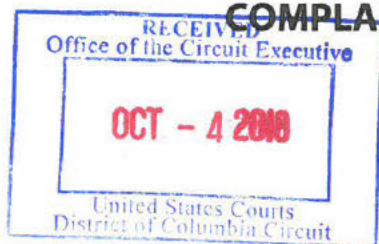


**JUDICIAL COUNCIL OF THE DISTRICT OF COLUMBIA CIRCUIT
COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY**



E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866
202-216-7340

This form should be completed and mailed to the above address to the attention of the "Circuit Executive". The envelope should be marked "JUDICIAL MISCONDUCT COMPLAINT" or "JUDICIAL DISABILITY COMPLAINT". Do not put the name of the judge on the envelope.

The "Rules for Judicial-Conduct and Judicial-Disability Proceedings", adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. Your complaint (this form and the statement of facts) should be typewritten and must be legible. Only the original form and up to a five page statement of facts should be submitted. No copies are required.

1. Name of Complainant: [Redacted]
Address: [Redacted]
Telephone: [Redacted]

2. Name(s) of Judge(s) complained about: Judge Brett Kavanaugh
Court: United States Court of Appeals for the District of Columbia Circuit

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
 Yes No
If "yes" give the following information about each lawsuit (use reverse side if more than one):
Court: _____
Case number: _____

Are (were) you a party or lawyer in the lawsuit?
 Party Lawyer Neither
If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

Docket number(s) of any appeals of above case(s) to the Court of Appeals, D.C. Circuit:
N/A

4. Have you filed any lawsuits against the judge?

Yes No

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

Court: _____

Case number: _____

Present status of lawsuit: _____

Your lawyer's name: _____

Address: _____

Telephone: () -

Court to which any appeal has been taken in the lawsuit against the judge: _____

Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based on up to five double-sided pages (8.5 x 11"). Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. See Rule 6 (a) for further information on what to include in your statement of facts.

Declaration and Signature:

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Signature: 

Date: 10/1/18

Statement of Facts

On September 27, 2018, Judge Brett Kavanaugh appeared before the Senate Judiciary Committee in connection with his nomination to the Supreme Court to testify about the sexual assault allegation brought forward by Dr. Christine Blasey Ford. He provided sworn testimony, under the penalty of perjury. The testimony was broadcast and streamed live. I watched the testimony by streaming it from C-SPAN from my home in ██████████ California. Videos of the testimony are also available on YouTube and the transcript of the hearing was published by the Washington Post¹; I have reviewed both in the days since the hearing.

I am filing this complaint in my individual capacity because through his testimony, Judge Kavanaugh committed cognizable misconduct per Section 320 Rules for Judicial-Conduct and Judicial-Disability Proceedings, which were published in final form in May 2016.² In particular, Section 320, Article 1, #3 defines misconduct as follows:

(h) Misconduct. Cognizable misconduct

(1) is conduct prejudicial to the effective and expeditious administration of the business of the courts. Misconduct includes, but is not limited to:

(D) treating litigants, attorneys, or others in a demonstrably egregious and hostile manner;

(E) engaging in partisan political activity or making inappropriately partisan statements;

(2) Is conduct occurring outside the performance of official duties if the conduct might 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.

I'm filing this complaint for three reasons:

- 1) Judge Kavanaugh made inappropriately partisan statements during his testimony.
- 2) Judge Kavanaugh treated senators questioning him in a demonstrably egregious and hostile manner, and
- 3) Judge Kavanaugh lied under oath.

1. Judge Kavanaugh made inappropriately partisan statements during his testimony. Through his testimony, Judge Kavanaugh demonstrated—with his choice of words, his tone and demeanor—the anger and resentment he holds toward “the left,” “Democratic senators,” and

¹ <https://www.washingtonpost.com/news/national/wp/2018/09/27/kavanaugh-hearing-transcript>

² <http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf>

“a former head of the Democratic National Committee.” He blamed Democrats for women coming forward with allegations against him, which he claimed resulted in the destruction of his family and his good name. He characterized the Democratic senators as “lying in wait” and described Dr. Blasey Ford’s allegation against him as “a calculated and orchestrated political hit, fueled with apparent pent-up anger about Present Trump and the 2016 election.” Judge Kavanaugh promoted an unsubstantiated conspiracy theory that the allegation was “revenge on behalf of the Clintons,” and was funded by “millions of dollars in money from outside left-wing opposition groups.” He characterized the allegations against him as a “coordinated and well-funded effort to destroy my good name and to destroy my family.”

The language and rage that Judge Kavanaugh expressed for Democrats and the left, as well as his description for how he experienced the proceedings for his Supreme Court nomination (i.e., as destroying his family and his good name), were inappropriately partisan and call into serious question his ability to be impartial. In addition, these partisan statements clearly violated Rule 1.2 of the American Bar Association’s model code of judicial conduct, which states, “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”³

2. Judge Kavanaugh treated some of the senators questioning him in a demonstrably egregious and hostile manner. Notably, Judge Kavanaugh interrupted all four women senators who questioned him, noting that he was interrupting at least twice. But the most glaring and shocking example of Judge Kavanaugh’s antagonistic attitude was in his interaction with Senator Klobuchar. After telling her how much respect he had for her, when she asked him whether he had blacked out, he responded aggressively and snidely, by rudely retorting, “Have you?” Senator Klobuchar politely asked him again to answer the question. In response, Judge Kavanaugh said he had not blacked out and belligerently pressed the Senator again, “I’m curious if you have.” (Kavanaugh later apologized for his behavior in this exchange.)

3. Judge Kavanaugh lied under oath. A judge should model integrity, upholding the pillars of the justice system. One of those pillars is that when you are speaking under oath, you tell the truth, the whole truth and nothing but the truth. Judge Kavanaugh’s testimony many times strains credibility of a reasonable person. I will point out one example that is so outrageous that it convinced me that Judge Kavanaugh was willfully lying under oath with an intent to deceive.

Media attention has focused on Judge Kavanaugh’s high school yearbook, as an indication of his actions and attitudes during the time of the alleged sexual assault. One of the entries on his yearbook page was “Renate Alumnus.” *The New York Times* reported that the word “Renate” appeared at least 14 times in the all-male Georgetown Preparatory School’s 1983 yearbook, both on individuals’ pages and in a group photo of nine football players, who were described as

³https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct/mcjc_canon_1/ruke1_2promotingconfidenceinthejudiciary.html

“Renate alumni.”⁴ Judge Kavanaugh confirmed the *New York Times*’ reporting that Renate was a reference to a female, Renate Schroeder (now Renate Dolphin), who was a student at a nearby Catholic girls’ school. The *New York Times* also reported that “two of Judge Kavanaugh’s classmates say the mentions of Renate were part of the football players’ unsubstantiated boasts about their conquests.”⁵ Furthermore, a different Georgetown Prep alumnus included the following poem on his personal yearbook page, in addition to identifying himself as a “Renate Alumnus”: “You need a date/ and it’s getting late / so don’t hesitate / to call Renate.”⁶ This is consistent with a general, undisputed understanding of what it means when a group of teen-aged males, who are also boasting about their drinking (“100 kegs or bust”), reference a female over and over again as an inside joke. Even Judge Kavanaugh’s attorney’s statement conceded that there were sexual undertones to the entry. In Alexandra Walsh’s statement to the *New York Times*, on behalf of Judge Kavanaugh, she said, “Judge Kavanaugh and Ms. Dolphin attended one high school event together and shared a brief kiss good night following that event. They had no other such encounter. The language from Judge Kavanaugh’s high school yearbook refers to the fact that he and Ms. Dolphin attended that one high school event together and nothing else.”⁷ In his testimony, Judge Kavanaugh claimed that “That yearbook reference was clumsily intended to show affection, and that she was one of us.” But he also felt the need to apologize to her: “I’m so sorry to her for that yearbook reference.”

Judge Kavanaugh also did not tell the whole truth; instead he evaded direct questions over and over again throughout the hearing. Vox compiled a chart that illustrated the number of times that Dr. Ford and Judge Kavanaugh each dodged questions posed to them, included below as Figure 1.⁸ The degree to which Judge Kavanaugh decided not to tell the whole truth by dodging questions is striking. Judge Kavanaugh did not model integrity beyond reproach.

The final point of my complaint is that Judge Kavanaugh’s testimony resulted in substantial and widespread lowering of public confidence in the courts among reasonable people. The hearing was widely broadcast and streamed, on television and over the internet. According to NBC News, Nielsen data showed that more than 20.4 million people tuned into six broadcast and cable networks to watch the hearing.⁹ Early Nielsen data also indicated that nearly 20 percent of all U.S. households with televisions watched the hearing.¹⁰ These numbers represent only a fraction of the total number of people who watched the testimony because it does not include the millions of people who streamed the hearing, as I did, or that watched recordings of the hearing afterwards. The public reach of Judge Kavanaugh’s testimony and responses to questions at his hearing is indisputably widespread. Because of his extraordinarily partisan testimony, his egregious and hostile demeanor, and his decision to lie under oath—all of which I

⁴ <https://www.nytimes.com/2018/09/24/business/brett-kavanaugh-yearbook-renate.html>

⁵ *ibid*

⁶ *ibid*

⁷ *ibid*

⁸ <https://www.vox.com/policy-and-politics/2018/9/28/17914308/kavanaugh-ford-question-dodge-hearing-chart>

⁹ <https://www.nbcnews.com/pop-culture/tv/more-20-million-viewers-watched-kavanaugh-hearing-tv-n914946>

¹⁰ https://www.huffingtonpost.com/entry/christine-blasey-ford-brett-kavanaugh-hearing-ratings_us_5bae68ade4b0b4d308d2c8c2

have documented above—Judge Kavanaugh has substantially lowered public confidence in the courts among reasonable people. The commentary on Rule 3 in the Rules for Judicial-Conduct and Judicial-Disability Proceedings, states, “The phrase ‘prejudicial to the effective and expeditious administration of the business of the courts’ is not subject to precise definition, and subsection (h)(1) therefore provides some specific examples.”¹¹ Two of the examples provided are:

- treating litigants, attorneys, or others in a demonstrably egregious and hostile manner
- engaging in partisan political activity or making inappropriately partisan statements

It is easily demonstrable that Judge Kavanaugh engaged in both of these activities that are illustrative of what it is to be “prejudicial to the effective and expeditious administration of the business of the courts” and I have provided evidence of that in this Statement of Facts.

In summary, I am bringing forward this complaint because Judge Kavanaugh has demonstrated that he lacks the temperament, impartiality and character to maintain any judicial position, including his current one as a judge on the U.S. Court of Appeals for the D.C. Circuit. He has similarly demonstrated that he is an unsuitable nominee for the Supreme Court of the United States.

¹¹ <http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf>

Figure 1. A Chart of Every time Dr. Ford and Judge Kavanaugh Dodged a Question, per Vox.



Ford



Kavanaugh

