

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT
JUDICIAL COUNCIL**

IN THE MATTER OF A
JUDICIAL COMPLAINT
UNDER 28 U.S.C. § 351, ET SEQ.

JUDICIAL COMPLAINT
28 U.S.C. §§ 351

RELATED CASE: 22-CV-02234
NEW YORK EASTERN DISTRICT

CHIEF JUDGE: DEBRA ANN LIVINGSTON

INDEX No.:

Complainants, as listed in the attached Exhibit 1 by and through their counsel of record, Jo Saint-George, Esq. at the Women of Color For Equal Justice Law Center, pursuant to the Judicial Conduct and Disability Act, 28 U.S.C. §351 (the “Act”), and the Rules of Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers (the “Local Rules”), hereby file this complaint against Judge Eric Komitee of the United States District Court of New York Eastern District and request that this Chief Judge appoint a special committee to investigate this complaint pursuant to 28 U.S.C. §353 and that this complaint is certified under §354 for referral to the Judicial Council for the United States because “special circumstances” exists to warrant referral to the House of Representatives for impeachment pursuant to §355. The facts of this complaint provides ample evidence that impeachment is necessary because Judge Komitee’s appointment to the federal court was procured by fraudulent concealment. Moreover, Judge Komitee’s abdication of his solemn judicial duties – to hear cases and to investigate fraud on the court – was for the sole purpose of conspiring with the City of New York legal team and the City’s Mayor Adams and Mayor DeBlasio to defraud City workers of their constitutional and federal statutory rights to cover up his self-dealing and financial interests in the outcome of Complainants case.

I. COMPLAINT CHARGES

Judge Komitee engaged in extrajudicial and judicial conduct that was not only prejudicial to the effectiveness and expeditious administration of the business of the courts, undermined public confidence in the integrity and impartiality of the judiciary, but also proves that Judge Komitee engaged in judicial corruption of self-dealing. 28 U.S.C. §§ 351

This Complaint arises from the following acts of Judge Komitee as follows:

- A. **Extrajudicial Disqualifying Conduct**: Judge Komitee consciously refused to disqualify himself in violation of Judicial Canon 3C(1) and 28 U.S.C. § 455(a) when Complainants case was initially assigned to him on April 20, 2022 when Judge Komitee knew that his extrajudicial conduct as a General Counsel for Viking Global Investors, LP (Viking) created a obvious appearance of impropriety because Judge Komitee directly managed the legal due diligence, FDA regulatory compliance, commercialization and joint venture investment of \$500 Million

dollars invested into the Moderna Technologies (“Moderna”). Moderna is the manufacturer of the very controversial Moderna mRNA vaccine (Moderna), which was one of three (3) vaccines the City of New York (“City) mandated all City employees to take during the Covid-19 pandemic that Complainants refused to take based on their religious beliefs and were constructively discharged by the City for their refusal. Judge Komitee consciously covered-up his legal management of the \$500 Million investment into the controversial Moderna mRNA vaccine technology by refusing to disclose to the general public in his mandatory responses to Senate Judicial Candidate Questionnaire (“Questionnaire”) his leadership in that “significant legal activity” prior to applying to a position on the federal judiciary. This blatant refusal to meet his duty to disclose relevant information to the Senate Judiciary Committee prior to his commission to the bench is grounds for impeachment of Judge Komitee because his life appointment to the bench was procured by fraudulent concealment. This type of corruption cannot be corrected through any other judicial discipline. Otherwise, other judicial candidates will be emboldened to engage in similar fraudulent concealment which only undermines the public confidence in the integrity of the judicial system. See Exhibit 1 – Komitee’s Judicial Candidate Questionnaire and See Exhibit 2 - Viking/Moderna Investment Press Release

B. Failure To Disqualify Under Judicial Canon 3C(1)(a): Judge Komitee violated Judicial Canon 3C(1)(a) and 28 U.S.C. § 455(b)(1) when he failed to disqualify himself after Complainants case was assigned to him due to his personal knowledge of disputed evidentiary facts concerning Complainants case. Specifically, Judge Komitee knew or should have known that his extrajudicial role as General Counsel for Viking responsible for the management of the legal due diligence into Moderna wherein he acquired top secrete confidential information about Moderna’s mRNA gave him top secrete “knowledge” concerning a disputed evidentiary fact in Complainants lawsuit. Because the heart of Complainants case is based on evidence that the Moderna and all other vaccines did not meet OSHA Safety standards and are incapable of preventing transmission of the Covid-19 airborne virus, Judge Komitees personal knowledge of Modern’s top secrete clinical and regulatory information about Modern’s mRNA vaccine’s is an issue of dispute between Complainant and the City who claimed that the Moderna vaccine and all other vaccines were safe and “necessary” for the City to authorize the mandate. See Exhibit 3 – Letter from Florida Surgeon General Dr. Ladapo

C. Failure To Disqualify Judicial Canon 3C(1)(c) Interest In the Subject Matter: Judge Komitees violated Judicial Canon 3C(1)(c) and 28 U.S.C. § 455(b)(4) for failing to disqualify himself after Complainants case was assigned to him due to Judge Komitees equity ownership interest in Modern through his equity interest in Viking Equities which owns a substantial interest in the Moderna. Judge Komitee also failed to adequately disclose with specificity in his Federal Financial Report his equity ownership interest in Moderna through his ownership of Viking equities. Under information and belief, Judge Komitee lied in his §410.40 Conflict Review Certification Statement in 2022 and 2023 about not having any financial with litigants. As this Court is aware, federal judges are required to complete the §410.40 Conflict Review Certification routinely and Judge Komitee never disclose this conflict in his certifications to this Court, and if he did then the failure to

remove him from his assignment would then be attributed to this Court for failing to address the known conflict.

D. Failure to Hear & Grant Complainants The Full Right to Be Heard – Judicial Canon 3A(2) & (4)

During the entire pendency of Complainants case for almost 2 1/2 years, Judge Complainants was denied the right to have a full hearing and oral arguments on any of their motions. At no time were Complainants ever granted the right to be heard as required under Judicial Canon 3A(2) & (4). The fact that Judge Komitee denied Complainant all hearing requests made in the case is evidence that he was fully aware of his disqualification and refused to disclose his disqualification under Judicial Canon 3A(4) to delay the fair resolution of the case.

II. STATEMENT OF THE FACTS

“A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” See Cannon 2, Code of Conduct for U.S. Judges. Regretfully, from the time Judge Komitee applied to become a federal district judge, he proved that he lacked integrity when he refused to answer a very important question in the Senate Judicial Candidate Questionnaire that required him to disclose any “significant legal activity” he had previously participated in as a lawyer. His failure to disclose his significant activity in the legal management of his companies joint investment of \$500 Million into Moderna was the beginning of Judge Komitee’s judicial corruption. What makes Judge Komitee’s corruption, as described in detail below, most egregious is the fact that his ultimate dismissal of Complainant case on September 25, 2024 was one day after New York City Mayor Adams (who was a named defendant in this case as having committed fraud against City workers) was indicted for bribery. It is obvious that the timing of the issuance of the dismissal is not just a cover-up of Mayor Adams fraud on the court and fraud against City workers for the Cit’s illegal enforcement of the City’s vaccine mandates; but actually, the timing of the dismissal is a cover-up of Judge Komitee’s financial interest in the outcome of the case that has been deliberately hidden by him since the assignment of the case.

According to the Public Questionnaire for Judicial Nominees submitted by Judge Komitee to the United States Senate Committee on the Judiciary (“Questionnaire”), Judge Komitee reported that from 2008 until June 30, 2018 he served as the first General Counsel for Viking Global Investors, LP (Viking), which is a private equity hedge fund that in 2018 had approximately \$30 Billion in assets under management in roughly 100 companies. See Exhibit 1 – Questionnaire

According to a public press release dated February 1, 2018, it was reported that Viking participated in a joint venture investment of \$500 Million into Moderna. See Exhibit 2, Viking - Moderna Investment Press Release

Based on the Questionnaire, Judge Komitee was responsible for performing an investigation and due diligence review of Moderna’ corporate structure, review of Moderna’s FDA regulatory compliance evaluation, safety and clinical studies, and management of Vikings equity joint venture equity investment of the \$500 Million for the commercialization and financing of Moderna Technology that included the Moderna’s mRNA vaccine technology.

As a result of Judge Komitee's management of Vikings private equity investment into Moderna, Judge Komitee was provided top secret confidential information, including but not limited to design and defect information about the Moderna's mRNA technology, patents, safety reports and FDA compliance or non-compliance and compliance or non-compliance with the OSHA Act regulations as part of Judge Komitee's due diligence as general counsel for (collectively "Top Secret Moderna Information")

Additionally, the Top Secret Moderna Information had to also included, but not limited to, clinical trials information regarding whether the Moderna mRNA vaccine technology complied with the FDA guidelines regarding DNA vaccines and whether Moderna mRNA/vaccines contained nucleic acid contaminants in the present of lipid nanoparticle complexes. This Moderna vaccine information is significant because Florida's State Surgeon General Joseph A. Ladapo, MD, PhD issued letters and press release in May and December 2023 warning of the Moderna vaccine non-compliance with FDA guidelines. See Exhibit 3 Letters by Dr. Ladapo

According to public reports, the United States purchased over 300 million doses of Moderna mRNA vaccines by July 2021 with approximately 13 Million New York City residents vaccinated by November 2021 according to the NYC Health Vaccine Data report that shows the New York City residents also received the Moderna mRNA developed Covid-19 vaccine. See Exhibit 4 US. Purchase Report and See Exhibit 5, NYC Covid-19 Vaccine Data incorporated herein by this reference.

According to Judge Komitee's Questionnaire, a short time after his general counsel management of the investment into Moderna on or before the press release dated February 1, 2018, Judge Komitee completed the Questionnaire to be considered as a candidate to fill a judge vacancy at the U.S. State Federal Court for Eastern District of New York. See Exhibit 1

In Judge Komitee's public Questionnaire, Judge Komitee failed to disclose as a "significant legal activity" his most recent (just a few months before) significant activity as General Counsel who managed the Moderna investment for Viking as required by the Senate Questionnaire instructions, which failure is reflected in his response to the following question #18 in the Questionnaire. See Exhibit 1

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). As the first general counsel at Viking Global Investors, I built a department responsible for all legal, regulatory and compliance matters on behalf of an investment advisor managing tens of billions of dollars in assets in jurisdictions around the world. I led the development of Viking's compliance policies, built a training regimen for employees in the firm's U.S. and non-U.S. offices, and developed a comprehensive compliance-testing process. I supervised the legal aspects of Viking's counterparty-risk management effort – the effort to ensure that Viking's clients receive maximum protection in the event of a failure of a trading counterparty or custodian of our funds' assets. I also supervised the negotiation and legal drafting for complex corporate and securities transactions in jurisdictions around the world. As discussed below, I also instituted a *pro bono* program and did *pro bono* work myself while at Viking.

According to the Questionnaire, on May 15, 2018, President Donald J. Trump submitted Judge Komitees nomination to the U.S. Senate to fill the vacancy at United States District Court for the Eastern District of New York after the White House Counsel's Office reached out to him on March 7, 2017 about including his name as a potential nominee, after which he was interviewed with Senator Schumers office. See Exhibit 1, Page 28 Questionnaire

On December 5, 2019, Judge Komitee was commissioned to serve as a federal district court judge in the Eastern District of New York. See Exhibit 6 – Press Article and Judicial Bio and commission

At no time before Judge Komitee was commissioned did he disclose to the public in an updated Judicial Questionnaire or by any other method that he managed Vikings' due diligence and joint \$500 Million investment into Moderna.

On April 12, 2022, Complainants, a proposed class of City of New York workers, filed their Complaint in the New York Eastern District Court seeking compensatory and punitive damages along with injunctive and declaratory relief from the City of New York (NYC) Covid-19 vaccine mandate which required all NYC employees and private sector employees to take a Covid-19 vaccine to keep their jobs, which included the Moderna mRNA vaccine that was being administered in New York City. Complainants' request for relief was based on their constitutional First Amendment Free Exercise right to refuse vaccines and their federal statutory right contained in the OSH Act at 29 USC 669 Section 25(a)(5). The OSH Act expressly bans vaccine/immunization, medical treatment and testing mandates by employers on employees who object based on religious grounds. Complainants' case was assigned to Judge Komitee on April 20, 2022 to fairly adjudicate. Complainants specifically sought a declaration from Judge Komitee under the Declaratory Relief statute at 28 U.S.C. § 2201 to declare their rights and rights of all U.S. Citizens under the OSH Act to refuse the Moderna mRNA vaccine along with any other vaccine or medical treatment on religious grounds that Judge Komitee also failed to place on an expedited litigation tract but instead delayed and denied hearings under that statute also due to his financial interest in the outcome of the case.

At no time after Complainants case was assigned to Judge Komitee did Judge Komitee disclose to Complainants his extrajudicial involvement as general counsel in the management of the due diligence and Viking joint venture equity investment of \$500 Million into Moderna. Neither did Judge Komitee disclose his financial ownership of Modern equity interest through his ownership of Viking Equities.

Shortly after Judge Komitee was assigned to Complainants case, Complainants' counsel researched Judge Komitees background and was not able to identify any potential disqualifying conflicts based on a review of Judge Komitees Judicial Questionnaire that did not disclose Judge Komitees confidential management of Viking's investment into Moderna. Also, because Judge Komitee had not filed any Federal Judicial Financial Reports in the Federal Court data base located at <https://pub.jefs.uscourts.gov/> prior to or immediately after Judge Komitees assignment to Complainants case, Judge Komitees financial investment into Moderna was not discoverable, particularly since there was no expressed disclosure of Judge Komitee's financial interest in Moderna through your Viking Equities ownership was specifically disclosed in the reports. See Exhibit 7 – Judicial Financial Reporting Databased Screen Shot.

Based on a review of the Federal Judicial Financial Reporting system, it appears that it was not until May 10, 2022, approximately one month after Complainants filed their complaint and over 2 ½ years after Judge Komitee was commissioned to serve as a district court judge, that Judge Komitee for the first time filed his Federal Financial Disclosure Report for the Period of 1/01/2021 – 12/31/2021 disclosing that he served as a Director for the Viking Global Foundation, Inc. (a charitable nonprofit) and that he owned dividend investments in Viking Global Equities, LP and Global Opportunities; but, nowhere in that report is there an expressed disclosure that his Viking investments included investments in the vaccine manufacturer Moderna. See Exhibit 8, Judicial Financial Disclosure Reports attached and incorporated herein.

Again on July 7, 2023, Judge Komitee filed his 2022 Federal Financial Disclosure Report for the Period of 1/01/2022 – 12/31/2022 and nowhere in that report did he expressly disclose that private equity ownership of Moderna shares or a Moderna financial interest through is Viking equity interest. See Exhibit 9, Judicial Financial Disclosure Report attached and incorporated herein.

Due to Judge Komitees failure to expressly disclose in both his Federal Financial Reports his equity ownership in Viking Global Equities included an ownership interest in Moderna, there was no way for Complainants or any litigant to learn of his possible disqualifying financial interest in the Moderna Covid-19 vaccine which was the subject of Complainants litigation.

On July 10, 2023, a little over a year after Complainants filed their complaint and motions to enjoin the City’s Covid-19 vaccine mandates, Complainants filed a FRCP Rule 11 Motion for Sanctions¹ because Complainants discovered that the City of New York legal department counsel of record, the Honorable Sylvia O. Hinds-Radix and Of Counsel Attorney Elisheva Rosen (NYC Lawyers) made false statements of law to Judge Komitee in their Motion To Dismiss Complainants complaint for declaratory and injunctive Relief as well as punitive damages. See ECF #47. Specifically, the NYC Lawyers made the false legal contention that as a matter of law, Complainants do not have a private right of action pursuant to the OSH Act 29 USC 660 Section 11(c), which legal contention was objectively baseless at the time it was made, "legally indefensible," and "groundless in law" based on the 200 cases provided by Complainants to Judge Komitee that provided clear and convincing evidence that Complainants could maintain a non-regulatory private right of action for violations of their statutory rights under the OSH Act at 29 USC 669 Section 25(a)(5). See *Brubaker v. City of Richmond*, 943 F.2d 1363, 1385 (4th Cir. 1991). (herein after the Fraud on the Court”)

On August 24, 2023, Complainants also filed a Rule 60(b)3 Motion to Vacate Judge Komitees November 15, 2022 Order at ECF #37 denying Complainants emergency Motion Temporary and Preliminary Injunctions against NYC’s vaccine mandates because the NYC Lawyers again made the same Fraud on the Court contention in their Opposition to the emergency motion that this Court relied on to deny Complainants requested injunction. Complainants Motion to Vacate specifically requested that Judge Komitee hold oral arguments regarding the validity of the two Fraud on the Court Motions before Judge Komitee ruled on NYC’s dispositive Motion to Dismiss Complainants, so that Complainants would be afforded the “full right to be heard” as

¹ Complainants served their Rule 11 Sanction Motion after the 60 day “safe harbor” term passed for the City to recant their false statements of law to the Court in their opposition to Complainants’ Motion for Temporary and Preliminary Injunction, that never received a hearing and was denied without any oral argument.

directed by Judicial Canon 3A(2); and, so that Judge Komitee could meet its obligation to fully investigate why the NYC Lawyers made the alleged false legal contention despite the fact that Complainants provided Judge Komitee with over 200 cases that clearly established that the false legal contention did not apply to the statutory rights of Complainants under the OSH Act 29 USC 669 Section 20(a). (hereinafter the Rule 11 and Rule 60(b)3 motion will be referred to as the “Fraud on the Court Motions”)

After Complainants many requests for hearings, status conferences and bifurcated oral argument hearings on the two Fraud on the Court motions and Complainants patiently waited for Judge Komitee review the 200 cases provided in support of Complainants Fraud on the Court Motions, Judge Komitee refused all hearing requests and refused to investigate the Fraud on the Court Motions. During the 2-year pendency of Complainants lawsuit, Judge Komitee never allowed Complainants to provide any oral argument on any of the motions filed by Complainants or by NYC during the entire pendency of the case.

Instead on September 25, 2024 Judge Komitee, without any oral argument, dismissed Complainants claims without reference to the 200 cases that provided clear and convincing evidence that the NYC Lawyers committed fraud on the court. Judge Komitees dismissal was an abdication of Judge Komitees duty under Judicial Canon 3B(6) which admonishes that a “judge should take appropriate action upon receipt of reliable information indicating the likelihoodthat a lawyer violated applicable rules of professional conduct.” See *Coulter v. Bissoon*, Civil Action No. 16-1881-RGA (W.D. Pa. Jul 05, 2017); *Cobell v. Norton* CV 96-1285 (D. D.C. 2006) see also *Bradley v. Sunbeam Corporation*, Civil Action No. 5:99CV144 (N.D. W.Va. 2003) - See EFC #100 – Order The 200 cases provided by Complainants was more than “reliable information” that proved that the NYC Lawyers legal contention was baseless.

Blindsided by the Court’s refusal to first hear the two fraud on the court motions and failure to even provide oral argument on NYC’s Motion to Dismiss that was primarily based on the fraudulent legal claims, Complainants did more research into Judge Komitees prior employment, and just recently discovered his prior hidden general counsel management of Vikings investment into the Moderna and mRNA vaccine his personal financial equity ownership of Modern, which was not clearly revealed in his Federal Financial Disclosure Reports filed after Complainants case was assigned to him.

III. STANDARD OF REVIEW

Pursuant to 28 U.S.C. § 455(a), a judge "shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned." Also, a judge is shall recuse himself under 28 U.S.C. § 455(b)(1) & (4):

(1) Where he haspersonal knowledge of disputed evidentiary facts concerning the proceeding; and/or

(4) He knows that he, individuallyhas a financial interest in the subject matter in controversy or....., or any other interest that could be substantially affected by the outcome of the proceeding;

The Second Circuit Court of Appeals has interpreted 28 U.S.C. §455(a) as asking whether "an objective, disinterested observer fully informed of the underlying facts, [would] entertain

significant doubt that justice would be done absent recusal," or alternatively, whether "a reasonable person, knowing all the facts," would question the judge's impartiality. *United States v. Lovaglia*, 954 F.2d 811, 815 (2d Cir.1992)

The Second Circuit Court of Appeals evaluates "partiality under § 455(a) on an objective basis, so that what matters is not the reality of bias or prejudice but its appearance." (citing *Liteky v. United States*, 510 U.S. 540, 548 (1994) ("The goal of section 455(a) is to avoid even the appearance of partiality.") In making that objective analysis, the Court considers "whether a reasonable person, knowing all the facts, would conclude that the trial judge's impartiality could reasonably be questioned." *United States v. Thompson*, 76 F.3d 442, 451 (2d Cir. 1996); see also Code of Conduct for United States Judges, Canon 2(A) ("An appearance of impropriety occurs when reasonable minds, with knowledge of all the relevant circumstances disclosed by a reasonable inquiry, would conclude that the judge's honesty, integrity, impartiality, temperament, or fitness to serve as a judge is impaired."). "[I]f the question of whether 455(a) requires disqualification is a close one, the balance tips in favor of recusal." *Nichols v. Alley*, 71 F.3d 347, 352 (10th Cir. 1995..." In *Re Boston's Children*, 244 F.3d 164 (1st Cir. 2001)

Essentially, under Section 455(a) a judge has no discretion to not disqualify himself especially when it is obvious that a judge's extrajudicial activity creates a real "appearance" of bias. In other words, if it looks bad, then it is bad and disqualification is mandatory. At minimum, a judge's failure to investigate a valid claim of fraud on the court as required under Code of Conduct for United States Judges Canon 3B(6), which admonishes that a "judge should take appropriate action upon receipt of reliable information indicating the likelihoodthat a lawyer violated applicable rules of professional conduct, is also a serious indicator that a judge should acknowledge there is an actual "bias" and not just an appearance of bias. Failure to investigate "looks bad" and is a violation of the judicial canons.

Section 455(b), however, operates slightly differently, requiring "actual knowledge . . . regarding disqualifying circumstances and provid[ing] a bright line as to disqualification based on a known financial interest....." See *Chase Manhattan Bank v. Affiliated FM Ins. Co.*, 343 F.3d 120, 127 (2d Cir. 2003). A "known financial interest in a party, no matter how small, is a disqualifying conflict of interest and one that cannot even be waived by the parties." *Id.* at 128, which includes for purposes of Section 455(b)(4) a financial interest in the "subject matter in controversy"..... that could be substantially affected by the outcome of the proceeding."

In the *Chase* case, this Second Circuit specifically held that:

"recusal was required under § 455 because a reasonable person could find a violation of § 455(b), despite the judgment for Chase Manhattan Bank being so small relative to the firm's size that it would not cause a "discernable" increase in the share values owned by the district judge, which were themselves not even 1% of the judge's personal assets.

28 U.S.C. §455(b)(4) requires recusal when Judge Komitee may only own a "small" financial interest that could be affected by the outcome of the proceeding." See *Chase* at 127 Furthermore, the U.S. Supreme Court made clear in *Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 871 (1988) that "Congress intended the provisions of § 455(b) to remove any doubt

about recusal in cases where “a judge's interest is too closely connected with the litigation to allow his participation,” as was found by the Second Circuit in the *Chase* case. (Emphasis added)

In addition, the U.S. Supreme Court also held in *Liljeberg* at 869² that judges have a **duty** to “more carefully search for and disclose disqualification grounds” and that any “delay” to recuse oneself is an “inexcusable failure” that is attributable to the judge and would not foreclose relief to a litigant seeking to vacate a judgment based on a violation of §455(a).

Last, but not least, the Judicial Canon 2A requires that a “judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Finally, Judicial Canon 3(a)(2) admonishes that a judge “should hear and decide matters assigned, unless disqualified, and Canon 3A(4) specifically states that “[a] judge should accord to every person who has a legal interest in a proceeding, and that person’s lawyer, the full right to be heard.”

The only Circuit Court of Appeals to interpret the meaning of the individual words used in the Judicial Canons was the 7th Circuit Court of Appeals who defined the word “should” as used in Judicial Canons as “the past tense of shall,” (Webster's New World Dictionary at 1349 (1962)) and as listed in Roget's Thesaurus should means “be obliged, must ... have to.” See *U.S. v. Anderson*, 798 F.2d 919, 924 (7th Cir. 1986) Also state courts have interpret the word “should” in state judicial canons as “shall” and “impose a mandatory rule of conduct upon a judge.” See also *Galloway v. Campbell*, 142 Ind. 288, 41 N.E. 597 (1895)

Based on these interpretations of the word “should” in the Canons, judges are mandated to comply those “should” Canons and violation of those mandatory Canons should result in discipline under the Judicial Conduct and Disability Act of 1980 at 28 USC §352. Under the Act, a judge who engages in misconduct may be publicly or privately reprimanded, temporarily barred from hearing new cases, disqualified from an existing case, or referred for possible impeachment. In this case, impeachment is imperative.

IV. IMPEACHMENT REQUIRED

Applying the law to the facts in this case, it is without question that when Judge Komitee was assigned to Complainants case - the goal of which was to declare the rights of millions of American to refuse to take the Moderna mRNA and all other Covid-19 vaccines – Judge Komitee had a duty to first disclose in his Judicial Questionnaire that he had extrajudicial management of the private equity financing of the joint venture investment of \$500 Million into Moderna from which he had Top Secret Information. Second, Judge Komitee had a duty after he was commission in December 2019 to file Federal Financial Reports and disclose that he owned private equity shares in Moderna through his ownership of Viking Global Equities LP. Last, but not least, Judge Komitee had a duty to disclose all of the above information to Complainants after their case was assigned to him. Judge Komitee knew without doubt that Complainants would not want him presiding over their case involving their refusal to take the Moderna vaccine and other vaccines

² *Liljeberg v. Health Services Acquisition Corp*, 486 U.S. 847, 869 (1987) (Held in summary that a 10-month delay after affirmance by the Court of Appeals of a judgment was not foreclosed when the judge’s “inexcusable failure” to disqualify himself contributed to the Complainants delay in filing the motion to recuse.)

Because Judge Komitee failed to make those initial disclosures to the public before he was commissioned to become a judge, and Judge Komitee failed to make the mandatory disclosures to Complainants after their case was assigned to him and Judge Komitee conspired with the City's law to perpetuate a fraud on the Court and refused to take disciplinary action to investigate the City lawyers fraudulent legal claims, Judge Komitees clear abdication of his judicial responsibilities is grounds for impeachment. He has weaponized the court and its rules of procedure and the law to deprive Complainants of the most basic fundamental right protected by the First Amendment Free Exercise clause and long-time federal OSH Act. If Judge Komitee basically conspire with the City to protect his self interest and to cover up the City's fraud on the court, he cannot be trusted to ever fulfill his duties as a judge. The press has reported that Judge Komitee is personal worth is roughly \$10 Million, which is obviously from his ownership interest in Moderna and his personally financial gain in dismissing Complainants case was obvious to protect his future investments. Judge Komitee could never give a ruling in favor of Complainants that could result that would informs millions of Americans of their long standing right to refuse to take the Moderna or any other vaccine protected by the OSH Act because it would hurt his financial interest and the interest in the company he helped to commercialize their controversial mRNA vaccine technology. As the Bible says in 1 Timothy 6:20, it is the "love of money is the root of all evil," and Judge Komitee's conduct in the management of this case demonstrates that is love is not for executing fair and impartial justice for the people.

Judge Komitees failures and delays over the 2 ½ year pendency of Complainants case demonstrates Judge Komitees lack of honesty, integrity, impartiality, and unfitness to serve as a judge. Judge Komitees failure to report in detail his equity ownership in Moderna through Viking Equities, not only "appears" prejudicial but it is evidence of a calculated choice by Judge Komitee to withhold that information from Complaints so that it would be hidden until after the time Complainants could discover the information and move to recuse Judge Komitee at the beginning of the case.

Finally, the most egregious act of partiality displayed by Judge Komitee was his failure to abide by the Judicial Canon 3B6 of the Code of Conduct for United States Judges which directs a judge to "initiate appropriate action when a judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a lawyer." See *Cobell v. Norton*, 212 F.R.D. 14, 23 (D.D.C. 2002) "In the face of such misconduct, it would be an act of negligence for this Court to stand idly by." *Id.* at 24 Complainant filed a FRCP Rule 11 Sanction Motion against the City of New York at ECF #64 and a FRCP Rule 60(b)(3) to vacate the first dismissal of Complainants motion for preliminary injunction based on the City's fraudulent legal theory that the OSH Act does not contain a private right of action. ECF #74. Complainants provided Judge Komitee over 200 cases to prove that the legal theory presented by the City was fraudulent at best.

While Complainants waited patiently for a year for Judge Komitee to read the 200 cases that provided clear and convincing evidence that the NYC Lawyers legal contention was that Complainants have no private right of action pursuant to OSH Act at 29 USC §660 Section 11(c) was objectively baseless and legally indefensible and groundless in law, Judge Komitee refused to initiate any appropriate action including refusal to grant a hearing to investigate why the NYC Lawyers made such a baseless legal claim. This refusal to investigate and at least hold a hearing to investigate the fraudulent claims was a violation of Judicial Canon 3B6 and a clear abdication of duty and sign of judicial corruption. Ultimately, Judge Komitee conspired with the City by agreeing with their fraudulent legal theory when he dismissed Complainants case, despite all the

overwhelming case law in opposition and a clear explanation that the Secretary of OSHA does not have authority to enforce the OSHA protected employee rights contained in the congressionally enacted provision of the OSH Act at 29 USC §669 Sec. 20(a)(5) and that 29 USC §660 Sec. 11(c)(1) & (2) of the Act provides a clear expressed private right for employees to enforce their right to refuse any vaccine based on religious grounds and without any preconditions to exercise their rights. See Motion To Vacate -22-cv-02234 – ECF #109

Last, but not least, Judicial Canon 3(a)(1) & (4) admonishes judges to provide the right for litigants to be heard - including orally - to “avoid the appearance of impropriety.” Judge Komitee has weaponized the rules of civil procedure and rules of court to delay fair and impartial rulings the many pending motions filed by Complainants for 2 years without granting one full hearing on any motion, despite multiple requests for expedited hearing. Particularly, Judge Komitee failure to address Complainants request for Declaratory Judgement which is to be placed on an expedited calendar was also a dereliction of duty. Canon 3A(2) states: A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings. Judicial Canon 2A(4) also states that “[a] judge should accord to every person who has a legal interest in a proceeding, and that person’s lawyer, the full right to be heard.

Not only did Judge Komitee deny full a blown hearing on substantive legal issues in case 22-CV-02234, in this case, he delayed all responses to simple requests made by Complainants, like the request to Amend their complaint. After over a six (6) month delay, Judge Komitee finally granted Complainants counsel the right to file an Amended complaint when he did finally grant the request; but, he only gave counsel three (3) days to file an Amended Complaint and the date fell on the Federal Holiday of Martin Luther King, Jr. when the Court was closed. Judge Komitee new full well that counsel of record for the Women of Color for Equal Justice would be involved in volunteer service on that national holiday yet Judge Komitee set the deadline on the Holiday. This micro aggression against the rights of Complainants was yet another flagrant hostility of bias and judicial prejudice to protect his financial interest.

Complainants have filed a new FRCP Rule 60 Motion to Vacate at ECF #109 Judge Komitee’s September 25, 2024 Order at ECF #99 and have filed a FRCP §455(a) and (b)(4) Motion to Recuse Judge Komitee from hearing the Motion to Vacate. ECF #110

Also, Complainants have filed an Interlocutory Appeal at #ECF112 and filing fee has been paid and the Index has been sent to the Second Circuit.

V CONCLUSION AND PROPOSED DISCIPLINE - IMPEACHMENT

Based on Judge Komitee’s deceptive practices starting with his conscious disregard for the mandated disclosures called for in the Senate Judicial Questionnaire and his blatant refusal to file Federal Financial Reports for two years after he had been commissioned in December 2019 and then his ruthless decision to refuse to disclose his extrajudicial significant legal activity and financial investments in Modern, which he still owns now, to Complainants and the public, requires that that Judge Komitee to be impeached and removed from his office.

This level of judicial deception is evidence of a deep corruption that cannot be rehabilitated with a simple slap on the hand. Judge Komitee must be impeached in order to repair the fairness,

integrity, or public reputation of the judicial process, which has now been. Judge Komitee's subversive deception calls into question whether there are more cases from which Judge Komitee should have been disqualified from and whether he is capable of ever providing unbiased rulings in any case, but in particular any case involving Moderna and any vaccine mandate case that comes before him.

With millions of Americans affected by these Moderna and other vaccine mandates by private and public sector employers, Judge Komitee owes an apology to all Americans and the only way that those affected, including Complainants, can begin their healing journey from the affects of those illegal mandates and Judge Komitee's cover up, is to impeach Judge Komitee. It would not be the end of the world if he is removed. Media stories about him during his candidacy reveals that Judge Komitee's net worth is well over \$10 Million. Millions of Americans making under \$100,000 lost their jobs for standing for their faith. At minimum Judge Komitee should lose his job for his judicial deception and conspiracy to deprive Americans of their Constitutional rights.

Anything short of impeach will call into question the entire judicial disciplinary system and would be an apocalyptic event that for many would signal the end of this world. At minimum, we ask that this complaint be sent directly to the Senate Judiciary committee because Judge Komitee essentially committed fraudulent concealment against Senate and they as representatives of the public should hold a public hearing to address the Judge's failures and obvious collusion with the City's lawyers and Mayor to defraud U.S. Citizens of their constitutional rights. The American public wants so bad for their government to deal with the corruption in government and on the bench. Because Judge Komitee's actions reflect negatively bipartisanship, the Senate should make clear to the public that violations of civil liberties by the Court in this way will be dealt. Millions of citizens have lost their jobs, and they want to be vindicated with Judge Komitee losing his job for such an egregious violation of the judicial canons.

Dated: October 31, 2024

Respectfully submitted,

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in 22-CV-02234

TABLE EXHIBITS

Judge Komitee Judicial Complaint
Evidence of Judicial Corruption

Exhibit	
1.	Komitee Senate Judicial Candidate Questionnaire
2.	Email re: Viking \$500 Million investment in Moderna Technologies
3.	Florida Department of Health Surgeon General – Dr. Ladapo – information regarding Moderna mRNA not meeting FDA Guidelines
4.	U.S. Purchase of Moderna Vaccines
5.	Report on Number of NY Moderna Vaccines
6.	Confirmation and Commission Bio of Judge Komitee
7.	Federal Judicial Financial Disclosure Database Search for Judge Komitee records
8.	2021 – Financial Annual Reports for Judge Komitee
9.	2022 – Financial Annual Report for Judge Komitee

COMPLAINANTS

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