

COMPLAINT FORM
JUDICIAL COUNCIL OF THE
UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS
COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

This Complaint Form may be filed by mail or email. It should be typewritten, if possible, or written legibly; if this form is not completed properly, the Clerk will not accept it.

*If mailing, send this Form to: Clerk, United States Court of Appeals for Veterans Claims
625 Indiana Avenue, NW, Suite 900
Washington, DC 20004-2950*

Mark the Envelope "CONFIDENTIAL: Complaint of Misconduct" or "CONFIDENTIAL: Complaint of Disability." Do not put the name of the Judge on the envelope.

If emailing, send this Form to: efiling@uscourts.cavc.gov. The subject line of the email should be "CONFIDENTIAL: Complaint of Misconduct" or "CONFIDENTIAL: Complaint of Disability." Do not put the name of the Judge in the subject line.

1. Complainant's name: Gabe Roth
Address: 348 4th Ave., #1007
Brooklyn, N.Y., 11215
Telephone: 202-780-4990 Email address: gabe@fixthecourt.com
2. Name of Judge complained about: William S. Greenberg

3. Does this complaint concern the conduct of the Judge in a particular case(s)? Yes No

If "yes," complete the following about each case (use reverse side if more than one):

Docket number: _____

Are (were) you a party or lawyer in the case? Party Lawyer Neither

If you are (were) a party in the case, give the name, address, telephone number, and email address of your representative, if any:

Representative's name: _____

Address: _____

Telephone: _____ Email address: _____

Docket numbers of any appeals to the U.S. Court of Appeals for the Federal Circuit:

(see next page)

4. Have you filed any lawsuits against the Judge? Yes No

If "yes," give the following information about each case (use the reverse side if there is more than one):

Court: _____

Docket number: _____

Present status of suit: _____

Name, address, telephone number, and email address of your representative, if any:

Representative's name: _____

Address: _____

Telephone: _____ Email address: _____

Court to which any appeal has been taken: _____

Docket number of the appeal: _____

Present status of the appeal: _____

5. On separate sheets of paper, not larger than 8½" by 11", describe the conduct or the evidence of disability that is the subject of this complaint and explain why you believe this conduct is prejudicial to the effective and expeditious administration of the business of the Court. *See* U.S. VET. APP. R. GOVERNING COMPLS. JUD. MISCONDUCT & DISABILITY R. 2(b), 2(d). Do not use more than 5 pages (5 sides).

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that

(1) I have read Rules 1 and 2 of the Court's Rules Governing Complaints of Judicial Misconduct or Disability, and

(2) the statements made in this complaint are true and correct to the best of my knowledge.



(Signature)

Executed on 2/5/24
(Date)

On separate sheets of paper, not larger than 8½" by 11", describe the conduct or the evidence of disability that is the subject of this complaint and explain why you believe this conduct is prejudicial to the effective and expeditious administration of the business of the Court. See U.S. VET. APP. R. GOVERNING COMPLS. JUD. MISCONDUCT & DISABILITY R. 2(b), 2(d). Do not use more than 5 pages (5 sides).

I am filing this complaint¹ against Judge William S. Greenberg of the Court of Appeals for Veterans Claims following the recent release of IRS data² that shows the judge's wife, Betty W[olf] Greenberg,³ donated \$10,000 to the legal defense fund of U.S. Sen. Bob Menendez.

According to a press release⁴ put out by Menendez's office on Nov. 15, 2012, the date of Greenberg's nomination, "Senator Menendez recommended General Greenberg for the [judicial] post to President Barack Obama." Greenberg was confirmed by the Senate the following month.

That a judge or his close family member would contribute to a sitting U.S. senator (who may also be a candidate in the current election cycle) is a violation of Canon 5A(3) of the Code of Conduct for U.S. Judges — "a judge should not [...] make a contribution to a political organization or candidate" — which, per its Introduction, applies to the judges of this Court.

That the recipient is the senator responsible for the judge's current job makes it even worse. (That the contribution went to a legal defense fund and not to the official campaign is immaterial for perception purposes.)

What's more, it does not matter whether the money donated came from an account solely managed by Betty Greenberg. The vast majority of married couples share at least some of their finances, so it would be reasonable to presume that the donation had Judge Greenberg's knowledge, if not blessing.

This episode is reminiscent of a March 2020 *Roll Call* investigation⁵ on federal judges who appeared to have made contributions to politicians. Per the article, it looked like a Judge William Martinez (D. Colo.) gave \$365 in 2016 to a U.S. Senate candidate in North Carolina. Soon after publication, I brought this to the attention of Tenth Circuit officials, and that May I received this response from the circuit executive:

We asked Judge Martinez to respond to the allegations [...]. Judge Martinez understands the ethical proscription against making political contributions after taking the bench [...]. His wife made the

¹ 38 U.S.C. §7253(g)(1) makes the Chapter 16 of title 28 (i.e., the Judicial Conduct and Disability Act of 1980) applicable to this court, and under the statute any person may file a complaint against a judge who the person believes "has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts."

² See IRS Form 8872, Menendez Legal Defense Fund for the period 7/14/23-12/31/23, page 5, donation 9, available at <https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=144850&formType=e8872>.

³ Judge Greenberg's bio indicates he "is married to the former Betty Kaufmann Wolf"; see www.uscourts.cavc.gov/greenberg.php

⁴ See "Menendez Applauds Nomination of William S. Greenberg as Judge to U.S. Court Of Appeals for Veterans Claims," Nov. 15, 2012, <https://www.menendez.senate.gov/newsroom/press/menendez-applauds-nomination-of-william-s-greenberg-as-judge-to-us-court-of-appeals-for-veterans-claims>.

⁵ See Joshua Eaton, Ilana Marcus and Ed Timms, "Cashing in on Justice," *Roll Call*, March 3, 2020, <https://rollcall.com/2020/03/03/cashing-in-on-justice>.

contributions in question, but the online platform used his previous information rather than hers, making it look like he made the contributions. Neither he nor his wife were aware of this at the time. Since you brought it to his attention, *he has taken measures to ensure that it will not happen again* (emphasis mine).⁶

The Martinez donation was relatively small and uncovered three-and-a-half years after the election took place, and yet, based on the response I received, it was of serious concern to judiciary officials.

Here we have an unfolding situation — a current U.S. senator charged in a quid pro quo scheme — and the Greenberg donation looks a lot like a quo for the quid of being nominated to the bench. It should be treated with equal if not greater seriousness.

The Greenbergs should seek a refund of the donation, and Judge Greenberg should take measures to ensure that neither he nor his close family members will do this again.

⁶ See “Ethics Violation in Tenth Circuit Ends with a Promise to Do Better,” Fix the Court, May 6, 2020, <https://fixthecourt.com/2020/05/ethics-violation-tenth-circuit-ends-whimper>.