

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL  
MISCONDUCT OR DISABILITY,

No. TC-17-900012

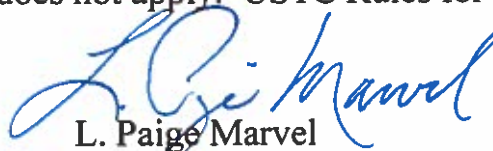
**ORDER**

The Court received a complaint, and supplements thereto, alleging that a special trial judge of the United States Tax Court engaged in judicial misconduct.<sup>1</sup> Upon due consideration, it is

ORDERED that the complaint is dismissed for the reasons stated in the attached Memorandum.

The Clerk of the Court is directed to send copies of this Order to the complainant, the subject judge, and the Committee on Judicial Conduct and Disability. Rule 11(g)(2), Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court.

The complainant and the subject judge have the right to petition the Judicial Conduct and Disability Council to review this order. USTC Rules for Judicial Conduct, Rule 11(g)(3). The deadline for filing such a petition is within forty-two (42) days after the date of the Chief Judge's order, and the timely mailing/timely filing provision of 26 U.S.C. sec. 7502 does not apply. USTC Rules for Judicial Conduct, Rule 18(a), (b).

  
L. Paige Marvel  
Chief Judge

Dated: Washington, DC  
December 21, 2017

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<sup>1</sup> The Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court (USTC Rules for Judicial Conduct) require the Chief Judge's decision to be publicly available, but the identities of the judge and the complainant are protected if the complaint is finally dismissed under Rule 11(c). USTC Rules for Judicial Conduct, Rule 24. Accordingly, the Court will not identify the parties in this matter, nor describe the context in which the complainant's grievances arose with any degree of specificity.

SERVED DEC 21 2017

## MEMORANDUM

MARVEL, Chief Judge: Complainant has filed a complaint of judicial misconduct against a special trial judge (hereinafter also referred to as “subject judge” and “judge”) of the United States Tax Court (Tax Court). For the following reasons, the misconduct complaint will be dismissed.

In complainant’s underlying Tax Court case, an order was issued designating the place of trial. Before the case was calendared for trial, the Internal Revenue Service filed a motion for summary judgment and complainant filed a response thereto. The case was assigned to the subject judge for purposes of disposing of the motion for summary judgment.

Complainant alleges that the subject judge obstructed justice and failed to uphold tax laws and rules because complainant did not have an opportunity to appear in Court to present his case. Relevant Federal laws and rules were followed with respect to complainant’s Tax Court case assignment to a special trial judge. Cognizable misconduct does not include allegations that are directly related to the merits of a decision or procedural ruling, and a complaint must be dismissed in whole or in part when the Chief Judge concludes this is so. USTC Rules for Judicial Conduct, Rules 3(i)(3)(A) and 11(c)(1)(B). These assertions raised in the complaint,

which are directly related to the merits of a decision or procedural ruling, must be dismissed. See id.

Complainant also alleges that the subject judge discriminated against him but does not explain how. Only unlawful or invidious discrimination may support a claim for judicial misconduct. See In re Complaint of Judicial Misconduct, 569 F.3d 1093 (2009). A review of the record does not support complainant's general assertions of discrimination. A complaint or part thereof must be dismissed when there is a lack of sufficient evidence to raise an inference that misconduct has occurred regarding this assertion. USTC Rules for Judicial Conduct, Rule 11(c)(1)(D). Accordingly, this allegation raised in the complaint must also be dismissed.