

UNITED STATES OF AMERICA

COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
JUDICIAL COUNCIL OF THE DISTRICT OF COLUMBIA CIRCUIT

THE DEMOCRATIC COALITION,)
SCOTT DWORKIN, JON COOPER and)
J. WHITFIELD LARRABEE)
Complainants)
)
v.)
)
BRETT KAVANAUGH,)
Defendant)
_____)

COMPLAINT OF JUDICIAL MISCONDUCT

SECOND COMPLAINT

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 second Complaint against Judge Brett Kavanaugh (“Kavanaugh”) of the United States Court of Appeals for the District of Columbia. The complaint relates in part to the confirmation hearings for Kavanaugh’s nomination to serve as a Justice on the Supreme Court of the United States.
2. On September 10, 2018 the Complainants filed their first Complaint of Judicial Misconduct against Kavanaugh with the Judicial Council of the District of Columbia Circuit. This second complaint concerns perjury, false statements, sexual misconduct and other impropriety that occurred or came to light after September 10, 2018.

3. After September 10, 2018 a least three witnesses came forward to publicly to accuse Kavanaugh of physical assaults, sexual assaults and sexual misconduct.
4. Kavanaugh violated Canons 1, 2 and 4 of Code of Conduct for United States Judges by engaging in a public and partisan campaign of lies to cover-up and conceal sexual misconduct and crimes he committed in the past.
5. Kavanaugh violated Canons 1 and 2 by making knowingly making false statements to the Senate Judiciary Committee and by committing perjury in his testimony to the Committee.
6. Kavanaugh appeared for a public interview concerning allegations of sexual misconduct on Fox News, a partisan televised new outlet, where he lied about and falsely denied engaging in sexual misconduct.

II. FACTUAL BASIS FOR THE COMPLAINT

PERJURY AND FALSE STATEMENTS CONCERNING SEXUAL MISCONDUCT

7. After President Trump nominated Kavanaugh to be a Justice on the Supreme Court of the United States, Dr. Christine Blasey Ford (“Ford”), Deborah Ramirez (“Ramirez”) and Julie Swetnick (“Swetnick”) came forward and publicly accused Kavanaugh of perpetrating attempted rape, gang rapes, sexual assaults & other sexual misconduct.
8. Ford, Ramirez and Swetnick are honest, law-abiding and trustworthy citizens to the best of the knowledge and information of the complainants in the above-captioned matter.
9. Ford detailed her allegations against Kavanaugh in a letter shared with Rep. Anna Eshoo (D-CA) and Sen. Feinstein in July 2018 on the condition of confidentiality.

(Complainants will provide this letter to the Court or Judicial Council upon request.)

10. On September 16, 2017, after the existence of the letter was disclosed in news reports, the Washington Post published a story in which Ford accused Kavanaugh of sexually assaulting her while they both were high school students in the early 1980s.
11. According to Ford, Kavanaugh sexually assaulted her by pushing her and confining her in a room at a party, turning up music very loud, pinning her to a bed, groping her over her clothes, grinding his body against hers, attempting to pull off her clothing and covering her mouth when she tried to scream. Ford reported that she feared that Kavanaugh might inadvertently kill her in the attack. She described how Kavanaugh was intoxicated on alcohol at the time and aided in the attack by his friend Mark Judge (“Judge”). Ford reported that she escaped from the attack and locked herself in a bathroom before returning to her home. Kavanaugh’s attack on Ford was an attempted rape.
12. Ford reported that she took a polygraph test administered by a former FBI agent in early August 2018. The results showed that Ford was being truthful when she said a statement summarizing her accusations was accurate.
13. Ramirez accused Kavanaugh of sexual misconduct while they were college students at Yale in an article published by the New Yorker on September 23, 2018.
14. Ramirez accused Kavanaugh of exposing himself at dormitory party during the 1983-1984 school year, thrusting his penis in her face and causing her to touch it without her consent as she pushed him away. This incident occurred when Ramirez was intoxicated and poorly equipped to defend herself during a drinking game.
15. On September 26, 2018 Swetnick submitted an affidavit to the Senate Judiciary Committee detailing sexual assaults, gang rapes and other sexual misconduct engaged in

by Kavanaugh and Judge in the early 1980s. (Complainants will provide this Affidavit to the Court or Judicial Council upon request.)

16. Swetnick reported that she observed Kavanaugh and Judge fondle and grab girls without their consent. Swetnick reported that she became aware of efforts by Kavanaugh and Judge to “spike” the “punch” at house parties with grain alcohol and/or drugs so as to cause girls to lose their inhibitions and ability to say “No.” She reported that she witnessed efforts to cause girls to be inebriated so that they could then be gang raped. Swetnick reported in approximately 1982 she was a victim of a gang rape where Kavanaugh and Judge were present. Swetnick’s allegations are supported by statements made by Elizabeth Rasor, Judge’s ex-girlfriend. Rasor told a reporter at the New Yorker that she felt "morally obligated to challenge [Judge's] account that "no horseplay" took place at Georgetown Prep with women," adding that she could not "stand by and watch him lie." Rasor asserts that Judge "ashamedly" told her of an incident in which he and other boys took turns "having sex with a drunk woman."
17. On September 24, 2018 Kavanaugh responded to the accusations of Ford and Ramirez in a letter to Senators on the Senate Judiciary Committee. (Complainants will provide this letter to the Court or Judicial Council upon request.)
18. In the letter to the Senate Judiciary Committee and in a statement to Committee investigators Kavanaugh categorically denied the accusations.
19. In an interview on Fox News on September 24, 2018, Kavanaugh denied assaulting Ford

and he said he never sexually assaulted anyone.¹ Canon 4 of the Code of Conduct for United States Judges provides “a judge should not participate in extrajudicial activities that ...reflect adversely on the judge’s impartiality[.]” By appearing on Fox News, a partisan outlet, Kavanaugh engaged in extrajudicial activities that reflect adversely on his impartiality in violation of Canon 4.

20. In his interview with Fox News and in his statements and testimony, Kavanaugh has lied about and provided evasive and dishonest answers concerning the extent of his drinking. In lying about matters large and small, Kavanaugh has demonstrated a ready willingness to lie in order to achieve his ambition to be a Supreme Court Justice.
21. In written testimony submitted to the Senate Judiciary Committee on September 26, 2018, while Kavanaugh remained under oath he, stated: “the truth is that I have never sexually assaulted anyone—not in high school, not in college, not ever.” (Complainants will provide a transcript this testimony to the Court or Judicial Council upon request.)
22. In his written testimony, he characterized the reports of sexual abuse made by Ramirez and Switnick as “smears, pure and simple.” He went on to claim that their reports of sexual abuse were “grotesque and obvious character assassination.” Kavanaugh demonstrated his lack of fitness to be a judge by falsely attacking the witnesses against him in this manner.
23. There were no accusations of attempted rape, gang rape, sexual assault or sexual misconduct against Justice Neil Gorsuch in the recent hearings held to confirm him to the

¹ Fox News, Kavanaugh denies assault allegations in exclusive interview, September 24, 2018, <https://www.youtube.com/watch?v=gxEGNt5EwGo>

Supreme Court. Justice Gorsuch graduated from the same private high school as Kavanaugh. This shows that the Kavanaugh assassinated his own character by engaging in the horrific sexual misconduct that he has been accused of.

24. In aggravation, there is reason to believe that Kavanaugh, in concert with prominent conservative Ed Whelan and officials in the White House, worked to disseminate a bizarre conspiracy theory on Twitter asserting that a middle-school teacher and a private citizen who had nothing to do with the assault on Ford was in fact the perpetrator of the attack. Kavanaugh engaged in a smear campaign against the a private citizen and against the victims of his sexual assaults and sexual misconduct.
25. Because he has pledged to do so, we anticipate that Brett Kavanaugh will again unequivocally deny all the accusations of sexual misconduct and ever committing sexual assault in oral testimony to the Senate Judiciary Committee under oath on September 27, 2018.
26. There is good reason to believe that Kavanaugh knowingly and wilfully lied and gave false testimony to the United States Senate in denying that he committed sexual assaults and that he engaged in sexual misconduct. There is also good reason to believe that Kavanaugh committed crimes of dishonesty and moral turpitude including perjury, all 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, 2 AND 4

27. The allegations in the preceding paragraphs are incorporated by reference as if fully set forth.

28. 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.”
29. 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.
30. Kavanaugh committed perjury by reason of his violation of 18 U.S.C. § 1621.
31. In committing perjury, Kavanaugh engaged in “impropriety” in violation Canon 2.
32. 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.

33. Kavanaugh willfully and knowingly made false statements, engaged in concealing and cover up in violation of 18 U.S.C. § 1001.
34. 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.
35. 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[.]”
36. 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.
37. By engaging in extrajudicial partisan activity, Kavanaugh has displayed a lack of impartiality in violation of Canons 1 and 4.
38. Kavanaugh violated Canon 1, 2 and 4 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.

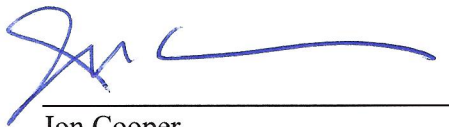
IV. RULE 6(d) CERTIFICATION

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 27th day of September, 2018.



SCOTT DWORKIN
Co-Founder
The Democratic Coalition



Jon Cooper
Co-Founder and Chairman
The Democratic Coalition



J. Whitfield Larrabee
Attorney at Law

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

J. Whitfield Larrabee

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**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, et. al.

Address:

Telephone:

2. Name(s) of Judge(s) complained about: Judge 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-sided 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: _____

9/27/18



9/27/18