

November 19, 2013

Ms. Judy Kelly  
ALM, Conferences & Trade Shows  
120 Broadway, 5<sup>th</sup> Floor  
New York, NY 10271-1101

Dear Ms. Kelly,

I would like to be considered for inclusion on the speaker faculty list of Legal Tech's February 4-6, 2014, event at The Hilton New York.

## **A. Subject**

### Auditing Judges' Writings

A business venture to apply advanced IT to develop a software product that performs statistical, literary, and linguistic analysis of written materials to detect patterns of decision-making and partiality that have predictive value useful for litigants to devise legal strategy

## **B. Type of product**

This is a proposal for developing an advanced Information Technology software product running on artificial intelligence to audit court decisions and other writings of judges for authorship and partiality, understood as including biases, prejudices, conflicts of interests resolved to one's benefit, and personal agenda pursued in disregard of the duty to be fair in accordance with the rule of law.

## **C. Benefits**

Competitive advantage can be gained if before writing a brief, arguing in court, or dealing with the opposing party one finds out what makes the judge assigned to the case at hand decide cases one way or another. One can do that by identifying the variables of the judge's cases and the features of his writings that with statistical significance correlate with the way he made rulings and decisions in the past so that the significant variables in the present case can be relied upon as determinants of the statistical probability that he will rule on, or decide likewise.

To the extent that such variables and features are irrelevant to the merits of the corresponding cases, the statistically significant correlation with the way the judge handled them provides objective data on which to base a motion for recusal for bias and for appeal from the judge's denial(cf. [jur:45§2](#)) of such motion or to devise legal strategy to play to the judge's biases.

## **D. Beneficiaries as intended clients**

Lawyers, their clients, and the ever-growing number of pro ses<sup>35,38</sup> will benefit from this product, for they all want to know the probability that the judge or judges handling their cases will treat them fairly and impartially based on the relevant elements that should determine the merits of their cases. It will give them a competitive advantage over not only opposing parties who do not use the product, but also over the judge insofar as it will allow them to obtain, as it were, 'inside the judge's mind information' and to deal with him accordingly. Advocates of legislated judicial reform will also benefit from objective data showing judges' wrongdoing([5§3](#)).

These beneficiaries constitute a large market: over 2 million federal and 48 million state cases are filed each year(jur:8fn4,5). Since every case has at least two parties, at least 100 million people and entities would benefit annually from this product. Those numbers, of course, do not begin to account for the scores of millions of cases pending in either of those jurisdictions.

## **E. Audience at Legal Tech**

The presentation of this business venture will appeal to developers of software for both lawyers and the fast growing pro se market; all those interested in anticipating legal market trends under the ever more extensive application of IT to legal business; and hence, investors.

## **F. Overview of the analysis: data source, examination, determination & benefit**

Statistical, linguistic, and literary analysis has a scientific basis recognized by the scientific community and its results are capable of demonstration to a court performing an independent assessment of reliability. Hence, whether under *Frye* or *Daubert*, the analysis is likely to be admissible in court. Regardless of such admissibility, the analysis is valuable as the source of essential information for parties to strategize how to deal with those with the most power to steer their cases to failure or success: the judges.

Also, the use of scientific, non-legal arguments in court has a long legal history, for it can be traced back to the famous Brandeis briefs. The best known of them was filed in *Muller v. Oregon*, 208 U.S. 412, 28 S.Ct. 324 (1908), where Then-Attorney Brandeis used social and economic studies to argue to the Supreme Court that it should uphold statutes limiting workdays for women to a maximum of 10 hours. He persuaded the Court to do so. Later on, he became a member of it The proposed analysis for auditing judges' writings will exhibit the scientific refinement achieved over the more than a century since Brandeis' days and will initially be targeted on judges and the vast corpus of their decisions. Cf. Dr. Cordero's use of statistics<sup>14</sup> at [http://Judicial-Discipline-Reform.org/docs/statistics&tables/correctioneers/correctional\\_population\\_1in31.pdf](http://Judicial-Discipline-Reform.org/docs/statistics&tables/correctioneers/correctional_population_1in31.pdf).

### **1. Statistical analysis**

1. Data source: written and transcribed or recorded oral rulings and decisions.
2. Examination using artificial intelligence and optical character recognition to discern the variables in the largest number of writings to increase statistical accuracy and develop a relational database that allows the widest correlation of variables to identify the dominant ones:
  - a. intrinsic: the parties' or victims' race, gender, social standing, wealth, level of education; appearance pro se, representation by a solo practitioner or a large law firm; civil, or criminal case concerning commercial, family, civil rights, IPO, or other matters;
  - b. extrinsic: time of day, day of week, season of year; proximity to a judicial holiday, the judge's vacation, her attendance at judicial meetings, seminars, CLE presentations; the publication of her book and participation in a book presentation tour; the correction of exams that the judge gave in the university course that she teaches; etc.
3. Determination of frequency correlation between one or more variables in a case and the judge's decisions to dismiss, grant discovery, send the case to the jury, deny a motion to set aside the verdict; a batch of cases expediently decided by summary orders<sup>66</sup> of the same date; etc.
4. Benefit: Identification of variables that have an outcome-determinative impact on the judge's conduct to establish the statistical probability of the same conduct in the case at hand.

## 2. Linguistic analysis

1. Data source: written rulings, decisions, and other writings purportedly of a given judge.
2. Examination of the use of language: choice of words, syntactical structure, punctuation, grammatical correctness, stylistic flair, etc.
3. Determination of authorship of the examined writing and correlation of its grammatical quality, reflective of the amount of effort put into writing it, with its visibility, e.g., high quality for a law journal article or a decision to be published in a media-covered case as opposed to perfunctory<sup>68</sup> writing for decisions marked by the judge “non-precedential, not for publication” (43§1), which renders process before him wasteful and the decision meaningless for appeal.
4. Benefit: Objective data describing a judge’s conduct can be invoked to impugn a decision on grounds of denial of equal treatment; breach of the contract entered into when the court offered judicial services in exchange for the payment of filing fees; and breach of the judicial oath to “administer justice without respect to persons, and do equal right to the poor and to the rich”, so that those “persons” are third-party beneficiaries of the oath and have a claim of action against the judge(26§d) who breaches it by discriminating against them and in favor of others.

## 3. Literary analysis

1. Data source: written rulings, decisions, and other writings of a given judge.
2. Examination of their semantic aspect: the explicit message that the author conveys to his audience and the implicit one that he sends intentionally or unwittingly in his subtext. This is the most innovative and technologically challenging analysis, relying most heavily on artificial intelligence to understand meaning and describe objectively one’s psychology.(142§3)
3. Determination of the judges’ reasoning, interests, and attitudes, including partiality, of which the judge may be unaware, for they form an integral part of his understanding of the world, whereby the analysis can help even him take a critical view of himself in light of other criteria.
4. Benefit: The most insight into the judges’ character and value system that motivate his conduct.

## G. Qualifications

I hold a doctorate of law from the University of Cambridge in England, where my thesis dealt with the integration of the banking industry in the European Union. I earned a law degree from La Sorbonne in Paris, where I concentrated on currency stability and the abuse of dominant positions by entities in commerce, similar to antitrust law. I also earned a Master of Business Administration from the University of Michigan after concentrating on the use of computers, their networks, and software expert systems to maximize workflow efficiency and productivity.

I worked as a researcher-writer at the preeminent publisher of analytical legal commentaries, i.e., Lawyers Cooperative Publishing, now part of Thomson West. There I wrote commentaries on the regulation of financial activities under federal law(a&p:17). Currently at Judicial Discipline Reform, I am promoting(Lsch:9) the formation of a multidisciplinary academic and business team of professionals(128§4) to advocate judicial accountability and discipline reform with a view to creating a for-profit institute(153§§c-g). To further that endeavor, I have set forth a much more detailed proposal for the development of the IT software described above(131§b).

I respectfully refer you to it in support of this application to speak at your February 2014 Legal Tech event in New York. Therefore, I look forward to hearing from you.

*Dare trigger history!(jur:7§5)...*and you may enter it. Sincerely, s/Dr.Richard Cordero, Esq.

November 18, 2015

Dean Martha Minow  
Harvard Law School  
1563 Massachusetts Avenue  
Cambridge, MA 02138

Mr. Daniel Lewis, CEO  
Ravel Law  
San Francisco, CA  
[daniel@ravellaw.com](mailto:daniel@ravellaw.com)

Dear Dean Minow and Mr. Lewis,

Kindly find below my proposal for auditing judges' decisions through an academic study and an IT R&D project that analyze them to detect judicially relevant attitudes and predict decisional conduct. It rests on my study **Exposing Judges' Unaccountability and Consequent Riskless Wrongdoing**: Pioneering the news and publishing field of judicial unaccountability reporting\*.

## **A. Research Question**

1. How statistical, linguistic, and literary analysis performed by conventional methods and a yet to be developed IT product based on artificial intelligence can constitute an objective means of identifying the authors of judicial decisions and ascertaining their fairness and impartiality – understood as a function of their biases, prejudices, conflicts of interests resolved to one's benefit, and personal agenda pursued in disregard of the duty to act according to the rule of law– so that in reliance on such objective means lawyers may predict a judge's decision and devise legal strategy; applications for recusing or disqualifying a judge may be determined; and entrepreneurs may pioneer the business field of judicial decisions auditing and predictive analytics?

## **B. Conceptual Framework**

2. The concept underlying the proposed research is that recurrent sets of elements, that is, patterns, and charged terms –e.g., the difference between referring to John Doe, Esq., as a lawyer or as a hack– appear in the written and oral expression of any individual as well as of a group of people that share a language, a culture, and a level and kind of education. Those patterns and terms have author-identifying capacity because they can be used to determine whether a given individual is the author of a piece of writing and to identify who is the author among a group of people. Moreover, those patterns and terms have character reflective capacity because they reflect on the system of beliefs, moral values, and attitudes of an individual and of people. The analysis of charged terms allow detection of patterns, which in turn allow assessing the degree to which a judge satisfied the legal requirements of fairness and impartiality in one or all her decisions.
3. Statistical analysis does so, at its most basic, by relying on number crunching and comparison of the frequency of objective features in judges' decisions, such as whether the winning party was a pro se client or a business, her race, the amount of money at stake, etc. It plots those numbers on a system of coordinates and establishes standard deviations. Such analysis is of immense value precisely because it is based on objective facts and their individual and comparative quantification. Thus, it can be as reliable as it can be surprisingly revealing of absence or presence of bias.
4. Linguistic analysis can use optical character recognition software to identify the string of characters and establish the author's lexicon, to wit, the pool of words that she uses and their frequency. Then it moves to the more difficult but equally objective application of grammatical rules to determine in which of the 9 parts of a sentence each word falls and in what syntactical order the judge placed them in a sentence and grouped them through punctuation. This analysis allows determining which decisions the judge wrote herself and which were written by others, such as her clerks or staff lawyers with some or no supervision by the judge. Such determination

is most useful for a party to strategize: Before the start of the case, the party can rely on it to estimate the degree of attention that the judge is likely to pay to a case whose decision she has every or no intention to write; and after the decision is issued, to determine whether the judge wrote it or had a clerk or a staff lawyer write it. If the latter, the party can present on the strength of objective analysis a challenge to the decision, e.g., on the ground that there was a constitutional denial of equal protection of the laws because judicial decision-making power was transferred to, and exercised by, a non-judge who legally had been neither invested with such power nor authorized by law to exercise it, and who may not even have been in the courtroom during the whole of the case. It is as if at the end of the case, a juror had been replaced by a member of the audience who may or may not have been in the courtroom during all the sessions or a member of the public who watched some or all of the case on TV at home or only read the transcript.

5. Literary analysis, the most ambitious and innovative part of the research: It analyzes the person through the meaning of her language while linguistic analysis focuses on the personal use of language. It will analyze language as a reflection of the author's character. To do so, software must go beyond analyzing strings of characters with the tools of Boolean logic, proximity connectors, and variation symbols, e.g., wild cards. Those tools implement the functional premise of current search engines, even those that use natural language for the formulation of the search query: A given string of characters or those close to it are likely to have been used in the searched-for text; to find it, an objective analysis of text is performed. However, the proposed software must perform subjective analysis. It must be sophisticated enough to interpret the subtext of text to reach, not the characters used to write it, but rather the character of the writer. To do so, it must search for patterns and charged terms that reveal the abstract, that is, beliefs, values, and attitudes, and determine the subjective, namely, whether she was fair and impartial in her decision and how that decision reflects on the fitness of her character to be a judge. To do so, the software is expected to be based on artificial intelligence as the engine of an expert system.

### **C. Method**

6. Auditing judicial decisions through statistical analysis can be started right away given that there are already either official statistics of the courts, cf. <http://www.uscourts.gov/Statistics.aspx>, or access to the decisions either at the office of the clerk of court or online, cf. Public Access to Court Electronic Records, <http://www.pacer.gov/>. See samples of statistical work at \* >jur:10-14. Then determine the applicability of *res ipsa loquitur* to the queries whether by examining that work a lawyer can learn most valuable information concerning the partiality or impartiality of federal judges when one of their peers is the subject of a misconduct complaint; and whether that work would substantially influence that lawyer when devising his legal strategy for dealing with the judge presiding over his case whom he deems to have engaged in misconduct.
7. Auditing judicial decisions through linguistic analysis can begin by studying the literature on the several programs used for that purpose, writing a report in light of the intended use, and using it to form a multidisciplinary team that should include lawyers, IT experts, and experienced sellers of digital products. The team should test available programs and recommend which to acquire, including the right to modify its code, or whether the program should be developed in-house.
8. Auditing judicial decisions through literary analysis starts with the previous step and adds the review of the literature to determine the current state of development of artificial intelligence and expert systems. After choosing a program or deciding to develop it in-house, these steps follow:
  - a. Establishment of a baseline: Legal research using, for example, digests, will be conducted to identify cases that on appeal were reversed or vacated for unfairness or partiality. Those

cases will be preferred where the appeals court, otherwise the appellant, identified the passage or language of the challenged decision that evinced unfairness or partiality.

- b. Those decisions will be edited to eliminate text that is not necessary for the unfairness and partiality passage to remain in a context that makes sense as a judicial decision.
- c. Decisions challenged on grounds other than unfairness and partiality and praised on appeal for their fairness and partiality will be similarly edited to their minimal expression. These and the above decisions will form the control decisions. Their volume should be liable to be read by an average reader within an hour.
- d. An unfairness and partiality-identifying exercise will be conducted by submitting the control decisions to control subjects, that is, a pool of lawyers, judges, law students, and lay people identified through a questionnaire to fit the legal paradigm of “a reasonable man”. They will be asked to identify any passage in the control decisions that they deem to evince unfairness or partiality and to state their reason therefor.
- e. After review of the exercise results, the control subjects will be interviewed individually and as a group to provide additional reasons in light of what the others deemed to evince unfairness or partiality and to comment on what they generally deem to be unfair or partial.
- f. A table of the elements of unfairness and partiality will be drawn up and used to write software code that enables a program to identify passages that evince unfairness and partiality.
- g. Software will be acquired and modified as necessary or developed to identify with the help of the above table of elements the passages in the control decisions that with statistical significance were identified by the control subjects as evincing unfairness and partiality.

#### **D. Possible Findings**

9. Auditing judicial decisions through these types of analysis should determine the prevalence among the decisions and the perception among the public of unfairness and partiality in the judiciary. It should provide the basis for drawing up a set of measures to reform the judiciary so that "Justice should not only be done, but should manifestly and undoubtedly be seen to be done", *Ex parte McCarthy*, [1924] 1 K. B. 256, 259 (1923). It should provide parties' with both 'inside the judge's mind information' and a reliable tool for predicting the fairness and impartiality that they can expect, thus allowing them to strategize their conduct inside and outside the courtroom.

#### **E. Importance To The Field**

10. This is a proposal for path-breaking multidisciplinary research that will allow the undertaking of the first-ever systematic audit of the decisions of judges of the Federal Judiciary, the most secretive, opaque, and unresponsive of the three branches. Up to 90% of the decisions of the circuit courts are reasonless summary orders or decisions so “perfunctory” that the judges themselves mark them “not precedential” and “not for publication”(jur:43§b). Federal judges are unelected and enjoy de jure or de facto life tenure, and though public servants, they escape the scrutiny of their masters, *We the People*. As a result, they unaccountably wield absolute power that allows them to issue decisions tainted with unfairness and partiality. This research should begin the process of restoring power to *the People* by holding judges accountable for their decisions. Thereby it will contribute to giving effect to the principle that in ‘government, not of men and women, but by the rule of law’<sup>ol:5fn6</sup>, Nobody is Above the Law, and that having one’s day in court should afford the realistic opportunity to seek and receive Equal Justice Under Law.

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

Sincerely, Dr. Richard Cordero, Esq.

software for identifying the presence or absence of variables in the written or verbal items of a database in order to perform literary and linguistic forensic analysis([jur:140§b](#)); public advocacy of judicial reform([jur:155§e](#));

- h. collaborate with the students and their professors that at journalism schools, in particular, or universities, in general, run radio and TV stations; are learning to use the facilities and apply the techniques for making photo and video commercials and documentaries ([dcc:13§C](#)); are learning to develop public relations campaigns([dcc:14§D](#)); and can integrate all the crafts of journalism and communications to produce a multimedia presentation of a message<sup>188a</sup>;
- i. full-time summer job.

## 5. Creation of an institute of judicial unaccountability reporting and reform advocacy

275. The business and academic venture<sup>254</sup> includes the creation of a for-profit institute of judicial unaccountability reporting and reform advocacy<sup>253</sup>.

### a. Purpose

276. The purpose of the institute is to act as:

- a. an investigative journalist that detects, investigates, and exposes concrete cases of judges' unaccountability and their participation in, or toleration of, the consequent riskless wrongdoing engaged in individually or in coordination among themselves and with third parties, such as law and court clerks, lawyers, bankruptcy professionals<sup>169</sup>, litigants, politicians, and other enablers and beneficiaries of judicial wrongdoing;
- b. clearinghouse of complaints about judges' wrongdoing by any person who wants to exercise his or her constitutional right to "**freedom of speech[,] of the press[, and] the right of the people peaceably to assemble, and to petition the Government for a redress of grievances**"<sup>268</sup> by sending to the clearinghouse a copy of the complaint that the person filed with the competent federal or state authority or sending the complaint original only to the clearinghouse for analysis, information about judicial wrongdoing, and comparison with other complaints that may allow the detection of patterns, trends, and coordination, and possible publication and investigation by the institute;
- c. prototype of a citizen board of judicial accountability and discipline([jur:160§8](#)) that through its official investigation of both complaints against judges received from the public and information about judges' wrongdoing obtained through its exercise of its subpoena, search and seizure, and contempt power as well as the exposure of its findings of judges' wrongdoing, impropriety, appearance of impropriety, or criminal activity can justify its call for their resignation or official investigation by the U.S. Department of Justice and the FBI, and Congress, or their state counterparts, all of which can also exercise their power of criminal prosecution; and

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<sup>268</sup> First Amendment to the U.S. Constitution; [http://Judicial-Discipline-Reform.org/docs/US\\_Constitution.pdf](http://Judicial-Discipline-Reform.org/docs/US_Constitution.pdf)

- d. public advocate, lobbyist, consultant, and litigator for both effective legislation on judicial accountability and discipline reform, and the establishment of a citizen board of judicial accountability and discipline and of an inspector general for the Federal Judiciary as key instruments for enforcing such legislation and implementing the reform.

**b. As researcher**

277. As researcher<sup>269</sup> the institute of judicial unaccountability reporting and reform advocacy will conduct advanced statistical analysis and work in information technology.

**1) Analysis of the official judicial statistics**

278. The official statistics of the Administrative Office of the U.S. Courts<sup>10</sup> constitute the main data source of the analysis of the means, motive, and opportunity of federal judges' unaccountability and consequent coordinated riskless wrongdoing.(jur:21§A) Those statistics lie at the basis of the tables(jur:10,11) showing the chief circuit judges' systematic dismissal without investigation of 99.82% of misconduct complaints against their peers and the out of hand denial, even reaching 100% during a 13-year period, by the respective judicial council of the petitions for review of dismissed complaints.(jur:24§b) The tables already prepared concern only either the aggregate statistics for the 13 circuits or the individual statistics for the 2<sup>nd</sup> Circuit.
- a. The institute can update those tables and perform the corresponding statistical analysis and tabulation for each of the other 12 circuits.
  - b. It can also research the records to establish which judges were holding the chief circuit judgeships or membership in the judicial councils and therefore participated in such unlawful and self-interested abrogation in effect of the Act of Congress<sup>18a</sup> conferring upon people the right to complain about judges.
  - c. Those judges' participation can be confronted with their statements about their "fidelity to the law"<sup>132f</sup> and their impartiality(jur:68¶143).
  - d. Similarly, judges' record of voting to deny ever more systematically petitions for panel rehearing and hearing en banc can also be researched in every circuit to establish the extent to which judges indulge in such "abuse of discretion"<sup>74</sup> and reciprocal cover up on the ground of the explicit or implicit agreement "if you don't rehear or review the decisions of the appellate panels on which I sat, I won't rehear or review those of the panels that you sat on, and never mind the appellants whining that the decisions were wrong or wrongful".(jur:45§2)
  - e. The suspicious stability year after year of the number of such complaints filed with judges-judging-judges has been compared with the remarkable trend of increasing number of cases filed at all levels of the federal courts hierarchy(jur:12-14) as the population increases and America becomes an ever more litigious society. This comparison can be updated and refined by comparing the increasing number of whistleblowers complaining against their employers as well as the increase in the number of wrongdoing public officers in the other

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<sup>269</sup> Cf. [http://Judicial-Discipline-Reform.org/DeLano\\_course/17Law/DrRCordero\\_proposal\\_synopsis.pdf](http://Judicial-Discipline-Reform.org/DeLano_course/17Law/DrRCordero_proposal_synopsis.pdf)

two branches of government, who are persons and members of the same society as judges are where lawful and ethical principles give way ever more blatantly to greed and expediency, as most recently shown by wide spread institutionalized fraud in the subprime mortgage debacle involving both lenders and borrowers.

279. Similar and other types of statistical work can be performed using current statistical methods while the advanced Information Technology software product proposed below is being researched and developed.

## **2) Research and development in Information Technology**

280. The purpose of the institute's IT work will be to research and develop a software product capable of auditing the writings of or about subjects of the legal system and profiling them thereon. To that end, it will develop metrics of personal and official behavior and algorithms to identify instances, patterns<sup>249</sup>, and trends of behavior that have predictive function for the outcome of a case to be filed or already at bar; and that reveal the subjects' underlying motive, means, and opportunity to engage in such behavior(cf. [jur:21§A](#)). Thereby the product will provide objective, factual information that can help private users to reliably develop their legal strategy and public users to obtain probable cause to open and conduct official investigations involving the subjects.
281. The metrics of behavior will measure the subjects' suitability to play their role in the legal system. Suitability will be a function of the subjects' fairness, impartiality, competence, and integrity, or the lack thereof due to evidence or appearance of wrong or wrongful behavior, which may be motivated by a wrongful attitude, that is, bias, prejudice, actual or potential conflict of interests, or personal agenda. In short, this software product will enable users to evaluate a subject's past and probable future behavior and proceed accordingly.

## **3) Judges to be the first subjects to be audited and profiled**

282. The product will concentrate initially on auditing the writings and profiling the subjects that play the single most outcome-determinative role in the legal system and as to whom the available written materials are most abundant and reliable as matter of public record that also has precedential value, namely, judges. There is no implicit prejudgment in stating that a judge will be audited for wrongdoing. It is obvious that if the judge is discharging her judicial duty to administer justice according to law and is an otherwise law-abiding and ethical person, then there is no problem. But it is not reasonable to assume that judges, who are entrusted with an enormous amount of power over people's property, liberty, and lives, remain immune to the inherently corruptive effect of such power<sup>28</sup>. This is particularly so with regard to judges, who wield power to decide who gets or loses the most insidious corruptor: *money!*([jur:27§2](#)) This is even more so because judges, as individuals and especially reciprocally as members of a class of similarly situated people, have the means to self-exempt from accountability and discipline to ensure the risklessness of their wrongdoing([jur:21§1](#)).
283. Under those circumstances, the temptation to engage in wrongdoing and the pressure from other class members to tolerate the wrongdoing of any and all members of the class can be irresistible. This is the result of their wrongdoing having only an upside: It can be substantially beneficial in

professional(jur:25§c; 60§f), social(jur:62§g), and material(jur:27§2; 32§§2) terms yet carries no adverse professional, social, or material consequences. One statistic proves this: In the 223 years since the creation of the Federal Judiciary in 1789, the number of federal judges impeached and removed is 8!(jur:21§a) Nevertheless, of course, for those outside the judicial class and its enabling outsiders<sup>169</sup>, judges' wrongdoing has a substantial downside, whether it be concrete adverse consequences on their property, liberty, and lives, or on the integrity of the judiciary and the rest of government by the rule of law.

284. Therefore, the only reasonable assumption that is supported by an understanding of the forces at play among a tight-knit class of people such as judges –cf. the police, political party leaders, sport teams– and that is not undermined by the naïve or partisan attribution to them of incorruptibility before or after becoming judge, is that wrongdoing by judges is, not waiting to happen, but rather waiting to happen again and to be exposed.
285. Moreover, for each judge there are numerous data sources that can be audited for analyzable data(jur:150¶337). That is so about the judge assigned to the case at bar as well as one likely to be assigned to it in a court where there are more than one judge or there is a schedule of panels of appellate judges to whom all cases are assigned that are filed during certain dates. Hence, the information obtained through auditing can allow legal strategizing and produce broadly based, reliable probable cause to initiate an official investigation, not to mention unofficial, journalistic ones. Eventually, the product can be applied to other legal system subjects with fewer data sources to mine for data, such as attorneys(jur:46¶46); clerks(73¶¶153-155; 106§c); bankruptcy professionals<sup>169</sup>; those who recommend, nominate, and confirm judges(77§§5,6); types of cases, etc.

#### 4) The nature of judicial wrongdoing

286. The term 'wrongdoing' is ample, comprising both judicial performance, i.e., a judge's behavior in his capacity as such, and personal conduct, i.e., the rest of the judge's behavior in any other capacity. Judicial performance may be either wrong, thus possibly pointing to the judge's incompetence, or wrongful because it is driven by an ill motive, such as bias or prejudice concerning a person, a cause, or a type of case; self-interest in a conflict of interests; or a personal agenda pursued with disregard for the law, a sense of proportion, or the bounds of discretion. A judge's personal behavior can be as criminally or civilly unlawful or unethical as that of any non-judge. Judicial performance and personal conduct have some overlapping.
- a. Judicial performance centers on a judge's fairness, impartiality, and competence in the conduct of judicial proceedings and decision-making; e.g., whether he has been fair by not imposing sentences or allowing damages that are disproportionately harsh or mild compared with the defendant's culpable act and the punishment meted out to, or the compensation demanded from, similarly situated defendants in previous cases; impartial by not depriving a party of its right to discovery so as to protect the opposing party from incriminating material being discovered; and competent by not ignoring that a controlling case has been overturned by a recent case or overruled by legislation or not failing to integrate such new piece of information into his handling of the case at bar.
  - b. Personal conduct centers on the judge's integrity in her private and official capacity. It concerns personal conduct such as her concealing assets and evading taxes; breaching a contract, e.g., by failure to pay rent or to buy or sell stock as agreed to; or using her

connections to secure admission to a college for a child despite the latter's disqualifying low grades or admission test score; and tolerating or even covering up other people's similar criminal, civilly unlawful, or unethical conduct.

- c. i. Overlapping judicial performance and personal conduct occurs, for example, when a judge dismisses a complaint against another judge to cover up the latter's wrongdoing; takes advantage of confidential information learned in chambers or submitted under seal to purchase or sell property in a time-sensitive fashion or on more favorable terms; asks for or accepts a bribe to throw a case one way or another; or resorts to a defense lawyer that has appeared before her to have the lawyer set up offshore bank accounts to conceal the judge's illegal assets or engage in money laundering.
- ii. There is also overlapping in the wrongful pursuit with judicial power of a personal agenda, as when a judge goes on a mission against police searchless warrants, although the Fourth Amendment only requires that searches not be unreasonable, not that they be executed only upon a search warrant; or a mission against computer hackers, such as those that hacked his private website and embarrassed him by exposing his collection of erotic pictures, whereupon he treats hackers as if they were terrorists, systematically denying them bail for posing a continued hacking threat to society and authorizing the tapping of their phone conversations, even with their lawyers, under color of measure to prevent the use of a phone for hacking.

287. Wrongdoing also includes failure to "avoid even the appearance of impropriety"<sup>123a</sup>. That concept has two points of emphasis: "Impropriety" bears on the nature of the behavior, which may fall anywhere along the spectrum ranging from clearly criminal to unbecoming of a person holding judicial office, such as becoming drunk and boisterous at a party. "Appearance" bears on the very low 'burden of proof' that must be carried by any person, for example, a journalist or a hotel concierge, for their allegations to create such an unfavorable or suspicious impression of the judge as to make her hold on office untenable and require her resignation(jur:92§d), such as discreetly rewarding her law school student who in her opinion is the best of the month with an all-paid weekend trip to the Cayman Islands bearing a gift for a friend of the judge who picks it up at the hotel front desk; or eating diner alone with a married law clerk in a restaurant's private room.

## 5) Main uses and users

288. The **main uses** of the initial software product that concentrates on judges will be:
- a. to discharge an official duty both to hold judges accountable by monitoring their judicial performance and relevant personal conduct and to act on complaints about judicial misconduct by determining whether there is probable cause –not liable to attack as partisan animus– to believe that a judge has engaged in wrongdoing and should be investigate and, if warranted, disciplined or prosecuted; and
  - b. to detect any instance, pattern, or trend of behavior on the part of the judge or judges in the case to be filed or already at bar, which may or may not be wrong or wrongful but which may reveal the judge or judges' way of thinking and handling similar cases in the past, and devise legal strategy accordingly, for example, by deciding either to go ahead and litigate before them or petition on an objective, factual basis that the judges recuse themselves without incurring the risk of having the petition denied as a frivolous tactical move that can

provoke retaliation from the petitioned judges and their peers, or appeal their petition denial in order to have the judge or judges disqualified for cause.

289. The **main users** of the product will fall into two categories:

a. public

- 1) law enforcement agencies that must determine whether there is probable cause to believe that a judge has engaged in any wrongdoing, including failure to “avoid even the appearance of impropriety”(jur:134¶287), for which he or she should be investigated and held accountable; and
- 2) judicial performance commissions and citizen boards of judicial accountability and discipline(jur:160§8) empowered to:
  - a) monitor judges’ performance on a regular basis; and
  - b) receive complaints against any judge from a judge or any other person and process them; and

b. private

- 1) attorneys, their clients, and pro ses who must devise their legal strategy for proceeding in their own cases; and
- 2) entities, such as the proposed institute for judicial accountability and reform advocacy, that
  - a) on commission from a third party audit for a fee a trial or appellate judge; or
  - b) audit judges, publish the results on the entities’ websites, and make them accessible either on subscription or for free in the public interest and to attract webvisitors<sup>cf. 213a</sup>.

290. All the main users must decide whether to spend months or years and thousands, tens of thousands, even hundreds of thousands or millions of dollars<sup>83</sup> in litigation. This can be emotionally-draining, for the stakes can include being sentenced to death, going to prison for the rest of one’s life or for many years, plea bargaining, or being acquitted; being held liable for a high money judgment and even devastating punitive damages; establishing an adverse controlling precedent or a public perception contrary to a party’s interest; or settling to dispose of the case with certainty as opposed to having it dismissed or reversed. At present, law enforcement officers, judicial performance commissioners, and attorneys base their decision on how to proceed on either their personal and thus limited and subjectively evaluated experience of practicing before a judge augmented by hearsay about such experience of others or base their decision only such hearsay alone if the decision-makers have never practiced before that judge. The decision may also be made by a client or a pro se relying on nothing more substantive than his passion-driven wishful thinking or fear-induced gut feeling. The toss of a coin may also be the decision-maker.

291. An advanced IT-based software product that evaluates a judge’s past behavior by auditing vast amounts of data from a wide variety of sources constantly added to can provide users with a more reliable foundation for predicting how the judge is likely to handle the case to be filed or already at bar and whether users should petition the judge to recuse himself; appeal a denial in order to have him disqualified; settle or plea bargain.

292. For instance, using this product, a private user could find out that the judge assigned to his case ruled in 87.2% of her cases in favor of women suing their employers for promotion discrimination as opposed to the initially assigned judge, whom the user caused to recuse himself because the product audited judicial and extra-judicial writings of both the judge and other people and found expressions of ideas –not decisions– that gave the “appearance”<sup>123a</sup> of bias against women that work rather than stay home doing what they are supposed to do as wives. In reliance on that information, the user could decide to try his case more confidently rather than settle.
293. Likewise, the product can enable public users to discover the suspicious coincidence that a judge has been assigned purportedly by the luck of the draw conducted by the clerk of court whom he appointed(jur:30§1) to six involuntary bankruptcy petitions that any of three financial institutions, which financed the library annex of the law school of whose advisory board the judge was a member at the time of the annex construction, filed against debtors who were owners of land in the northern region of the judge’s judicial district and who protested to the judge to no avail his approval of the sale by the same bankruptcy trustees of their land at below market price at private auctions to thinly capitalized international companies formed only weeks after the filing of the petitions and which have had no more activity after they sold the land to one of the members of a consortium that recently announced plans to build a freight train-airplane-truck intermodal transportation hub and merchandise distribution center in the district’s northern region.(cf. jur:32§§2)3); 46§3) Based on this probable cause to believe that the judge has in effect engaged in a conspiracy to expropriate land for private use without due compensation, the public user can decide to open an investigation of the judge and others involved in this series of suspicious transactions.

## 6) Auditing a judge’s writings

294. The auditing feature of the software product will audit a judge’s judicial decisions in the case intrinsic data sources as well as his non-judicial writings constituting his case extrinsic data sources.(jur:150¶337) Its purpose will be to detect how a specific feature of a variable feature of cases, that is, the value of a variable –e.g., a parties’ wealth, level of education, subject matter–, relates to the outcome of the judge’s cases and whether that variable is controlled by a judge’s behavior, which may or may not be wrong or wrongful, but which may result from a wrongful attitude, such as bias, prejudice, conflict of interests, and personal agenda. The product will calculate the statistical probability that such variable value will determine the judge’s decision in a case that is or may come before that judge. Based on that information, a private user will be able to devise its legal strategy and a public user will be able to determine whether there is probable cause to investigate a judge for wrongdoing.

### a) Statistical analysis for auditing a judge’s decisions

295. The auditing feature of the software program only audits a judge’s decisions and does so only through statistical analysis. This auditing is mostly in the nature of an accounting: A layout similar to a balance sheet is used, with the column on the left for plaintiffs and prosecutors and the column on the right for defendants. Under each column is set forth the same list of heading-like variables, each of which is subdivided into values. For instance, the variable ‘party gender’

is subdivided into the two values of male and female; and the variable 'party representation' is subdivided into counseled and pro se; while the variables 'religion', 'race', 'ethnicity', 'company size', or 'subject matter' may each have three or more values. Next to each value is the *frequency number*, that is, the total number of cases before the audited judge where the party was, let's say, Catholic, Protestant, Jewish, Moslem, or None, followed by the *winning frequency* or number of cases where the parties with that value won; and the *frequency percentage*, or winning frequency expressed as a percentage of the frequency number. Other mathematical and statistical relations can be calculated in order to perform a more sophisticated analysis, but the ones named above suffice for the illustrative purpose here.

296. Let's consider the variable of political party affiliation and let's assign to it only two values, that is, affiliation to party A or to party Z. If either variable value has no bearing whatsoever on case outcome, then an A affiliated party opposing a Z affiliated party has the same 50%, toss of a coin chance of winning as of losing. That variable is outcome-irrelevant; it is a dependent variable because its influence on case outcome, if any, depends on the value of other variables. The opposite speaks for itself: If in 100% of cases the A party won when opposing a Z party, then the A value of the party affiliation variable is outcome-determinative. That variable is independent because its influence on the outcome of cases is not dependent on the value of any other single variable or set of variables. That variable is controlled by a judge's bias, prejudice, conflict of interests, or personal agenda, for there is no rational explanation in a system of justice governed by the rule of law that accounts for A parties winning 100% of cases when opposing Z parties, even where any two A parties have diametrically opposite values for all other variables, that is, they are completely different in every other respect, nevertheless they win merely because each is an A party opposing a Z party.
297. In this illustration, the political affiliation variable allows for proof of a judge's bias or prejudice: When opposing parties were both A parties or Z parties, there was no single variable that accounted for a party winning or losing 100% of cases. However, parties that were war veterans opposing non-veterans won 7 out of 10 cases; parties suing for, let's say, breach of contract won in 8 out of 10 cases; and parties defending against a charge of domestic abuse won in 9 out of 10 cases. Each of these three variables is dependent variables because none of each could determine the outcome of 100% of cases. Nonetheless, in combination they could become independent variables, and thus outcome-determinative: In litigation before the judge being audited where both parties were either A or Z parties, if a party was a war veteran and was suing for breach of contract, it won in 100% of cases.
298. The above makes the usefulness of the software product for auditing a judge's decisions patently obvious: An A party opposing a Z party could be all but certain of prevailing. Consequently, it would have no interest in either having the judge recuse himself or in settling with the opposing Z party on terms any lesser than the full relief requested. The same would hold true for a war veteran suing a non-veteran for breach of contract. The opposite would be the case for a Z party and for a non-veteran being sued for breach of contract: They would have every interest in petitioning the judge to recuse himself and doing so by invoking the evidence of his bias; otherwise, they would want to settle even by agreeing to the relief requested and thereby avoiding the expense of a judicial proceeding with a predetermined outcome adverse to them.
299. In the same vein but to varying degrees, a war veteran who learned that he had a 70% probability of winning over a non-veteran; a party suing for breach of contract with an 80% probability of winning; and a party defending against a domestic abuse charge with a 90% winning probability would find such information significant in devising their respective litigation strategy. By the

same token, a retired policeman suing an employed civilian; a party suing on reasonable reliance on an implied promise or estoppel by laches; and a party defending against a charge of assaulting another company executive officer could devise their litigation strategy by applying by analogy those statistics in the absence of statistics bearing on the specific variable values of their respective cases.

300. Likewise, law enforcement authorities, judicial performance commissions, and the proposed citizen boards of judicial accountability and discipline will use this product to determine whether there is probable cause to investigate a judge that has a record of ensuring a win for 100% of A parties opposing Z parties. Their attention will also be drawn to a judge whose record shows a pattern of partiality toward certain types of parties and subject matters.

### **(1) Enhancing the usefulness of statistics on a judge through comparison with judicial baselines**

301. The *statistics on auditing a judge's decisions* take on much more significance when they are compared with their equivalent for all judges of her court, district, circuit, and judiciary. Each such level in the hierarchy of aggregates of judges can have its own *winning frequency average* and *frequency percentage* for each variable value. These comparative statistics represent baselines. The more a judge's winning frequency and, particularly, her frequency percentage for a given value deviate from the corresponding baseline, the more they point to the judge's anomalous behavior, which may signal wrongdoing.
302. To determine whether an audited judge's anomalous behavior results from wrongdoing the statistics on her can be vetted through a series of reasonable factual considerations; e.g., her unusually high number of winning defendants of Chinese descent is due to the fact that her judicial district includes China Town; the unusually high percentage of white collar convictions in cases before her is the result of the election of a district attorney who ran on a platform of holding accountable financial institution officers who organized or tolerated abusive subprime mortgage lending and, in addition, a pool of jurors particularly outraged by a notorious case of egregious abuse involving the husband of the state senate majority leader; her unusually high percentage of doctors held liable for high medical malpractice judgments is related to her having lost her kid brother when the apartment building that he was visiting collapsed due to a negligent engineering design.
303. Other patterns and trends may underlie a judge's decisions and come to light by auditing those decisions. The resulting statistics are revealing in themselves and even more so when compared with those on each level in the hierarchy of aggregates of judges, such as:
- a. the winning or losing of parties and:
    - 1) their wealth as well as the deciding judge's or panel judges';
    - 2) their pro se or counseled status, and if the latter, whether representation was provided by a solo practitioner or a small or medium firm or rather a large law firm capable or with a history of appealing unfavorable decisions and bringing their appeals to the attention of the media;
    - 3) their race; sexual or political orientations; religion; area of residence; employment status, type, and level; ethnicity; nationality; celebrity status and connection to

important people; etc.;

- 4) similarities between the investment portfolios of the judges of a court that cannot be explained by separate but coincidental investment decisions, and that point to either a group of people trading on inside information or acting as an investment syndicate and may having as their priority, not the administration of justice according to the rule of law, but rather the preservation of their portfolio value and enhancement of their return on investment<sup>30</sup>;
- b. granting or denying of bail, its amount, and imposition of other conditions restricting movement to a house, a geographic area, the wearing of an electronic bracelet<sup>270</sup>, their consideration of the sentencing guidelines when imposing terms of imprisonment and other criminal punishment; etc.

## (2) The archetype of judicial performance and the judge's decision auditing model

304. The auditing of individual judges' decisions and the calculation of baselines on aggregates of judges can provide a data rich, fact-based understanding of the qualitative and quantitative metrics of judges' performance realistic enough to enable the development of an *archetype of judicial performance* with disciplinary and prescriptive function.
305. The auditing statistics and the objective, factual considerations applied to test a judge's anomalous deviations from the baselines can provide the basis for developing a *judge's decision auditing model*. Its ever-greater sophistication can be the result of an ever more complex algorithm that takes into account general judiciary variable values adjusted by extra-judicial or judge-specific considerations. An algorithm can identify the one variable value or set of variable values that is most highly correlated to the respective case outcome.
306. The model's usefulness will be established to the extent to which it will produce *full range predictive statistical probabilities* that are reliable, to wit, that the model can predict with a degree of probability ever closer to 100% not only the final win or loss outcome of any given case before the audited judge for any given party, but also the content and outcome of the many intervening rulings on motions and objections and such predictions are correct in 100% of cases or a percentage ever closer thereto. The capacity to predict such range of probabilities will require, of course, that in addition to auditing the writings of a judge, the writings of or about other subjects of a case, such as attorneys, jurors, and circumstantial considerations, be audited and that all of them be profiled.
307. Such a vastly complex statistical model, whose most important variables are eminently psychological and sociological, is theoretically possible without the need to assume that human beings are predetermined to behave in a certain way. Rather, it suffices to assume that every individual is motivated by a hierarchy of harmonious and conflicting interests, that he or she pursues such interests in a sufficiently rational way to manifest them in patterns and trends of behavior characterized by constant elements, and that the interaction of a group of individuals is a system of interests susceptible to dynamic analysis of harmonious and conflicting interests.<sup>187</sup> That analysis can be infinitely refined incrementally by the dynamic reconfiguration of the

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<sup>270</sup> [http://Judicial-Discipline-Reform.org/docs/Legal\\_news.pdf](http://Judicial-Discipline-Reform.org/docs/Legal_news.pdf) >Ln:147, 152

system as not only existing interests exit it, new ones enter it, and those in it are modified by the constant flow of knowledge, but also as the relative position of the interests on that hierarchy and the strength of their hold on that position are constantly recalibrated more accurately through an ever more perceptive analysis of the patterns and trends through which they manifest themselves. This means that the system of interests of an individual and of a group is neither closed nor stable. Even theoretically no analysis will ever be able to predict the system's behavior with 100% accuracy. It also means that a dynamic analysis takes into account changes even as it is ever more perceptive of the patterns and trends that give constancy to the system. By taking into account the frequent changes in the system, the analysis can predict ever more accurately the system's behavior. The set of rules that allows such analysis to be performed constitutes a model.

308. Computer models of hurricane behavior are used today to warn millions of people that they are in harm's way and advise them on how to protect themselves. Those models have become more reliable than watching birds fly away from a cloudy sky. Medical expert systems are being developed to make patient diagnoses more accurate than those made by doctors with different degrees of training, amount of information, and mental acuity due to sleep deprivation, emotional problems, sympathy for the patient, etc. The principles and techniques underlying those models and systems as well as others will be applied in an innovative way to the field of law by this software product as part of the pioneering work of the institute of judicial unaccountability reporting and reform advocacy and its development of this auditing and profiling software product.

### b) Linguistic and literary forensic auditing

309. This feature of the software product focuses its auditing on the idiosyncratic use of language by an author –who in the early stages of product development and use will be the judge([jur:132§3](#)) in the case to be filed or already at bar; eventually other subjects of the legal system will also be audited–. It searches for patterns of speech to construct text, done by linguistic auditing, or for the message in the text and its meaning, done by literary auditing. The forensic versions of these two types of language-centered auditing aim to determine authorship of judicial decisions and reveal traits of the author's character as well as formal elements and substantive components of his writing.
310. A better understanding can thus be gained of the audited judge's way of reasoning, beliefs, expedient statements (those that he makes for reasons other than because he believes in them) and attitudes, all of which may have influenced or even determined the outcome of previous cases and may likewise affect the current case. Such understanding can enable private parties to devise legal strategy accordingly. It may bear on whether to file a case in a court where it may come before the audited judge or whether to pursue his recusal or disqualification. But the strategy may also deal with how to argue a case to that judge as a result of having gained a better understanding of him. Likewise, a better understanding of the judge gained through this auditing can enable public parties to determine whether there is probable cause to investigate the judge for wrongdoing and, if warranted, hold him accountable and liable to discipline or impeachment.
311. The **data sources** of linguistic and literary forensic auditing are broader than those used to audit a judge's decisions([jur:150¶337](#)). They include:
- a. the audited judge's judicial and non-judicial writings, such as articles in law journals and newspapers of more or less reputation; books; etc.; and

- b. available writings of other people, such as:
  - 1) his clerks' letters, memos, and articles;
  - 2) motions and briefs of lawyers that have appeared before the judge or his peers;
  - 3) law research and writing papers, student notes for law journals, moot court briefs, and articles by other people submitted at law schools to law school journals, moot court competitions, and other publishers where the judge and his peers teach or to which they are connected as moot court judges or law article reviewers or submitters.

312. The search function of a computer can only perform the very limited aspect of linguistic auditing of finding the recurrence of previously identified words and phrases. Boolean terms and connectors can only serve to find some variations of the search term and its relation to another or to the context. A natural language search engine operates by searching for text that contains terms already contained in the search query or variations thereof and ordering the resulting text by highest frequency. Neither of these search methods is capable of performing the type of analysis that linguistic auditing is intended to do: analyze the structure of language used in a piece of text and detect its fine peculiarities so distinctly as to be able to identify who is or is not its author. The above statements apply even more squarely to performing literary auditing, for it analyzes text to reveal its author's character and intention as well as his message and its meaning. These two types of auditing call for the innovative application of the discriminating capacity, which mimics critical judgment, of artificial intelligence.

### **(1) Linguistic auditing**

313. Linguistic auditing is the more mechanical analysis of these two types of language-based auditing. It deals with an author's idiosyncratic use of language. The auditing begins with her choice of words, which reflects the level, extent, and geography of her vocabulary, and her spelling of those words, which concerns their morphology; moves on to her use of those words as the grammatical units of language –articles, nouns, pronouns, adjectives, prepositions, verbs, adverbs, conjunctions, and interjections–; to arrive at her linkage of those words through syntax, that is, the lineal, one-after-the-other order, affected by punctuation, in which she places her words to construct sentences that contain the logical components of linguistic communication: a subject, a predicate, and their complements. The author's choice of words and the syntactical structure in which she puts them together are supposed to be understood, that is, to convey a message in a given language, English in our case, as opposed to being nothing but an incomprehensible string of words although each separately may have some meaning.
314. Linguistic auditing limits its analysis to the choice of words and their structure, and does not reach the message or its meaning. But that is enough to be richly informative. This is so because those words and their structure have so many features that their particular combination can be special enough, if not unique, to allow the author to be identified: A piece of writing whose author is not known can be compared to exemplars, that is, other writings whose authors are known, and the similarities between the former and at least one of the latter can identify the author of both. However, such identification may not be possible because the author has not written any other piece or none of his other pieces is in the pool available for comparison. Even so, the linguistic auditing of an unidentifiable author can still be richly informative. It can

indicate whether the author is a native speaker of the language of the writing, his level of education and social status, age, attention to detail, where he has lived, his intended audience, etc.

## (2) Linguistic forensic auditing

315. Linguistic forensic auditing allows the determination whether a judicial decision purportedly written by a judge was actually written by someone else. This can reveal the judge's dereliction of duty by making an unlawful delegation of judicial power in order not to make the effort to deal with certain types of parties, such as pro se, or subject matters, such as those found distasteful or too complex, or to free up her time for other activities, such as court administrative tasks or self-promoting writing and public speaking.
316. To that end, linguistic forensic auditing can compare the judges' writings and those of others in order to establish or provide foundation for the queries:
- a. whether the judge or a clerk, who may have just graduated from law school, a law student clerking for a summer or only part-time during the academic year wrote the text in question;
  - b. whether the nature and amount of judicial authority delegated to a clerk allowed him through his research, legal thinking, and writing to:
    - 1) decide a thorny or novel legal issue;
    - 2) create or depart from precedent;
    - 3) deprive parties of their property and liberty and harm substantially or even dramatically their lives by impairing their medical, parental, privacy, stockholder, voting, and similar rights and thereby injure their means, manner, and opportunity to do business or gain their livelihoods; and through the precedential effect of decisions, also affect similarly non-parties, even the rest of the people;
  - c. whether a contributing or the determining factor in delegating the writing of a decision was the preceding marking of it "not for publication" or "not precedential"[\(jur:43§1\)](#) or whether being so marked was the consequence of the decision's substandard quality resulting from having been written by someone else less competent than the judge<sup>131</sup>;
  - d. what the judge was doing to earn his well above the average salary of Americans<sup>212</sup> when he was having someone else write the decision.

## (3) Literary forensic auditing

317. Literary auditing performs the more subtle analysis of one piece of writing and most effectively of many pieces, such as transcripts, opinions, and articles, of the same author. It deals with their semantic aspect, that is, the explicit message that the author conveys to his interlocutor or reader and the implicit message that he sends intentionally or unwittingly in his subtext and that reveals his reasoning, interests, and attitudes, including wrongful ones, such as bias, prejudice, conflict of interests, and personal agenda. Thus, literary auditing allows the understanding of the author's character as well as his message.

### **(a) Revealing the author's character**

318. Literary forensic auditing can reveal a judge's (and eventually other legal system subjects'):
- a. preference for deductive or inductive reasoning;
  - b. deference to, or defiance of, precedent and personal reputation of legal authority;
  - c. understanding of scientific, mathematical, and statistical evidence and embrace of it, which may come to light in a judge's reference to it in the jury instructions or reluctance to make the effort to understand it and deal with it;
  - d. reliance on personal opinion and conclusory statements or logical arguments, which may point to a dogmatic or professorial attitude;
  - e. richly or scantily detailed presentation of evidence and theories of the case;
  - f. propensity or reluctance to accord credibility to testimonial, physical, and circumstantial evidence and its effect on a judge's decisions on admissibility;
  - g. laziness or hard-working ethos and lack or abundance of self-confidence that determine her propensity to:
    - 1) remain in the safety zone of precedent;
    - 2) depart or overturn precedent;
    - 3) accept or reject new legal theories and the request to create new rights;
    - 4) uphold or strike down the constitutionality of a law;
    - 5) accept a proposed brief with an innovative argument that she may incorporate in her opinion or law journal article to make it appear as her own and be given credit for it as if it were such or ignore it in reliance on her own intellectual capacity and out of pride in her own intellectual accomplishments;
  - h. leniency or harshness in her decisions.

### **(b) Detecting the author's implicit message**

319. Reading a piece of writing for its explicit message requires choosing a meaning among various possible meanings of each word in the context of the various meanings of each of the other words in a string of words forming a unit of thought, such as a sentence or a paragraph. Through this mental exercise, it is possible to determine the composite, explicit message of all the words together. That is a difficult task for a human mind, let alone for a software product. For such a product to replicate this exercise, it must be capable of 'understanding' the same explicit message that would be understood by the average speaker of that language who is a member of the author's intended audience. That presupposes reason and the exercise of critical judgment. It calls for the software to run on artificial intelligence. But even if the product can recognize the writing's explicit message, that remarkable accomplishment alone is not enough to qualify as literary auditing, never mind its forensic version.
320. The valuable contribution of literary auditing lies in using that explicit message that is literally – or visibly, as it were– conveyed by a string of words forming text –thus, a comprehensible piece of writing– as a stepping stone to the implicit message carried by its subtext. That requires an

even more sophisticated reading. It must analyze the explicit message of a string of words or compare that of two or more strings in order to detect what is not explicitly in any one string, but rather only implicitly. That implicit message may consist in the author's true, consistent revelation of his character or meaning that runs in the subtext of his explicit message or his development, refinement, and modification of that meaning, as well as his misconceptions, ambiguities, inconsistencies, contradictions, misrepresentations, and lies. Therein lies the value of literary auditing: in detecting an author's implicit message in one or more of his writings that he may not even be aware of, would not want to convey if he were aware of it, or that he is very much aware of but sends out in the expectation that the same writing will not reach his different audiences so that he can convey to each audience different, even inconsistent and contradictory messages.

321. It should be apparent that the user of the forensic version of literary auditing, whether she be a lawyer, not to mention a skillful one, or a person similarly situated, can make a powerful argument based on her detection of the implicit message of an author, whether such author is the judge in the case to be filed or already at bar, opposing counsel, the writer of a contract, a letter, a complaint, or any other document that may be introduced into evidence or otherwise used in the case, or of course, those who wrote laws, regulations, or opinions that may come into play or are already referred to in the case. What is more, well before the literary forensic auditing user makes any argument in writing or orally, she can put what she has learned through it to work very advantageously: She can use it to devise legal strategy or as a source of probable cause to open an official investigation of either the author, his peers, or other people.
322. However, literary auditing comes at a high cost. For one thing, it relies heavily on comparative analysis. Consequently, it should review the largest amount possible of the author's writings in order to increase the probability of stumbling upon unknown passages that when compared with known passages will reveal in greatest detail, and thus, with greatest reliability, his character and implicit message. Such comparative analysis is most effectively performed by one mind, that is, one person. It is inefficient, if not impossible, for a team of persons to exchange constantly between them everything in an author's writings that each has read in a joint effort to paint with many hands the picture of his character or for each team member to recognize that a passage that standing alone does not reveal any implicit message should nevertheless be brought to the attention of the team so that it can puzzle that passage and all other passages together into the author's implicit message.
323. Moreover, literary *forensic* auditing must be performed by people that have at the very least enough legal training or experience to recognize the potential in an implicit message: The message may reveal what the author must have known at the time of writing; provide a foothold for a persuasive argument based on what appears to be a point of honor or pride for the author; allow drawing up an alternative theory of the case; hint at a new line of questioning; expose a psychological pressure point, an evidentiary trump card, or a financial vulnerability of the author or another person; open the door to pin down the author to his consistent message or impeach his credibility with inconsistent messages; etc. If the user lacks the capacity or the contextual knowledge and imagination to use the implicit message creatively, detecting such message will serve no purpose. Making comparative analysis between string of words, passages, and pieces of writings possible and cost-effective in search of the author's character and valuable implicit messages is what justifies the development and use of a software product that runs on artificial intelligence and is able to perform literary forensic auditing. It can give the user an outcome-determinative competitive advantage grounded in the axiom "Knowledge is Power".

## 7) Judge profiling software

324. Profiling is what the FBI and other intelligence-gathering entities do to detect past and potential criminal and terrorist behavior of any American citizen and any other person. It is what jury consultants do: In light of their client's case and the legal interests of the parties, they draw up questionnaires for veniremembers, taking into account their past and present socio-economic, educational, family, and employment circumstances; case-related experience and criminal record; and even their race, ethnicity, gender, and sexual orientation as well as information obtained by conducting their own investigations. Based on the veniremembers' answers, the consultants establish the profile of those that their clients should accept or challenge, and if the latter, whether for cause or as a peremptory strike. After the jury has been seated, the consultants advise their client on how to tailor its presentation of the case to the jury given its individual and collective psychological make-up; the probability based thereon that it will return a verdict one way or another; and whether to go to verdict, settle, or plea bargain.
325. This means that profiling is not a per se pejorative term reserved for the use by police of suspect categories to decide whom to stop, frisk, and arrest. Rather, profiling is a technique for behavioral analysis. Its purpose is to identify the fundamental and constant character traits of an individual in the context of his circumstances in order to draw up a picture of him that has a behavioral predictive function, that is, how his character and circumstances forecast his future behavior. Profiling:
- a. gathers extensive data of various types on the universal set of the population under study and individual members of it;
  - b. analyzes that data scientifically to detect patterns of general and individual behavior; and
  - c. calculates the statistical probability that certain character traits and circumstances influenced or determined a person's behavior in the past as well as the probability that they will do likewise when dealing with situations similar to those in the past or with new ones.
326. As such, profiling is a scientific technique accepted by the relevant expert community, including lawyers. Consequently, the institute researchers will apply these accepted profiling principles and techniques, mutatis mutandis, to provide a scientifically objective basis for calculating the statistical probability that the character and circumstances of a trial or appellate judge(jur:132§3) will influence or determine his handling in a certain way of a case to be filed or already at bar given the case's features. A software product that can output such behavior-analyzing profile with predictive function will be indisputably valuable. Today, parties estimate the likely impact of a judge on a case by venturing an educated guess or relying on a layperson's impression. The product will enable private users to make the qualitative quantum leap of devising legal strategy on the solid platform of extensive data on a judge's past written and verbal conduct scientifically analyzed by computer models to calculate the statistical probability of the judge behaving in a certain way. It will also enable public users to rely on statistical probability to determine the strength of their probable cause to open an official investigation for wrongdoing(jur:133§4). Users' reliance on the product will depend on its empirically demonstrated degree of accuracy, that is, how accurately its profile and behavioral probability forecast future behavior and the facts that a subsequent investigation would find.
327. Profiling a judge may also include the following types of research:
- a. legal analysis to determine whether the judge's decisions, non-judicial writings, and activities abide by, or disregard, the law, whether due to his wrong or incompetent

understanding of it or to his wrongful attitudes –bias, prejudice, conflict of interests, personal agenda–; for this type of critical analysis to be performed by computers so that its result is objective enough to win the approval of a majority of reasonable and fair-minded critics there will have to be developed a highly advanced software program that relies on artificial intelligence; meantime, that legal analysis will be performed by researchers;

- b. interviews with people for inside information about judges, clerks, their relation to insiders, etc., initially concerning the Federal Judiciary and progressively state judiciaries too([jur:106§c](#));
- c. opinion polls and surveys;
- d. use of facial recognition software to match photos in yearbooks, newspapers, the Internet, in court publications, taken at interviews and other meetings, etc., to establish the identity of people that may have legally changed their names or assumed new names to hide their identity, which may reveal the members in the judge’s social circles and help draw up the sociogram showing the flow of influence<sup>271</sup>;
- e. computer and field search for evidentiary documents concerning wrongdoing, including:
  - 1) unreported trips<sup>272</sup> or attendance to seminars;
  - 2) non-disclosed receipt of gifts;<sup>275</sup>
  - 3) refusal to recuse so as to prevent discovery of wrongdoing or advance an improper interest;<sup>271b</sup>
  - 4) hidden assets and money laundering([jur:65§§1-3](#));
  - 5) other forms of illegal activity that support civil or criminal charges([jur:71§4](#));

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<sup>271</sup> **a)** The spectacular finding of a photo showing a state justice socializing at a posh seashore resort in southern France with a party who had contributed over \$3 million to his judicial race and who subsequently won a case before him where scores of millions of dollars were at stake led to litigation all the way to the Supreme Court and to vacating the decision in favor of that party; *Caperton v. Massey*, slip opinion, 556 U. S. \_\_ (2009), [http://Judicial-Discipline-Reform.org/docs/Caperton\\_v\\_Massey.pdf](http://Judicial-Discipline-Reform.org/docs/Caperton_v_Massey.pdf).

**b)** The Supreme Court has indicated that recusal does not require proof of actual bias, but rather a showing of circumstances “in which experience teaches that the **probability** of actual bias on the part of the judge or decision-maker is too high to be constitutionally tolerable.” (emphasis added) *Withrow v. Larkin*, 421 U.S. 35, 47 (1975).

**c)** In *Caperton* it “stressed that it was not required to decide whether in fact [the judge] was influenced [by one of the litigants]. The proper constitutional inquiry is whether sitting on the case then before [him] would offer **a possible temptation** to the average judge to lead him not to hold the balance nice, clear and true...[where] the probability of actual bias rises to an unconstitutional level [recusal is required].” (internal quotations omitted; *Caperton*, pages 8-9, 16) “Circumstances and relationships must be considered.” (id., 10); **d)** See also [fn.272](#)

<sup>272</sup> Chief Judge Hogan, chair of the Executive Committee of the Judicial Conference of the U.S., admits that some judges fail to report trips and to recuse themselves despite having investments in companies that are involved in cases before them; [http://Judicial-Discipline-Reform.org/docs/J\\_Hogan\\_JudConf\\_Exec\\_Com\\_aug8.pdf](http://Judicial-Discipline-Reform.org/docs/J_Hogan_JudConf_Exec_Com_aug8.pdf)

- f. establishment and operation of an 800 hotline number for reporting judicial wrongdoing and receiving other investigative tips.

### **8) A judge's fairness and impartiality appearance coefficient**

- 328. A judge's fairness and impartiality appearance coefficient will express in a numerical value people's expectation of the capacity of a judge to conduct a fair and impartial judicial proceeding. The coefficient will be a function of the attribution to the judge of bias, prejudice, conflict of interests, and his personal agenda as well as the congruence of the judge's declarations, e.g., his financial disclosure reports and filings with property registries.
- 329. The data sources of this coefficient will be those used for auditing decisions and profiling. The calculation of the coefficient will be based on a balancing test of the weight to be assigned<sup>273</sup> to the different data sources given the nature of the information obtained from them and its impact on the fact and appearance of a judge's ability to conduct fair and impartial proceedings. For instance, the results of auditing a judge's decisions will be most objective and useful because by their own nature they will be expressed in sums and percentages. By contrast, assigning weights to other people's opinions about a judge will be a more subjective exercise. It will require the detection in the largest possible database of judges' auditing and profiling results of patterns of correlation between objective auditing values and subjective opinions.
- 330. The coefficient will allow comparison between judges through the development of a rating system based on the realistic determination of a minimum level of acceptable judicial fairness and impartiality as well as ranges of acceptability above the minimum that attract ever greater levels of reward and recognition or below the minimum that warrant advice and training, monitoring, admonition, censure, suspension, and referral to the U.S. House of Representatives (or equivalent state body in the case of state judges) for impeachment and removal.

### **9) The ratio and coefficients concerning extra-judicial activity and the patterns of time-consuming activities**

- 331. The judicial to extra-judicial activity ratio will compare the amount of time and effort that the audited judge dedicates to his extra-judicial activities relative to the time and effort that he dedicates to his judicial ones. An objective basis for calculating the ratio can be found, on the one hand, in the judge's calendar and docket and, on the other hand, the time of day of the courses that he teaches as an adjunct professor at a law school; the moot court sessions that he judges; the presentations that he makes of his books, reports, etc., together with the travel time to

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<sup>273</sup> A similar statistical exercise is performed by the Administrative Office of the U.S. Courts in determining "weighted filings" "Under this system [of weighted filings], average civil cases or criminal defendants each receive a weight of approximately 1.0; for more time-consuming cases, higher weights are assessed (e.g., a death penalty habeas corpus case is assigned a weight of 12.89); and cases demanding relatively little time from district judges receive lower weights (e.g., a defaulted student loan case is assigned a weight of 0.10)." 2008 Annual Report of the Director of the Administrative Office of the U.S. Courts; <http://www.uscourts.gov/Statistics/JudicialBusiness/JudicialBusiness2008.aspx> >PDF version and also Judicial Business >pp. 23 and 38; and [http://Judicial-Discipline-Reform.org/docs/AO\\_Dir\\_Report\\_08.pdf](http://Judicial-Discipline-Reform.org/docs/AO_Dir_Report_08.pdf) >23 and 38.

and from the respective places.(jur:54§d) Likewise, the number of a judge’s written decisions and their number of words can make it possible to estimate the time it must have taken the judge to write them.<sup>274</sup>

332. By taking into account the extent to which the extra-judicial activities take place during regular business hours it should be possible to calculate a *coefficient of extra-judicial activities impact* measuring the impact of a judge’s extra-judicial activities on his judicial ones<sup>273</sup>. The calculation of the coefficient is warranted by the intuitive correlation that arises from the indisputable fact that a worker’s effort, attention span, and time are finite resources and cannot be dedicated simultaneously to two or more activities that the worker is required to perform personally rather than by delegation. Therefore, it is to be expected that:

a. the higher a judge’s:

- 1) number of articles and books published as a private person;
- 2) time and effort dedicated to researching and writing them;
- 3) participation in judicial committees and non-judicial committees and activities, such as:
  - a) teaching courses;
  - b) moot court judging;
  - c) public speaking;
  - d) attendance at judicial seminars and conferences;
  - e) attendance at non-judicial meetings of boards of charities, universities, law schools, and other entities, etc.,

b. the higher the number of the judge’s summary orders and “not for publication” and “not precedential” decisions(jur:43§1); and

c. the lower the judge’s:

- 1) *coefficient of administered justice*, which expresses the number and quality of reasoned published decisions satisfying the need for “Justice [that is] manifestly and undoubtedly [to] be seen to be done”<sup>71</sup>; and
- 2) *coefficient of judicial service rendered*, which expresses the time dedicated to the judicial activities for which the judge is compensated by the taxpayer with a salary in the top 2% of income earners in our country<sup>212</sup> relative to the baselines, namely,

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<sup>274</sup> Lawyers Cooperative Publishing used to estimate that it took the lawyers on the staff of its American Law Reports Federal series (ALR Fed) four hours to research and write a page of their annotations. Law schools normally allow the full time instructors that join their faculty to prepare for and teach during their first academic semester or year only one 3-hour per week course in addition to holding a similar number of office hours to meet with their students and attending faculty meetings. Print media measure the work required of reporters in terms of, let’s say, two weekly articles each of X no. of words or Y no. of inches of standard column width. Just as it is possible to calculate “reasonable attorney’s fees” and the cost of writing an appellate brief, it is possible to calculate the time that it takes a judge to research and write so many words per decision.

the average time spent on judicial activities by the judges in her court, district, circuit, and judiciary, and the non-judicial officers in their judiciary, and the time spent on official activities by officers in the other branches of government who earn the closest salaries to the judges’.

333. It may be difficult for outside researchers to measure the time that a judge dedicates to different activities if the researchers do not have access to the time sheets or similar managerial devices that record time spent by judges on each activity and that are used by courts and the Administrative Office of the U.S. Court to calculate “weighted filings”<sup>273</sup>. Nevertheless, valuable insight into judges’ time management can be gained by establishing *patterns of time-consuming activities*, such as:

- a. the signing of summary orders and “not for publication” and “not precedential” opinions (jur:43§1) just before or after a judge:
  - 1) goes on holiday;
  - 2) attends a seminar or a judicial conference, particularly if she must prepare to present a paper or a committee report;
  - 3) needs to grade the exams of the students that she teaches as an adjunct professor;
  - 4) is engaged in a series of presentations of her newly released book;
  - 5) is occupied by her own or a friend or family member’s:
    - a) medical treatment;
    - b) divorce or wedding;
    - c) death or child birth;
    - d) money-making activities, such as a company incorporation or a merger or acquisition, which may be signaled by changes in investment portfolios and other items of personal and family wealth;
- b. handling of recusal motions, particularly those that are granted and thereby lessen the weight of the case load and free up time for other activities;
- c. attendance at seminars, conferences, and political meetings;
- d. participation in fundraising, whether by just ‘attending’ a political party’s fundraising activity<sup>275</sup> or that of a school, charity, etc.

334. As in the case of totals and other statistics calculated in decision auditing(jur:138§(1), the ratio, coefficients, and patterns used here will gain in significance when compared with their equivalents and averages for the judges of a court, district, circuit, or judiciary. The latter can be

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<sup>275</sup> In light of mounting reports of improper conduct by U.S. Supreme Court justices, such as JJ. Scalia, Thomas, and Alito, Congressman Chris Murphy and 42 other members of the US HR called on the House Judiciary Committee to hold hearings on HR 862, the Supreme Court Transparency and Disclosure Act, which aims to subject the justices to the Code of Conduct for U.S. Judges<sup>123a</sup>; to require that justices state their reasons for granting and denying motions that they recuse themselves from hearing certain cases; and to require the Judicial Conference of the U.S. to draw up a procedure for reviewing such denials; [http://Judicial-Discipline-Reform.org/docs/HR\\_SCT\\_ethics\\_reform\\_9sep11.pdf](http://Judicial-Discipline-Reform.org/docs/HR_SCT_ethics_reform_9sep11.pdf)

used as baselines, the deviations from them measured, and the effort to explain them undertaken. This comparative exercise may find that the greater a judge's extra-judicial activities, the greater the deviation of his metrics from the corresponding baselines. It may be possible to express those deviations in a single, composite metric called *a judge's judicial performance coefficient*.

335. For instance, it can be found that a judge that teaches a course at a law school has an 84% probability of deviating from the average performance more than 90% of all other judges. Expressed in simpler illustrative terms, it could be found that 8 out of every 10 of those 'teaching' judges write decisions whose average length is 500 words while the average word count for non-teaching judges is 2000 words; that on average they have only 1 citation to authority as opposed to the average 12 for non-teaching judges; and that they cite no page of any brief or motion in the case while the average for non-teaching judges is 7. These statistics would support the argument that a judge with such time-consuming outside commitment gives short shrift to her writing of opinions, which are more likely to be arbitrary because the judge did not have enough time to pay due regard to the law or enough sense of professional responsibility to bother to read the briefs and motion.
336. A further statistical refinement could establish that the higher the judge's evaluation by her law school students and the higher the reputation of the school, the lower her opinions' count of words and citations. This would indicate that the focus of her attention is her teaching job, where the students' evaluations of her performance may be publicly posted, and it is merely as a secondary job for extra cash that she deals with her judgeship, where she is not evaluated by either litigants or her peers and the quality of her judicial performance has no positive or negative consequence on her tenure or salary. Yet, she, like the other 'teaching' judges, collects the same salary from taxpayers as non-teaching judges do. A similar analysis can be carried out to determine any correlation between judges that are prolific writers of articles in prestigious law journals and of books that receive public acclaim but scribble judicial decisions. After all, there are only so many hours in a day. Something has to give.

#### 10) Product's arc of operation: input data > computerized analysis >output statistics

337. The **data sources** supporting the product will be of several types:
- a. the product for auditing a judge's decisions will be based only on the judge's case-intrinsic sources, that is, her decisions, which include:
    - 1) holdings and dicta in her published and "not for publication" as well as precedential and "not precedential" opinions(jur:43§1);
    - 2) concurrent and dissenting opinions;
    - 3) rulings written and signed by the judge;
    - 4) transcribed orders issued orally from the bench or elsewhere, such as in chambers, as well as all her comments made in such context;
    - 5) summary orders;
    - 6) letters relating to cases before the judge;
    - 7) per curiam decisions of panels on which the judge sat

- 8) the judge's voting on petitions for:
  - a) panel rehearing and hearing en banc(jur:45§2);
  - b) review of dismissals by the chief circuit judge of misconduct complaints against judges(jur:24§§b,c);
- b. the profiling of the judge will be based on the above case-intrinsic sources and also on:
  - 1) the judge's case-extrinsic sources, such as his:
    - a) books and articles in law journals, magazines, newsletters, and newspapers;
    - b) appearances and postings on the Internet, including emails, blogs, social media, websites, chat rooms;
    - c) financial disclosure reports<sup>213a</sup> and documents filed with county clerks' offices and other public registries<sup>242</sup> of chattel, real, and time share property as well as land, sea, air vessels and rights, such as leases, patents, and contracts;
    - d) speeches, panel participation, comments, and statements at his or other judges' induction into the court and other court ceremonies, judicial conferences, hearings before Congress and other official federal or state bodies, seminars, bar association meetings, university or law school activities, charity board sessions, radio and TV appearances;
    - e) school where the judge held or holds an adjunct professorship;
    - f) submissions to commissions and committees tasked with recommending, nominating, and confirming candidates for judgeships and with reviewing judicial performance;
    - g) recommendations, including those in support of a job search, a lawyer's admission to the bar, or to a court pro hac vice;
    - h) letters unrelated to his cases, whether or not they are on his official letterhead;
    - i) previous private or public sector positions;
    - j) honorary titles and memberships;
    - k) department of vehicles driving licensing registration;
    - l) membership in clubs, charity boards, and law school committees;
    - m) photos and movie clips and journalistic footage<sup>276</sup>;
    - n) yearbooks and records of the judge's alma matter law school, college, and high school; etc.;
  - 2) judiciary sources that shed light directly or indirectly on the judge or on the

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<sup>276</sup> "Caperton sought rehearing, and the parties moved for disqualification of three of the five justices who decided the appeal. Photos had surfaced of Justice Maynard vacationing with Blankenship in the French Riviera while the case was pending. Justice Maynard granted Caperton's recusal motion." *Caperton v. A. T. Massey Coal Co.*, 129 S. Ct. 2252 (2009), at page 4 of the Opinion of the Court.

background of her activities or particular acts, such as

- a) dockets and judges' calendars;
  - b) memoranda, notes, and letters of the judge's law clerks and clerks of court;
  - c) court or court administration bodies' statistics, reports, newsletters, biographic notes on judges;
  - d) statements before Congress and other official bodies;
  - e) statements by third parties at the judge's induction in the court and similar court ceremonies;
  - f) a court's or peers' recognition of the judge's performance or public censure;
  - g) statements by other judges reflecting their opinion of the judge, such as those contained in concurrent and dissenting opinions<sup>68</sup>;
  - h) the types of case-extrinsic sources, such as publications and media, listed at [jur:150¶337](#); etc.;
- 3) non-judiciary sources<sup>277</sup> that directly or indirectly reflect the opinion on the judge:
- a) held by:
    - (1) lawyers;
    - (2) journalists;
    - (3) parties;
    - (4) academic superiors;
    - (5) peers;
    - (6) students where the judge studied or where he has taught;
    - (7) friends, family, and neighbors;
    - (8) other members of the public; etc.
  - b) contained in:
    - (1) motions and briefs, including amicus curie briefs;
    - (2) students' and peers' evaluation of the judge's performance as instructor;
    - (3) laudations accompanying prizes, awards, and other forms of recognition bestowed upon the judge;

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<sup>277</sup> "Canon 2: A Judge Should Avoid Impropriety And The Appearance Of Impropriety **In All Activities**; A. *Respect for Law*. A judge should respect and comply with the law and should act **at all times** in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; [fn123a](#). The words with emphasis added underscore the fact that the judges themselves state in their own Code of Conduct for U.S. Judges that it is fair to hold them to high standards even in the extra-judicial sphere of their lives. This justifies including in their profiles non-judiciary sources.

- (4) brochures and annual reports of law firms and companies;
  - (5) biographic notes on the judge found in Martindale-Hubbell and other legal directories;
  - (6) websites that rate or comment on judges;
  - (7) the type of case-extrinsic sources, such as publications and media, listed at [jur:151¶b.1](#)); etc.
- 4) public non-judiciary sources that can place the judicial and personal activities of the audited judge and of parties that have appeared or may appear before him in context ([jur:108¶244](#)), particularly those sources that can provide financial([jur:27§2](#)) information about them, such as:
- a) county clerk’s offices and similar property registries<sup>242, 243</sup>;
  - b) rosters of marinas, airports, and landing strips that register docking, maintenance services, and landing rights.
338. **Data entry** will be made by scanning print data sources to digitize and enter them into the computer system that will run the auditing program on them together with the sources already available in digital format. Spoken-to written transcribing software will be used to enter judges’ original spoken statements. Optical character recognition (OCR) software will be used to turn text digitized as picture into searchable text. Both OCR and transcribing software will be further developed by institute researchers as need be.
339. **Data mining** text will be performed using, in addition to Boolean terms and connectors and natural language, the auditing program developed by the institute. Face recognition software will be run on pictures and movies to establish who was where, when, and with whom.
340. **Data analysis** will rely on the most part on innovative application of artificial intelligence. Institute researchers will develop and run the algorithms of a computer-based expert system capable of auditing a judge’s decisions([jur:136§6](#)); performing linguistic and literary auditing([jur:140§b](#)); drawing up a judge’s profile([jur:145§7](#)); and to the extent necessary, calculation the proposed ratio, coefficients, and averages([jur:147§§8-9](#)))
341. The **output statistics** will consist in a set of metrics with predictive function on a judge’s profile and her judicial performance that will allow private users to devise their legal strategy regarding the case to be filed or already at bar; and will enable public users to determine whether there is probable cause to officially investigate a judge for wrongdoing and, if warranted, hold him accountable and liable to discipline.

### c. As educator

342. As educator, the institute will offer courses, such as The *DeLano* Case Course([dcc:1](#)), and promote its offering by other educational institutions([dcc:7](#)). It will also journalistically explain<sup>256°</sup> to the public, in general, and common-purpose entities([jur:155¶344a](#)), in particular:
- a. the forms that their unaccountability and wrongdoing take and the ways in which they manifest themselves;
  - b. the means, motive, and opportunity for judges to do wrong;

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Volume I

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### Users

[Add New](#)

#### SSL activated!

Take the time to review these things

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- Improve your security [with security headers](#)

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December 18, 2020

**Links<sup>‡</sup> to individual files, each containing one of the articles in  
the two-volume study\*<sup>†</sup> of judges and their judiciaries:**

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homepage <left panel ↓Register or + New or Users >Add New.

1. \*>jur:65; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_abuse\\_by\\_justices.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_abuse_by_justices.pdf)
2. jur:122; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judicial\\_unaccountability\\_brochures\\_report.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judicial_unaccountability_brochures_report.pdf)
3. jur:130; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_Institute\\_judicial\\_unaccountability\\_reporting.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_Institute_judicial_unaccountability_reporting.pdf)
4. \*>Lsch:13; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_dynamic\\_analysis&strategic\\_thinking.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_dynamic_analysis&strategic_thinking.pdf)
5. \*>DeLano Case Course; dcc; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_Syllabus.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_Syllabus.pdf)
6. \*>Creative writings, cw; [http://judicialdiscipline-reform.org/OL2/DrRCordero\\_creative\\_writings.pdf](http://judicialdiscipline-reform.org/OL2/DrRCordero_creative_writings.pdf)
7. \*>OL:158; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_no\\_judicial\\_immunity.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_no_judicial_immunity.pdf)
8. \*>OL:190; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_institutionalized\\_judges\\_abuse\\_power.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_institutionalized_judges_abuse_power.pdf)
9. \*>OL:274; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_auditing\\_judges.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_auditing_judges.pdf)
10. OL2:433; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_Yahogroups.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_Yahogroups.pdf)
11. OL2:453; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judicial\\_accountability\\_presentation.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judicial_accountability_presentation.pdf)
12. †>OL2:546; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_complaint\\_dismissal\\_statistics.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_complaint_dismissal_statistics.pdf);  
see also infra OL2:792; see the supporting official statistical tables of the federal courts at [http://Judicial-Discipline-Reform.org/statistics&tables/statistical\\_tables\\_complaints\\_v\\_judges.pdf](http://Judicial-Discipline-Reform.org/statistics&tables/statistical_tables_complaints_v_judges.pdf)
13. OL2:608, 760; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judges\\_do\\_not\\_read.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judges_do_not_read.pdf)
14. OL2:614; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_how\\_fraud\\_scheme\\_works.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_how_fraud_scheme_works.pdf)
15. OL2:781; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judges\\_intercepting\\_emails\\_mail.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judges_intercepting_emails_mail.pdf)
16. OL2:792; Complaint filed with Supreme Court Chief Justice John G. Roberts, Jr., and the U.S. Court of Appeals for the District of Columbia Circuit; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-SupCt\\_CJ\\_JGRoberts.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-SupCt_CJ_JGRoberts.pdf)
  - a. Links to official court statistics on complaints about judges and their analysis
17. Article on official statistics on complaints about J. Kavanaugh, DCC Chief Judge Merrick Garland, & peers and their analysis using "the math of abuse": [http://Judicial-Discipline-Reform.org/retrieve/DrRCordero\\_JJ\\_Kavanaugh-Garland\\_exoneration\\_policy.pdf](http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_JJ_Kavanaugh-Garland_exoneration_policy.pdf)

\* [http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest\\_Jud\\_Advocates.pdf](http://Judicial-Discipline-Reform.org/OL/DrRCordero-Honest_Jud_Advocates.pdf) > all prefixes:# up to OL:393 App.6:1

<sup>‡</sup> [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_links\\_individual\\_files.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_links_individual_files.pdf)

18. Table of complaints against judges lodged in, and dismissed by, DCC in the 1oct06-30sep17 11-year period: [http://Judicial-Discipline-Reform.org/retrieve/DrRCordero\\_table\\_exonerations\\_by\\_JJ\\_Kavanaugh-Garland.pdf](http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_table_exonerations_by_JJ_Kavanaugh-Garland.pdf)
19. Collected official statistics on complaints about federal judges in the 1oct96-30sep17 21-year period: [http://Judicial-Discipline-Reform.org/retrieve/DrRCordero\\_collected\\_statistics\\_complaints\\_v\\_judges.pdf](http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_collected_statistics_complaints_v_judges.pdf)
20. Template to be filled out with the complaint statistics on any of the 15 reporting courts: [http://Judicial-Discipline-Reform.org/retrieve/DrRCordero\\_template\\_table\\_complaints\\_v\\_judges.pdf](http://Judicial-Discipline-Reform.org/retrieve/DrRCordero_template_table_complaints_v_judges.pdf)
21. Article on statistics and math: neither judges nor clerks read the majority of briefs, disposing of them through 'dumping forms': unresearched, unreasoned, arbitrary, and fiat-like orders; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judges\\_do\\_not\\_read.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judges_do_not_read.pdf)
22. †>OL2:821; Programmatic presentation on forming a national civic movement for judicial abuse of power exposure, redress, and reform; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_programmatic\\_presentation.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_programmatic_presentation.pdf)
23. \*>OL2:879; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_Black\\_Robed\\_Predators\\_documentary.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_Black_Robed_Predators_documentary.pdf)
24. OL2:901; <http://www.judicial-discipline-reform.org/OL2/DrRCordero-LDAD.pdf>
25. OL2:918; File on the complaint's journey until its final disposition in the U.S. Court of Appeals for the 11th Circuit; <http://Judicial-Discipline-Reform.org/OL2/DrRCordero-11Circuit.pdf>
26. OL2:929; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-IT\\_investigate\\_interception.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-IT_investigate_interception.pdf)
27. OL2:932; <http://Judicial-Discipline-Reform.org/OL2/DrRCordero-ProfRPosner.pdf>
28. OL2:947; <http://Judicial-Discipline-Reform.org/OL2/DrRCordero-media.pdf>
29. OL2:951; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_judges\\_abuse\\_citizens\\_hearings.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_judges_abuse_citizens_hearings.pdf)
30. OL2:957; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judges\\_abuse\\_video.mp4](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judges_abuse_video.mp4)
31. OL2:957; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judges\\_abuse\\_slides.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judges_abuse_slides.pdf)
32. OL2:971; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors\\_students\\_journalists.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors_students_journalists.pdf); [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors\\_students\\_lawyers.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors_students_lawyers.pdf)
33. OL2:983; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_introduction\\_video\\_slides\\_judges\\_abuse.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_introduction_video_slides_judges_abuse.pdf)
34. OL2:991; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_on\\_SenEWarren.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_on_SenEWarren.pdf)
35. OL2:997; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_SenEWarren\\_plan\\_judges.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_SenEWarren_plan_judges.pdf)
36. OL2:1003; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-media\\_DARE.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-media_DARE.pdf)
37. OL2:1006; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_pitch-Media.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_pitch-Media.pdf)
38. OL2:1022; [http://judicial-discipline-reform.org/OL2/DrRCordero-Capital\\_Investors.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-Capital_Investors.pdf)
39. OL2:1027; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_SenEWarren\\_plan\\_judges.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_SenEWarren_plan_judges.pdf)
40. OL2:1032; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_international\\_exposure\\_judges\\_abuse.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_international_exposure_judges_abuse.pdf)

41. OL2:1037; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_out\\_of\\_court\\_inform\\_outrage\\_strategy.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_out_of_court_inform_outrage_strategy.pdf)
42. OL2:1040; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-parties\\_invoking\\_impeachment\\_trial.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-parties_invoking_impeachment_trial.pdf)
43. OL2:1045. [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors\\_Students\\_Journalists.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors_Students_Journalists.pdf); [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors\\_students\\_lawyers.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Professors_students_lawyers.pdf)
44. \*>OL2:1051; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_judges\\_abuse\\_citizen\\_hearings.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_judges_abuse_citizen_hearings.pdf)
45. OL2:1056; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-reporters\\_clerks.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-reporters_clerks.pdf) = [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_sham\\_hearings.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_sham_hearings.pdf)
46. OL2:1066; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_adapting\\_to\\_new\\_legal\\_market.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_adapting_to_new_legal_market.pdf)
47. OL2:1073; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_inform\\_outrage\\_be\\_compensated.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_inform_outrage_be_compensated.pdf)
48. \*>OL2:1081; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_judges\\_intercepting\\_emails\\_mail.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_judges_intercepting_emails_mail.pdf)
49. OL2:1084; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Thomson\\_Reuters.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Thomson_Reuters.pdf)
50. OL2:1090; [http://judicial-discipline-reform.org/OL2/DrRCordero-SZarestky\\_Above\\_the\\_Law.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-SZarestky_Above_the_Law.pdf)
51. \*>OL2:1093; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Washington\\_Post.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Washington_Post.pdf)
52. OL2:1101; [http://judicial-discipline-reform.org/OL2/DrRCordero-judicial\\_abusees&publishers.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-judicial_abusees&publishers.pdf)
53. OL2:1104; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Hiring\\_manager.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Hiring_manager.pdf)
54. OL2:1108; [http://judicial-discipline-reform.org/OL2/DrRCordero-International\\_Team.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-International_Team.pdf)
55. OL2:1116; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_research\\_documents&sources.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_research_documents&sources.pdf)
56. OL2:1119; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_judicial\\_abuse\\_forms.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_judicial_abuse_forms.pdf)
57. OL2:1125; [http://judicial-discipline-reform.org/OL2/DrRCordero-Reuters\\_judges\\_investigation.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-Reuters_judges_investigation.pdf)
58. \*>OL2:1134; [http://judicial-discipline-reform.org/OL2/DrRCordero-Talkshow\\_hosts\\_coalition.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-Talkshow_hosts_coalition.pdf)
59. OL2:1144; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_your\\_story\\_for\\_Reuters.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_your_story_for_Reuters.pdf)
60. OL2:1154; [http://judicial-discipline-reform.org/OL2/DrRCordero-American\\_Thinker.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-American_Thinker.pdf)
61. \*>OL2:1159; [http://judicial-discipline-reform.org/OL2/DrRCordero-Center\\_Public\\_Integrity.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero-Center_Public_Integrity.pdf)
62. \*>OL2:1163; <http://judicial-discipline-reform.org/OL2/DrRCordero-.pdf>
63. \*>OL2:1175; [http://judicial-discipline-reform.org/OL2/DrRCordero\\_coalition\\_to\\_expose\\_judges.pdf](http://judicial-discipline-reform.org/OL2/DrRCordero_coalition_to_expose_judges.pdf)
64. \*>OL2:1176; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_JgACBarrett\\_condonation\\_judges\\_power\\_abuse.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_JgACBarrett_condonation_judges_power_abuse.pdf)
65. \*>OL2:1205; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Reuters\\_Law\\_Firm\\_Council.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero-Reuters_Law_Firm_Council.pdf)
66. \*>OL2:1213; [http://Judicial-Discipline-Reform.org/OL2/DrRCordero\\_preparing\\_video\\_conference.pdf](http://Judicial-Discipline-Reform.org/OL2/DrRCordero_preparing_video_conference.pdf)

June 1, 2018

**EXCERPT FROM OL2:703: Query letter proposing a paid series of articles...on judges' unaccountability and riskless abuse of power as their modus operandi**

6. There is a market for the proposed articles and reporting. To begin with, they will attract many of the people who are parties to the more than 50 million cases filed in our federal and state courts every year(\*>jur:8<sup>4,5</sup>) and to cases pending or deemed to have been decided wrongly or wrongfully. To those parties must be added many of their negatively affected or impressed friends and family, peers, employees, clients, suppliers, shareholders, etc. They feel abused by unaccountable judges who for their own convenience and gain have risklessly disregarded the strictures of due process and equal protection of the law, thus harming people's property, liberty, and all the rights and duties that frame their lives. All of those parties and related people form this proposal's vast target market: The Dissatisfied with the Judicial and Legal System.
7. In fact, the articles posted to the website at <http://www.Judicial-Discipline-Reform.org> have already attracted more than 24,170 subscribers, not just visitors(†>Appendix). The website can be developed as my brand and selling platform as laid out in my business plan(†>OL2:563, 577).
8. The Dissatisfied and the rest of the public, especially voters, will be attracted to my articles offered to them under a rubric, in a syndicated column or newsletter, and reported on a TV or radio(jur:2<sup>1</sup>) talkshow(OL2:571¶23d) dealing with judges' unaccountability, riskless abuse, and judicial reform.

**C. Sample of subjects of the proposed series of articles**

- a. judges' unaccountability(OL:265) and their riskless abuse of power(jur:5§3; OL:154§3);
- b. statistical analysis for the public(OL2:455§§B-E, 608§A) and for researchers(jur:131§b);
- c. significance of federal circuit judges disposing of 93% of appeals in decisions "on procedural grounds [i.e., the pretext of "lack of jurisdiction"], unsigned, unpublished, by consolidation, without comment", which are reasonless, ad-hoc, arbitrary, and in practice unappealable(†>OL2:453);
- d. to receive "justice services"(OL2:607) parties pay courts filing fees, which constitute consideration, whereby a contract arises between them to be performed by the judges, who know that they will in most cases not even read their briefs(OL2:608§A), so that courts engage in false advertisement, fraud in the inducement, and breach of contract(OL2:609§2);
- e. Justiceship Nominee N. Gorsuch said, "An attack on one of our brothers and sisters of the robe is an attack on all of us": judges' gang mentality and abusive hitting back(OL2:546);
- f. fair criticism of judges who fail to "avoid even the appearance of impropriety"(jur:68<sup>123a</sup>);
- g. abuse-enabling clerks(OL2:687), who fear arbitrary removal without recourse(jur:30§1);
- h. law clerks' vision at the end of their clerking for a judge of the latter's glowing letter of recommendation(OL2:645§B) to a potential employer morally blinds them to their being used by the judge as executioners of his or her abuse;
- i. judges dismiss 99.82% of complaints against them(jur:10-14; OL2:548), thus arrogating to themselves impunity by abusing their self-disciplining authority(jur:21§a);
- j. escaping the futility of suing judges(OL2:713, 609§1): the out-of-court inform and outrage strategy to stir up the public into holding them accountable and liable to compensation(581);

- k. how law professors and lawyers act in self-interest to cover up for judges so as to spare themselves and their schools, cases, and firms retaliation(jur:81§1): their system of harmonious interests against the interests of the parties and the public(OL2:635, 593¶15);
- l. turning insiders into Deep Throats(jur:106§C); outsiders into informants(OL2:468); and judges into criers of ‘*MeToo! Abusers*’(OL2:682¶¶7,8) that issue an *I accuse!*(jur:98§2) denunciation of judges’ abuse: thinking and acting strategically(OL2:635, 593¶15) to expose judges’ abuse by developing allies who want to become Workers of Justice(OL2:687);
- m. two unique national stories, not to replace a rogue judge, but to topple an abusive judiciary:
  - 1) *Follow the money!* as judges grab(OL2:614), conceal(jur:65<sup>107a,c</sup>), and launder(105<sup>213</sup>) it;
  - 2) *The Silence of the Judges*: their warrantless, 1<sup>st</sup> Amendment freedom of speech, press, and assembly-violative interception of their critics’ communications(OL2:582§C);
    - a) made all the more credible by Former CBS Reporter Sharryl Attkisson’s \$35 million suit against the Department of Justice for its illegal intrusion into her computers to spy on her ground-breaking investigation and embarrassing reporting(OL2:612§b);
    - b) the exposure of such interception can provoke a scandal graver than that resulting from Edward Snowden’s revelations of NSA’s massive illegal collection of only non-personally identifiable metadata(OL2:583§3);
    - c) the exposure can be bankrolled as discreetly as Peter Thiel, co-founder of PayPal, bankrolled the suit of Hulk Hogan against the tabloid Gawker for invasion of privacy and thereby made it possible to prosecute and win a judgment for more than \$140 million(OL2:528);
    - d) principles can be asserted and money made by exposing judges’ interception;
- n. launching a Harvey Weinstein-like(jur:4¶¶10-14) generalized media investigation into judges’ abuse of power as their institutionalized modus operandi; conducted also by journalists and me with the benefit of the numerous leads(OL:194§E) that I have gathered;
- o. *Black Robed Predators*(OL:85) or the making of a documentary as an original video content by a media company or an investigative TV show, with the testimony of judges’ victims, clerks, lawyers, faculty, and students; and crowd funding to attract to its making and viewing the crowd that advocate honest judiciaries and the victims of judges’ abuse of power;
- p. promoting the unprecedented to turn judges’ abuse of power into a key mid-term elections issue and thereafter insert it in the national debate:
  - 1) the holding by journalists, newsanchors, media outlets, and law, journalism, business, and IT schools in their own commercial, professional, and public interest as *We the People*’s loudspeakers of nationally and statewide televised public hearings(OL2: 675§2, 580§2) on judges’ unaccountability and consequent riskless abuse;
  - 2) a forensic investigation by Information Technology experts to determine whether judges intercept the communications of their critics(OL2:633§D, OL2:582§C);
  - 3) suits by individual parties and class actions to recover from judges, courts, and judiciaries filing fees paid by parties as consideration for “justice services”(OL2:607) offered by the judges although the latter knew that it was mathematically(OL2:608§A;

- 457§D) impossible for them to deliver those services to all filed cases; so the judges committed false advertisement and fraud in the inducement to the formation of service contracts, and thereafter breach of contract by having their court and law clerks perfunctorily dispose of cases by filling out “dumping forms”(OL2:608¶5);
- 4) suits by clients to recover from their lawyers attorneys’ fees charged for prosecuting cases that the lawyers knew or should have known(jur:90§§b,c) the judges did not have the manpower to deliver, or the need or the incentive to deal with personally, whereby the lawyers committed fraud by entering with their clients into illusory contracts that could not obtain the sought-for “justice services”; and
  - 5) suits in the public interest to recover the public funds paid to judges who have failed to earn their salaries by routinely not putting in an honest day’s work, e.g., closing their courts before 5:00 p.m., thus committing fraud on the public and inflicting injury in fact on the parties who have been denied justice through its delay(cf. OL2:571¶24a);
- q. how parties can join forces to combine and search their documents for communality points (OL:274-280; 304-307) that permit the detection of patterns of abuse by one or more judges, which patterns the parties can use to persuade journalists to investigate their claims of abuse;
  - r. the development of my website at <http://www.Judicial-Discipline-Reform.org>, which as of June 25, 2018, had 24,226 subscribers, into:
    - 1) a clearinghouse for complaints against judges uploaded by the public;
    - 2) a research center for professionals and parties(OL2:575) to search documents for the most persuasive evidence of abuse: patterns of abuse by the same judge presiding over their cases, the judges of the same court, and the judges of a judiciary; and
    - 3) the showroom and working platform of a multidisciplinary academic and business venture(jur:119§§1-4) intended to develop into the institute of judicial accountability reporting and reform advocacy(jur:130§5);
  - s. a tour of presentations(OL:197§G) by me sponsored by you on:
    - 1) judges’ abuse(jur:5§3; OL:154¶3);
    - 2) development of software to conduct fraud and forensic accounting(OL:42, 60); and to perform thanks to artificial intelligence a novel type of statistical, linguistic, and literary analysis of judges’ decisions and other writings(jur:131§b) to detect bias and disregard of due process;
    - 3) promoting the participation of the audience in the investigation(OL:115) into judges’ abuse; and their development of local chapters of investigators/researchers that coalesce into a Tea Party-like single issue, civic movement(jur:164§9) for holding judges accountable and liable to their victims: *the People’s Sunrise*(OL:201§J);
    - 4) announcement of a Continuing Legal Education course, a webinar, a seminar, and a writing contest(\*>ddc:1), which can turn the audience into clients and followers; and
  - t. a multimedia, multidisciplinary public conference(jur:97§1; \*>dcc:13§C) on judges’ abuse at a top university(OL2:452) to pioneer the reporting thereon in our country and abroad;
  - u. a constitutional convention(OL:136§3) and judicial reform unthinkable today, but rendered unavoidable by an informed and outraged *People* intolerant of abuse(jur:158§§6-8).

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