

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

1 ALLAHASSEE FL 32308-2007

(850) 893 1484

DAYTIME TELEPHONE NUMBER

AGAINST:

JOEL DUBINA

NAME OF COMPLAINED-OF JUDGE

11TH CIRCUIT COURT OF APPEALS

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.)

11th CIRCUIT COURT OF APPEALS
COURT IN WHICH LAWSUIT WAS FILED

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:

PRO SE

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 JOEL DUBINA MADE BY JOSEPH S. NORMAN II UNDER
Section 372 (c) title 28 U.S.C.**

COURSE OF THE PROCEEDINGS AND FACTS OF THE CASE

This complaint is against Judge Joel Dubina; the case number is 97-5587 –CV-EBD in the UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT.

Norman, a named Plaintiff / Appellant was one of hundreds of airline pilots who brought suit against the Airline Pilots Association (ALPA) and certain officials of the union regarding the publication and distribution of a defamatory list of “SCAB” airline pilots that worked for Eastern Airlines during the sympathy strike of 1989. Norman was never more than a pilot trainee during this job dispute. Norman filed an appeal to the 11th Circuit from the Southern District of Florida pro se.

On October 25, 1999 the 11th Circuit ruled in favor of the Defendants. The majority opinion, with which Judge Dubina concurred, stated regarding all Appellant’s, apparently, except Norman.

“the Eastern MEC unanimously adopted a formal resolution to “publish a finalized list of strike breaking pilots at the conclusion of the ALPA sympathy strike” and “to bring internal union charges under ALPA’s constitution against ALPA members who crossed the picket lines. Individuals were placed on this list of working pilots only upon receipt of two confirmed reports that they had crossed ALPA picket lines, and after being provided with “an opportunity to refute the allegation” that they had crossed picket lines to fly for Eastern.”

and

“During the sympathy strike, ALPA had compiled a “scabs” list of pilots who crossed union picket lines to fly for Eastern.”

Norman notes in this complaint against Judge Dubina the operative word used in both statements by the court majority is **fly**. The word **fly** is used to define the work done which qualified a name to be placed on the “SCAB” list. The word “fly” in any tense (fly, flew, flown) was never applicable to the activity of Norman during the Eastern strike, a fact that was repeatedly made known to the court.

And the Court states:

“This court reviews de novo the dismissal of a complaint for failure to state a claim, construing all allegations in the complaint as true and in the light most favorable to the plaintiff.”

In addressing Appellant Norman the majority states:

“Norman’s contentions lack merit. The record shows that Norman was hired by Eastern as a DC-9 Captain and received compensation while in training. One of his job requirements was to participate in the pilot training program. Under these circumstances, Norman was “working” for Eastern in the ordinary sense of the term. It is this colloquial use of “working”- and not Norman’s legal classification under the Railway Labor Act-that is relevant in determining whether “scab” can be applied to him. Consequently, ALPA had no additional reason to know that Norman was not a SCAB; his situation is therefore no different from all the other pilots (fn 21) who worked despite the strike.” (fn 22)

Just why a 11th Circuit United States Court of Appeals Judge is not obliged to use “legal classification” and also consider and include 11th Circuit case law on an issue in an opinion is why the appearance of judicial corruption, mental lapses or prejudice against pro-se litigants is apparent. During the Eastern strike of 1989 the circumstances of Norman were no different than the circumstances of hundreds of other pilot trainees. The names of the other trainees are not on the “SCAB” list; the name of **Norman is**. The 11th Circuit in EASTERN AIRLINES INC. v ALPA et al., 920 F 2d 722, Dec. 20 1990 clearly addressed trainee status in the Eastern strike. The 11th Circuit determined trainees were not “working Eastern pilots”, plain and simple. It is interesting to note that the standard of “SCAB” of the majority for the other Plaintiff’s in this case required them to fly for Eastern, The standard established by the court was dramatically different for Norman. The court concluded Norman did not have to fly during the strike as did all others whose names are on the “ SCAB ” list. This exception, by the court can only be the result of corruption, mental lapse or prejudice against pro se litigants by all appearances.

Norman did not fly for Eastern during the ALPA strike. In fact, Norman has never flown an airplane for Eastern in his life and has never been given the opportunity to refute the allegation he had flown during the strike as the court believed. Norman has always been an ALPA member in good standing and was not brought under union charges of strike breaking as were union members who crossed the picket lines and flew aircraft.

The standard of review established by the court in this case was to construe “all allegations in the complaint as true and in the light most favorable to the plaintiff”. This representation by the majority opinion, as applied to Norman appears to be nothing more than

fraud upon Plaintiff Norman. Norman, unlike the others whose names are on the “SCAB” list, furnished vast amounts of documentation, provided him by the Defendant’s, which show he was at all times an ALPA member in good standing and was never accused of strike breaking until the “SCAB” list was published a year and a half after the strike ended.

Defendants represented there was daily monitoring of those who flew aircraft during the strike so that any union privileges could immediately be curtailed for those crossing their picket lines to fly. The union privileges were never curtailed for Norman as evidenced by his union membership cards and other documentation, which is in the record, and was continually provided by the Defendant’s to Norman. With this daily monitoring ALPA knew Norman was not a SCAB. The court majority incorrectly reasoned “Consequently, ALPA had no additional reason to know that Norman was not a “scab”. Had any of the documentation provided Norman, by the Defendant’s, been construed in the light most favorable to the Plaintiff (Norman) or had the court majority considered 11th Circuit case law on trainees the conclusions reached would have certainly been different.

The majority opinion in this case concluded Norman was a “SCAB” because he received compensation while in pilot training. The treatment of Norman while in training was no different than other pilot trainees during the Eastern work dispute and the Courts had determined 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 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 of the 11th Circuit Norman never crossed a picket line to do work for Eastern Air Lines as did the other Plaintiffs in the case.

.Compensation has never been an issue in any airline trainee case law – never- the issue always boils down to whether or not the trainee has participated in a revenue flight. A pilot loses his / her trainee status and becomes a pilot for the carrier on strike the minute a revenue flight begins, a definition well established in industry practice and case law. That definition is also used by the Defendants and is why Norman was never accused of strike

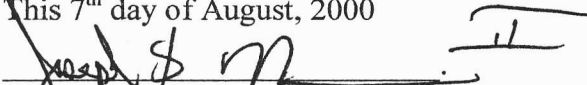
breaking under the union Constitution and By-laws. The Court Majority either as a result of corruption, mental lapses or prejudice against pro se litigant Norman decided to abandon all previous industry practice and case law when the circumstances of Norman were considered. The type conduct exhibited by the Court Majority is certainly not acceptable to this citizen and should not be tolerated in any system whose business is the administration of justice.

. The conduct of Judge Dubina in this matter is more than an erroneous decision; it is conduct that appears to conflict with Canon 1.2, 1.3, 2.2, 2.3, 2.4, 2.6, 2.8 and 3 B1 of the Code of Judicial Conduct and conduct that gives the semblance of Judicial corruption and/or mental lapses and/or prejudice against pro se litigants. The conduct of Judge Dubina is a prime reason citizens have lost faith in the judicial system and is also prejudicial to the effective and expeditious administration of the business of the courts. The harm caused by Judge Dubina must be addressed and corrected. At the very least there is ample justification for a jury to determine whether or not Norman "worked" during the Eastern Airlines pilot strike.

Judge Dubina needs to explain, with specific case law, just why he contradicted 11th Circuit case law and found trainee Norman worked for Eastern during the 1989 strike and the other trainees did not work. If the explanation of Judge Dubina for his actions is not of sufficient quality he should be asked to tender his resignation to preserve citizen confidence in the justice system.

Citizens who have responded to the many LETTERS TO THE EDITOR written by Norman (some of which are attached) and published throughout Georgia, Florida and Alabama believe, along with Norman, we are entitled to better judicial conduct than has been exhibited in this case and we await you conclusions on this complaint.

This 7th day of August, 2000


Joseph S. Norman II, pro se
5647 Santa Anita Drive
Tallahassee, FL 32308-2007

phone (850) 893-1484

File misplaced

Dear Editor:

I am a Plaintiff in a civil case that started in the Southern District of Florida that has gone all the way through the U.S. Supreme Court without any evaluation of the overwhelming evidence that supports my position. At the Summary Judgment hearing the Judge stated "I don't find an affidavit of Joseph Norman anywhere in our records" and went on to rule in favor of the defendant's with a 28 page order that had zero facts that related to me. The 11th Circuit Court of Appeals which administers Alabama, Florida and Georgia, upheld the lower court and contradicted its own case law in the process, the U.S. Supreme Court declined to hear the case. Citizens what has happened to me can happen to anyone if you do not protest Federal judicial conduct. Perhaps it is time for protests at our Federal Courthouses. We are the keepers of our countries future. Jsnorman2@cs.com

Joseph S. Norman II

Protest Judicial Conduct

Editor, The News:

I am a plaintiff in a civil case that started in the Southern District of Florida that has gone all the way through the U.S. Supreme Court without any evaluation of the overwhelming evidence that supports my position.

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man anywhere in our records" and went on to rule in favor of the defendants with a 28 page order that had zero facts that related to me.

The 11th Circuit Court of Appeals, which administers Alabama, Florida and Georgia, upheld the lower court and contradicted its own case law in the process, the U.S. Supreme Court declined to hear the case.

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Joseph S. Norman II
Tallahassee

Jsnorman2@cs.com

We Are The Keepers Of Our Country's Future

11th Federal Justice System—Corrupt?

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Joseph S. Norman II
Tallahassee, Fla.