



**United States Tax Court**  
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL  
MISCONDUCT OR DISABILITY,

No. TC-24-90005

**ORDER**

On February 21, 2024, the Court received a complaint alleging that a judge of the United States Tax Court engaged in judicial misconduct. By letter dated February 29, 2024, the Court acknowledged receipt of the complaint.

After reviewing a complaint, the Chief Judge must determine whether it should be: (1) dismissed, (2) concluded on the ground that voluntary corrective action has been taken, (3) concluded because intervening events have made action on the complaint no longer necessary, or (4) referred to a special committee. Rule 11(a), Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (USTC Rules for Judicial Conduct).

Upon due consideration, and for cause, 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 complainants, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 11(g)(2), USTC Rules for Judicial Conduct.<sup>1</sup>

Complainants and the subject judge have the right to petition the Judicial Conduct and Disability Council to review this Order. Rule 11(g)(3), USTC Rules for Judicial Conduct. The deadline for filing such a

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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 subject judge and complainants are protected if the complaint is finally dismissed under Rule 11(c). Rule 24, USTC Rules for Judicial Conduct. Accordingly, the Court will not identify the parties in this matter nor describe the context in which the complainants' grievances arose with any degree of specificity.

**Served 06/06/24**

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petition is within 42 days after the date of the Chief Judge's Order, and the timely mailing/timely filing provision of 26 U.S.C. § 7502 does not apply. Rule 18(a), (b), USTC Rules for Judicial Conduct.

**(Signed) Kathleen Kerrigan**  
Chief Judge

**MEMORANDUM**

KERRIGAN, *Chief Judge*: Complainants have filed a complaint alleging judicial misconduct by a judge of the United States Tax Court. For the following reasons, the complaint will be dismissed.

Complainants allege that the subject judge failed to consider several of complainants' arguments, conspired with the IRS, and attempted to persuade complainants to go to trial without legal representation.

Cognizable misconduct does not include allegations that are directly related to the merits of a decision or procedural ruling, and a complaint must be dismissed in whole or in part when the Chief Judge concludes this is so. Rules 3(i)(3)(A) and 11(c)(1)(B), USTC Rules for Judicial Conduct. Complainants' allegation that the subject judge failed to consider several of their arguments is directly related to the merits of the case and is not judicial misconduct. Rule 11(c)(1)(D), USTC Rules for Judicial Conduct; *see In the Matter of a Judicial Complaint*, No. 06-9038 (4th Cir. C.J. Oct. 23, 2006) (claims of legal or factual error are merits-based).

The Chief Judge must also dismiss a complaint in whole or in part when the Chief Judge concludes that the complaint is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred. Rule 11(c)(1)(D), USTC Rules for Judicial Conduct. Complainants allege that the subject judge conspired with the IRS without providing any evidence of a conspiracy. Therefore, complainants' allegation of conspiracy is unsupported. *Id.*; *see In re Complaint*, No. 432 (1<sup>st</sup> Cir. C.J. June 12, 2006) (complaint dismissed because there was no indication of specifics of alleged collusion); *In re Complaint of Judicial Misconduct*, No. 27 (Fed. Cir. Apr. 25, 1989), *aff'g* (Fed. Cir. C.J. Feb. 16, 1989) (unsupported and conjectured allegations not enough to support a complaint for judicial misconduct).

Complainants also allege that the subject judge attempted to persuade them to go to trial without legal representation. A review of the proceedings' transcript conclusively refutes this allegation. *See In re Charge of Judicial Misconduct*, Nos. 07-9023, 07-9024, 07-9031 (2<sup>nd</sup> Cir. C.J. Aug. 28, 2007 (complaint lacked factual foundation and was conclusively refuted by objective evidence); *In re Complaint*, No. 01-10-90001 (1<sup>st</sup> Cir. Jud. Council Dec. 14, 2010) (inferences were not supported by anything in the transcript; therefore, the allegations were dismissed as factually unsupported).

As explained above, complainants' allegations do not support a finding of misconduct by the subject judge. Accordingly, the complaint against the subject judge is dismissed.