

**FILED**

December 29, 2025

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-26-90041

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

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## ORDER

Complainant, the former chief executive officer of a corporate bankruptcy debtor, has filed a complaint alleging misconduct by a United States Bankruptcy Judge in the company's bankruptcy case ("the current bankruptcy proceeding").

Complainant contends that prior to presiding over the current bankruptcy, the judge presided over a corporate bankruptcy proceeding ("the prior bankruptcy proceeding") filed by a different company,<sup>1</sup> in which the current bankruptcy debtor participated. Complainant alleges that the judge formed negative impressions of and bias against him and his affiliates while presiding over the prior bankruptcy proceeding. As evidence of the alleged bias, Complainant references the judge's post-trial "Findings of Fact and Conclusions of Law" issued in the prior bankruptcy proceeding, which discredited certain testimony of Complainant and generally questioned the credibility of Complainant and two former in-house attorneys for the current bankruptcy debtor, all of whom testified on behalf of the other company. Complainant further alleges that the judge referred to a lawsuit that she

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<sup>1</sup> Complainant formed the other company, an SEC-registered investment advisor, along with two other individuals.

improperly attributed to him as “vexatious” during the prior bankruptcy proceeding.

According to Complainant, the bias formed by the judge during the prior bankruptcy, along with her reliance on information that she learned in prior bankruptcy proceeding, has resulted in consistent adverse rulings against him and his affiliates in the current bankruptcy proceeding. Complainant alleges that the judge made *sua sponte* rulings that “targeted” him; “ignored corporate formalities to punish” entities perceived to be affiliated with him; “single[d] out [Complainant] for negative treatment” during hearings and in rulings; intentionally disregarded rules and law to rule against him; and “manipulate[d]” the Rules of Procedure to his detriment. In support, Complainant’s complaint sets forth numerous examples of the judge’s adverse rulings and critical comments made during judicial proceedings in the current bankruptcy proceeding.

Many of Complainant’s allegations call into question the correctness of the judge’s decisions and rulings. To the extent the allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The remaining allegations do not constitute “sufficient evidence to raise an inference that misconduct has occurred.” *See* 28 U.S.C. § 352(b)(1)(A)(iii).<sup>2</sup>

As the Supreme Court has recognized, “opinions formed by the judge on the basis of facts introduced or events occurring in the course of the *current proceedings, or of prior proceedings*, do not constitute bias, unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible.”<sup>3</sup> *See Liteky v. United States*, 510 U.S. 540, 555 (1994)

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<sup>2</sup> While the allegations in Complainant’s complaint alone do not raise an inference of bias, other individuals have submitted separate complaints with additional allegations against the judge regarding alleged bias against Complainant and his affiliates. Those allegations are addressed in the orders disposing of their respective complaints.

<sup>3</sup> “[N]ot subject to deprecatory characterization as ‘bias’ or ‘prejudice’ are opinions held by judges as a result of what they learned in earlier proceedings.” *Liteky*, 510 U.S. at 551.

(emphasis added). Though “[a] judge who presides at a trial may, upon completion of the evidence, be exceedingly ill disposed towards [a party,] ... the judge is not thereby recusable for bias or prejudice, since his knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings, and are indeed sometimes ... necessary to completion of the judge’s task.” *Id.* at 550-51.

In addition, remarks “that are critical or disapproving of” individuals involved in a lawsuit, even when “hostile,” have been expressly found by the Supreme Court to be excluded from the characterization of “bias.” *See id.* at 555. This includes “expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display,” as well as “[a] judge’s ordinary efforts at courtroom administration—even a stern and short-tempered judge’s ordinary efforts at courtroom administration.” *Id.*<sup>4</sup>

The critical comments made by the judge during judicial proceedings and cited by Complainant, without more, fall squarely within the confines of *Liteky* and do not, on their face, display “deep-seated favoritism or antagonism that would make fair judgment impossible.” *See id.* at 555.

Regarding Complainant’s suggestion that the judge’s pattern of adverse rulings against him constitutes evidence of improper bias, Complainant fails to state a viable claim of misconduct because “[a]dverse decisions alone do not constitute evidence of bias.” *Id.*

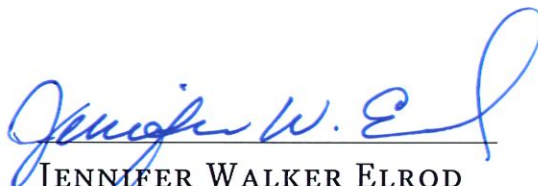
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<sup>4</sup> In a similar vein, the Committee on Codes of Conduct of the Judicial Conference of the United States, Advisory Opinion 66, June 2009, provides: “Strongly stated judicial views rooted in the record, a stern and short-tempered judge’s efforts at court administration, expressions of impatience, dissatisfaction, annoyance and even anger directed to an attorney or a party should not be confused with judicial bias.” Guide to Judiciary Policy, Vol. 2B, Ch. 2, at 95.

For these reasons, the complaint is 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.”

The complaint is DISMISSED. An unredacted private order is entered simultaneously herewith.

Pursuant to Rules 23(b)(1) and (8) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, IT IS ORDERED that a copy of this order be published on the court’s website forthwith.

  
JENNIFER WALKER ELROD  
*Chief Judge*