



**UNITED STATES TAX COURT**  
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL  
MISCONDUCT OR DISABILITY,

No. TC-21-90006

**ORDER**

The Court received a complaint alleging that a judge of the United States Tax Court has a mental or physical disability resulting in the inability to discharge the duties of judicial office. Upon due consideration, it is

ORDERED that the complaint is dismissed for the reasons stated in the attached Memorandum.

The Clerk of the Court is directed to send copies of this Order to the complainant, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 11(g)(2), Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (USTC Rules for Judicial Conduct).<sup>1</sup>

The complainant and the subject judge have the right to petition the Judicial Conduct and Disability Council to review this Order. USTC Rules for Judicial Conduct, Rule 11(g)(3). The deadline for filing such a petition is within forty-two (42) days after the date of the Chief Judge's Order, and the timely mailing/timely filing provision of 26 U.S.C. sec. 7502 does not apply. USTC Rules for Judicial Conduct, Rule 18(a), (b).

*Kathleen Kerrigan*

Kathleen Kerrigan  
Acting Chief Judge

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<sup>1</sup> The USTC Rules for Judicial Conduct require the Chief Judge's decision to be publicly available, but the identities of the judge and the complainant are protected if the complaint is finally dismissed under Rule 11(c). USTC Rules for Judicial Conduct, Rule 24. Accordingly, the Court will not identify the parties in this matter, nor describe the context in which the complainant's grievances arose with any degree of specificity.

**Served 02/09/22**

**MEMORANDUM**

KERRIGAN, Acting Chief Judge: Complainant, an individual representing himself in this proceeding, who is not a party nor a practitioner in an underlying United States Tax Court case, has filed a complaint of judicial disability against a judge of this Court. For the following reasons, the complaint will be dismissed.

Complainant alleges that the judge dismissed his concern that Internal Revenue Service staff were not properly trained and disagrees with the judge's determination that there was no denial of due process in the case at issue. The complainant requests that the judge be examined by a licensed physician to determine his mental state.

A disability complaint must be dismissed to the extent that the Chief Judge concludes that its allegations, even if true, do not indicate a disability that results in a judge's inability to discharge the duties of judicial office. Rules 3(e) and 11(c)(1)(A), USTC Rules for Judicial Conduct. The complaint's assertions regarding the judge's consideration of and rulings in a tax case are merits-related and do not demonstrate the existence of an impairment rendering the judge unable to discharge the duties of office. Rules 3(e) and 11(c)(1)(A), USTC Rules for Judicial Conduct. Dismissal is appropriate when "the complaint lacks sufficient factual allegations to state a facially plausible claim for relief." *Rote v. Judicial*

*Conduct and Disability Committee*, 2021 WL 6197041, at 2\* (D. Or. Dec. 30, 2021).

Complainant is advised that a complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the complaint procedure, may be restricted from filing further complaints. Rule 10 (a), USTC Rules for Judicial Conduct.

The complaint must be dismissed.