

# United States Court of Appeals for the Federal Circuit

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IN RE COMPLAINT NOS. FC-19-90006 AND FC-19-  
90007

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Before PROST, *Chief Judge*.

## ORDER AND SUPPORTING MEMORANDUM

The complainant has submitted documents received July 15, 2019 and August 12, 2019, which the court construes as judicial misconduct complaints concerning a judge of the United States District Court for the Middle District of Pennsylvania and a deceased judge who held office in that same court.

Pursuant to Rule 7(a)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, a complaint against a district court judge “must be filed with the circuit clerk in the jurisdiction in which the subject judge holds office.” If the complaint alleges misconduct in the course of official business while the subject judge was sitting on a court by designation, then the complaint may be filed either with the circuit clerk in the jurisdiction in which the subject judge sat by designation or with the circuit clerk in the jurisdiction in which the subject judge holds office. Rule 7(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

The complainant does not assert that the subject judges sat by designation with the United States Court of Appeals for the Federal Circuit. Instead, the complaints concern judges who hold or held office in the jurisdiction of the United States Court of Appeals for the Third Cir-

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PETER R. MARKSTEINER  
CLERK

cuit. Thus, the complaints were filed in the wrong circuit, and dismissal of the complaints filed with this court is required pursuant to Rule 11(c)(1)(F).

Moreover, the chief judge “may conclude a complaint proceeding in whole or in part upon determining that intervening events render some or all of the allegations moot or make remedial action impossible as to the subject judge.” Rule 11(e) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Here, there would be no possible remedy as to the deceased judge, and therefore dismissal of the complaint concerning that judge is also warranted under this additional ground. *See In re Complaint of Judicial Misconduct*, 10 F.3d 99 (3rd Cir. 1993) (explaining that 28 U.S.C. § 372(c)(3)(B), which is now 28 U.S.C. § 352(b)(2) and is implemented in Rule 11(e), “codified what has been reported to be the general practice of circuit chief judges to dismiss complaints . . . on the ground that a judge had left the bench, whether by death, retirement, or, in the case of a magistrate judge or bankruptcy judge, because not reappointed”).

Accordingly,

IT IS ORDERED THAT:

The complaints are dismissed.

August 14, 2019

Date

/s/ Sharon Prost

Sharon Prost

Chief Judge

There is a right to file a petition for review of this order. Pursuant to Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, any petition for review must be received by the circuit executive within

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42 days of the date of this order. Any petition must be sent to:

Circuit Executive  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, NW  
Washington, DC 20439