enhancing requirement to "avoid even the appearance of impropriety"[123a]. In practice, it is devalued by the judges, who pay to it only lip service[109c]. In fact, district judges who may even think that in the interest of judicial integrity they should expose their peers' improprieties and wrongdoing are likely to have that thought dispelled by a self-interested consideration: It is the circuit and district judges in the circuit who choose the district judge that will represent them in

[102] http://Judicial-Discipline-Reform.org/teams/AFJ/11-12-10DrRCordero-DFranco-Malone.pdf

the Judicial Conference[103]. Those judges would certainly not vote for a judge that would put principles ahead of the reciprocal cover-up required by complicit collegiality, which provides the basis for their awareness of their mutually dependent survival.

131. Among the most prestigious appointments are to the at-pleasure directorship of the Administrative Office of the U.S. Courts and the chairmanship of the term-limited Executive Committee of the Judicial Conference of the U.S. The presiding member of the Conference is the chief justice, who makes those appointments just as he appoints the term-limited chairs of each of the 25 committees of the Conference[91b], such as the Committee on Financial Disclosure, on Judicial Conduct and Disability, and on Codes of Conduct.[cf.104a] Appointment to some committees, such as that on international judicial relations, involves travel abroad or hosting delegations of foreign jurists and judicial personnel.[104b] The chief justice can also create special committees, each of which can become known by the name of the judge that he appoints to chair it. For example, on May 25, 2004, Chief Justice Rehnquist created a committee to review the application of the Judicial Conduct and Disability Act and appointed Justice Breyer as its chairman; it became known as the Breyer Committee, which issued the Breyer Report in September 2006.[105] Chief circuit judges can also make similar appointments in their respective courts.

132. "The Chief Justice has sole authority to make committee appointments"[106] and bestow the concomitant reputational benefit on appointees…as well as a 'distraction' from the monotonous grind of deciding case after case of *Joe Schmock v. Wigetry, Corp*. A judge who wants to receive such benefit had better be on good terms with the chief justice as well as with the respective circuit justice and all the other justices, for they can put in a good word for him with the chief justice.

---

[103] fn.91c >2nd paragraph

[104] **a)** http://www.uscourts.gov/News/TheThirdBranch/10-10-01/New_Chairs_Head_Five_Conference_Committees.aspx; **b)** fn.91 >jcr:1039

[105] **a)** http://www.uscourts.gov/RulesAndPolicies/ConductAndDisability/JudicialConductDisability.aspx >Implementation of the Judicial Conduct and Disability Act(fn.18a). A Report to the Chief Justice; http://Judicial-Discipline-Reform.org/judicial_complaints/Breyer_Report.pdf.

b) See also a critical comment on the Report's history and its progeny, i.e., the new Rules Governing Judicial Conduct and Disability Proceedings concerning misconduct and disability complaints against federal judges; drafted by the Committee on Judicial Conduct and Disability of the Judicial Conference of the U.S. and adopted by the latter on March 11, 2008:

(i) http://Judicial-Discipline-Reform.org/docs/7-9-19DrRCordero-JRWinter_complaint_rules.pdf;

(ii)http://Judicial-Discipline-Reform.org/docs/7-10-14DrRCordero-JRWinter_draft_rules.pdf;

(iii) http://Judicial-Discipline-Reform.org/docs/8-2-25DrRCordero-AO_JDuff_revised_rules.pdf;

(iv) http://Judicial-Discipline-Reform.org/docs/8-3-27DrRCordero-CA2_CJ_Jacobs.pdf

[106] http://www.uscourts.gov/FederalCourts/JudicialConference/Committees.aspx

g. The wrongful social benefit of acceptance in the class of judges and avoidance of pariah status due to disloyal failure to cover up peer wrongdoing rewards complicit collegiality over principled conduct

133. In addition to ensuring reciprocal exemption from discipline through complaint dismissal, judges fail to investigate each other in the self-interest of preserving their good relations with the other members of the class of judges as well as out of fear of being outcast as traitors. Camaraderie built on complicit collegiality trumps the institutional and personal duty(jur:57¶119 >quotation) to safeguard and ensure the integrity of the Judiciary and its members.

> Cir. J. Kozinski [presently Chief Judge of the U.S. Court of Appeals for the 9th Cir.], dissenting: Passing judgment on our colleagues is a grave responsibility entrusted to us only recently. In the late 1970s, Congress became concerned that Article III judges were, effectively, beyond discipline because the impeachment process is so cumbersome that it's seldom used.…Disciplining our colleagues is a delicate and uncomfortable task, not merely because those accused of misconduct are often men and women we know and admire. It is also uncomfortable because we tend to empathize with the accused, whose conduct might not be all that different from what we have done -or been tempted to do- in a moment of weakness or thoughtlessness. And, of course, there is the nettlesome prospect of having to confront judges we've condemned when we see them at a judicial conference, committee meeting, judicial education program or some such event. 28 U.S.C. §453.[90] (Internal citations omitted.) *In re Judicial Misconduct Complaint*, docket no. 03- 89037, Judicial Council, 9th Cir., September 29, 2005, 425 F.3d 1179, 1183. http://www.ca9.uscourts.gov/opinions/ >Advance Search: 09/29/2005 >In re Judicial Misconduct 03-89037; and http://Judicial-Discipline-Reform.org/docs/CA9JKozinski_dissent.pdf

134. Judges can also wrongfully obtain the social benefit of acceptance by a clique of legal and bankruptcy systems insiders through the exercise of their means of wrongdoing, that is, their decision-making power to confer on the insiders a material benefit(jur:32§2), from which, of course, they can also extract a benefit for themselves in the form of kickbacks.

5. From general statistics of the Federal Judiciary to particular cases that illustrate how wrongdoing runs throughout it and harms people

135. The above is an example of dynamic analysis of harmonious and conflicting interests[187] among the judicial officers of the Federal Judiciary. Based thereon, a judge that determines her conduct on purely pragmatic considerations would see no benefit in either refusing to dismiss or voting to review a misconduct complaint against a peer. Only a highly principled judge whose conduct was determined by her duty to do what was legally, ethically, or morally right even if she had to suffer for it would dare expose a wrongdoing judge or the coordinated wrongdoing of the class of judges. To do so, she could not merely file a judicial misconduct complaint against her peer, which would be doomed to dismissal from the outset. The only action reasonably calculated to have a chance at effectiveness would be to bring the evidence or her reasonable suspicion of wrongdoing or impropriety outside the Judiciary to the attention of the public at large, whether by publishing it herself, for example, on her website, or through the media, that is, if she found a media outlet willing to become the object of retaliation of every member of the Federal Judiciary but for the complaining judge. The latter would cast herself out of the class of judges, who would deem her action treasonous and treat her as a traitor to be socially outcast(jur:26¶133; 107¶242, 243).

136. Therefore, if one is neither naïve nor compromised by self-interest, one can consider with an open mind the evidence in the next section, 65§B, of wrongdoing by the class of federal judges and their Judiciary. It shows how unaccountable power, the money motive, and the opportunity for wrongdoing in effectively unreviewable cases have enabled them to engage in individual and coordinated wrongdoing. The evidence in §B concerns federal judges involved in concealment of personal assets and a collective bankruptcy fraud scheme for concealing or misappropriating assets at stake in particular bankruptcy cases that went all the way from a bankruptcy to a district to a circuit court and on to the Supreme Court just as the judicial misconduct complaint against the bankruptcy judge went from a chief circuit judge to the circuit council and to the Judicial Conference and the Administrative Office of the U.S. Courts. Moreover, that wrongdoing was compounded by other forms of wrongdoing necessary to cover it up. The prevalence and routine character of all such wrongdoing throughout the judicial and disciplinary hierarchies reveal that wrongdoing has become the institutionalized modus operandi of the Federal Judiciary.

Blank