

**REPORT OF THE PROCEEDINGS  
OF THE JUDICIAL CONFERENCE  
OF THE UNITED STATES**

**Special Session  
September 9, 2015**

The Judicial Conference of the United States convened in special session by teleconference on September 9, 2015, pursuant to the call of the Chief Justice of the United States issued under 28 U.S.C. § 331. The Chief Justice presided, and the following members of the Conference participated:

First Circuit:

Chief Judge Jeffrey R. Howard  
Judge Paul J. Barbadoro,  
District of New Hampshire

Second Circuit:

Chief Judge Robert A. Katzmann  
Judge William M. Skretny,  
Western District of New York

Third Circuit:

Chief Judge Theodore A. McKee  
Chief Judge Leonard P. Stark,  
District of Delaware

Fourth Circuit:

Chief Judge William B. Traxler, Jr.  
Judge Deborah K. Chasanow,  
District of Maryland

Fifth Circuit:

Chief Judge Carl E. Stewart  
Chief Judge Louis Guirola, Jr.,  
Southern District of Mississippi

Sixth Circuit:

Chief Judge Ransey Guy Cole, Jr.  
Judge Paul Lewis Maloney,  
Western District of Michigan

Seventh Circuit:

Chief Judge Diane P. Wood  
Chief Judge Rubén Castillo,  
Northern District of Illinois

Eighth Circuit:

Chief Judge William Jay Riley  
Judge Karen E. Scheier,  
District of South Dakota

Ninth Circuit:

Chief Judge Sidney R. Thomas  
Judge Robert S. Lasnik,  
Western District of Washington

Tenth Circuit:

Chief Judge Mary Beck Briscoe  
Judge Dee V. Benson,  
District of Utah

Eleventh Circuit:

Judge Federico A. Moreno,  
Southern District of Florida

District of Columbia Circuit:

Chief Judge Merrick B. Garland  
Chief Judge Richard W. Roberts,  
District of Columbia

Federal Circuit:

Chief Judge Sharon Prost

Court of International Trade:

Chief Judge Timothy C. Stanceu

Chief Judge Ed Carnes of the Eleventh Circuit recused himself from this matter.

Also participating at this session of the Conference were Judge Anthony J. Scirica, Chair of the Committee on Judicial Conduct and Disability, and from the Administrative Office of the United States Courts, James C. Duff, Director; Jill C. Sayenga, Deputy Director; Sheryl L. Walter, General Counsel; Erin Louise Palmer, Assistant General Counsel; Katherine H. Simon, Secretariat Officer, and Helen Bornstein, Senior Attorney, Judicial Conference Secretariat; and David A. Sellers, Public Affairs Officer. Jeffrey P. Minear, Counselor to the Chief Justice also participated.

## **PROCEEDINGS UNDER THE JUDICIAL CONDUCT AND DISABILITY ACT**

The Chief Justice called this special teleconference session of the Judicial Conference to consider a certificate issued on June 1, 2015, by the Judicial Council of the Eleventh Circuit pursuant to 28 U.S.C. § 354(b)(2)(A), conveying a determination that Judge Mark E. Fuller, of the United States District Court for the Middle District of Alabama, had engaged in conduct that might constitute one or more grounds for impeachment under Article II of the United States Constitution. On June 4, 2015, this matter, *In re: Judicial Complaints Nos. 11-14-90080, 11-14-90081, 11-14-90096, and 11-14-90101*, was referred to the Committee on Judicial Conduct and Disability, which in September 2015 issued a report with recommendations to the Judicial

Conference, as required by the rules adopted by the Judicial Conference for processing such complaints.

In advance of the teleconference, the members of the Judicial Conference were given copies of the Judicial Conduct and Disability Committee's report and recommendations, as well as documents from the record of the proceedings before the Eleventh Circuit Judicial Council. The report and recommendations included a proposed certification to the House of Representatives that consideration of impeachment may be warranted.

At the teleconference, the Chief Justice afforded each member of the Conference the opportunity to comment upon the proposed certification. After discussion, the Conference agreed to certify to the House of Representatives, pursuant to 28 U.S.C. § 355(b)(1), the Conference's determination that consideration of impeachment may be warranted, to transmit to the House of Representatives records of the proceedings, and to adopt and include the following certificate:

TO THE SPEAKER, UNITED STATES HOUSE OF REPRESENTATIVES:

Pursuant to 28 U.S.C. § 355(b)(1), the Judicial Conference of the United States certifies to the House of Representatives its determination that consideration of impeachment of former United States District Judge Mark E. Fuller (M.D. Ala.) may be warranted. This determination is based on evidence provided in the Report of the Special Committee to the Judicial Council of the Eleventh Circuit and unanimously adopted by the Circuit Judicial Council.

The Constitution entrusts impeachment of public officials to Congress. But the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351-64, creates a distinct role for the Judiciary in the impeachment process. The Act mandates a process through which the Judicial Conference and its members identify and investigate allegations of misconduct by judges. However, there may be considerations relevant to impeachment of other officers outside the Judicial Branch that are different from those faced by the Judiciary under the Act.

In a case with less egregious and protracted conduct, the Judicial Conference may decide that resignation obviates the

need for certification. However, given the severity of the misconduct outlined below, together with a finding of perjury, the Judicial Conference believes that certification of this matter “to the House of Representatives for whatever action the House of Representatives considers to be necessary” is appropriate. 28 U.S.C. § 355(b)(1).

The Judicial Conference also recognizes that, given Judge Fuller’s resignation, Congress may decline to pursue impeachment. In the event that the House of Representatives determines in its sound discretion that impeachment is not warranted, this certification may also serve as a public censure of Judge Fuller’s reprehensible conduct, which has no doubt brought disrepute to the Judiciary and cannot constitute the “good behavior” required of a federal judge.

The determination is based on substantial evidence provided in the Report of the Special Committee to the Judicial Council of the Eleventh Circuit, as adopted by the Circuit Judicial Council, that:

(a) Judge Fuller physically abused Kelli Fuller at least eight times, both before and after they married, which included and culminated in the assault that took place on August 9, 2014, in the Ritz-Carlton Hotel in downtown Atlanta, Georgia.

(b) Judge Fuller made repeated statements under oath before the Special Committee that he never, at any time, hit, kicked, or punched Kelli Fuller, which were false and material under 18 U.S.C. § 1621.

(c) Judge Fuller made false statements to the Chief Judge of the Eleventh Circuit in late September 2010 in a way that caused a massive disruption in the District Court’s operation and loss of public confidence in the Court as an instrument of justice. These false statements, in combination with the actions outlined in (a) and (b), contributed to the overall determination that Judge Fuller’s conduct may constitute grounds for impeachment.

(d) The conduct described in (a)-(c) has individually and collectively brought disrepute to the federal Judiciary.

Executed this 9th day of September, 2015.

/s/  
James C. Duff  
Secretary

Chief Justice of the United States  
Presiding