

Complaint Re: Judge Brett Kavanaugh

Monday, October 1, 2018

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Executive Office
DC Courts
Moultrie Courthouse
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Washington, DC 20001
(202) 879 - 1010



Name of Complainant:

Address:

Telephone:

Email



Name(s) of Judge(s) complained about:
Brett Kavanaugh

Court
United States Court of Appeals for the District of Columbia Circuit

Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
NO

Have you filed any lawsuits against the judge
NO

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:

Date: Tuesday, October 2, 2018

Statement of Fact

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On September 27, 2018, Judge Brett Kavanaugh gave testimony to the Senate Judiciary Committee during his confirmation hearing. During the testimony, Judge Kavanaugh made partisan statements, and his behavior places Judge Brett Kavanaugh's ability to be an impartial member of the Federal circuit court and Supreme Court into question. Judge Kavanaugh engaged in misconduct as defined by **Rule 3**¹. Furthermore, his conduct was a violation of the Code of Judicial Conduct, **Rule 1.2** :

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”²

It is important to note that Judge Kavanaugh’s testimony was not a spur of the moment reaction but a preplanned written response. The following are examples of the “inappropriate partisan statements” and behavior made by Judge Kavanaugh:

He accused Democrats of an "orchestrated political hit" against him.

He claimed that the Democrats were "lying in wait" with Ford's claim that he attacked her when they were teens until it was nearly time for his confirmation vote.

He said that the allegations of sexual misconduct are "revenge on behalf of the Clintons." “This whole two-week effort has been a calculated and orchestrated political hit, fueled with apparent pent-up anger about President Trump and the 2016 election Fear that has been unfairly stoked about my judicial record. Revenge on behalf of the Clintons, and millions of dollars in money from outside left-wing opposition groups.”

Kavanaugh shouted at Democratic senators during his hearing.

He continuously interrupted female senators.

He dodged questions about old high school yearbook entries loaded with innuendo about sexual conquests.

He threatened Democrats – "What goes around, comes around."”

Judge Kavanaugh's language and tone provided a striking departure from the usual "judges as umpires" that Kavanaugh, and Chief Justice John Roberts in 2005, had invoked. Justice Neil Gorsuch, during his 2017 confirmation hearing, contended that "There is no such thing as a Republican judge or a Democratic judge. We just have judges in this country." Judge Kavanaugh's conduct is “prejudicial to the effective and expeditious administration of the business of the courts” because it places the court of appeals and other judges as being viewed as nothing more than partisan operators.

¹ Judicial Conference of the United States. Rules for Judicial-conduct and Judicial-disability Proceedings (March 11, 2008, Amended: September 17, 2015)

²Code of Judicial Conduct, District of Columbia Courts (2018)

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The negative impact on the court and the damage to the appearance of neutrality and integrity is already occurring as evidenced in the following headlines:

- Brett Kavanaugh's Damaging, Revealing Partisan Bitterness³
- Civics Versus Partisanship at the Kavanaugh-Ford Hearing⁴
- Kavanaugh is far too partisan, angry to be on Supreme Court⁵
- Brett Kavanaugh's Gale-Force Partisan Defense⁶
- Brett Kavanaugh's angry display of partisanship disqualifies him for the Supreme Court⁷
- Brett Kavanaugh's Partisan Rage At Hearing Calls Fitness Into Question⁸
- Could Kavanaugh's partisan call to arms secure a Supreme Court seat?⁹
- Kavanaugh takes a partisan turn as he lashes out at 'search and destroys' Democrats¹⁰
- Kavanaugh's angry testimony may save his nomination, but undercut his claims of being an impartial jurist¹¹
- For Supreme Court, Kavanaugh marks a partisan turning point¹²
- Dems say Kavanaugh should recuse from cases involving party: 'He revealed himself as a partisan.'¹³
- All the Ways a Justice Kavanaugh Would Have to Recuse Himself¹⁴

As a law professor for 20+ years, I taught professional responsibility. If Judge Kavanaugh is not discipline for half truths, lies and "inappropriate partisan" statements, it will send a clear message that legal ethics is situational.

³Daily Comment, New Yorker, Jeannie Suk Gersen (September 28, 2018)

⁴The Current, the New Yorker, Benjamin Wallace-Wells (September 27th)

⁵The Washington Post, Jennifer Rubin (Sept. 27, 2018)

⁶The Atlantic, Todd S. Purdum (Sep 27, 2018)

⁷Readers' Opinion, Los Angeles Times, SEP 28, 2018

⁸MSNBC, The Rachel Maddow Show, Sept. 27, 2018

⁹NBCNews, Jonathan Allen, (Sep.27.201)

¹⁰Washington Post, Michael Kranish, Emma Brown and Tom Hamburger, September 27

¹¹Los Angeles Times, David G. Savage Sep 29, 2018

¹²Joan Biskupic, CNN Digital Expansion September 29, 2018

¹³The Washington Times, David Sherfinski, Sunday, September 30, 2018

¹⁴New York Times, Laurence H. Tribe. Oct. 1, 2018