
ARTICLE III
US RULES FOR JUDICIAL-CONDUCT AND
JUDICIAL-DISABILITY PROCEEDINGS (ALL-IN-ONE DOCUMENT)

INITIATION OF COMPLAINT

{LAST UPDATE: 3/12/2019}
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TABLE OF CONTENTS | ARTICLE III | INITIATION OF COMPLAINT

#	Rule	Title	Page
1	4	Misconduct and Disability Definitions	4
2	5	Identification of Complaint	11
3	6	Filing of Complaint	13
4	7	Where to Initiate Complaint	15
5	8	Action by Circuit Clerk	17
6	9	Time for Filing or Identifying Complaint	18
7	10	Abuse of Complaint Procedure	19
-	n/a	Appendix	20

US RULES OF JUDICIAL-CONDUCT AND
JUDICIAL-DISABILITY PROCEEDINGS

ARTICLE III Initiation of Complaint

RULES 4 through 10

RULE 4 | MISCONDUCT AND DISABILITY DEFINITIONS

(a) Misconduct Generally. Cognizable Misconduct is conduct prejudicial to the effective and expeditious administration of the business of the courts. Cognizable misconduct includes, but is not limited to, the following:

(1) Violation of Specific Standards of Judicial Conduct. Cognizable misconduct includes:

(A) using the judge's office to obtain special treatment for friends or relatives;

(B) accepting bribes, gifts, or other personal favors related to the judicial office;

(C) engaging in improper ex parte communications with parties or counsel for one side in a case;

(D) engaging in partisan political activity or making inappropriately partisan statements;

(E) soliciting funds for organizations; or

(F) violating rules or standards pertaining to restrictions on outside income or knowingly violating requirements for financial disclosure.

(2) Abusive or Harassing Behavior. Cognizable misconduct includes:

(A) engaging in unwanted, offensive, or abusive sexual conduct, including sexual harassment or assault;

(B) treating litigants, attorneys, judicial employees, or others in a demonstrably egregious and hostile manner; or

(C) creating a hostile work environment for judicial employees.

(3) Discrimination. Cognizable misconduct includes intentional discrimination on the basis of race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability;

(4) Retaliation. Cognizable misconduct includes retaliating against complainants, witnesses, judicial

employees, or others for participating in this complaint process, or for reporting or disclosing judicial misconduct or disability;

(5) Interference or Failure to Comply with the Complaint Process. Cognizable misconduct includes refusing, without good cause shown, to cooperate in the investigation of a complaint or enforcement of a decision rendered under these Rules; or

(6) Failure to Report or Disclose. Cognizable misconduct includes failing to call to the attention of the relevant chief district judge or chief circuit judge any reliable information reasonably likely to constitute judicial misconduct or disability.

A judge who receives such reliable information shall respect a request for confidentiality but shall nonetheless disclose the information to the relevant chief district judge or chief circuit judge, who shall also treat the information as confidential. Certain reliable information may be protected from disclosure by statute or rule. A judge's assurance of confidentiality must yield when there is reliable information of misconduct or disability that threatens the safety or security of any person or that is serious or egregious such that it threatens the integrity and proper functioning of the judiciary.

A person reporting information of misconduct or disability must be informed at the outset of a judge's responsibility to disclose such information to the relevant chief district judge or chief circuit judge.

Reliable information reasonably likely to constitute judicial misconduct or disability related to a chief circuit judge should be called to the attention of the next most-senior active circuit judge. Such information related to a chief district judge should be called to the attention of the chief circuit judge.

(7) Conduct Outside the Performance of Official Duties. Cognizable misconduct includes conduct occurring outside the performance of official duties if the conduct is reasonably likely to have a prejudicial effect on the administration of the business of the courts, including

a substantial and widespread lowering of public confidence in the courts among reasonable people.

(b) Conduct Not Constituting Cognizable Misconduct.

(1) Allegations Related to the Merits of a Decision or Procedural Ruling. Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling, including a failure to recuse.

If the decision or ruling is alleged to be the result of an improper motive, e.g., a bribe, ex parte contact, racial or ethnic bias, or improper conduct in rendering a decision or ruling, such as personally derogatory remarks irrelevant to the issues, the complaint is not cognizable to the extent that it calls into question the merits of the decision.

(2) Allegations About Delay. Cognizable misconduct does not include an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.

(c) Disability. Disability is a temporary or permanent impairment, physical or mental, rendering a judge unable to discharge the duties of the particular judicial office. Examples of disability include substance abuse, the inability to stay awake during court proceedings, or impairment of cognitive abilities that renders the judge unable to function effectively.

Commentary

The phrase “prejudicial to the effective and expeditious administration of the business of the courts” is not subject to precise definition, and subsection (a) therefore provides some specific examples. 28 U.S.C. §351(a). The Code of Conduct for United States Judges sets forth behavioral guidelines for judges. While the Code's Canons are instructive, ultimately the responsibility for determining what constitutes cognizable misconduct is determined by the Act and these Rules, as interpreted and applied by judicial councils, subject to review and limitations prescribed by the Act and these Rules. See also Rule 24 (Public Availability of Decisions).

Even where specific, mandatory rules exist — for example, governing the receipt of gifts by judges, outside earned income, and financial disclosure obligations — the distinction between the misconduct statute and these specific, mandatory rules must be borne in mind. For example, an inadvertent, minor violation of any one of these rules, promptly remedied when called to the attention of the judge, might still be a violation but might not rise to the level of misconduct under the Act. By contrast, a pattern of such violations of the Code might well rise to the level of misconduct.

Rule 4(a)(2)(A) provides expressly that unwanted, offensive, or abusive sexual conduct by a judge, including sexual harassment or assault, constitutes cognizable misconduct. The Rule recognizes that anyone can be a victim of unwanted, offensive, or abusive sexual conduct, regardless of their sex and of the sex of the judge engaging in the misconduct.

Under Rule 4(a)(4), a judge's efforts to retaliate against any person for reporting or disclosing misconduct, or otherwise participating in the complaint process constitute cognizable misconduct. The Rule makes the prohibition against retaliation explicit in the interest of promoting public confidence in the complaint process.

Rules 4(a)(2), (3), and (4) reflect the judiciary's commitment to maintaining a work environment in which all judicial employees are treated with dignity, fairness, and respect, and are free from harassment, discrimination, and retaliation. See Code of Conduct for United States Judges, Canon 3A(3) cmt. ("The duty to be respectful includes the responsibility to avoid comment or behavior that could reasonably be interpreted as harassment, prejudice or bias.").

Rule 4(a)(5) provides that a judge's refusal, without good cause shown, to cooperate in the investigation of a complaint or enforcement of a decision rendered under these Rules constitutes cognizable misconduct. While the exercise of rights under the Fifth Amendment to the Constitution would constitute good cause under Rule 4(a)(5), given the fact-specific nature of the inquiry, it is not possible to otherwise anticipate all circumstances that might also constitute good cause. The Commentary on Rule 13 provides additional discussion regarding Rule 4(a)(5). The Rules contemplate that judicial councils will not consider commencing proceedings under Rule 4(a)(5) except as necessary after other means to acquire the information or enforce a decision have been tried or have proven futile.

All judges have a duty to bring to the attention of the relevant chief district judge or chief circuit judge reliable information reasonably likely to constitute judicial misconduct or disability. See Rule 4(a)(6). This duty is included within every judge's obligation to assist in addressing allegations of misconduct or disability and to take appropriate action as necessary. Public confidence in the integrity and impartiality of the judiciary is promoted when judges take appropriate action based on reliable information of likely misconduct. Appropriate action depends on the circumstances, but the overarching goal of such action should be to prevent harm to those affected by the misconduct and to prevent recurrence. See Code of Conduct for United States Judges, Canon 3B(6) & cmt. These Rules incorporate those principles while allowing for appropriate, expeditious, fair, and effective resolutions of all such complaints.

The formal procedures outlined in these Rules are intended to address serious issues of judicial misconduct and disability. By statute and rule, the chief circuit judge administers the misconduct and disability complaint process, including the authority to investigate an allegation and, if warranted, to identify a formal complaint. See Rule 5. Disclosures made to or otherwise brought to the attention of the appropriate chief district judge of reliable information of misconduct or disability that threatens the safety or security of any person or that is serious or egregious such that it threatens the integrity and proper functioning of the judiciary warrant communication to and consultation with the chief circuit judge in light of the chief circuit judge's statutory responsibility for overseeing any required final action.

In practice, however, not all allegations of misconduct or disability will warrant resort to the formal procedures outlined in these Rules because they appear likely to yield to effective, prompt resolution through informal corrective action. In such cases, allegations may initially be addressed to the chief district judge or the chief circuit judge to determine whether informal corrective action will suffice and to initiate such steps as promptly as is reasonable under the circumstances.

A person who seeks to report information of misconduct or disability on a confidential or anonymous basis may proceed through various alternative avenues within the judiciary, including the Office of Judicial Integrity and/or comparable offices within the circuits.

Rule 4(a)(7) reflects that an allegation can meet the statutory standard for misconduct even though the judge's alleged conduct did not occur in the course of the performance of official duties. Furthermore, some conduct specified in Rule 4(a)(1) through 4(a)(6), or not specified within these Rules, might constitute misconduct occurring outside the performance of official duties. The Code of Conduct for United States Judges expressly covers a wide range of extra-official activities, and some of these activities may constitute misconduct under the Act and these Rules. For example, allegations that a judge solicited funds for a charity or other organization or participated in a partisan political event are cognizable under the Act even though they did not occur in the course of the performance of the judge's official duties.

Rule 4(b)(1) tracks the Act, 28 U.S.C. §352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations "[d]irectly related to the merits of a decision or procedural ruling." This exclusion preserves the independence of judges in the exercise of judicial authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge's decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related. The phrase "decision or procedural ruling" is not limited to rulings issued in deciding Article III cases or controversies. Thus, a complaint challenging the correctness of a chief judge's determination to dismiss a prior misconduct complaint would be properly dismissed as merits-related — in other words, as challenging the substance of the judge's administrative determination to dismiss the complaint — even though it does not concern the judge's rulings in Article III litigation. Similarly, an allegation that a judge incorrectly declined to approve a Criminal Justice Act voucher is merits-related under this standard.

Conversely, an allegation that a judge conspired with a prosecutor to make a particular ruling is not merits-related, even though it “relates” to a ruling in a colloquial sense. Such an allegation attacks the propriety of conspiring with the prosecutor and goes beyond a challenge to the correctness — “the merits” — of the ruling itself. An allegation that a judge ruled against the complainant because the complainant is a member of a particular racial or ethnic group, or because the judge dislikes the complainant personally, is also not merits-related. Such an allegation attacks the propriety of arriving at rulings with an illicit or improper motive. Similarly, an allegation that a judge used an inappropriate term to refer to a class of people is not merits-related even if the judge used it on the bench or in an opinion; the correctness of the judge’s rulings is not at stake. An allegation that a judge treated litigants, attorneys, judicial employees, or others in a demonstrably egregious and hostile manner is also not merits-related.

The existence of an appellate remedy is usually irrelevant to whether an allegation is merits-related. The merits-related ground for dismissal exists to protect judges’ independence in making rulings, not to protect or promote the appellate process. A complaint alleging an incorrect ruling is merits-related even though the complainant has no recourse from that ruling. By the same token, an allegation that is otherwise cognizable under the Act should not be dismissed merely because an appellate remedy appears to exist (for example, vacating a ruling that resulted from an improper *ex parte* communication). However, there may be occasions when appellate and misconduct proceedings overlap, and consideration and disposition of a complaint under these Rules may be properly deferred by the chief judge until the appellate proceedings are concluded to avoid inconsistent decisions.

Because of the special need to protect judges’ independence in deciding what to say in an opinion or ruling, a somewhat different standard applies to determine the merits-relatedness of a non-frivolous allegation that a judge’s language in a ruling reflected an improper motive. If the judge’s language was relevant to the case at hand — for example, a statement that a claim is legally or factually “frivolous” — then the judge’s choice of language is presumptively merits-related and excluded, absent evidence apart from the ruling itself suggesting an improper motive. If, on the other hand, the challenged language does not seem relevant on its face, then an additional inquiry under Rule 11(b) is necessary.

With regard to Rule 4(b)(2), a complaint of delay in a single case is excluded as merits-related. Such an allegation may be said to challenge the correctness of an official action of the judge, i.e., assigning a low priority to deciding the particular case. But, an allegation of a habitual pattern of delay in a significant number of unrelated cases, or an allegation of deliberate delay in a single case arising out of an improper motive, is not merits-related.

Rule 4(c) relates to disability and provides only the most general definition, recognizing that a fact-specific approach is the only one available. A mental disability could involve cognitive impairment or any psychiatric or psychological condition that renders the judge unable to discharge the duties of office. Such duties may include those that are administrative. If, for example, the judge is a chief judge, the judicial council, fulfilling its obligation under 28 U.S.C. §332(d)(1) to make “necessary and appropriate orders for the effective and expeditious administration of justice,” may find, under 28 U.S.C. §45(d) or §136(e), that the judge is “temporarily unable to perform” his or her chief-judge duties. In that event, an appropriate remedy could involve, under Rule 20(b)(1)(D)(vii), temporary reassignment of chief-judge duties to the next judge statutorily eligible to perform them.

Confidentiality as referenced elsewhere in these Rules is directed toward protecting the fairness and thoroughness of the process by which a complaint is filed or initiated, investigated (in specific circumstances), and ultimately resolved, as specified under these Rules. Nothing in these Rules concerning the confidentiality of the complaint process or the Code of Conduct for Judicial Employees concerning use or disclosure of confidential information received in the course of official duties prevents judicial employees from reporting or disclosing misconduct or disability. See Rule 23(c).

RULE 5 | IDENTIFICATION OF COMPLAINT

(a) Identification. When a chief judge has information constituting reasonable grounds for inquiry into whether a covered judge has engaged in misconduct or has a disability, the chief judge may conduct an inquiry, as he or she deems appropriate, into the accuracy of the information even if no related complaint has been filed. A chief judge who finds probable cause to believe that misconduct has occurred or that a disability exists may seek an informal resolution that he or she finds satisfactory. If no informal resolution is achieved or is feasible, the chief judge may identify a complaint and, by written order stating the reasons, begin the review provided in Rule 11. If the evidence of misconduct is clear and convincing and no informal resolution is achieved or is feasible, the chief judge must identify a complaint. A chief judge must not decline to identify a complaint merely because the person making the allegation has not filed a complaint under Rule 6. This Rule is subject to Rule 7.

(b) Submission Not Fully Complying with Rule 6. A legible submission in substantial but not full compliance with Rule 6 must be considered as possible grounds for the identification of a complaint under Rule 5(a).

Commentary

This Rule is adapted from the Breyer Committee Report, 239 F.R.D. at 245–46.

The Act authorizes a chief judge, by written order stating reasons, to identify a complaint and thereby dispense with the filing of a written complaint. See 28 U.S.C. §351(b). Under Rule 5, when a chief judge becomes aware of information constituting reasonable grounds to inquire into possible misconduct or disability on the part of a covered judge, and no formal complaint has been filed, the chief judge has the power in his or her discretion to begin an appropriate inquiry. A chief judge's decision whether to informally seek a resolution and/or to identify a complaint is guided by the results of that inquiry. If the chief judge concludes that there is probable cause to believe that misconduct has occurred or a disability exists, the chief judge may seek an informal resolution, if feasible, and if failing in that, may identify a complaint. Discretion is accorded largely for the reasons police officers and prosecutors have discretion in making arrests or bringing charges. The matter may be trivial and isolated, based on marginal evidence, or otherwise highly unlikely to lead to a misconduct or disability finding. On the other hand, if the inquiry leads the chief judge to conclude that there is clear and convincing evidence of misconduct or a disability, and no satisfactory informal resolution has been achieved or is feasible, the chief judge is required to identify a complaint.

An informal resolution is one agreed to by the subject judge and found satisfactory by the chief judge. Because an informal resolution under Rule 5 reached before a complaint is filed under Rule 6 will generally cause a subsequent Rule 6 complaint alleging the identical matter to be concluded, see Rule 11(d), the chief judge must be sure that the resolution is fully appropriate before endorsing it. In doing so, the chief judge must balance the seriousness of the matter against the particular judge's alacrity in addressing the issue. The availability of this procedure should encourage attempts at swift remedial action before a formal complaint is filed.

When a chief judge identifies a complaint, a written order stating the reasons for the identification must be provided; this begins the process articulated in Rule 11. Rule 11 provides that once a chief judge has identified a complaint, the chief judge, subject to the disqualification provisions of Rule 25, will perform, with respect to that complaint, all functions assigned to the chief judge for the determination of complaints filed by a complainant.

In high-visibility situations, it may be desirable for a chief judge to identify a complaint without first seeking an informal resolution (and then, if the circumstances warrant, dismiss or conclude the identified complaint without appointment of a special committee) in order to assure the public that the allegations have not been ignored.

A chief judge's decision not to identify a complaint under Rule 5 is not appealable and is subject to Rule 4(b)(1), which excludes merits-related complaints from the definition of misconduct.

A chief judge may not decline to identify a complaint solely on the basis that the unfiled allegations could be raised by one or more persons in a filed complaint, but none of these persons has opted to do so.

Subsection (a) concludes by stating that this Rule is "subject to Rule 7." This is intended to establish that only (i) the chief judge of the home circuit of a potential subject judge, or (ii) the chief judge of a circuit in which misconduct is alleged to have occurred in the course of official business while the potential subject judge was sitting by designation, shall have the power or a duty under this Rule to identify a complaint.

Subsection (b) provides that submissions that do not comply with the requirements of Rule 6(d) must be considered under Rule 5(a). For instance, if a complaint has been filed but the form submitted is unsigned, or the truth of the statements therein are not verified in writing under penalty of perjury, then a chief judge must nevertheless consider the allegations as known information and as a possible basis for the identification of a complaint under the process described in Rule 5(a).

RULE 6 | FILING OF COMPLAINT

(a) Form. A complainant may use the form reproduced in the Appendix to these Rules or a form designated by the rules of the judicial council in the circuit in which the complaint is filed. A complaint form is also available on each court of appeals' website or may be obtained from the circuit clerk or any district court or bankruptcy court within the circuit. A form is not necessary to file a complaint, but the complaint must be written and must include the information described in (b).

(b) Brief Statement of Facts. A complaint must contain a concise statement that details the specific facts on which the claim of misconduct or disability is based. The statement of facts should include a description of:

- (1) what happened;
- (2) when and where the relevant events happened;
- (3) any information that would help an investigator check the facts; and
- (4) for an allegation of disability, any additional facts that form the basis of that allegation.

(c) Legibility. A complaint should be typewritten if possible. If not typewritten, it must be legible. An illegible complaint will be returned to the complainant with a request to resubmit it in legible form. If a resubmitted complaint is still illegible, it will not be accepted for filing.

(d) Complainant's Address and Signature; Verification. The complainant must provide a contact address and sign the complaint. The truth of the statements made in the complaint must be verified in writing under penalty of perjury. If any of these requirements are not met, the submission will be accepted, but it will be reviewed under only Rule 5(b).

(e) Number of Copies; Envelope Marking. The complainant shall provide the number of copies of the complaint required by local rule. Each copy should be in an envelope marked "Complaint of Misconduct" or "Complaint of Disability." The envelope must not show the name of any subject judge.

Commentary

The Rule is adapted from the Illustrative Rules and is largely self-explanatory. As discussed in the Commentary on Rule 4 and in Rule 23(c), confidentiality as referenced elsewhere in these Rules does not prevent judicial employees from reporting or disclosing misconduct or disability.

RULE 7 | WHERE TO INITIATE COMPLAINT

(a) Where to File. Except as provided in (b),

(1) a complaint against a judge of a United States court of appeals, a United States district court, a United States bankruptcy court, or a United States magistrate judge must be filed with the circuit clerk in the jurisdiction in which the subject judge holds office.

(2) a complaint against a judge of the United States Court of International Trade or the United States Court of Federal Claims must be filed with the respective clerk of that court.

(3) a complaint against a judge of the United States Court of Appeals for the Federal Circuit must be filed with the circuit executive of that court.

(b) Misconduct in Another Circuit; Transfer. If a complaint alleges misconduct in the course of official business while the subject judge was sitting on a court by designation under 28 U.S.C. §§291-293 and 294(d), the complaint may be filed or identified with the circuit clerk of that circuit or of the subject judge's home circuit. The proceeding will continue in the circuit of the first-filed or first-identified complaint. The judicial council of the circuit where the complaint was first filed or first identified may transfer the complaint to the subject judge's home circuit or to the circuit where the alleged misconduct occurred, as the case may be.

Commentary

Title 28 U.S.C. §351 states that complaints are to be filed with “the clerk of the court of appeals for the circuit.” However, in many circuits, this role is filled by circuit executives. Accordingly, the term “circuit clerk,” as defined in Rule 3(b) and used throughout these Rules, applies to circuit executives.

Section 351 uses the term “the circuit” in a way that suggests that either the home circuit of the subject judge or the circuit in which misconduct is alleged to have occurred is the proper venue for complaints. With an exception for judges sitting by designation, the Rule requires the filing or identification of a misconduct or disability complaint in the circuit in which the judge holds office, largely based on the administrative perspective of the Act. Given the Act's emphasis on the future conduct of the business of the courts, the circuit in which the judge holds office is the appropriate forum because that circuit is likely best able to influence a judge's future behavior in constructive ways.

However, when judges sit by designation, the non-home circuit has a strong interest in redressing misconduct in the course of official business, and where allegations also involve a member of the bar — ex parte contact between an attorney and a judge, for example — it may often be desirable to have the judicial and bar misconduct proceedings take place in the same venue. Rule 7(b), therefore, allows transfer to, or filing or identification of a complaint in, the non-home circuit. The proceeding may be transferred by the judicial council of the filing or identified circuit to the other circuit.

RULE 8 | ACTION BY CIRCUIT CLERK

(a) Receipt of Complaint. Upon receiving a complaint against a judge filed under Rule 6 or identified under Rule 5, the circuit clerk must open a file, assign a docket number according to a uniform numbering scheme promulgated by the Committee on Judicial Conduct and Disability, and acknowledge the complaint's receipt.

(b) Distribution of Copies. The circuit clerk must promptly send copies of a complaint filed under Rule 6 to the chief judge or, where the chief judge is disqualified from considering a complaint, to the judge authorized to act as chief judge under Rule 25(f), and copies of complaints filed under Rule 6 or identified under Rule 5 to each subject judge. The circuit clerk must retain the original complaint. Any further distribution should be as provided by local rule.

(c) Complaint Against Noncovered Person. If the circuit clerk receives a complaint about a person not holding an office described in Rule 1(b), the clerk must not accept the complaint under these Rules.

(d) Complaint Against Judge and Another Noncovered Person. If the circuit clerk receives a complaint about a judge described in Rule 1(b) and a person not holding an office described in Rule 1(b), the clerk must accept the complaint under these Rules only with regard to the judge and must so inform the complainant.

Commentary

This Rule is adapted from the Illustrative Rules and is largely self-explanatory.

The uniform docketing scheme described in subsection (a) should take into account potential problems associated with a complaint that names multiple judges. One solution may be to provide separate docket numbers for each subject judge. Separate docket numbers would help avoid difficulties in tracking cases, particularly if a complaint is dismissed with respect to some, but not all of the named judges.

Complaints against noncovered persons are not to be accepted for processing under these Rules but may, of course, be accepted under other circuit rules or procedures for grievances.

RULE 9 | TIME FOR FILING OR IDENTIFYING COMPLAINT

A complaint may be filed or identified at any time. If the passage of time has made an accurate and fair investigation of a complaint impracticable, the complaint must be dismissed under Rule 11(c)(1)(E).

Commentary

This Rule is adapted from the Act, 28 U.S.C. §§351, 352(b)(1)(A)(iii), and the Illustrative Rules.

RULE 10 | ABUSE OF COMPLAINT PROCEDURE

(a) Abusive Complaints. A complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints. After giving the complainant an opportunity to show cause in writing why his or her right to file further complaints should not be limited, the judicial council may prohibit, restrict, or impose conditions on the complainant's use of the complaint procedure. Upon written request of the complainant, the judicial council may revise or withdraw any prohibition, restriction, or condition previously imposed.

(b) Orchestrated Complaints. When many essentially identical complaints from different complainants are received and appear to be part of an orchestrated campaign, the chief judge may recommend that the judicial council issue a written order instructing the circuit clerk to accept only a certain number of such complaints for filing and to refuse to accept additional complaints. The circuit clerk must send a copy of any such order to anyone whose complaint was not accepted.

Commentary

This Rule is adapted from the Illustrative Rules.

Rule 10(a) provides a mechanism for a judicial council to restrict the filing of further complaints by a single complainant who has abused the complaint procedure. In some instances, however, the complaint procedure may be abused in a manner for which the remedy provided in Rule 10(a) may not be appropriate. For example, some circuits have been inundated with submissions of dozens or hundreds of essentially identical complaints against the same judge or judges, all submitted by different complainants. In many of these instances, persons with grievances against a particular judge or judges used the Internet or other technology to orchestrate mass complaint-filing campaigns against them. If each complaint submitted as part of such a campaign were accepted for filing and processed according to these Rules, there would be a serious drain on court resources without any benefit to the adjudication of the underlying merits.

A judicial council may, therefore, respond to such mass filings under Rule 10(b) by declining to accept repetitive complaints for filing, regardless of the fact that the complaints are nominally submitted by different complainants. When the first complaint or complaints have been dismissed on the merits, and when further, essentially identical submissions follow, the judicial council may issue a second order noting that these are identical or repetitive complaints, directing the circuit clerk not to accept these complaints or any further such complaints for filing, and directing the clerk to send each putative complainant copies of both orders.

APPENDIX

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