



United States Tax Court
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL
MISCONDUCT OR DISABILITY,

No. TC-24-90001

ORDER

On January 22, 2024, the Court received a complaint alleging that a judge of the United States Tax Court engaged in judicial misconduct. By letter dated January 31, 2024, the Court acknowledged receipt of the complaint.

After reviewing the complaint, the Chief Judge issued an order served on March 22, 2024, appointing a special committee to investigate Complainants' allegation of ex parte communication.¹ See Rule 11(a)(4).² The Special Committee produced a Special Committee Report of Investigation (Report). Complainants were properly served notice of the appointment of the Special Committee and of the filing of the committee's Report with the Judicial Conduct and Disability Council (Council). See Rules 11(g)(1) and 16(a).

The Special Committee's unanimously adopted Report, which includes findings and recommendations for council action, dated May 7, 2024, was filed with the Council, and the Council members eligible to participate reviewed the report. After reviewing a special committee's report, the Council may: (1) dismiss the complaint, (2) conclude the proceeding because appropriate corrective action was taken or intervening events have made the proceeding unnecessary, (3) refer the complaint to the Judicial Conference, or (4) take remedial actions to ensure the effective and expeditious administration of Tax Court business. Rule 20(b)(1).

¹ The Chief Judge issued an Order of Partial Dismal for the other allegations in the complaint that was also served on March 22, 2024.

² All Rule references are to the Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court.

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After reviewing the materials before it, the Council unanimously decides to dismiss the complaint under Rule 20(b)(1)(A)(iii) for the reasons stated in the attached memorandum.

Upon due consideration, and for cause, it is

ORDERED that the complaint is dismissed under Rule 20(b)(1)(A)(iii).

The Clerk of the Court is directed to send copies of this Order and attached memorandum to Complainants, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 20(f).³ The Clerk of the Court is also directed to send a copy of the Special Committee Report of Investigation to Complainants.

The Complainants may petition the Committee on Judicial Conduct and Disability to review the Council's order. Rule 21(b).

(Signed) Judge Emin Toro
Chair, Judicial Conduct and Disability Council

³ The USTC Rules for Judicial Conduct require the Council's decision to be publicly available. Rule 24. If a complaint is dismissed at any time after the appointment of a special committee, the Council must determine whether the name of the subject judge should be disclosed. *Id.* at (a)(2). The Council has determined that disclosure of the subject judge's name is not warranted here.

MEMORANDUM

Complainants filed a complaint of judicial misconduct against a judge of the United States Tax Court. Specifically, the Complainants allege that the subject judge engaged in ex parte communications with Internal Revenue Service counsel during trial. For the following reasons, the complaint is dismissed.

On March 22, 2024, the Chief Judge issued an order appointing a Special Committee comprised of three judges to whom this complaint was referred. The Special Committee Report of Investigation (Report) dated May 7, 2024, concluded that there was insufficient credible evidence to reach a conclusion of wrongdoing by the subject judge. After due consideration, the Special Committee recommended that the complaint be dismissed.

The Council members eligible to participate in this matter have reviewed the Report and the subject judge's memorandum dated March 3, 2024, and unanimously accept the Special Committee's conclusions and recommendation that the complaint be dismissed.