

April 8, 2018

Abuse by proxy: law clerks and court clerks are subject to the judges' supervision, control, and removal and are used as executioners of their abuse

1. Clerks have an inalienable duty to comply with the law. This is so whether they are court clerks in the clerk of court's office or law clerks in their chambers of the judge for whom they clerk. Under the Nuremberg principle, their commission of abuse is not excused 'because I was simply following orders from my superiors'. They bear personal responsibility for doing what is right and not doing wrong, even if discharging it requires that they disobey orders. Their pursuit of the benefit of keeping their jobs, never mind being promoted, is not an excuse for harming others.
2. Clerks are subject to judges' supervision and control. They do not deal at arm's length. The difference in their relative power is enormous. Though clerks may have signed up to be Workers of Justice, judges reduce them to executioners of their abuse, either through the threat of arbitrary removal without recourse(*>jur:30§1) or by dangling before them a corruptive letter of recommendation, which can make or break their job prospects at the end of their clerkships(†>OL2:645§B) Thus, clerks are easy prey of judges. If they complain, they end up in front of other judges, who are biased toward their peers and colleagues and have a personal interest in keeping all clerks in line. By contrast, if clerks do as they are told, the judges protect them. What is more, judges wield power over the ultimate reward for their law clerks: a glowing or devastating letter of recommendation to be used in their job search at the end of their clerkship(OL2:645§A).
3. Court clerks harm people by depriving them of their procedural rights, disrespecting and demeaning them in the clerk of court's office –a.k.a. intake office–, subjecting their papers' acceptance for filing to damaging pettiness and punctiliousness, altering the contents of the dockets, maneuvering dates therein to make a party meet or miss a crucial date, losing and misplacing papers, disregarding the randomness of case assignment to manipulate which judge gets a case or is spared a type of case, etc. An arrogant and ego-tripping clerk who wants to show who is boss can determine the fate of a case on his or her own initiative, let alone upon a judge's order. A clerk can reject for filing the brief and record of a party because in his in effect unappealable decision those papers do not comply with the court's formatting rules prescribing the contents of the title page and the Table of Contents; the position of the Note of Issue, the decisions on appeal, and the request for oral argument; the width of the margins; the header of each page; the position and format of the page number; the font type and size; etc. The clerk can require that the original and all the copies of the paper in question be reprinted with the indicated corrections. That can cost a party thousands of dollars. Much worse, it can cause the party to miss the deadline for filing such paper. The party may lose the case by default or be required to file a motion for enlargement of time to file it or perfect the appeal, which in itself is costly, time-consuming, and fraught with uncertainty.
4. Law clerks harm people by perfunctorily researching the law applicable to a case, and disregarding or misstating it. They divulge confidential information filed under seal, heard in chambers, or learned while discussing a case with a judge. Their conduct can reflect the arrogance and abusiveness of the judge for whom they clerk, who permits and excuses it just as she does her own.
5. Applying dynamic analysis of conflicting and harmonious interests(OL2:445§B, 475§D, 465§1), one realizes that clerks have a harmonious interest with expositors of judges: They either have been abused or are morally conflicted by the abuse that they commit out of greed or cowardice. So, they can be turned into Deep Throat(jur:106§c) confidential informants. They have a wealth of inside information to share, whether it deals with the personal experience of abuse at judges' hands or inflicted upon their instructions, in addition to the abuse that they have witnessed others experience.

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

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-contemptuous 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 se³⁵, 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 weaklings³⁴ 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

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

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 Committee⁴³ 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

Dr. Richard Cordero, Esq.

Dr.Richard.Cordero_Esq@verizon.net

DrRCordero@Judicial-Discipline-Reform.org

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December 23, 2014

When A Judge Contributes As An Insider Information and Ideas to Exposing Judicial Wrongdoing And Bringing About Judicial Reform

A. Connecting to contribute information and ideas to judicial honesty and reform

1. It takes considerable courage for a judge to expose the wrongdoing of his or her peers. However, that is required to safeguard personal and institutional integrity, which always entails sacrifice and risk. A judge can be as confidential as he or she deems it necessary to discuss this proposal to expose judges' wrongdoing and bring about judicial unaccountability reform; and what he or she stands to gain personally and professionally for showing the courage and integrity needed to contribute information and ideas to its realization.
2. The proposal concerns not only the NYS Unified Court System, but also the rest of the country, for its initial implementation can set in motion a trend toward honest judiciaries through the out-of-court strategy of journalistic investigations, outrages the public, and leads to official investigations and judicial reform that includes citizen oversight of judiciaries.
3. The nature, extent, and gravity of judicial wrongdoing are described in the study of the Federal Judiciary and its judges, the model for their state counterparts: *Exposing Judges' Unaccountability and Consequent Riskless Wrongdoing: Pioneering the news and publishing field of judicial unaccountability reporting*([jur:1](#)).

B. The kind of wrongdoing within the scope of this proposal and its main features

1. Subjective discretionary power is excluded from the scope

4. The wrongdoing dealt with here does not concern the allegations by 'disgruntled losers' that the judges in their cases behaved badly and reached wrong decisions that entailed the loss of their causes of action. Such allegations frequently refer to the judges' subjective conduct, that is, their exercise of discretionary power.
5. A party, biased toward its own side of the controversy, particularly if pro se and as such lacking the sobering assessment of a lawyer, may deem abuse of discretion what appellate judges may find within bounds even though admitting that they would have proceeded differently or, if only defending one of their own, may be able to explain it away with plausible excuses.
6. By its very nature, the exercise of discretion always gives rise to debate even among honest and impartial people. Usually, what is called into question is its appropriateness or correctness under the circumstances, rather than its indisputable lawfulness or unlawfulness. What is at stake is the judge's good judgment, not his or her honesty. Accordingly, matters of discretion normally provide a weak foundation for a judge's impeachment and removal.

2. Scope of wrongdoing limited to objective wrongful activity

7. By contrast, the wrongdoing dealt with by this proposal concerns objective conduct: a wrongful act that most frequently forms part of a pattern of criminal or unethical activity or of improprieties even the appearance of which a judge must avoid under Canon 2 of the ABA and federal codes of judicial conduct^{123a}. Even an impropriety can lead to the resignation of a judge, as it did to that of U.S. Supreme Court Justice Abe Fortas on May 14, 1969([jur:92§d](#)).
8. Such wrongdoing is mostly engaged in through explicit or implicit coordination([jur:88§§a-c](#)) among judges and between them and other insiders¹⁶⁹ of the judicial and legal systems. If

committed by rogue judges acting alone, it is condoned and covered up by their peers out of self-interested complicit loyalty and the expectation of reciprocity.

9. Therefore, if the judges did it, they engaged knowingly and intentionally in illegal activity and rendered themselves guilty and punishable, No appellate judge, politician, or other third party could, or even wish to be seen trying to, excuse them. They were caught doing wrong and showed to be dishonest and liable to a call for their resignation or impeachment.

3. Motive, opportunity, and means, and enabling circumstances of wrongdoing

10. The motive for wrongdoing is frequently the most insidious corruptor, *money!* (jur:27§2); the opportunity for it is afforded by mostly unreviewable cases(jur:28§3); and its means is judicial power abusively exercised.
11. The circumstances enabling judicial wrongdoing are pervasive secrecy(jur:27§e); unaccountability ensured through self-immunization(jur:24§§b-d) and connivance(ol:176§A) with the politicians who recommended, endorsed, nominated, confirmed, appointed, campaigned for, and donated to, people of their own ilk to become judges and, thus, ‘their men and women on the bench’(jur:77§§5-6); and the resulting risklessness, which makes wrongdoing painless in practice and as a non-event, morally indifferent and acceptable.

4. Forms of judicial wrongdoing involving criminal and unethical activity

12. Wrongdoing engaged in risklessly by unaccountable judges cloaked in secrecy includes:
 - a. concealment of assets(jur:65§§1-3) to evade taxes and launder money obtained from dirty sources^{ol:5fn10}, such as bribes; exploitation of confidential information learned in chambers or filed under seal; liquidation of assets at ridiculously low prices at undisclosed ‘public’ auctions; and kickbacks;
 - b. grabbing material²¹³(jur:27§2), professional⁶⁹(56§§e-f), and social benefits(62§g, a&p:1¶2nd) for the judge or the class of judges by disregarding the strictures of due process, the substantive law applicable to the case at bar, and the facts thereof;
 - c. denial of recusal motions in order to solve conflicts of interests in one's own interest²⁷²;
 - d. participation in, and cover-up of, the most harmful form of coordinated wrongdoing, i.e., schemes(ol:85¶2), which are complex forms of wrongdoing with a hierarchy of personnel, division of labor, standard mode of operation, and distribution of benefits; e.g., a bankruptcy fraud scheme(jur:66§§2-3)l and
 - e. threats and acts of retaliation against opposers and exposers, including interference with their communications(ol:176§B), which is a crime^{ol:5afn13,14}.

C. The elements of judicial reform

13. Judicial wrongdoing constitutes a betrayal of public trust. Public power entrusted to the judges is embezzled by them for their individual and collective, class of judges, benefit. Exposing it can so outrage the public as to stir it up to force politicians in the midst of the primary and presidential election campaigns, when they must appear as sensitive to the public’s mood and responsive to its demands, to undertake judicial reform(158§§6-8). Such reform can provide for:
 - a. the **TRANSPARENCY** of judges’ performance and their judiciary’s operation by requiring their deliberative, administrative, policy-making, and disciplinary meetings to be held in public, as are the meetings of Congress’s chambers and committees and those of the

president's cabinet and the Executive departments and agencies; and

- b. **ACCOUNTABILITY, DISCIPLINE, and LIABILITY TO COMPENSATE** victims of judges' wrongdoing, ensured by an independent citizen board empowered to receive publicly filed complains about judges of the judiciary under its jurisdiction; investigate them with subpoena, search and seizure, and contempt powers; hold public hearings; and initiate periodic reviews and special investigations in its capacity as the inspector general of that judiciary.

14. Those are fundamental changes in the administration of justice and the application of the democratic tenet that in 'government of, by, and for the people'¹⁷², *We the People* are the masters of all public servants, including judges, who are judicial public servants. The debate over those changes can influence the setting of the agenda of, and the results achieved by, a constitutional convention(ol:87§D).

D. The model of confidentiality: Deep Throat and how he became a historic figure

15. If you choose to contribute information and ideas on a confidential basis to judicial wrongdoing exposure and reform, you can become this generation's Deep Throat, the now historic figure of Watergate fame.
16. Deep Throat was the code name for Mark Felt, the Deputy Director of the FBI, who secretly provided *Washington Post* Reporters Carl Bernstein and Bob Woodward valuable information for their investigation of the at first derisively called by most other journalists "a garden variety burglary by five plumbers" in the Democratic National Headquarters at the Watergate building complex in Washington, D.C., on June 17, 1972.
17. Thanks in part to the inside information and ideas contributed by Deep Throat to those *Post* reporters, their investigation revealed the Watergate scandal. It led to the resignation of Republican President Nixon on August 8, 1974, and the imprisonment of *all* his White House aides for their participation in political espionage, its cover-up, and abuse of power so widespread and routine that it was characterized by Bernstein as "a criminal enterprise" run from the Oval Office.
18. With the contribution of Deep Throat, among others, the Watergate scandal provoked such public outrage as to generate the commercial incentive for ever more journalists and media outlets to join Woodward and Bernstein. A generalized media investigation emerged. In time, the outrage made the formation of the bipartisan Senate Watergate Committee inevitable.
19. Journalistic and official findings showed the need to reform government by adopting a series of laws aimed at increasing the transparency of public officers' performance and their accountability^{cf.107d}.
20. Woodward and Bernstein kept the identity of Deep Throat secret for over 30 years, until Mr. Felt revealed that he was the enigmatic character of those reporters' bestseller *All the President's Men* and the homonymous blockbuster movie(jur:4¶¶10-14), where they were portrayed by List A actors.
21. Thus Deep Throat became a historic figure of American politics, studied in every school of journalism, and the epitome of a whistleblower protected by journalists no matter what.
22. All this is precedent for the proposal for judicial wrongdoing exposure and reform.

E. Your loyalty to *We the People* as required by judicial integrity

23. Hopefully, you realize that your duty of loyalty is, not to your judicial peers, but rather to the
ol:182 When a judge contributes as an insider information and ideas to judicial wrongdoing exposure and reform

people of whom you are a public servant and a recipient of their trust and public power to adjudicate controversies according to the rule of law. That kind of commitment to principles even at the cost of peer acceptance constitutes the essence of judicial integrity.

24. The choice is yours: You can be merely another among judges who embezzle public power to pursue their own interests and cover it up through their collegial complicity([jur:88§§a-c](#)) or you can stand out in your own name or as this generation's Deep Throat to defend the noble ideal of administering to both the rich in judicial connections and the poor in chances of getting a meaningful day in court Equal Justice Under Law.

1. Out-of-court strategy for judicial wrongdoing exposure and reform

25. Trying to expose the wrongdoing of a judge by suing him or her in court is an exercise in futility: In the unprincipled and selfish interest of remaining in good standing among their peers and ensuring that they will be in turn protected if need be, judges protect each other regardless of the merits of the claims against any one of them([ol:158](#)).
26. Moreover, exposing one judge at a time, who is likely to be characterized as a rogue judge on a folly of his or her own, does not allow the exposure of wrongdoing so coordinated that it has made a judiciary the safe haven of wrongdoers.
27. Broader, institutional exposure calls for an out-of-court strategy centered on an initial investigation conducted by journalists whose findings outrage the public, who in turn force politicians, lest they be voted out of, or not into, office, to conduct official investigations and undertake judicial reform.

2. Taking action to implement the strategy; and its expected unfolding

28. If you choose to be the one courageous judge who exudes integrity, you can:
- a. contribute as an insider openly, under a pseudonym, or only as a source of information and ideas to denouncing judicial wrongdoing in an Emile Zola's *I accuse!*-like brochure([jur:98§2](#)); the journalistic investigation of two unique national stories([ol:176](#)); and a documentary([ol:85](#)); which
 - b. cause national public outrage([jur:83§2](#)) that
 - c. turns judges' wrongdoing in connivance with politicians into a central issue of the primary and presidential election campaigns; and
 - d. prompts ever more journalists to investigate the federal and state judiciaries until a Watergate-like generalized media investigation develops, whose
 - e. findings further outrage the national public and
 - f. provokes public demand for Congress, DoJ-FBI, and their state counterparts to investigate judges and judiciaries officially and at public hearings; whose
 - g. use of more intrusive official investigative powers([ol:157¶f](#)) makes findings possible that exacerbate the outrage of the public, which
 - h. compels the undertaking of judicial reform([jur:158§§6-8](#)); and
 - i. you end up earning any of many valuable material and moral rewards([ol:3§F](#)), including that of being nationally and historically recognized as one of *We the People's* Champions of Justice.

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

August 31, 2016

When pro ses and lawyers think strategically and proceed unconventionally to join forces as detectives in field research to get information on judges' improprieties and illegal activities, turn clerks into confidential informants, and become *We the People's* Champions of Justice

You, a pro se or a lawyer, who have had a judge deny you or your client due process and equal protection of the law, can take unconventional action to expose such wrongdoing (*>jur:5§3; ol:154§3) judge, e.g., one who has clerks allege that documents were served on you but who can neither produce copies nor even show a record that they were actually served on you.

A. Two principles that pro ses and lawyers should know about wrongdoing judges

1. There are two basic principles that should guide the actions that pro ses and lawyers take to defend their rights in court:

a. The court has all the institutional power. If a court wants to railroad you, there is nothing you can do about it, as shown in the analysis(†>ol2:452) of the official statistics of caseloads and their management by judges. Suing the judge before his or her own colleagues, peers, and friends is an exercise in futility foretold and a show of lack of understanding of how and why judges cover for each other, as explained in the article(ol2:461) that discusses the concepts of:

- 1) dynamics of interpersonal relations based on reciprocally dependent survival; and
- 2) institutional circumstances enabling judges' wrongdoing.

b. Think strategically! This means think outside the box, putting aside the conventional, in-court ways(*>ol:390§B) in which pro ses and lawyers have tried for centuries(jur:21§1) unsuccessfully to secure the respect of the law by judges and their clerks.

1) Strategic thinking(Lsch:14§3; ol:52§C; ol:8§E) consists of the use of knowledge of parties –here: the parties in the judicial and legal systems– and their interrelations to determine through analysis their constantly strengthening and weakening harmonious and conflicting interests underlying and motivating those relations so as to figure out a way to influence those interests to one's advantage through, e.g.:

a) the forging of strengthening alliances or the driving of weakening wedges between parties, in application of the principles:

- (1) The enemy of my enemy is my friend...and I will do everything possible to help him prevail in order to help myself;
- (2) The friend of my friend is my friend...and I will help him because there is strength in numbers and my grateful friend may help me.

2. KNOWLEDGE IS POWER. Read as much as you can of my study of judges and their judiciaries*, starting with the (blue text references* †) to it herein. Then you can proceed, not by rote, but rather by strategy crafted against a formidable opposing party: judges and their clerks, who have all the power of their institutions and will use it to crush you. You only have the power of knowledge, which can help you outsmart them. This you can do in the following concrete ways that apply the above principles. They provide for you to use your case *only as an element* of a strategy: the out-of-court inform and outrage strategy(†>ol2:458§1) for exposing unaccountable (ol:265) judges who consequently engage risklessly in wrongdoing coordinated with their clerks.

B. Concrete ways for searching for document records and information about judges' wrongdoing

1. Searching online and in the office of the clerk of court and county clerk for document records: the case docket and the judge's calendar

3. **Go to the court website**([jur:20](#)), surf to, and download the docket of the case and the calendar of the judge for the last year. You must do that immediately to preserve those records as they stand now before they are altered to suit the clerks' account of the documents in question. If you cannot download them, take screenshots of every screen –Shift + Screen print (the key after F12)–.
4. Indeed, whenever you visit a webpage for any aspect of this search, download and date it, and add its link to it because it can be moved or deleted. Add all of them to a single searchable pdf([ol:102; 277¶¶18-20](#)) and bookmark each page to facilitate navigation through the pdf.
5. **Go to the courthouse** if those records are not online. Many state courthouses are located in the same building as the county clerk's office, where the judges' decisions as well as plaintiffs' complaints and parties' briefs, motions, and other case papers are filed as public records. It will become apparent below why it is pertinent to note that the county clerk's office has other departments to keep, file, register, and issue a host of records, licenses, certificates, and applications regarding jury rosters, property, incorporation and sole proprietorships, marriage, birth and death, name changes, identification cards, voting, running in and results of elections, social security, public assistance, etc. County clerks work in close contact with state court clerks. The former know through the latter all the gossip about the judges and what happens in the court.
6. In a federal court filings are made in the in-take office of the clerk of court, which is not associated with the state county clerk's office. In-take clerks learn from the law clerks, who are lawyers and 'clerk for a judge' (only for a year after law school) or for the court in general as their permanent job, what goes on in chambers, the courtroom, and elsewhere. An in-taker may also learn from a judge who wrongfully orders her to 'change that motion's docket date to today's'.
7. These state and federal case filing offices are referred to here as the clerk's office or office. Go there and quietly, without drawing attention to you more than needed, sit at a public computer terminal and check your case for its docket and the judge calendar. Print them AND take a picture of every frame with your smartphone or tablet, making sure that the picture allows the identification of the computer as that in the clerk's office. If there is no computer available to the public, ask a clerk for the paper version of those records and make a copy or take a picture.
8. Likewise, download or print every single document in the docket. You want to determine whether the alleged document was docketed at all so that it is online and, if so, whether it was docketed in the proper numerical order. What you are looking for is:
 - a. the date stamp on the first page,
 - b. the sequential number of the document, which often is handwritten next to the date stamp;
 - c. the initials or name of the clerk who made each docket entry;
 - d. whether the document was docketed completely because it has all its internal pages;
 - e. markings on pages even if they appear meaningless at this early research stage...or no markings, but a year later the document has markings. Who reloaded it with them? Why?
9. Examine the judge calendar and look for any entries concerning your case. Are they plausible? Determine whether the judge was in chambers, holding court, or even in town on the date when

the document in question was signed or the order for its issuance was allegedly issued; or he or she was at a seminar; teaching a class as an adjunct professor; judging a moot court session at a law school; at the wedding out-of-state of his or her son; on holiday; etc. So check the judge's:

- a. webpage on the court's website, paying attention to dates, times, places, names of people, titles, relations, occasions, membership in organizations and clubs, etc.;
- b. social media page, e.g., Facebook, LinkedIn, YouTube; download all pictures of the judge, his family, associates, etc., and accompanying articles for future use(infra, [ol2:473¶25](#)).
- c. appearance on a Google search showing that he or she holds an honorary position in an organization that advocates positions that under the code of conduct for judges ([jur:68fn123a](#) >Canons 4 and 5) are inconsistent with the obligations of judicial office or involve political activity; or contradict his or her public statements.

1) This is an example of serendipity: You are looking for one thing but detect another thing of great value because you are proceeding with your eyes wide open and a mind that looks at everything critically and integrates every piece of information into a system. A large percentage of findings are made thanks to serendipity.

10. Compare your case docket and the calendar entries for your case with those of the judge's 20 other current cases; compare them with those of other judges. Does a pattern emerge that:

- a. was broken in, or confirmed by, your case and points to the judge's failure to abide by the injunction in Canon 2 of the judges code to "avoid even the appearance of impropriety"?
- b. raises suspicion?: e.g., the judge takes the type of order affecting you on Fridays close to the end of business: Is that a mere caseload dumping([ol:92¶b](#)) measure for a light shoulder feeling that has nothing to do with the merits of the cases?
- c. involves other parties that strangely enough are the same? One of the main rules of wrongdoing is: Involve as few people as possible to avoid leakage, mistakes due to lack of coordination of timing and action, infighting for turf, and reduce the number of 'slices in which the cake' of wrongful benefits must be divided among the wrongdoers:
 - 1) the same clerk, the same accountant, auctioneer, warehouse, guardian ad litem, executor, liquidator, evaluator, companies, and other parties with whom the judge and/or the clerk works together in a scheme([ol:85¶2](#), [91§E](#)), the most complex, profitable, and harmful form of coordinated([jur:88§a](#)) wrongdoing.

11. Think like a lawyer: What arguments can you make based on each piece of information, such as a marking, in a source, such as a picture, a webpage, an article, and through their integration in, or failure to fit, a system? Arguments do not scream at you to identify themselves. You have to stare at sources critically and imaginatively to craft them; sources only provide a hint in the form of a piece of information. Does it hint at manipulation of dates, conduct unbecoming of a public servant, text replacement, bias, conflict of interests, counterfactual statement, odd behavior, etc.?

2. Financial wrongdoing: the Al Capone approach

12. Al Capone was convicted, not on his alleged mafia crimes, but rather for tax evasion. Likewise, a judge may not be brought down on account of her wrongful decisions, which peers and clerks may squeeze within her discretion or cover up, but rather on account of financial crimes([ol:250§B](#)); after all, the most insidious motive for wrongdoing is *Money, lots of money!*([jur:27§2](#)).

13. The key documents in this respect can be downloaded or examined and copied in the field and

subjected to financial analysis to determine whether the judge is liable to the Al Capone approach for illegal benefits sought and/or obtained for herself or others. These documents are:

- a. the judge's mandatory annual financial disclosure reports(jur:65fn107d) available for the last seven years(jur:105fn213a); and
- b. the filings in county clerks' offices(jur:110fn242-244) concerning the property in the name of the judge, her family, close associates, and even strawmen (fictitious people).

14. Such financial analysis may produce probable cause to believe that the judge may be:

- a. filing reports that make no financial sense(104¶¶236-237; jur:72§b; ol:315§6), which may point to off-shore accounts in tax heavens(ol:1, 2), money laundering, and tax evasion;
- b. living above his or her means because on a judges' salary –a matter of public record–:
 - 1) records in county clerks' offices show that the judge has a yacht, a condo in Miami, a large investment in a company, in addition to a home in a gated community;
 - 2) based on the information found in huge commercial databases of newspapers and journals, e.g., Nexis(jur:108§d): the judge has three children at expensive private universities, takes vacations at luxurious resorts, is a member of exclusive clubs;
- c. taking indirect bribes, e.g., has taken out large loans for which little or no collateral has been posted by mortgaging a property and recording it in the county clerk's office.

15. The above should have allowed you to realize the strategic thinking that motivates this exercise:

- a. You are not looking to establish that the judge abused his or her discretion. That is a losing battle because by definition 'discretion' has a wide margin of leeway. Even if appellate judges would have exercised their discretion to do the opposite of what the judge did, they cannot reverse her decision if it was within her margin of discretion(ol2:437).
- b. You are looking for wrongdoing, including criminal activity, from which the judge and the clerks benefit(ol:173¶93). Three basic elements are considered to establish wrongdoing: motive, means, and opportunity(jur:21§§1-3). They may reveal a settled way of doing, the modus operandi, which manifests itself in a telltale mark: a pattern of wrongdoing. You only need to show 'the *appearance* of impropriety'(jur:92§d), not prove with evidence.

3. The strongest support for a claim: a pattern of wrongdoing

16. The search for patterns of wrongdoing is what can allow you to strengthen your case as nothing else can. Right now, you only have yourself, a pro se party or a lawyer for a party, who as such is by definition biased toward his own side of the story. You are alleging with nothing more than words that you are the victim of some form of judicial wrongdoing, e.g., that you did not receive a document or that the record of a document cannot be found. Nobody is going to take your word for it over that of a judge and her clerks, who are her protégés as her accessories in wrongdoing. Forget about people reading the whole record to reach their own conclusion. Thus, you are nothing but a lone whining loser. You need to break away from that damning status.

17. Strategic thinking and proceeding will allow you to become **a member of a class** of people victimized by a pattern of wrongdoing of a judge or judges and their clerks. How you form that class, beginning with a small, manageable team of three to seven people who have appeared before the same judge as you have, is described in painstaking detail in the article Auditing Judges (ol:274; and at http://Judicial-Discipline-Reform.org/OL/DrRCordero_Auditing_Judges.pdf).

C. The search for Deep Throat: developing confidential informants

1. Court, law, and county clerks: the insiders

18. To build the Auditing Judges class, you and your Auditing Judges team need inside informants: Deep Throats(jur:106§c), similar to the classic one in the Watergate Scandal, which brought down President Nixon, forcing him to resign on 8aug74(jur:4¶¶10-14).
19. Clerks know a lot about judges' wrongdoing, for they may be their willing or coerced assistants in committing it. Yet, most only get the smallest benefit, usually limited to holding on to their jobs: They either do what they are told or they are flung out(jur:30§1). If they are fired arbitrarily, they can hardly count on other clerks testifying on their behalf. If they file a suit, they land in front of the firing judge's peers, who have an interest in sending a message to all clerks: 'Don't you even think of disobeying our orders: You can only jump from the pan to the fire.' Cowardice and helplessness breed resentment in the clerks. How many female clerks have had to endure sexual abuse by judges, such as J. Samuel Kent(jur:22fn14)? Read about it and turn this subject into a talking point to strike up a conversation with a clerk identified as a potential informant.
20. This explains why clerks may be the ones most indignant about the judges' wrongdoing: They may have joined the court expecting to be Workers of Justice, but have been forced to become the judges' Enforcers of Wrongdoing. They may not feel proud about their behavior.
21. All this points to the need to: **a.** identify former clerks: They know a lot about what went on in the court; still have contacts there, and cannot be fired...or were fired for protesting; **b.** imagine scenarios of how to approach a given clerk based on what you are learning about her that may persuade the clerk to become an Informant for Justice; and **c.** role play(ol:356) frequently with other team members, even on the phone, or in front of a mirror: Do not wing it! Here are three steps for you and your team to search for informants: identify, learn and choose, and contact:

a. Identify current and former clerks

- a. **Go to the website;** download and print the picture of every judge and clerk; identify each with name and title, and affix all to The Wall of Insiders of your home, where you will build their organizational diagram (organigram) with those pictures and additional information found elsewhere; use 3" x 5" cards for people whose picture have not been found;
- b. download the telephone register, which lists the name and title of judges and clerks;
- c. check the website's Contact Us webpage;
- d. check the webpage for each judge, which may identify his or her law (chambers) clerks;
- e. send a crawler to roam the Web for people who in social media or resumes have listed among their former jobs 'clerk at court X [=wild card]' or 'clerked for Judge X';
- f. **Go to the courthouse;** look in the lobby for a directory on a wall listing the name, title, and room of each judge and clerk; take a picture with your smartphone or tablet;
- g. go to the county clerk's office, the in-take office, the court library and other departments:
 - 1) the personnel headshot gallery, with name and title, may be on a wall; take a picture;
 - 2) ask a clerk for a roster of clerks to help you navigate your way through the maze of departments that you have been told you need to work with. If the clerk has such a roster but not for distribution to the public, ask to be allowed to copy it;

- 3) inconspicuously take a picture of every clerk and the desktop nameplates;
 - 4) ask for newsletters, brochures, fliers, forms, etc.; some may be downloadable;
 - h. go to the court library; check the publications that report court decisions, called reporters and advanced sheets, which at the front or the back may have a list of clerks' names;
 - i. check the pages posted on the outside wall of the courtroom on the day when a judge holds motion hearings, which may list the name and phone number of the judges' clerks;
 - j. walk through the courthouse and pay attention to the shingles outside some doors indicating the names of the several departments and their respective heads;
 - k. strike up a conversation with any clerk even if you show that you are in the wrong department and have no clue what it does. Use your ignorance to ask for, and receive, the names of current and former clerks in that and other departments with whose requirements you have to comply...to receive child support for a newborn after changing your name after your home was foreclosed and your new address is your car that was stolen. Bad day!
 - l. if needed, go to the courtrooms and photograph judges on the bench and their clerks.
22. Think, think, think creatively, imagining and rehearsing scenarios in advance, to come up with the opportune questions or comments at the right moment. Think strategically to craft a plan of action and, very importantly, to 'connect the dots' represented by each big as well as small, even tiny, piece of information. You are doing field research work: You are a Detective for Justice.
23. Go back home; print and post new pictures and add your field information to that already in the organigram on your Wall of Insiders. Google names and run pictures through face recognition software([jur:146fn271, 272](#) for a spectacular result of so doing); read the related articles; and add information on 3" x 5" cards. You will be impressed by your own work and so will be others.
24. Reproduce your Wall on your computer using PowerPoint preferably, otherwise Word, and its many collapsible/expandable features for adding information, such as digital sticky notes, call outs and cloud forms, connecting and freeform lines, etc., also available after you save your PP page in, or add it to a, pdf. Save a copy on your mobile device so that you can share your organigram with other team members([ol2:416§A](#)) by email or when you meet them; and compare it with theirs in order to correct, combine, and enlarge it. This is team work, not competition.

b. Learn about each of the clerks and choose the most likely to become confidential informants

25. After compiling the list of clerks, you and the team must learn about each. Check their social media pages and Google their names, as shown above concerning judges. Learn as much as possible about where and what they studied; what their past jobs were; whether they have family and who their friends are; what school their children go to; where they went for their holidays; what hobbies they have; what associations or church they are members of; where they are likely to be found outside the courthouse; etc. Every piece of information will allow you to relate to them better when you meet them. With insatiable curiosity, imagination, and foresight, hog information.
26. The determination of what clerk is most likely to become an informant begins with those who are more relatable to you because of age, race, educational level, religious affiliation, marital and family status. However, keep in mind that young people are likely to still be idealistic. They may resent more the injustice that they see in the court and that they are forced to participate in. An unmarried young clerk who still lives at home may still be sensitive to a motherly figure.

27. Old clerks may have become jaded. They have established links of, not only conspiratorial relations with judges, but also of friendship and loyalty. They may be so deep into wrongdoing schemes that they risk too much if they give you any piece of information that may lead to any aspect of the court being investigated. Their ‘fingerprints’ are in every wrongdoing. They knew or should have known about it. They are not only accessories under duress(ol2:462§1); they have become principals(jur:90§§b,c). They may be close to retirement and cannot envisage losing their pension just because you tell them to think back to the days when Justice mattered to them.

**c. Contact the clerk to persuade him or her
to become an Informant for Justice**

28. The previous two steps called for members with a bent for research and organization of data and capacity for profiling people(jur:xLvi§H). The third step calls for people’s persons, those with great social skills, talkative, and the ability to touch other people’s soul. They have to go in the field to befriend clerks who have been determined likely to become confidential informants.

29. Befriend a clerk until you can appeal to his or her moral fiber, the image of themselves as decent persons, who “Treat others the way they would like others to treat them”; as honest public servants who take pride in serving the public; as good parents who want to set the right example for their children; people with a personal and civic conscience who would be outraged upon being informed(ol:236) that you and so many others, their families, employees, suppliers, etc., have been harmed profoundly by the wrongs, committed with the coerced assistance of their clerks, of the judges who have deprived them of their property, their liberty, and the rights and duties that determine their lives. The harm is real –injury in fact–; the pain is constant. Elicit understanding and empathy, positive reactions that generate personal identification with a common cause and commitment to its advancement; not guilt, a negative feeling that drains people of energy and draws them into self-absorbed recrimination that causes degenerative self-worthlessness. Get the clerk to confide in you under the assurance that you will preserve their anonymity. Share only the information with the other team members(ol2:416§A). Invite the clerk to meet and join them.

2. The invisible little men and women: outsiders with big eyes and ears

30. There is another class of people that can provide an enormous amount of information about judges and their wrongdoing: They are outsiders: hotel drivers, receptionists, bartenders, waiters, waitresses, particularly the beautiful ones, room cleaners, and similar ‘little people’ with underestimated intelligence –more than matched by their street smarts, experience with VIPs, and financial interest in satisfying their every wish– who are invisible to life-tenured, in practice unimpeachable judges full of themselves, and in whose ghostly presence Judges Above the Law uninhibitedly discuss, or engage in competitive boasting about, their wrongdoing(ol:175§2).

a. Got to the places where, according to your research, the judge went or frequently goes. and show the ‘little people’ the pictures of the judge, her family, associates, etc.;

b. ask them what they know about the judge and the others. Any apparently insignificant dot of information can become significant once you start ‘connecting the dots based on what makes people tic and the world go around’(ol:279¶25) and a richly detailed figure emerges of the judge, her train of living, property, extra-judicial activities, etc. So, ask about:

1) the occasions on which the judge was there;

2) the other people that were with the judge: spouse, boy- or girlfriend, children, other VIP’s, shady people;

- 3) who picked up the tab;
- 4) any bit of the conversation among them that the little people picked up;
- 5) how the judge treated the little people; etc.

D. Taking action for you and others and becoming a national Champion of Justice

31. Einstein said that “Doing the same thing while expecting a different result is the hallmark of irrationality”, because it ignores the law that governs the physical and the human worlds: cause and effect. The secular practice against wrongdoing judges is to sue them in court, lodge complaints against them with a judicial performance commission, and ask legislators to investigate them. Do that and you too will end up frustrated, exhausted, abused, and with dissatisfied one-time clients.
32. Strategic thinking leads to a radical departure: inside knowledge and rational analysis of people’s interests. It detects patterns of wrongdoing and devises an out-of-court/commission plan of action that imaginatively fosters or hinders such interests to expose wrongdoing and hold wrongdoers accountable. This calls for hard work, but it is reasonably calculated to have positive results: objective, verifiable, and convincing wrongdoing patterns that you and your team can take to:
 - a. journalists, who do not pay attention to the self-serving allegations of a single party;
 - b. politicians(ol2:416) who are looking for a novel issue on which to run for office, set themselves apart from their challengers, and develop a personal, reliable constituency;
 - c. documentarists looking for a story that can make them the next Michael Moore, with the equivalent of a hugely successful Fahrenheit 9/11(ol2:461), or Laura Poitras(ol:35, 36);
 - d. to other parties before the same judge or other judges in the same court, in other courts in the same city, in other cities, and beyond to build a class and develop a precedented, Tea Party-like movement(jur:164§9) of victims of wrongdoing judges and the huge(ol:311¶1) untapped voting bloc of the dissatisfied with the judicial and legal systems, who are members of the dominant segment of the population: The Dissatisfied With The Establishment;
 - e. even the judge on a motion for recusal; an appeals court for disqualification or remand and new trial; and a judicial performance commission to support a fact-based complaint;
33. You are not alone. There are many like you out there. The above is a plan of action for you to become their rallying point. It all begins in your mind, by strategically thinking, then taking imaginative action(ol2:431). Strengthen your mind by reading in my study*† because KNOWLEDGE IS POWER. Read and reread the Auditing Judges article(ol:274) to learn how to form a small team of people who have appeared before your wrongdoing judge. They share your experience and frustration. They understand you. They are on your side. Your success is their success. You can become the leader of many pro ses and even lawyers by starting with a few just like you.
34. Take heart from the people who never dreamed of becoming leaders until they were hit by an event that knocked them to the ground. But they would not stay down and take it: They stood up and fought back. They became reluctant heroes(ol:142§B). You never know what you can do until you decide that enough is enough and take the risk: To do your most. That is how you become recognized by *We the People* as one who asserted our right to Equal Justice Under Law and to hold all our public servants, including judicial ones, accountable and liable to compensate the victims of their wrongdoing because Nobody is Above the Law. Thus, I offer to make a presentation at a video conference(ol:350) or in person on how you can become one of *the People’s* Champions of Justice.

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

January 8, 2017

Chief Justice John Roberts' statement "I am sure that the overwhelming number of judges have no tolerance for harassment" is knowingly misleading and contradicted by official statistics showing that he and his fellow judges cover-up all forms of their abuse

A. The circumstances forcing the Chief Justice to cease tolerating harassment

1. Last December 18, former 9th Circuit Chief Judge Alex Kozinski unexpectedly announced that he was resigning with immediate effect rather than defend against the numerous sexual harassment accusations that had been brought against him. His resignation was shocking because he had been on the bench for 35 years. Despite the vast number of IOUs that he must have collected during his above-average long career, he could not cause the accusations to be dismissed by his peers or prevent their referral to the 2nd Circuit for investigation by Supreme Court Chief Justice John Roberts. On the contrary, Chief Justice Roberts announced on December 31, in his 2017 Report on the Federal Judiciary¹ the formation of a working group to review the handling of sexual harassment complaints. Therein he wrote "I have great confidence in the men and women who comprise our judiciary. I am sure that the overwhelming number have no tolerance for harassment".
2. C.J. Roberts made that statement only after some 700 letters of complaint² that he had received from former and current clerks made his silence risky in the wake of the exposure by the media of the accusations by fewer than 70 women of sexual abuse by Harvey Weinstein; their overcoming of their fear of his retaliatory career enders and intimidatory practices; and the exposure of other VIPs as sexual predators. The clerks' fear of retaliation and lack of recourse in the Judiciary against judges' abuse could no longer ensure their silence given a receptive media and *MeToo!* public.

B. Means of abuse: confidentiality agreements & retaliatory end-of-clerkship letters

3. Judges, whether federal or state, have means of suppressing any complaint about their abuse of any kind and of anybody: The first means is the confidential agreement that judges require clerks to sign before clerking for them. Clerks are young people who just graduated from law school and clerk for a judge for one year before getting their first regular law job. They are saddled with a huge law school debt. They are vulnerable financially. It is prestigious to clerk for a judge because they can choose the best candidate – a Supreme Court justice hires three– among those who apply. So judges pay clerks only a modest salary. The complement comes in the form of a glowing letter of recommendation at the end of the clerkship. It can earn a clerk a signing up bonus from her or his new employer worth \$100,000s -a clerk to a justice commands a \$250,000 bonus- because the clerk has gained precious knowledge of the workings of, and contacts in, a court, the decision maker.
4. A 'poor' letter is devastating, branding the clerk as a persona non grata. That is what a clerk gets if he or she dare complain about any abuse by the judge. If the clerk finds a job, its salary establishes the floor for future salaries. If a clerk complains in a way that her or his hiring judge alleges to be in breach of the confidentiality agreement, the judge can bring suit, most likely under seal, before the judge's peers. They decide any motion for their own recusal. They have similar agreements with their clerks and the same interest in having them enforced to their benefit. If a judge goes against another judge, he becomes a pariah among them. Clerks stand no chance of winning. (dynamic analysis of harmonious and conflicting interests & strategic thinking, [OL2:593¶¶15-16](#))

C. Official knowledge of the statistics on systematic dismissal of complaints

5. C.J. Roberts, as a former law student, law clerk to Judge Friendly and Justice Rehnquist, and appel-

late judge, and as the current chief justice who hires clerks, cannot pretend not to have known for decades how judges use their recommendation letters to ‘purchase’ the right to abuse clerks; extort their silence; and compensate them for their abuse. He has imputed and official knowledge of how judges abuse sexually and otherwise, clerks, parties, and the rest of the public. Official knowledge denies willful ignorance and blindness and supports intentional dereliction of duty(jur:90§§b-d):

6. Under 28 U.S.C. §601³, the Chief Justice is charged with appointing the director of the Administrative Office of the U.S. Courts⁴, the one whom he “asked...to assemble a working group to examine our practices and address these issues” concerning sexual harassment and complaints thereabout. Under §604a(3), the director is charged with submitting an annual report⁵ to the Judicial Conference of the United States set up under §311, whose president is the Chief Justice and whose other members are the chief circuit judges and representative district, bankruptcy, and magistrate judges. Under §604h(2), in that report, the director is required to “include...the number of complaints filed with each judicial council under chapter 16 [the Judicial Conduct and Disability Act of 1980, §§351-364], indicating the general nature of such complaints and the disposition of those complaints in which action has been taken”. That Act provides for any person, including a judge and even if not the victim of the abuse, to file with the chief circuit judge a complaint about the misconduct or disability of any judge in the circuit. C.J. Roberts has known officially⁶ that when Then-Judge, Now-Justice Gorsuch served on the 10th Circuit(†>OL2:548) and Then-Judge, Now-Justice Sotomayor on the 2nd(*>jur:11; 24²⁰), 99.83% of complaints against judges were dismissed and that without investigation; appeals from those dismissals to the respective circuit council, set up under §332(a) (1), were denied up to 100%(jur:24§b). Those percentages hold true for the other circuits(jur:10).
7. The Chief Justice and the associate justices have official knowledge that judges abuse the self-disciplining authority granted them under that §351 Act of Congress so as to exempt themselves from any discipline: Under §42⁷, he and each of the associate justices are allotted to one or more of the 13 circuits as circuit justices; and under §45(b), preside over any meeting of their respective circuit’s judicial council⁸. Under §332(g), each council “shall submit a report to the Administrative Office on the number and nature of orders entered under this section during the preceding calendar year that relate to judicial misconduct or disability”⁹ under §351. Hence, Chief Justice Roberts knows that he misled the public when he wrote in his 2017 Report¹ that he and the other justices and judges “have no tolerance for harassment and share the view that victims must have clear and immediate recourse to effective remedies”. They not only tolerate their abuse. They have institutionalized the self-interested abrogation in effect of the Act by unlawfully dismissing systematically all complaints against judges, thus depriving complainants of ‘recourse to any remedies’.(jur:21§§1-3)
8. The Chief Justice stated¹, “I expect the working group to consider whether changes are needed in our...rules for investigating and processing misconduct complaints”. He and his colleagues drafted and adopted those rules¹⁰. They provided under Rule 2(b) “A Rule will not apply if...a chief judge, a special committee, a judicial council, the Committee on Judicial Conduct and Disability, or the Judicial Conference expressly finds that exceptional circumstances render [its] application unjust or contrary to the purposes of the Act or these Rules”. The Rules are not mandatory, but rather discretionary with every officer or entity authorized to apply them; any of them can get any abusive judge ‘off the hook’ of the complaint. The Rules are illusory, a sham intended to deprive any complainant of any “recourse to effective remedies”. C.J. Roberts has abused *We the People* with his pretense that judges have “no tolerance” for judges’ abuse. They even have a scheme to get away with it.

D. Journalistic investigation of judges’ common knowledge of their abuse

9. C.J. Roberts and the other justices and judges attend the meetings of the Judicial Conference, the judicial councils, and/or the circuits’ §333³ judicial conferences, all of which are held anywhere,

mostly in fun cities. They also attend seminars and speaking events organized by private parties, e.g., corporations that can afford them as occasions for publicity and lobbying and may pay for all their judicial guests' expenses, which is prohibited due to the risk of bribing. So, judges frequently fail to report their attendance at them(jur:146²⁷²). The late Justice Scalia is reported to have attended more than 250 of them. For most judges, these are out-of-town meetings and may include a hotel stay. Judges have lots of fun, particularly at the party in the suite of a chief judge or the seminar host. After they have had lots of whisky, cognac, lobster, caviar, waitresses and waiters too catering to them, their tongues move from serious conversations on valuable information to fun ones on how they abusively cut their workload(infra 608§A) and manhandle clerks: It is time for Hollywood Access-type of outboasting each other. Drivers, bar attendants, maids, and similar little people invisible to VIP judges have lots of fun information and are not bound by confidentiality agreements. They and clerks, who can be turned into insider informants(jur:106§c; †>OL2:468), should be contacted by journalists who find statistics too dull for themselves or their audience.

ENDNOTES

- ¹ http://www.Judicial-Discipline-Reform.org/docs/2017yearend_report_Chief_Justice.pdf
- ² https://www.washingtonpost.com/politics/chief-justice-roberts-says-courts-will-examine-protections-against-sexual-harassment/2017/12/31/94a55d00-ee40-11e7-97bf-bba379b809ab_story.html?utm_term=.9e953ba213a9
- ³ http://www.Judicial-Discipline-Reform.org/docs/28usc_Judicial_Code.pdf
- ⁴ <http://www.uscourts.gov/>
- ⁵ <http://www.uscourts.gov/statistics-reports/analysis-reports/judicial-business-united-states-courts>
- ⁶ E.g., <http://www.uscourts.gov/statistics-reports/complaints-against-judges-judicial-business-2016>. The official statistics on complaints against judges for the year in question appear on Table S-22, e.g., <http://www.uscourts.gov/statistics/table/s-22/judicial-business/2016/09/30>.
- ⁷ 28 U.S.C. §42. Allotment of Supreme Court justices to circuits. The Chief Justice and the associate justices of the Court shall from time to time be allotted as circuit justices among the circuits by order of the Court.
- ⁸ 28 U.S.C. §45(b)....The circuit justice, however, shall have precedence over all the circuit judges and shall preside at any session which he attends.
- ⁹ On the two-way flow of official information that reach the circuit justices and the Chief Justice through the Administrative Office, see also 28 U.S.C. §332(a)(6)(c). The chief judge shall submit to the council the semiannual reports of the Director of the Administrative Office of the United States Courts. The council shall take such action thereon as may be necessary.
§332(e)....The duties delegated to the circuit executive of each circuit may include but need not be limited to:...(10) Preparing an annual report to the circuit and to the Administrative Office for the preceding calendar year, including recommendations for more expeditious disposition of the circuit business. All duties delegated to the circuit executive shall be subject to the general supervision of the circuit chief judge.
- ¹⁰ <http://www.uscourts.gov/judges-judgeships/judicial-conduct-disability/faqs-filing-judicial-conduct-or-disability-complaint>. Cf. http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf

I encourage you to donate to the effort to hold judges accountable and liable to compensate the victims of their abuse. One of the intended uses of donated funds is the development of the website at <http://www.Judicial-Discipline-Reform.org/> as a clearinghouse for complaints against judges uploaded by the public and searched by anybody for commonalities revealing patterns of all types of abuse(*>OL:274; †>OL2:592, 563).



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

September 9, 2018



Judges do not read most briefs and dispose of most cases through the unresearched, reasonless, arbitrary, fiat-like orders contained in the dumping forms filled out and rubberstamped by clerks: ‘The math of abuse of power’ shows it and can be used to expose it and lead an abuse intolerant, *Me Too!* public to demand that courts refund filing fees and pay damages, and that judges write reasoned opinions.‡

1. National public attention has been drawn to the judiciary by the nomination of a judge to the U.S. Supreme Court and the upcoming Senate confirmation hearings. So have decisions of individual federal judges, e.g., that suspending nationwide President Trump’s first Muslim ban travel; and those ordering his administration to reinstate DACA and terminate the separation of children from their parents.
2. In New York, the state judiciary drew attention to itself when it humiliated Gov. Andrew Cuomo by forcing him to withdraw his proposal in his January 2018 Budget Speech to the Legislature to increase the judiciary budget by 2.5% if the judges agreed to certify monthly that they had worked at least 8-hour days¹. Because they close their courts without working even that minimum, they have given rise to a chronic backlog of cases and deny justice by delaying it.
3. When judges can tell the President and a governor what to do and not to do and that they will continue to ignore basic work requirements, what chance does the public have of forcing judges to do even the basic: read briefs and decide cases themselves by applying the law? None.

A. The enormous financial and emotional cost of briefs

4. If judges close their courts after working less than the minimum daily hours, why and where would they open briefs to read and work on them? They just do not read most briefs, causing parties to lose their financial and emotional investment in producing them.
5. Indeed, what gives rise to a case in court is a dispute between parties. They pay for the dispute resolution services offered by judges as public servants. The judges require that the parties file briefs setting forth the facts and legal arguments that justify the only section of the brief that matters to the parties because it is the one that has practical consequences for them: the “Relief Requested”. Each party asks the judges to relieve it of the dispute’s burden on it by issuing the orders to each of the parties that provide the greatest relief to the requesting party.

‡ Dr. Richard Cordero, Esq., is a researcher writer attorney in New York City. He holds a Ph.D. in law from The University of Cambridge, England; an M.B.A. from the University of Michigan Business School; and a D.E.A. from La Sorbonne, Paris. This article is based on his two-volume and ongoing study of judges and their judiciaries, where he discusses his original research on, and analysis of, official court statistics, reports, and statements. It is titled and downloadable thus: [Exposing Judges’ Unaccountability and Consequent Riskless Wrongdoing: Pioneering the news and publishing field of judicial unaccountability reporting](#)*†. In addition, this article and his study are informed by his practice from bankruptcy, district, and circuit courts in the U.S. Second Circuit, with certiorari petition to, and motion practice in, the Supreme Court; e.g., [*>jur:65](#)^{109, 114}; and the NY State Unified Court System; e.g., [*>OL:240](#); [†>OL:729](#). This justifies his references herein to that study for more analysis, information, and bibliographic notes. To contact him, email him at DrR_Cordero@Judicial-Discipline-Reform.org, Dr.Richard.Cordero_Esq@verizon.net, CorderoRic@yahoo.com.

6. To prepare their briefs parties must perform an enormous amount of work, which costs \$Ks and even \$10Ks. This is so whether they retain a lawyer or do the work themselves, for the hours that they invest working on their case represent their opportunity loss: the hours that they cannot employ doing something else. Likewise, the constant flow of emotional energy needed to prosecute or defend a case through its ups and downs for months or years has a wearing effect; it can be compensated by an amount of money.
7. Preparing a brief, whether for a case or a motion, includes, among other things:
 - a. studying the underlying documents, e.g., contracts, ads, wills, emails, and researching the law to find the legal claims and defenses possibly available;
 - b. learning the rules of procedure and evidence of the state² or federal³ judiciary⁴;
 - c. finding the facts by gathering evidence through discovery, e.g., searching for documents and analyzing them; for witnesses and interviewing or deposing them; locating objects, e.g., financial accounts; inspecting premises, e.g., the place of the accident, and conducting their forensic examination; causing the medical examination of people⁵;
 - d. identifying expert witnesses, consulting with them, and studying their reports;
 - e. once more law researching into the claims and defenses that will be asserted in the brief;
 - f. studying the court's own rules of procedure, with whose minutiae⁶ every party must comply, lest its brief be rejected by the filing clerk or objected to by the opposing party;
 - g. writing the brief;
 - h. compiling the record of supporting documents, including transcripts, which cost around \$5.30 per page so that one hour's worth of transcription can cost over \$600;
 - i. printing and binding the required number of copies;
 - j. paying fees⁷ to file those for the judges and serve two on each party or its lawyer; and
 - k. preparing for, and delivering, oral argument before the judges.

After all that exhausting and costly work, known to the judges, they do not read most briefs. They make it go to waste. Yet, they pretend that they reached a decision "upon reading the papers", although they fail to disclose that they do not even have the material possibility of reading them.

B. Model for analyzing judges' possibility of brief reading

8. 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 decisions⁸. This is not a standard of service responsibly rendered in proportion to the known cost of brief production and filing fee. However, it provides a baseline for comparison with other courts' statistics and the following model of analysis that you, the Reader, and others can undertake (see [OL2:763§D¶18.b infra](#)).
9. For example, the homepage of the NY State Supreme Court, Appellate Division, First Department (AD1)⁹ states the following:

Over 3,000 appeals, 6,000 motions, and 1,000 interim applications are determined each year. In addition, the Appellate Division admits roughly 3,000 new attorneys to the Bar each year, disciplines practicing lawyers, and otherwise exercises its judicial authority in Manhattan and the Bronx.²

10. AD1 judges also prepare and hold administrative and policy-making meetings; induct new judges; honor retiring ones; receive visitors from, or visit, other courts; etc. Some days they may be sick; busy with attorney registration matters; have a family emergency; attend seminars; serve on moot courts or the board of charities; etc. Work is cut back during the summer recess months.
11. The site shows that there are 19 AD1 justices. They serve on 5-justice panels. It can be assumed *arguendo* that only the equivalent to three panels can be deemed to work on 10,000+ pleadings 250 weekdays per year after excluding 10 holidays and weather days. Each panel is assigned 3,333+ pleadings a year or 13+ a day.
12. To handle 13+ pleadings in what is left of each 8-hour workday after deduction of the time allocated for oral arguments, panel deliberation, research and writing opinions, and discussion of the latter by the panel, which can lead to the writing of concurring or dissenting opinions, an AD1 justice would have to read:
 - a. the briefs of 13+ appellants and 13+ respondents, each having up to 14,000 words or 70 pages, as provided for by AD1's Rules of Procedure;
 - b. any replies of appellants, which may have up to 35 pages or 7,000 words;
 - c. even as few as 10 pages of each of 13+ records on appeal, each with 100s or 1,000s of pages;
 - d. their motions and answers, and any replies, each with some 2,000 words or 10 pages, although the Rules do not limit their length;
 - e. exhibits to motions, answers, and replies;
 - f. some 10 pages of each of the 13+ decisions of the judges appealed from, although a judge can write a decision of whatever length; and
 - g. any number of cases, laws, regulations, and legislative, expert, or corporate reports cited by the parties or found through the judge's own research.
13. No judge can read over 1,500 pages a day each of 250 days. Neither can their clerks. Instead, the decisions downloadable from AD1's website exhibit a pattern that supports probable cause to believe that the clerks dump pleadings out of the justices' caseload by using a dumping form¹⁰: Its top part provides blanks for identifying the parties and the appeal; its bottom part provides blanks for mentioning any one point picked out of the decision on appeal as the pretext for affirming it; followed by the word "Affirmed" and the rubberstamped signature of the clerk of court. "Denied" is how most motions are dumped. The "Relief Requested" is not discussed.
14. Clerks may not even be lawyers and were not vetted publicly. No provision of law allows justices to delegate judicial discretionary power to them. Clerks merely follow the justices' dumping instructions uncritically. As instructed, they must disregard the uniqueness of the facts, the merits or novelty of the arguments, and the equities at stake. Hence, they must leave the status quo unchanged, which does not require them to consider the implications of changing it by reversing a decision or granting a motion, except for clerical matters, e.g., extending a filing date.
15. Dumping form disposition is unreasoned and thus, conclusory and arbitrary, a fiat that expediently dumps out a pleading; not a considered decision intent on rendering justice according to law. It is not the kind of dispute resolution service that the judges offered and the parties had demanded and paid for, thus forming a contract for services. See a deeper analysis of federal circuit courts' statistics and their judges' abuse, which can be applied to SCt. nominee Brett Kavanaugh¹¹.

C. Denial of due process and equal protection of law

16. Judges deny parties due process of law when they do not read their briefs. Thereby they:
 - a. neither take notice of plaintiffs' claims;
 - b. nor afford defendants an opportunity to defend against them;
 - c. nor identify the issues raised by the claims and requiring research to determine which party is legally entitled to which order requested in the "Relief";
 - d. nor can write an opinion stating their reasons for granting or denying each relief.
17. Also, judges deny most parties equal protection of the law, for those few whose disputes are bound to attract public scrutiny or are chosen as an opportunity to make law get their briefs read and a reasoned opinion discussing their claims and requested reliefs. Those few receive any value for the filing fees that they paid; the many had to pay them too and invested even \$10Ks in their briefs but only get a dumping form on one 5¢ sheet, often printed on its front side only.

D. From attention on the judiciary to action to recover

18. "Outrageous!" is the reasonably expected reaction of the public upon learning that judges do not read most briefs. The outrage will be widespread because people file more than 50 million cases¹² every year, to which must be added the parties to scores of millions of pending cases, and to the hundreds of millions of cases already decided; and their friends and family, workmates, etc. They form part of a national public with the self-assertive *MeToo!* attitude that shouts loud and clear the rallying cry: *Enough is enough! We won't take any abuse by anybody anymore*¹³.
19. They constitute the receptive audience of a commercially savvy media outlet that seizes the opportunity to take the lead in showing them how not to take judges' abuse. Through its investigation and publication of a series of articles¹⁴ and by sponsoring presentations¹⁵ and the development of a website¹⁶ as a rallying point the outlet can call for, and become a key organizer of:
 - a. a national movement composed of 'local chapters' formed by actual and potential parties to cases before the same court, who join forces¹⁷ to demand that it refund their filing fees, pay damages, and use only reasoned opinions to resolve disputes filed with it¹⁸;
 - b. law and journalism students¹⁹ that demand that their schools offer seminars and research projects to audit the decisions of a court through statistical, linguistic, and literary analysis²⁰, and interview parties, judges, and clerks to ascertain the decisions' quality and authorship, and expose judges' and clerks' performance in fact rather than in theory²¹;
 - c. unprecedented public hearings on judges' abuse of power, conducted by publishers, news anchors, and journalism and law professors, and broadcast nation- and statewide to make it a decisive issue of the Senate confirmation hearings²², and the mid-term and 2020 presidential campaigns²³, and force politicians to hold televised public hearings thereon.
20. A media outlet²⁵ can issue an Emile Zola's *I accuse!*-like²⁶ denunciation of judges' institutionalized abuse of power²⁷ and accomplish what *The New York Times* did by publishing its exposé of Harvey Weinstein: set off a societal transformation here and abroad. *We the People* can realize that we are the masters of "government of, by, and for the people"(jur:82¹⁷²), entitled to hold our judicial servants, like all other servants, accountable for their job, serving Equal Justice Under Law, and liable for their abuse. Just as *NYT* trailblazed sexual abuse exposure in the world and won a Pulitzer, that outlet can worldwide pioneer the news and publishing field of judicial unaccountability reporting^{fn1}.
*Dare trigger history!*²⁴...and you may enter it.

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- ¹ †>OL2:717, 718
- ² E.g., New York Civil Procedure Law and Rules (CPLR); <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: >Laws of New York >CVP>
- ³ http://Judicial-Discipline-Reform.org/docs/28usc_Civ_App_Evi_Rules.pdf
- ⁴ A meticulous party would also check the law regulating the judiciary; e.g., <http://Judicial-Discipline-Reform.org/docs/28usc.pdf>; as well as the rules of the chief administrator of the courts; e.g., <https://www.nycourts.gov/rules/chiefadmin/index.shtml>.
- ⁵ Supra, endnote 2, CPLR, Article 31. Disclosure; endnote 3, Federal Rules of Civil Procedure, Rules 26-37.
- ⁶ E.g., <http://www.courts.state.ny.us/courts/AD1/Practice&Procedures/rules.shtml>, Rules 600.10. Format and Contents of Records, Appendices and Briefs; and 600.11. Perfecting and Hearings of Appeals; Calendars.
- ⁷ Id., Rule 600.15. Fees of the Clerk of the Court, a.5 and 6: The fee for filing an appeal in AD1 is \$315 and for a motion it is \$45. Under CPLR §8002(a), the cost of filing a Notice of Appeal is \$65.
- ⁸ †>OL2:459§E; <https://www.supremecourt.gov/publicinfo/year-end/year-endreports.aspx>
- ⁹ <http://www.courts.state.ny.us/courts/AD1/index.shtml>
- ¹⁰ Dumping forms in AD1 and other state courts have their equivalent in the Federal Judiciary’s “summary orders”, *>jur:43§1. They are “not for publication” and “not precedential”, hence, difficult to find and not worth finding. In a common law system based on precedent, they are neither tied to precedent nor establish any, an expedient, ad-hoc, arbitrary exercise of unaccountable power.
- ¹¹ †>OL2:457§D, 546
- ¹² †>OL2:719¶¶6-8. The Dissatisfied With The Judicial And Legal System form a huge audience.
- ¹³ †>OL2:648, 660
- ¹⁴ †>OL2:598, 719§C
- ¹⁵ *>OL:197§G; †>OL2:622, 746
- ¹⁶ <http://Judicial-Discipline-Reform.org> with 24,450 subscribers at this moment, †>OL2:app:5; 563
- ¹⁷ *>OL:274-280, 304-307
- ¹⁸ †>OL2:729, which can be used to hold the first, national conference on judicial accountability.
- ¹⁹ †>OL2:641, 644; *>Lsch:23
- ²⁰ *>jur:131§b; †>OL2:588
- ²¹ *>OL:60, 255; †>OL2: 645§B, 687
- ²² *>jur:10-14; †>OL2:546, 548
- ²³ †>OL2:504, 724
- ²⁴ *>jur:7§5, 172
- ²⁵ †>OL2:725, 743, 745
- ²⁶ †>OL2:611§B, 688
- ²⁷ †>OL2:645; *>jur:47§c

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