

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

In the Matter of

A CHARGE OF JUDICIAL  
MISCONDUCT OR DISABILITY,

No. TC-16-90003

**ORDER**

Complainant seeks review by the Judicial Conduct and Disability Council of a complaint of judicial conduct. Upon due consideration of the record, it is unanimously

ORDERED that complainant's petition is denied for the reasons stated in the June 1, 2017, Order signed by the Acting Chief Judge and the memorandum attached thereto. The actions of the Court which are the subject of the complaint are merits-related and therefore are not cognizable under the Judicial Conduct and Disability procedures.

We note that a harmless clerical error was made in the processing of the October 3, 2016, order issued in complainant's underlying case. That order was prepared by the judge to whom the case was assigned. However, due to a computer error, the signature of a different judge was erroneously affixed to that order. A copy of the order bearing the incorrect signature was served on complainant. Upon discovery of the signature error, the erroneous version of the order was deleted from the record and replaced by a copy of the order properly bearing the signature of the judge to whom the case was assigned. The Court regrets any confusion that resulted from this clerical error.

For reasons stated next, we disagree with the contentions stated in petitioner's submission dated July 26, 2017, regarding the Acting Chief Judge's service in this case.

USMC Rules for Judicial Conduct Rule 25(f), states the circumstances under which the most senior active judge shall serve as Acting Chief Judge. The Acting Chief Judge in this case is at this time the second most senior active

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judge of this Court. The most senior active judge of this Court is a member of the Judicial Conduct and Disability Council. See USMC Rules for Judicial Conduct Rule 17.1(a)(1).<sup>1</sup> The fact that the most senior active judge is a member of the Council is an exceptional circumstance which renders application of USMC Rules for Judicial Conduct Rule 25(f) contrary to the purposes of these Rules. See USMC Rules for Judicial Conduct Rule 2(b).

  
John O. Colvin  
Chair

Dated: Washington, DC  
August 16, 2017

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<sup>1</sup>The Acting Chief Judge was the third most senior judge at the time of the appointment of members of the Judicial Conduct and Disability and thus is not a member of the Council. See USMC Rules for Judicial Conduct Rule 17.1(a)(1).