

February 21, 2008

**The Revised Rules
Governing the Processing of Judicial Misconduct Complaints
Will Not Stop Federal Judges From
Systematically Dismissing Them**

**Now judges judging judges
can suspend or modify their application
thus making the Rules illusory!**

The Committee on Judicial Conduct and Disability announced that its Revised Rules for processing misconduct and disability complaints against federal judges were submitted for adoption next March 11 by the highest policy-making body of the Federal Judiciary, namely, the Judicial Conference of the U.S., whose presiding officer is the Chief Justice of the Supreme Court and whose other 26 members are the chief circuit judges and representative district judges.

A. WHAT THE COMPLAINTS COVER AND THEIR PROCEDURAL STAGES

The Revised Rules are procedural rules for applying the Judicial Conduct and Disability Act of 1980, which set up the system of judicial self-discipline. Under it anybody can file a complaint against a federal judge on grounds such as these:

- conflict of interests
- abuse of judicial power
- undue decisional delay
- demeanor, includes judicially unbecoming or abusive language or treatment of others
- mental or physical disability that prevents the discharge of all the duties of office.
- bribery
- prejudice
- corruption
- incompetence
- bias
- neglect

Complaints must be filed with the judge's chief circuit judge, who may appoint a special committee, all of whose members may be federal judges, to investigate the complaint and submit a report to the circuit's judicial council, which is composed of judges and which in turn may refer it to the Judicial Conference Committee on Judicial Conduct and Disability, which is also composed of judges and whose decision may be reviewed by the Conference itself.

B. THE STATISTICS SHOW THE SYSTEMATIC DISMISSAL OF COMPLAINTS

This inherently biased system where judges judge other judges, who are their colleagues and may be their longtime friends, has been abused by judges to self-exempt from any discipline. Thus, the official statistics of the Administrative Office of the U.S. Courts on their handling of those complaints show that in the 10-year period 1997-2006 there were filed 7,462 complaints, but judges only set up 7 special investigative committees and disciplined only 9 of their peers!

This means that of all misconduct and disability complaints filed against federal judges, the latter dismissed systematically, in self-interest, and without investigation 99.88%!

C. REVISED RULES AS THE JUDGES' RUSE TO WARD OFF CRITICISM

Members of Congress expressed their dissatisfaction with the judges' dismissing complaints to protect each other and in effect abrogating the Act. They introduced two bills, H.R. 5219 and S. 2678, to enact the Judicial Transparency and Ethics Enhancement Act, which would establish the Office of Inspector General for the Judicial Branch.

To ward off any Congressional supervision, the Late Chief Justice Rehnquist set up a committee chaired by Associate Justice Breyer to study the implementation of the Judicial Conduct and Disability Act. The Breyer Report was submitted to Chief Justice Roberts, who requested that the Judicial Conduct and Disability Committee revise the current complaint-processing rules in order to implement the recommendations of the Breyer Report.

D. CIRCUMVENTION OF THE DUTY TO GIVE NOTICE OF A REVISION

When the Committee released its Draft Rules for public comment it made its announcement on only one little known website, held a single public hearing in an out of the way district court, and did not make public the comments that it received. Just before the holidays, on December 21, it released its Revised Rules and allowed barely two weeks to submit comments, thus confirming its determination not to subject its Rules to public scrutiny. The reason for this is obvious given that its Revised Rules make it even easier for judges to take care of their own than the Draft Rules or the current rules that they replace.

E. RULES MADE BY JUDGES TO FACILITATE DISMISSAL OF COMPLAINTS

Indeed, the Revised Rules now allow chief circuit judges, special committees, judicial councils, the Committee, and the Conference to suspend or modify the rules in any case, thereby making them illusory. They even strip the Committee's own commentaries on its Rules of the status as "authoritative interpretations of the Rules" that they had in the Draft Rules. They also deprive the Code of Conduct for United States Judges and even mandatory rules concerning gifts, outside income, and financial disclosure reports, of any value as sources of guidance in complaint proceedings.

F. YOU CAN HELP EXPOSE THE REVISED RULES AS ABUSE OF JUDICIAL POWER

By means of the Revised Rules federal judges will continue to protect their exercise of judicial power over people's property, liberty, and even life, including yours, through the systematic dismissal of complaints against them and the resulting self-immunization from any discipline. Vast power immune from any control is absolute power, the kind that corrupts absolutely. How would you like to have your rights to everything you have and are disposed of by judges who have little respect for the rule of law because they have dispensed with the law in order to place themselves in an "Unequal Position Above Law"?

If you believe that what is at stake in connection with the adoption and application of the Revised Rules is the integrity of judicial process and the public's trust in the impartiality and fairness of judges, I invite you to join the effort to bring this matter to the attention of the public at large, the legal community in particular, and the media generally, including bloggers.

For detailed comments and links to the Rules as well as to single and collected references, see http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf.