

**JUDICIAL COUNCIL OF THE
TENTH CIRCUIT**

IN RE: COMPLAINT UNDER THE
JUDICIAL CONDUCT AND
DISABILITY ACT

No. 10-11-90050

Before **BRISCOE**, Chief Judge.

ORDER

Complainant has filed a complaint of judicial misconduct against a district judge in this circuit. My consideration of this complaint is governed by 1) the misconduct rules issued by the Judicial Conference of the United States, entitled *Rules for Judicial-Conduct and Judicial-Disability Proceedings* (the “Misconduct Rules”); 2) the federal statute dealing with judicial misconduct, 28 U.S.C. § 351 *et seq.*, and 3) the “Breyer Report,” a study by the Judicial Conduct and Disability Act Study Committee, headed by Supreme Court Justice Stephen Breyer, entitled *Implementation of the Judicial Conduct and Disability Act of 1980*. The Breyer Report may be found at: <http://www.supremecourt.gov/publicinfo/breyercommitteereport.pdf>. To the extent that there are any relevant prior decisions of the full Judicial Council of this circuit which are consistent with those authorities, they may also govern my consideration of this complaint.

Complainant has been provided with a copy of the Misconduct Rules, and the Rules are also accessible on the Tenth Circuit’s web page at:

<http://www.ca10.uscourts.gov/misconduct.php>. In accord with those rules, the names of the complainant and subject judge shall not be disclosed in this order. *See* Misconduct Rule 11(g)(2).

Complainant contends that both the district court and appellate court are wrongly charging complainant filing fees for cases in which complainant is not involved. Complainant attaches various letters, statements, and other documents to support this claim. However, the complaint contains no allegations tying the subject judge to this claim. The Misconduct Rules require complainants to support their allegations with “sufficient evidence to raise an inference that misconduct has occurred.” *See* Misconduct Rule 11(c)(1)(D). Without any factual support, this claim must be dismissed.

I have reviewed the documentation attached to the complaint. Complainant’s factual underpinnings implicate claims against the court clerks instead. These misconduct procedures apply only to federal judges. *See* Misconduct Rule 4.

Accordingly, this complaint is dismissed pursuant to Misconduct Rule 11(c). The Circuit Executive is directed to transmit this order to complainant and copies to the subject judge and the Judicial Conference Committee on Judicial Conduct and Disability. *See* Misconduct Rule 11(g)(2). To seek review of this order, complainant must file a petition for review by the Judicial Council. The requirements for filing a petition for review are set out in Misconduct Rule 18(b).

The petition must be filed with the Office of the Circuit Executive within 35 days of the date of the letter transmitting this order. *Id.*

So ordered this 4th day of October, 2011.

/s/ Mary Beck Briscoe

Honorable Mary Beck Briscoe
Chief Circuit Judge