

No. 25-355

In the Supreme Court of the United States

JAMES DONDERO; HIGHLAND CAPITAL MANAGEMENT
FUND ADVISORS, L.P.; THE DUGABOY INVESTMENT
TRUST; NEXPOINT REAL ESTATE PARTNERS, LLC; AND
GET GOOD TRUST, PETITIONERS

v.

STACEY G. JERNIGAN; HIGHLAND CAPITAL
MANAGEMENT, L.P., RESPONDENTS

*ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

PETITION FOR REHEARING

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TABLE OF CONTENTS

Table of contents i
Table of authorities iii
Grounds for rehearing1
 I. Procedural summary4
 II. The intervening Fifth Circuit Judicial
 Council “corrective action” of recusal
 warrants rehearing7
 III. In the alternative, the Court should call for
 the views of the Solicitor General or grant,
 vacate, and remand11
Conclusion13
Certificate of counsel14
Appendix

APPENDIX

Order of the Judicial Council for the Fifth
Circuit, *In re Complaint of James D.
Dondero Against Chief United States
Bankruptcy Judge Stacey G.C. Jernigan,*
No. 05-26-90041 (Dec. 29, 2025) 1a
Order of the Judicial Council for the Fifth
Circuit, *In re Complaint of Judicial Mis-
conduct Under the Judicial Improve-
ments Act of 2002*, No. 05-26-90042 (Dec.
29, 2025) 6a
Order of the Judicial Council for the Fifth
Circuit, *In re Complaint of Judicial Mis-
conduct Under the Judicial Improve-
ments Act of 2002*, No. 05-26-90043 (Dec.
29, 2025) 14a

Order of the Judicial Council for the Fifth
Circuit, *In re Complaint of Judicial Mis-
conduct Under the Judicial Improve-
ments Act of 2002*, No. 05-26-90044 (Dec.
29, 2025)..... 19a

Order of the Judicial Council for the Fifth
Circuit, *In re Complaint of Judicial Mis-
conduct Under the Judicial Improve-
ments Act of 2002*, No. 05-26-90045 (Dec.
29, 2025)..... 25a

TABLE OF AUTHORITIES

Cases

Demodulation, Inc. v. United States,
114 Fed. Cl. 655 (Fed. Cl. 2014)13

*Highland Capital Management, L.P. v. NexPoint
Advisors, L.P.*, No. 25-11911

Liljeberg v. Health Servs. Acquisition Corp.,
486 U.S. 847 (1988).....10

Statutes

28 U.S.C. § 455.....3, 8

28 U.S.C. § 455(a)3

Rules

Fifth Circuit Comment to Jud. Cond. & Jud. Disab.
Proc. R. 4.2.....12

Jud. Cond. & Jud. Disab. Proc. R. 11(g)(2).....5

Jud. Cond. & Jud. Disab. Proc. R. 24(1).....5

Jud. Cond. & Jud. Disab. Proc. R. 24(5).....5

Sup. Ct. R. 44.22, 7

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*ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

PETITION FOR REHEARING

Petitioners James Dondero; Highland Capital Management Fund Advisors, L.P.; The Dugaboy Investment Trust; NexPoint Real Estate Partners, LLC; and Get Good Trust respectfully petition for rehearing of this Court's order of January 12, 2026, denying their petition for writ of certiorari.

GROUND FOR REHEARING

The question presented is whether a trial judge's decision not to recuse should be reviewed for abuse of discretion when presented on direct review (and a clear and

indisputable abuse of discretion when presented on mandamus) or *de novo*. Nearly every circuit had weighed in on this fully mature split of authority, with the Fifth Circuit and some others taking the former position, the Seventh Circuit the latter, and still others reviewing recusal declarations solely for an abuse of discretion even on mandamus.

The split of circuit authority was squarely presented by the decision of the Fifth Circuit declining mandamus relief against a bankruptcy judge's failure to recuse on grounds of having written novels denigrating the hedge-fund industry and a character similar to a hedge-fund manager party before her. The Fifth Circuit held that "due to similarities between the parties and the characters in her novels, a strong argument could be made that [the bankruptcy judge] had a duty to recuse," but that strong argument did not amount to the clear and indisputable abuse of discretion required for mandamus relief. Pet. App. 17a.

"[I]ntervening circumstances of a substantial or controlling effect" warrant rehearing of the petition's denial. Sup. Ct. R. 44.2. Since the Court's decision, Petitioners received Fifth Circuit Judicial Council resolutions of judicial complaints regarding the bankruptcy judge's novels. In those resolutions, the Fifth Circuit Chief Judge arranged for extensive corrective action and required the judge to recuse herself from any issues in the Highland bankruptcy going forward.

So the judge's novels have now given rise both to a "strong argument . . . that she had a duty to recuse" and to "corrective action" addressing "conduct occurring

outside the performance of official duties” leading to a “substantial and widespread lowering in public confidence in the courts among reasonable people.” Pet. App. 17a; App. 10a. The former led the Fifth Circuit merits panel to deny mandamus relief. Yet the latter led the Fifth Circuit Chief Judge to effectuate the bankruptcy judge’s recusal—but only from future proceedings in the bankruptcy while leaving her tainted past rulings in place.

These intersecting and conflicting standards and outcomes would send Franz Kafka to his typewriter. It is now apparent that the judge should have recused from the get-go due to her novels, because her “impartiality might reasonably be questioned.” 28 U.S.C. § 455(a). Only the standard of review is preventing the Fifth Circuit from reversing the judge’s refusal to recuse now and vacating her decisions made while acting outside the limits Congress set.

This intervening event also highlights the anomalies wrought by the circuit split on the standard of review for recusal decisions. The judge’s decision not to recuse would have been reversed through mandamus if this case were in Chicago. It stands for the time being because this case was in Dallas. This Court should grant rehearing and set the case for argument to resolve this split of circuit authority.

In the alternative, the Court should grant rehearing and call for the views of the Solicitor General, or (at the very least) grant the petition for certiorari and vacate and remand so the Fifth Circuit may reconcile its decision with the intervening judicial conduct resolution entered by its Chief Judge.

I. PROCEDURAL SUMMARY

Until a few weeks ago, Judge Stacey Jernigan had been presiding over bankruptcy cases involving hedge-fund entities associated with James Dondero. While doing so, she wrote two novels with a protagonist bankruptcy judge pitted against a negatively portrayed character similar to Mr. Dondero. Pet. at 6–12.

In the pending case, Mr. Dondero sought temporary bankruptcy protection for one of his hedge funds—Highland Capital Management—to have time to sell assets to satisfy an unanticipated judgment. The case was transferred to Judge Jernigan because she was familiar with Mr. Dondero’s businesses. On the first day, Judge Jernigan urged Mr. Dondero’s removal from management. She later converted the restructuring into an unnecessary, multi-year liquidation.

When they became aware of the novels, Mr. Dondero and others unsuccessfully asked Judge Jernigan to recuse from the Highland bankruptcy. Mr. Dondero then sought mandamus from the district court and appealed the district court’s denial to the Fifth Circuit.

The Fifth Circuit acknowledged that “a strong argument could be made that [Judge Jernigan] had a duty to recuse” on account of the novels. Pet. App. 17a. But that strong argument was not enough to warrant mandamus given the Fifth Circuit’s decision to apply deferential rather than *de novo* review. *Id.* at 8a.

Petitioners sought review in this Court, but the Court denied certiorari on January 12, 2026.

Since the completion of briefing, there were material developments from the Fifth Circuit Judicial Council of

which the Petitioners and this Court were not aware. Mr. Dondero, various former Highland managers, and others negatively affected by the bankruptcy had previously filed five judicial conduct complaints with the Fifth Circuit Judicial Council. The Judicial Council took no action on them for more than two years. In papers dated December 29, 2025, the Chief Judge of the Fifth Circuit resolved the complaints, while fully aware of the pending petition in this Court. App. 12a n.3.

Judicial conduct complaints are handled with some confidentiality. After resolution, the Fifth Circuit mails an unredacted version to the complainant. Then it posts on its website a redacted resolution that anonymizes the complainant and judge. Jud. Cond. & Jud. Disab. Proc. R. 11(g)(2), 24(1), 24(5). A former Highland manager received one resolution in the mail during the week of January 5, 2026, and brought it to Petitioners' counsel. That resolution concerned, not Judge Jernigan's novels, but her public statements about the recusal controversy. Petitioners alerted the Court to this development on January 8, 2026, the day before the conference on the certiorari petition.

On January 13, Petitioners' counsel learned that the Fifth Circuit had, at some point, posted on its website four other resolutions that, although anonymized, appeared to involve Judge Jernigan. Three of them addressed the judge's novels. Mr. Dondero and a former in-house counsel for Highland were complainants in two of the four and requested unredacted resolutions, one of which was received during the week February 2, 2026, and appears in the appendix. App. 1a-5a. The other concerns the

redacted resolution at App. 6a–13a and will be lodged with the Court when it arrives.

The books-related resolutions applied Federal Judicial-Conduct and Judicial-Disability Discipline Proceedings Rule 4(a)(7), which regulates “conduct occurring outside the performance of judicial duties” that “is reasonably likely to have a prejudicial effect on the administration of the courts, including a substantial and widespread lowering in public confidence in the courts among reasonable people.” App. 10a. The Chief Judge concluded that the complaints should be resolved through “corrective action” worked out with subject judge, rather than referral to a special committee to impose sanctions. That corrective action included assurances that Judge Jernigan would never again publish “extrajudicial writings . . . that a reasonable person could assume are based on matters before her or characters that a reasonable person could assume are based on parties or witnesses in matters before her[.]” App. 11a. The resolution also mandated “three hours of ethics training, with a particular focus on avoiding conduct that might lead to the appearance of impropriety[.]” *Id.* at 27a.

Finally, the corrective action resulted in Judge Jernigan “recus[ing] herself from all matters related to [Highland Capital’s] bankruptcy case that are currently pending before her.” *Id.* at 27a–28a. With respect to this last remedy, the Chief Judge noted that it “should not be interpreted as an opinion or reflection on the merits of the judge’s prior decision not to recuse . . . or on the validity of any decision, ruling, or order she has issued in any judicial proceeding,” because those issues are pending

before or would be addressed by this Court or in other judicial proceedings. *Id.* at 28a n.1.

This resolution was unusually serious. Only three other of the more than 400 Fifth Circuit judicial complaints resolved since December 2019 have been resolved by the Chief Judge through corrective action, rather than a finding of insubstantiality. The Fifth Circuit's Chief Judge has not referred a complaint to a special committee for imposition of sanctions since 2015.

II. THE INTERVENING FIFTH CIRCUIT JUDICIAL COUNCIL "CORRECTIVE ACTION" OF RECUSAL WARRANTS REHEARING

The Fifth Circuit Judicial Council's "corrective action" providing for Judge Jernigan's recusal due to her novels is a "intervening circumstance[] of a substantial or controlling effect" that merits rehearing. Sup. Ct. R. 44.2. Granting rehearing comes with three options: (1) granting the petition and setting the case for merits briefing and oral argument; (2) granting rehearing and calling for the views of the Solicitor General on whether merits review should be granted; or (3) granting the petition, vacating the order below, and remanding for consideration in light of the Fifth Circuit Judicial Council's action. The Court should grant merits review (either now or after seeking the Solicitor General's views), as this intervening event highlights the inefficient chaos of the Fifth Circuit's deferential standards for reviewing refusals to recuse. At a minimum, however, the decision below should vacated and remanded so that the Fifth Circuit can reconcile it with the Chief Judge's corrective action.

The current state of affairs has produced an intolerably contradictory set of legal standards governing recusal, depending on the setting. First, there is the standard when a party asks a judge to recuse, or when a judge discovers grounds for her own recusal. There, Congress requires a judge to recuse in a series of circumstances, including where her “impartiality might reasonably be questioned.” 28 U.S.C. § 455. That was not an invitation to exercise judgment. It was a statutory mandate, underscored by Congress’s use of the command “shall disqualify himself.” *Id.*

Second, there is what to do when the judge rejects a request for recusal. In a lengthy case, that means either (i) years of rulings by an officer who Congress said could not act as a judge; or (ii) seeking review of the decision on mandamus. Because of the inefficiency of years of litigation and scores of likely void rulings by an unfit judicial officer, the circuits have universally held that recusals are the type of rulings for which mandamus is appropriate. The Fifth Circuit will intervene on mandamus, but only when a refusal to recuse was an “abuse of discretion” that was “clear and indisputable.” Pet. App. 8a. The Third Circuit does not add another layer of deference on mandamus, reversing recusal denials if they were an “abuse of discretion.” And the Seventh Circuit reviews the decisions *de novo*, noting that Congress made recusal mandatory in certain circumstances, that judges are particularly ill-suited to evaluate their own conduct providing grounds for recusal, and the inefficiency of letting non-recusal errors linger until the end of the case. *See* Pet. at 17–19.

Third, there is review of decisions not to recuse at the end of the case, after final judgment. The First, Second, Third, Fourth, Fifth, Sixth, Eighth, Ninth, Tenth, Eleventh, D.C., and Federal Circuits review those for an abuse of discretion. The Seventh Circuit reviews those *de novo*. *See* Pet. at 19–23.

Fourth is where a party has filed a judicial conduct complaint. That goes to a circuit’s judicial council and, for most every case, is resolved by the circuit’s chief judge. Jud. Cond. & Jud. Disab. Proc. R. 11. Judicial conduct complaints are supposed to be failsafe supplements to remedies for structural issues in a case—including problems with judicial impartiality—by motion practice, contested by the parties, in that case. *Id.* at R. 3(h). For that reason, judicial conduct complaints cannot be used to overturn or directly affect the validity of decisions made in a case. But when “extrajudicial conduct” leads to a decrease of “public confidence” in the courts, the Chief Judge can arrange for “corrective action” that recuses the subject judge from the case going forward. As here, the effect can only be prospective, with the reversal or invalidation of a historical recusal declination or decisions left to requests for relief in the case in question. App. 28a n.1.

These four strands are tied into an ugly knot that is bad for judicial economy and public confidence in the judiciary. The same set of facts should not lead to such disparate outcomes depending on the standard of review. The quickest route to the partial relief of a prospective recusal should not be a judicial conduct complaint, which gets resolved at the pleasure of a circuit’s judicial council. Here, the Chief Judge took *three years*. And it is unlikely

a coincidence that the resolutions occurred days before the Court's conference in this case. App. 1a.

But the knot is not Gordian, to be untied only by a future ruler who does not exist.¹ This Court, today, has the power to untangle it. And it can do so by granting the petition, ordering merits briefing, and clarifying how the judiciary polices itself under a standard of appellate review tailored to the situation. Doing so would resolve a fully developed split of circuit authority that is leading to unsightly outcomes.

This is not just a cosmetic issue. It goes directly to the public confidence in the judiciary, a value this Court repeatedly has granted merits review to preserve. *E.g.*, *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847 (1988).

Unlike federal courts outside the Seventh Circuit, the Judicial Council does not apply deferential review when deciding whether a judge has violated the canons or rules governing judicial conduct. Nor could it, as the Judicial Council decides complaints against judges in the first instance, rather than formally reviewing decisions by the judge against whom the accusations are made. It makes no sense for federal appellate courts deferentially to review for an abuse-of-discretion a judge's decision not to recuse and its consequences inside a case, when the

1. In Greek mythology, the Gordian knot was tied to an oxcart and could only be unwound by the future ruler of Asia. Alexander the Great solved the problem by slicing through it with a sword. Oxford Advanced American Dictionary, *Gordian Knot*, 2026, https://www.oxfordlearnersdictionaries.com/definition/american_english/gordian-knot (last accessed Jan. 30, 2026).

judge's same conduct is reviewed de novo by the Judicial Council.

III. IN THE ALTERNATIVE, THE COURT SHOULD CALL FOR THE VIEWS OF THE SOLICITOR GENERAL OR GRANT, VACATE, AND REMAND

If the Court is disinclined to resolve the questions presented at this time, then it should either grant rehearing and call for the views of the Solicitor General, or it should grant the petition for certiorari, vacate the decision below, and remand so the Fifth Circuit can reconcile the merits panel decision with the Judicial Council's resolution.

The Court has already called for the views of the Solicitor General in a petition arising from the same case—*Highland Capital Management, L.P. v. NexPoint Advisors, L.P.*, No. 25-119. There, the petitioners are asking this Court to rule on the legality and scope of the “gatekeeper” and “exculpation” provisions in the bankruptcy court's confirmation plan entered by the same judge in question.² It is similarly appropriate for the Solicitor General to weigh in on the certworthiness of the recusal issues, which are intertwined with the provisions in the confirmation plan that the petitioners in *Highland* are asking this Court to review. The “gatekeeper” and “exculpation” provisions were initially adopted by the now-recused Judge Jernigan, and her forced recusal has implications not only for Mr. Dondero's petition but for the petition in

2. An “exculpation provision” shield entities from liability for actions taken in connection with the bankruptcy. A “gatekeeper provision” requires bankruptcy-court approval before any legal action can proceed against protected entities, even when that legal action is initiated in other courts.

Highland as well. Indeed, the Fifth Circuit Judicial Council’s corrective action of recusal will present a vehicle problem for this Court’s review of any Jernigan-approved order or decision in the Highland bankruptcy, as the parties argue about the consequences of recusal on the validity of her prior rulings. The Solicitor General should weigh in on—and this Court should have benefit of a full view of—the intertwined effect of the issues presented in the two petitions arising from the Highland case.

Importantly, the recusal issue is not just some run-of-the-mill other issue in the case below. It presents a fully mature split of circuit authority.

At the very least, the Court should grant certiorari and vacate and remand for the Fifth Circuit to reconsider its ruling in the wake of the Judicial Council resolutions.

How the Fifth Circuit’s standards for review of recusal decisions and their application in this case interact with the Circuit’s own judicial conduct process is a relevant judicial policy question. Indeed, a principal reason the Chief Judge did not arrange for retrospective relief due to the book, reversing the non-recusal decision and addressing the validity of prior decisions entered by the judge, is because the judicial conduct complaint process does not permit it. Fifth Circuit Comment to Jud. Cond. & Jud. Disab. Proc. R. 4.2. The Fifth Circuit sitting as court of review should have an opportunity to reconcile its ruling with the Chief Judge’s remedy in resolving the judicial conduct complaint. After all, “if the orders of the now-recused judge were allowed to stand,” parties and the public “could one day wonder whether the outcome of the case was influenced by a judge who later recused herself from

the case.” *Demodulation, Inc. v. United States*, 114 Fed. Cl. 655, 657 (Fed. Cl. 2014).

CONCLUSION

The petition for rehearing should be granted.

Respectfully submitted.

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February 6, 2026

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CERTIFICATE OF COUNSEL

I certify that this petition for rehearing is presented in good faith and not for delay, and that it is restricted to the grounds specified in Supreme Court Rule 44.2.

/s Michael J. Edney
MICHAEL J. EDNEY

APPENDIX

APPENDIX

Order of the Judicial Council for the Fifth Circuit, *In re Complaint of James D. Dondero Against Chief United States Bankruptcy Judge Stacey G.C. Jernigan*, No. 05-26-90041 (Dec. 29, 2025)..... 1a

Order of the Judicial Council for the Fifth Circuit, *In re Complaint of Judicial Misconduct Under the Judicial Improvements Act of 2002*, No. 05-26-90042 (Dec. 29, 2025)..... 6a

Order of the Judicial Council for the Fifth Circuit, *In re Complaint of Judicial Misconduct Under the Judicial Improvements Act of 2002*, No. 05-26-90043 (Dec. 29, 2025)..... 14a

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Order of the Judicial Council for the Fifth Circuit, *In re Complaint of Judicial Misconduct Under the Judicial Improvements Act of 2002*, No. 05-26-90045 (Dec. 29, 2025)..... 25a

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United States Court of Appeals
Fifth Circuit

FILED

December 29, 2025

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint No. 05-26-90041

IN RE COMPLAINT OF JAMES D. DONDERO AGAINST
CHIEF UNITED STATES BANKRUPTCY JUDGE
STACEY G.C. JERNIGAN,
NORTHER DISTRICT OF TEXAS
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

James D. Dondero (“Dondero”) has filed a complaint alleging misconduct by Chief United States Bankruptcy Judge Stacey G. C. Jernigan, Northern District of Texas, in *In re Highland Capital Management) L.P.*, No. 19-BK-34054 (Bankr. N.D. Tex.) (“*In re Highland*”), a Chapter 11 bankruptcy proceeding. *In re Highland* was filed by Highland Capital Management, L.P. (“Highland”), an investment firm that managed billion-dollar, publicly-traded investment portfolios for nearly three decades. *See Dondero v. Jernigan*, No. 24-10287, 2025 WL 1122466, at *1 (5th Cir. Apr.16, 2025). Dondero is the former chief executive officer of Highland. *See id.*

In his complaint, Dondero contends that prior to presiding over *In re Highland*, Chief Judge Jernigan presided over a bankruptcy proceeding filed by Acis Capital Management, L.P.¹ (“Acis”), in which Highland participated. See *In re Acis Cap. Mgmt.) LP*, No. 18-BK-30264 (Bankr. N.D. Tex.) (“*In re Acis*”). Dondero alleges that Chief Judge Jernigan formed negative impressions of and bias against Dondero and his affiliates while presiding over *In re Acis*. As evidence of the alleged bias, Dondero references Chief Judge Jernigan’s post-trial “Findings of Fact and Conclusions of Law” issued in *In re Acis*, which discredited certain testimony of Dondero and generally questioned the credibility of Dondero and former in-house Highland attorneys Scott Ellington and Isaac Leventon, all of whom testified on behalf of Acis. Dondero further alleges that Chief Judge Jernigan referred to a lawsuit that she improperly attributed to Dondero as “vexatious” during *In re Acis*.

According to Dondero, the bias formed by Chief Judge Jernigan during *In re Acis*, along with her reliance on information that she learned in *In re Acis*, has resulted in consistent adverse rulings against him and his affiliates in *In re Highland*. Dondero alleges that Chief Judge Jernigan made *sua sponte* rulings that “targeted” him; “ignored corporate formalities to punish” entities perceived to be affiliated with Dondero; “single[d] out Dondero for negative treatment” during hearings and in rulings; intentionally disregarded rules and law to rule against Dondero; and “manipulate[d]” the Rules of Procedure to Dondero’s detriment. In support, Dondero’s complaint sets forth numerous examples of Chief Judge Jernigan’s

1. Dondero formed Acis Capital Management, L.P., an SEC-registered investment advisor, along with two other individuals.

adverse rulings and critical comments made during judicial proceedings in *In re Highland*.

Many of Dondero's allegations call into question the correctness of Chief Judge Jernigan's decisions and rulings. To the extent the allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The remaining allegations do not constitute "sufficient evidence to raise an inference that misconduct has occurred." See 28 U.S.C. § 352(b)(1)(A)(iii).²

As the Supreme Court has recognized, "opinions formed by the judge on the basis of facts introduced or events occurring in the course of the *current proceedings*, or of *prior proceedings*, do not constitute bias, unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible."³ See *Liteky v. United States*, 510 U.S. 540, 555 (1994) (emphasis added). Though "[a] judge who presides at a trial may, upon completion of the evidence, be exceedingly ill disposed towards [a party,] . . . the judge is not thereby recusable for bias or prejudice, since his knowledge and the opinion it produced were properly and necessarily acquired in the course of the proceedings, and are indeed sometimes . . . necessary to completion of the judge's task." *Id.* at 550–51.

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2. While the allegations in Dondero's complaint alone do not raise an inference of bias, other individuals have submitted separate complaints with additional allegations against Chief Judge Jernigan regarding alleged bias against Dondero and his affiliates. Those allegations are addressed in the orders disposing of their respective complaints.
 3. "[N]ot subject to deprecatory characterization as 'bias' or 'prejudice' are opinions held by judges as a result of what they learned in earlier proceedings." *Liteky*, 510 U.S. at 551.

In addition, remarks “that are critical or disapproving of” individuals involved in a lawsuit, even when “hostile,” have been expressly found by the Supreme Court to be excluded from the characterization of “bias.” *See id.* at 555. This includes “expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display,” as well as “[a] judge’s ordinary efforts at courtroom administration—even a stern and short-tempered judge’s ordinary efforts at courtroom administration.” *Id.*⁴

The critical comments made by Chief Judge Jernigan during judicial proceedings and cited by Dondero, without more, fall squarely within the confines of *Liteky* and do not, on their face, display “deep-seated favoritism or antagonism that would make fair judgment impossible.” *See id.* at 555.

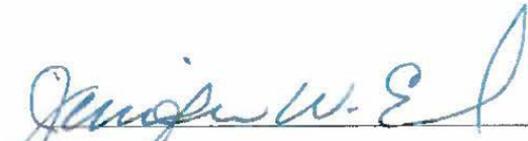
Regarding Dondero’s suggestion that Chief Judge Jernigan’s pattern of adverse rulings against him constitutes evidence of improper bias, Dondero fails to state a viable claim of misconduct because “[a]dverse decisions alone do not constitute evidence of bias.” *Id.*

For these reasons, the complaint is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

4. In a similar vein, the Committee on Codes of Conduct of the Judicial Conference of the United States, Advisory Opinion 66, June 2009, provides: “Strongly stated judicial views rooted in the record, a stern and short-tempered judge’s efforts at court administration, expressions of impatience, dissatisfaction, annoyance and even anger directed to an attorney or a party should not be confused with judicial bias.” Guide to Judiciary Policy, Vol. 2B, Ch. 2, at 95.

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The complaint is DISMISSED.



JENNIFER WALKER ELROD
Chief Judge

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United States Court of Appeals
Fifth Circuit

FILED

December 29, 2025

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint No. 05-26-90042

IN RE COMPLAINT OF JUDICIAL MISCONDUCT
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

Complainant, former in-house counsel for a company, has filed a complaint alleging misconduct by a United States Bankruptcy Judge in the company's Chapter 11 bankruptcy case and related adversary proceedings.

Noting that he did not testify in the company's bankruptcy case and appeared as a witness before the judge only once in a prior bankruptcy proceeding of a different company, Complainant contends that the judge "has developed a bias against [him] and the hedge fund industry which employs him," and that bias "has manifested in abusive and harassing behavior and discrimination towards [him]." Complainant's specific allegations are addressed below.

Comments Regarding Stalking Lawsuit

Complainant states that he filed a lawsuit in state court in which he made claims that a former employee of

the company was liable for stalking him. Complainant takes issue with comments made by the judge during a hearing regarding whether men could be subject to stalking. Complainant also alleges that the judge referred to his stalking lawsuit in “scare-quotes” in an order on a motion to recuse filed in the bankruptcy case and cited the lawsuit as an example of how things had gotten “contentious” and “seemingly personal” among different parties involved in the bankruptcy.

Complainant claims that the foregoing comments and actions are “harassing and discriminatory” and violate Rules 4(a)(2) and (3) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings (“JC&D Rules”).

JC&D Rule 4(a) defines cognizable misconduct as “conduct prejudicial to the effective and expeditious administration of the business of the courts.” Under Rule 4(a)(2)(B),¹ cognizable misconduct includes “treating litigants . . . or others in a demonstrably egregious and hostile manner.” Under Rule 4(a)(3), cognizable misconduct “includes intentional discrimination on the basis of race, color, sex, gender, gender identity, pregnancy, sexual orientation, religion, national origin, age, or disability.”

Pursuant to JC&D Rule 11(b), I requested a written response to the complaint from the judge. In her response, the judge admitted to making the comments cited in the complaint and explained her view as to why they had not been unreasonable or improper. She also pointed to the fact that Complainant had not sought any relief associated with the alleged stalking.

In subsequent communications with me regarding this complaint, the judge acknowledged that comments based

1. Though Complainant references Rule 4(a)(2) generally, only subsection B of that rule is potentially applicable.

on stereotypes about who can or cannot suffer harassment are not appropriate and agreed to refrain from making such comments in the future. I find that this action constitutes appropriate corrective action that acknowledges and remedies the problems raised by the complaint. *See* Rule 11(d).

This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2) (a chief judge may “conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events”).

Comments and Opinions Regarding Complainant's Integrity and Character

Complainant also takes issue with negative comments made about his character and credibility and actions against him taken by the judge during hearings. Complainant states that at one hearing, the judge enjoined him and his subordinate from sharing confidential information they received as inhouse attorneys for the company without permission, even though they were not parties to the adversary proceeding and they were not present at the hearing.

Complainant states that the judge’s “willingness to make credibility assessments about [him] without hearing from him is evidence of her repeated animus, and has otherwise caused a loss of public confidence in the Court as an instrument of justice” in violation of Rule 4(a)(2)(B) of the JC&D Rules. Though Complainant frames the judge’s statements as “mak[ing] credibility assessments about [him] without hearing from him,” Complainant appears to be alleging that the judge formed a negative view or bias against him based on her prior dealings with him in a prior

bankruptcy proceeding. The Supreme Court has long recognized that “opinions formed by [a] judge on the basis of facts introduced or events occurring in the course of the current proceedings, *or of prior proceedings*, do not constitute a basis for a bias or partiality motion” *Liteky v. United States*, 510 U.S. 540, 555 (1994) (emphasis added). Further, “judicial remarks during the course of a trial that are critical or disapproving of, or even hostile to, counsel, the parties, or their cases, ordinarily do not support a bias or partiality challenge.” *Id.* This includes “expressions of impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and women, even after having been confirmed as federal judges, sometimes display.” *Id.* at 555–56.²

The judge’s alleged opinions of Complainant and her related comments are consistent with the types of comments and efforts at judicial administration described in *Liteky* that do not constitute evidence of improper judicial bias. For the same reasons, the comments are not demonstrably egregious or hostile under JC&D Rule 4(a)(2)(B) or “prejudicial to the effective and expeditious administration of the business of the courts” under 28 U.S.C. § 351(a).

These allegations are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occur-

2. In a similar vein, the Committee on Codes of Conduct of the Judicial Conference of the United States, Advisory Opinion 66, June 2009, provides: “Strongly stated judicial views rooted in the record, a stern and short-tempered judge’s efforts at court administration, expressions of impatience, dissatisfaction, annoyance and even anger directed to an attorney or a party should not be confused with judicial bias.” Guide to Judiciary Policy, Vol. 2B, Ch. 2, at 95.

red.” To the extent these allegations are “directly related to the merits of a decision or procedural ruling,” they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii).

The Judge’s Novels

Complainant contends that the judge has “expressed overtly hostile views toward the hedge fund industry” in two fictional novels she authored, and that there are many parallels between the judge and the novels’ protagonist. Complainant states that the company’s bankruptcy proceeding and the bankruptcy proceeding of another company “have many parallels to these books, such that [the judge] appears to be making negative and hostile commentary through her books concerning the litigants in her court.” He therefore accuses her of bias against the hedge fund industry and the litigants in these proceedings that is “reasonably likely to lower public confidence in her ability to fairly adjudicate, and in turn, have a prejudicial effect on the administration of the court,” in violation of Rule 4(a)(7) of the JC&D Rules. JC&D Rule 4(a)(7) states that “[c]ognizable misconduct includes conduct occurring outside the performance of official duties if the conduct is reasonably likely to have a prejudicial effect on the administration of the business of the courts, including a substantial and widespread lowering of public confidence in the courts among reasonable people.”

In her response to my request to address the allegations in this complaint, the judge advised that: her novels are not about the company or anything that happened in the company’s bankruptcy case; the references in her novels to hedge funds are “relatively infrequent”; such references are not “gleaned from knowledge or information from” the company’s bankruptcy case; and that in the beginning of her novels she states that the opinions express-

ed or implied by the characters in her novels are not necessarily her opinions. The judge further states that she has presided “over countless cases in [her] lifetime and worked on even more, before becoming a judge, involving hedge funds, private equity funds, and exotic financial products” and that “[u]ntil now, [she] is not aware of anyone suggesting that [she] ha[s] shown any biases or animus where they are concerned.”

The Fifth Circuit has also addressed the matter. In an appeal of a district court order denying their petition for mandamus, the company’s former CEO and others challenged the judge’s decision not to recuse in the company’s bankruptcy proceedings. The Fifth Circuit opined that whether a reasonable reader and observer of these proceedings could question the judge’s impartiality is debatable, and due to the similarities between the characters in the judge’s novel and the litigants currently before her court, a strong argument could be made that she had a duty to recuse. Nonetheless, while noting that some similarities between the books and the cases before the judge may raise cause for concern, the court held that the similarities were not close enough to find that the district court abused its discretion in denying the petition.

Regardless of the merits of these allegations, the issue of whether the judge’s conduct amounts to misconduct under 28 U.S.C. § 351(a) need not be decided because she has taken appropriate corrective action that acknowledges and remedies the problems raised by the complaint. *See* JC&D Rule 11(d).

In communications with me regarding this complaint, the judge: assured me that her forthcoming novel does not involve subject matter that could reasonably be perceived as being based on matters pending before her or her work

as a bankruptcy judge; agreed that any future extrajudicial writings will not include scenarios or subject matter that a reasonable person could assume are based on matters pending before her, or include characters that a reasonable person could assume are based on parties or witnesses in matters before her; agreed to complete three hours of ethics training, with a particular focus on avoiding conduct that might lead to the appearance of impropriety; and agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting those sources, to seek particularized guidance in the form of either informal guidance from the Fifth Circuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

While the judge remains steadfast that she has no bias or animus against any party in any matter pending before her, she has also recused herself from all matters related to the company's bankruptcy case that are currently pending before her.³

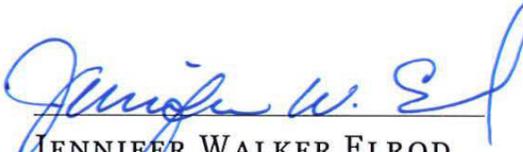
I find, without regard to the veracity of the allegations in the complaint, that these actions constitute appropriate corrective action that acknowledges and remedies the problems raised by the complaint. This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2).

3. Neither the judge's recusal nor anything in this order should be interpreted as an opinion or reflection on the merits of the judge's prior decision not to recuse, which has been addressed by the Fifth Circuit and is currently pending before the Supreme Court, or the validity of any decision, ruling, or order that she has issued in any judicial proceeding.

13a

The complaint is CONCLUDED in part and DISMISSED in part, and this matter is hereby closed. An unredacted private order is entered simultaneously herewith.

Pursuant to JC&D Rules 23(b)(1) and (8), IT IS ORDERED that a copy of this order be published on the court's website forthwith.


JENNIFER WALKER ELROD
Chief Judge

14a

United States Court of Appeals
Fifth Circuit

FILED

December 29, 2025

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint No. 05-26-90043

IN RE COMPLAINT OF JUDICIAL MISCONDUCT
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

Complainant, former in-house counsel for a company, has filed a complaint alleging misconduct by a United States Bankruptcy Judge involving two cases that both relate to a Chapter 11 bankruptcy proceeding filed by the company.

Complainant alleges that the judge made public comments about the merits of contested matters raised in the two pending cases in violation of Canons 3(A)(6) and 4 of the Code of Conduct for United States Judges and Rules 4(a)(1)¹ and 4(a)(7) of the Rules for Judicial-Conduct and Judicial Disability Proceedings (“JC&D Rules”).²

-
1. Complainant cites JC&D Rule 4(a)(1) in his complaint. However, that rule’s examples of cognizable misconduct are not relevant to the allegations in this complaint.
 2. Canon 3(A)(6) provides that “[a] judge should not make public comment on the merits of a matter pending or impending in any (continued...)”

Specifically, Complainant contends that the judge made comments to an online news organization addressing allegations that a character in her fictional novel was modeled after the former CEO of the company and a frequent participant in the legal proceedings related to the company bankruptcy. These comments were made while the two cases were pending—a motion to recuse and a petition for writ of mandamus filed in the two cases—that raised, in part, the issue of whether the judge should have recused from the bankruptcy due to the appearance of bias against the CEO created through her extrajudicial writings.

Pursuant to JC&D Rule 11(b), I invited the judge to respond to the complaint in writing. In her response, the judge stated that she had received many media requests asking her to comment about whether a character in her novel was based on the CEO and she responded to one e-mail from her personal e-mail account. She submitted a copy of the e-mail with her response.

This e-mail reflects that the judge expressly declined to comment on any pending case, denied that the novel

court.” Canon 4, in relevant part, provides: “[A] judge should not participate in extra judicial activities that detract from the dignity of the judge’s office, interfere with the performance of the judge’s official duties, reflect adversely on the judge’s impartiality, lead to frequent disqualification, or violate the limitations set forth below.” *See* Guide to Judiciary Policy, Vol. 2A, Ch. 2. JC&D Rule 4(a) provides that “[m]isconduct is conduct prejudicial to the effective and expeditious administration of the business of the courts.” JC&D Rule 4(a)(7) provides that “[c]ognizable misconduct includes conduct occurring outside the performance of official duties if the conduct is reasonably likely to have a prejudicial effect on the administration of the business of the courts, including a substantial and widespread lowering of public confidence in the courts among reasonable people.”

was about a pending case or litigant, and explained generally the plot of the novel. While the article states that the judge addressed the [then-pending] recusal motion, the judge's e-mail did not reference the recusal motion or any filing in any case.

The judge stated that, at the time she made the comments to the news organization, she did not perceive her comments as being related to the merits of a pending judicial matter. Rather she intended her comments to stop further media inquiries about her extrajudicial writings. Lastly, the judge expressed sincere sorrow that anyone would construe these comments as improper under the circumstances.

In a later correspondence with me regarding this complaint, the judge agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting those sources, to seek particularized guidance in the form of either informal guidance from the Fifth Circuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

Canon 3(A)(6) provides in pertinent part that "[a] judge should not make public comment on the merits of a matter pending or impending in any court." The Commentary on Canon 3(A)(6) adds:

The admonition against public comment about the merits of a pending or impending matter continues until the appellate process is complete. If the public comment involves a case from the judge's own court, the judge should take particular care so that the comment does

not denigrate public confidence in the judiciary's integrity and impartiality, which would violate Canon 2A. A judge may comment publicly on proceedings in which the judge is a litigant in a personal capacity, but not on mandamus proceedings when the judge is a litigant in an official capacity.

While the Code's Canons are instructive, 28 U.S.C. § 351 ("the Act") and the JC&D Rules are the governing authority for determining what constitutes cognizable misconduct. *See* Commentary to JC&D Rule 4. Those authorities define misconduct as conduct "prejudicial to the effective and expeditious administration of the business of the courts." 28 U.S.C. § 351. An inadvertent, minor violation of the Code's specific rules, promptly remedied when brought to the attention of the judge, might be a violation of the Code, but might not rise to the level of misconduct contemplated by the Act. *See* Commentary to JC&D Rule 4.

While there was overlapping subject matter between the judge's comments to the news organization and the issues pending in litigation, it is debatable whether her comments constitute "comment[s] on the merits" of a pending matter. Regardless, any potential violation of Canon 3(A)(6) under these particular facts was unintended and minor and does not rise to the level of "conduct prejudicial to the effective and expeditious administration of the business of the courts." The complaint is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as "lacking sufficient evidence to raise an inference that misconduct has occurred."

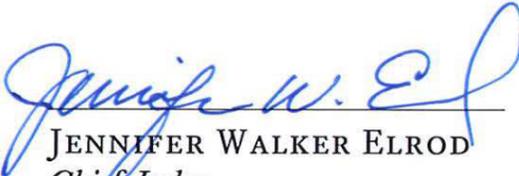
In addition, the judge expressed remorse that her statements could be construed as commenting on pending

cases when she had made efforts to indicate that she could not comment on pending cases, and she promised to consult with available ethics resources when ethical dilemmas such as this arise in the future. This action constitutes appropriate corrective action. *See* Rule 11(d) (defining appropriate corrective action as voluntary action that acknowledges and remedies the problems raised by the complaint).

The complaint can therefore alternatively be concluded under 28 U.S.C. § 352(b)(2) (a chief judge may “conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events”).

The complaint is DISMISSED. An unredacted private order is entered simultaneously herewith.

Pursuant to JC&D Rules 23(b)(1) and (8), IT IS ORDERED that a copy of this order be published on the court’s website forthwith.



JENNIFER WALKER ELROD
Chief Judge

19a

United States Court of Appeals
Fifth Circuit

FILED

December 29, 2025

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint No. 05-26-90044

IN RE COMPLAINT OF JUDICIAL MISCONDUCT
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

Complainant, the President of a religious organization, has filed a complaint on behalf of the organization alleging misconduct by a United States Bankruptcy Judge in two corporate bankruptcy cases and an adversary case.

While the organization is not a litigant in any of the foregoing proceedings, Complainant states that the organization is concerned that one of the corporate bankruptcy debtors, which indirectly provides financial support to the organization, is subject to biased treatment by the judge in the adversary proceeding because she maintains negative views of the debtor's former chief executive officer, those associated with him, and "the hedge fund industry in general." Complainant bases this claim on the contents of two fictional novels authored by the judge. Complainant also takes issue with the judge's marketing of her novels.

Alleged bias against participants in the bankruptcy and related proceedings

Complainant alleges that one of the judge's novels contains negative depictions of hedge funds and a hedge fund manager character) and that the judge used information obtained in the bankruptcy proceedings in her novels. He notes that there are substantial similarities between the novels and the bankruptcy proceedings, including the fact that both feature hedge funds with the same types of asset holdings and the similarities between the judge and the novels' main character. Complainant contends the novels are evidence that the judge is biased against the corporate-debtor's CEO and the hedge fund industry.

Pursuant to Rule 11(b) of the Rules for Judicial-Conduct and Judicial Disability Proceedings ("JC&D Rules"), I requested a written response to the complaint from the judge. In her response, the judge advised that: her novels are not about anyone or anything that happened in any litigation before her; the references in her novels to hedge funds are "relatively infrequent"; and that in the beginning of her novels she states that the opinions expressed or implied by the characters in her novels are not necessarily her opinions. The judge further states that she has presided "over countless cases in [her] lifetime and worked on even more, before becoming a judge, involving hedge funds, private equity funds, and exotic financial products" and that "[u]ntil now, [she] is not aware of anyone suggesting that [she] ha[s] shown any biases or animus where they are concerned."

The Fifth Circuit has also addressed the matter. In an appeal of a district court order denying their petition for mandamus, the former CEO of one of the corporate debtors and others challenged the judge's decision not to re-

cuse in the company's bankruptcy proceedings. The Fifth Circuit opined that whether a reasonable reader and observer of these proceedings could question the judge's impartiality is debatable, and due to the similarities between the characters in the judge's novel and the litigants currently before her court, a strong argument could be made that she had a duty to recuse. Nonetheless, while noting that some similarities between the books and the cases before the judge may raise cause for concern, the court held that the similarities were not close enough to find that the district court abused its discretion in denying the petition.

Regardless of the merits of these allegations, the issue of whether the judge's conduct amounts to misconduct under 28 U.S.C. § 351(a) need not be decided because she has taken appropriate corrective action that acknowledges and remedies the problems raised by the complaint. *See* JC&D Rule 11(d).

In communications with me regarding this complaint, the judge: assured me that her forthcoming novel does not involve subject matter that could reasonably be perceived as being based on matters pending before her or her work as a bankruptcy judge; agreed that any future extrajudicial writings will not include scenarios or subject matter that a reasonable person could assume are based on matters pending before her, or include characters that a reasonable person could assume are based on parties or witnesses in matters before her; agreed to complete three hours of ethics training, with a particular focus on avoiding conduct that might lead to the appearance of impropriety; and agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting those sources, to seek particularized guidance

in the form of either informal guidance from the Fifth Circuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

While the judge remains steadfast that she has no bias or animus against any party in any matter pending before her, she has also recused herself from all matters related to the company's bankruptcy case that are currently pending before her.¹ I find, without regard to the veracity of the allegations in the complaint, that these actions constitute appropriate corrective action that acknowledges and remedies the problems raised by the complaint. This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2).

Alleged use of position as a federal bankruptcy judge to market novels

Complainant alleges that the judge used her position as a federal bankruptcy judge to promote the sale of her novels. Complainant notes that the back covers of the novels, as well as the "Author's Note" in one novel, indicate that she is a bankruptcy judge. Complainant further states that the judge "hosted a book club" for that novel at an event held by group of women bankruptcy professionals.

The Committee on Codes of Conduct of the Judicial Conference of the United States, Advisory Opinion 114,

1. Neither the judge's recusal nor anything in this order should be interpreted as an opinion or reflection on the merits of the judge's prior decision not to recuse, which has been addressed by the Fifth Circuit and is currently pending before the Supreme Court, or the validity of any decision, ruling, or order that she has issued in any judicial proceeding.

November 2014, addresses promotional activity associated with extrajudicial writings and publications and provides in pertinent part: “A judge may mention his or her position, length of service, and court in a book jacket or in other similar straightforward author summaries, provided that the identification is without embellishment and appears in the context of other biographical information.” The judge’s references to herself as a federal bankruptcy judge on the back covers of her novels and in the “Author’s Note” of one novel falls within this permissible activity. This allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Whether the judge’s participation in the book club event amounts to misconduct under 28 U.S.C. § 351(a) need not be decided because she has taken appropriate corrective action that acknowledges and remedies any problem raised by this allegation. *See* JC&D Rule 11(d).

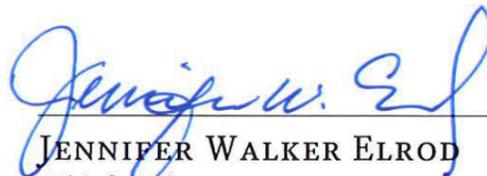
In communications with me regarding this complaint, the judge: agreed that future promotional activity related to her extrajudicial writings will be consistent with the Code of Conduct for United States Judges and other relevant ethical guidance, including refraining from marketing current or future books at a law firm or other similar venue or using the prestige of judicial office to advance the sale or marketing of her books; agreed to complete three hours of ethics training, with a particular focus on avoiding conduct that might lead to the appearance of impropriety; and agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting the resources, to seek particularized guidance in the form of either informal guidance from the Fifth Cir-

cuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

I find that these actions constitute appropriate corrective action that acknowledges and remedies the problems raised by the complaint. This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2).

The complaint is CONCLUDED in part and DISMISSED in part, and this matter is hereby closed. An unredacted private order is entered simultaneously herewith.

Pursuant to JC&D Rules 23(b)(1) and (8), IT IS ORDERED that a copy of this order be published on the court's website forthwith.


JENNIFER WALKER ELROD
Chief Judge

25a

United States Court of Appeals
Fifth Circuit

FILED

December 29, 2025

Lyle W. Cayce
Clerk

**JUDICIAL COUNCIL
FOR THE FIFTH CIRCUIT**

Complaint No. 05-26-90045

IN RE COMPLAINT OF JUDICIAL MISCONDUCT
UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

Complainant, who is involved in the hedge fund industry, has filed a complaint alleging misconduct by a United States Bankruptcy Judge regarding two novels she authored and alleged activity concerning the marketing of those novels.

The Judge's Novels

Complainant alleges that the judge is biased against the hedge fund industry and its participants as evidenced by her novels, which he alleges contain “sweeping negative commentary” about the hedge fund industry. Complainant claims that the novels were written while the judge presided over bankruptcy proceedings involving hedge funds and that substantial similarities exist between her and the novels’ protagonist. Complainant asserts that the anti-hedge fund commentary in the novels “denigrates public confidence in the judiciary’s integrity

and impartiality” and is “prejudicial to the effective and expeditious administration of the business of the courts.”

Pursuant to Rule 11(b) of the Rules for Judicial-Conduct and Judicial Disability Proceedings (“JC&D Rules”), I requested a written response to the complaint from the judge. In her response, the judge advised that: her novels are not about anyone or anything that happened in any litigation before her; the references in her novels to hedge funds are “relatively infrequent”; and that in the beginning of her novels she states that the opinions expressed or implied by the characters in her novels are not necessarily her opinions. The judge further states that she has presided “over countless cases in [her] lifetime and worked on even more, before becoming a judge, involving hedge funds, private equity funds, and exotic financial products” and that “[u]ntil now, [she] is not aware of anyone suggesting that [she] ha[s] shown any biases or animus where they are concerned.”

The Fifth Circuit has also addressed the matter. In an appeal of a district court order denying their petition for mandamus, a company’s former CEO and others challenged the judge’s decision not to recuse in the company’s bankruptcy proceedings based on the novels. The Fifth Circuit opined that whether a reasonable reader and observer of these proceedings could question the judge’s impartiality is debatable, and due to the similarities between the characters in the judge’s novel and the litigants currently before her court, a strong argument could be made that she had a duty to recuse. Nonetheless, while noting that some similarities between the books and the cases before the judge may raise cause for concern, the court held that the similarities were not close enough to find that the district court abused its discretion in denying the petition.

Regardless of the merits of these allegations, the issue of whether the judge's conduct amounts to misconduct under 28 U.S.C. § 351(a) need not be decided because she has taken appropriate corrective action that acknowledges and remedies the problems raised by the complaint. *See* JC&D Rule 11(d).

In communications with me regarding this complaint, the judge: assured me that her forthcoming novel does not involve subject matter that could reasonably be perceived as being based on matters pending before her or her work as a bankruptcy judge; agreed that any future extrajudicial writings will not include scenarios or subject matter that a reasonable person could assume are based on matters pending before her, or include characters that a reasonable person could assume are based on parties or witnesses in matters before her; agreed to complete three hours of ethics training, with a particular focus on avoiding conduct that might lead to the appearance of impropriety; and agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting those sources, to seek particularized guidance in the form of either informal guidance from the Fifth Circuit's representative on the Committee on Codes of Conduct of the Judicial Conference of the United States or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

While the judge remains steadfast that she has no bias or animus against any party in any matter pending before her, she has also recused herself from all matters related

to the company's bankruptcy case that are currently pending before her.¹

I find, without regard to the veracity of the allegations in the complaint, that these actions constitute appropriate corrective action that acknowledges and remedies the problems raised by the complaint. This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2).

The Judge's Promotion of Her Novels

Complainant also claims that the judge has improperly promoted her novels by stating in the biography section of her social media accounts that she is a federal bankruptcy judge and promoting the sale of her books on her social media accounts through purchase links and references to certain book reviews. In addition, Complainant contends that the judge improperly promoted one of the novels at an event hosted by a group of women bankruptcy professionals at a law firm.

The Committee on Codes of Conduct of the Judicial Conference of the United States, Advisory Opinion 114, November 2014, addresses promotional activity associated with extrajudicial writings and publications and provides in pertinent part: "A judge may mention his or her position, length of service, and court in a book jacket or in other similar straightforward author summaries, provided that the identification is without embellishment and appears in the context of other biographical information."

1. Neither the judge's recusal nor anything in this order should be interpreted as an opinion or reflection on the merits of the judge's prior decision not to recuse, which has been addressed by the Fifth Circuit and is currently pending before the Supreme Court, or the validity of any decision, ruling, or order that she has issued in any judicial proceeding.

To the extent that the judge references herself as a federal bankruptcy judge in the biography section of her social media accounts, this falls within the permissible activity discussed in Advisory Opinion 114. This allegation is therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Whether the book reviews on the judge’s social media accounts or her participation in the book club event amount to misconduct under 28 U.S.C. § 351(a) need not be decided because she has taken appropriate corrective action that acknowledges and remedies any problem raised by these allegations. *See* JC&D Rule 11(d).

In communications with me regarding this complaint, the judge advised me that she removed any book reviews from her social media account that were in question. The judge also: agreed that future promotional activity related to her extrajudicial writings will be consistent with the Code of Conduct for United States Judges and other relevant ethical guidance, including refraining from marketing current or future books at a law firm or other similar venue or using the prestige of judicial office to advance the sale or marketing of her books; agreed to complete three hours of ethics training, with a particular focus on avoiding conduct that might lead to the appearance of impropriety; and agreed to consult available ethics resources (e.g., codes of conduct, commentary, etc.) when ethical dilemmas arise in the future and, if questions remain after consulting the resources, to seek particularized guidance in the form of either informal guidance from the Fifth Circuit’s representative on the Committee on Codes of Conduct of the Judicial Conference of the United States

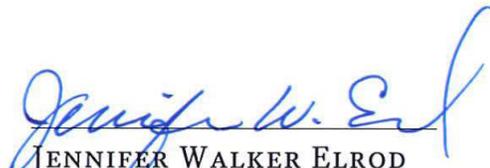
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or from Committee counsel, or in the form of a confidential advisory opinion from the Committee.

I find that these actions constitute appropriate corrective action that acknowledges and remedies the problems raised by the complaint. This aspect of the complaint is therefore subject to conclusion under 28 U.S.C. § 352(b)(2).

The complaint is CONCLUDED in part and DISMISSED in part, and this matter is hereby closed. An unredacted private order is entered simultaneously herewith.

Pursuant to JC&D Rules 23(b)(1) and (8), IT IS ORDERED that a copy of this order be published on the court's website forthwith.


JENNIFER WALKER ELROD
Chief Judge

AFFIDAVIT OF SERVICE

SUPREME COURT OF THE UNITED STATES

No. 25-355

-----X

JAMES DONDERO; HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.; THE DUGABOY INVESTMENT TRUST; NEXPOINT REAL ESTATE PARTNERS, LLC; AND GET GOOD TRUST,

Petitioners,

v.

STACEY G. JERNIGAN; HIGHLAND CAPITAL MANAGEMENT, L.P.,

Respondents,

-----X

STATE OF NEW YORK)

COUNTY OF NEW YORK)

I, Ann Tosel, being duly sworn according to law and being over the age of 18, upon my oath depose and say that:

I am retained by Counsel of Record for *Petitioners*.

That on the 6th day of February, 2026, I served the within *Petition for Rehearing* in the above-captioned matter upon:

Roy T. Englert, Jr.
Herbert Smith Freehills Kramer
(US) LLP
2000 K Street NW, 4th Fl.
Washington, DC 20006
(202) 775-4500
roy.englert@hsfkramer.com

John A. Morris
Pachulski Stang Ziehl & Jones LLP
10100 Santa Monica Blvd.
13th Fl.
Los Angeles, CA 90067
(310) 277-6910
jmorris@pszjlaw.com

Chief Judge Stacey G. C. Jernigan
1100 Commerce Street, Room 1254
Dallas, TX, 75242-1496
(214) 753-2054

by sending three copies of same, addressed to each individual respectively, through Priority Mail.

That on the same date as above, I sent to this Court forty copies of the within *Petition for Rehearing* and two hundred dollar filing fee check through the Overnight Next Day Federal Express, postage prepaid.

All parties required to be served have been served.

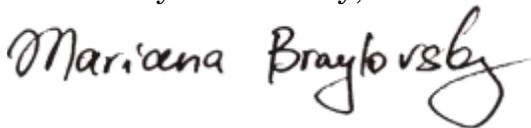
I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 6th day of February, 2026.



Ann Tosel

Sworn to and subscribed before me
this 6th day of February, 2026.



MARIANA BRAYLOVSKIY
Notary Public State of New York
No. 01BR6004935
Qualified in Richmond County
Commission Expires March 30, 2026



SUPREME COURT OF THE UNITED STATES

No. 25-355

-----X

JAMES DONDERO; HIGHLAND CAPITAL MANAGEMENT FUND ADVISORS, L.P.; THE DUGABOY INVESTMENT TRUST; NEXPOINT REAL ESTATE PARTNERS, LLC; AND GET GOOD TRUST,

Petitioners,

v.

STACEY G. JERNIGAN; HIGHLAND CAPITAL MANAGEMENT, L.P.,

Respondents,

-----X

CERTIFICATE OF COMPLIANCE

As required by Supreme Court Rule 33.1(h), I certify that the document contains 2,981 words, excluding the parts of the document that are exempted by Supreme Court Rule 33.1(d).

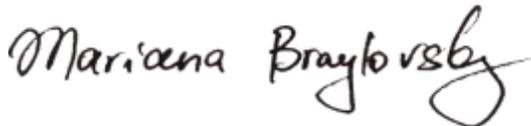
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