

March 10, 2018

**Wishful thinking in writing a principal or amicus curiae brief
to the federal or a state supreme court**
v.
**strategic thinking in proposing a report by PBS Newshour on judges'
abuse of power to repeat the surprising public impact of the report by
The New York Times on sexual abuse by Harvey Weinstein**

A. Making a decision on the foundation of KNOWLEDGE IS POWER

1. Tens of thousands of people have written briefs and keep writing them to complain about judges' abuse of power. The abuse continues unabated, for it is riskless for judges. No brief is going to cause them to give up the gain and convenience that their abuse brings them.
2. Here are some enlightening facts found in the official statistics of the courts, gathered from the federal courts and published by the Administrative Office of the U.S. Courts or the Federal Judicial Center:
 - a. In the last 229 years since the creation of the Federal Judiciary in 1789, the number of federal judges impeached and removed is 8! The significance of this number can be gauged by this other official statistic: On September 30, 2016, there were 2,293 judicial officers on the federal bench(*>[jur:21§a](#)).
 - b. The nine justices of the U.S. Supreme Court and their pool of clerks pick out of some 7,250 filings per year only some 78 cases to be heard and decided by written decisions (†>[OL2:459§E](#); cf. "The math of judicial perfunctoriness", [OL2:608§A](#)).
 - c. In *Pierson v. Ray*, the Supreme Court protected its own by granting judges absolute immunity from liability for violating §1983 of the Civil Rights Act²⁴, although it applies to "every person" who under color of law deprives another person of his civil rights([jur:26fn25a](#)) "This immunity applies even when the judge is accused of acting maliciously and corruptly".(*id.*) In *Stump v. Sparkman*, the Court 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"([jur:26fn26](#)). Does this sound like a promising disposition of the Supreme Court justices to deprive of immunity their fellow judges and friends as well as themselves because an amicus brief asks them to? To think that the justices will do so and open the floodgates of the Federal Judiciary to a torrent of similar briefs that can flush away many judges, who can incriminate the justices in abuse that they committed or condoned, is not realistic. It is wishful thinking.
 - d. Complaints against federal judges must be filed with other federal judges, who dismiss 99.83% of them([OL2:548](#); [jur:10-14](#)). Far from judges holding each other accountable, they exonerate each other in application of the mutually assured survival principle: 'Today I exempt you from discipline, and tomorrow you do that for me and my friends'.
 - e. A case filed by a pro se is officially weighted in the Federal Judiciary as 1/3 of a case, regardless of its nature, extent, and gravity. Accordingly, judges are authorized and expected to give them 1/3 of their care and attention.([OL2:455§§B, C](#)) When a pro se preparing the Case Information Sheet to file with his or her case checks the box "Pro se" as opposed to "Represented", the pro se pronounces that case 'Dead on Arrival: for disposal by 'dumping form' '([OL2:608§A](#)).

B. Wishful thinking v. strategic thinking: choosing on the strength of knowledge of a current factual precedent

3. A pro se or a lawyer writes a brief in chief or an amicus curie brief expecting that it will be accepted for review by the federal or a state supreme court, and that it will move the justices to find fault with their friends and former colleagues in the lower courts, causing them to reverse the decision on appeal. The pro se and the lawyer indulge an illusion that masks an exercise in futility, statistically less likely to happen than winning in the casinos of Las Vegas. Their expectation originates in ignorance of the secular practice and current statistics of the courts. These brief writers fly away from the facts on the wings of wishful thinking.
4. On the requirements of an amicus brief, see [OL:379](#). Can a pro se be expected to satisfy them? If he could, does that mean that the justices will accept his brief and take his word over that of the lower court judge? That is wishful thinking compounded by pathetic presumptuousness.
5. Instead of wishful thinking, I respectfully submit to you a different approach: strategic thinking([OL2:635](#), [593¶15](#), [475§D](#)). The strategy is set forth in the below letter to PBS Newshour. It is tied to current events, which constitute the strategy's realistic precedent:
 - a. For thousands of year sexual abuse was committed by the powerful, condoned by their peers, and suffered in silence by the victims. But public attitude toward it has changed at surprising speed since the publication on October 5, 2017, in *The New York Times* of the article on Harvey Weinstein([OL2:6f44](#)) by Reporters Jodi Kantor and Megan Twohey.
6. A report exposing judges' abuse and appearing in a major media outlet can accomplish for victims of judges' abuse what the *NYT* article has accomplished for victims of sexual abuse: a historic breakthrough that catapults the issue to the center of national attention. That is our objective:
 - a. We want to insert judges' abuse as a decisive issue in the primaries and mid-term campaigning, by forcing politicians, lest they be voted out of, or not into, office, to take a stand on it in their platforms and at every rally and townhall meeting.
 - b. We want to bring about thereby nationally televised public hearings on judges' abuse so that they become our out-of-court day in court and *We the People* can hold judges accountable.
 - c. To that end, we want to convince a reporter that by writing a report exposing abuse, not of a rogue judge, but as judges' institutionalized modus operandi, the reporter can earn national recognition, win a Pulitzer Prize, and set in motion a historic change in the administration of Equal Justice Under Law. Hence, we argue 'what is in it' for the reporter, not for us. That is a manifestation of strategic thinking.
7. Thus, I encourage you all to support the proposal to Newshour Correspondent William Brangham ([OL2:676](#)). You can share the letter to him with your friends and family and post it widely. In that vein, see also [OL2:612](#), [620](#), [645¶2](#). That will be far less exacting than any brief writing and substantially more promising, for it will be effort that implements strategic thinking.
8. No one can think realistically that I can afford to work for free for all those who ask me for pro bono legal assistance. If you want to retain my legal services, see my model terms of engagement (*>[OL:383](#)). How does it feel when I ask you to donate to support the enormous legal research and writing that I do on your and the public's behalf? See my study^{*}[†] and the means for donating:



Donate here or at the **GoFundMe** campaign
<https://www.gofundme.com/expose-unaccountable-judges-abuse>
Dare trigger history!([jur:7§5](#))...and you may enter it.

March 10, 2018

Bodies of the Federal Judiciary to which appeals from cases do not lie and strategic thinking applied to appeal to the commercial and civic interest of the media to investigate unaccountable judges' riskless abuse of power

A. The bodies of the Federal Judiciary to which you cannot appeal

1. **Judicial councils** are bodies of the Federal Judiciary; there is one for each of the thirteen circuits. These councils do not have adjudicative functions, that is, they do not decide cases, much less review them on appeal. They only have administrative, policy-making, and disciplinary functions, which only concern their respective circuit. Each is composed of circuit and district judges of the respective circuit. You certainly cannot appeal a decision of the Supreme Court to any of the judicial councils, which are lower bodies of limited regional jurisdiction.
 - a. See Title 28 of the U.S. Code, section 332 (28 USC § 332); http://Judicial-Discipline-Reform.org/docs/28usc_Judicial_Code.pdf >28usc332 (= §332).
2. **The Judicial Conference of the United States** is another body of the Federal Judiciary. It has no power to decide, let alone review, decisions of the Supreme Court. It is composed of all the chief circuit judges and representative district, bankruptcy, and magistrate judges. It is presided over by the chief justice of the Supreme Court. It only has administrative, policy-making, and disciplinary functions(*id.* >28usc331). Therefore, a case cannot be appealed from the Court to the Conference.
3. **The judicial conference of each circuit** only has administrative and policy-making functions; *id.*>28usc333. Those conferences do not have any adjudicative or disciplinary functions.
4. The disciplinary functions of the circuit councils and the Judicial Conference of the U.S. are those provided for under the Judicial Discipline and Disability Act of 1980(28usc351). These functions are illusory, as they are of no use to complainants against abusive judges because the chief circuit judges dismiss 99.83% of complaints against fellow judges of the respective circuit; the judicial councils deny up to 100% of appeals from such dismissals; and the Judicial Conference of the U.S. does not take appeals from the denials of such appeals. The judges have abused the power of self-discipline entrusted to them under the Act in order to ensure their immunity. They have abrogated in effect that Act of Congress. So, judges are unaccountable and abuse people risklessly.
5. The statistics on complaints against federal judges are prepared by the federal courts and submitted to the **Administrative Office of the U.S. Courts**(§601), which must include them in the Annual Report of its Director, who must file it with Congress and publish it(§604(h)(2)). As its name indicates, the Office only performs administrative functions for the federal courts(§604). The **Federal Judicial Center**(§620), another body of the Judiciary, has only research and training functions.
6. The councils and the conferences can only perform the functions that the law has authorized them to do, just as the courts, except that the Supreme Court also has been charged under Article III of the Constitution with some functions. None of them, not even the Court, can arrogate to itself any function, such as to accept appeals from another court or types of appeals, that the law or the Constitution has not authorized it to perform. This explains why it is imperative for the plaintiff to state in the complaint the correct statutory or constitutional provision that grants the court jurisdiction, i.e., power to determine the controversy set forth in the complaint; otherwise, the court on its own motion or the defendant on motion for dismissal can dismiss the case “for lack of jurisdiction”(cf. [†]>OL2:457§D). Hence, what you read in 28 U.S.C. §§331, 332, 333, and 351 sets fundamentally the extent of the authority granted to the circuit councils and the conferences to function.

7. The composition and function of these bodies and whether judges can be prosecuted are discussed at [jur:21§1](#) and [jur:26§d](#), and [OL2:677¶2](#); the official statistics on complaints against judges have been collected, tabulated, and analyzed at [jur:10-14](#) and [OL2:548](#) in this study*[†](*supra*, title page).
8. Information is useful only if it is correct; otherwise, it is harmful because it induces into error, which entails waste of effort, money, and time, and causes profound disappointment and aggravation. Those who on wrong information appeal cases to the judicial councils and the conferences engage in an exercise in futility driven by ignorance of the functioning of the Federal Judiciary.

B. How you can gain and use knowledge to expose unaccountable judges' riskless abuse of power

9. KNOWLEDGE IS POWER. Read in this study*[†] to empower yourself with knowledge, which is the only power that we have against judges' abuse([OL2:608, 455](#)) of their power over our property, liberty, and all the rights and duties that frame our lives. That knowledge is needed to devise a realistic plan of action based on strategic thinking([OL2:635, 593¶15, 475§D](#)), the opposite of wrong information and wishful thinking(677): Given the uselessness of complaining about judges to other judges, the strategy is for an out-of-court exposing of judges' abuse that appeals to the commercial and civic interests of the media, similar to its interests in exposing sexual abuse([620](#)). Hence the letter to PBS Newsletter Correspondent William Brangham([676](#)).
10. The implementation of that strategy([OL2:660](#)) requires the participation of people like you, that is, in general, members of *We the People*, the masters of all public servants, entitled to hold accountable also their judicial public servants; and in particular, victims of judges' abuse and all those who advocate honest judiciaries that abide by the requirements of due process and equal protection of the law. So read the letter to PBS Newshour, learn its official statistics, and understand what can be concluded from them. Then share it with your friends and family, and post it to social media widely. That is how you can become instrumental in making so many others hear our rallying cry: *Enough is enough! We won't take judges' abuse or anybody else's anymore*.
11. Thereby you can participate in attaining our concrete, realistic, and feasible objectives supported by knowledge and strategic thinking. We aim:
 - a. to insert the issue of judges' abuse into this year's primaries and mid-term campaigning by forcing politicians, lest they be voted out of, or not into, office, to take a stand on it in their platforms and at every rally and townhall meeting; and
 - b. to bring about nationally and statewide televised public hearings on judges' abuse, both traditional ones held by Congress and the legislatures, and unprecedented ones conducted by the media([†]>[OL2:675¶15](#)) in their commercial interest of growing their audience with news about abuse that outrages the public, and their civic interest in the common good.
12. You can show your support for this strategy by forwarding the letter to PBS Newshour([OL2:676](#)) to the following email addresses so as to encourage it to conduct the proposed investigation of judges' abuse of power: newsthirteen@thirteen.org, pressroom@pbs.org, viewermail@newshour.org, amiller@newshour.org, frontline@pbs.org, viewer@rmpbs.org, member@rmpbs.org.
13. You can also donate([OL2:678¶8](#)) and encourage others to do likewise to [Judicial Discipline Reform](#) to support its work of exposing unaccountable judges' riskless abuse of power.
14. By setting in motion a process of judicial accountability that changes the administration of Equal Justice Under Law you can become a nationally recognized Champion of Justice([OL:201§§J, K](#)).

Dare trigger history!(>[jur:7§5](#))...and you may enter it.*

March 17, 2016

On assisting in writing amicus curiae briefs; making a case to legislators though they reveal no intention to investigate *their* judges, and using in-court means to force a judge's disgorgement of wrongful benefits: wishful thinking v. strategic thinking and the limits of working pro bono

Dear Att. C. and Advocates of Honest Judiciaries,

A. Writing briefs as amicus curiae and on specialized fields or out-of-state law requires a major investment of effort, time, and money

1. Concerning your request, Att. C., for my "representing amici in two cases of Mr. J.", I am not clear whether I am being asked to provide legal representation for two or more people or entities who want to appear as amici curiae in those two cases or whether the request is for me to write briefs for those cases in a friendly way, meaning pro bono.
2. Writing an amicus curiae brief is a mayor commitment. The amicus must read attentively the brief in chief in order to understand its theory of the case and avoid contradicting or undermining it in his brief. On the affirmative side, the amicus must have something new and meaningful to contribute to the case, for his brief is not supposed to be merely a letter endorsing one party.

1. An amicus in the U.S. Supreme Court must contribute something new and even pay for it dearly

3. Rule 37.1 of the U.S. Supreme Court Rules^{77b} provides that "the brief...brings to the attention of the Court relevant matter not already brought to its attention by the parties. An *amicus curiae* brief that does not serve this purpose burdens the Court, and its filing is not favored".
4. The amicus must obtain the consent of the party that he is supporting; otherwise, he must move in the Court for leave to file it, but "such a motion is not favored" (Rule 37.2(b)). The party can even move to object to the filing of the amicus's brief. This means that the amicus must first persuade that party to agree with what the amicus wrote; if he fails, he has wasted his effort, time,...
5. And money too because amicus briefs must be filed in booklet format made in a printing shop⁷⁸! (Rule 33), rather than the amicus using 8.5" x 11" paper and his office printer. That is very expensive, in addition to being fastidious and time-consuming.

2. An amicus in a federal appeals court must obtain the consent of all parties; in any court, he must find and comply with the amicus rules

6. In the federal courts of appeals, Rule 29^{ol:5b/fn(e)} is even stricter, for aside from government officers, "Any other amicus curiae may file a brief only by leave of court or if the brief states that all parties have consented to its filing". What are the chances of an opposing party consenting to the filing of a well-written amicus brief? Does it follow that the opposing party will only consent if the amicus brief is a sloppy, quick job that will harm the party intended to be supported by it?
7. This means that an amicus must obtain, read, and follow the amicus curiae rules of any court where she wants to file a brief and file it on the court's timetable, which can be very constraining, e.g., in the Supreme Court the filing date cannot be extended (Rule 37.2(a), 3(a)). She must know or learn the matter in question and applicable law well enough to add something relevant to the debate, lest even the supported party object to it. Such a brief is of no value if it is a scribble on the back of a napkin stating "listen, dud honor, i am with the back of my frend cuse i aint leaving no frend of mind stick his head with you along. Count my bat for him".

3. The difficulty and cost of accessing the research materials and law needed to write an amicus brief

8. Writing an amicus curiae on Department of Energy matters and whistleblower law would require me to make a considerable investment of effort and time just to familiarize myself with that field and law. Not even the law libraries of the NY supreme courts here in New York City have access to a subscription to Westlaw or Lexis-Nexis that includes that law. The Court of Appeals for the Second Circuit itself does not offer public access to Westlaw or Lexis at all! A book with the rules of practice in your federal circuit and state courts annotated can cost over \$200; for comparison's sake, see Federal Civil Rules Handbook by Baicker-McKee, published by Thomson West; <http://legalsolutions.thomsonreuters.com/law-products/Handbooks/Federal-Civil-Rules-Handbook-2016-ed/p/101124925>.

4. In what way would the requested amicus curiae brief benefit from my work on judges' wrongdoing and allow me to expose it?

9. After reading the article that you cited in your email, I do not see in what way my knowledge of judges' wrongdoing would be of any help to your client since his complaints do not allege in any way whatsoever that judges have acted wrongfully in his cases, but rather concern the conduct of entities in the executive branch.
10. What is more, your client is not even alleging that those entities have acted wrongfully, but only that they have declined to pursue his complaints as he requested them to do.
11. In addition, I concentrate my efforts on having a national impact by(ol:292) *informing* the national public through the media, driven by their own commercial and competition interests (ol:319), about the nature, extent, and gravity of judges' wrongdoing(jur:5§3; 65§§1-3) and so *outraging* the public as to stir it up to demand that, in general, incumbent politicians hold, and in particular, presidential candidates call for, nationally televised public hearings that unavoidably lead politicians to undertake judicial reform for fear that the public may take out its outrage on them at the polls. The hearings would be akin to those held by the Senate Watergate Committee, which led to the resignation of President Nixon on August 8, 1974(jur:4¶¶10-14), and the 9/11 Commission, which was convened at the relentless demand of the victims' relatives. This constitutes my out-of-court, inform and outrage strategy for judicial wrongdoing exposure and reform (ol:190), a concrete, realistic, and feasible one resulting from strategic thinking (Lsch:14§3; ol:52§C; ol:8§E; jur:xliv¶C) and the application to any situation of dynamic analysis of all the parties' harmonious and conflicting interests(Lsch:14§2; dcc:8¶11; dcc:17¶1).
12. That is why I am trying to take advantage of the presidential campaign(ol:311, 362) and two unique national stories involving judges' wrongdoing(ol:191§§A,B) as opposed to dealing with a personal, local case(ol:138) similar to hundreds of other cases of whistleblowers and thus, most unlikely to attract much media and public attention, let alone national attention, which is absorbed by the presidential campaign.

B. The request to recast a complainant's letter in legalese shows the insincerity of the assembly members who made it

13. You have requested, Mr. C., that I recast in legal terms your letter because you "have also been asked by members of the State Assembly to re-draft the document into some form of "legalize" language that the representative can take to the capital and take legislative action on". You and your fellow group members show the signs of people repeatedly abused by the system who upon hearing a word apparently offering comfort cling to it desperately and unreflectively.

14. Please, Mr. C., meet with your colleagues and analyze objectively, ‘in cold blood’ as it were, this question: In what conceivable way are the assembly members prevented by the layperson language of your letter from doing what they can do right now, even without your letter, only based on the oral complaint of citizens like you: hold public hearings on wrongdoing courts, whether family, probate, bankruptcy, etc.?
15. Whoever asked you to recast your letter in legalize language put a stumbling block in front of you because they have no interest whatsoever in taking action against the very cronies that they recommended, endorsed, nominated, inducted into the party slate, campaigned for, donated to, and now protect as “*our* men and women on the bench”.
16. Do you think that politicians put on the bench the likes of Mother Theresa of Calcutta and San Francis of Assisi or rather those of their ilk, whom Ali Baba saw go into the cave?(ol:172§E)
17. You wrote in your letter, “family and divorce courts generate \$50 billion in revenue for judges, attorneys, and other associated professional services”. Did you and your colleagues even ask yourselves the question: Do the politicians who appointed the judges of those courts see their appointees raking in so much money but nevertheless because of their integrity refrain themselves from asking them for their ‘fair share’, their ‘commission’?
18. NY Legislature Speaker Silver is said to have cashed in millions of dollars in bribes. What is more likely, that his colleagues, who elected him speaker, did not know of his corruption or that they elected him speaker precisely because they knew and that was their insurance that he would not investigate them for their own corruption, for instance, for taking money from judges or winning cases when they or their cronies appeared before “*their* judges”?
19. If politicians are the appointers of, and benefit from, wrongdoing judges, then they cannot afford to hold hearings on the complaints against *their* judges or investigate them all the way to where the evidence leads them. Those judges know too much about the politicians’ own wrongdoing. On their forefronts, the judges have written in ink that only the politicians, but not desperate victims like you, can see: If you bring me down, *I’ll take you with me!*

1. An AG must be in good terms with judges to win cases & avoid reprisal

20. That is why the investigation by the NY Attorney General, who was a member of the NY legislature for many years, cannot reasonably be expected to be anything but pro forma. If the AG starts investigating judges, they will close ranks and retaliate(Lsch:17§C) so that he does not win a case or a motion again. How can the AG go back to the voters with a bid for reelection if he loses every case and is made out by his challenger for the AG office as either incompetent or a reckless prosecutor who brings baseless cases to court that judges dismiss one after the other?
21. Do you and your colleagues believe that you are the very first victims to complain to those assembly members and AG staff about wrongdoing judges? Do you believe that those officers have not investigated them because nobody told those officers about the judges’ wrongdoing(Lsch:15§B by commission and omission), they did not know, and thus did not have the opportunity to take action until you came around and opened their eyes to *their* wrongdoing judges?
22. If that is your and your colleagues’ assessment of the situation, you are not being realistic. You are allowing those politicians and AG staff to lead you by the nose just as they led all previous complainants with requests as non-sensical as that of re-casting your letter in legalese. The language of your letter has and will have no impact whatsoever on what is at stake: the interest of the assembly members and the AG in maintaining a good relation with *their* judges to avoid retaliation and secure the continued flow of benefits that they receive from them

2. Victims themselves must expose judges by auditing their decisions

23. If you all want to expose judges' wrongdoing, you have to do it yourselves, eventually with the help of the media working in their own commercial and competition interests([ol:177](#)). You cannot rely on the insincere promise against self-interest of an investigation made by the judges' appointers in the legislature and the AG staff, who depend on judges to win in court and get benefits.
24. How you can work together to expose judges' wrongdoing is described methodically and in detail in my article Auditing Judges([ol:272](#)) on jointly searching your court documents for commonality points that reveal patterns of coordinated wrongdoing as well as building a sociogram of wrongdoers, that is, a graph illustrating how judges and politicians are related among themselves and to the money in which those courts, according to your own letter, are awash(cf. [jur:9](#)). With that broad-based and verifiable evidence, you can approach journalists([ol:308](#)) and take advantage of the need of presidential candidates to draw support from the huge untapped voting bloc of all the people dissatisfied with the judicial and legal systems([ol:311, 362](#)).

C. No even the best brief can force judges to walk away from their bankruptcy fraud scheme and its benefits

25. Whatever idea you may have formed, Mr. Bombart, that I can help you in your bankruptcy case is not well founded. Not even the best brief ever written in a bankruptcy case or the most pertinent arguments ever delivered at a hearing on a bankruptcy motion have the power to compel a wrongdoing bankruptcy judge to do the right thing. Not even top notch lawyering can stop bankruptcy judges from benefiting from what they run together with the bankruptcy trustees, their lawyers, their accountants, their evaluators, their warehousers, their auctioneers, etc.: a bankruptcy fraud scheme.([jur:42fn60](#) on the technical aspect of running such a scheme; [65§§1-3](#) on the protection of such a scheme by circuit judges, the appointers of bankruptcy judges).
26. Moreover, who would pay the airfare, room and board, local transportation, and all other incidentals if I had to appear in court or meet with you and other people and to that end travel from NY to Florida? I? and for preparing for the meeting and closing my office during the trip too?

D. The practical realities of pro bono work and attorney's fees

27. Let me point out that you are three advocates who just since last Friday, March 11, have requested that I assist in their cases pro bono. I receive such requests constantly. I trust you realize that I cannot afford to acquiesce in all of them. Thus my attorney's fees must apply: a retainer paid in advance from which a \$350 per hour fee is deducted in addition to costs and incidentals.
28. Please note that neither Westlaw nor Lexis-Nexis provides free access to their legal research databases to pro bono lawyers. Nor Staples, the banks, the company hosting my website, the provider of Internet services, the power and water companies, the grocery stores, etc., furnish their goods and services for free to lawyers who work in the public interest without remuneration.
29. Nobody pays me either for researching and writing this study([jur:1](#)), and posting to my website Judicial-Discipline-Reform.org my articles, on judicial wrongdoing exposure and reform, or this email for that matter. See also my article on how to obtain pro bono legal assistance([ol:131](#)).
30. Nothing that is taken for free and can be left at no cost is appreciated...and one ends up holding the bag and wearing a dunce's cap. Is it not reasonable to ask and expect that you contribute to defraying my expenses incurred in working on your cases as well as in the public interest?

Dare trigger history!([jur:7§5](#))...and you may enter it.