May 28, 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

Via:

U.S. Mail; Email; Webform (http://www.uscourts.gov/contact-us); Website (http://judicialmisconduct.us/drupal/sites/default/files/2018-05/JConfPetition.pdf)

Re:

Seventh Circuit Judicial Misconduct Complaint, №07-18-90014

PETITION(/"APPEAL") FOR REVIEW OF SEVENTH CIRCUIT JUDICIAL COUNCIL PROCEEDINGS

Pursuant to the **JCDA,**[1] and to **JCDR**[2] Rules 21(a) ("review … for errors of law, clear errors of fact, or abuse of discretion"),[3] 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 "actions" (not really "judgments/orders") of the Seventh Circuit Judicial Council, regarding the above-captioned Complaint. Namely, Petitioner's *the-*

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1 • **Judicial Conduct & Disability Act** (28 USC §332(d)(1),351–364); http://judicialmisconduct.us/Introduction#jcda.

2 • **Judicial Conduct & Disability Rules;** http://www.uscourts.gov/sites/default/files/guide-vol02e-ch03.pdf; http://judicialmisconduct.us/Introduction#jcdr.

3 • These three clauses/wrongs of JCDR 21(a) are interpreted herein as applied — not to the underlying litigation (*Ryan v. U.S.*) — but rather to the Seventh Circuit Judicial Council's (false, bad-faith) interpretation/implementation of the JCDR rules themselves. This is manifestly evident everywhere herein *passim*.

sis is this:[4]

> **The lower judges (and clerks) involved[5] 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 (the basic necessary materials are cited in context, *infra;* they can be found online, on Petitioner's website, see

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4 • This is the very *definition/purpose* of "Judicial Misconduct."

5 • (i) The relevant(/"covered") "lower" judges complained-of herein are those involved in the above-captioned Complaint. By name, these judges are Easterbrook and Wood. (ii) The clerks complained-of herein, are those in the Office of the Clerk of the Seventh Circuit involved in this case (names include Gino Agnello, and presumably others, names unknown). Noting that the Rejection Letter was unsigned, but that it attributed (presumably truthfully) the rejection to the Judicial Council itself (and not to "mere" clerks), these clerks are viewed not as independent actors, but as authorized/accountable part-and-parcel agents of the complained-of Seventh Circuit judges. And hence, this JDCA/JCDR process applies to the Seventh Circuit "enterprise"-as-a-whole: judges, clerks, Rejection Letter, *et al.* (iii) *Note:* A separate-but-related companion Complaint with the Easterbrook Complaint and the instant Petition for Review (we will call it herein the **Wood Complaint**), with a nontrivial overlap, has also been submitted to the Seventh Circuit Judicial Council on May 9 2018, but it has not yet been assigned a case number at the time of this writing; as such, it is not yet, strictly speaking, eligible to be a subject of this Petition at this time. Nevertheless, this Judicial Conference Committee is hereby invited/recommended/encouraged to *sua sponte* intervene in that companion Complaint at this time (which it is empowered to do, by JCDR 2(b), already cited at ℘1 *supra*), in the interests of judicial efficiency. The Committee can then judge for itself whether taking up this new Complaint at this time is appropriate, by inspecting it at http://judicialmisconduct.us/sites/default/files/2018-05/JudicialMisconductComplaint%3DWood.pdf. Notably, one of the issues complained-of in the new Complaint is that Judge Wood **should have recused herself** (noting that *recusal is objective, not subjective;* and raising the Judicial Misconduct spectre of "bias, or appearance thereof;" and that disqualification is mandatory recusal; see Miller, Judicial Recusal and Disqualification, Pepperdine Law Review, Vol. 33, Iss. 3, Art. 3, https://digitalcommons.pepperdine.edu/cgi/viewcontent.cgi?article=1214&context=plr, http://judicialmisconduct.us/drupal/sites/default/files/2018-05/JudicialRecusalAndDisqualification.pdf) — because she served on the **same Appellate panel with Easterbrook** in the complained-of *Ryan v. U.S.* case, and she **agreed/joined with Easterbrook's decision. By failing/refusing to *(sua sponte)* recuse herself, Judge Wood thereby violated judicial ethics (Code of Conduct for U.S. Judges, Canon 3(C)(1)), and federal statutory law (28 USC §455(a)).**

infra); (ii) the underlying Civil Action, *Ryan v. U.S.,* including the documentation involving it, together with (iii) *Ryan's* associated Appellate proceedings (including Supreme Court Proceedings). 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/RYANvUS(ALSCHULERvEASTERBROOK), which is the *best possible comprehensive/exhaustive/"long-form" study/documentation* of the entire case) — which he **hereby submits** to this Committee as an integral component of this Petition,[6] pursuant to JCDR 22(b): "petitioner may attach any documents or correspondence arising in the course of the proceeding before the judicial council or its special committee" (noting that the website was indeed proffered as documentation to the Judicial Council in the course of its proceedings, see http://judicialmisconduct.us/sites/default/files/2018-05/NoticeWithSample.pdf, 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).

BASES OF THIS PETITION FOR REVIEW

There are two separate bases/issues involved in this Petition for Review to this Committee:

- **Our "mainline" Complaint:** "Easterbrook's misconduct in dealing with Ryan (and his attorneys, especially Albert Alschuler)" — already filed with the Judicial Council. As will be seen *infra,* the argument given herein to this Committee on this issue can/will be posed in abbreviated/summary form, because it has already been more-than-adequately argued to the Judicial Council (so it suffices to simply reassert those same arguments, short-shrift, in this place).
- **Our subsidiary Complaint:** The rejection by the Judicial Council of Petition for Review to that Council, on the basis of untimeliness. This issue is here given new, now/*infra*, before this Committee. We argue that the Judicial Council's rejection of Review was in-and-of-itself a new act of Judicial Misconduct, committed by the Council-as-a-whole via its clerks/agents (hence it would make no sense to "file a Judicial Misconduct

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6 • 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.

Complaint to that Council, complaining about *it itself,* on this matter") — because, as will be seen *infra,* it was a wrong ruling, falsely committed in bad faith, and satisfies the definitional requirements of Judicial Misconduct, ƒ4 *supra.*

MAINLINE ISSUE: EASTERBROOK'S MISCONDUCT TOWARDS RYAN (AND TOWARDS HIS ATTORNEYS)

This "mainline" issue has already been more-than-adequately argued below, to the Judicial Council, but it was (wrongly, in bad faith) rejected there. So we need do no more here/now than re-raise the same arguments to this Committee, re-proffering the very same arguments made to the Council, which we do hereby, *viz.:*

- **Complaint of Judicial Misconduct ("Easterbrook Complaint")** (submitted on Jul 13 2017, and again on Feb 28 2018 [the reason for the twice-submission is discussed in the section on Bad-Faith Falsity #4 *infra*]), to the Judicial Council: http://judicialmisconduct.us/sites/default/files/2017-07/JudicialMisconductComplaint%3DEasterbrook.pdf.
- **Judicial Council's Denial of Complaint** (Mar 28 2018) thereof:
  - **Original version:** http://judicialmisconduct.us/sites/default/files/2018-04/JCoun7thCir%3DDismissalOfComplaint.pdf.
  - **Annotated version:** http://judicialmisconduct.us/sites/default/files/2018-05/JCOpinion%2CANN.pdf.
- **Petition for Review** (May 9 2018), to the Judicial Council (rejected, falsely, for untimeliness, see Subsidiary Issue, *infra*): http://judicialmisconduct.us/sites/default/files/2018-05/JC%2CPetForRev.pdf.
- We draw particular attention to the very *"earthshaking"* major piece of documentation/"evidence" involved in the Complaint against Easterbrook, **Alschuler's Memoir** (2015) — which, however, the Judicial Council falsely refused to "take seriously:"
  - **Original version** (this is a *major* piece of work): http://judicialmisconduct.us/sites/default/files/2018-04/HowFrankEasterbrookKeptGeorgeRyanInPrison%2C2.pdf.
  - **Annotated version** (this is a second *independent major* piece of work): http://judicialmisconduct.us/sites/default/files/2018-05/MemoirAnnotated.pdf.

SUBSIDIARY ISSUE (BUT TOTALLY CRUCIAL/CRITICAL/CRUX, BECAUSE IT DETERMINES THE VIABILITY OF THE PRECEDING "MAINLINE ISSUE," *SUPRA*): JUDICIAL COUNCIL'S REJECTION OF REVIEW, ON THE BASIS OF ALLEGED/PURPORTED "UNTIMELINESS"

The remainder of this Petition is devoted to arguing against the (false, in bad faith) rejection, on the basis of untimeliness, of Petitioner's Petition for Review (dated and submitted May 9 2018) to the Judicial Council. The said rejection occurs in the form of a **Rejection Letter of Petitioner's Petition for Review (May 15 2018),** available at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/RejectionLetter.pdf. We proceed to **quote/reproduce** the **entire substantive content** of that (unsigned) Rejection Letter here (emphasis in original):

> The enclosed correspondence [referring to Petitioner's original paper copy of his Petition for Review to the Judicial Council, which was included in the envelope] has been returned to you unfiled because it was received after the required due date. Pursuant to [JCDR] Rule 18(b), Petitions for Review of the chief Judge's order are due 42 days from the date the order was issued. **There are no exceptions to the rule.** The order in your case was issued on March 28, 2018 and the Petition for Review was due on May 9, 2018. We received the Petition on May 14, 2018. Due to untimeliness the Judicial Council was unable to consider the Petition.

We now turn to analyzing/addressing the *many* **bad-faith falsity** problems with this Rejection Letter, one-by-one. (Quotations *infra,* if otherwise unattributed, refer to this Rejection Later.)

BAD-FAITH FALSITY #1
"There are no exceptions to the rule"

The Rejection Letter (℘5 *supra*) is false (in bad faith) where it states (with emphasis), "There are no exceptions to the rule." That is nowhere written down (in the "rules"). And in fact, ***exactly the opposite*** *is* an explicitly written rule.

For, the "rules" being discussed here are the JCDR (ƒ2 *supra*). But by the JCDR's own terms, there does indeed exist a catch-all **Generic JCDR Exception rule** prominently listed very early amongst the JCDR rules. Namely, JCDR 2(b) (already mentioned at ℘1 *supra*) provides such a Generic JCDR Exception rule: it explicitly specifies/guarantees generally that *every* other JCDR rule *is* subject/susceptible to exception (and indeed, for just about any reason that makes defensible sense).

Furthermore, for the Seventh Circuit to, not only make this false (bad faith) claim, but to additionally do so with boldface emphasis, amounts to threat/fear-mongering (it's also a "forbidden-giving-of-false-legal-advice") — towards a *pro se*[7,8] petitioner at that (implying that "the writer/rejecter is 'warning' the Petitioner to 'not even bother' trying to challenge the rejection"). That goes beyond "mere disingenuity" to genuine Judicial Misconduct. JCDR 1, ℘2 *supra.*

And, to be quite clear here: this case *is* manifestly an instance where "[exigent] exceptional circumstances … manifestly unjust or contrary to the purposes of"[9] the JCDA/JCDR, *do demand* that the rejected Petition to the Judicial Council should/must be "un-rejected" (or, "the rejection should be rescinded;" or even, "the rejection should never have happened in the first place").

BAD-FAITH FALSITY #2
Pro se leniency exception

In the case at hand, Petitioner is acting *pro se,* and he did (provedly so, as witnessed/attested by this very sworn-under-perjury document) attempt in good-faith to file his Petition to the Judicial Council in a timely manner, but simply/understandably missed/misunderstood the Council's (false) interpretation of the timeliness requirements (as documented herein), and the vehemence with which the Council would (falsely) try to enforce (in bad faith) it — here contested/protested.

Therefore, in addition to the aforementioned Generic JCDR Exception rule JCDR 2(b) (Falsity #1, *supra*), the present situation is subject to an ad-

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7 • We take the designation *"pro se"* in its proper meaning: "(i) without legal credentials/degree, and (ii) unrepresented by a member of the bar admitted to practice before the court (even *pro hac vice*)." In particular, *self-taught* legal expertise is OK (it doesn't tarnish/diminish/lessen one's credentials as *pro se*). Some writers have occasionally tried to adopt a foolishly colloquial/false/improper meaning of *pro se,* something along the lines of "doesn't know much about the law" (for example, pretending that a litigant who understands some court rules and writes with numbered paragraphs is not *pro se; cf.* former Judge Richard Posner's brief at https://abovethelaw.com/2018/05/judge-posner-chastises-district-courts-laziness-and-hes-got-a-point/2/). But that's not the intent of the *pro se* concept. *"Pro se"*-ness is an *a priori* state, not an *a posteriori* one (that is, a judge/court cannot, after-the-fact of seeing some of the litigant's work, say: "Oh, he seems to have spent some time self-teaching himself about the law, so I guess he's not 'really' *pro se* after all").

8 • Of course, everyone has a traditional and statutory *right* to conduct their court business *pro se:* "In all courts of the United States the parties may plead and conduct their own cases personally or by counsel as, by the rules of such courts, respectively, are permitted to manage and conduct causes therein." 28 USC §1654.

9 • The rejection is "contrary to the purposes of" the JCDA/JCDR, as those purposes are defined at ƒ4 *supra.*

ditional (non-JCDR) type of exception to all rules of court — namely, the long-standing well-known "normal" so-called ***pro se* Leniency Exception** available in all litigation, which should have, but was not, exercised on this occasion to forgive a very minor[10] lapse in timeliness standards (*if* indeed such a lapse really occurred at all, see Bad-Faith Falsity #12 *infra*). This Leniency Exception is designed to promote justice via the **Constitutional principles of due process and equal(/symmetric) protection under law/equity,** by addressing the uneven/asymmetrical imbalance-of-power between professional/lawyer/expert-level and amateur/layperson/non-expert-level understanding/representation at law. This "normal" *pro se* Leniency Exception should have been exercised in this case.

As perhaps the most well-known/notorious illustration[11] of *pro se* Leniency, consider the need for courts to **proactively** put *pro se* litigants on notice of the perils of a *summary judgment* motion, and guaranteeing that said notice be understandable to one in a typical *pro se* litigant's circumstances: fairly to aprise him/her of what action is required, not only of his/her obligation to respond, but of the (dire) consequences of not responding. The rationale for such "excessive" notice is the casual (man-in-the-street, or *pro se*) observation that "summary judgment" (or, of "fill-in-the-blank-legal-concept") is "contrary to lay intuition" (laypersons often think naïvely/at-first-glance that the progression Complaint ➔ Trial is uninterrupted by any significant intermediate steps).

As we continue this list of arguments *infra,* a number of "iffy"/"on-the-cusp" situations (to be pointed-out from time-to-time in context, *infra*) will be seen to arise, where a "liberal(-in-favor-of-justice)" interpretation (the touchstone of *pro se* leniency) in favor of the *pro se* litigant here is pro-indicated, and should have been observed.

BAD-FAITH FALSITY #3
"We received the Petition on May 14, 2018"

The Petition was mailed by Certified Return-Receipt Requested on May 9, and was delivered/received at the Clerk's Office on May 14 (according to both the U.S. Post Office and the Clerk's Office). That's a gap of five days.[12]

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10 • See the section on The Spirit of 42 Days, ℘10 *infra.*

11 • See Julie Bradlow, Procedural Due Process Rights of *Pro Se* Civil Litigants, The University of Chicago Law Review, Vol. 55, Iss. 2, Art. 13, ℘659–683 (1988), at 672; https://chicagounbound.uchicago.edu/uclrev/vol55/iss2/13/, http://judicialmisconduct.us/drupal/sites/default/files/2018-05/ProSeProceduralDueProcess.pdf.

12 • As to "what a 'day' is" (for legal time-limitation/computation purposes, in particular whether intervening weekends/holidays are to be counted as "days"), the JCDR tells us to defer to the FRAP (*cf.* Bad-Faith Falsity #10, *infra*); which in turn tells us (FRAP 26) that, now (after the 2009 reforms in this area), "days are days" (as the colloquialism goes, ⬇℘8

While this bare fact is, in-and-of-itself without more, not a "bad-faith falsity," it is the essential predicate for another Bad-Faith Falsity, #9 *infra,* and will be taken up further in that place.

BAD-FAITH FALSITY #4
The Seventh Circuit has a history of false (bad faith, in fact, ***illegal***) "didn't-receive-the-document" statements — because it doesn't acknowledge receipt of Complaints

For the purposes of this Petition to the Committee, it is critical to know/appreciate/weigh (and take into account) the fact that the Seventh Circuit[13] already has a prior history of "weaponizing" "reception-of-document" mechanisms in illicit/*illegal* ways — undoubtedly, to "protect" its judges in general, and Judge Easterbrook in particular, from Judicial Misconduct charges.[14]

As **proof,** we refer reviewers of this Petition to the fact that Petitioner's Easterbrook Complaint was required to be submitted **twice** (falsely, in bad faith, on the part of the Seventh Circuit) — the *second* of which has now become the subject of this Petition (Complaint №07-18-90014).

The **first** attempt by Petitioner to submit this same Easterbrook Complaint failed, due to direct *illegal* activity by the Seventh Circuit, in **refusing (falsely, in bad faith) to receive/file the Complaint.** The details of that story are recorded at http://judicialmisconduct.us/CaseStudies/RYANvUS(ALSCHULERvEASTERBROOK)#easterbrookcomplaint (and, most particularly, the (paragraph-scope) footnote there concerning the Feb 27 2018 telephone conversation[15] between Petitioner and the Seventh Circuit's clerk's office, http://judicialmisconduct.us/CaseStudies/RYANvUS(ALSCHULERvEASTERBROOK)#phonecall). The nub of that story is that the Seventh Circuit decided to simply ignore Petitioner's (first) Complaint (*illegally* not-acknowledge it, and throw it into the trash can) — and it was (illicitly) enabled to do that because the **Seventh Circuit refuses to acknowledge receipt of Complaints (even though JCDR 8(a) requires it)**. That

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⬆℘7 see http://judicialmisconduct.us/drupal/sites/default/files/2018-05/FRCP%3DDaysAreDaysTimeComputation.pdf).

13 • Which, recall, for our purposes here, includes the clerk's office. ƒ5(ii) *supra.*

14 • So, it is immediately believable that the Seventh Circuit would happily repeat doing the same sort of thing ("time-jiggering") in the instant instance ("character evidence," https://en.wikipedia.org/wiki/Character_evidence).

15 • Audio at http://judicialmisconduct.us/sites/default/files/2018-05/PhoneCall%3D7thCirJudCouncil.mp3; transcript at http://judicialmisconduct.us/sites/default/files/2018-05/PhoneCall%3D7thCirJudCouncil%2CTranscript.pdf.

story **proves** (proof: "smoking gun" at the 09:02 mark of the transcript)[16] our assertion here — that the Seventh Circuit happily acts *illegally* to prevent the filing of Judicial Misconduct Complaints against Easterbrook.

BAD-FAITH FALSITY #5
"[T]he required due date"

The Rejection Letter (℘5 *supra*) is very coy (non-communicative) about what "the required due date" actually "is" (as opposed to "its value," May 9 2018) — because, it doesn't define the "due-date" concept (and hence, how its value is to be computed). Instead, the Rejection Letter nakedly cites "JCDR 18(b)," and then "hand-waves,"[17] without ever explicating (i) how the "required due date" is actually arrived-at (computed), nor (ii) "what is supposed to happen" on that date.

The reason this ("coy, non-communicative, hand-waving") is so, is that the Rejection Letter fails (bad-faith falsely) to bring attention (especially, a *pro se's* attention, see Falsity #2 *supra*) to the clarifying relevant Commentary which accompanies JCDR 18(b), *viz.:*

> The standards for timely filing under the Federal Rules of Appellate Procedure [FRAP] should be applied to petitions for review.[18] See Fed. R. App. P. 25(a)(2)(A),(C).

So, while it is true that JCDR 18(b) specifies "42 days" (see Bad-Faith Falsity #6, *infra*), what is unclear (from the Rejection Letter, and from JCDR 18(b)) is (i) exactly how a "due-date" is computed from that number (42), and (ii) the significance of that "due-date."

Those answers (to (i)–(ii) in the leading paragraph of this section) — which *should* have been, non-coyly, in the Rejection Letter (℘5 *supra*) — are

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16 • It is worth observing that "everybody knows"[†] it's "wrong"(/illegal) for public officials (here, court clerks, at a minimum) to falsely misrepresent the law (in this case, to expressly refuse to acknowledge receipt of Complaints, even though the law/rule, JCDR 8(a), requires it). {† • For as example (of "everybody knows"), from a popular layperson's resource: "'Color of office' refers to an act usually committed by a public official under the appearance of authority but exceeds such authority. An affirmative act or omission, committed under color of office, is sometimes required to prove *malfeasance in office*." — https://en.wikipedia.org/wiki/Color_(law), internal hyperlink rendered in italics.}

17 • For "hand-waving," see esp. Bad-Faith Falsity #12, *infra*.

18 • Note that the prescriptive language here provides that the FRAP time-keeping standards are to be "imported *en bloc in toto*" into the JCDR; i.e., *all* FRAP provisions for "timely filing" are controlling in the JCDR context too (and *not only* the illustrative/sample provisions 25(a)(A),(C) of the FRAP).

given[19] in the cited FRAP 25(a)(2), which specifies:[20]

> (2) **Filing: Method and Timeliness.**
> (A) **In general.** Filing may be accomplished by mail addressed to the clerk, but filing is not timely unless the clerk receives the papers within the time fixed for filing.
> (B) **A brief or appendix.** A brief or appendix is timely filed, however, if on or before the last day for filing, it is:
> (i) mailed to the clerk by First-Class Mail, or other class of mail that is at least as expeditious, postage prepaid; or
> (ii) dispatched to a third-party commercial carrier for delivery to the clerk within 3 days.
> (C) **Inmate filing.** A paper filed by an inmate confined in an institution is timely if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. §1746 or by a notarized statement, either of which must set forth the date of deposit and state that first-class postage has been prepaid.
> (D) **Electronic filing.** A court of appeals may by local rule permit or require papers to be filed, signed, or verified by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes. A local rule may require filing by electronic means only if reasonable exceptions are allowed. A paper filed by electronic means in compliance with a local rule constitutes a written paper for the purpose of applying these rules.

BAD-FAITH FALSITY #6
The spirit of "42 days"

In continuation of the discussion of Falsity #5 *supra* (and with it, the Rejection Letter's citation to JCDR 18(b)), we note these **JCDR Commentary on Rule 18** comments:

> Subsection (b) contains a time limit of 42 days to file a petition for review. It is important to establish a time limit on petitions for review of chief judges' dispositions in order to provide finality to the

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19 • Though, even this requires more interpretation, see Bad-Faith Falsity #12, *infra*.

20 • We choose to quote FRAP 25(a)(2) in full here, with certain highlights applied, because of its relevance/importance in subsequent Bad-Faith Falsities, *infra*.

> process. If the complaint requires an investigation, the investigation should proceed; if it does not, the subject judge should know that the matter is closed.

What is clearly significant by this Comment is, not the *precise "tin goddess" value* of 42 days (6 weeks), but rather the importance of *some/constant/fixed time certain* — both to provide Complainants time to craft/write their Complaints, and "in order to provide finality" (to let the accused judges off the hook).

The strict value "42" is *not,* in fact, of any intrinsic import at all.[21] All that really matters is "the *spirit* of '42,'" namely, stability/predictability/certainty.

Therefore, "slipping" a day or two (*if* that indeed actually happened, see Bad-Faith Falsity #12 *infra*) is an utterly trivial/dispensable/disposable/meaningless matter. And, certainly, rigid adherence to "42 days" is certainly *detrimental* to justice-in-the-large (certainly so in the present instance; JCDR 2(b), ℘1 *supra*); it helps no one (except mischievous judges, but in the long run it hurts even them, in the secret recesses of their souls).

BAD-FAITH FALSITY #7
There was no delay for dilatory purposes

Following-up on the preceding Bad-Faith Falsity #6, it might/should/must be asked, what was Petitioner's *reason* for the couple-day "slippage" of the time deadline (*if* indeed that's what actually happened, see Bad-Faith Falsity #12, *infra*)?

If it were done as a dilatory tactic, in an abusive manner (for the purposes of unwarrantedly delaying the progress of proceedings), then of course Petitioner should be given no sympathetic quarter. But that's obviously not what happened.

What happened is that Petitioner spent his days-and-nights during that timeframe, "24/7" diligently/hypomanically[22] "'tooling away,' right up to the very last minute" on the amazingly warranted **Annotated Memoir ("MemAnn")** document,[23] http://judicialmisconduct.us/sites/default/files/

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21 • And indeed, in the original 2008 version of the JCDR, the value "35" was used. Apart from that number, the wording quoted *supra* from the Commentary on Rule 18 was identical.

22 • Literally, recalling that Plaintiff is a suffers from PTSD (http://judicialmisconduct.us/CaseStudies/WETvIBM/Story#caseinchief).

23 • Note there is no provision in the JCDR rules for "motion for enlargement of time" (indeed, there is no mechanism at all for motion practice in the JCDR). Therefore, that potential option was never on the table.

2018-05/MemoirAnnotated.pdf. If Petitioner were capable (physically and intellectually) of working any faster, he would have done so.[24] But as a *pro se* litigant, with no prior knowledge at all of criminal law, he was not so capable, because the research needed was necessarily very time-consuming.[25]

BAD-FAITH FALSITY #8
Arbitrarily variable time limitation requirements[26]

The Petitioner, being *pro se,* has only a narrow experience of judicial timeliness requirements. Until the present JCDR snafu, he has only had to deal with, and was only aware of, two regimes of time deadlines, both of which support "up-to-the-last-minute" filing (which is, really, the only civilized way to do things nowadays):

- Schemes supporting electronic filing (in addition to surface-mail filings). Such as: (i) PACER CM/EMF[27] (in situations where Petitioner is a litigant, such as the federal First Circuit court of appeals); (ii) webforms (e.g., the Judicial Conference, http://www.uscourts.gov/contact-us); (iii) email (e.g., again, the Judicial Conference, JCDR 22(a)).
- (i) The FRAP briefs-&-appendices rule, FRAP(25(a)(2)(B) (reproduced at ℘10 *supra*), which supports both electronic and surface-mail filings. (ii) The Supreme Court scheme (SupCtR[28] Rule 29), which does not support electronic filing at all.

Both of these two time/deadline "sane" regimes have the property that

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24 • Of course, he would have preferred *not* to have accomplished this task/chore at all. But it became a matter of necessity (not of option/luxury) once it became clear the Judicial Council would silently/blithely ignore Alschuler's Memoir, unless it were spoon-fed to them (which is what MemAnn does). ***Nota bene:*** it is, of course, Alschuler's Memoir that provides the core/primordial fact/law-set underpinning our Easterbrook Complaint (and not Petitioner's "scholia/sorites" provided in the Annotated Memoir); therefore there is **no question** about any "frivolity" of the Easterbrook Complaint to be addressed — because Alschuler's impeccable (non-frivolous) scholarship is transparently beyond reproach.

25 • And indeed, it is crystal clear that vanishingly few lawyers (actively involved in the case or not) would have been so capable in the timeframe, either.

26 • Requirements involving *computation* (as opposed to *limitation*) *of time* are exempted from this discussion, because it seems they have become regularized for most/all intents-and-purposes (or at least so it seems to this *pro se* litigant). Namely, FRCP (Federal Rules of Civil Procedure) 6 seems to have "solved this problem" once-and-for-all, with its so-called "days-are-days" approach, effective Dec 1 2009. https://static1.squarespace.com/static/53907115e4b0a6090cfa6a79/t/54c26e66e4b03dfa2a288eac/1422028390475/PPD_winter-10.pdf; http://judicialmisconduct.us/drupal/sites/default/files/2018-05/FRCP%3DDaysAreDaysTimeComputation.pdf.

27 • https://en.wikipedia.org/wiki/CM/ECF.

28 • **Supreme Court Rules (SupCtR),** https://www.supremecourt.gov/filingandrules/2017RulesoftheCourt.pdf.

"up-to-the-last-minute filing-on-the-final-day" deadline — either real-time/electronically (Internet, fax, telephone, whatever), or by U.S. Mail — is possible/supported/acceptable/usual/customary. Therefore, Petitioner, in his *pro se* naiveté, naturally assumed that all (federal, at least) jurisdictions worked the same way.

Therefore, he was shocked to discover the Seventh Circuit works differently (at least in his particular case). The details of the Seventh Circuit differences from the above-stated two "sane" regimes are given in the following Bad-Faith Falsity items #9–#12, *infra*.

The upshot is, candidly/bluntly, absurd/ridiculous/unconscionable. It (the Seventh Circuit) forces petitioners (or at least this particular Petitioner) to sniff-out and adhere-to arbitrarily variable time limitations, depending on the whims of jurisdictions. That's no way to run a railroad. (Or maybe it is, if the goal is to falsely "railroad" litigants, especially *pro se's,* especially this particular Petitioner.)

Note that the Seventh Circuit has a choice about this. It is not forced to "be different" (than the two "sane" regimes listed above); it could enact a "sane"/regularized scheme (such as one of the two types bulleted *supra*), it if only wanted to. Namely, it could do so, by instituting its own JCDR Local Rules, as authorized by JCDR 2(a). As it turns out, the Seventh Circuit does *not* institute any JCDR Local Rules of its own[29] (to the detriment of this Petitioner, in this case, as outlined herein *passim*).

Such arbitrary/whimsical/meaningless/trivial variations in timeliness of our laws/rules **serves no reasonable/rational purpose (it only serves obfuscation).** And we have no-one other than the law/rule-makers to thank/blame for that.[30] **Trapping/catching litigants (*pro se* or not) in "time-traps" like this is nothing but a naked swindle, perpetrated by an unscrupulous judiciary on an unsuspecting public.** That's an obscenity, which we all "know it when we see it."[31]

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29 • http://www.ca7.uscourts.gov/judicial-conduct/judicial-conduct.htm (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/SeventhCirJudMiscWebpage.pdf). On that webpage, the indicated link "Rules for Judicial Conduct and Judicial Disability Proceedings" is a hard/direct link to the generic/template/overall Judicial Conference-level federal JCDR (http://www.ca7.uscourts.gov/forms/rules_for_judicial_complaint.pdf); i.e., the Seventh Circuit does *not* provides any JCDR localized rules, "JCDR-LR."

30 • And, lest anyone naïvely think that "timeliness questions/challenges are so trivial, they must all be cut-and-dried/set-in-stone/dead-end decided at this point, so this is a non-issue," we need merely cite this very recent case to thwart that criticism: *Ortiz-Rivera v. U.S.,* №16-2278, First Circuit (2018), http://media.ca1.uscourts.gov/pdf.opinions/16-2278P-01A.pdf (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/OrtizRivera-v-US%3DTimelinessGnarlCase.pdf).

31 • https://en.wikipedia.org/wiki/I_know_it_when_I_see_it.

BAD-FAITH FALSITY #9
The Seventh Circuit does not support electronic filing (at least for some *pro se* litigants, in particular this Petitioner, in this particular JCDR proceeding)

First proof: Inspection of the Judicial Misconduct portion of the Seventh Circuit's website[32] reveals that the Seventh Circuit does not publicly (such publicity being a *pro se* "right") advertise/provide any means for submitting Complaints of Judicial Misconduct by electronic methods. That is a bad-faith breach (non-state-of-the-art/practice) of the "contract" the Federal Courts have with the American public. By contrast, for example: (i) the First Circuit Judicial Council does support email; and (ii) the Judicial Conference supports both email and webform; and (iii) Petitioner *has consistently availed himself of* any/all electronic submission/delivery methods whenever available[33] (and he naturally expects electronic submission/delivery to be supported universally, as any reasonable *pro se* petitioner would, since he had no relevant previous experience other than those mentioned herein).

Second proof: We refer to the Bad-Faith Falsity #4 section, *supra.* There, story/documentation/proof is cited for the phone conversation (audio and transcript, ƒ15 *supra*) Petitioner conducted with the clerk's office. During the course of that conversation, the clerk pointedly refused, multiple times, to provide Petitioner with an email address; and she did not offer any other electronic means, to submit/deliver a Complaint of Judicial Misconduct. To the contrary, explicitly, the clerk listed only two "technologies" that the Seventh Circuit provides for submission/delivery of Complaints: (i) U.S. Mail (transcript, 09:02); physical-presence hand-delivery at the clerk's "fil-

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32 • http://www.ca7.uscourts.gov/judicial-conduct/judicial-conduct.htm; copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/SeventhCirJudMiscWebpage.pdf.

33 • Examples (noting that the very presence of Internet URL links in these examples here also indicates/counts as "electronic delivery"): (i) Petition for Review to Judicial Council in a different case (http://judicialmisconduct.us/sites/default/files/2017-04/02_PaganoLetter12b%3DAppeal%2CPetForRev_0.pdf); (ii) Petition for Review to Judicial Conference in a different case (http://judicialmisconduct.us/sites/default/files/2018-01/JConfPetition.pdf); (iii) the materials at issue for the instant Petition were indeed published on Petitioner's website on the very due-date in question, May 9 2018:† (iii′) Petition for Review to the Judicial Council (http://judicialmisconduct.us/sites/default/files/2018-05/JC%2CPetForRev.pdf), and (iii″) Annotated Memoir (http://judicialmisconduct.us/sites/default/files/2018-05/MemoirAnnotated.pdf); (iv) this instant Petition for Review to the Judicial Conference in this case itself (see "via" lie at top of this instant letter). {† • In fact, since Plaintiff's website had already priorly been very prominently submitted to the First Circuit Judicial Council as "additional material" to be considered with Petitioner's original Easterbrook Complaint (both the first and second submission), it is arguably the case (and we do make that argument hereby) that Petitioner's publication on the website (at the locations stated in this very footnote, at (iii′)-(iii″)) on May 9 2018 of the Review Petition in question to the Judicial Council, should actually satisfy the received-by-the-clerk-within-42-days rule we are discussing herein.}

ing window" (transcript, 09:24). Regarding these two technologies: we know (i) doesn't work (i.e., the Seventh Circuit can/does just trash-can the whole thing if it wants to, as seen in Bad-Faith Falsity #4 *supra*); and (ii) (hence) we can have no confidence that would work either — given that the Seventh Circuit **refuses to acknowledge receipt** (as proved in Bad-Faith Falsity #4 *supra*), i.e., provides no "chain of custody" by which it can be implicated/indicted of wrong-doing.

So: What these two proofs prove is, in particular, that the instant *pro se* Petitioner **was indeed definitely treated differentially "lesser"** (to his detriment) **compared to (some) others** (esp. non-*pro se* attorneys) — in that, those others *are* informed/permitted to file electronically, hence giving them the **advantage over Plaintiff of a longer filing time.** Such differential treatment is a **violation of the Constitutional Right of Equal Protection Under Law** (https://en.wikipedia.org/wiki/Equal_Protection_Clause).

BAD-FAITH FALSITY #10
In the Seventh Circuit, it is literally *impossible* (at least for some *pro se* litigants, in particular this Petitioner, in this particular JCDR proceeding) to file/submit/deliver papers

The JCDR prescribes (see ƒ18 *supra*) that the timely-filing(/submitting/delivering) provisions for the JCDR are all to be imported from the FRAP. In any circuit, the FRAP may be (is) modified/augmented by Local Rules ("LR") (FRAP 47[34]).[35] With FRAP 25(a)(2)(D) (reproduced at ℘10 *supra*) in mind, the Seventh Circuit provides, in its FRAP-LR 25 (emphasis added): *"All documents **must** be filed and served electronically,"* with exemptions stated (not applicable here), and instructions provided.[36]

During the phone conversation of Feb 27 2018 (see Bad-Faith Falsity #4 *supra*), the clerk pointedly **did not refer** Petitioner to these timely-filing electronic provisions (of which he was unaware, being *pro se*, and having no known reason for referring to these provisions) — **as she should/must**

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34 • Of course, any such "local rules" **must not** diminish the rights of parties (such as, in particular, shorten the time-limitation deadlines for submissions/deliveries/filings); because, that would be "inconsistent with" (in the terminology of FRAP 47) 28 USC §2072 (only the Supreme Court has the power to "change the rules" at that level, subject to the will of Congress, of course).

35 • The Seventh Circuit's FRAP-LR is available at http://www.ca7.uscourts.gov/rules-procedures/rules/rules.pdf; copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/FRAP-LR%3DSeventhCircuit.pdf.

36 • By contrast, the Seventh Circuit rules do *not* appear to *require* that a conventional paper copy *also* be submitted (nor is it forbidden). But this question does not need to be resolved here, as it doesn't impact our arguments one way or the other.

have done. Had she done so, Petitioner would certainly have availed himself of those electronic provisions[37] (with the result that his Petition for Review of the Easterbrook Complaint would indeed have been **timely electronically filed** on May 9 2018). But instead, the clerk made it clear that *this particular pro se* Petitioner had *only* U.S. Mail and hand-delivery available to him (see Bad-Faith Falsity #9 *supra*), not electronic methods.

Putting the preceding two paragraphs together, we paraphrase: (i) Petitioner ***must both:*** (i) ***do*** submit electronically, and (ii) ***do not*** submit electronically. These two commandments are mutually contradictory — **impossible** to satisfy together/simultaneously — proving our claim (Bad-Faith Falsity #10).

BAD-FAITH FALSITY #11
The Seventh Circuit's blind/too-strict/rigid adherence to "rules" (in the small-minded sense) makes it very likely that many Judicial Misconduct Reviews for Petition will be rejected for untimeliness even if petitioners follow all the rules strictly/rigidly

We revisit Bad-Faith Falsities #1,#3, *supra* (now viewed in a new light): "strict/rigid no-exception to the rule of 42-day deadline via U.S. Mail." That amounts to a nakedly disenfranchisement of practitioners, even those who "play by all the rules" (as must be obvious to the Seventh Circuit rule-makers/enforcers, yet again highlighting their knowing perfidy). The reason is that it endows an unwarranted reliance on a third-party player — the U.S. Post Office — which is a known-unreliable partner.[38,39]

For, recall (ƒ18 *supra*) that the JCDR imports its time-limitation rules from the FRAP. And, according to FRAP 25(a)(2)(B)(i) (reproduced at ℘10

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37 • Consistent with Petitioner's established prior behavior, see ƒ33 *supra.*

38 • And whose imperfections cannot be accounted-for, because of the "no-exceptions" stricture of Bad-Faith Falsity #1.

39 • There are further games that could be played with this "unreliable partner" game, such as: (i) What if the "mail addressed to the clerk" (the wording of FRAP 25(a)(2)(A), see ƒ18 *supra*) is inadvertently misaddressed? (ii) Does "the clerk receives the papers" (the wording of FRAP 25(a)(2)(A), see ƒ18 *supra*) really mean "the clerk" (which one?), or does "the clerk's office" suffice? (iii) If "clerk's office" suffices in (i), but an "agent" (such as a "secretary"), as opposed to a/the "clerk," opens/handles the mail, what happens? (iv) What happens if the receiving clerk/agent "goes rogue," and decided to ignore/trash-can the paper instead of filing it (as did indeed happen with the Petitioner's *first* Petition to the Seventh Circuit, see Bad-Faith Falsity #4 *supra*)? (v) What happens if Post Office delivers to the building (say, a Court House) were the "office" is located, as opposed to the "office" itself? (vi) Etc. We won't delve into such game-playing scenarios here, but it's not at all unlikely the Seventh Circuit does, give its track-record as discussed herein (see ƒ14 *supra*).

supra), it is "legal" to submit papers by U.S. Mail (without more than "first class mail" contract). The problem is that the **U.S. Post Office makes no binding (time-)guarantees of delivery.** Thus, a practitioner who entrusts the U.S. Mail to make a paper-submission delivery, but the Post Office doesn't accomplish the delivery within the "expected/hoped-for" time span, would be "out of luck" as far as the Seventh Circuit is concerned, without recourse. That's crazy.

Now, it's true that there does exist "hearsay/folklore wisdom" to the effect that the Post Office "tries to" (without "promising") ensure (purported "good-faith effort") a "three-day standard." But such hearsay/folklore is not legally-binding — and even if it were, the Seventh Circuit's "no-exception rule" (Bad-Faith Falsity #1) would ignore breach any such legal bond.

This is not idle speculation. In the instant case of the disputed Petition for Review to the Judicial Council, for example, all parties agree the gap was five days, not three (May 9 to May 14, see Bad-Faith Falsity #3 *supra*).

Nor is the instant case exceptional. For two reasons:

(i) Even in absence of suspected corruption, the three-day advertisement(/propaganda) is largely ineffective. See https://www.nytimes./com/2017/11/10/nyregion/post-office-mail-delays-daca-applications.html (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/NYT%3DPostOfficeFailsDeliveryTime.pdf). See also http://www.omaha.com/news/metro/u-s-postal-service-delivery-times-lag-more-than-expected/article_3d184144-3097-591c-801f-0f2026fcdc35.html (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/PostOfficeSlowDown.pdf).

(ii) But in the presence of suspected governmental corruption (as is widely reported to be the case in Chicago where the Seventh Circuit sits), the three-day (or even any-number-of-days) advertisement is absolutely worthless. See http://abc7chicago.com/3478310 (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/ChicagoMostCorruptCity.pdf).

BAD-FAITH FALSITY #12
Classes of papers: appeal, cross-appeal, principal, response, reply, motion, brief (appellant, appellee, supplemental, *amicus curiae*), appendix, petition, other

We revisit Bad-Faith Falsity #5 *supra* (now viewed in a new light). As we have seen (ƒ18 *supra*), the FRAP totally controls all time-limits for the JCDR (except where overruled by other rules, such as JCDR 2(b), see Bad-Faith Falsity #1 *supra*). As the FRAP knows well (but the JCDR "papers over" in

silence, falsely), there are various *classes*[40] of papers[41] recognized by the FRAP (*cf.* the caption/header/title of this very section (non-exhaustive)). The reason this "papering-over" is "false" is the following:

- the Rejection Letter (℘5 *supra*) laconically/conclusorily (that is, silently papering-over essential details) asserts that the Petition was "received after the required due date;" BUT
- the Rejection Letter doesn't say how it made that determination, based on the underlying/controlling FRAP rules.

The point being, that there are different time-limits associated to the various classes of papers recognized by the FRAP (this is witnessed by FRAP 25(a)(2), reproduced at ℘10 *supra*). But the Rejection Letter doesn't say how it considers the submitted Petition to fit into the FRAP's classes of papers. And hence, it's unclear which of the FRAP's time-limitations apply to the submitted Petition.

So our question is this: Into what class of FRAP papers does a submitted JCDR Petition fall? Absent other persuasive/compelling guidance from authoritative/definitive sources ("legislative intent,"[42] such as the JCDA, or the Breyer Committee report,[43] or the language/commentary in the body of JCDR itself), the best we can aspire to is "compare/contrast by analogy,"[44] the basis of the principle of precedence/*stare decisis,* and answer our

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40 • The various classes of papers recognized by the FRAP are *not defined* in the FRAP. That implies we are intended to turn to other, "plain" or "ordinary" authorities for their definitions ("plain/ordinary meaning rule," https://en.wikipedia.org/wiki/Plain_meaning_rule). Accordingly, we cite to Black's Law Dictionary, 7th ed., as a least-common-denominator authority (augmented by usual/customary practice/usage "in the field," of course). Of interest to us here are: **Petition:** "A formal written request presented to a court or other official body." **Motion:** "A written or oral application requesting a court to make a specified ruling or order." **Notice:** "Legal notification required by law or agreement." **Brief:** "A written statement setting out the legal contentions of a party in litigation, esp. on appeal; a document prepared by counsel as the basis for arguing a case, consisting of legal and factual arguments and the authorities in support of them." **Appendix:** "A supplementary document attached to the end of a writing <the brief includes an appendix of exhibits>."

41 • Noting that "paper" encompasses electronic transmission. FRAP 25(a)(2)(D).

42 • https://en.wikipedia.org/wiki/Legislative_intent. The closest we can divine to "legislative intent" is that "the FRAP (which is already very well-developed) should be imported/incorporated into the JCDR, to the extent possible/feasible/reasonable" — which makes sense, since it is the Appellate Judges who "run (operate under) both these rodeos (FRAP and JCDR)."

43 • https://www.supremecourt.gov/publicinfo/breyercommitteereport.pdf.

44 • (i) Weinreb, *Analogy in Legal Argumentation,* http://codolc.com/books/Legal_Reason_The_Use_Of_Analogy_In_Legal_Argument.pdf (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/Weinreb%3DAnalogyInLegalArgument.pdf); (ii) Farrar, *Legal Reasoning by Analogy,* https://epublications.bond.edu.au/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1130&context=blr (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/Farrar%3DLegalReasoningBy ⬇℘19

question as follows:

A (i) "petition" in the sense of the JCDR, is "not really like"[45] (analogy) a (ii) "petition" in the sense of the FRAP. Instead,[46] a (i) **JCDR-petition** is "actually more like" a combination/blend/amalgam (ii = ii′+ii″+ii‴) of (ii′) **FRAP-petition/motion** plus (ii″+ii‴) **FRAP-brief+FRAP-appendix** — in unequal parts, with the **by-far greater emphasis being on the (ii″+ii‴) FRAP-brief+FRAP-appendix** side (noting that a hypothetical **"JCDR-brief+FRAP-appendix"** *doesn't exist* because the words/concepts "brief, appendix" in the (technical) sense discussed here don't even occur in the JCDR ("brief" us used in the colloquial sense of "short extent," though); nor is there a word/concept of **"JCDR-motion,"** though there is a **FRAP-motion**). This thesis is self-proving. Namely:[47] (i) a FRAP-petition is nothing but a "notice"-of-action (*pro forma,* "one-page," *sans* argumentation): while a (ii) FRAP-brief+FRAP-appendix is an "act/doing"-of-action (multi-page, with massive/sustained argumentation) — and a JCDR-petition is much more a "doing-of-action" than it is a "notice-of-action."

Now, as we know, there's a *differential* between the FRAP time-limits (reproduced at ℘10 *supra*) for (ii′) FRAP-petition (FRAP 25(a)(2)(A)) and for (ii″+ii‴) FRAP-brief+FRAP-appendix (FRAP 25(a)(2)(B)). Namely, the latter is given "up-to-the-last-minute"[48] leniency, compared to the former.

Therefore, by analogy (the theme of this section): the time-limit for (i) JCDR-petitions "should be" — and, as we argued in this section, *was arguably the intent* of the JCDR architects, absent "legislative intent" or other more persuasive evidence — "more like" (ii″+ii‴) than (ii′).

In other words, by this argument: JCDR-petitions are (arguably, with high probability) *intended* to have "up-to-the-last-minute" time-limits — controlled by FRAP 25(a)(2)(B), rather than FRAP 25(a)(2)(A).[49]

⬆℘18 Analogy.pdf); (iii) Stanford Encyclopedia of Philosophy, *Precedent and Analogy in Legal Reasoning,* https://plato.stanford.edu/entries/legal-reas-prec (copy at http://judicialmisconduct.us/drupal/sites/default/files/2018-05/Stanford%3DPrecedentAndAnalogyInLegalReasoning.pdf).

45 • Further bolstering our argument that "petitions" in the senses of FRAP and JCDR are very unlike one another, are the facts that: (i) the FRAP supports "notice of appeal" (FRAP 3(a)) and "petition for (permission to) appeal" (FRAP 5), or "joint petition" (FRAP15), or for writs (FRAP 21), or for "panel hearing" (FRAP 40), or for "rehearing or *en banc*" (FRAP 35(b)), etc. (FRAP 26(b)(2)), but not a "just-plain petition" (or "just-plain appeal"); while (ii) contrariwise the JCDR supports a "just-plain petition" only (not "decorated" as in the FRAP).

46 • Here's where the terminology of ƒ40 *supra* comes into play. For FRAP-brief, see FRAP 28,32; for FRAP-appendix, see FRAP 30.

47 • Recalling ƒ46 *supra.*

48 • For this "up-to-the-last-minute" concept, see Bad-Faith Falsity #8, *supra.*

49 • But, it goes without saying, the Rejection Letter (℘5 *supra*) silently, falsely (in bad ⬇℘20

BAD-FAITH FALSITY #13
"[T]he Judicial Council was unable to consider the Petition"

The purported "inability" claim portrayed by this language of the Rejection Letter (℘5 *supra*) is obviously absurdly false (in bad faith) on its face. It's a bald-faced lie. The Judicial Council was plainly *not "unable"* to consider the Petition. It was certainly *capable* of considering the Petition, because the Council had the free/open *choice/discretion* whether or not to consider the petition (as proved by, e.g., JCDR 2(b), ℘1 *supra,* see Bad-Faith Falsity #1 *supra*). But instead, the Judicial Council simply *chose* — without being compelled to, and without compunction (falsely, in bad faith) — not to.[50]

CONCLUSION

Petitioner's complaints/arguments/prayer now being thus concluded (and hereby sworn truthful under penalty of perjury), he commends the fate/resolution/adjudication of this Petition — and in particular the vacation/reversal of the Council's rejection — to this Committee's good offices.

Sincerely,

Walter E. Tuvell

⬆℘19 faith), chose to apply FRAP 25(a)(2)(A), rather than the correct FRAP 25(a)(2)(B). And, lest anyone raise the (pseudo-)argument that, "But, wait, the JCDR refers to 'petition,' the same word used in the FRAP," we gently remind them that's a red herring (double-talk). For, in the semiotics of language, mere *syntax* (sign, symbol) of words is only incidental, it's *semantics/pragmatics* that has real significance (imparts meaning/interpretation), especially in a functional profession such as the law. And the latter (semantics/pragmatics) is determined by the *context* in which words/language are employed (in our case, functional usage as discussed *supra,* i.e., "one-page notice" vs. "multi-page doing"). As a general (one-size-fits-all) proposition: **"Context matters."** — *BNSF v. White,* 548 U.S. ℘53–80 (2006) at ℘69, explaining that "[T]he significance of any given act [or 'doing,' equally applicable to 'words/language'] of retaliation will often depend upon the particular circumstances."

50 • This is certainly true at JCDR level, because of JCDR 2(b) as just cited. But in fact, it's more broadly true even at FRAP level (at least for "non-jurisdictional/statutory" filing deadline rules), due of *Hamer v. Neighborhood Housing Services of Chicago,* №16-658 (Nov 2017); https://www.supremecourt.gov/opinions/17pdf/16-658_p86b.pdf.