

Submission to
The Committee on Judicial Conduct and Disability of the
Judicial Conference of the United States (28 U.S.C. §351-364)
by
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The undersigned respectfully requests that his testimony and submission herein, resulting from both extensive personal experience and intimate knowledge of other cases within both state and federal courts (particularly in as diverse locations as Indiana and Massachusetts), be admitted into records of and for consideration by this committee.

This testimony consists of two basic sections entitled

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In "SYMPTOMS" the undersigned outlines some of the major symptoms of the current defective judicial system failing the people and ideals that the judicial system was founded upon.

In "REMEDIES" the basic, yet fundamental remedies are presented that, if adopted, would significantly stem the deep-rooted failings of the current judicial system within federal courts, reduce the number of litigations, reduce litigation costs and increase confidence in the judiciary as well as costing little, if at all, to implement.

Although not presented as a panacea, it would have far-reaching cure, as opposed to treatment, and a piece meal treatment at that too, of the current federal judicial defects.

Any which way that the misdeeds of the federal judges maybe termed or labeled, whether conflict of interest, discrimination, misconduct, criminal act, etc, what remains is that the problem of judicial misdeed is of greater spread and more deep-rooted nature than tinkering with definitions alone will resolve.

What is required are fundamental solutions and remedies (see REMEDIES below). And interestingly, application of such remedies, would have further reaching and pleasant consequences than just on the conduct of federal judges.

1. A COMMENT ON PROPOSED DRAFT RULES

A-priori, it should be noted that the proposed Draft Rules Governing Judicial Conduct and Disability Proceedings under the Judicial Conduct and Disability Act do not address the real issues even as a piece-meal, interim solution. The deep-rooted failings of the current judicial system demand a fundamental solution adopted and implemented immediately, should there be sincere intent and determination on the part of the Judicial Conference of the United States in bringing about genuine, as opposed to cosmetic, improvements to the conduct of the federal judiciary and its return into compliance with the rule of law and the Constitution for the United States (“the Constitution”) as the Supreme Law of The Land.

2. SYMPTOMS

These may be manifested and defined as misconduct, discrimination, conflict of interest, corruption, nepotism, What is clear is that however these misdeeds are defined, they are more heinous and egregious when a party is self-represented, particularly if wishing to proceed In Forma Pauperis ("IFP"). Another major

symptom is evident when a party brings a case in federal court against a state or federal judge or official. Due to the wide spread and egregious violations by the state judiciaries, such cases have exploded in number, and unfortunately most, if not all, of these cases are dismissed by presiding federal judges, or their proxies federal magistrates, on the basis of their fraternity bonds with the defendants (also judges) and in violation of the Plaintiffs' constitutional rights. Therefore, it is crucial that consideration by a federal judge of a case against another (whether state or federal) judge be treated within the definition of "conflict of interest" at least when both the defendant and presiding judge are within the same judicial District.

Any misdeed by a judge results in violation of a party's constitutional rights which have resulted in the following:

- A- Dissatisfaction of the judicial conduct and process as well as of the federal judges' behavior and performance (bias, violations of the due process and equal protection, ...) unprecedented in the history of this country.
- B- Dissatisfaction of the process and its bias and lack of integrity in judges (often of the same Circuit) addressing multitude of complaints against other federal judges. Absence of integrity and impartiality in addressing grievances against judges, and undue delay and coercion in such processes exacerbated by the refusal to disqualify the presiding USDC judge for the reasons leading to the complaint against him.
- C- The greatest dissatisfaction is observed where a party is self-represented and/or the other party is a state or federal judge/court, leading to valid charges of judicial fraternity bonds between the presiding federal judge and (often state judge/court) defendant determining the outcome of the case, in which the presiding federal judge shields the violations of the defendant. Hence, an obviously disproportionate denial, by federal judges, of such cases brought against other judges in federal courts. This results in additional litigation and filing of appeals to

higher Circuit Courts and ultimately the US Supreme Court (USSC), whose denial of the vast majority of appeals through the Petition for Certiorari has rendered the citizen lose faith in the judicial system, in particular within federal courts which are held to be bastions against constitutional and criminal violations of the state courts.

Misconduct (collectively referred to as violations of constitutional rights which they are) by federal judges are particularly egregious where a party is self-represented and seeks to proceed IFP. This is unconstitutional even though the US District Courts (USDCs) may think of themselves, and act, as a commercial corporation with an EIN number, which many, if not all, do have. It further results in second class justice, or no justice at all, for the self-represented. The District Courts must consider **with utmost gravity and consideration** when assessing self-represented Plaintiffs' papers and consider the injury they would cause / prolong by knowingly unduly and very often unlawfully and unconstitutionally denying the self-represented complaints for expediency and/or mere discrimination in the treatment of self-represented Plaintiffs, especially if they proceed IFP, resulting in denial of justice or delaying it, particularly when “... *it [the Court] does not like the allegations ...*” **Nietzke v. Williams**, 490 U. S. 319, 324-27 (1989), or when a fellow member of state/federal judiciary or official is the subject of the litigation and is implicated. “...*judges should be withdrawn from the bench whose erroneous biases are leading us to dissolution. It may, indeed, injure them in fame or fortune, but it saves the Republic...*” **Thomas Jefferson** 1743-1826.

Similarly prejudiced considerations by the USDC appear to go into denying the same class of Plaintiffs even when the self-represented (proceeding on IFP) specifically requests conduct of the case by a US Judge as opposed to by a Magistrate The timely, fair and lawful dispensing of justice by the USDC judges in accordance with the Constitution and laws of the Land and with the aim of minimizing injury to the Plaintiffs and in the spirit of the said Constitution and laws

should not require and depend upon the Plaintiffs having to further resort to action in United States Court of Federal Claims for the said USDCs' deliberate shortcomings and constitutional failures. Nor should it, nor resolution of any grievance against the USDC, depend upon the biased and intimate hierarchy of the same Circuit apparatus. There has to be a **truly independent commission of citizens** (peers to the exclusion of judiciary, attorneys and government officials) investigating USDCs deliberate and egregious deprivations of a party's (especially a self-represented, indigent Plaintiff) rights. This point has also been alluded to in **Bloom Hershkoff**, Federal Courts, Magistrate Judges, and the Pro Se Plaintiff, 16 Notre Dame J.L. Ethics & Pub. Pol'y 475 (2002) at 477, 503. See also Manual for Complex Litigation, Third § 20.14 (Federal Judicial Center, 1995). Furthermore, the considerations (more likely, lack thereof) by USDCs of self-represented indigent Plaintiffs cases is one of the areas of the USDCs' glaring violations of equal protection and due process often resulting in the pursuance of writs of mandamus and/or actions in the US Court of Federal Claims (“**The Tucker Act**”, 28 U.S.C. § 1491(a)(1)) against the federal judiciary.

3. REMEDIES

The federal court system needs to satisfy three basic, simple and yet fundamental and far reaching criteria to rid itself of most of the ills that have beset it and have severely shaken the faith and confidence of the people in its integrity and viability.

A- First and foremost, the USSC HAS TO truly recognize and acknowledge that there is a significant degree of constitutional violations by and corruption within federal judiciary and whether it wishes that its directives play any major role in determining judicial precedent and in the life of the country in view of the violations of the Constitution so freely taking place at the hands of the lower federal court judges (even when the relevant constitutional articles, laws and USSC

citations have been appropriately brought to the attention of the said lower court judges) and knowing refusal of the USSC to take action against such violations. Furthermore, any act of misconduct, discrimination, conflict of interest (whose definition must also include cases in which another state or federal judge in the same state or District is a defendant), nepotism, etc, IS A VIOLATION OF THE US CONSTITUTION by the token of its deprivation of the constitutional rights of one of the parties in any given case, as well as a crime by its own nature.

B- The recognition that a vast and significant, if not majority, of cases before federal courts are grievances of knowing and deliberate constitutional violations by states judiciaries and officials. The federal courts, as guardians of constitutional rights of the people, continue to fail their responsibility and duty toward the citizen in defending and upholding said rights against the states and federal judiciaries and officials. Federal judges, through bias and fraternity bond with state judges and officials fail people in this manner knowing that such conduct is unconstitutional. They may be forgiven, although often they should not, for not knowing the various US Codes or USSC directives and precedents, but **they CANNOT and SHOULD NOT be excused for not knowing the US Constitution, or violating same.**

They, evidently do so knowing that the same fraternity bond amongst the judiciary will allow them to do so with impunity. After all with the Circuit Courts' protection and USSC denying the vast majority of appeals through Petition for Certiorari and mandamus, punishment is an unlikely outcome for their violations.

ALL FEDERAL JUDGES MUST BE REQUIRED TO ABIDE BY THE CONSTITUTION, US LAWS (unless unconstitutional) and USSC directives.

And, furthermore, lower federal court judges MUST NOT be allowed the dilution of the duties and responsibilities of federal courts in providing protection and redress in the face of constitutional and other criminal and civil violations by state judiciaries and officials. Failure to prohibit and reverse such dilution, would further

reduce the significance and authority of the federal authority in upholding rights and leave the states free to continue their unbridled violations of the people's constitutional rights. Hence, resulting in the federal courts abdicating their duties and responsibilities and abusing the very authority that brought them into being.

The federal court judges must be made to recognize the above and adhere to and uphold the superiority of the US Constitution and laws, and similarly, admonished for failing to do so. Alas, are they not weakening "... *the Republic*" (1-C, above) by their actions?

After all, ISN'T EVERYONE SUPPOSED TO BE EQUAL BEFORE THE LAW?!
(US Constitution)

Or, are some more equal than others ?! ("*Animal Farm*", George Orwell).

C- The recognition of the problem (A, above) MUST be followed by **managerial action (ENFORCEMENT)** by the USSC to enforce the laws of the Land, the highest of which is the Constitution. If it can not manage its own lower courts and have them abide by the law, then how can it expect the people to abide by the same laws and USSC's directives !? And if it is the case of USSC not being willing to so enforce the Constitution, then is it not in violation of same which provides the authority for its own existence ?!

The USSC, as the ultimate federal judicial "manager", is responsible and has the duty for enforcing such adherence by lower federal judges to the Constitution. And it MUST DO SO as a **FUNDAMENTAL solution** to the existing deep-rooted judicial problems, instead of tinkering around the edges and/or creating the pretense of action to combat such misconduct by federal judges.

Is it not the case that violations of the Constitution render judges as "*trespassers of the law*" and "*engaged in treason*" ? *In re Sawyer*, 124 U.S. 200 (1888).

The notion of “Judicial Independence” MUST NOT be allowed to be misused and abused, nor misconstrued as a license to violate the US Constitution and laws and USSC directives.

ANY violation of the Constitution (see 2-A, herein) MUST BE TREATED WITH UTMOST GRAVITY AND URGENCY AND BY AN INDEPENDENT PANEL (DEVOID OF PAST AND PRESENT JUDGES, ATTORNEYS AND GOVERNMENT OFFICIALS) IN OPEN SESSIONS CONSISTING OF CITIZENS (peers) much the same as a jury determines the fate of a case. In view of the life-long tenure of a federal judge's position, if he is held, upon investigation by the panel, innocent of the misconduct charges (constitutional violations) , the immediacy and openness of the investigation would not hurt the judge. Indeed, it would strengthen the position of and faith and confidence in the said judge. If, on the other hand, proven liable for the charges, then the open session and urgent consideration of the case against the judge would prevent further injuries to the parties or other cases. This would have the added element of providing the judge with the due process which many of them continue to deprive the people of.

4. CONSEQUENCES

The consequences of the above remedies would be far reaching and welcome. They would include:

- i- vast majority of cases being dealt with, contrary to the present time, in accordance with the laws and Constitution of the United States.
- ii- as a result of (i) above, there would be fewer complaints against the federal judiciary.
- iii- leading to fewer appeals filed to higher federal courts.
- iv- hence, fewer petitions for certiorari to the USSC. In view of the fact that USSC is already failing to provide redress to all the people who seek it, it would find that it would not need, if the above is implemented, to deny so many petitions. Provisions i-iv herein would be true unless the judicial system would hold the it to be true that *“The one great principle of [the] law is to make business for itself.”* Charles Dickens, Bleak House.
- v- maybe one of the most **significant and important consequences** of the above would be that state courts and judiciaries would drastically refrain from their egregious and wide spread violations of the people's rights in the knowledge that the latter's complaints regarding such state violations to the federal courts would not be covered up and denied by federal judges who'd be adhering to the Constitution and not entering into conspiracy with or acting upon fraternity bonds with state judiciaries and officials.
- vi- implementation of the above will not only drastically improve the quality of justice and adherence to the law by federal judges, but it will also do so effectively with **little or no cost** (the cost of an independent panel would be more than offset by the current ineffective and inconsequential disciplinary procedures) so long as the USSC is prepared to use its "managerial" authority and demand adherence to the Constitution.

5. SUMMARY

In summary, therefore, the need for fundamental solutions and enforcement of them

regarding judicial misconduct and corruption is urgent and desperate. Fundamental and effective solutions and remedies require:

- i- definition of misconduct, due to its effects, to be changed to mean violation of the constitution, recognized as such and dealt with accordingly;
- ii- USSC asserting and exercising its "managerial" authority upon the lower federal courts and judges to demand and ensure the application of and adherence to the Constitution;
- iii- genuine and immediate consideration of complaints against federal judges in open sessions by independent panels (members to exclude past or present judges, government officials, attorneys), and enforcement of penalties against said judges upon charges being found true.

N.B. In support of the above assertions, the testimonies of multitude of "We The People" and victims of said judicial "misdeed" may be available upon request.

Respectfully Submitted,

This 12th Day of October, 2007

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