

July 26, 2008

To: Members of the Judicial Council of the Ninth Circuit
Circuit Judges Thompson, Thomas, Craber, McKeown and Berzon
District Judges Gonzalez, Hatter, Lasnik, Molly and Stotler

cc: John G. Roberts, Chairman of the U.S. Judicial Conference and Chief Justice

Dear Member of the Ninth Circuit Judicial Council,

In November 2007, I filed a judicial misconduct complaint against district judge Martin J. Jenkins (complaint No. 07-89146), partly on the ground that Jenkins retaliated against me due to a blog article I wrote. After Jenkins received the copy of my complaint in December 2007, he took over two cases from another district judge in which I was a plaintiff, and hastily dismissed one of the cases with prejudice. After I filed a recusal motion under 28. U.S.C. 144, Jenkins referred attorneys fees motions against me to a magistrate judge who is now a candidate to succeed him. It's like an endless and meaningless cycle of personal vendetta.

On May 8, 2008, **169 days** after my complaint was filed, Chief Judge Kozinski dismissed the complaint as moot. I filed a timely Petition for the Ninth Circuit Judicial Council to review the Chief Judge's Order.


On June 2, 2008, the Clerk of the Ninth Circuit refused and returned my Petition. See attached copy of the letter from the Clerk.

In addition to the extreme delay in reviewing my complaints, my Petition raised several issues. First, Judge Kozinski's order did not set forth the allegations as required by Rule 4(f)(1) of the Ninth Circuit Rules on Judicial Misconduct and Disability (the "2004 Rules"). Second, the misconduct has continuing adverse effects for which remedial action is available. Third, the Chief Judge should have identified additional complaints. For instance, I complained that a group of judges were offended by my blog. Jenkins was only one of them. It is improper for judges to harbor animus towards litigants based on what they read on the web.

The Clerk's return of the Petition created a loop-hole. When the Clerk rejects a Petition in proper form, she assumes the power to alter established Rules of the Court, which require her to "promptly send" the Petition to the members of the Judicial Council. *2004 Rule 7(a)*.

Accordingly, I am sending you a copy of my Petition. I request the Ninth Circuit Judicial Council to consider my Petition.

Sincerely,



Dongxiao Yue