

How to Bring Justice to Judges

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Executive Summary

This article examines lessons from the book *Suing Judges*, and propounds explanations of the difficulty of obtaining justice in the face of judicial immunity against lawsuits for injuries jurists cause. It examines the common law nature of immunity, its constitutionality, how judges invented it to protect themselves, and how they use it to abuse litigants. It suggests ways to prepare to prepare and wage battle seeking redress and remedy against judge who has caused injury.

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Suing Judges

I just read *Suing Judges, A Study of Judicial Immunity*, by Abimbola Olowofoyeku. Yeah, I broke my mouth trying to say the author's name.

The book gives a few hints but pathetically little hope to people seeking evidence of true judicial integrity throughout America. The author spends most of the pages describing the immunity of the judges and quasi-judicial actors like clerks ("Not my fault. I just obey orders."). But it differentiates between judicial and administrative functions. It alleges that a judge must have immunity for defaming people in court because we give him that authority as one who judges and expresses that judgment.

And maybe we shouldn't split hairs. If a judge can sentence a perp to death, why shouldn't the judge simply pull out a gun and kill the perp, and smack him on the nose for good measure? Lots of perps deserve both death and a smack on the nose, right?

We Must Identify ideals

No. We must settle this issue: Can and should a judge get away with abusive behavior that falls outside the scope of a purely judicial act? Should we forgive a judge for calling a defense counsel a slut in court, or for any other torts, except punishment meted out to the defendant? Must or should the law must punish malicious acts committed outside self-defense, regardless of who does them?

We must ask ourselves how justice regarding judges evolves. I believe it evolves with the general ethics of the society. We tend to permit behavior of judges that we generally find acceptable because they "are only human." But if we look around at the impact of political correctness, we see people expressing disdain for use of the N word, gender-specific pronouns in gender neutral sentences, and almost anything people might find embarrassing or demeaning. On the other end of the spectrum, we witness all manner of defiantly ignominious expressions, and we tolerate most of them as protected under the First Amendment. Which of those standards should we apply to judges?

Maybe it's too late for that question. Attorneys have tolerated and condoned bad judicial behavior as a matter of group policy. The bar refuses to act to discipline judges (such as by canceling bar membership). And now judges even get away with murder.

The Meaning of Immunity

Immunity is a right of the public to have their judges speak and act honestly, no matter how ignominious it might seem to any given observer. Political correctness has no place in court. In a sense, judges are the mommies and daddies of society, and until we flat outlaw all forms of spanking, cursing, malnourishing, neglecting, and abusing of children by parents, we will get similar behavior from judges, as a matter of public right, public policy, and practical operation and practice. Those of us who don't like this can move to Louisiana or South Africa where judges enjoy less liberal immunity for malicious acts. Everywhere else in the USA judges may publish defamatory remarks in the context of the case, with absolute immunity.

How to Go After a Judge

In any case, some remedies do exist against judicial excess and abuse (we should never think punishment of the judge constitutes redress, for it doesn't):

1. Seek appellate review – habeas corpus, certioari, prohibition, mandamus.
2. Lodge with a U.S. military or other officer (18 USC 4) a criminal complaint against the judge and all who obstruct prosecution of the judge for the associated crime – consider criminal RICO, or Wire or Mail Fraud (including Honest Services Fraud).
3. Public outcry – inform the news media of the facts and get all friends and family and associates to do the same, demanding an investigation.
4. File an Ethics complaint, if relevant, with the Judicial Qualifications Commission (JQC) or equivalent Judicial Performance Commission (JPC). If you get enough associates to do this about the same behavior by the same judge, the commission will take note. If they don't act, seek judicial review by the state Supreme Court.
5. File a complaint against the judge with the bar.
6. Dig up the judge's bond or insurance policy and file a claim against it for damages, sending copies to the news media, House Judiciary Committee, bar, JQC, and Chief Judge
7. File a complaint with the State/Federal House Committee on the Judiciary and demand impeachment.
8. Send a copy of every complaint to the news media, military officer (preferably JAG), JQC, House Judiciary Committee, chief Judge, bar, bar's insurer, judge's bonding/insurance company, CFO's risk management department, your state and US senators and representatives, area lawmakers, and a huge BCC list of attorneys, law makers, the target's friends and family, mailing list owners, etc. (always show the number of BCC recipients). You could put others on the CC list. That tends to subject them to real spam, but it also encourages them to communicate about the matter with one another.
9. Attack the judge's credentials – campaign contribution violations, financial entanglements with enterprises that create a conflict of interest, missing loyalty oath, dummied bar exam, law college not accredited, improper or missing loyalty oath (see CUSA Article IV Section 4, 4 USC 101 & 102, 5 USC 3331, state oath laws), improper or missing voter registration and elector's oath, improper or missing bar oath, improper or missing public officer's oath of office. Look for forged signatures on the oath document (I saw Jeb Bush's 1998 oath of office – he signed in the proper place and in the jurat – so he did not lawfully hold his first term of office, and in the second term, his Secretary of State Harris had removed the jurat from the election forms, so he did not lawfully hold office in the second term either).
10. If you dig up irregularities that make the judge an imposter, file a Qui Tam lawsuit, for the judge made fale claims to the CFO for an unwarranted paycheck. State law might give you up to 15% as a reward for recovery of the money.
11. In the event of those irregularities, file a Quo Warranto lawsuit and make the judge prove the irregularities don't exist. Appeal any ruling in the judge's favor.

12. Encourage courtwatchers to attend the judge's proceedings and file into the cases and with the JQC, news media, bar, and House Judiciary Committee, affidavits of probable cause showing the judge abused the constitutional rights of litigants, witnesses, or observers (crooked judges seem to favor jury tampering).
13. Hire a private investigator to dig into his family, finances, and personal habits – if he's dirty on the bench, he's dirty elsewhere, and you can and should expose him, regardless of the problems he suffers as a consequence. Can't stand the heat, get out of the kitchen. Be sure to look into finances very hard. Crooked judges win bets (the kind they didn't really win) at the poker table, golf links, etc. In California, many judges have recently received mortgage loans which mysteriously got fully paid off a few months later. Journalist Janet Phelan (in hiding in Switzerland) has reported on a number of them in the San Bernardino paper. And let's not even get into the incredible retirement benefits judges obtain. However, do look for investments into seriously conflicting enterprises that own or benefit from owning jails, prisons, and related properties or industries, or companies selling products manufactured with prison labor. Look hard for evidence of pornography, child abuse, and sexual indiscretions, and get them splattered on page 1 of the newspaper. Take all of the judge's family and friends to task for their peccadilloes, misdemeanors, crimes, and indiscretions. Expose their wrongs to public scrutiny and let them know the judge stands at the root of their problems. Then they too will hammer the judge into line. Use every possible lawful pressure to convince the judge to behave, then put his figurative head on a figurative pike for other judges to observe and ponder lest they end up in a similar fix. In this very guerilla war, the wicked shall have no rest.
14. Send the judge notice and demand estoppel letters and assign a value to your work (time, expenses) for administering it. This does tend to perfect evidence of exhausting administrative remedy and building up a obligation to you for your expenditure of time and resources protecting your rights from the judge's abuse.
15. Hire a ghost writer and PR firm to send out announcements and releases challenging everything about the judge and making him look bad without actually libeling him. Start numerous anonymous blogs to expose the perp. Hire a marketing company to distribute the links via email (lawfully) to everybody possible. Get Web Position Pro (software) and use it to enhance the ranking of your web site/blog in the search engines. Read the stuff at <http://thegaryhalbertletter.com> and become an expert at direct marketing so that you can make your messages and web pages effective. Example, create your expose' on paper. On the letter, put a call to action (join the protest group, write to the judge and House judiciary committee and local editors of news media, etc), and a web site to get more info. Stick two shiny new pennies to the top. Boldly headline it with "Shameless bribe to read this letter." Stuff it in an odd-sized colored envelope. Get it hand-addressed in a woman's lovely handwriting, Drop a dot of perfume on it. Take a pile of them to Tijuana, and mail them to the USA recipient with a huge obviously Mexican lick-and-stick stamp on it. Beyond all doubt, every recipient will tear into the letter and read it. Many will take action if you do the letter properly.
16. Campaign against the judge at the next election, and get all the attorneys you know to do the same.

17. Support the bad judge's opponent at the next election.
18. Run for office to replace the judge with yourself.
19. Last resort – file a tort lawsuit against the judge and seek remedy that will not interfere with judge's judicial functions. See *Slavin v. Curry*, 574 F.2d. 1256 (5th Cir., 1978) – Ask for equitable relief through a declaratory judgment under 42 USC 1983, 1988 that the judge and fellow conspirators violated your constitutional rights. See *Jacobson v. Schaefer*, 441 F.2d. 768 (7th Cir., 1971). Also, respecting jail for non-jailable offenses, see US Supreme Court's 5-to-4 Blackmun ruling awarding injunction and attorney fees in *Pulliam v. Allen*, 80 L. ed. 2d. 565 (1984). Blackmun analyzed the King's Bench use of the Great Writs (habeas corpus, certiorari, prohibition, and mandamus) to control inferior courts. American common law does support collateral relief from judicial abuse, even if you cannot collect a damages award.
20. Ultimate resort – file a tort lawsuit against the government for injuries caused by improper control of its rogue judges. The state has vicarious liability (rejected in the 1980 *Owen v City of Independence* ruling, but see the Federal Tort Claims Act 1988 amendment in 28 USC 2674) because of the judge's status as a servant of the state, and therefore of the people from whom all state sovereignty flows. In the alternative, the state has primary liability for wrongful exercise of sovereign powers by its judiciary, of which the judge operates as a component, and which is an element of government, the representative of the state (you might want to block-diagram this). Remember that under 28 USC 2680(a) you might file a claim for failure of the judge to perform some non-discretionary function (see *Cromelin v. U.S.*). You might see a non-discretionary function as administrative, not judicial. 42 USC 1983 subjects "EVERY PERSON" acting under color of state law to liability for depriving any person in the US of rights, privileges, or immunities secured by the Constitution and laws. Of course this does not abolish common law immunities (meaning judges can rule so as to protect themselves).
21. Whimzy – file a RICO lawsuit against all the bar members of the state, and actually target the 10 or 20 most egregious jurists and attorneys, state and federal, central to the cause of complaint. After all, they ARE racketeers. The Florida Supremes integrated (absorbed) the state bar association into the Supreme Court in 1949. This violated Article II Section 3 of the State Constitution (separation of powers – bar members infest/infect every branch of government, some constitutionally, but most not), and CUSA Article VI clause 3 (guarantee of a republican form of Government). Florida (and I imagine California) operates under a Judicial Oligarchy which prevents the People from knowing all of the relevant common law (by sealing or not publishing salient cases, under the Supremes' Rules of Judicial Administration rule 2.420, for such spurious and fallacious reasons as "public policy" and "government interest") . This warrants a lawsuit for judicial correction, if not outright violent rebellion against the judiciary's rulers.

Relying upon the Constitutions

Bottom line, the Constitution must mean what it says. You do have constitutional rights which the state, government, judiciary, and judge MUST respect and protect. In point of fact a real conflict exists

between the Bill of Rights (and State equivalents) and the concept of judicial immunity. Rights advocates simply must use every possible tool to hammer the judiciary into compliance with the Constitution, regardless of the cost. Judges wrote the common law, and it constitutes a conflict of interest for them to use that to establish immunity doctrines that protect them from all damage claims for their violations of rights, procedures, rules, laws, and other guarantees of due process, access to the courts, and timely justice.

Common law immunities have no constitutional foundation. In fact, the Declaration of Independence specifically railed against immunities enjoyed by the King and his agents and military in the Colonies. Circumventing those immunities constituted a major reason for the War of Independence from English Rule.

All men have the right to redress of grievance in the courts, to due process of law, and to constitutional protection of privileges and immunities. And the contravening judicial immunity doctrine is fundamentally and unconstitutionally arbitrary and capricious, in spite of Chief Justice Finesilver's opinion in *Chrietensen v. Ward*, BECAUSE the Constitution does not authorize it as a technique for undermining the rights guaranteed in the Constitution. It falls in the same class as whimsical imprisonments for contempt of court without a trial by jury, also unconstitutional. If an act by any person would violate constitutional rights, then the same act by a judge also unconstitutionally violates those rights.

Nothing Constitutional about Immunity

In *Mason v. Melendez*, 525 F. Supp. 270 at 275 (USDC Wisconsin, 1981), Judge Doyle opined "*Immunity from damages, whether absolute or qualified, represents a sharp departure from the principle that persons are responsible for the harm they inflict upon one another, and that the victims may seek compensation from the perpetrators.*"

Even when some means exists to discipline a rogue judge, that does not provide a real remedy unless some power forces the judge or chain of command to compensate the victims of that rogue behavior, including monetary damages for the infringements of constitutional or common law rights. If the judge does not have to pay, then the State *must* pay, or justice remains undone, and God will have to exact penalty in the hereafter (or the Mob in this lifetime). Take heed lest God exacts penalty from us for doing NOTHING EFFECTIVE to put the judiciary back in its box.

Good for one, Good for all

The law should make judges, and anyone else, liable for breach of duty causing injury. If the state wants to immunize judges, then it must stand in the judges' liability shoes, just as any employer must do, in accordance with the doctrine of *respondeat superior*. This will not make judges liable only for wrong decisions at which they arrive negligently, wantonly, or in conspiracy with the prosecutor, for wrongs that further the conspiracy.

In principle, the law provides a mechanism for the group (nation of states and people) to punish a perp criminally (jail, fine) who hurts someone, and to compensate (monetary damages) a victim directly from the labor of the perp. If for some reason the group has fallen asleep on that obligatory mechanism and allowed some custom (common law) to emasculate it (such as with judicial immunity), then a smaller group (vigilante, mob, rebels) has incumbent responsibility to provide remedy.

This happened by, with, and through the Declaration of Independence, all but two of the signatories of which suffered dire consequences for signing it. It can, and perhaps should, happen through the Mafia, community action groups, lynch mobs today, or violent general rebellion. Judicial independence cannot and should not be bought at the price of tolerating judicial abuse in the name of immunity or amnesty for rogue behavior. Otherwise all judges will become rogues, and, taking their cue, all attorneys will become rogues along with them. Birds of a feather DO, after all, flock together.

Gratifying Our Quest for Balance

In the final analysis, we must seek balance in the judicial integrity equation.

First and foremost we need to know what each judge does. A civilian courtwatcher group becomes indispensable to this effort. Courtrooms need to provide critique forms to observers, and they should rate the judge, attorney, and bailiff performance. But most credence should go to professional courtwatcher analyses and reports, and all reports should go into a free, publicly accessible database which people can access at election time.

1. Judges must have immunity from liability for honest mistakes, but EVERY mistake should incur a penalty of enhanced training and “correction,” at the judge’s personal expense, so the judge won’t make it again. Every error needs to go on the judge’s public score card.
2. Judges must receive punishment for malicious errors and incompetence (repeating an error, or making a case go to appeal out of malice, fear, sloth, or political expedience), and they must compensate the people they injure from their own pockets, and get thrown off the bench.
3. We must insist upon laws that punish violations of loyalty oaths.
4. All judges must have bonds in the amount of \$1,000,000 minimum, and they must pay the bonding fee out of their salaries, not out of public money.
5. A special grand jury (SGJ) drawn from the pool of jurors with bachelor degrees and no bar membership should receive all complaints against judges for malicious abuse or rights violations, and rule as to the guilt or innocence of the judge. They should approve or deny damage awards from the judge’s bond/insurance policy, and have the power to order a non-reviewable revocation of the bond or elevation of the bonding fee. No government attorney would have the right to attend or advise in this process, but the SGJ could hire consulting attorneys, ex-attorneys, law professors, judges, ex-judges, and other experts for help sorting through issues.
6. We need to undo hundreds of years of “this is how we’ve done it for centuries” tradition by eliminating the bulk of common law through codifying it in statute. This of course will eliminate the vast majority of judicial rulings as precedents. The legislature would review all panel court

rulings, and add it to the list of rulings in support of the meaning of the statutory law, or enact an amendment or replacement to the respective law and cite the ruling (if any) that led to it. The law could require the legislature not to get more than a year behind on any case. At first this would create a huge expense. But in time it would settle down so some minimum. All statutory law and supporting case law would go in a nationwide government-operated free, on-line database that would also include the statutory and common law of England that provides the basis for American law. This would break the monopoly on law databases maintained by the ALI, Westlaw, and Lexus Nexis and reduce the legal services monopoly enjoyed by lawyers. It would finally make the law easily knowable by the people. And it would break the hegemony enjoyed by the judiciary over Americans. Judges should not have the power to make law at their whim.

7. We must replace all “public policy” and “government interests” with statutory law. They amount to nothing more than whim, CYA, and political expediency. They have no rightful place in jurisprudence.

If You Decide to Fight...

You ought not to make the decision to fight a judge lightly. Like fighting the IRS, it can consume your resources, your family, your friends, in irrecoverable years of your life. You must adequately prepare for the battle, and prepare to dig in for the long haul. And you ought to remember that judges, wielding the awesome, puissant force of government, can hurt you badly and end your fortune, liberty, and life if they choose to.

1. Make yourself anonymous, like Guy Fawkes – adopt false identities, pseudonyms, hidden accounts.
2. Make yourself judgment proof – set up trusts, LLCs, offshore enterprises, and put your assets into the them, or into the names of remote family children or others trustworthy and hard to get to.
3. Amass a fortune and hide it from tax collectors and other government agents – you will need money to fight. Do not use safety deposit boxes or bank accounts in your name. Consider putting money into precious gemstones, or in numismatic coins or stamps that hold appeal to international collectors. A single old quarter could have a value fo \$25,000.
4. Develop a network of like-minded friends, and help them when you can by supporting them in their efforts to obtain justice. Consider finding supporters at <http://meetup.com>, people interested in Tea Party efforts. Also, look in the legal community, for many attorneys know first hand the evils of judges and highly placed bar members. They might have problems of their own with judges and they might feel willing to contribute time or money to your cause.
5. Form a courtwatcher group in your community and enlist interested citizens (you will find them among victims of judicial abuse), and train them to observe proceedings, note the abusive and illegal behaviors of bailiffs, attorneys, and judges, and write and file affidavits of probable cause against the purps. Focus on those bad judges you want to target.

6. Look for angel investors willing to back you in your cause. Many Americans of means hate seeing judges become abusive and high-handed.
7. Cultivate friendships with people in the news media, and amass a collection of reporters, columnists, journalists, and bloggers willing to spread what news you give them. Write informative research-opinion pieces (like this one) that can give prospective supporters perspective on the issues.
8. Create your own news media – develop a mailing list of people interested in government and law, and write an occasional article for them or toss them tidbits of inside scoop or news. Encourage them to sign up new subscribers. Post your newsletter content to your own or an anonymous blog from time to time. And send links for your blog to search engines.
9. Write a book or two, or periodic pamphlets that enlighten without condemning, and get them published.
10. Join or start a speaker’s bureau and make yourself known by attending and speaking at public events.
11. Hire a PR agent for yourself to make you know to a wide circle of influential people – go where people of means and respect congregate, and make yourself known to them.
12. Meet and get to know your state and federal legislators and your local city/county council/commissioners. Help those whose positions you find amenable to your philosophy, and toss some money and time at them to help with their campaigns. A hundred dollars now and then can buy some needed support. Consider holding a fundraiser dinner for a candidate now and then.
13. Look around for judges you like and express good things about them publicly. Then when you start your attack on the bad judge, you will seem (and be) “fair and balanced.”
14. Scour the law library for case law that supports your position, and continually write into your supporting brief the salient law and reasoning that can help you win in litigation, a news article, or a public debate.
15. Eliminate irascibility, arrogance, and quirkiness from your behavior, and if possible your personality, and groom yourself impeccably before going out in public. If you want broad support, you must look and act like you deserve it.
16. Consider running for public office to enhance your public image and do a good job for the community.
17. Master your use of time – use it wisely, for you have much to accomplish.

Few people have the resources to do all of the above, except as a profession, but you must prepare if you hope to win.

Summary – Judges Will Not Control Judges

Until our world and its people become much more spiritually oriented, self-interest (money, job, fame, ego) will always provide the highest motivation for the decisions judges make. Next to that comes family well-being. Then comes the legal profession (cronyism). Then government obligation. Then,

maybe, finally, the litigant's rights. If we expect something better than that in the next 500 years, we expect way too much.

Judges, out of self-interest, simply will not control judges. We cannot get justice from them in the matter of judicial abuse because they enjoy nearly absolute judicial immunity. Almost every effort to hold them accountable meets with failure. The bar won't discipline them, the JQC claims they deal only with ethics issues, and the Legislature yawns and looks the other way in all but the most egregious and public abuses. The State Attorney won't prosecute them because he has to litigate before them and wants to win. The State Attorney controls access to the grand jury, so they will never see evidence of the crimes.

That means the job of bringing justice to them falls upon the stooped shoulders of the People. And because judges have and willingly abuse such awesome power, the People must become adept at guerilla tactics in order to prevail unscathed.

Axiom: the FOX shall not guard the HENHOUSE.

We chickens ignore or violate that axiom at our peril.



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