

January 27,2016

**CONFIDENTIAL**

Alex Daoud

1750 Michigan Ave.

Re: Judicial Complaint No. 11-15-90100

Dear Mr. Daoud:

Enclosed is an order of Chief U.S. Circuit Judge Ed Carnes that has been filed in this office and is effective as of the date filed. This order determines the complaint of judicial misconduct or disability earlier filed by you pursuant to Title 28 U.S.C. §§ 351-364 and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States. A redacted version of the order also is enclosed. Petitions for judicial council review of chief judge dispositions are governed by Rule 18 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, with Eleventh Circuit Judicial Conduct and Disability Rules.

Sincerely,

AMY C. NERENBERG, Acting Clerk of Court

Christian Kennerly, Deputy Clerk  
404-335-6577

Encl.



CONFIDENTIAL

BEFORE THE CHIEF JUDGE                    *1*

Judicial Complaint No. 11-15-90100

IN THE MATTER OF A COMPLAINT FILED BY ALEX DAOUD

IN RE: The Complaint of Alex Daoud against Paul Hyman, U.S. Bankruptcy Judge for the U.S. Bankruptcy Court for the Southern District of Florida, under the Judicial Conduct and Disability Act of 1980, Chapter 16 of Title 28 U .S.C.

ORDER

Mr. Alex Daoud has filed this Complaint against United States Bankruptcy Judge Paul Hyman (the "Subject Judge"), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States ("JCDR").

In his Complaint of Judicial Misconduct or Disability against his son-in-law, Judge Paul Hyman, Daoud checked the box indicating that his Complaint "concern[ed] a particular lawsuit," and he listed a state court lawsuit in which he was a party. Daoud submitted transcripts along with his Complaint, which show that the lawsuit referred to in the Complaint was filed by Daoud's daughter, Kelly Hyman, who is the Subject Judge's wife. The transcripts list Daoud as a defendant in the lawsuit and show that proceedings were conducted in Florida state court with Judge John Thornton presiding. The transcripts also show that the plaintiff was represented by Bernardo Burstein, Daoud was represented by Alejandro Brito, and the underlying dispute between father and daughter involved ownership of certain real property, a house divided into apartments. It was a bitter dispute.

Limited Inquiry under JCDR II(b)



The commentary on Rule 11(b) explains what constitutes a "reasonably disputed issue":

[A] matter is not "reasonably" in dispute if a limited inquiry shows that the allegations do not constitute misconduct or disability, that they lack any reliable factual foundation, or that they are conclusively refuted by objective evidence.

In conducting a limited inquiry under subsection (b), the chief judge must avoid determinations of reasonably disputed issues, including reasonably disputed issues as to whether the facts alleged constitute misconduct or disability, which are ordinarily left to the judicial council and its special committee. An allegation of fact is ordinarily not "refuted" simply because the subject judge denies it. The limited inquiry must reveal something more in the way of refutation before it is appropriate to dismiss a complaint that is otherwise cognizable. If it is the complainant's word against the subject judge's—in other words, there is simply no other significant evidence of what happened or of the complainant's unreliability—then there must be a special-committee investigation. Such a credibility issue is a matter "reasonably in dispute" within the meaning of the Act.

However, dismissal following a limited inquiry may occur when a complaint refers to transcripts or to witnesses and the chief judge determines that the transcripts and witnesses all support the subject judge. Breyer Committee Report, 239 F.R.D. at 243. For example, consider a complaint alleging that the subject judge said X, and the complaint mentions, or it is independently clear, that five people may have heard what the judge said. Id. The chief judge is told by the subject judge and one witness that the judge did not say X, and the chief judge dismisses the complaint without questioning the other four possible witnesses. Id. In this example, the matter remains reasonably in dispute. If all five witnesses say the subject judge did not say X, dismissal is appropriate, but if potential witnesses who are reasonably accessible have not been questioned, then the matter remains reasonably in dispute. Id.



In Daoud's Complaint of Judicial Misconduct or Disability, he alleges what he describes as "three main areas of misconduct by [his] son in law," the Subject Judge. This Order will describe the allegations regarding each of these three "areas" in turn and will address them based on a limited inquiry conducted under Rule 11(b).

1.

#### Family Disagreement Arising from a Medical School Recommendation

The first area of misconduct that Daoud alleges against the Subject Judge stems from a favor that Daoud and his son Alexander (Zander) Daoud, who is the Subject Judge's brother-in-law, asked him to do for Zander who was trying to get into medical school.

Daoud attached to his Complaint a printed copy of an email from the Subject Judge to Zander. In the email the Subject Judge recounts that Zander and his father had asked him if he knew anyone "who had any pull at FAU." It also says that Zander had told the Subject Judge that he was going to be meeting with someone in the administration at the school on a given day. The email mentions a conversation that the Subject Judge had with his "old friend" who was "on the Board of the Med school" and who had told the Subject Judge that he would call the administrative offices to see if he could help Zander. The friend later phoned the Subject Judge and told him that Zander had "no appointments" with school administration and that he would "try to push [Zander] up the wait list, but he was not overly optimistic due to [Zander's] GPA."

That email to Zander states that the Subject Judge had texted Daoud "telling him I did not appreciate the misrepresentation about the meeting [with school administration] because it had embarrassed" him. The email also states that since then, Daoud "has been a complete jerk to [Kelly Daoud] who has nothing to do with this." The email closed:

Daoud summarizes these events as follows: The Subject Judge "provided an initial positive recommendation, and then threatened to pull that support, to my son's detriment, if I did not abide by his threat concerning my communications with Kelly (my daughter, [the Subject Judge's] wife)." According to Daoud, those actions "drove [Daoud's] son into a deep depressed state of mind and strained his mental status during the most important decision of his life," and his son "was terrified as to exactly what [the Subject Judge] would do or say unless his threats were acquiesced." Daoud contends that: "When a Federal Judge, no less the Chief of the Bankruptcy Court, threatens to withdraw support that he claims to have given, common sense would inform anyone that a major ethical violation has been committed."

Rule 3(h)(1)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct includes "using the judge's office to obtain special treatment for friends or relatives." In the Guide to Judiciary Policy's published ethics opinions, Advisory Opinion No. 73, "Providing Letters of Recommendation and Similar Endorsements," states that when responding to any type of request for a recommendation or endorsement a "judge should carefully consider whether the recommendation or endorsement might reasonably be perceived as exerting pressure by reason of the judicial office, and should avoid any action that could be so understood." Guide to Judiciary Policy, Vol. 2B, Ch. 2 Advisory Opinion No. 73 at 2. The opinion also states:

It must be recognized, however, that judges are members of society, and of the community at large, and that not every action of a judge is intended, or could reasonably be perceived, as an assertion of the prestige of judicial office. When a judge is personally aware of facts or circumstances that would facilitate an accurate assessment of the individual under consideration, a judge may properly communicate that knowledge, and his or her opinions based thereon, to those responsible for making decisions concerning the applicant.

Id. at 1. The allegations in the Complaint about the recommendation or nonrecommendation of Alexander Daoud for medical school admission, even if true, do not constitute misconduct. See JCDR II(c)(1)(A).

For these reasons, the assertions in the Complaint about the efforts of Daoud and his son to get the son into medical school and the Subject Judge's involvement in those efforts are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR 11 (c)(I)(D), and this part of the Complaint is due to be dismissed under 28 U.S.c. § 352(b)(1)(A)(iii), Rule 11(c)(I)(D), and Rule II(c)(1)(A).

## II.

### The Lawsuit between Daoud and his Daughter

The second of the three alleged "areas of misconduct" that Daoud asserts in his Complaint involves what he describes as "a number of actions" in a "lawsuit concerning [the Subject Judge's] wife and her father" as to which of them owned a house that had been divided into apartments, which was a valuable piece of property. Daoud's general allegations are that the Subject Judge "consistently forced himself into the proceedings, interrupting the legal actions, used bullying tactics if he did not like what was going on in court, gave legal instructions to his wife's attorney thereby acting as an attorney, frequently interrupted the presiding Judge Thornton, and continually advocated for his wife." Daoud also alleges that the Subject Judge "repeatedly used his judicial standing in an attempt to influence and intimidate presiding Judge Thornton, witness Jerrold Engelmann Esq., myself, and my attorney Alex Brito." The specific improper conduct that Daoud alleges occurred is discussed below.

## A.

### Conduct During an In-Chambers Hearing and a Comment about Calling the Marshals

Daoud claims that the Subject Judge attempted to "humiliate and eviscerate [Daoud's] credibility in front of Judge Thornton" during an in-chambers hearing. Specifically, the Complaint alleges that:



In conducting the limited inquiry into these allegations, I interviewed every person Daoud alleges was present at this in-chambers hearing: Judge Thornton, his bailiff (Officer Puerto), Daoud's attorney (Alejandro Brito), and the Subject Judge. I also interviewed Kelly Hyman's attorney (Bernardo Burstein), because the conduct allegedly occurred during an in-chambers hearing, making it likely that Burstein would have been present at that hearing along with the other people listed in the Complaint. Not one of those five witnesses recalls the alleged incident in Judge Thornton's chambers and in his presence as Daoud describes it in his Complaint. It is Daoud's word against the word of five others.

Rule II(b) provides that in a limited inquiry, such as this one, the Chief Judge "must not determine any reasonably disputed issue" (emphasis added), but the commentary explains that allegations that "lack any reliable factual foundation" are not reasonably disputed. JCDR II cmt. While the Subject Judge's denial of a fact that the complainant says he witnessed ordinarily is not enough to remove a reasonable dispute about the matter, the commentary provides a telling example of what is enough. It states that if the complaint mentions or it is clear that if what the complainant says happened would have been witnessed by five other people, and all five of them say it did not happen, there is no reasonable dispute and the complaint may be dismissed. JCDR 11 cmt. That is what happened here. Five witnesses other than Daoud would have witnessed what he says happened in Judge Thornton's chambers, if it did happen, and it is not something they would have forgotten. Yet none of them recalls the events in Judge Thornton's chambers that that Daoud alleges occurred there.

There is another reason that it is not reasonably disputed that the matter that Daoud says happened in front of Judge Thornton did not. In discussing whether a matter should be considered to be reasonably in dispute, the commentary to Rule II(b) indicates that "significant evidence" of "the complainant's unreliability" can and should be considered. There is abundant evidence of Daoud's unreliability as a witness in the form of multiple convictions for federal crimes involving moral turpitude.

Federal court records show that in a 1991 indictment, Daoud was charged with 41 counts of bribery, money laundering, filing false tax returns and other crimes. He was convicted of one count of bribery in violation of 18 U.S.c. § 666(a)(1)(B) and was



sentenced to 41 months imprisonment. He later pleaded guilty to another count of bribery in violation of 18 U.S.C. § 666(a)(1)(B), money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(i), and false statements in violation of 26 U.S.C. § 7206. For those crimes, he was sentenced to 63 months imprisonment for the bribery and money laundering convictions and 36 months for the false statements crime which were to run concurrently, and that total 63-month sentence was to run concurrently with his 41-month sentence on the earlier conviction. A separate information charged him with obstructing justice in his criminal case by "causing a grand juror to make unauthorized disclosures of matters" before the grand jury and "causing the alteration and falsification of documents subpoenaed" by the grand jury. He pleaded guilty to that charge and was sentenced to 60 months imprisonment to run concurrently with his other sentences. Approximately seven months after that judgment issued, the government filed a motion to reduce Daoud's sentence based on his assistance to the government, and the court later granted that motion, reducing his sentence to time served and leaving unchanged all of the other terms and conditions of the earlier judgments against Daoud.

For all of these reasons, there is no reasonable dispute that this incident, which the Complaint alleges occurred in Judge Thornton's chambers or in his presence, did not occur in his chambers or in his presence. As a result, even if the other factual assertions about this incident are presumed true, the alleged exchange between the Subject Judge and Daoud could not possibly have "humiliate[d] and eviscerate[d] [Daoud's] credibility in front of Judge Thornton."

That said, the limited inquiry has revealed that the Subject Judge did make a comment to Daoud about calling the marshals. The Subject Judge and Brito both recall the comment, but they both recall that it was made during one of the mediation sessions that the Subject Judge attended with his wife. The limited inquiry has also revealed that none of the mediators heard the comment. There were four mediators who conducted five mediation sessions. (One mediator conducted two sessions.) Interviews with every one of the mediators establish that not one of the four of them recalls hearing any comment about calling the marshals, and they say that they would have recalled such a comment if it had been made in their presence. There can be no reasonable dispute about this point: the Subject Judge's comment about the marshals could not possibly have influenced any of the actions of any of the mediators because none of them heard it.



In summary, the Complaint's claims about any of the Subject Judge's conduct that occurred during an in-chambers hearing with Judge Thornton are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR II(c)(1)(D), and this part of the Complaint is due to be dismissed under 28 U.S.C.

§ 352(b)(1)(A)(iii) and Rule II(c)(1)(D). And the statement the Subject Judge made elsewhere about calling the marshals does not amount to misconduct. See JCDR II(c)(1)

B .

### Actions and Comments in Open Court and "Advocating" at Mediation Sessions

In recounting the alleged misconduct that occurred during the state court litigation between Kelly Hyman and her father, the Complaint also points to the Subject Judge's actions and comments in open court, where Judge Thornton was presiding, and asserts that the Subject Judge was "advocat[ing]" for his wife at mediation sessions. Daoud alleges that the Subject Judge "made sure" that everyone in the courtroom and the court reporter knew who he was. He also asserts that the Subject Judge "insisted on attending" five mediation sessions "where he was clearly not a party or witness in the case, and was acting as an advocate for his wife." The gist of the allegations regarding the Subject Judge's conduct in the courtroom and at mediation sessions is that he acted as an advocate for his wife and attempted to use his position as a judge to influence the proceedings.

Canon 4A(5) of the Code of Conduct for United States Judges states, "A judge should not practice law and should not serve as a family member's lawyer in any forum. A judge may, however, act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family." Guide, Vol. 2A, Ch. 2, Canon 4A(5). The commentary to Canon 4A(5) provides, "A judge may act pro se in all legal matters, including matters involving litigation and matters involving appearances before or other dealings with governmental bodies. In so doing, a judge must not abuse

1 The lawyers who were interviewed in this limited inquiry recall certain occasions during the litigation between Daoud and his daughter when tempers flared and voices were raised in this heated family dispute. There were incidents in which Daoud taunted the Subject Judge and called him derogatory names, and there were angry words on the Subject Judge's part, although no witness who was interviewed recalls the Subject Judge physically threatening Daoud (whom one witness describes as more physically imposing than the Subject Judge). There can be no reasonable dispute that the Subject Judge's actions did not



1. Open Court

The Complaint asserts that at a June 25, 2013 hearing, the Subject Judge "interrupted" the hearing and Daoud's attorney Brito "felt compelled" to state that he had a problem with the Subject Judge addressing the court. The hearing included a discussion about rescheduling the Subject Judge's deposition which had been cancelled the business day before it was to have occurred, inconveniencing the Subject Judge. Attached to the Complaint is an excerpt from that hearing, which shows the following exchange:

MR. HYMAN: And Your Honor, I have another issue.

MR. BRITO: And Your Honor, I have a real problem with Judge Hyman addressing this Court.

MR. HYMAN: I'm talking about my own issues.

MR. BRITO: May I finish? I have a problem with this, Judge. This is now becoming a pattern, that Judge Hyman comes to a hearing and has something to say. He is not a party to this case. He is not an attorney in this case. He is not relevant to these proceedings.

To have him come in and inject his thoughts and his disagreements with how things are progressing, I really have an issue. The first couple of times, you know, I kept my mouth shut, but now it's every hearing.

After that, the transcript shows that Kelly Hyman's attorney, Bernardo Burstein, stated: "Then, Your Honor, I'll raise the issue." Burstein went on to discuss the issue of Brito's request for additional discovery, and then Brito discussed issues related to scheduling the Subject Judge's deposition. There was a lengthy discussion on that topic, Brito stated that "[t]his is mudslinging," and the Subject Judge responded that Brito's cancellation of his deposition the business day before it was to occur was "nothing but harassment." He went on to say: "[T]he reason I stood up, if there is a discovery extension, don't include me. I've given [Brito] two dates. They've chosen not to take my deposition." To which Judge Thornton replied: "He just said that's not going to happen. He just said it on the record."



That is all there was to the matter, and there can be no reasonable dispute that the Subject Judge's comments to the court about the rescheduling of his deposition were not an attempt to act as an advocate for his wife or to use his position as a judge to influence the proceedings. Instead, the transcript plainly shows that the Subject Judge was concerned about, and spoke to the court about, one issue - the rescheduling of his own deposition. The Complaint's assertions about the Subject Judge's conduct during the June 25, 2013 hearing are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR II(c)(1)(D), and this part of the Complaint is due to be dismissed under 28 U.S.c. § 352(b)(1)(A)(iii) and Rule

The Complaint also refers to statements the Subject Judge made at other hearings, contending that they show that the Subject Judge went "far beyond being a supportive husband." Attached to the Complaint is an excerpt of the transcript of a December 5, 2013 state court hearing. The transcript shows that "Mr. Hyman" asked Judge Thornton these two questions in open court on the subject of tax returns: (1) "We are talking about the 2012 tax returns, and they will be returned when you are done?" and (2) "We can redact the page, but what are you going to do with the redacted page[?]" Judge Thornton replied that he had to look and see what the issue was, and if he found that there was no issue, "(w)e will discuss it then." After that, the hearing was concluded. The Subject Judge's two questions in no way indicate that he was trying to use his position as a judge to influence the presiding judge or the proceedings. Instead, the transcript plainly shows that there was a matter involved in the proceedings that may have concerned the Subject Judge personally (tax returns, presumably involving sensitive financial information), and he simply asked two legitimate questions about that.

Another, undated transcript excerpt attached to the Complaint shows that the Subject Judge asked: "Your Honor, what about the rents he's collecting Wednesday?" The transcript shows that Judge Thornton simply ignored that question and instead spoke directly to the attorneys, Brito and Burstein, about matters pertaining to a hearing on a motion. The transcript establishes beyond any reasonable dispute that Judge Thornton was in control and running his courtroom regardless of what questions or comments were interjected by anyone else in the courtroom. Shortly after that point in the transcript, Judge Thornton asked: "Okay. So how much? What do we need to set aside as far as time is concerned." The Subject Judge responded, "The other issue can take time, Your





Honor, to work that out." That comment, like the earlier question, was simply ignored by the court. Brito asked for an hour-and-a-half and Burstein asked for two hours. At that point the Subject Judge said, presumably to Burstein, "Bernardo, don't limit yourself." Not responding to that comment either, Judge Thornton set the time for the next hearing and the hearing that was being conducted was concluded. While the Subject Judge's questions and comments during this hearing might have been unnecessary, they do not, as the Complaint alleges, reflect any attempt on the Subject Judge's part to use his position as a judge to influence the proceedings. The most that can be said is that the Subject Judge directed some unsolicited comments to his wife's lawyer. That does not constitute judicial misconduct.

As for the allegation that the Subject Judge made sure everyone in the courtroom and the court reporter knew who he was, that information would have eventually come to light in the course of the proceedings anyway. Daoud's attorney Brito called the Subject Judge as a witness at a hearing on his motion to disqualify Kelly Hyman's attorney Burstein and referred to him as "Judge Hyman." Because the Subject Judge was a testifying witness, everyone in the courtroom would have known who he was.

#### 11. Mediation Sessions

About the Subject Judge's attendance at the mediation sessions, none of the interviewed witnesses who were present at the mediation sessions indicated that the Subject Judge did anything more than appear as a supportive spouse. A judge's status as a judge does not prohibit him from attending mediation sessions with his wife when she is a party to a lawsuit. It would have been inefficient for the Subject Judge not to have been present at the mediation sessions because his wife almost certainly would have wanted to discuss with him any settlement offers and other matters that came up during those sessions. Everyone of the four mediators recalls Judge Hyman being present at the mediation sessions, and not one of them recalls his engaging in any improper conduct or attempting to use his position as a judge to influence the proceedings.

#### iii. Conclusion

The Complaint's assertions about the Subject Judge's actions and comments in open court and at mediation sessions involving his wife's lawsuit are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR 1 1 (c)(I)(D), and this part of the Complaint is due to be dismissed under 28 U.S.C. § 352(b)(I)(A)(iii), and Rule II(c)(I)(D).



A .

### The Incident with a Tenant

Daoud alleges that the Subject Judge and his wife came to the house (the ownership of which was at issue in the ongoing lawsuit between Daoud and his daughter) "to post an illegal eviction notice" on his door. The house had been divided into apartments. The Complaint asserts:

While his wife was at the door with the tenant (Ms. Kuzema), [the Subject Judge] was standing in [the] background yelling instructions to [his wife] to demand a copy of the lease and all future rental payments. Ms. Kuzema knew he was a Federal Judge and felt the intimidation to the degree that she felt compelled to make a formal complaint to the Miami Beach Police Department and signed a sworn affidavit.

The Complaint characterizes this as "illegally posting eviction notices; appearing and attempting to bully and intimidate witnesses in a menacing manner, to the point the police had to be called for trespass and harassment."

In the course of the limited inquiry into these allegations, the tenant whom the Complaint refers to as Ms. Kuzema was interviewed, and the documents mentioned in the Complaint were requested. She fully cooperated in the interview and submitted the police report, the sworn affidavit, and copies of certain email correspondence that she had with Kelly Hyman.<sup>2</sup>

<sup>2</sup> The email exchanges were about the payment of rent on Kuzema's apartment and whether Kelly Hyman or her father was entitled to receive those payments. The only mention of the Subject Judge in those emails is in an April 2, 2013 email from Kuzema where she writes:

"You should also be aware that after you and your husband Paul Hyman tried to illegally enter the property, I called Miami Beach Police and filed an incident report. If you or your husband Paul Hyman, attempt to come on to the property again without proof of ownership or continue to harass me with threats of eviction and further trespass, I will contact the police." The police "incident report" does not even suggest that the Subject Judge "tried to illegally enter" Ms. Kuzema's apartment. Indeed, the report does not even mention the Subject Judge, and it is undisputed that the Subject Judge was some distance away in the background when Kelly Hyman





The police report referred to in the Complaint is a "Case Report" from the Miami Beach Police. It describes the "Incident Type" simply as "Incident" and lists the time and date of it as "03/16/2013 19:00." In that report the "Complainant - Reporting Person" is listed as Valeriya Kuzema. The "Narrative" at the end of the report states that at the "above date and time" a police officer came to the residence and spoke with Kuzema. He also spoke to Daoud, who told him that he and Kelly Hyman were "currently in a property dispute over ownership of the home." The report states that Kuzema was concerned that Kelly Hyman "wanted to enter her apartment without permission" and was "attempting to enter her apartment or trying the door knob." The report states that there was "no evidence of forced entry." The report does not mention

The affidavit from Kuzema (which was never submitted to the police) that is mentioned in Daoud's Complaint is dated March 18, 2013, and states that on March 16, 2013, Kelly Hyman appeared at Kuzema's door unannounced and tried to open her front door, turning the knob and pushing the door. Kuzema answered the door, and Kelly Hyman gave her a piece of paper, told her she owned the home, and instructed her to pay all future rent payments to her. The affidavit states: "There was a man standing several feet from my door whom I recognized as Kelly's husband Paul Hyman from the Facebook photographs." Kelly Hyman asked for the details of the rental agreement, and "[h]er husband then told Kelly to ask me about the lease." Kuzema attested that she filed a police report because she "felt that Kelly Hyman and her husband Paul Hyman's actions were an intrusion of [her] privacy and an unauthorized trespassing."

The police report does not mention the Subject Judge but merely describes an "incident" in which his wife was involved. It is undisputed that during the incident the Subject Judge did not approach Kuzema but instead stood, as the Complaint says, "in the background." Nor did the Subject Judge ever speak directly to Kuzema. While the Complaint alleges that the Subject Judge "yell[ed] instructions" to his wife, Kuzema's sworn affidavit states that he "told Kelly to ask me about the lease." The affidavit does not mention yelling.<sup>3</sup>

The Subject Judge's conduct during this incident does not present any reasonably disputed issue. It is obvious that he was present to support and advise his

<sup>3</sup> Kuzema's current recollection is that the Subject Judge "bark(ed) orders" to his wife, but her sworn statements in the affidavit two days after the incident occurred used the word "told" and did not mention yelling or shouting. Even in light of the current recollection that "orders" were "barked," there can be no reasonable dispute that the Subject Judge was acting in his capacity as a husband, not as a judge, and was standing in the background



CONFIDENTIAL

BEFORE THE CHIEF JUDGE

Amy c. Nerenberg  
Acting Clerk Of Court

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Judicial Complaint No. 11-15-90100

IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_

IN RE: The Complaint of \_\_\_\_\_ against \_\_\_\_\_, U.S. Bankruptcy Judge  
for the U.S. Bankruptcy Court for the \_\_\_\_\_ District of \_\_\_\_\_" under the

ORDER

\_\_\_\_ ("Complainant") has filed this Complaint against United States  
Bankruptcy Judge \_\_\_\_\_ (the "Subject Judge"), pursuant to Chapter 16 of Title 28

In his Complaint of Judicial Misconduct or Disability against his \_\_\_\_\_, Judge  
\_\_\_\_\_ checked the box indicating that his Complaint "concern[ed] a  
particular lawsuit," and he listed a state court lawsuit in which he was a party. \_\_\_\_\_  
submitted transcripts along with his Complaint, which show that the lawsuit referred to in  
the Complaint was filed by \_\_\_\_\_, who is the Subject Judge's  
\_\_\_\_. The transcripts list \_\_\_\_\_ as a defendant in the lawsuit and show that  
proceedings were conducted in \_\_\_\_\_ state court with Judge \_\_\_\_\_ presiding.

Limited Inquiry under JCDR II(b)



The commentary on Rule 11 (b) explains what constitutes a "reasonably disputed issue":

[A] matter is not "reasonably" in dispute if a limited inquiry shows that the allegations do not constitute misconduct or disability, that they lack any reliable factual foundation, or that they are conclusively refuted by objective evidence.

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However, dismissal following a limited inquiry may occur when a complaint refers to transcripts or to witnesses and the chief judge determines that the transcripts and witnesses all support the subject judge. Breyer Committee Report, 239 F.R.D. at 243. For example, consider a complaint alleging that the subject judge said X, and the complaint mentions, or it is independently clear, that five people may have heard what the judge said. Id. The chief judge is told by the subject judge and one witness that the judge did not say X, and the chief judge dismisses the complaint without questioning the other four possible witnesses. Id. In this example, the matter remains reasonably in dispute. If all five witnesses say the subject judge did not say X, dismissal is appropriate, but if potential witnesses who are reasonably accessible have not been questioned, then the matter remains reasonably in dispute. Id.



In \_\_\_\_\_ Complaint of Judicial Misconduct or Disability, he alleges what he describes as "three main areas of misconduct by [his] \_\_\_\_\_," the Subject Judge.

1

Family Disagreement Arising from a School Recommendation

The first area of misconduct that \_\_\_\_\_ alleges against the Subject Judge stem: from a favor that \_\_\_\_\_ and his \_\_\_\_\_ ( \_\_\_\_\_ ) \_\_\_\_\_ • who is

\_\_\_\_\_ attached to his Complaint a printed copy of an email from the Subject Judge to \_\_\_\_\_. In the email the Subject Judge recounts that \_\_\_\_\_ and his \_\_\_\_\_ had asked him if he knew anyone "who had any pull at \_\_\_\_\_." It also says that \_\_\_\_\_ had told the Subject Judge that he was going to be meeting with someone in the administration at the school on a given day. The email mentions a conversation that the Subject Judge had with his "old friend" who was "on the Board of the \_\_\_\_\_ school" and who had told the Subject Judge that he would call the

That email to \_\_\_\_\_ states that the Subject Judge had texted \_\_\_\_\_ "telling him I did not appreciate the misrepresentation about the meeting [with school administration] because it had embarrassed" him. The email also states that since then,

If your \_\_\_\_\_ has a beef, it is with me, not \_\_\_\_\_. Yet he hasn't been man enough to call me about it. I have not told my friend about the way your \_\_\_\_\_ has acted toward \_\_\_\_\_ and



Kuzema found the incident unsettling, but the record shows beyond any reasonable dispute that the Subject Judge did not engage in misconduct. The assertions in the Complaint related to the Subject Judge's conduct during the incident with Kuzema and the posting of an eviction notice on Daoud's door are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR 11(c)(1)(D), and this part of the Complaint is due to be dismissed under 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D).

B.

The Incident with an Unnamed "Bank Official" and Kelly Hyman's Withdrawal of Money from an Unidentified Bank Account

The Complaint alleges that the Subject Judge accompanied his wife to a bank where she made an "unauthorized withdrawal ... moments after leaving Judge Thornton's courtroom, knowing full well doing so was a defacto violation of lawsuit decorum," and the Subject Judge "us[ed] his status to intimidate a bank official to do something that should not have been done." According to the Complaint, the Subject Judge "was doing much more than merely supporting his wife. He was an active participant in this improper activity."

The conclusory assertions in the Complaint about a "defacto violation of lawsuit decorum" and the vague reference to events at a bank with an unnamed bank official are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR 11(c)(1)(D), and this part of the Complaint is due to be dismissed under 28 U.S.c. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D).

IV.

The Complaint is **DISMISSED** because a limited inquiry has "demonstrate[d] that the allegations in the complaint lack any factual foundation or are conclusively refuted b) objective evidence." 28 *V.S.c.* § 352(b)(1)(c)

Chief Judge



\_\_\_\_\_ summarizes these events as follows: The Subject Judge "provided an initial positive recommendation, and then threatened to pull that support, to my \_\_\_\_\_detriment, if I did not abide by his threat concerning my communications with \_\_\_\_\_(my \_\_\_\_\_, [the Subject Judge's] \_\_\_\_\_)." According to \_\_\_\_\_, those actions "drove [ \_\_\_\_\_, \_\_\_\_\_ into a deep depressed state of mind and strained his mental status during the most important decision of his life," and his \_\_\_\_\_ "was terrified as to exactly what [the

Rule 3(h)(I)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct includes "using the judge's office to obtain special treatment for friends or relatives." In the Guide to Judiciary Policy's published ethics opinions, Advisory Opinion No. 73, "Providing Letters of Recommendation and Similar Endorsements," states that when responding to any type of request for a recommendation or endorsement a "judge should carefully consider whether the recommendation or endorsement might reasonably be perceived as exerting pressure by reason of the judicial office, and should avoid any action that could be so understood." Guide to Judiciary Policy, Vol. 2B, Ch. 2 Advisory Opinion No. 73 at 2. The opinion also states:

It must be recognized, however, that judges are members of society, and of the community at large, and that not every action of a judge is intended, or could reasonably be perceived, as an assertion of the prestige of judicial office. When a judge is personally aware of facts or circumstances that would facilitate an accurate assessment of the individual under consideration, a judge may properly communicate that knowledge, and his or her opinions based thereon, to those responsible for making decisions concerning the applicant.

Id. at I. The allegations in the Complaint about the recommendation or non-recommendation of \_\_\_\_\_ for \_\_\_\_\_ school admission, even if true, do not





making a recommendation and then in withdrawing it, but the only evidence presented is the email that refers to the Subject Judge communicating with his "old friend" who was "on the Board of the \_\_\_\_\_ school." There is no evidence that the alleged actions of the Subject Judge were "intended, or could reasonably be perceived, as an assertion of the prestige of judicial office" instead of a request from an old friend. The Subject Judge did not use his position as a judge either to promote or to impede his \_\_\_\_\_ application to \_\_\_\_\_ school. And the Subject Judge's threat to "tell my friend to pull his support," such as it

For these reasons, the assertions in the Complaint about the efforts of \_\_\_\_\_ and his \_\_\_\_\_ to get the \_\_\_\_\_ into \_\_\_\_\_ school and the Subject Judge's involvement in those efforts are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR 11(c)(1)(D), and this part of the Complaint is

## II.

The Lawsuit between \_\_\_\_\_ and his

The second of the three alleged "areas of misconduct" that \_\_\_\_\_ asserts in his Complaint involves what he describes as "a number of actions" in a "lawsuit concerning [the Subject Judge's] \_\_\_\_\_ and her \_\_\_\_\_" as to which of them owned a house that had been divided into apartments, which was a valuable piece of property. \_\_\_\_\_ general allegations are that the Subject Judge "consistently forced himself into the proceedings, interrupting the legal actions, used bullying tactics if he did not like what was going on in court, gave legal instructions to his \_\_\_\_\_ attorney thereby acting as

## A .

Conduct During an In-Chambers Hearing and a Comment about Calling the Marshals

\_\_\_\_\_ claims that the Subject Judge attempted to "humiliate and eviscerate [ \_\_\_\_\_ ] credibility in front of Judge \_\_\_\_\_ " during an in-chambers hearing





After a hearing in the private chambers of Judge \_\_\_\_\_, in the presence of Judge \_\_\_\_\_, his bailiff and my attorney, [the Subject Judge] began shouting at my attorney \_\_\_\_\_, pointing his finger in his face while making menacing gestures. I immediately moved between them and told [the Subject Judge] to stop threatening my attorney, he then pointed his finger at me and shouted "I should call the Marshalls [sic] and have you arrested." His angry words and threatening gestures in front of my attorney, Judge \_\_\_\_\_, his bailiff, was intended to totally humiliate and

In conducting the limited inquiry into these allegations, I interviewed every person \_\_\_\_\_ alleges was present at this in-chambers hearing: Judge \_\_\_\_\_, his bailiff (Officer \_\_\_\_\_), \_\_\_\_\_ attorney ( \_\_\_\_\_), and the Subject Judge. I also interviewed \_\_\_\_\_ attorney ( \_\_\_\_\_), because the conduct allegedly occurred during an in-chambers hearing, making it likely that \_\_\_\_\_ would have been present

Rule II(b) provides that in a limited inquiry, such as this one, the Chief Judge "must not determine any reasonably disputed issue" (emphasis added), but the commentary explains that allegations that "lack any reliable factual foundation" are not reasonably disputed. JCDR II cmt. While the Subject Judge's denial of a fact that the complainant says he witnessed ordinarily is not enough to remove a reasonable dispute about the matter, the commentary provides a telling example of what is enough. It states that if the complaint mentions or it is clear that if what the complainant says happened would have been witnessed by five other people, and all five of them say it did not happen, there is no reasonable dispute and the complaint may be dismissed. JCDR II

cmt. That is what happened here. Five witnesses other than \_\_\_\_\_ would have witnessed what he says happened in Judge \_\_\_\_\_ chambers, if it did happen, and it is

There is another reason that it is not reasonably disputed that the matter that \_\_\_\_\_ says happened in front of Judge \_\_\_\_\_ did not. In discussing whether a matter should be considered to be reasonably in dispute, the commentary to Rule II(b) indicates that "significant evidence" of "the complainant's unreliability" can and should



Federal court records show that in a 1991 indictment, \_\_\_\_\_ was charged with 41 counts of bribery, money laundering, filing false tax returns and other crimes. He was convicted of one count of bribery in violation of 18 U.S.C. § 666(a)(1)(B) and was sentenced to 41 months imprisonment. He later pleaded guilty to another count of bribery in violation of 18 U.S.C. § 666(a)(1)(B), money laundering in violation of 18 U.S.C. § 1956(a)(1)(B)(i), and false statements in violation of 18 U.S.C. § 7206. For those crimes, he was sentenced to 63 months imprisonment for the bribery and money laundering convictions and 36 months for the false statements crime which were to run concurrently, and that total 63-month sentence was to run concurrently with his 41-month sentence on the earlier conviction. A separate information charged him with obstructing justice in his criminal case by "causing a grand juror to make unauthorized disclosures of matters" before the grand jury and "causing the alteration and falsification of documents subpoenaed" by the grand jury. He pleaded guilty to that charge and was sentenced to 60 months imprisonment to run concurrently with his other sentences. Approximately seven months after that judgment issued, the government filed a motion to reduce \_\_\_\_\_ sentence based on his assistance to the government, and the court later granted that motion, reducing his sentence to time served and leaving unchanged all of the other

For all of these reasons, there is no reasonable dispute that this incident, which the Complaint alleges occurred in Judge \_\_\_\_\_ chambers or in his presence, did not occur in his chambers or in his presence. As a result, even if the other factual assertions about this incident are presumed true, the alleged exchange between the Subject Judge and

That said, the limited inquiry has revealed that the Subject Judge did make a comment to \_\_\_\_\_ about calling the marshals. The Subject Judge and \_\_\_\_\_ both recall the comment, but they both recall that it was made during one of the mediation sessions that the Subject Judge attended with his \_\_\_\_\_. The limited inquiry has also revealed that none of the mediators heard the comment. There were four mediators who conducted five mediation sessions. (One mediator conducted two sessions.) Interviews with everyone of the mediators establish that not one of the four of them recalls hearing any comment about calling the marshals, and they say that they would have recalled such a



In summary, the Complaint's claims about any of the Subject Judge's conduct that occurred during an in-chambers hearing with Judge \_\_\_\_\_ are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR I I (c)(1)(D), and this part of the Complaint is due to be dismissed under 28 U.S.C.

§ 352(b)(1)(A)(iii) and Rule I 1 (c)(1)(D). And the statement the Subject Judge made

B .

#### Actions and Comments in Open Court and "Advocating" at Mediation Sessions

In recounting the alleged misconduct that occurred during the state court litigation between \_\_\_\_\_ and her \_\_\_\_\_, the Complaint also points to the Subject Judge's actions and comments in open court, where Judge \_\_\_\_\_ was presiding, and asserts that the Subject Judge was "advocat[ing]" for his \_\_\_\_\_ at mediation sessions.

\_\_\_\_\_ alleges that the Subject Judge "made sure" that everyone in the courtroom and the court reporter knew who he was. He also asserts that the Subject Judge "insisted on attending" five mediation sessions "where he was clearly not a party or witness in the

case, and was acting as an advocate for his \_\_\_\_\_." The gist of the allegations

Canon 4A( 5) of the Code of Conduct for United States Judges states, "A judge should not practice law and should not serve as a family member's lawyer in any forum. A judge may, however, act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family." Guide, Vol. 2A, Ch. 2, Canon 4A(5). The commentary to Canon 4A(5) provides, "A judge may act pro se in all legal matters,

! The lawyers who were interviewed in this limited inquiry recall certain occasions during the litigation between \_\_\_\_\_ and his \_\_\_\_\_ when tempers flared and voices were raised in this heated family dispute. There were incidents in which \_\_\_\_\_ taunted the Subjeci

Judge and called him derogatory names, and there were angry words on the Subject Judge's part, although no witness who waS interviewed recalls the Subject Judge physically





1. Open Court

The Complaint asserts that at a June 25, 2013 hearing, the Subject Judge "interrupted" the hearing and \_\_\_\_\_ attorney \_\_\_\_\_ "felt compelled" to state that he had a problem with the Subject Judge addressing the court. The hearing included a discussion about rescheduling the Subject Judge's deposition which had been cancelled the business day before it was to have occurred, inconveniencing the Subject Judge. Attached

MR. \_\_\_\_\_ And Your Honor, I have another issue.

MR. \_\_\_\_\_ And Your Honor, I have a real problem with Judge

MR. \_\_\_\_\_ I'm talking about my own issues.

MR. \_\_\_\_\_ May I finish? I have a problem with this, Judge. This is now becoming a pattern, that Judge

comes to a hearing and has something to say. He is not a party to this case. He is neit an attorney in this case. He is

To have him come in and inject his thoughts and his disagreements with how things are progressing, I really have an issue. The first couple of times, you know, I kept my mouth shut, but now it's every hearing.

After that, the transcript shows that \_\_\_\_\_ attorney, \_\_\_\_\_, stated: "Then Your Honor, I'll raise the issue." \_\_\_\_\_ went on to discuss the issue of \_\_\_\_\_

request for additional discovery, and then \_\_\_\_\_ discussed issues related to

scheduling the Subject Judge's deposition. There was a lengthy discussion on that topic \_\_\_\_\_ stated that "[t]his is mudslinging," and the Subject Judge responded that \_\_\_\_\_ cancellation of his deposition the business day before it was to occur was "nothing but harassment." He went on to say: "[T]he reason I stood up, if there is a

That is all there was to the matter, and there can be no reasonable dispute that the Subject Judge's comments to the court about the rescheduling of his deposition were not an attempt to act as an advocate for his \_\_\_\_\_ or to use his position as a judge to influence the proceedings. Instead, the transcript plainly shows that the Subject Judge was concerned about, and spoke to the court about, one issue - the rescheduling of his own deposition. The Complaint's assertions about the Subject Judge's conduct during the June 25, 2013 hearing are "based on allegations lacking sufficient evidence to raise all inference that misconduct has occurred," JCDR 11(c)(I)(D), and this part of the Complaint is due to be

The Complaint also refers to statements the Subject Judge made at other hearings, contending that they show that the Subject Judge went "far beyond being a supportive \_\_\_\_." Attached to the Complaint is an excerpt of the transcript of a December 5, 2013 state court hearing. The transcript shows that "Mr. \_\_\_\_\_" asked Judge \_\_\_\_\_ these two questions in open court on the subject of tax returns: (1) "We are talking about the 2012 tax returns, and they will be returned when you are done?" and (2) "We can redact the page, but what are you going to do with the redacted page[?]" Judge \_\_\_\_\_ replied that he had to look and see what the issue was, and if he found that there was no issue, "[w]e will discuss it then." After that, the hearing was concluded. The Subject Judge's two questions in no way indicate that he was trying to use his position as a judge to influence the presiding judge or the proceedings. Instead, the transcript plainly shows that there was a matter involved in the proceedings that may have concerned the Subject Judge personally (tax

Another, undated transcript excerpt attached to the Complaint shows that the Subject Judge asked: "Your Honor, what about the rents he's collecting Wednesday?" The transcript shows that Judge \_\_\_\_\_ simply ignored that question and instead spoke directly to the attorneys, \_\_\_\_\_ and \_\_\_\_\_, about matters pertaining to a hearing on a motion. The transcript establishes beyond any reasonable dispute that Judge \_\_\_\_\_ was in control and running his courtroom regardless of what questions or comments were



aside as far as time is concerned." The Subject Judge responded, "The other issue can take time, Your Honor, to work that out." That comment, like the earlier question, was simply ignored by the court. \_\_\_\_\_ asked for an hour-and-a-half and \_\_\_\_\_ asked for two hours. At that point the Subject Judge said, presumably to \_\_\_\_\_, " \_\_\_\_\_ don't limit yourself." Not responding to that comment either, Judge \_\_\_\_\_ set the time for the next hearing and the hearing that was being conducted was concluded. While the Subject Judge's questions and comments during this hearing might have been

As for the allegation that the Subject Judge made sure everyone in the courtroom and the court reporter knew who he was, that information would have eventually come to light in the course of the proceedings anyway. \_\_\_\_\_ attorney \_\_\_\_\_ called the Subject Judge as a witness at a hearing on his motion to disqualify \_\_\_\_\_ attorney

#### 11. Mediation Sessions

About the Subject Judge's attendance at the mediation sessions, none of the interviewed witnesses who were present at the mediation sessions indicated that the Subject Judge did anything more than appear as a supportive \_\_\_\_\_. A judge's status as a judge does not prohibit him from attending mediation sessions with his \_\_\_\_\_ when she is a party to a lawsuit. It would have been inefficient for the Subject Judge not to have been present at the mediation sessions because his \_\_\_\_\_ almost certainly would have wanted to discuss with him any settlement offers and other matters that came

#### 11. Conclusion

The Complaint's assertions about the Subject Judge's actions and comments in open court and at mediation sessions involving his \_\_\_\_\_ lawsuit are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred,"





Other Events Related to the Lawsuit between \_\_\_\_\_ and his

\_\_\_\_\_ describes the "third area[]" of misconduct" as "a combination of actions by [the Subject Judge] that show a gross disrespect for the judicial office," including "accompanying and interceding with bank officials; illegally posting eviction notices; appearing and attempting to bully and intimidate witnesses in a menacing manner, to the point the police had to be called for trespass and harassment."

A .

The Incident with a Tenant

\_\_\_\_\_ alleges that the Subject Judge and his \_\_\_\_\_ came to the house (the ownership of which was at issue in the ongoing lawsuit between \_\_\_\_\_ and his

While his \_\_\_\_\_ was at the door with the tenant (Ms. \_\_\_\_\_), [the Subject Judge] was standing in [the] background yelling instructions to [his \_\_\_\_\_] to demand a copy of the lease and all future rental payments.

Ms. \_\_\_\_\_ knew he was a Federal Judge and felt the intimidation to the

The Complaint characterizes this as "illegally posting eviction notices; appearing and attempting to bully and intimidate witnesses in a menacing manner, to the point the police had to be called for trespass and harassment."

In the course of the limited inquiry into these allegations, the tenant whom the Complaint refers to as Ms. \_\_\_\_\_ was interviewed, and the documents mentioned in the Complaint were requested. She fully cooperated in the interview and

<sup>2</sup> The email exchanges were about the payment of rent on \_\_\_\_\_ apartment and whether \_\_\_\_\_ or her \_\_\_\_\_ was entitled to receive those payments. The only mention  
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the Subject Judge in those emails is in an April 2, 2013 email from \_\_\_\_\_ where she writes:  
"You should also be aware that after you and your \_\_\_\_\_ tried to illegally enter





The police report referred to in the Complaint is a "Case Report" from the \_\_\_\_\_ Police. It describes the "Incident Type" simply as "Incident" and lists the time and date of it as "03/16/2013 19:00." In that report the "Complainant -

Reporting Person" is listed as \_\_\_\_\_. The "Narrative" at the end of the report states that at the "above date and time" a police officer came to the residence and spoke with \_\_\_\_\_. He also spoke to \_\_\_\_\_, who told him that he and \_\_\_\_\_ were "currently in a property dispute over ownership of the home." The

The affidavit from \_\_\_\_\_ (which was never submitted to the police) that is mentioned in \_\_\_\_\_ Complaint is dated March 18, 2013, and states that on March 16, 2013, \_\_\_\_\_ appeared at \_\_\_\_\_ door unannounced and tried to open her front door, turning the knob and pushing the door. \_\_\_\_\_ answered the door, and \_\_\_\_\_ gave her a piece of paper, told her she owned the home, and instructed her to pay all future rent payments to her. The affidavit states: "There was a man standing several feet from my door whom I recognized as

The police report does not mention the Subject Judge but merely describes an "incident" in which his \_\_\_\_\_ was involved. It is undisputed that during the incident the Subject Judge did not approach \_\_\_\_\_ but instead stood, as the Complaint says, "in the background." Nor did the Subject Judge ever speak directly to \_\_\_\_\_. While the Complaint alleges that the Subject Judge

\_\_\_\_\_ apartment. Indeed, the report does not even mention the Subject Judge, and it is undisputed that the Subject Judge was some distance away in the background when \_\_\_\_\_ was at \_\_\_\_\_ apartment door.

3 \_\_\_\_\_ current recollection is that the Subject Judge "bark[ed] orders" to his



\_\_\_\_\_ found the incident unsettling, but the record shows beyond any reasonable dispute that the Subject Judge did not engage in misconduct. The assertions in the Complaint related to the Subject Judge's conduct during the incident with \_\_\_\_\_ and the posting of an eviction notice on \_\_\_\_\_ door are "based on allegations lacking sufficient evidence to raise an inference that

B .

The Incident with an Unnamed "Bank Official" and Withdrawal of Money from an Unidentified Bank Account

The Complaint alleges that the Subject Judge accompanied his \_\_\_\_\_ to a bank where she made an "unauthorized withdrawal ... moments after leaving Judge \_\_\_\_\_ courtroom, knowing full well doing so was a defacto violation of lawsuit decorum," and the Subject Judge "us[ed] his status to intimidate a bank official to do something that should not have been done." According to the Complaint, the Subject Judge "was doing

The conclusory assertions in the Complaint about a "defacto violation of lawsuit decorum" and the vague reference to events at a bank with an unnamed bank official are "based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred," JCDR 11(c)(1)(D), and this part of the Complaint is due to be dismissed under 28 U.S.C. § 352(b)(1)(A)(iii) and Rule 11(c)(1)(D).

IV.

The Complaint is **DISMISSED** because a limited inquiry has "demonstrate[d] that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence." 28 U.S.C. § 352(b)(1)(B).

\_\_\_\_\_ was at \_\_\_\_\_ apartment door. Nothing in the alleged facts indicates that the



Chief Judge