

January 22, 2018

**From:**

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**To:**

Judicial Conference Committee on Judicial Conduct and Disability  
Attn: Office of the General Counsel  
Administrative Office of the United States Courts  
One Columbus Circle NE  
Washington D.C. 20544  
[JCD\\_PetitionForReview@ao.uscourts.gov](mailto:JCD_PetitionForReview@ao.uscourts.gov)

**Via:**

U.S. Mail; Email; Webform (<http://www.uscourts.gov/contact-us>)

**Re:<sup>1</sup>**

First Circuit Judicial Misconduct Complaints, №'s: 01-16-90036; 01-16-90037-01-16-90041 (and Petition for Review thereof); 01-17-90005

## **PETITION(/“APPEAL”) FOR REVIEW OF FIRST CIRCUIT JUDICIAL COUNCIL PROCEEDINGS**

Pursuant to the **JCDA**,<sup>2</sup> and to **JCDR**<sup>3</sup> Rules 21(a) (“review ... for errors of law, clear errors of fact, or abuse of discretion”),<sup>4</sup> 21(b)(2) (“Committee’s initiative”), and most especially 2(b) (all other JCDR Rules need/do/must not apply, under “[exigent exceptional circumstances ... manifestly unjust or contrary to the purposes of]” the JCDA/JCDR), Petitioner Walter Tuvell hereby petitions/prays this Judicial Conference Committee for review of the

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- 1 • Petitioner has previously contacted this Committee (on March 6, 2017, with a follow-up on May 3) regarding this matter (his correspondence at that time was styled as an “Emergency Objection and Related Motion (with Proposal)” for *sua sponte* intervention). This Committee never responded to Petitioner at that time (despite his receiving confirmation of delivery from the U.S. Postal Service) — perhaps because that correspondence may have been viewed as “irregular.” It is hoped/trusted/demanded that the instant correspondence will not suffer that same fate (because, the instant Petition is strictly regular/official/formal, in conformance with the JCDR Rules (f3 *infra*), and not “irregular” in any way; in particular, it is timely, per JCDR 22(c)).
  - 2 • Judicial Conduct & Disability Act (28 USC §332(d)(1),351-364).
  - 3 • Judicial Conduct & Disability Rules (<http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf>).
  - 4 • These three clauses/wrongs of JCDR 21(a) are analyzed at (III)(i-iii), §8 *infra*.

judgments/orders of the First Circuit Judicial Council, regarding the above-captioned Complaints.<sup>5</sup> Namely, *generally* speaking, Petitioner's *thesis* is this:<sup>6</sup>

**The lower judges involved<sup>7</sup> have “engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.”**

— *cf.* JCDA §351(a); JCDR 1,3(h)(1)

Speaking *specifically* to the *reasons* supporting this thesis, Petitioner hereby states/avers as follows, *passim infra* (of course under penalty of perjury, as with all of Petitioner's writings).

## **RECORD/DOCUMENTATION/“EVIDENCE”**

It is assumed that this Committee has (authenticated) access to all relevant official judicial proceedings/records associated with this case: (i) the Judicial Council proceedings themselves; as well as (ii) the underlying Civil Action, *Tuvell v. IBM*, D.Mass. №1:13-cv-11292-DJC; and its (iii) associated Appellate proceedings (including the Supreme Court Petition for Writ of Certiorari, №16-343). If this is not the case, Petitioner stands ready to provide it to the Committee, in whatever format the Committee requires/desires, upon request/order (though, that would be irregular, because unauthenticated).

Most importantly: (iv) Petitioner owns/maintains the website <http://JudicialMisconduct.US> (esp. its webpage at <http://JudicialMisconduct.US/CaseStudies/WETvIBM>, which is the *best possible comprehensive/exhaustive/“long-form” study/documentation* of the entire case)<sup>8</sup> — which he **hereby submits** to this Committee as an integral component of this Petition,<sup>9</sup> pursuant to JCDR 22(b): “petitioner may attach any documents or correspondence arising in the course of the proceeding before the judicial

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5 • In the strictest sense, the instant Petition to the Judicial Conference is taken from the First Circuit Judicial Council's Denial (filed December 11, 2017) of Petition for Review of Complaint №01-17-9005 (listed as item [X] on ¶6 *infra*). But thereby, the instant Petition encompasses all related proceedings as well.

6 • This is the very *definition* of “Judicial Misconduct” (see also f14 *infra*).

7 • The relevant(/“covered”) “lower” judges complained-of herein are those involved in the above-captioned Complaints (either directly as Complainees, or indirectly as reviewers of the Complaints). By name, these judges are: Casper, Torruella, Lynch, Thompson, Howard, Kayatta, Barron, Laplante, McConnell, Hillman, Delgado-Hernández, Levy.

8 • Indeed, this Petition could almost be considered a *précis* of the website/webpage.

9 • If this Committee would prefer other electronic softcopy (e.g., PDF) or hardcopy versions of Petitioner's website (instead of, or in addition to, its Internet reference URL, <http://JudicialMisconduct.US>), Petitioner here declares his willingness to provide it, upon request/order.

council or its special committee” (noting that the website was indeed proffered as documentation to the Judicial Council in the course of its proceedings, item [V] *infra*, and it has not changed substantively/relevantly since that time). *Indeed, references to the website will routinely be made throughout this Petition* (with “live/clickable hyperlinks” in the PDF version).

For the convenience of this Committee, in order to orient its attention properly, we next present a list of the most salient materials/records for this Petition — a major point of emphasis being that it is *exclusively* (except where absolutely/unavoidably necessary) the **procedural/rule-based aspects of this case** (and *not* its underlying substantive/merit-related aspects) that are at issue before this Committee (re-emphasized at f17 *infra*):

[A] **Docket** = District Court Docket. <http://JudicialMisconduct.US/sites/default/files/2017-05/Docket.pdf>.

[B] **Compl** = Complaint (First Amended). <http://JudicialMisconduct.US/sites/default/files/2017-05/AplJointApX%2CvI%2CExh2%2Cpg10-40%2CAlt.pdf>.

[C] Defendant’s Motion for Summary Judgment. <http://JudicialMisconduct.US/sites/default/files/2017-11/Tuvell-v-IBM%3DMotionForSummaryJudgment.pdf>.

[D] **DSOF** = Defendant/Movant’s Statement of Facts for [C]. <http://JudicialMisconduct.US/sites/default/files/2017-05/DSOF.pdf>.

[E] **PSOF** = Plaintiff/Nonmovant’s Statement of Facts for [C]. <http://JudicialMisconduct.US/sites/default/files/2017-05/PSOF%2COrig%2CAlt.pdf>.

**This is the most important document involved this case, because it was falsely (in bad faith)<sup>10</sup> ignored by all lower judges.**

[F] **Op** = District Court’s **false (bad faith)** Opinion granting Summary

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10 • Throughout this Petition, **falsity** (which is **objectively observable**) is imputed literally, as the opposite of truth/propriety/honor; but attribution of “**bad faith**” (which imputes a **subjective “state-of-mind”**) is figurative, unnecessary for our arguments, added for emphasis only. The reason (for non-necessity of “bad faith”) is that “state-of-mind” is *not relevant* for any Judicial Misconduct charge (JCDR 1, quoted at ¶2 *supra*): it is **only observable/documented “conduct”** (a.k.a. “behavior,” “action,” “performance,” etc.) that matters for Judicial Misconduct, not “state-of-mind”. Even mere/low-grade *negligence* (entire lack of guilty “state-of-mind”) suffices to prosecute a cause-of-action for Judicial Misconduct, because **negligence** is opposed/contrary/polar-opposite of the **competence/diligence/duty-of-care** ideals **ethically**<sup>†</sup> imposed/contingent/required upon high judicial office: judges are (must be) held to higher moral/legal standards than those of “regular/inferior people,” as enshrined in the **binding obligations they are sworn by oaths<sup>†</sup> to uphold**. This **theme (“state-of-mind” vs. “conduct”)** arises through the instant Petition to this Committee; e.g.: f13,14,18,24,25,34. {† For considerations of ethics and oaths, see the Argument Third Section, ¶14 *infra*.}

- Judgment [C].<sup>11</sup> <http://JudicialMisconduct.US/sites/default/files/2017-05/DistrictCourtOpinion.pdf>.
- [G] **ApltBrief** = Plaintiff(/Nonmovant)/Appellant's Brief on Appeal (effectively augmenting/superseding PSOF). <http://JudicialMisconduct.US/sites/default/files/2017-05/ApltBrief.pdf>.
- [H] **ApleBrief** = Defendant(/Movant)/Appellee's Brief on Appeal (effectively augmenting/superseding DSOF). <http://JudicialMisconduct.US/sites/default/files/2017-05/ApleBrief.pdf>.
- [I] **AplJApX** = Joint Appendix on Appeal (accompanying [G] & [H]). <http://JudicialMisconduct.US/sites/default/files/2017-04/AplJointApX%2CvI%2CEXh1-9%2Cpg1-231.pdf>; <http://JudicialMisconduct.US/sites/default/files/2017-04/AplJointApX%2CvII%2CEXh1-67%2Cpg232-1053.pdf>; <http://JudicialMisconduct.US/sites/default/files/2017-04/AplJointApX%2CvII%2CEXh68-118%2Cpg1054-1449.pdf>; <http://JudicialMisconduct.US/sites/default/files/2017-04/AplJointApX%2CvIII.pdf>.
- [J] **AplOp** = Appellate Panel's **false (bad faith)** Opinion dismissing Appeal. <http://JudicialMisconduct.US/sites/default/files/2017-05/AppellateOpinion%2COrig.pdf>.
- [K] **AplPetReh** = Plaintiff/Appellant's Petition for *en banc* Rehearing. [http://JudicialMisconduct.UTITLE\\_OF\\_DOCS/sites/default/files/2017-05/AppellatePetitionForRehearing.pdf](http://JudicialMisconduct.UTITLE_OF_DOCS/sites/default/files/2017-05/AppellatePetitionForRehearing.pdf).
- [L] Appellate *en banc* **false (bad faith)** denial of [K]. <http://JudicialMisconduct.US/sites/default/files/2017-05/AppellateRehearingDenial%2COrig.pdf>.
- [M] **PetWritCert** = Supreme Court Petition for Writ of Certiorari (with required Appendix **PetWritApX**, and optional Addendum **PetWritAdd**). [http://JudicialMisconduct.US/sites/default/files/2017-04/01\\_PetWritCert%2BApX\\_0.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/01_PetWritCert%2BApX_0.pdf). **This is the best single-document account of the case before this Committee.**
- [a] **SuppBrief<sub>1</sub>** = Supplemental Brief #1 thereto. [http://JudicialMisconduct.US/sites/default/files/2017-04/03\\_SuppBrief1%2BApX.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/03_SuppBrief1%2BApX.pdf).
- [b] **SuppBrief<sub>2</sub>** = Supplemental Brief #2 thereto. [http://JudicialMisconduct.US/sites/default/files/2017-04/04\\_SuppBrief2%2BApX.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/04_SuppBrief2%2BApX.pdf).
- [N] Supreme Court's **false (bad faith)** denial of [M]. <http://JudicialMisconduct.US/sites/default/files/2017-04/SupCt%3DPetWritCertDenial>.

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11 • Really, all you need to know about Op is its “**Smoking Gun**” passage (*¶7 infra*), because that's the origin (root cause) of all the **falsity (bad faith)**.

[pdf](#).

- [O] **PetWritReh** = Supreme Court Petition for Rehearing. [http://JudicialMisconduct.US/sites/default/files/2017-04/05\\_PetReh.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/05_PetReh.pdf). **This is the most “philosophical” (first-principles-based) document.**
- [P] Supreme Court’s **false (bad faith)** denial of [O]. <http://JudicialMisconduct.US/sites/default/files/2017-04/SupCt%3DPetWritRehDenial.pdf>.
- [Q] **JCCompl1** = Judicial Misconduct Complaint (first), against the District judge. [http://JudicialMisconduct.US/sites/default/files/2017-04/06\\_JCApx%2CExA-EE%2Cpg1-844.pdf#page=13](http://JudicialMisconduct.US/sites/default/files/2017-04/06_JCApx%2CExA-EE%2Cpg1-844.pdf#page=13).
- [R] **JCCompl2** = Judicial Misconduct Complaint (second), against five Appellate Panel judges. [http://JudicialMisconduct.US/sites/default/files/2017-04/06\\_JCApx%2CExA-EE%2Cpg1-844.pdf#page=23](http://JudicialMisconduct.US/sites/default/files/2017-04/06_JCApx%2CExA-EE%2Cpg1-844.pdf#page=23).
  - [a] Supplemental filing to JCCompl1 [Q] & JCCompl2 [R]. [http://JudicialMisconduct.US/sites/default/files/2017-04/06\\_JCApx%2CExA-EE%2Cpg1-844.pdf#page=47](http://JudicialMisconduct.US/sites/default/files/2017-04/06_JCApx%2CExA-EE%2Cpg1-844.pdf#page=47).
- [S] **JCOp1** = Judicial Council’s **false (bad faith)** dismissal of [Q] & [R]. [http://JudicialMisconduct.US/sites/default/files/2017-04/06\\_JCApx%2CExA-EE%2Cpg1-844.pdf#page=847](http://JudicialMisconduct.US/sites/default/files/2017-04/06_JCApx%2CExA-EE%2Cpg1-844.pdf#page=847).
  - [a] **JCOp1Ann** = Annotated analysis thereof (later included in [T][a]). [http://JudicialMisconduct.US/sites/default/files/2017-04/05\\_JCOpinion%2CANN.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/05_JCOpinion%2CANN.pdf).
- [T] **JCPet** = Petition for Judicial Council Review. [http://JudicialMisconduct.US/sites/default/files/2017-04/02\\_PaganoLetter12b%3DAppeal%2CPetForRev\\_0.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/02_PaganoLetter12b%3DAppeal%2CPetForRev_0.pdf).
  - [a] **JCApx** = Appendix thereto. [http://JudicialMisconduct.US/sites/default/files/2017-04/06\\_JCApx%2CExA-EE%2Cpg1-844.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/06_JCApx%2CExA-EE%2Cpg1-844.pdf); [http://JudicialMisconduct.US/sites/default/files/2017-04/06\\_JCApx%2CExHFF-PP%2Cpg845-1149.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/06_JCApx%2CExHFF-PP%2Cpg845-1149.pdf).
- [U] **JCCompl3** = Judicial Misconduct Complaint (third), against the Judicial Council judge issuing [S]. [http://JudicialMisconduct.US/sites/default/files/2017-04/04\\_JudicialMisconduct%3DComplaint%2CBarron\\_0.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/04_JudicialMisconduct%3DComplaint%2CBarron_0.pdf).
  - [a] Emergency Objection/Motion/Proposal to this Committee. [http://JudicialMisconduct.US/sites/default/files/2017-04/03\\_PaganoLetter12c%3DObjection%2CMotion\\_0.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/03_PaganoLetter12c%3DObjection%2CMotion_0.pdf).
- [V] Supplemental submission of Petitioner’s website (<http://JudicialMisconduct.US>) to Judicial Council. <http://JudicialMisconduct.US/sites/default/files/2017-05/NewWebsite%2CNewBook.pdf>.

[W] **JCOp2** = Judicial Council's **false (bad faith)** dismissal of [U]. <http://JudicialMisconduct.US/sites/default/files/2017-12/JCOpinion2.pdf>.

[X] **JCPetDen** = Judicial Council's **false (bad faith)** denial [T]. <http://JudicialMisconduct.US/sites/default/files/2017-12/JCReview.pdf>.

[Y] **JConfPet** = *This instant Petition to this Judicial Conference Committee.* <http://JudicialMisconduct.US/sites/default/files/2018-01/JConfPetition.pdf>.

**— ARGUMENT, FIRST SECTION —**  
**THE LOWER JUDGES HAVE FALSELY (IN BAD FAITH)**  
**FORSWORN THE PROCEDURAL LAW/RULE OF PRECEDENCE**  
**(*STARE DECISIS*), BY WANTONLY ABRIDGING THE “SJTOR”<sup>12</sup>**  
**— SPECIFICALLY, BY TOTALLY IGNORING PLAINTIFF/**  
**NONMOVANT/PETITIONER’S PSOF AT SUMMARY JUDGMENT**  
**STAGE (CREDITING INSTEAD DEFENDANT/MOVANT’S DSOF)**

***This (ignorance/“invisibility” of PSOF) is the crux of the entire matter. It emphatically constitutes wholly/irrefutably/outrageously illegal Judicial Misconduct, in every conceivable legitimate sense.***

By Local Rule for Summary Judgment proceedings in the First Circuit (FRCP LR 56.1, presented/annotated at [http://JudicialMisconduct.US/sites/default/files/2017-04/10\\_FRCP-LR56.1-DMass%2CANN.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/10_FRCP-LR56.1-DMass%2CANN.pdf)), there are *exactly two* essential/necessary documents *required to be filed* by the litigants: the DSOF [D], and the PSOF [E]. (Additional/subsidiary papers are permitted to also be filed, as is typically/conventionally done in the First Circuit, and was done in *Tuvell v. IBM.*)

As recorded by the Docket [A], those two documents (DSOF [D] & PSOF [E]), *required* by LR 56.1 as just explained, were indeed properly filed in *Tuvell v. IBM*; thusly for PSOF:

(i) The Docket entry for the PSOF reads, quite clearly/precisely (in-escapable “blazing lights,” emphasis added):

02/12/2015	83	<a href="#">Statement of Material Facts L.R. 56.1</a> re <a href="#">73 MOTION for Summary Judgment</a> filed by Walter Tuvell. (Mantell, Robert) (Entered: 02/12/2015)
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12 · “**Summary Judgment Tenets of Review**,” so-called at [https://en.wikipedia.org/wiki/Summary\\_judgment](https://en.wikipedia.org/wiki/Summary_judgment); see also [http://JudicialMisconduct.US/Introduction#summary\\_judgment](http://JudicialMisconduct.US/Introduction#summary_judgment).

(ii) Likewise, the PSOF (Docket #83) also reads equally clearly/precisely (inescapable “blazing lights,” emphasis added):

Pursuant to [LR 56.1](#), Plaintiff hereby submits his [Statement of Facts](#) in Material Dispute, which is being filed to support his Opposition to Defendant’s [Motion for Summary Judgment](#).

Hence, it was *utterly impossible/noncredible*<sup>13</sup> for any “plain/innocent/inadvertent/unobserved mistake/error/fluke” to be made/claimed/pretended by the District judge (or any subsequent judge), in identifying *the one-and-only document required* to be filed by the Plaintiff/Nonmovant: the PSOF.

Nevertheless, in her Opinion ([F]), the District judge **falsely (in bad faith)** proceeded to **totally ignore** the PSOF (treating the Plaintiff/Nonmovant/Petitioner as an “**Invisible Litigant/Party**”). For, even though she properly wrote/“said” she was *required* to credit the PSOF (and all other of Plaintiff/Nonmovant’s statements), above/beyond the DSOF (and all other of Defendant/Movant’s statements), she instead **falsely (in bad faith)** “declined”/failed/refused to **even cite/read/consider/“hear”** the PSOF in her Opinion [F] (emphasis added):

the production of evidence that is ‘significant[ly] probative.’” *Id.* (quoting *Anderson*, 477 U.S. at 249) (alteration in original). **The Court “view[s] the record in the light most favorable to the nonmovant, drawing reasonable inferences in his favor.”** *Noonan v. Staples, Inc.*, 556 F.3d 20, 25 (1st Cir. 2009).

**III. Factual Background**

**This “Factual Background” (at SJ) is a TOTALLY INSANE/ILLEGAL LIE! By SJ RULE/LAW (Rule # 56 + LR # 56.1 + “Standard of Review” just stated), the court \*MUST\* CREDIT PSOF (Dkt.# 83), TRUMPING DSOF (Dkt.# 74)!**

**The facts are as represented in IBM’s statement of material facts, D. 74, and undisputed by Tuvell, D. 82, unless otherwise noted.**

**DSOF(Dkt.# 74) & PSOF(Dkt.# 83) are REQUIRED (by LR # 56.1); RespDSOF (Plf.’s Response to DSOF, Dkt.# 82) is OPTIONAL. RespDSOF pointed into PSOF 19 times, but the judge DIDN’T FOLLOW those pointers, not even once.**

Tuvell is a white male, born in 1947, who claims to suffer from post-traumatic stress

In this Petition, we refer to this passage as **The “Smoking Gun.”** <http://JudicialMisconduct.US/CaseStudies/WETvIBM#smokinggun>.

This, then, **proves** (beyond any question/shadow/pretense of doubt) our **contention**: the District judge (and all subsequent reviewing judges) did, indeed, **falsely (in bad faith) totally ignore the PSOF**.

That contention being thus firmly established, the next Question to be asked/answered is: Does the judge’s behavior/conduct constitute “Judicial

13 • This proves **bad faith** (if *scienter*, or any other “state-of-mind,” were required for Judicial Misconduct, which it isn’t, only conduct is relevant; see f10,14,18,24,25,34).

Misconduct,” in the JCDA/JCDR meaning of that term?<sup>14</sup> The Answer(s) to that Question is/are “obviously, Yes,” for *all facets* of this Question: (I) “**internal/self**;” (II) “**external/law**;” (III) “**external/Committee**.” *Viz*:

(I) The “**internal/self**” **facet** comprises the “judge’s own internally-imposed obligation upon herself,” resulting in self-contradiction. She stated (in her Smoking Gun, ¶7 *supra*) that she (i) *must* “view the record in the light most favorable to the nonmovant, drawing reasonable inferences in his favor;” yet she (ii) actually *did perform* (“conduct/behavior/action”) the exact opposite. Her statement (i) is certainly/unarguably/universally correct (per the SJTOR (f12 *supra*)<sup>15,16</sup>). But her act (ii) certainly/unarguably did happen/occur (Smoking Gun). Of course, (i) and (ii) are inextricably mutually contradictory.

(II) The “**external/law**” **facet** comprises the “Rule of Law’s externally-imposed obligation upon the judge,” and her illicit/direct/frontal/unabashed abridgment thereof. Namely, “the law” imposes the obligatory/core/fundamental/foundational/inviolable legal principle of precedence (*stare decisis*) [of obeying the SJTOR]<sup>17</sup> upon the judge. Yet she blithely/blindly ignored it. Our complete/detailed argument concerning “*stare decisis* of SJTOR” has more-than-adequately been “flogged to death” in our PetWritCert [M] & PetWritReh [O].

(III) The “**external/Committee**” **facet** comprises “this Committee’s own externally-imposed charter/mission/scope/authority,” as specified by

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14 • Again noting (as at f10,13,18,24,25,34) that it is only behavior/conduct that is relevant to questions of Judicial Misconduct, and not any sort of “state-of-mind” (such as, say, “bias”/“prejudice”). That is verified by a close reading of the JCDA/JCDR, which in fact *defines* Judicial Misconduct this way: “conduct prejudicial to the effective and expeditious administration of the business of the courts ... A complaint under these Rules may concern the actions [i.e., behavior/conduct, not ‘state-of-mind’] ...” (JCDA §351(a); JCDR 1,3(h)(1); JCDR 4; emphasis added). The JCDA/JCDR, of course, say *nothing* about “state-of-mind.”

15 • In addition to the references at f12, “explanations” of the SJTOR have been explicitly given within the sequence of proceedings leading to this Petition, especially in PetWritCert [M] & PetWritReh [O].

16 • See, e.g., *Tolan v. Cotton* (572 U.S. \_\_\_\_ (2014)), which is the Supreme Court’s most recent pronouncement on the SJTOR, including its universal applicability (“transsubstantivity”). A detailed case study of *Tolan v. Cotton* can be found at <http://JudicialMisconduct.US/CaseStudies/TOLANvCOTTON>, including an annotated version of the decision at [http://JudicialMisconduct.US/sites/default/files/2017-04/09\\_Tolan-v-Cotton%2CSupCt%2CANN.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/09_Tolan-v-Cotton%2CSupCt%2CANN.pdf).

17 • See, again, *Tolan v. Cotton*, f16 *supra*. We repeat/re-emphasize the remark made on ¶3 (lest any doubt creep in): we’re dealing here, in this Petition, with the concept of “**precedence (*stare decisis*)” only in the sense of procedural/rule (SJTOR) (never in the substantive/merit sense). Thus, the underlying “factual content” of *Tuvell v. IBM* plays *no rôle* at all (other than, of course, its *mere existence and disputation*, in the sense of **DGIME**, Disputed Genuine Issues of Material Fact, which is an inherent component of the SJTOR).**

JCDR 21(a):<sup>18</sup> “review ... for (i) **errors of law**, (ii) **clear errors of fact**, or (iii) **abuse of discretion**.” Indeed, *all three* clauses/wrongs (i-iii) obtain:

(i) Clearly, the District judge (and subsequent judges) committed “**errors of law**,” she abridged SJTOR/precedent/*stare decisis*, as well as Rules of Court (LR 56.1), by ignoring the PSOF.

(ii) Clearly, the District judge (and subsequent judges) committed “**clear errors of fact**,” she (ii’) wrongly/perversely credited the DSOF “facts,” whereas she was rightly bound/required to credit instead the PSOF “facts,” the two being (ii’’) diametrically/irreconcilably/contradictorily/erroneously opposed to one another.<sup>19</sup>

(iii) Clearly, the District judge (and subsequent judges) committed “**abuse of discretion**,” the judge *did* “exercise” the “discretion” to “totally ignore the PSOF;” however that was abusive, because *no “discretion” whatsoever is available/permitted/allowable* to be exercised under the auspices/aegis of the SJTOR/precedent/*stare decisis* — observance/obedience is *mandatory*.

As just proved, these three JCDR 21(a) clauses/wrongs (III)(i-iii) were all committed (“conduct”/behavior/action) unconscionably by the District judge (and subsequent judges), without the least/slightest vestige of recognition/acknowledgment/shame/remorse.

The discussion in this Section has centered primarily, for “story-telling” purposes, upon the District judge, and her **false (bad faith)** Opinion [F]. But it also applies equally well to all reviewing **Appellate judges**, because they all **falsely (in bad faith)** supported/ratified the District judge, in their Opinions/Decisions: [J], [L], [N], [P] *supra* (noting that the arguments in this Section were indeed made to those reviewing judges: [K], [M], [O]).

More/complete details on the thoughts/theories/arguments presented in

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18 • JCDR 21(a) has already been mentioned/quoted at ¶1 *supra* (with numbering of its clauses/wrongs added here). Of *prime significance* for this Petition, we note that *none* of these three clauses/wrongs contemplates/envision/imposes/requires any restriction as to “**state-of-mind**” of the judge. They only speak to behavior/actions/conduct of the judge, in accordance with our **theme** (f10,13,14,24,25,34).

19 • Of course, for a charge of Judicial Misconduct to be sustained, is it not sufficient that the District judge “merely write/say” the wrong thing” (in the Smoking Gun passage, ¶7 *supra*); it is necessary that the District judge “actually do the wrong thing” (recalling that “doing”/conduct/action is the *sine qua non* of Judicial Misconduct, see f10,13,14,18 *supra* and f24,25,34 *infra*). And that is indeed the case. For detailed/explicit presentation/exhibition of both (ii’) the District judge’s wrongful accreditation of DSOF over PSOF, and (ii’’) the DSOF and PSOF being diametrically opposed to one another, see the section on “PSOF-Exclusion/Invisibility With Particularity” in PetWritCert [M], with its accompanying “PSOF-Exclusion/Invisibility Table” (abridged/1-page and unabridged/5-page versions in PetWritCert, plus the monumental/70-page(!) parallel/juxtaposed *verbatim* version at [http://JudicialMisconduct.US/sites/default/files/2017-04/11\\_PetWritTable-Unabridged-JUXTAPOSED.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/11_PetWritTable-Unabridged-JUXTAPOSED.pdf)).

this Section can be found at: (i) The most “mature” (definitive) rendition is presented throughout the PetWritCert [M], beginning with its “Question Presented.” (ii) The more “philosophical” features of the issues involved are presented by the PetWritReh [O]. (iii) The most readable/connected/comprehensive version is, as with this entire instant Petition, on the all-encompassing (“all-singing/all-dancing”) website: <http://JudicialMisconduct.US/CaseStudies/WETvIBM>.

**— ARGUMENT, SECOND SECTION —**  
**THE LOWER JUDGES HAVE FALSELY (IN BAD FAITH)**  
**FORSWORN THIS VERY JUDICIAL MISCONDUCT PROCESS**  
**ITSELF (JCDA/JCDR), BY BRAZENLY TOTALLY IGNORING**  
**PETITIONER’S JUDICIAL MISCONDUCT COMPLAINTS (AND**  
**SUBSTITUTING INSTEAD THEIR OWN PSEUDO-**  
**COMPLAINTS)**

The documents/arguments (“mainline proceedings” if you will, as opposed to “Judicial Misconduct proceedings”), presented in the preceding First Section *supra*, were forwarded to the First Circuit Judicial Council (of course), and additional argumentation (of clarification/explanatory/supplementary nature only, not “new ‘evidence’/arguments”)<sup>20</sup> was proffered directly in filings (Complaints of Judicial Misconduct, with Supplements) to that body: [Q], [R], [T], [U], [V]. Those writings on this topic cannot be bettered, and the Committee is recommended to review them at this point (at least cursorily).

Nevertheless, the Judicial Council **falsely (in bad faith)** wholly supported/ratified/adopted/swallowed the District/Appellate judges: [S], [W], [X]. By that means (“transitivity”), those Judicial Council judges themselves all willingly became **complicit co-conspirators in all the wrongs** discussed in the First Section *supra*.<sup>21</sup>

But in fact, even more is true: not only have (i) the Judicial Council judges **falsely (in bad faith)** adopted the wrongs of the District/Appellate judges (as just recited in the First Section), but also (ii) they have actually **falsely (in bad faith)** added their own new/additional wrongdoing to the pile (in their writings, [S], [W], [X]). The remainder of this Section is devoted to this second point, (ii).

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20 • Noting the SITOR/precedence/*stare decisis* arguments were first made in AplPetReh (cf. its footnote ¶vft.)

21 • The complete list of affected/infected judges is given in f7 *supra*. (Supreme Court Justices cannot be complained-of to this Committee, because they are not subject to the authority of Judicial Misconduct proceedings; JCDR 4.)

**In JCOp1 [S] (also especially its annotated version JCOp1Ann [S] [a]),** the reviewing Judicial Council judge **falsely (in bad faith)** decides that the Complaint is “baseless and not cognizable” — **without properly/correctly/truthfully explaining why.** Instead, the judge’s Decision ([S]) is chock-full of **false (bad faith)** “pseudo-complaints” (creations/inventions/manufactures/lies/perfidies). Here are eleven of them (among other, lesser, falsifications/double-talk, not mentioned here):

[a] The judge writes (in [S]): “Complainant asserts [in JCCompl1 [Q] & JCCompl2 [R]] that the district judge was biased against him because of his cause of action ... Complainant lodges the same allegations against the circuit judges ...”

This is objectively **false (in bad faith)**. For three superb reasons:

**(i) No Judicial Council judge even had the guts to acknowledge/state what the Complainant (now Petitioner) is even complaining about: false (in bad faith) refusal of the lower judges to respect SJTOR/precedent/stare decisis, via refusal to cite/read/“hear” Plaintiff’s PSOF. I.e.: DENIAL OF THE RIGHT TO BE HEARD.**<sup>22</sup>

(ii) In his Judicial Council Complaints, Complainant makes only one, isolated (separate from his serious concerns), side-comment regarding his suspicion about cause-of-action (employment) bias; it was in a footnote (JCCompl1 [Q] f6), and was not intended to be a “prosecutable assertion” (because, Plaintiff had no evidence to support it, and never claimed to).<sup>23</sup> Instead, Complainant’s only truly serious/earthshaking Judicial Misconduct issue (now repeated in the instant Petition) concerns Constitutional Equal Justice Under Law (the same as discussed in the instant Petition), as any fair/rational/reasonable/sane reading shows.

(iii) No matter what anyone “asserts” about anything, what actually *matters* for a Judicial Council’s review of Judicial Misconduct is *not* the judge’s state-of-mind (“what the judge thought about before/while doing the thing,” such as “bias”),<sup>24</sup> *but rather* his/her “conduct/behavior/ac-

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22 • The reason (for silence about Complainant’s actual claims) is (all-but-certainly) that it is only the *output* Judicial Council *opinions* that are *published*, not the *input* *Complaints* — so there is **no avenue for public scrutiny (“Brandeis sunlight”)**.

23 • Elsewhere (separate from his Judicial Council Proceedings), Complainant (f12 *supra*) made some further “remarks/observations/suggestions/conjectures” about antipathy to employment cases by the Federal Courts, basing said comments on much solid evidence, some of it from Federal judges themselves. PetWritCert [M]f7,21,55,57.<sup>†</sup> But even so, the sole Question Presented in PetWritCert features *only* the same exact Constitutional Equal Justice Under Law (*not* employment law) issue presented to the Judicial Council (and now to this Committee). {<sup>†</sup> More recently, *Unequal* (by law professors S. Sperino, S. Thomas, Oxford, 2017), has become a popular go-to mass-market (not specialized legal treatise) book for the courts’ undermining of employment discrimination law.}

24 • f10,13,14,18,25,34. **STRICT LIABILITY.** Some rules are meant to be **NEVER** broken.

tion” (“what thing the judge actually did do”) — which is what Plaintiff *did* “*assert*” to the Judicial Council (that is, the same exact stuff complained-of in this Petition to this Judicial Conference Committee).

- [b] The judge writes (in [S]): “Complainant offers no facts suggesting that the district judge exhibited bias ...”

This is objectively **false (in bad faith)**. Again (see [a](iii) *supra*): the issue is *not about* “exhibiting bias (state-of-mind),” *but rather* “exhibiting conduct.” f24 *supra*.

- [c] The judge writes (in [S]), continuing from the preceding item [b]: “... or engaged in other wrongdoing ...”

This is objectively **false (in bad faith)**. The Smoking Gun (¶7 *supra*), and all participating judges’ support of it, *proves* “engagement in wrongdoing.”

- [d] The judge writes (in [S]): “The record demonstrates that the district court heard from both parties in full ...”

This is objectively **false (in bad faith)**. The record shows no such thing. Instead, the record (Smoking Gun, ¶7, and the two screenshots preceding it) *proves* that the judge flat-out “declined”/failed/refused to cite/read/“hear” Plaintiff’s side of the story (PSOF), in any way/shape/form (PSOF-Exclusion/Invisibility, Invisible Litigant/Party).

- [e] The judge writes (in [S]), continuing from the preceding item [d]: “... before issuing a lengthy memorandum and order thoroughly reviewing complainant’s substantive claims ...”

This is objectively **false (in bad faith)**. The memorandum (Op [F]) was lengthy, but it does *not* review “complainant’s substantive claims” one iota. To the contrary, it reviews *defendant’s* substantive claims (DSOF), *not plaintiff’s* (PSOF).

- [f] The judge writes (in [S]): “[C]omplainant’s claim that the district judge violated a local rule [FRCP LR 56.1] would not, absent evidence of improper judicial motive, suggest cognizable misconduct.”

This is objectively **false (in bad faith)**. OMG, how many times do I have to say this? What matters, for Judicial Misconduct, is *not* state-of-mind, but conduct. Only. f24 *supra*.

- [g] The judge writes (in [S]): “[T]he allegation that the district judge violated a local rule is unsupported by the record and was rejected by the Court of Appeals.”

This is objectively **false (in bad faith)**. The purpose of FRCP LR 56.1 (discussed at ¶6 *supra*, where an annotated quotation of the rule is cited) is to specify the only two filings (DSOF & PSOF) that the parties

*must* submit, and which the judge *must* perforce review/consider/“hear.” (i) The judge did violate that local rule, as *is* supported/*proved* by the record (namely, the Smoking Gun (¶7) and the two screenshots preceding it, showing the District judge couldn’t have cast even a cursory glance at the PSOF). (ii) As for the Court of Appeals, its decisions (AplOp [J], [L]) didn’t “reject” Plaintiff’s local-rule allegation, because they didn’t bother to even mention/review the local-rule issue at all. Period.

- [h] The judge writes (in [S]): “The appellate record is equally devoid of any facts suggesting judicial impropriety.”

This is objectively **false (in bad faith)**. By the principle of *de novo* review upon appeal, the appellate record incorporates the entire district court record (e.g. AplJApX [I]), and adds the parties’ appellate briefs (AplTBrief [G] & ApleBrief [H]), the latter two being effectively rewrites of DSOF & PSOF. So, the appellate record is chock-a-block full of facts “suggesting” judicial impropriety. (The “suggestion” is made explicit in AplPetReh [K]; see also its footnote ¶vf#.)

- [i] The judge writes (in [S]): “... claim of abusive language ... not remotely ‘egregious’ or ‘hostile’ ... views based upon the record ...”

This is objectively **false (in bad faith)**. The reason is that the language the Appellate panel used (in AplOp [J] ¶4-5), which is intentionally “scurrilously snide,” was based on the District judge’s **false (bad faith)** “facts” (Op [F]), which they gulped down wholesale without chewing/digesting it. *If* (i) the District judge’s decision had been correct (or even at least sane), *and if* (ii) the panel’s decision had *correctly/properly* studied and reflected same, *then* (iii) the panel’s language *may* have been justifiable. It (i) wasn’t. And they (ii) didn’t. So it (iii) wasn’t.

- [j] The judge writes (in [S]): “[T]he misconduct complaints are simply another attempt to reassert complainant’s dissatisfaction with the district and appellate courts’ rulings in complainant’s underlying case.”

This is objectively **false (in bad faith)**. Because, the District and Appellate Courts didn’t rule on the “*Complainant/Plaintiff’s underlying case*” — it ruled instead on the “*Defendant’s underlying case*” (because those courts “heard”/credited/“ruled-on” only the *DSOF*, nowhere the *PSOF*: **precisely the opposite of what they were bound by law/rule to do**).

- [k] The judge writes (in [S]): “... an allegation that is directly related to the merits of a decision or procedural ruling [or] calls into question the correctness of a judge’s ruling [is not cognizable] ...”

This is objectively **false (in bad faith)**, as to the judge “concluding” that Complainant’s Complaint is “merits/correctness-related.” Complainant is well aware of this point, and addressed it in JCComp11 [Q]. (i)

But what's happening in this case is that the judges made their rulings based on the **false (in bad faith)** set of facts they themselves fabricated (IBM's "facts," not Tuvell's). Therefore the judges' rulings could not, *a fortiori*, be based on the "'merits' of 'the case'" (because they were not ruling on 'this' case-at-bar, but a *different/fictitious* one). (ii) Nor was a "procedural ruling" in question. Instead, the Judicial Misconduct questions of this case revolve solely around violation of *requirement-of-application* of core judicial procedure rules themselves (SJTOR, *stare decisis*) — and there's no way that sort of thing can be called "merits/correctness-related," or "*correctness-of-application* of rule".

**In JCOp2 [W]**, the reviewing Judicial Council judge **falsely (in bad faith)** ratifies/adopts the **false (bad faith)** JCOp1 [S], and further invents some additional falsifications of his own, such as:

[l] The judge writes (in [W]): "The misconduct complaint is frivolous and not cognizable," and warns Complainant about misusing the Judicial Misconduct mechanism.

This is objectively **false (in bad faith)**. This absurdity is a nugatory nullity, given that JCOp1 is so fatally flawed (because [a]-[k] *supra* are known to be valid/proven/true).

**In JCOp3 [X]**, the reviewing Judicial Council judges **falsely (in bad faith)** ratify/adopt the "findings" [a]-[l] *supra*. In doing so, the judges repeat (in their own words) two of said findings, which we repeat here, just so we can register/repeat/highlight our disagreement/disgust with them:

[m] The judges write (in [X]): "[P]etitioner's allegation that the district judge violated a local rule, even if true, would not constitute cognizable misconduct without evidence of improper motive."

This is objectively **false (in bad faith)**. The reasons have already been explained at [f] *supra*.

[n] The judges write (in [X]): "Judge [Barron] correctly determined that petitioner's allegations derive exclusively from his disagreement with the substance of the courts' orders denying his requested relief."

This is objectively **false (in bad faith)**. The reasons have already been explained at [k] *supra*.

## — ARGUMENT, THIRD SECTION — THE LOWER JUDGES HAVE BREACHED ETHICAL MORES AND COMMITTED FEDERAL CRIMES

In theory, the realm of (i) **Judicial Misconduct** (properly so-called, that is, in the sense of JCDA/JCDR) is separate/distinct/independent/"orthogonal"

from the two other realms of: (ii) **Judicial Ethics**; and (iii) **Criminal Law**. In practice, though, tribunals reviewing Judicial Misconduct Complaints are empowered to make connections amongst these three realms as they may find suitable. There is no prohibition against doing so (only encouragement for doing so) in the JCDA/JCDR.

Therefore, it is allowable/appropriate/fitting to address the latter two realms in this Petition. This is discussed in <http://JudicialMisconduct.US/Introduction>; so in this place we limit ourselves to *simply listing*, without more, (some of) the **Ethical and Criminal Standards that the lower judges in this case can be easily/properly accused of abridging in significant/nontrivial degree** (emphasis added to the most germane points; minor/irrelevant quotational apparatus elided).<sup>25</sup>

□ **Regarding Judicial Canons/Rules of Ethics:**<sup>26,27,28</sup>

- The United States **legal system is based** upon the principle that an independent, impartial, and **competent judiciary**, composed of men and women of **integrity**, will **interpret and apply the law that governs our society** [such as **precedence/stare decisis**, in *all* its aspects, including but not limited to the SJTOR]. Thus, the judiciary plays a central role in **preserving the principles of justice and the rule of law** [such as **precedence/stare decisis**]. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a **public trust** and strive to **maintain and enhance confidence in the legal system**. — ABAMC Preamble.
- A judge shall act at all times in a manner that **promotes public confidence** in the independence, **integrity**, and **impartiality** of the judiciary, maintain and enhance confidence in the legal system, and

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25 • Noting that, of course, all<sup>†</sup> the bullet items in this Section speak only to “**conduct, not state-of-mind**,” in accordance with our **theme** (f10,13,14,18,24,34). {<sup>†</sup> Parenthetically, we must note that amongst some of the *criminal* (as opposed to the *ethical*) items listed, case-law may permit inspection of some state-of-mind material under some circumstances too technical to address here. An example is Obstruction of Justice.}

26 • Some discussion of the ethical factors in this case was given in JCComp11 [Q].

27 • It is IOTTMCO (“Intuitively Obvious [even] To The Most Casual Observer”) how the ethical mores listed here have been abridged by this case’s judges. We reference two main accepted sources (mutually compatible/consonant/reinforcing) for Judicial Ethics: (i) **ABAMC**, the ABA Model Code of Judicial Conduct, [https://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_code\\_of\\_judicial\\_conduct.html](https://www.americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct.html); (ii) **USCC( CodCon)**, the Code of Conduct for United States Judges, <http://www.uscourts.gov/judges-judgeships/code-conduct-united-states-judges>.

28 • Note esp. the prevalence throughout of the **core ethical duty-of-care precepts of competence and diligence** — thereby **disallowing/disqualifying/eliminating “negligence” as a “defense”**.

- shall **avoid impropriety and the appearance of impropriety**. — ABAMC 1.2.
- A judge shall **uphold and apply the law**, and shall perform all duties of judicial office **fairly and impartially**. — ABAMC 2.2.
  - A judge shall perform the duties of judicial office **impartially (without bias or prejudice), competently, and diligently**. — ABAMC 2, 2.3(A).
  - A judge shall not be swayed by public clamor or **fear of criticism**. — ABAMC 2.4(A).
  - A judge shall perform judicial and administrative duties, **competently and diligently**. — ABAMC 2.5(A).
- **Ensuring the Right to be Heard:** A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, **the right to be heard according to law. The right to be heard is an essential component of a fair and impartial system of justice.** Substantive rights of litigants can be protected **only if procedures protecting the right to be heard are observed.** — ABAMC 2.6,2.6(A),Comment.
- A judge having knowledge that **another judge has committed a violation of this Code** that raises a substantial **question regarding the judge’s honesty, trustworthiness, or fitness as a judge** in other respects shall inform the appropriate authority. — ABAMC 2.15(A).
  - A judge who receives information indicating a substantial likelihood that **another judge has committed a violation of this Code** shall take appropriate action. — ABAMC 2.15(C).
  - A judge should **respect and comply with the law** and should act at all times **in a manner that promotes public confidence** in the integrity and impartiality of the judiciary. — USCC 2(A).
  - A judge should **avoid impropriety and the appearance of impropriety in all activities**. An **appearance of impropriety** occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would **conclude that the judge’s honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired**. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. **Actual improprieties** (as opposed to “appearance” of impropriety) under this standard include **violations of law, court rules, or other specific provisions of this Code**. — USCC 2A,Comment.

- A judge should perform the duties of the office fairly, impartially and **diligently**. The duties of judicial office take **precedence over all other activities**. A judge should be **faithful to, and maintain professional competence in, the law** and should not be swayed by partisan interests, public clamor, or **fear of criticism**. — USCC 3,3(A)(1).

A judge should accord to **every person** who has a legal interest in a proceeding, and that person's lawyer, **the full right to be heard according to law**. — USCC 3A(4).

☒ **Regarding Criminal Statutes:**<sup>29</sup>

- ☒ **Criminal Contempt of Court** (by the judge, an officer of the court). 8 USC §401(2).
- ☒ **Obstruction Of Justice:** **Falsification Of Records**; Concealment; **Cover-Up**. 18 USC §1519.
- ☒ Misprision Of Felony. 18 USC §4.
- ☒ "Omnibus Clauses:" **Obstruction Of Justice Or Proceedings**. 18 USC §1503,1505.
- ☒ **Deprivation Of Rights Under Color Of Law**. 18 USC §242.
- ☒ **Judicial Oath Of Office**. 28 USC §453.
- ☒ Civil Service Oath Of Office. USC §3331.
- ☒ **Perjury** (Lying Under Oath); Subornation; **False Declarations Before Court**. 18 USC §1621-1623.
- ☒ **False Statements Or Entries** (Oath/Swearing Not Required). 18 USC §1001.
- ☒ Loyalty; Affidavit Of Loyalty; Disloyalty. 5 USC §7311(1-2); 5 USC §3333; 18 USC §1918(1-2).

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29 • A list similar to this one is given at <http://JudicialMisconduct.US/Introduction>. The most detailed list (with wording of the statutes, and how they apply to the instant case) is the "Twilight Zone Essay," at [http://JudicialMisconduct.US/sites/default/files/2017-04/08\\_JudicialTwilightZone\\_0.pdf](http://JudicialMisconduct.US/sites/default/files/2017-04/08_JudicialTwilightZone_0.pdf). Colloquially, the terminology "**fraud upon the court (by a judge)**" can be applied to several items on this list: "A '**fraud on the court**' occurs where it can be demonstrated, clearly and convincingly, that a party [or an officer of the court, especially a judge] has sentiently set in motion some unconscionable scheme calculated to **interfere with the judicial system's ability impartially to adjudicate a matter** by improperly influencing the [judge/]trier or **unfairly hampering the presentation of [a] party's claim** or defense." — *Aoude v. Mobil Oil*, 892 F.2d 1115 (First Cir., 1989); see also *Aoude v. Mobil Oil*, 862 F.2d 890 (First Cir., 1988).

☒ **Conspiracy**. 18 USC §371.

Lest any reader conjecture that only “victimless crimes” may have been committed in this particular case, we remind them that (i) the Petitioner was robbed of > \$340,000 in out-of-pocket legal expenses (PetWritCert [M] ¶vi). But (ii) the **psychological toll/damage has been far higher** — recalling (PetWritCert ¶8 *et passim*) that Petitioner is a long-term victim of PTSD (which afflicts ~7½% of the population, <https://www.ptsd.va.gov/public/PTSD-overview/basics/how-common-is-ptsd.asp>). Concerning his own deep crisis of personal depression/melancholy, Montaigne wrote (in the longest and greatest of his *Essays, Apology for Raymond Sebond*, 1580, *tr.* Frame, emphasis added):

For how is it that [super-human] philosophy,<sup>30</sup> which *should* put arms in my hand to fight fortune, which *should* stiffen my courage to tread all human adversities underfoot, comes to such a state of *weakness* as to have me duck out of sight by these cowardly dodges, which are also ridiculous? For [mere-human] memory sets [any “merely” human/worldly endeavor] before us, not what *we* [as infallible super-human philosophers] choose, but what *it* [fallible mere-human memory] pleases. Indeed **there is nothing which imprints a thing so vividly on our memory as the desire to forget it**: a good way to give our mind[/soul] something to guard, and to impress it on her [mind/soul], is to solicit her to lose it.

## — ARGUMENT, FOURTH SECTION — THE LOWER JUDGES HAVE COMMITTED IMPEACHABLE OFFENSES

This goes without saying,<sup>31</sup> in light of the preceding three Sections.

## PRAYER FOR RELIEF

Let’s face it, with plain/ordinary/straight/candid/frank/blunt talk:

The Smoking Gun (¶7 *supra*) in this matter *obviously really/objectively did happen* (“a blind man can see it”), and it was *obviously really/objec-*

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30 • Cf. Boethius, *The Consolation of Philosophy* (524 CE) — the terminating great Western work of the Classical Period, bedside companion of philosophers for a millennium, single most important influence (not counting the divinely inspired Bible) on Medieval/Renaissance Christianity — written during the year he was **falsely (in bad faith)** imprisoned awaiting/contemplating his execution/death by torture (which did come to pass).

31 • It’s a tautology. “*Res ipsa loquitur*” (“the thing speaks for itself”), in the classic Latin formulation of law. “*Beweis: klar*” (“the proof/argument is clear/obvious”), in the classic German formulation of mathematics. *QED* (<https://en.wikipedia.org/wiki/Q.E.D.>).

**tively very very wrong** (“the Founding Fathers are spinning in their graves”). That’s wildly contrary to all established principles/commandments of law/justice. Our Justice System (Federal and other) **guarantees** to the American public, in no uncertain terms, that such things **can/must never ever happen** in America. This is solemnly promised by every writing that has ever been written on these subjects, every word that has ever been uttered, every thought that has ever been formulated, from time immemorial — beginning with the earliest Conception of Justice itself, the primal/seminal Federalist Papers,<sup>32</sup> the sacred/sacrosanct Constitutional Due Process of Law, the architecture of the Judicial System in-the-large (28 USC, District/Appellate/Supreme Courts, Judicial Council/Conference), all Rules of Procedure, all publications/rulings/laws/*dicta* of every Court throughout the Land, all teachings/treatises of all law professors in all academies ... “and all that”<sup>33</sup> (re-read PetWritCert [M] & PetWritReh [O]).

For absolutely unfathomable reasons, all the judges involved in this matter to date (f7 *supra*) are mysteriously/hypocritically content to **falsely (in bad faith)** allow/aid/abet such **Smoking Guns (“Invisible Litigants/Parties”)** to happen, and to surreptitiously bury/hide it away in darkness. Mostly (cf., e.g., [a] ¶11 *supra*), they’re (attempting) doing this by means of singularly abhorrent legalistic gobbledygook (ruining the reputations of lawyers and the legal profession in the process): bullyingly bamboozling this Complainant (“playing chicken” with him, and other Americans) by double-talking “around,” not speaking forthrightly/straightforwardly/truthfully “to/at,” the issues involved (cf. [a](i) *supra*).

The Judicial Council’s conspicuously illogical **false (bad faith)** argument<sup>34</sup> is this, easily/trivially visible/transparent: **“If the judge can’t be pre-proved to priorly intend it to happen, then it’s non-correctable, no matter how bad it is. Even if the judge falsely (in bad faith) treats litigants/parties as ‘invisible,’ but does so ‘without pre-provenly prior malicious/biased/prejudicial incompetent intent/motive,’ then it’s OK by us, so ‘tough shit’ for you.”** That’s certainly not Law, where *everything* is correctable (see e.g.: (i) JCDR 2(b), quoted at ¶1 *supra*; (ii) FRCP 60(b)(6), “any reason that justifies relief”). Under the Judicial Council’s **false (bad faith)** illogic/“standard,” **judges can do literally any god-**

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32 • “**Justice** is the end<sup>t</sup> of government. It is the end of civil society. It has been, and ever will be, pursued, until it be obtained, or until liberty be lost in the pursuit. ... *If men were angels*, no government would be necessary.” — *Federalist №51* (Madison, 1788, *emphasis added*). {† *Raison d’être*; ultimate justification for existence; teleological purpose/goal.}

33 • [https://en.wikipedia.org/wiki/1066\\_and\\_All\\_That](https://en.wikipedia.org/wiki/1066_and_All_That); [https://books.google.com/books/about/PCT\\_Spin\\_and\\_Statistics\\_and\\_All\\_That.html?id=FyCTDAAAQBAJ&printsec=frontcover&source=kp\\_read\\_button#v=onepage&q&f=false](https://books.google.com/books/about/PCT_Spin_and_Statistics_and_All_That.html?id=FyCTDAAAQBAJ&printsec=frontcover&source=kp_read_button#v=onepage&q&f=false).

34 • This “illogical argument” faithfully languages the Judicial Council’s nonsensical “state-of-mind” rationale (as opposed to the proper/correct standard, “conduct/behavior/action”) that we’ve themed/spotlighted so many times throughout this Petition: f10,13,14,18,24,25.

**damn thing they fancy, capriciously, without accountability** — as long as they don't priorly publish/broadcast what they're thinking about doing. That's just plain nonsense/crazy/insane/stupid/braindead/bonkers/cynical/bullshit ([https://en.wikipedia.org/wiki/On\\_Bullshit](https://en.wikipedia.org/wiki/On_Bullshit)). It's insidious/psychopathic psychologically manipulative victimization/"gaslighting" (<https://en.wikipedia.org/wiki/Gaslighting>). It's "manifestly unjust *and* contrary to the purposes of."<sup>35</sup> It can't be anything anybody (Founder) ever designed/intended, nor in anyone's interest (except the self-interest of the judges, which doesn't count, because of the principle of "appearance/all-but-certain-reality of self-bias"). It only works if judges are angels.<sup>36</sup> Which they aren't. **Which is why this very Judicial Conference Committee even exists.**

Now, these men/women are not doltish/idiotic/moronic/imbecilic simpletons ("clever people scheme in clever ways"). But for some absolutely incomprehensible/inscrutable reason, they're refusing to live up to their own declared/committed/bonded/sworn responsibilities. They're **subverting** the Prime Directive of The Founders of the American Experience, which is: **Equal Justice Under Law.**<sup>37</sup> They're **betraying the faith** that has been endowed/entrusted unto them. They're "fucking it up." To put it mildly.<sup>38</sup>

With these thoughts foremost in mind, this Petitioner/supplicant (together with *all America*) entreats just one simple prayer of this Committee:

**Do The Right Thing. Do Your Job. Once And For All. Now. Please.  
Eradicate This Travesty ("Invisible Litigant/Party") From America.  
Restore/Protect/Defend The Inalienable RIGHT TO BE HEARD.  
IF THIS ISN'T JUDICIAL MISCONDUCT, NOTHING IS.**

## CONCLUSION

Petitioner's complaint/arguments/prayer now being thus concluded (and hereby sworn truthful under penalty of perjury), he commends the fate/resolution/adjudication of this Petition — and indeed that of the American Constitutional Judiciary as an entirety — to this Committee's good offices.

Sincerely,



Walter E. Tuvell

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35 • JCDR 2(b), quoted at ¶1 *supra*.

36 • See f32 *supra* (that quote from *Federalist* №51 is Petitioner's website slogan).

37 • Inscription on the Supreme Court's public-facing portal (the building's West Façade).

38 • That is, not only "goofing up," but actually in a very outrageous/shameful/inexcusable way. More colorfully, they're "shitting the bed," "screwing the pooch," etc. .... Royally.