

JUDICIAL COUNCIL OF THE ELEVENTH CIRCUIT

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

MAIL THIS FORM TO THE CLERK, UNITED STATES COURT OF APPEALS, 56 FORSYTH STREET, N.W., ATLANTA, GEORGIA, 30303-2289. MARK THE ENVELOPE "JUDICIAL MISCONDUCT COMPLAINT" OR "JUDICIAL DISABILITY COMPLAINT." DO NOT PUT THE NAME OF THE JUDGE OR MAGISTRATE ON THE ENVELOPE.

SEE RULE 2(e) FOR THE NUMBER OF COPIES REQUIRED

1. Complainant's name: Lester Swartz

Address: P.O. Box 273225

Boca Raton, Florida 33427

Daytime telephone: (407) 392-1761

2. Judge or magistrate complained about:

Name: Circuit Judge Joel F. Dubina

Court: The U.S. Court of Appeals for the Eleventh Circuit

3. Does this complaint concern the behavior of the judge or magistrate in a particular lawsuit or lawsuits?

() Yes Judicial Misconduct () No Complaint

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court:

Docket number:

Are (were) you a party or lawyer in the lawsuit?

() Party () Lawyer (XXX) Neither

If a party give the name, address, and telephone number of your lawyer:

Name:

Address:

Telephone number: ()

Docket number of any appeals to the 11th Circuit:

91-5119

4. Have you filed any lawsuits against the judge or magistrate?

() Yes

~~XXXX~~ No

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court:

Docket number:

Present status of suit:

Name, address, and telephone number of your lawyer:

Court to which any appeal has been taken:

Docket number of the appeal:

Present status of appeal:

5. On separate sheets of paper, not larger than the paper this form is printed on, describe the conduct or the evidence of disability that is the subject of this complaint. See rule 2 (b) and 2 (d). Do not use more than 5 pages (5 sides). Most complaints do not require that much.

6. You should either

(1) check the first box below and sign this form in the presence of a notary public; or

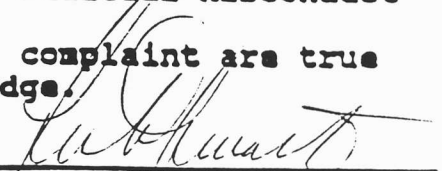
(2) check the second box and sign the form. You do not need a notary public if you check the second box.

() I swear (affirm) that--

~~xxx~~ I declare under penalty of perjury that--

(1) I have read rules 1 and 2 of the Rules of the 11th Circuit Governing Complaints of Judicial Misconduct or Disability, and

(2) The statements made in this complaint are true and correct to the best of my knowledge.



(Signature)

Executed on 6/22/48
(Date)

Sworn and subscribed
to before me _____
(Date)

(Notary Public)
My commission expires:

THE UNITED STATES COURT OF APPEALS
IN AND FOR THE ELEVENTH CIRCUIT

COUNCIL 2
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COMPLAINT OF JUDICIAL MISCONDUCT

COMPLAINANT

Lester Swartz
P.O. Box 273225
Boca Raton, Fl. 33427
(407) 392-1761

JUDGE COMPLAINED OF:

Judge Joel F. Dubina
Circuit Judge of The United States
Court of Appeals for the Eleventh
Circuit

This complaint is brought pursuant to 28 U.S.C.S., Section 372(c) in which complainant, based upon information and belief, hereby alleges Judge Dubina has, continues, and poses a threat to continue to be engaged in, conduct unbecoming a member of the judiciary; conduct prejudicial to the effective and expeditious administration of the courts; and, conduct which does not meet the standards expected of judicial officers, and, also based upon information and belief, as grounds therefore hereby alleges:

FACTS AND ALLEGATIONS CONSTITUTING JUDICIAL MISCONDUCT

1. Judge Dubina, reasonably, knew or should have known, and still knows or should know, that allegedly:

a. the district trial judge, James C. Paine, who also a member of the Florida Bar, in case #90-6324-CIV-PAINE, conspired with the subject Florida Bar officials, the other defendants and their counsels, (collectively Judge Paine et al.), to wilfully and knowingly embark on numerous schemes and artifices to defraud, including, but not limited to: a) such schemes and artifices to deprive complainant of his inalienable rights to petition the government for redress of grievances, to a meaningful access to our courts, a trial by jury, due process of law, equal protection of the law; a fair and impartial hearing; and, to the honest services of Judge Paine; and, b) schemes and artifices calculated to conceal known fraudulent and felonious conduct by Florida Bar officials, the other defendants and their counsels, (collectively Bar Officials et al.). The Chief Judge failed to duly act!

b. Judge Paine furthered his unlawful objectives by wilfully and knowingly, conspiring to allegedly accept believed influential bribes to obtain special treatment for the Bar officials by unlawfully and corruptly using his office and power to wilfully, knowingly, and wrongfully prejudice the outcome of the proceedings before him, favorable to the Bar officials et al. That the Bar officials et al., each being a lawyer, bound by their oath of admission to the Bar and Code of Professional Responsibility; and each having the duty to disclose; all wilfully and knowingly, engaged in conduct involving dishonesty, fraud deceit, misrepresentation, conduct prejudicial to the administration of justice and committed criminal acts in furtherance of the abovesaid schemes. Such unlawful and unethical conduct was reasonably known to Judges Paine, Tjoflat and Dubina to have occurred in fact, but they have wilfully and knowingly refused to duly act pursuant to their duty and/or to the law.

c. complainant in protest of Judge Paine et al.'s outrageous conduct, then filed two judicial misconduct complaints against him in this Circuit alleging criminal misconduct and violations of the Judge Code of Conduct. Allegedly, Chief Judge Tjoflat, to further Judge Paine et al.'s ongoing schemes, finally dismissed these most serious claims against Judge Paine, overtly without a limited inquiry to determine whether a formal investigation would be necessary. Moreover, in furtherance of the said schemes, it

is believed Judge Paine was never required to file any written responses to these serious charges; nor to the best of complainant's knowledge did the chief judge communicate in writing or orally with complainant or with others who may have had knowledge of these substantially grave matters.

d. Judge Paine et al.'s unlawful objectives and ongoing schemes and artifices to defraud allegedly were subsequently, wilfully and knowingly, furthered by this Circuit's opinion panel, Judges Anderson, Dubina, and Hatchett (who is also a member of the Florida Bar), collectively (panel judges) in Docket No. 91-5119. The panel judges, knowingly and wilfully, with corrupt exercise of their office and power, conspired to act: 1) in bad faith; 2) to conceal the false acts of the Bar officials et al, and the fraudulent, fictitious and false representations of the Bar officials and Judge Paine; 3) with reckless indifference to the truth; 4) with reckless disregard for a Judge's Code of Conduct and Oath of Office, a Lawyer's Code of Professional Responsibility, Oath of Admission to the Bar and Creed of Professionalism; and, 5) to ruthlessly abridge this complainant's civil rights. Complainant had also filed two attorney misconduct complaints which graphically described most of the said wrongful attorney activity, but the panel judges unduly dismissed the same while reasonably knowing full well the alleged wrongful conduct by Judge Paine et al. had occurred in fact.

e. complainant later filed judicial misconduct complaints in this Circuit against the panel judges alleging blatant violations of their Codes of Judicial conduct and criminal misconduct as well. Finally, after nearly six months, the said complaints against the panel judges were dismissed by Chief Judge Tjoflat. The believed bad-faith dismissals were made obviously without a limited inquiry to determine whether a formal investigation would be necessary and/or to the best of complainant's knowledge the panel judges strangely, were never required to file any written responses to the serious charges, nor did Chief Judge Tjoflat communicate in writing or orally with this complainant or with others who may have had knowledge of the matters.

f. complainant then petitioned the Judicial Council to review the Chief Judge's dismissals against the panel judges. The Judicial Council, allegedly in furtherance of Judges Paine, Anderson, Dubina, Hatchett and Tjoflat's unlawful objectives, affirmed the subject dismissals. Complainant further alleges that all of the pertinent judges of the Judicial Council, knowingly and wilfully, with corrupt exercise of their office and power, conspired to act in the same manner as the panel judges as aforescribed. The subject Judges of the Judicial Council reasonably knowing full well the alleged unethical and criminal conduct by Judge Paine et al. had occurred in fact, also wilfully and knowingly refused to duly act pursuant to their duty and/or to the law.

g. thus, the undersigned then filed judicial misconduct complaints against all of the judges of the Judicial Council who affirmed the Chief Judge's believed bad-faith dismissals for the reasons aforescribed. The Chief Judge Tjoflat then dismissed these complaints as frivolous.

h. the undersigned then petitioned the Judicial Council to review all the Chief Judges dismissals against the said Council judges. The subject Council Judges reasonably knowing full well the alleged unethical and criminal conduct by Judge Paine et al., and the panel Judges had occurred in fact, also refused to duly act pursuant to their duty and/or to the law.

2. In November of 1994, complainant filed a complaint against the Chief Judge for his violations of his Code of Conduct. Finally, on or about April 20, 1995, the former was notified through Circuit Judge Edmondson's order of recusal, that the Circuit Judges senior to him were disqualified for

whatever reasons earlier, but the undersigned was never notified by the Clerk of such. Judge Edmondson in his order stated that he believed in essence the other Circuit Judges would probably be disqualified, but left that decision to them. Judge Edmondson also wisely suggested, and this complainant agrees, that this matter could be referred to the Chief Justice of the Supreme Court of the United States, who, pursuant to Title 28 U.S.C. Section 291(a), could appoint a Circuit Judge from another circuit to rule on these matters. As of late, Judge Cox also disqualified himself in the Chief Judge matter, and the undersigned eagerly awaits the day when the rest of this Circuit's Judges elect fairly so to do.

3. On March 8, 1995, this complainant filed another misconduct complaint against the Chief Judge for further violations of his Code of Conduct, but to date, even after nearly eleven weeks to the best of the undersigned's knowledge, no disqualifications or otherwise have surfaced.

4. By the aforementioned circumstances and events, based upon information and belief, while acting in concert, under color of law, and having a legal and fiduciary duty to disclose such spurious acts in these serious Florida Bar matters, the Chief Judge and Judge Dubina have, continue, and poses a threat to continue to unlawfully, knowingly and wilfully violate and conspire to violate certain hereinafter sections of Title 18 U.S.C. Thus, Judge Dubina allegedly: a) caused false entries to be made upon the docket of the Court in breach of Section 1001 prohibiting falsifying or making any false, fictitious or fraudulent statement or representation of any material fact in any matter within the jurisdiction of any agency or department of the United States; b) concealed and causes to be concealed material facts of frauds being perpetrated on our Courts, by the Bar officials, et al., Judge Paine, and the subject judges of the Circuit in violation of Section 1001 prohibiting any concealment of any material fact in any matter within the jurisdiction of any agency or department of the U.S.; c) conspired to wrongfully injure, oppress, intimidate and illegally restrain complainant in the free exercise of enjoyment of his rights and privileges secured to him by the Constitution and the laws of the U.S. in violation of Section 241; d) deprived complainant of rights, privileges, and immunities secured by the Constitution and the laws of the United States, under color of law, in violation of Section 242; e) committed endless offenses against the United States and to defraud the United States in violation of Section 371; f) commit, aid and abet in the commission of untold offenses against The United States in violation of Section 2; g) become an accessory after the fact in violation of Section 3; and, misprision countless felonies in violation of Section 4.

5. Additionally, by reason of the aforementioned circumstances and events, upon information and belief, while acting in concert and under color of law, in order to further the said fraudulent objectives of this illicit conspiracy, allegedly Judge Dubina has unlawfully, wilfully and knowingly conducted and participated in, directly and indirectly, the affairs of the enterprise, the U.S. Court of Appeals for the Eleventh Circuit, which activities affect interstate commerce, through a pattern of racketeering activity by commission of two or more predicate acts; poses a threat to continue such racketeering activity; and, by so doing, conspired to violate the provisions of Sections 1962 (c) and (d) respectively.

6. For the purpose of executing and attempting to execute the subject schemes and artifices to defraud, upon information and belief, while acting in concert and under color of law in the Bar matters, Judge Dubina has: a) repeatedly caused letters and other matters and things to be delivered by the U.S. Postal Service to and from the Circuit Court or elsewhere in repeated violation of Section 1341; b) repeatedly caused to be made, and

may have reasonably made, interstate phone calls and other uses of interstate wire facilities to and from this Circuit Court and elsewhere in repeated violation of Section 1343; and, c) repeatedly and substantially influenced, obstructed, and impeded or endeavored to influence, obstruct, and impede the due administration of justice in violation of Section 1503.

7. In so doing, Judge Dubina, upon information and belief, has deceived and conspired to deceive this complainant, the Federal and State Courts, including the Supreme Court of the United States, the U.S. Government and the American people and others and, in so doing, has overtly sabotaged federal and state laws, customs, civil and appellate rules of procedures; mandatory disciplinary rules and its investigative procedures; pertinent codes of conduct; and, relevant oaths of office, all of which were clearly designed to shield persons such as this pro-se complainant from such undue oppression as well as to protect the public interest.

8. Judge Dubina, upon information and belief, while acting in concert, under color of law, and having a legal and fiduciary duty to disclose, has, continues, and poses a threat to continue to knowingly and wilfully conceal and cause to be concealed, material facts of known attorney and judicial misconduct by the Bar officials et al., and certain other pertinent Judges in violation of Section 1001.

9. By so doing, reasonably, Judge Dubina, upon information and belief, has, probably continues, and poses a serious threat to continue in these Florida Bar matters to wilfully and knowingly breach and conspire to breach CANON 2A, a judge should respect and comply with the law.. and CANON 3A (1), a judge should be faithful to the law.

10. Further, that any reasonable mind knowing Judge Dubina in light of these embarrassing circumstances, knowing the nature of the defendants and the nature of the case, and his believed close relationship with the Chief Judge and the same's membership in that Bar, Judge Dubina's impartiality in these most serious matters could reasonably be questioned. Thus, obviously he has breached and/or allegedly conspired to breach CANON 3(C)(1), a judge shall disqualify herself in a proceeding in which his impartiality might reasonably be questioned, including but not limited to instances where he has a personal bias or prejudice concerning a party.

11. By wrongfully, knowingly and wilfully omitting so act, Judge Dubina has plainly violated and/or conspired to violate CANON 1, a judge should uphold the integrity of the judiciary; CANON 2, ...avoid impropriety and the appearance of impropriety; CANON 2A,...act at all times in a manner that promotes public confidence in the judiciary; CANON 2B,...not allow other relationships to influence his judicial conduct or judgment; and, CANON 3(B)(3)...take or initiate appropriate disciplinary action against a judge or lawyer of which the judge may become aware. Thus, it is reasonable to assume, that these Florida Bar member Judges corruptly used their power and influence to aid and abet the Bar officials by helping them save face and escape the liability for the irreparable damages for the injuries they have wrongfully and outrageously inflicted upon complainant and his family.

12. Based on the foregoing and information and belief, complainant is convinced Judge Dubina has wilfully and wantonly breached and/or conspired to breach his fiduciary duties and abnegated his judicial functions, and by so doing has: a) caused further frauds upon the Federal Courts, including the United States Supreme Court; b) knowingly and miserably failed to adhere to the requisite and promised standards of fidelity and diligence of his office; and by wrongfully so doing, he has defiled his Oath of Office. That Judge Dubina indeed had and still does have, a legal and fiduciary

duty to disclose the alleged felonious activity by Judge Paine et al., the panel judges, and the other pertinent judges, to the proper authorities, but h\e obviously to this date has wrongfully, knowingly and wilfully failed so to do. By reason of the aforementioned circumstances and events, and based upon information and belief, such wilful and knowing omissions to duly act by Judge Dubina should reasonably constitute serious official misconduct; reasonably, his said behavior cannot conceivably be considered as good; and, thus, the aforesaid should be grounds for impeachment.

CONCLUSION

This is a harrowing tale on how evil Florida Bar officials and countless attorneys have infiltrated and ultimately captured the Florida Bar, and in so doing obviously have corrupted many of our Courts and prosecutorial branches of government as well. These groups of "white-collar organized crime gangster lawyers", aided and abetted by certain arrogant and morally debased Justices of the Florida Supreme Court and subject Judges of the United States Eleventh Circuit have engaged in a multi faceted orgy of criminal activity. This subject case manifestly shows how a state bar group which was in origin and in nature intended to be a most lawful enterprise is susceptible to malicious machinations by such unscrupulous Bar officials and very powerful and well-connected attorneys. It reasonably depicts how Bar officials et al. attempt by whatever means to obviously influentially and/or perhaps even monetarily bribe certain state and federal judges, who then allegedly corruptly influence or attempt to influence the outcome of the relevant court proceedings through a pattern of RACKETEERING activity; the cancer which will inevitably destroy our whole American system of justice. More concerns should lie in the fact that these same white-collar organized crime "gangster" lawyers have also infiltrated the ranks of the Bar of the United States Supreme Court and the American Bar Association are being held out to be "members in good standing" . Thus, serious questions now surface as to the integrity of those Bars as well. In order to secure justice, a judicial scalpel must now be used to excise these malignancies from the Bars and Benches of America's courts and from the decent lawyers and judges of this country. To do any less would be to ignore the laws of the land and do a disservice to the American people; to those persons who have died for their country; and notably, to those dedicated lawyers and judges who earn their daily bread by forthrightly adhering to the rules of their franchises, Oaths, and, laws of their country. The time has now come for fearless decision making by real judges who will, with dispatch, do what is just in this "Florida Bargate" debacle so the long overdue ends of justice can be furthered and so the judiciary can finally put an end to this obvious wholly Un-American and seemingly never-ending, blatant and unlawful activity!

WHEREFORE, complainant prays for an acting Chief Judge to immediately appoint a special committee to investigate these substantial and most serious claims of criminal and unethical conduct against Judge Dubina pursuant to Addendum III of the Rules of the Judicial Council of the Eleventh Circuit governing complaints of judicial misconduct and pursuant to Chapter 4, Rule 10(b) of Addendum III of these same Rules, the special committee immediately consult with the appropriate prosecuting authorities to the extent permitted by 28 U.S.C. 372(c)(14) in an effort to avoid compromising any further criminal investigation and in order to prevent any more appearances of impropriety and flagrant unlawful conduct by the subject Judges of this Circuit