

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 4 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The Rules are available in federal court clerks’ offices, on individual federal courts’ websites, and on www.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. For the number of copies to file, consult the local rules or clerk’s office of the court in which your complaint is required to be filed. Enclose each copy of the complaint in an envelope marked “COMPLAINT OF MISCONDUCT” or “COMPLAINT OF DISABILITY” and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: Gabe Roth
Contact Address: 348 4th Ave., #1007
Brooklyn, N.Y., 11215

Daytime telephone: (202) 780-4990

2. Name(s) of Judge(s): U.S. District Judge Brantley Starr
Court: N.D. Texas

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?

Yes No

If “yes,” give the following information about each lawsuit:

Court: N.D. Texas, Dallas Division

Case Number: 3-17-cv-2278

Docket number of any appeal to the Circuit:

Are (were) you a party or lawyer in the lawsuit?

Party Lawyer Neither

If you are (were) a party and have (had) a lawyer, give the lawyer’s name, address, and telephone number:

Judicial Council of the Fifth Circuit

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

4. Brief Statement of Facts. Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

5. Declaration and signature:

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Signature: MPH Date: 8/15/23

Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

N.D. Texas Judge Brantley Starr has assigned the Alliance Defending Freedom to conduct eight hours of “religious-liberty training” for three Southwest Airlines attorneys in 17-2278, *Carter v. TWU*. But under no circumstances should a sectarian organization such as ADF, or any sectarian organization of any faith, be responsible for carrying out any aspect of attorney sanctions.

Starr’s order sets a dangerous precedent, and he deserves sanctions himself for this awful judgment call.

Of course, “training” can at times be a fair sanction, especially in the realm of ethics, so it’s worth considering the various examples of court-mandated training Judge Starr cites in his order, largely in footnotes 66 and 67, at 20. As you can see, not one is religion-based, underscoring the unprecedented nature of the sanction. (Judge Starr could have assigned ethics training, given that in his view Southwest did not follow through on his earlier order, but he specifically chose not to.)

Trying desperately to find a similar example, Judge Starr notes, at 23, that ADF will conduct a “‘First Amendment training session’ for three professors who allegedly discriminated against a student three professors at Southern Illinois University Edwardsville.” But that’s not apposite: that session was agreed to by both parties as part of a lawsuit settlement. That Southwest is appealing the training requirement here demonstrates the incongruity.

To put a finer point on it, consider how ethics training and religious-liberty training would differ. Though there are various strategies, texts and caselaw for teaching legal ethics, there are generally agreed upon precepts that inform the core curriculum. But that is often not the case in the realm of religious liberty. To offer one example, my religious faith tells me abortion is generally okay; others’ tells them it’s not. In this pluralistic country of ours, that’s fine. But there are not differing traditions of legal ethics where one says bribing a judge is generally okay, and another says it’s not. There’s only the latter.

Since Judge Starr’s order is neither reasonable nor consistent with Canon 3 of the Code of Conduct for U.S. Judges (“a judge should perform the duties of the office fairly, impartially and diligently”), he should be admonished by the Judicial Council and should be compelled not to assign such a strange and unprecedented penalty again.

If the Chief Judge determines that this complaint should be dismissed under Rule 11(c)(1)(B), then I request that a Rule 11(b) limited inquiry take place to determine if there was any *ex parte* communication between ADF and Judge Starr, or any other such communication that led to the handing down of this novel order.