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September 10, 2018

Judicial Council of the District of Columbia Circuit
Complaint of Judicial Misconduct or Disability
E. Barret Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866

Re: Complaint of Judicial Misconduct Against Judge Brett Kavanaugh

Dear Sir or Madam:

Enclosed for filing please find a Complaint of Judicial Misconduct in the above matter.

We respectfully request that this matter be given expedited consideration in light of the fact that it relates to a pending confirmation hearing in the United States Senate.

Thank you for your time and consideration of this matter.

Very truly yours,

A handwritten signature in black ink that reads "J. Whitfield Larrabee". The signature is written in a cursive, flowing style.

J. Whitfield Larrabee

Enclosures

UNITED STATES OF AMERICA
COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

THE DEMOCRATIC COALITION,)	
SCOTT DWORKIN AND JON COOPER,)	
Complainants)	
)	
v.)	<u>COMPLAINT</u>
)	
BRETT KAVANAUGH,)	
Defendant)	
_____)	

COMPLAINT OF JUDICIAL MISCONDUCT

I. INTRODUCTION

1. Pursuant to the Judicial Conduct and Disability Act and the Judicial Conference of the United States Rules for Judicial-Conduct and Judicial-Disability Proceedings, the Complainants file this Complaint against Judge Brett Kavanaugh (“Kavanaugh”) of the United States Court of Appeals for the District of Columbia. Kavanaugh received stolen information taken from Democratic members of the Senate Judiciary Committee while he worked in the White House and he perjured himself while testifying about the matter in Congress in 2004, 2006 and 2018. Kavanaugh violated Canons 1 and 2 of Code of Judicial Conduct by committing crimes of dishonesty while he was a federal judge, by obtaining confirmation of his appointment as a federal judge by false and perjurious testimony, by concealing and covering up his criminal actions and by obstructing justice. He is unfit to serve as a judge by reason of his corrupt, unscrupulous, dishonest and criminal conduct.

II. FACTUAL BASIS FOR THE COMPLAINT

PERJURY AND FALSE STATEMENTS CONCERNING RECEIPT OF STOLEN DOCUMENTS

2. In 2002 Manuel Miranda, a Republican staff member on the Senate Judiciary Committee, stole thousands of documents belonging to committee Democrats.
3. At the time, Kavanaugh was a White House lawyer working on judicial nominations. Kavanaugh worked closely with Manuel Miranda.
4. On July 28, 2002, Kavanaugh received an email from Miranda. The email stated in part: “I would ask that no action be taken by any of your offices on this for now except as I request. It is important that it be confidential to the recipients of this email and up your chains of authority only. As I mentioned on Friday, Senator Leahy’s staff has distributed a ‘confidential’ letter to Dem Counsel on Thursday from Collyn Peddie, who served as the attorney for ‘Jane Doe’ in some or several of the Texas bypass cases.”
5. The July 28, 2002 email and other emails from Miranda to Kavanaugh in 2002 referenced confidential documents of Democratic Senator Leahy’s staff.
6. Kavanaugh knew that the information in emails was stolen from the Democrats because emails he received from Miranda in July of 2002 and March of 2003 counseled Kavanaugh to conceal and not distribute the information.
7. On April 9, 2003, Kavanaugh sent an email to another member of the White House staff with information he received from Miranda. It was vote information on 15 Democratic senators, on a contentious issue, that was obtained from “Democrat sources.”
8. In 2003, President Bush nominated Kavanaugh to his current position on the United States Court of Appeals and his confirmation hearing was held in 2004.

9. During his 2004 hearing Kavanaugh denied ever receiving any of the stolen documents. Asked if he “ever come across memos from internal files of any Democratic members given to you or provided to you in any way?” he replied, “No.” In 2006, also under oath, he again denied ever receiving stolen documents.
10. Kavanaugh testified extensively and under oath concerning the stolen documents in 2004.
11. In response to questioning by Senator Orin Hatch, Kavanaugh provided the following testimony to the Senate Judiciary Committee:
- Hatch: Now, this is an important question. Did Mr. Miranda ever share, reference, or provide you with any documents that appeared to you to have been drafted or prepared by Democratic staff members of the Senate Judiciary Committee?
- Kavanaugh: No, I was not aware of that matter ever until I learned of it in the media late last year.
- Hatch: Did Mr. Miranda ever share, reference, or provide you with information that you believed or were led to believe was obtained or derived from Democratic files?
- Kavanaugh: No. Again, I was not aware of that matter in any way whatsoever until I learned it in the media.
12. In response to questioning by Senator Chuck Schumer, Kavanaugh provided the following testimony to the Senate Judiciary Committee:
- Schumer: I just want to clear up the questions that Orrin asked. You had said that Mr. Miranda never provided these documents, you know, that were from this.
- Kavanaugh: Right.

Schumer: Had you seen them in any way? Did you ever come across memos from internal files of any Democratic members given to you or provided to you in any way?

Kavanaugh: No.

13. In response to questioning by Senator Ted Kennedy in 2006, Kavanaugh provided the following testimony to the United States Senate:

Kennedy: Have you ever gone back, now that you are aware of it, and seen what decisions you may or might not have taken on the basis of documents that were illegally taken? ...

Kavanaugh: Senator, there's a very important premise in your question that I think is incorrect, which is I didn't know about the memos or see the memos that I think you're describing. So, I think –

Kennedy: Oh, you never saw any of those?

Kavanaugh: No, senator, that's correct. I'm not aware of the memos, I never saw such memos that I think you're referring to. I mean, I don't know what the universe of memos might be, but I do know that I never received any memos and was not aware of any such memos. So, I just want to correct that premise that I think was in your question.

14. In testimony before the Senate Judiciary Committee on September 5, 2018 and September 6, 2018 related to his confirmation to the Supreme Court of the United States, Kavanaugh falsely testified under oath that he had no knowledge that Miranda had infiltrated Democratic files, concealed the fact that he knowingly received and read information about the stolen documents and concealed his prior false testimony to the Senate in 2004 and 2006. The July 28, 2002 email from Miranda to Kavanaugh and other emails recently released to the public establish that Kavanaugh gave false testimony before the

Senate Judiciary Committee on September 5, 2018 and September 6, 2018. They also show false testimony to the Senate in 2004 and 2006.

15. Emails from Miranda to Kavanaugh that support the allegations in this complaint, and other relevant emails and documents, are attached hereto as Exhibit “A.”
16. Kavanaugh knowingly and wilfully gave other false testimony to the United States Senate in violation of the Code of Conduct for United States Judges.

III. VIOLATIONS OF THE CODE OF CONDUCT FOR UNITED STATES JUDGES

VIOLATION OF CANONS 1 AND 2

17. The allegations in the preceding paragraphs are incorporated by reference as if fully set forth.
18. Canon 2 of the Code of Conduct for United States Judges provides: “A Judge Should Avoid Impropriety And The Appearance of Impropriety In All Activities.”
19. 18 United States Code § 1621 provides:

“Whoever—

(1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or

(2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true;

is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

20. Kavanaugh committed perjury by reason of his violation of 18 U.S.C. § 1621.
21. In committing perjury, Kavanaugh engaged in “impropriety” in violation Canon 2.
22. 18 United States Code § 1001 provides in relevant part:
 - (a) Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—
 - (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;
 - (2) makes any materially false, fictitious, or fraudulent statement or representation; or
 - (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under this title, imprisoned not more than 5 years or, if the offense involves international or domestic terrorism (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.
23. Kavanaugh willfully and knowingly made false statements, engaged in concealing and cover up in violation of 18 U.S.C. § 1001.
24. By making false statements, engaging in concealing and covering up in violation of 18 U.S.C. § 1001, Kavanaugh engaged in “impropriety” in violation Canon 2.
25. Canon 1 of the Code of Conduct for United States Judges provides: “. . . A judge should maintain and enforce high standards of conduct and should personally observe those standards[.]”
26. By engaging in the dishonest conduct and crimes described in this complaint, Kavanaugh failed to observe high standards of conduct in violation of Canon 1.
27. Kavanaugh violated Canon 1 and Canon 2 in other respects.

WHEREFORE, the Complainants demand:

- A. That the circuit chief appoint a special committee of judges to investigate this complaint.
- B. That the special committee make a report to the judicial council recommending that it make a finding that Kavanaugh's conduct warrants impeachment.
- C. That the judicial council refer the finding that Kavanaugh's conduct warrants impeachment to the Judicial Conference.
- D. That the Judicial Conference certify the matter to Congress with a recommendation that Kavanaugh be impeached in accordance with Rules 20 and 23 of the Rules for Judicial-conduct and Judicial-Disability Proceedings.
- E. That no further cases be assigned to Kavanaugh and that the cases currently assigned to him be reassigned.
- F. That Kavanaugh be subjected to other necessary and proper discipline.

IV. RULE 6(d) CERTIFICATION

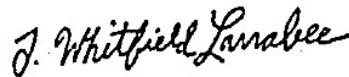
In accordance with Rule 6(d) of the Rules for Judicial-Conduct and
Judicial-Disability Proceedings, the factual statements in the Complaint are true and correct.

Signed under the penalties of perjury this 10th day of September, 2018.



SCOTT DWORKIN
Co-Founder
The Democratic Coalition

THE DEMOCRATIC COALITION,
SCOTT DWORKIN and
JON COOPER,
by their attorney,



J. Whitfield Larrabee
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251 Harvard Street, Suite 9
Brookline, MA 02446
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(617) 566-3670

**JUDICIAL COUNCIL OF THE DISTRICT OF COLUMBIA CIRCUIT
COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY**

E. Barrett Prettyman U.S. Courthouse
333 Constitution Avenue, N.W.
Washington, D.C. 20001-2866
202-216-7340

This form should be completed and mailed to the above address to the attention of the "Circuit Executive". The envelope should be marked "JUDICIAL MISCONDUCT COMPLAINT" or "JUDICIAL DISABILITY COMPLAINT". Do not put the name of the judge on the envelope.

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. Your complaint (this form and the statement of facts) should be typewritten and must be legible. Only the original form and up to a five page statement of facts should be submitted. No copies are required.

1. Name of Complainant: Scott Dworkin

Address: 

Telephone: 

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

Court: Court of Appeals for the District of Columbia

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 (use reverse side if more than one):

Court: _____

Case number: _____

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:

Docket number(s) of any appeals of above case(s) to the Court of Appeals, D.C. Circuit:

4. Have you filed any lawsuits against the judge?

☐ Yes ☒ No

If "yes" give the following information about each lawsuit (use the reverse side if more than one)

Court: _____
Case number: _____
Present status of lawsuit: _____
Your lawyer's name: _____
Address: _____
Telephone: () - _____

Court to which any appeal has been taken in the lawsuit against the judge: _____


Docket number of the appeal: _____

Present status of the appeal: _____

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based on up to five double-spaced pages (8.5 x 11"). 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. See Rule 6 (a) for further information on what to include in your statement of facts.

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: 09/10/2018