

# Six weeks later, still no report in Alex Kozinski investigation

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**(CNN)** — Six weeks after US Court of Appeals Judge Alex Kozinski resigned in the wake of sexual harassment allegations, judicial officials have yet to reveal the fate of a misconduct complaint that began with news reports based on claims from women who worked for the judge.



In the past, judicial authorities have dismissed a pending grievance when a judge left the bench in the middle of a misconduct investigation. That might be what ultimately happens with the 67-year-old Kozinski.

But the process might not be as clear-cut for this prominent jurist who was also subject to a misconduct complaint in 2009 involving computer pornography.

Karen Greve Milton, the executive for the 2nd US Circuit Court of Appeals, which is handling the review of Kozinski, confirmed that ordinarily a misconduct complaint would be

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dismissed once a judge left the bench but said she could not comment on the Kozinski matter until the judicial council's resolution of the complaint becomes public.

Lawyer Susan Estrich, who represents Kozinski, declined to comment.

"I would have expected an order finding that the proceeding should be concluded based on an intervening event," said University of Pittsburgh law professor Arthur Hellman, referring to Kozinski's resignation and the judiciary's practice of halting any investigations when a so-called intervening event occurs.

Hellman, who has tracked misconduct complaints through the years, said, "It's hard to figure out what might be going on, since he resigned before any investigation began." Hellman noted that on rare occasions, after a judge has resigned, a matter might be referred to the Department of Justice's Public Integrity Section.

A [CNN investigation](#) found that very few of the more than 1,000 complaints filed each year against federal judges are deeply investigated and seldom are judges reprimanded, suspended or subject to other disciplinary action.

CNN also found that the judiciary's process often kicks into gear only after news media brings potential misbehavior to light, which is what happened in the case of Kozinski, based in Pasadena, California, on the US Court of Appeals for the 9th Circuit. He was appointed to the lifetime seat in 1985 by President Ronald Reagan.

[The Washington Post](#) reported on Dec. 8 that six former clerks or junior staffers claimed that Kozinski subjected them to inappropriate sexual conduct or comments. One former clerk said he summoned her to his office to show her pornography on his computer. Soon after that news story, other former law clerks went public with complaints of sexual improprieties. Soon thereafter, 9th Circuit Chief Judge Sidney Thomas ordered an inquiry into Kozinski based on the articles -- the complaint was then sent to the New York City-based 2nd Circuit.

Since then, the 2nd Circuit's 13-member judicial council has been handling the matter.

"I've always had a broad sense of humor and a candid way of speaking to both male and female law clerks alike," Kozinski wrote in a statement upon resigning last month. "In doing so, I may not have been mindful enough of the special challenges and pressures that women face in the workplace. It grieves me to learn that I caused any of my clerks to feel uncomfortable; this was never my intent. For this I sincerely apologize."

Kozinski underwent a separate disciplinary process in 2009 after a [Los Angeles Times story](#) said he was maintaining a publicly accessible website of sexually explicit images. He publicly apologized and took the server offline. A judicial council admonished Kozinski but concluded no further discipline was warranted.

During that 2009 investigation, Kozinski testified for nearly three hours under oath, according to the council's final report.

"The judge testified that he could not recall ever downloading some of the materials in question," according to that June 2009 filing. "The judge testified that he does not visit and has no interest in pornographic websites." He also testified that he did not send the sexually explicit files to anyone.