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The Revised Rules Governing the Processing of Judicial Misconduct Complaints Will Not Stop Judges From Systematically Dismissing Them

**Now Judges Judging Judges Can Suspend or Modify Their Application and
Not Disclose Information Even To A Prosecutor or A Grand Jury!**

The Committee on Judicial Conduct and Disability announced its Revised Rules for implementing the Judicial Conduct and Disability Act as well as its readiness to submit them for adoption to the highest policy-making body of the Federal Judiciary, the Judicial Conference of the U.S., whose presiding officer is the Chief Justice of the Supreme Court. The Act allows anybody to file a complaint against a federal judge on grounds such as the judge's abuse of judicial power, demeanor, prejudice, bias, conflict of interests, bribery, corruption, undue decisional delay, incompetence, neglect, and mental or physical disability. Complaints must be filed with the judge's chief circuit judge, who may appoint a special committee of judges to investigate the complaint and submit a report to the circuit's judicial council of judges, which in turn may refer it to their peers in the Committee, whose decision may be reviewed by the Conference, which is also made up of judges.

This inherently biased system where judges judge other judges, who are their colleagues and may be their longtime friends, has been abused by judges to self-exempt from any discipline. Thus, the official statistics on their handling of those complaints show that in the 10-year period 1997-2006 there were filed 7,462 complaints, but judges only set up 7 special investigative committees and disciplined only 9 of their peers, thus dismissing systematically 99.88% of all complaints!

Members of Congress expressed their dissatisfaction with the judges' dismissing complaints to protect each other and in effect abrogating the Act. They introduced H.R. 5219 and S. 2678 to enact the Judicial Transparency and Ethics Enhancement Act, which would establish the Office of Inspector General for the Judicial Branch. To ward off any Congressional supervision, the Late Chief Justice Rehnquist set up a committee chaired by Associate Justice Breyer to study the implementation of the Judicial Conduct and Disability Act; then Chief Justice Roberts requested that the Judicial Conduct and Disability Committee revise the current complaint-processing rules in order to implement the recommendations of the Breyer Report.

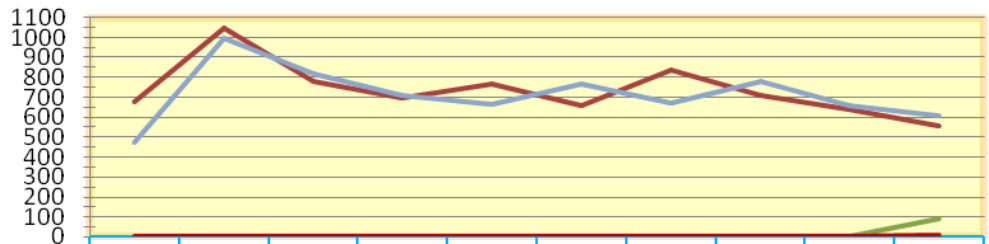
When the Committee released its Draft Rules for public comment it made its announcement on only one little known website, held a single public hearing in an out of the way district court, and did not make public the comments that it received. Just before the holidays, on December 21, it released its Revised Rules and allowed just two weeks to submit comments, thus confirming its determination not to subject its Rules to public scrutiny. The reason for this is that its Revised Rules make it easier for judges to take care of their own than the Draft or the current rules.

Indeed, the Revised Rules now allow chief circuit judges, special committees, judicial councils, the Committee, and the Conference to suspend or modify the rules in any case, thereby making them illusory. They strip the Committee's own commentaries on its Rules of the status as "authoritative interpretations of the Rules" that they had in the Draft Rules just as they deprive the Code of Conduct for U.S. Judges of any value as a source of guidance in complaint proceedings. They even pretend to authorize special committees not to disclose some information about an investigated judge to a prosecutor or grand jury. The Rules show how judges will continue to protect their exercise of judicial power subject to no control: absolute power that corrupts absolutely. How would you like judges who deem themselves above the law because they can engage in misconduct risklessly disposing of your rights to your property, your liberty, and even your life?

Detailed comments on the Revised Rules and links to them and all other references are found at http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf.

Number of Complaints Filed by Complainants and Systematically Dismissed by Chief Judges and Judicial Councils Between '97 and '06

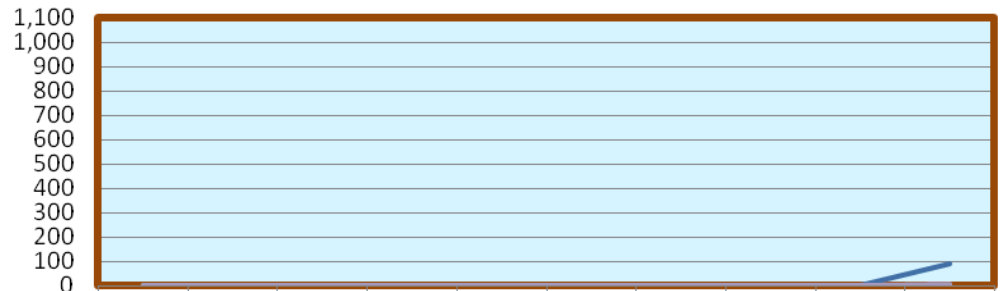
Number of complaints:



	97	98	99	00	01	02	03	04	05	06
— filed by complainants	678	1,049	781	695	766	656	835	712	642	555
— filed by chief judges	1	2	0	1	0	1	0	0	0	88
— dismissed by chief judges & judicial councils	477	995	820	710	663	770	673	781	661	609
— referred to Judicial Conference	0	0	0	0	0	0	0	0	0	0
— special investigating committees appointed[†]	0	0	0	0	0	0	0	0	0	7

Judicial Councils' Action Against Complained-about Judges From 1997-2006

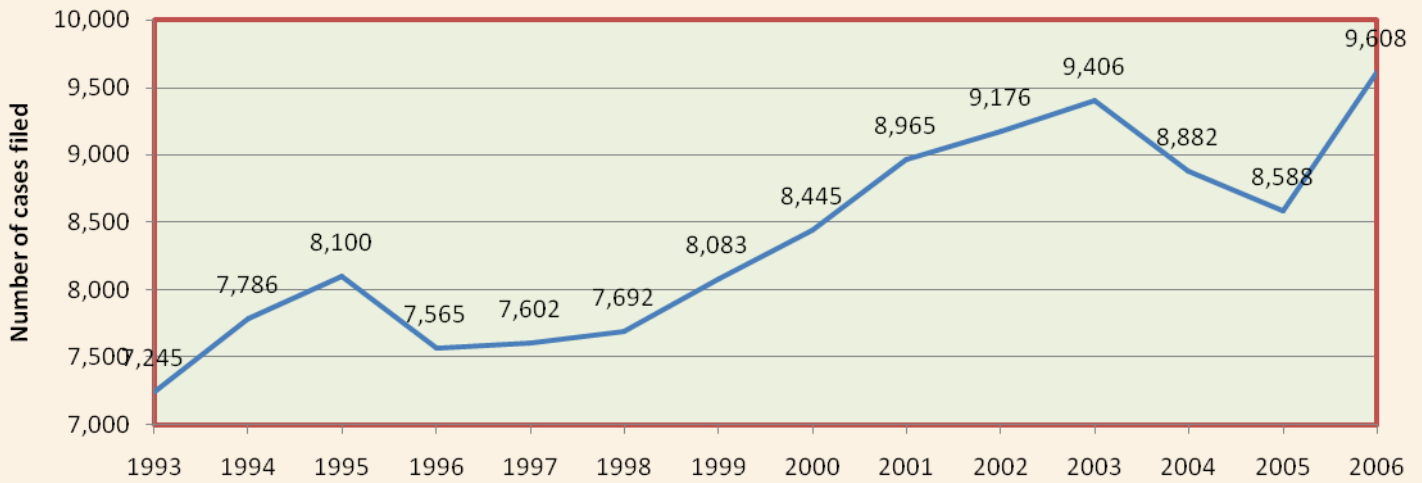
Number of complaints



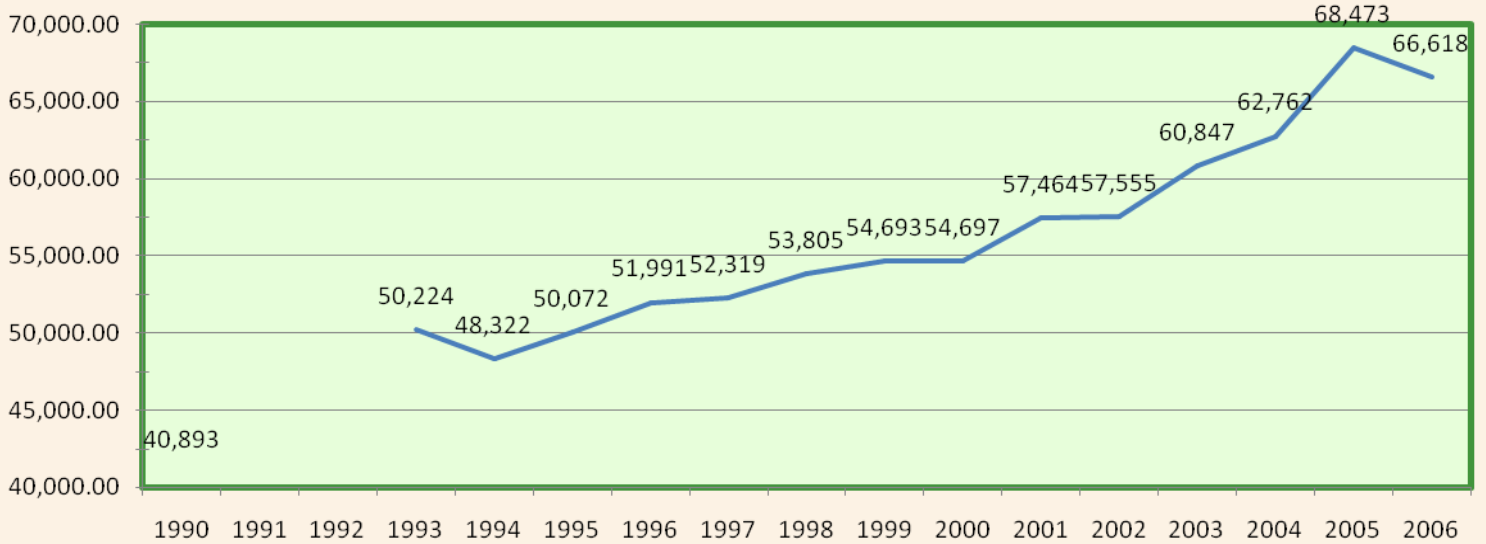
	97	98	99	00	01	02	03	04	05	06
— filed by chief judges	1	2	0	1	0	1	0	0	0	88
— directed chief district judge to take action (magistrate judges only)	0	0	0	0	0	0	0	0	0	1
— certified disability	0	0	0	0	0	0	0	0	0	0
— requested voluntary retirement	0	0	0	0	0	0	0	0	0	0
— ordered temporary suspension of case assignment	0	1	0	0	0	0	0	0	0	0
— privately censured	0	0	0	0	1	0	0	0	0	0
— publicly censured	0	1	0	2	0	2	0	0	0	0
— ordered other appropriate action	0	0	0	0	0	0	1	0	0	0
— referred complaint to Judicial Conference	0	0	0	0	0	0	0	0	0	0
— special investigating committees appointed[†]	0	0	0	0	0	0	0	0	0	7

Source: Tables of the Adm. Off. of the U.S. Courts; collected in http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf

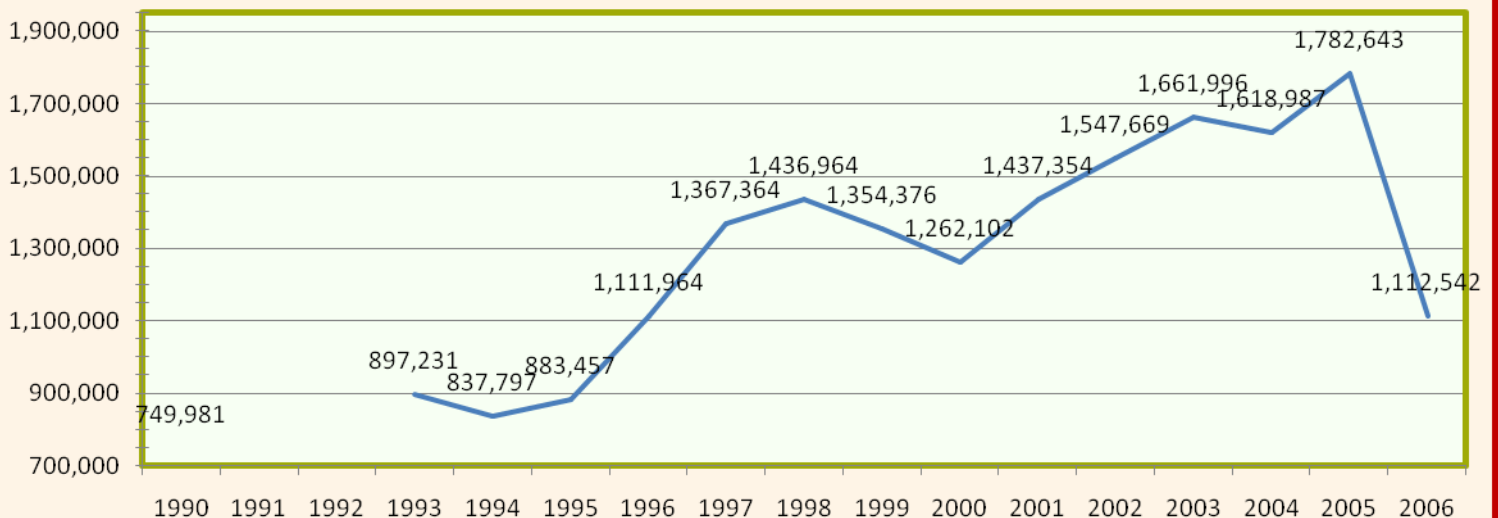
Cases Filed in the Supreme Court Between 93-06 showing a 33% increase



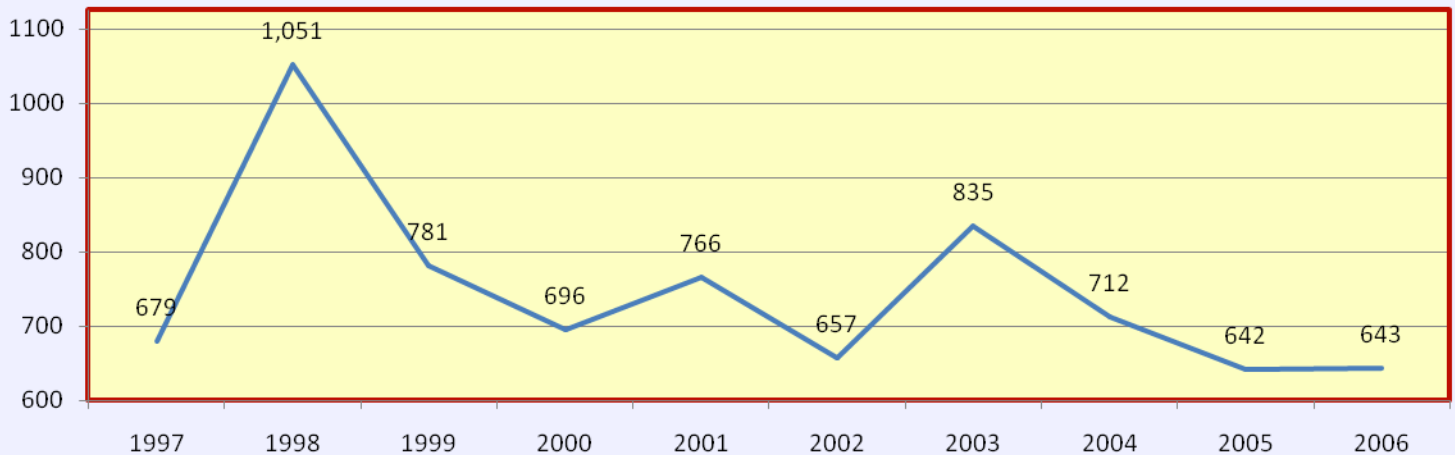
Cases Filed in the Court of Appeals Between 90-06 Showing a 63% Increase



Cases Filed in Bankruptcy Courts Between 90-06 Showing a 138% Increase at Peak



Complaints Filed Between 97-06 Showing a *Decrease of 5%*



[Footnotes in the originals]

NOTE: EXCLUDES COMPLAINTS NOT ACCEPTED BY THE CIRCUITS BECAUSE THEY DUPLICATED PREVIOUS FILINGS OR WERE OTHERWISE INVALID FILINGS.

* REVISED. [regarding complaints pending]

** EACH COMPLAINT MAY INVOLVE MULTIPLE ALLEGATIONS AGAINST NUMEROUS JUDGES. NATURE OF ALLEGATIONS IS COUNTED WHEN A COMPLAINT IS CONCLUDED.

Source: For Tables 1, 2, and 6, Judicial Business of U.S. Courts, 1997-2006 Annual Reports of the Director, Administrative Office of the United States Courts.

For Tables 3, 4, 5, 2005-2006 Judicial Facts and Figures, Administrative Office of the U.S. Courts.

The original Tables are collected and reproduced in http://Judicial-Discipline-Reform.org/judicial_complaints/DrCordero_revised_rules.pdf, wherein they are accompanied by links to the originals.

Tables 1, 2, and 6, supra, report on complaints filed and processed in the Federal Circuit, the District of Columbia, the 1st-11th circuits, the U.S. Claims Court, and the Court of International Trade. (Cf. 28 U.S.C. §§351(d)(1) and 363)

†The category “Special Investigating Committees Appointed” first appears in the 2006 Table.

These figures do not even include cases filed with Article I courts, which are part of the Executive, not the Judicial, Branch, such as the U.S. Tax Court, established in 1969 (after it was created as the Board of Tax Appeals in 1924 and its name was first changed to Tax Court of the U.S. in 1942). Another such court is the U.S. Claims Court, established as an Article I court in 1982, and renamed U.S. Court of Federal Claims in 1992. Likewise, the U.S. Court of Veterans' Appeals was established as an Article I court in 1989 and then renamed the Court of Appeals for Veterans Claims in 1998.

They too support the conclusion to be drawn from these statistics: The significant increase in cases filed with these courts every year attests to the litigiousness of the American society. They belie the judges' report that in the '97-'06 decade Americans have filed a steady number of complaints against them hovering around the average (after eliminating the outlier) of only 712 complaints. The explanation lies in the first footnote in the originals, above: Judges have arbitrarily excluded an undetermined number of complaints. The fact that they have manipulated these statistics is also revealed by the first table above: After 9 years during which the judges filed less than one complaint a year, they jumped to 88 in 2006...and that same year it just so happened that complainants filed the lowest number of complaints ever, 555! *Implausible!* Yet, the judges did not discipline a single peer, just one magistrate.