

Candice Lue

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December 22, 2018

Catherine O'Hagan Wolfe
Clerk of Court
United States Court of Appeals
for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: Petition for Review – Judicial Misconduct Complaint – 02-18-90043-jm - Candice Lue, Pro Se Complainant

I hereby petition the judicial council for review of the Chief Judge's order of December 14, 2018 pursuant to 28 U.S.C. § 352(c); Rules of Judicial-Conduct and Judicial-Disability Proceedings 18 for the above-referenced Judicial Misconduct Complaint against District Court judge, Judge Alison J. Nathan.

"Actions that can be classified as judicial misconduct include: conduct prejudicial to the effective and expeditious administration of the business of the courts (as an EXTREME example: "falsification of facts" at summary judgment)" - https://en.wikipedia.org/wiki/Judicial_misconduct.

As clearly articulated in my said Complaint for anyone of reasonable mind to see, Judge Alison J. Nathan's aiding and abetting of Defendants JPMorgan Chase & Co., et al's LIES UNDER PENALTY OF PERJURY in their Motion for Summary Judgment to dismiss my lawsuit with prejudice is tantamount to this Wikipedia example of EXTREME judicial misconduct.

That is why in the "Conclusion" of my Complaint, I stated: *"I strongly recommend that pursuant to Article II, Section 4 of the U.S. Constitution, Judge Alison J. Nathan be referred to The Judicial Conference of the United States for impeachment as Judge Nathan is a dangerous risk to the INTEGRITY of the U.S. Judiciary. It is a DISGRACE to have a judge aiding and abetting perjury and obstructing justice, both of which are CRIMES under the U.S. Constitution."*

In light of the aforesaid, I would have appreciated if the Chief Judge had focused on the substance of my Complaint instead of trying to circumvent the serious matter of a judge aiding and abetting perjury and obstructing justice which further denigrate the integrity of the Court.

Contrary to what the Chief Judge stated in his decision, Judge Nathan did not grant me *"multiple extensions"* to comply with her order which resulted in her granting the Defendants their

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CRIMINAL (proven PERJURY is a CRIME pursuant to 18 USC § 1621) Motion for Summary Judgment. The delays from August 11, 2017 through March 2018 were caused by me fighting the Court tooth and nail to protect the Fifth and Fourteenth Amendment Rights afforded me under the Constitution of the United States of America. The said Fifth and Fourteenth Amendment Rights which although mentioned SEVEN (7) times in my Complaint, the Chief Judge failed to mention even once in his decision to dismiss my judicial misconduct complaint against Judge Alison J. Nathan.

Secondly, there is nothing in my Complaint that alleges that “*Judge Nathan committed misconduct by denying recusal*” – a perfect example of circumventing the substance of my Complaint. Thirdly, the Chief Judge is trying to rationalize Judge Nathan’s CRIMES of aiding and abetting perjury and obstructing justice by blindly stating things that I “alleged” which include Judge Alison J. Nathan “*imposing page limits, denying oral argument, striking the opposition to summary judgment, ignoring the Complainant’s arguments and evidence*”. With all due respect, **nothing** in my Complaint is alleged. I wrote from my heart and I wrote the truth.

Fourthly, as it relates to my Fifth and Fourteenth Amendment Rights and “*imposing page limits*” what “*after clarifying page limitations*” is the Chief Judge talking about when I clearly stated in my Complaint that: “*After several requests, Judge Alison J. Nathan has not been able to provide a valid explanation, pursuant to my Fifth and Fourteenth Amendment Rights to Procedural Due Process which states: “the judge must protect the [Party’s] due-process rights by ensuring the [Party] understands every phase of the proceedings”, as to why she struck my EIGHT (8) Sworn Affidavits and ALL my Evidence in the form of Exhibits from the Court’s docket when Affidavits and Evidence are NOT subjected to page limits – See pages 9 through 13 of my “Response to Judge Alison J. Nathan’s Order of October 31, 2017” (docket # 129), pages 7 through 12 of my “Response to Judge Alison J. Nathan’s Order of November 20, 2017” (docket # 132) and pages 9 through 16 of my “Response to Judge Alison J. Nathan’s Order of December 4, 2017” dated December 12, 2017 (Docket # 136)?*

In conjunction, as it relates to “*imposing page limits*”, I have to respectfully say that the Chief Judge, a learned judge, is being disingenuous because **no one** of reasonable mind could think that Judge Alison J. Nathan’s newly implemented Pro Se “25-page limit” for a Memorandum of Law in Opposition which she allows for a case in opposition to one (1) defendant, could be

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reasonable and/or logical to be imposed upon a case in opposition to **nine (9)** individual Defendants, each of whom has specific and different Causes of Action against them and each of whom is requesting that the said specific and different Causes of Action against them be dismissed with prejudice. That is why Judge Alison J. Nathan's arbitrary striking of my Opposition to the **nine (9)** individual Defendants' CRIMINAL (proven PERJURY is a CRIME pursuant to 18 USC § 1621) Motion for Summary Judgment is prejudicial and nefarious as further explained in my Complaint.

Fifthly, if nothing was wrong with Judge Alison J. Nathan's August 11, 2017 Order, there would be NO need for her to update and **backdate** her Individual Practices for pro se litigants after I submitted my Response to her said Order (see page 1, footnote # 1 and page 3 of my "Response to Judge Alison J. Nathan's Order of August 21, 2017" – docket # 126) – A clear example of a judge, in this case, aiding and abetting perjury and obstructing justice, both of which are CRIMES under the Constitution of the United States of America.

In light of the foregoing, please rest assured that the decision to dismiss this Judicial Misconduct Complaint against Judge Alison J. Nathan by circumventing its substance does more to harm the integrity of the Court than it does to harm me. As, this letter, the Chief Judge's decision that protects a rogue and dishonorable judge and the full contents of my Judicial Misconduct Complaint will forever be made public for the public the Court "serves" to see and to form their own opinion.

With that said, for the INTEGRITY of the U.S. Judiciary and based on my above-stated assertions, I ask that this petition for review be granted.

Respectfully,

Candice Lue

Attachment: Copy of Wikipedia "Judicial Misconduct" page

Certificate of Mailing

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

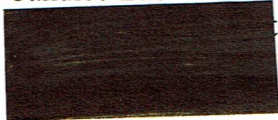
Thurgood Marshall United States Courthouse
40 Foley Square, New York NY 10007
212.857.8585

ROBERT A. KATZMANN
CHIEF JUDGE

CATHERINE O'HAGAN WOLFE
CLERK OF COURT

December 14, 2018

Candice Lue



Re: *Judicial Conduct Complaint*, 02-18-90043-jm

Dear Ms. Lue:

Attached is a copy of the Chief Judge's order dismissing your complaint.

If you wish to file a petition for review, you must submit a letter addressed to the Clerk of Court that begins with "I hereby petition the judicial council for review of the Chief Judge's order . . ." See 28 U.S.C. § 352(c); Rules of Judicial-Conduct and Judicial-Disability Proceedings 18. You need not provide additional copies of materials already filed, as those materials will be part of the record transmitted to the Judicial Council.

The petition for review must be received in the Clerk's Office within 42 days of the date of this letter. A petition received after this deadline will not be accepted for filing. See Rules of Judicial-Conduct and Judicial-Disability Proceedings 18(d).

Very truly yours,
Catherine O'Hagan Wolfe, Clerk of Court

By: D-S-

Dina Sena
Deputy Clerk

18-90043-jm
December 14, 2018
Chief Judge



**JUDICIAL COUNCIL OF THE
SECOND CIRCUIT**

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In re
CHARGE OF JUDICIAL MISCONDUCT

Docket No. 18-90043-jm

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ROBERT A. KATZMANN, *Chief Judge*:

On April 23, 2018, the Complainant filed a complaint with the Clerk's Office of the United States Court of Appeals for the Second Circuit pursuant to the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351-364 (the "Act"), and the Rules for Judicial-Conduct and Judicial-Disability Proceedings, 249 F.R.D. 662 (U.S. Jud. Conf. 2008) (the "Rules"), charging a district judge of this Circuit (the "Judge") with misconduct.

BACKGROUND

In April 2016, the Complainant filed a pro se employment discrimination action. The Judge denied the Complainant's requests for default judgment and recusal. The defendants moved for summary judgment, and the Judge struck the Complainant's response as overly burdensome. After clarifying page limitations,

warning that failure to comply would result in consideration of the motion as unopposed, and granting multiple extensions, the Judge considered the motion unopposed and granted summary judgment in favor of the defendants. The Complainant's appeal is pending in the court of appeals.

The misconduct complaint alleges that the Judge committed misconduct by denying recusal, imposing page limits, denying oral argument, striking the opposition to summary judgment, ignoring the Complainant's arguments and evidence, and aiding and abetting the defendants' perjury.

DISCUSSION

The complaint is dismissed.

An allegation that a judge, in reaching a decision, neglected to consider fully all arguments presented, failed to comprehend the meaning or import of certain statutes or cases, or disregarded certain key facts or evidence is merely challenging the correctness of the judge's decision. In other words, what such allegations contend is that the judge got it wrong, not that the judge engaged in judicial misconduct.

The gravamen of the complaint falls squarely into this category—i.e., it seeks merely to challenge the correctness of the Judge's various decisions and official actions in the underlying action. Accordingly, the complaint is

dismissed as "directly related to the merits of a decision or procedural ruling."
28 U.S.C. § 352(b)(1)(A)(ii); Rule 3(h)(3)(A) ("An allegation that calls into question the correctness of a judge's ruling, including a failure to recuse, without more, is merits-related."); 11(c)(1)(B). Purely merits-related allegations are excluded from the Act to "preserve[] the independence of judges in the exercise of judicial power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge's ruling." Rule 3 cmt. Such challenges can be pursued, to the extent the law allows, only through normal appellate procedures.

To the extent that the complaint alleges an improper motive, i.e., that the Judge acted "prejudicially, arbitrarily, and nefariously," this allegation appears entirely derivative of the merits-related charges; but to the extent it is separate, it is wholly unsupported, and is therefore dismissed as "lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(D). A decision for or against a party does not evidence bias. Nor do several such decisions.

The Clerk is directed to transmit copies of this order to the Complainant and to the Judge.