

Proposed Change to Rule 40.3

Rule 40.3. Complaints Against Judges

(a) The Judicial Improvements Act of 2002, 28 U.S.C. § 363, ~~The Judicial Conduct and Disability Act of 1980, 28 U.S.C. § 372(c)(18)~~, directs the United States Court of Federal Claims to prescribe rules for the filing of complaints against judges of the court who have engaged in conduct prejudicial to the effective and expeditious administration of the business of the court or who are unable to discharge all the duties of the office by reason of mental or physical disability.

(b) A copy of these rules, titled “Rules of the United States Court of Federal Claims Governing Complaints of Judicial Misconduct and Disability,” is available upon request from the Office of the Clerk of the United States Court of Federal Claims, 717 Madison Place, NW, Washington, DC 20005, or may be obtained from the court’s website at www.uscfc.uscourts.gov. Pursuant to these rules, written complaints may be filed with the clerk.

of rules for the filing of complaints of judicial misconduct, originally set forth in the Judicial Conduct and Disability Act of 1980, 28 U.S.C. § 372(c)(1)–(18), was amended and recodified as 28 U.S.C. §§ 351–364. This change is reflected in the 2004 amendment to Rule 40.3 in the opening sentence of subdivision (a) by the deletion of the former statutory reference and the substitution of the new statutory reference.

Additionally, the rule has been amended to include notice of the availability on the court’s website of the Rules of the United States Court of Federal Claims Governing Complaints of Judicial Misconduct and Disability.

Rules Committee Notes

2002 Revision

RCFC 40.3 has no FRCP counterpart. However, the notice provided by the rule is in accordance with the recommendations of the Judicial Conference of the United States, urging that such notice be made part of the court’s rules.

The rule replaces former Appendix B (“Procedures for Processing Complaints of Judicial Misconduct”) and its supplementing order, General Order No. 34 dated June 3, 1993. Inclusion of the rule as a subpart of RCFC 40 is intended to further a more coherent organizational structure of the court’s rules.

2004 Amendment

Pursuant to the Judicial Improvements Act of 2002, Pub. L. No. 107-203, 116 Stat. 1758, the statutory directive requiring the court’s issuance