

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
UNITED STATES COURTHOUSE
40 FOLEY SQUARE - ROOM 1702
NEW YORK, N.Y. 10007

GEORGE LANGE III
CLERK

GENERAL INFORMATION
(212) 791-0103

January 12, 1994

Mr. George Sassower
16 Lake Street
White Plains, NY 10603

Re: Judicial Conduct Complaints
Docket Nos. 93-8538 and 93-8539

Dear Mr. Sassower:

Enclosed please find a copy of the order dismissing your judicial conduct complaint. Pursuant to Rule 5 of the Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers Under 28 U.S.C. § 372(c) you have the right to petition the judicial council for review of this decision. A petition for review must be received in the clerk's office within 30 days of the date of this letter to be considered timely. Please note, it is not necessary to enclose copies of the original complaints.

Sincerely,

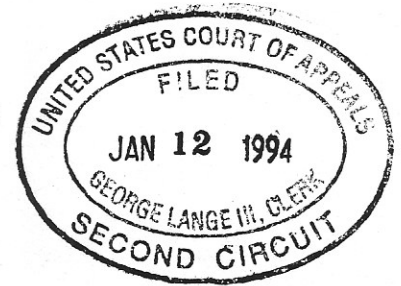
George Lange III, Clerk
By



Yvonne Blake
Deputy Clerk

Enclosure

JUDICIAL COUNCIL OF THE
SECOND CIRCUIT



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In re

CHARGE OF JUDICIAL MISCONDUCT

93-8538
93-8539

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JON O. NEWMAN, Chief Judge:

On November 4, 1993, complainant filed the above captioned complaints with the Clerk's Office pursuant to the Judicial Councils Reform and Judicial Conduct and Disability Act, 28 U.S.C. § 372(c) (the Act), and the Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers (the Local Rules), charging two circuit court judges of this circuit (Judge A and Judge B, respectively; "the judges," collectively) with misconduct. To date, complainant has filed sixteen complaints against judicial officers of this circuit. Including the complaints decided by this order (collectively referred to herein as "the complaint"), complainant has complained against Judge B four times and against Judge A once.¹

¹ On October 26 and November 4, 1993, complainant also filed complaints against a third circuit court judge of this circuit (93-8535 and 93-8537). Those complaints were dismissed by order filed November 16, 1993. Further, on November 4, 1993, complainant filed a complaint against a fourth circuit judge of this circuit (93-8536). That complaint is pending before an acting chief judge of this circuit.

Background:

Complainant is a disbarred attorney and frequent litigant who is required to obtain leave of court before filing documents in the United States Court of Appeals for the Second Circuit and in the United States District Courts for the Southern and Eastern Districts of New York.

Complainant became a litigant before the United States District Court for the Southern District of New York, without obtaining leave, by filing two lawsuits in the Supreme Court for the State of New York against multiple defendants, including many judges of the United States Court of Appeals for the Second Circuit and the United States District Court for the Southern District of New York. The cases were removed to the United States District Court on motions by the United States Attorney on behalf of the federal defendants. These cases are currently pending.

Allegations:**93-8538:**

Complainant asserts that Judge A made erroneous findings, false and misleading statements, wrongly dismissed complainant's appeals, cited with approval a case that he knew was decided without jurisdiction, due process and was otherwise erroneous, failed to state that complainant's and another attorney's criminal convictions were "constitutionally

and jurisdictionally infirm," made erroneous findings "in order to perpetuate a criminal racketeering adventure," deliberately concealed facts, and is defrauding the government by being defended in civil litigation by the United States Attorney without a "scope" determination. Complainant concludes that the judge is corrupt, "employs his robe for criminal racketeering activities, and . . . should be . . . incarcerated for his activities."

93-8539:

Complainant accuses Judge B of employing the services of the United States Attorney without statutory authorization, defrauding the government by being so represented, and wrongfully authorizing the removal of the lawsuit filed against him from the state court to the federal court.

Discussion:

Complainant alleges that Judges A and B are being represented by the United States Attorney in litigation filed by complainant without a "scope" certification. Judicial officers do not engage the services of the United States Attorney as an individual might retain a law firm. Rather, any final decision concerning whether legal representation by the United States Attorney will be supplied to a federal

judicial officer is made by the Department of Justice, see 28 CFR § 50.15 et seq. Even if some minimal representation was provided before the appropriate paperwork was complete, such an occurrence would not amount to "conduct prejudicial to the effective and expeditious administration of the business of the courts," 28 U.S.C. § 372(c)(1). Further, any questions concerning the propriety of the judges' representation may be raised by motion within the district court. Accordingly, this portion of the complaint is hereby dismissed for failure to allege judicial misconduct and as directly related to the merits, pursuant to 28 U.S.C. § 372(c)(3)(A)(i) & (ii) and Rule 4(c)(1) & (2) of the Local Rules.

Insofar as complainant alleges misconduct on the basis of judicial determinations by Judge A which complainant believes are erroneous or otherwise improper, complainant complains of matters directly related to Judge A's rulings in litigation involving complainant or in which complainant has taken an interest. These portions of the complaint raise matters "directly related to the merits of a decision or procedural ruling," 28 U.S.C. § 372(c)(3)(A)(ii), which are outside the purview of the Act. If what complainant seeks is appropriately obtainable through normal adjudication rather than through a misconduct complaint, such matter is "related to the merits" within the meaning of section 372(c)(3)(A)(ii), whether or not it has already been the subject of a judicial

ruling. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. 1982). Accordingly, these portions of the complaint are hereby dismissed as directly related to the merits, pursuant to 28 U.S.C. § 372(c)(3)(A)(ii) and Rule 4(c)(2) of the Local Rules.

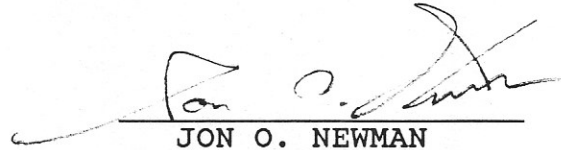
To the extent complainant alleges that Judge A is corrupt, "employs his robe for criminal racketeering activities, and . . . should be . . . incarcerated for his activities," there is no evidence to support complainant's claims. These portions of the complaint are hereby dismissed as frivolous, pursuant to 28 U.S.C. § 372(c)(3)(A)(iii) and Rule 4(c)(3) of the Local Rules.

To the extent complainant accuses Judge B of wrongfully authorizing the removal of the lawsuit filed against him in the state court to the federal court, the allegation is unsupported. This portion of the complaint is hereby dismissed as frivolous, pursuant to 28 U.S.C. § 372(c)(3)(A)(iii) and Rule 4(c)(3) of the Local Rules.

The complaints are hereby dismissed. The Clerk is directed to transmit copies of this order to the complainant and to the judges who are the subjects of these complaints.

I again note complainant's abuse of the complaint procedure. Complainant's reply to my order of September 27, 1993, to show cause by written submission why an order should not be entered barring him from filing any further judicial

misconduct complaints in this Court or any documents related to such complaints, without first obtaining leave to file, is under consideration.



JON O. NEWMAN
Chief Judge

Signed: New York, New York
January 12, 1994