

March 1, 2008

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

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 on March 11 by the Judicial Conference of the U.S. The latter is the highest policy-making body of the Federal Judiciary, presided over by the Chief Justice of the Supreme Court, and constituted of other 26 members, namely, 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 a system of judicial self-discipline. Under it, anybody can file a complaint against a federal judge –including a magistrate- with the judge’s chief circuit judge, who may appoint a special committee, all of whose members may be judges, to investigate the complaint and submit a report to the circuit’s judicial council, which is composed of judges and which may refer it to the Committee, which is also composed of judges and whose decision may be reviewed by the Conference.

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

Hence, to escape any discipline, the judges dismissed systematically, without any investigation, 99.88% of all complaints against them! In so doing, they were not stopped by the seriousness of the complaints, which cannot concern the merits of a case, but rather allegations of a judge’s:

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

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

Dissatisfied with the abuse of the system of judicial self-discipline, Congress introduced two bills, H.R. 5219 and S. 2678, to 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 Committee revise the current rules in order to implement the Breyer Report recommendations.

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 so as to keep undisclosed those of other judges. Just before the holidays, on December 21, it released its Revised Rules and allowed barely two weeks to submit comments. Thereby it confirmed its determination to minimally subject its Rules to public scrutiny.

Indeed, the Revised Rules allow chief circuit judges, special committees, judicial councils, the Committee, and the Conference not to apply the rules in any case, thus 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.

C. 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, whereby they can abuse such power with impunity. 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 so little respect for the rule of law that 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 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, let the Conference members know. See http://Judicial-Discipline-Reform.org/judicial_complaints/Jud_Confer_contact_info.pdf.

For detailed comments, the Rules, the statistics, and supporting documents, see http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf.