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February 7, 2007

Analysis of Judicial Misconduct by Identifying Motive and Strategy to Expose it Through the Joint Effort of Judicial Misconduct Complainants and Citizens Concerned About Judicial Integrity

by

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To the increasing number of causes for complaining about judicial misconduct is added the use by courts of an order providing that the decision in the case at bar is non-precedential. The natural progression therefrom is for the court not even to bother to write a decision, but rather to issue a summary order that simply affirms or denies a decision on appeal without providing any explanation whatsoever or any evidence of ever having even read the briefs.

An analysis of the Federal Rules of Appellate Procedure and the local rules of a federal court of appeals reveals facts and arguments militating against, in general, non-precedential decisions and, in particular, 'appellate review by coin flipping': affirmed if head, denied if tail. Both are manifestations of the same underlying problem: judicial unaccountability and the resulting arrogance of power, contemptuous of the rights of others and the principle that justice must be seen to be done. (http://Judicial-Discipline-Reform.org/docs/CA2_summary_orders_19dec6.pdf)

In this context, you, the Reader, and the growing number of litigants outraged by their experience of judicial bias and abuse of power, most obvious in bankruptcy, probate, real estate, landlord, and family cases, will find useful an analysis of why judges engage in misconduct. That analysis identifies a motive and, more importantly, leads to the fashioning of a strategy to deal with the underlying problem. Their detailed statement, found at <http://Judicial-Discipline-Reform.org>, is based on public filings and official documents can be summarized as follows:

- a. The judicial system that is supposed to administer justice according to law inflicts instead injustice because a significant number of its judges disregard the law and the facts in a consistent pattern of conduct that reveals their participation in coordinated wrongdoing.
- b. Obtaining justice in that system is not achieved by appearing again before judges immune to even the best lawyering but sensitive to self-preservation because their rulings, if lawful and fair, would lead, among other things, to incriminating people who subsequently would in a plea bargain for leniency expose the judges' wrongdoing.
- c. Rather, justice can eventually be obtained by first identifying the motives for judges to coordinate, whether implicitly or explicitly, their doing what is wrong or not doing what is their duty. Given human nature and our society's values, their common main motive is likely to be the obtaining of an unethical or illicit benefit, especially a financial one: money.
- d. Hence, the strategy is to conduct a highly professional and legal, Watergate-like *Follow the money!* investigation to search outside the courts for evidence of judges having received such benefit, most probably assisted by complicit staff and other officers.
- e. The investigation would have two starting points:

- i. the financial disclosures that judges must file, yet make so difficult to access, but that under the [Ethics in Government Act, 5 App. 4 §101 et seq.](#), are publicly accessible; and
 - ii. the petitions for bankruptcy relief and their schedules where bankrupts must declare their financial affairs and which they must file publicly with the court deciding their petition, as well as real property declarations, which must be filed with the county clerk's office.
- f. From those documents, the *Follow the money!* investigation would proceed through the web of judges and filers' financial and personal relationships to wherever the money finds its resting place as hidden assets unaccounted for in such disclosures and declarations or inconsistent with the investigatees' stated or known sources of income, such as the salary of judges, which is fixed by law, or the salary of corporate officers, which may be found in the corporate by-laws or accounts.
- g. The evidence discovered would be brought to the public through the Internet and the traditional media. The higher in the judicial hierarchy coordinated wrongdoers were found, i.e., a court of appeals or the U.S. Supreme Court itself, the more the evidence would outrage the public and the media and the more strongly it would induce them to search for more evidence, thus triggering a self-reinforcing reaction with multiplying effect.
- h. Mounting outrage would cause the authorities, to wit, the federal and state justice departments as well as Congress and the state legislatures, to heed the public's demand for launching their own investigation of the judicial branch in their respective jurisdiction.
- i. The authorities' findings of coordinated judicial wrongdoing, including forms of corruption such as bribery, extortion, and ruling in financial self-interest although disqualification was required under [28 U.S.C. §455](#) or its state law equivalent, would cause Congress and the legislatures to enact a reform of the judiciary.
- j. Years from now, when reform acts are implemented, those stouthearted who were willing to do an enormous amount of work and undergo a lot of sacrifice at great risk, and the timorous who watched from the sidelines and helped otherwise, as well as the rest of the public may obtain justice from judges mostly deciding cases in a just and fair manner and giving much less cause for complaint...all as the result of a few conscientious individuals who recognized that only once in a lifetime one has the opportunity to embark on a mission of superior moral value for the common good. This is such opportunity. The mission: To undertake a plan of action to reform the judiciary in order to ensure that it administers to all persons "Equal Justice Under Law". The reward is 15 minutes of fame or a Pulitzer Prize or that conferred upon those who render courageous public service.

A draft of such plan of action has been set forth in the [Programmatic Proposal](#) at http://Judicial-Discipline-Reform.org/docs/Programmatic_Proposal.pdf. I respectfully submit it to you and like-minded people and request that you all consider joining forces to create the virtual firm of lawyers and investigative journalists that will conduct the *Follow the money!* investigation. Working toward that objective, I await with expectation your comments on this paper, which is also downloadable through http://Judicial-Discipline-Reform.org/Follow_money/Analysis_Strategy.pdf. For the same purpose, you may without change distribute it to other members of your group or organization or publish it on your website or newspaper.