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Judicial Misconduct

Student Name

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Judicial Misconduct

A recent article written by Mark Hansen and published in the *ABA Journal* reviews the new rules that have been implemented by the Judicial Commission. These rules are now being used by the Judicial Conduct and Disability Committee to monitor judicial conduct and complaints.

**Summary**

Hansen (2008), in his article “Judging the Judges,” indicates how Justice Stephen G. Breyer was appointed to study the effectiveness of the system regarding judicial misconduct. In his findings, he notes that an average of 700 complaints are filed each year, with many of those alleging misconduct (Hansen, 2008).

The new rules give the Committee the authority to review judicial complaints that have been dismissed, monitor the progress of disciplinary action taken, and order further investigation into the case by the council of each circuit. Each circuit can use its own set of rules to address complaints as long as they do not interfere with the new uniform rules. Since the new rules still require the chief judges and judicial council to oversee and manage the complaint process, it also gives them the authority to further investigate a case even if a complaint has not been filed.

In some cases misconduct among federal judges is kept confidential unless disciplinary action has been taken. The Chief Justice can confirm that a complaint exists against a judge but cannot discuss the merits, and the dismissed complaints do not name the involved parties. Northwest University school director, Steven Lubert, believes one major problem with the new procedures is the lack of publicity surrounding the disciplinary action against federal judges. He feels that society has the right to be informed of a judge’s misconduct, while University of
Pittsburg law professor, Arthur Hellman, believes that chief judges of the circuits have too much discretionary power.

Another concern is how misconduct is defined. The proposed conduct by the Judicial Conference follows some of the guidelines of the ABA code, but it still allows certain judicial behavior to exist. According to the ABA Model Code of Judicial Conduct, the definition of misconduct based on the new rules is “conduct prejudicial to the effective and expeditious administration of the business of the courts” (Hansen, 2009, p. 32).

According the Charles Geyh, co-reporter of the ABA Joint Commission, the problem today is that the ethical standards judging conduct are still vague and unenforceable (Hansen, 2008). The new code still promotes certain types of behaviors among judges. The ABA even agreed with the concerns of Geyh, and in October 2007, they felt that the rules had to specifically state conduct violations as it applies to federal judges. They even expressed their support stating that the purpose of the new procedural rules is to clarify the rules, the actions that would be taken against the judge if he violated them.

**Critique**

I think it was necessary for a standard of rules to be established to monitor complaints and misconduct from judges. As a U.S. citizen, we have right guaranteed to us by the U.S. Constitution. It would only seem appropriate that any misconduct by a judicial official would be a violation of those rights, and thus some form of action must be taken to protect the citizen. Judges are held at a higher standard of integrity given the nature of their positions; therefore, a firm set of guidelines to investigate complaints brought against judges involved in inappropriate activity is an absolute must. I believe this paves the way for a quick resolution.