

JUDICIAL COUNCIL OF THE ELEVENTH CIRCUIT

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY
UNDER 28 U.S.C. § 372(c)

To file a complaint of judicial misconduct or disability, please answer all of the questions on this form and send three copies in an envelope to the Clerk, United States Court of Appeals, 56 Forsyth Street, N.W., Atlanta, Georgia 30303. Please write "Section 372(c) Complaint" on the envelope. Do not write the name of the complained-of judge on the envelope. This complaint must be legible; if possible, it should be typewritten. For other details, see the Rules of the Judicial Council of the Eleventh Circuit Governing Complaints of Judicial Misconduct or Disability.

CONFIDENTIAL

IN THE MATTER OF A COMPLAINT FILED BY:

JOSEPH S. NORMAN II
NAME OF COMPLAINANT

5647 SANTA ANITA DR
ADDRESS

TALLAHASSEE FL 32308-2007

(850) 893 1484
DAYTIME TELEPHONE NUMBER

AGAINST:

EDWARD DAVIS
NAME OF COMPLAINED-OF JUDGE

SOUTHERN DISTRICT OF FLORIDA - MIAMI DIVISION
COURT

1. Does this complaint concern a particular lawsuit? Yes No

If yes, please provide the following information about the lawsuit.
(If more than one lawsuit is involved, use additional pages, as necessary.)

SOUTHERN DISTRICT OF FLORIDA - MIAMI DIVISION
COURT IN WHICH LAWSUIT WAS FILED

91-2679-CIV-DAVIS
DOCKET NUMBER

97-5587
DOCKET NUMBER OF APPEAL, IF ANY

What is (or was) your role in the lawsuit?

Party (including pro se) Attorney Juror Witness None of these

Please provide the name, address, and telephone number of your attorney in this lawsuit:

THROUGH HEARING ON MOTION FOR SUMMARY JUDGMENT
MYLES J. TRAKINS
3310 ONE BISCAYNE TOWER TEL: 305 374 3300
MIAMI FL 33131

2. Have you filed a lawsuit against the judge? Yes No

If yes, please provide the following information about the lawsuit.
(If more than one lawsuit is involved, use additional pages, as necessary.)

COURT IN WHICH LAWSUIT WAS FILED

DOCKET NUMBER

DOCKET NUMBER OF APPEAL, IF ANY

PRESENT STATUS OF LAWSUIT OR APPEAL

Please provide the name, address, and telephone number of your attorney:

3. On separate sheets of paper, no larger than the paper on which this form is printed, please describe the evidence of misconduct or disability that is the subject of this complaint. Do not use more than five single-sided pages.

4. Sign your name.

I declare under penalty of perjury that I have read Rule 1 of the Rules of the Judicial Council of the Eleventh Circuit Governing Complaints of Judicial Misconduct and Disability, and that the statements made in this complaint are true and correct to the best of my knowledge.

[Signature]
SIGNATURE OF COMPLAINANT

8/7/00
DATE

**STATEMENT OF FACTS RELATING TO THE COMPLAINT OF JUDICIAL
CONDUCT OF JUDGE EDWARD B. DAVIS MADE BY JOSEPH S. NORMAN II
UNDER Section 372 (c) title 28 U.S.C.**

COURSE OF THE PROCEEDINGS AND FACTS OF THE CASE

The complaint is against Judge Edward B. Davis relating to case number 91-2679-CIV-DAVIS in the United States District Court Southern District Of Florida. Joseph S. Norman II (Norman) is a named Plaintiff in this case which is also referred to as DUNN v. ALPA et al. The complaint was brought by hundreds of airline pilots against the Airline Pilots Association (ALPA) and certain officials of that union regarding the publication and distribution of a defamatory list of “SCAB” airline pilots that worked for Eastern Airlines during the pilot sympathy strike of 1989. Norman was never more than a pilot trainee for a very brief period of time during the sympathy strike and did not do pilot work of flying airplanes during the strike. **There is no indication in the case record that any evidence presented by Norman has ever been considered by the court. Had there been an evaluation, by Judge Davis, of the evidence presented by Norman and 11th Circuit Case law he clearly would have concluded it was false to label Norman a “scab”.**

Judge Edward Davis stated at the Summary Judgment hearing on February 14, 1997 “I don’t find an affidavit of Joseph Norman anywhere in our records” (Exhibit 1) and went on to rule in favor of the defendants. Norman was represented by lead counsel Myles J. Tralins through the Summary Judgment Hearing. After June 25, 1997 Norman continued pro se. On July 3, 1997 Norman filed a MOTION FOR SEVERANCE AND SEPARATE TRIAL OF ISSUES OF LIABILITY AND DAMAGES (Exhibit 2) but the motion was rendered moot with the SUMMARY JUDGMENT ORDER in the case. On July 28, 1997 Judge Davis granted Summary Judgment in favor of the Defendants with a 28 page Summary Judgment Order (SJO) (Exhibit 3) addressed to “Plaintiffs, former flight deck operating crew members for Eastern Airlines (“Eastern”)” a description that has never described Norman and there were no facts relevant to Norman in the order. The facts of Norman were, obviously, not considered prior to Summary Judgment or at any time in the proceedings by Judge Davis. The failure of Judge Davis to consider all, or any, of the evidence of Norman prior to summary judgment appears to conflict with the requirement of FRCP 56 , and Canon 1.2, 1.3, 2.2, 2.3,

2.4, 2.6 2.8, and 3.B1, of the Code of Judicial Conduct. Thus, Summary Judgment as to Norman was not proper. Judge Edward Davis previously ruled in Eastern Airlines, Inc. v. ALPA, et al., 744 F. Supp. 1140, S.D. Fla., 1990 and the 11th Circuit in Eastern Airlines, Inc. v. ALPA et al., 920 F 2d 722, Dec. 20, 1990 determined that trainee pilots who had not completed the airline training program and initial operating experience, had not obtained Federal Aviation Administration (FAA) certificate, and had not started flying revenue flights were not “working Eastern pilots”. They had not performed work ordinarily discharged by striking pilots and they were not employees protected by the Railway Labor Act. By this definition of Judge Edward Davis and the 11th Circuit, Petitioner never crossed a picket line to do work for Eastern Air Lines as did the other Plaintiff’s in the case. The list of “ SCAB” pilots published and distributed by Defendant ALPA was a list of pilots that worked (flew aircraft) during the Eastern Air Lines strike. Based on the court’s findings regarding trainee status during this strike it was false to label Norman a “SCAB.”

**STATEMENT OF RECORD FACTS NECESSARY TO ARGUMENT OF THE
ISSUES WHICH WERE IGNORED JUDGE DAVIS**

Petitioner Norman spent five weeks (May 15, 1989 through June 18, 1989) in the Eastern Air Lines training program after the sympathy strike began. Norman never flew any aircraft for Eastern Air Lines as did the other Plaintiffs in the case. Norman never qualified to perform the duties of a flight deck operating crew member or be a permanent replacement employee at Eastern Air Lines as did other Plaintiffs in the case. While in training at Eastern the circumstances of Norman were no different than the circumstances addressed by both Judge Davis and the 11th Circuit in Eastern Airlines, Inc. v. ALPA, et al., 744 F. Supp. 1140, S.D. Fla., 1990 and the 11th Circuit in Eastern Airlines, Inc. v. ALPA et al., 920 F 2d 722, Dec. 20, 1990. The names of other pilot trainees are **not** on the “scab” list; the name of Norman **is**.

Petitioner Norman joined the Defendant ALPA union when asked to do so by ALPA personnel. He left the Eastern training program when asked to do so by ALPA. He has placed in evidence numerous ALPA provided identification cards that show he was a member in good standing of ALPA at all times.

Also in evidence is a letter from ALPA President Babbitt dated May 19, 1994, showing that Petitioner Norman was seeking the office of President of ALPA and that the then president had no objections. The ALPA Constitution, Article 10, Section 1, requires a member to be in good standing to seek any union office.

Petitioner Norman was never subjected to any union Article VIII union discipline action that accused him of being a scab, as the Court represented in the SJO pages 6 and 8. The other Plaintiffs in the case were subjected to Article VIII discipline action. The ALPA Constitution, Article 10(A), states that any person who has engaged in any activity, directly or indirectly, opposing the Association, or its aims or purposes, or against the best interests of any member or members thereof SHALL NOT BE ACCEPTED FOR MEMBERSHIP except by special action of the Board of Directors at a special meeting. There was never any such action regarding Petitioner Norman and his membership cards in ALPA, which are in evidence, show he was a member in good standing, at all times, through December 31, 1995.

Petitioner Norman “ has not been provided opportunity to refute the allegation” (of SCAB) that he was “a pilot who has flown for the company” as the Court represented in the SJO fn.7, pg 7, pg 23. The operative word is “**flown**”.

The evidence shows that Petitioner Norman never qualified to be a pilot at Eastern Air Lines under the requirements of the federal law. Appellant never, therefore, crossed a picket line to do the work of one of the striking pilots and was thus never a “scab” by application of federal law, 11th Circuit case law, or Defendant’s own definition. Had Norman met the Defendant’s definition of scab he would have been disciplined for his actions.

ALPA never said that Petitioner Norman was a “SCAB” except in the post strike list of “SCABS”.

A final point is that **Petitioner Norman was always an ALPA member in good standing** according to the membership cards, which are in evidence, that ALPA issued to him for 1989 through 1995 (the time period of this strike and well afterward). In return, ALPA called him a SCAB and made it impossible for him to obtain pilot employment wherever the union was established. The documentation provided by the Defendants to Norman confirms Norman is not a “SCAB”. The evaluation of this documentation by the District Court would have determined it is false to label Joseph S. Norman II a “SCAB”.

Norman never did work for Eastern Airlines because he was never more than a trainee during the Eastern Airlines work dispute of 1989. The 11th Circuit recognized in EASTERN AIRLINES v. ALPA et al. 920 F 2d 722, 728 ,C.A. 11,1990 that “these trainees were not ‘performing any work’ of the carrier by any stretch of the imagination.”

CONCLUSION

The complete reversal of Judge Davis on the position of pilot trainee’s status during the Eastern Airlines strike of 1989 and the complete failure of Judge Davis to evaluate any of the record, unrefuted evidence of Joseph S. Norman II is so far departed from the accepted and usual course of judicial proceedings that outside corrupting influence, mental lapses or prejudice against pro se litigants appears to have prompted the judicial conduct in the case. The judicial conduct of concern is justification for this judicial counsel to refer the case of Joseph S. Norman II v. ALPA et al. for proper evaluation of the evidence. Evaluation of any of the evidence provided, by the Defendant’s, presented by Norman and case law would have resulted in the exclusion of Norman’s name on the SUMMARY JUDGMENT ORDER by Judge Davis.

There is also ample evidence of attorney misconduct on the part of Defendant’s counsels, misconduct that also needs to be addressed by the appropriate entity. Norman was deposed by Defendant’s counsels James Linsey and Stuart Goldstein on June 13, 1995. After the deposition counsels knew Norman never flew an aircraft for Eastern Airlines but they failed to correct the record. Judge Davis was also led, by the Defendant’s, to believe union MEC Counsels had the authority to make ALPA policy at the airline they represented (pages 2,3 of the Summary Judgment Order). This representation by the Defendants to the court is just not true. Norman was a pilot for an ALPA represented company named Overseas National Airways (ONA) from 1968 through 1978 . In 1978 ONA furloughed its ALPA pilots and continued to operate without union pilots. ALPA failed to honor its representation requirements under its Constitution and Bylaws and in 1982 the ONA pilots retained counsel, at their own expense, and petitioned the NMB to be confirmed as the rightful pilots at ONA. ALPA not only did not assist our pilot group but declined to let us hire counsel to help ourselves. Our pilot group counsel insisted we had the authority to help ourselves and cited

the portion of the ALPA Constitution Judge Davis believed was ALPA policy on pages 2,3 of the SUMMARY JUDGMENT ORDER. However, ALPA declined to allow our pilot group to help ourselves and to make the final decision on any problem of the members of the airline (Exhibit 4). In 30 years of dealing with Defendant ALPA Norman has never found any apparent integrity within the ALPA organization. Truth and integrity are irrelevant in their scheme of doing business.

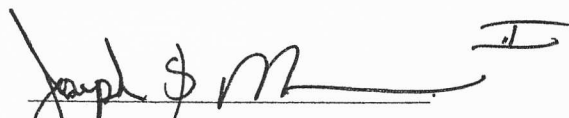
The complete failure of Judge Davis to consider any of the evidence of or case law applicable to Norman, presents an appearance this pro se Plaintiff can only describe as judicial conduct that was apparently influenced by corruption, mental lapse or prejudice against pro se litigants. The judicial conduct of Judge Davis in this matter is prejudicial to the effective and expeditious administration of the business of the courts and the harm it has caused needs to be corrected.

Judge Davis needs to explain with specifics why Norman, who was only a trainee during the Eastern Air Lines strike of 1989, was in his opinion properly labeled "SCAB" by ALPA. The opinion of Judge Davis should be based on case law and evidence presented by Norman.

This case as it applies to Norman is a great example of why citizen's confidence in the judicial system is at an all time low and why the framework of protests in Atlanta during the next oral argument week during the fall is in the planning stages. The support for protests comes from citizens who have responded to the many LETTERS TO THE EDITOR written by Norman and published in newspapers in Georgia, Florida and Alabama—copies of some of the published letters of the are attached (Exhibit 5).

This the 7th day of August, 2000

RESPECTFULLY,



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