

FILED

June 9, 2026

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-26-90043

IN RE COMPLAINT OF JUDICIAL MISCONDUCT UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

AMENDED ORDER

The order dated December 29, 2025, is WITHDRAWN, and the following order is SUBSTITUTED therefor:

Complainant, former in-house counsel for a company, has filed a complaint alleging misconduct by a United States Bankruptcy Judge involving two cases that both relate to a Chapter 11 bankruptcy proceeding filed by the company.

Complainant alleges that the judge made public comments about the merits of contested matters raised in the two pending cases in violation of Canons 3(A)(6) and 4 of the Code of Conduct for United States Judges and Rules 4(a)(1)¹ and 4(a)(7) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“JC&D Rules”).²

¹ Complainant cites JC&D Rule 4(a)(1) in his complaint. However, that rule’s examples of cognizable misconduct are not relevant to the allegations in this complaint.

² Canon 3(A)(6) provides that “[a] judge should not make public comment on the merits of a matter pending or impending in any court.” Canon 4, in relevant part, provides: “[A] judge should not participate in extrajudicial activities that detract from the dignity of the judge’s office, interfere with the performance of the judge’s official duties, reflect adversely on the judge’s impartiality, lead to frequent disqualification, or violate the limitations set forth below.” See Guide to Judiciary Policy, Vol. 2A, Ch. 2. JC&D Rule 4(a) provides that “[m]isconduct is conduct prejudicial to the effective and expeditious

Specifically, Complainant contends that the judge made comments to an online news organization addressing allegations that a character in her fictional novel was modeled after the former CEO of the company and a frequent participant in the legal proceedings related to the company bankruptcy. These comments were made while the two cases were pending—a motion to recuse and a petition for writ of mandamus filed in the two cases—that raised, in part, the issue of whether the judge should have recused from the bankruptcy due to the appearance of bias against the CEO created through her extrajudicial writings.

Pursuant to JC&D Rule 11(b), I invited the judge to respond to the complaint in writing. In her response, the judge stated that she had received many media requests asking her to comment about whether a character in her novel was based on the CEO and she responded to one e-mail from her personal e-mail account. She submitted a copy of the e-mail with her response.

This e-mail reflects that the judge expressly declined to comment on any pending case, denied that the novel was about a pending case or litigant, and explained generally the plot of the novel. While the article states that the judge addressed the [then-pending] recusal motion, the judge's e-mail did not reference the recusal motion or any filing in any case.

The judge stated that, at the time she made the comments to the news organization, she did not perceive her comments as being related to the merits of a pending judicial matter. Rather she intended her comments to stop further media inquiries about her extrajudicial writings. Lastly, the judge expressed sincere sorrow that anyone would construe these comments as improper under the circumstances.

administration of the business of the courts.” JC&D Rule 4(a)(7) provides that “[c]ognizable misconduct includes conduct occurring outside the performance of official duties if the conduct is reasonably likely to have a prejudicial effect on the administration of the business of the courts, including a substantial and widespread lowering of public confidence in the courts among reasonable people.”

In a later correspondence with me regarding this complaint, the judge agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting those sources, to seek particularized guidance in the form of either informal guidance from the Fifth Circuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

Canon 3(A)(6) provides in pertinent part that “[a] judge should not make public comment on the merits of a matter pending or impending in any court.” The Commentary on Canon 3(A)(6) adds:

The admonition against public comment about the merits of a pending or impending matter continues until the appellate process is complete. If the public comment involves a case from the judge's own court, the judge should take particular care so that the comment does not denigrate public confidence in the judiciary's integrity and impartiality, which would violate Canon 2A. A judge may comment publicly on proceedings in which the judge is a litigant in a personal capacity, but not on mandamus proceedings when the judge is a litigant in an official capacity.

While the Code's Canons are instructive, 28 U.S.C. § 351 (“the Act”) and the JC&D Rules are the governing authority for determining what constitutes cognizable misconduct. *See* Commentary to JC&D Rule 4. Those authorities define misconduct as conduct “prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351. An inadvertent, minor violation of the Code's specific rules, promptly remedied when brought to the attention of the judge, might be a violation of the Code, but might not rise to the level of misconduct contemplated by the Act. *See* Commentary to JC&D Rule 4.

While there was overlapping subject matter between the judge's comments to the news organization and the issues pending in litigation, it is

debatable whether her comments constitute “comment[s] on the merits” of a pending matter. Regardless, any potential violation of Canon 3(A)(6) under these particular facts was unintended and minor and does not rise to the level of “conduct prejudicial to the effective and expeditious administration of the business of the courts.” The complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

In addition, the judge expressed remorse that her statements could be construed as commenting on pending cases when she had made efforts to indicate that she could not comment on pending cases, and she promised to consult with available ethics resources when ethical dilemmas such as this arise in the future. This action constitutes appropriate corrective action. *See* Rule 11(d) (defining appropriate corrective action as voluntary action that acknowledges and remedies the problems raised by the complaint).

This allegation can therefore alternatively be concluded under 28 U.S.C. § 352(b)(2) (a chief judge may “conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events”).

Complainant also alleges that while promoting the release of her latest novel, the judge’s book publisher used a marketing piece that constituted an improper public comment on a pending matter. The marketing piece included a disclaimer that referred to the judge as a public figure, stated that “an individual incorrectly asserted that one of her fictional characters was based on them,” and emphasized that the judge’s novels are fictional. Attached to the marketing piece was an article by a national newspaper company discussing the allegation by a company’s former CEO that a character from the judge’s prior fiction novels was modeled after him, an issue that the former CEO raised in a petition for writ of certiorari then pending before the Supreme Court.

As part of my inquiry into this allegation, the judge informed me: that she was not aware of the marketing piece until after it was referenced in a filing in the Supreme Court; that while she retains oversight and control over the marketing and advertising of her extrajudicial writings, her former public relations representative created and distributed the piece without her approval; that after learning about the piece, she directed her publishing company to discontinue using it; and that the piece is no longer being used to promote her novel.³

Under these circumstances, the marketing piece does not constitute judicial misconduct. The judge should have been consulted prior to its use but was not, and she directed that its use be discontinued once she learned about it. Complainant has presented no evidence to the contrary. This allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Finally, Complainant alleges that the judge, through her book publisher, made an improper and misleading comment on the merits of the former CEO’s petition for writ of certiorari after it was denied by the Supreme Court. In support, Complainant alleges that within hours of the Supreme Court’s denial, the judge’s book publisher provided a statement on the Supreme Court’s decision in response to an inquiry from a news reporter.

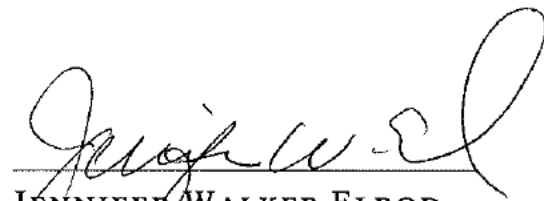
It is debatable whether this statement offends Canon 3(A)(6) because Canon 3(A)(6) extends only to “pending or impending matter[s]” and only “until the appellate process is complete.” Nonetheless, in communications with me regarding this allegation, the judge voluntarily acknowledged that inaccurate or misleading public comments made by her or her publisher, either directly on her behalf or indirectly as her agent, could create an

³ The marketing piece was distributed by the public relations representative as an attachment to emails sent to interested media outlets. Complainant and/or his associates or counsel appear to have since posted the piece on the internet.

appearance of impropriety and agreed to refrain from such comments going forward; agreed to refrain from mentioning or commenting on, either directly or indirectly through an agent, any aspect of the bankruptcy proceeding or any of its participants in promotional or public relations activity related to the sale or marketing of her books; reviewed relevant ethical guidance and agreed that future promotional or public relations activity related to her extrajudicial writings will be consistent with the Code of Conduct for United States Judges and other relevant ethical guidance; agreed to continue exercising control and oversight over the promotional and public relations activity related to her extrajudicial writings; and agreed to seek advance, particularized guidance for all future promotional or public relations activity related to her extrajudicial writings in the form of either informal guidance from the Fifth Circuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

I find that these actions constitute appropriate, voluntary corrective action that acknowledges and remedies the problems raised by the complaint. *See* Rule 11(d). This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2).

The complaint is CONCLUDED in part and DISMISSED in part, and this matter is hereby closed. An unredacted private order is entered simultaneously herewith.


JENNIFER WALKER ELROD
Chief Judge

FILED

August 17, 2026

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-26-90043

IN RE COMPLAINT OF [REDACTED] AGAINST
[REDACTED]

UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

An Appellate Review Panel of the Judicial Council for the Fifth Circuit has considered [REDACTED] petition for review of the order of Chief Judge Jennifer Walker Elrod, filed June 9, 2026, dismissing in part and concluding in part the above-captioned complaint against [REDACTED]
[REDACTED]

under the Judicial Improvements Act of 2002.

All members of the panel have voted to affirm the order. Accordingly, the petition for review is DENIED.

Catharina Haynes

Catharina Haynes
United States Circuit Judge
For the Judicial Council of the Fifth Circuit