

Judicial Council of the Eighth Circuit**COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY**

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 4 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The Rules are available in federal court clerks' offices, on individual federal courts' websites, and on www.uscourts.gov.

Your complaint (this form and the statement of facts) should be typewritten and must be legible. For the number of copies to file, consult the local rules or clerk's office of the court in which your complaint is required to be filed. Enclose each copy of the complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: Trent McCotter; Stanley Woodward
 Contact Address: 950 Pennsylvania Avenue NW
Washington DC 20530

Daytime telephone: (202) 514-9500

2. Name(s) of Judge(s): Patrick J. Schiltz, John R. Tunheim, Anonymous Judges
 Court: District of Minnesota

3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?
☒ Yes ☐ No

If "yes," give the following information about each lawsuit:

Court: District of Minnesota

Case Number: CV 25-3741, among others (see attached Complaint)

Docket number of any appeal to the Circuit: Supreme Court No. 26-354

Are (were) you a party or lawyer in the lawsuit?

☐ Party ☐ Lawyer ☒ Neither

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

See attached Complaint for details.

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SEP 30 2026

U.S.COURT OF APPEALS
EIGHTH CIRCUIT

Judicial Council of the Eighth Circuit

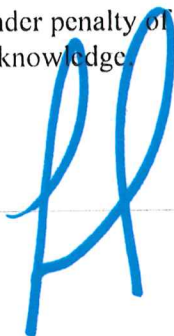
COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

4. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

5. **Declaration and signature:**

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Signature: _____



Date: _____

09.30.26



U.S. Department of Justice

Washington, D.C. 20530

September 30, 2026

Chief Judge Steven Colloton
United States Court of Appeals for the Eighth Circuit
111 South 10th Street, Room 24.329
St. Louis, MO 63102

COMPLAINT OF JUDICIAL MISCONDUCT

Re: Hon. Patrick J. Schiltz, Hon. John R. Tunheim, and Anonymous District Judges – United States District Court for the District of Minnesota

Dear Chief Judge Colloton:

Pursuant to 28 U.S.C. § 351(a) and Rules 5, 11, and 20 of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, and at the direction of the Attorney General, the Department of Justice respectfully submits this complaint alleging misconduct by Judge Patrick J. Schiltz, Judge John R. Tunheim, and anonymous district judges of the United States District Court for the District of Minnesota.

“Public confidence in judicial impartiality cannot survive if judges, in disregard of their ethical obligations, pander to the press.” *United States v. Microsoft Corp.*, 253 F.3d 34, 115 (D.C. Cir. 2001). Yet that is exactly what at least seven judges from the United States District Court for the District of Minnesota (just shy of the entire bench) are doing. Judge Schiltz’s and Judge Tunheim’s conduct is particularly egregious.

On September 17, 2026, the New York Times published an article titled *Trump’s Minnesota Surge Threatened Democracy, Judge Warns*.¹ The article explains that Judge Patrick Schiltz of the District of Minnesota sat for a 90-minute interview with the New York Times. Six other “members of Minnesota’s federal bench” also “agreed to speak to the New York Times about last winter’s tumult.” This included “six of the seven judges who held active status in Minnesota last winter.” During that interview, Judge Schiltz apparently told a reporter that:

¹ Matthias Schwartz, N.Y. TIMES, Sept. 17, 2026, <https://www.nytimes.com/2026/09/17/us/politics/minnesota-judge-trump-immigration.html>.

-The Trump Administration has a “disregard for court orders[.]”

-This purported “disregard” had “clogg[ed] his courthouse to a near standstill, contributing to rising tensions in the protest-filled city [of Minneapolis] and, ultimately, putting the constitutional order at risk.”

-Judge Schiltz’s “impression was that most, if not all,” of the purported “noncompliance was due to incompetence, . . . not due to conscious defiance of orders,” but “[t]he lack of resources led to a result . . . that should have been anticipated, and that threatened the foundations of the legal system.”

-The Trump Administration has also “gone over his head” (and “gone around him”) “to an appeals court” after Judge Schiltz had advised Minnesota’s U.S. Attorney that Judge Schiltz would not review a magistrate judge’s decision to deny a search warrant application until “after the bench met in person the following week.”

-Judge Schiltz “would apologetically explain why he needed to check his phones constantly” to friends, because if he did not “[t]he cost . . . could be somebody waking up in New Mexico the next day when they shouldn’t have.”

-Normally “government agencies act as ‘partners’ to judges in tackling challenges to the system,” “[b]ut they weren’t this time.”

-Judge Schiltz had said, “This just never happens,” aloud to himself, referring to purportedly “violated orders and other unusual behavior by the Justice Department.”

-Judge Schiltz “hoped the portrait of how the bench had handled the crisis would help Americans better understand how the United States’ system of government depends on the rule of law.”

-The Trump Administration’s actions “created a grave threat to the rule of law,” without which “you have either anarchy or you have authoritarianism. You have Russia or you have China or you have North Korea.”

For his part, Judge Tunheim stated to the New York Times: “They weren’t arresting, in my view, people who were dangerous criminals on the street.” The article makes clear that the events at issue concerned Operation Metro Surge, an immigration enforcement operation in Minneapolis, and a flood “of habeas corpus petitions—lawsuits from detainees demanding to be set free.” The New York Times acknowledged that “[t]he cases cited in Judge Schiltz’s January list of violations have *largely* concluded.” (emphasis added). The article also recognized that it is “unusual for federal judges to give extensive interviews that reflect on periods when their rulings have made headlines.”

STANDARD OF REVIEW

Judges are ethically prohibited from commenting publicly on cases pending in any court and making political or policy statements concerning matters that are or have been before them. The Code of Conduct for United States Judges includes ethical rules (or “Canons”) that apply to United States District Judges. Canon 2A provides that “[a] judge should . . . act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” And under Canon 3A(6), “[a] judge should not make public comment on the merits of a matter pending or impending in any court.” As the commentary on Canon 3A(6) explains, this “admonition . . . continues until the appellate process is complete.” And “[i]f the public comment involves a case from the judge’s own court, the judge should take particular care so that the comment does not denigrate public confidence in the judiciary’s integrity and impartiality, which would violate Canon 2A.” More broadly, “[i]n every case, the judge should avoid sensationalism and comments that may result in confusion or misunderstanding of the judicial function or detract from the dignity of the office.” *Guide to Jud. Policy*, Vol. 2, Pt. B, Ch. 2, Advisory Op. No. 55 (June 2009).

The Eighth Circuit has specifically applied Canon 3A(6) to the issue of judicial press interviews. As the Court has observed, “even seemingly innocuous statements to the press” can create not only “a perception of bias,” but also the impression that judges “covet publicity.” *White v. NFL*, 585 F.3d 1129, 1140 (8th Cir. 2009). “In order to be and remain impartial, and to be perceived as impartial, the judge must be above the fray, not become an advocate in it.” *Id.* (internal alteration and quotation marks omitted). “When judges make gratuitous public comments on issues closely related to judicial duties, they risk giving the impression that they have an uncommon interest and degree of personal involvement in the subject matter.” *Id.* (internal quotation marks omitted). “Self-interested behavior in submitting to press interviews may also lead to accusations that a judge will be motivated to decide issues in a way that prompts favorable media attention.” *Id.* “Members of the public may reasonably question whether . . . a publicity-seeking judge might consciously or subconsciously seek the publicity-maximizing outcome.” *Microsoft*, 253 F.3d at 115. As Judge Learned Hand once stated, such “passion for publicity is a disease.” See Learned Hand, *The Spirit of Liberty* 132–33 (2d ed. 1953). For all these reasons, the Eighth Circuit has explained that a “broader view” of Canon 3A(6)’s “prohibition on public comment” is “preferable to a narrow, technical reading.” *NFL*, 585 F.3d at 1140. Applying these rules, the D.C. Circuit disqualified a district judge who made statements about the case when an appeal was pending. See *Microsoft*, 254 F.3d at 119. It was “no excuse that the judge may have intended to ‘educate’ the public about the case or to rebut ‘public misperceptions.’” *Id.* at 112. “If those were his intentions, he could have addressed the factual and legal issues . . . in a written opinion” or simply “held his tongue until all appeals were concluded.” *Id.* And, as the Fourth Circuit has explained, even when public commentary does not reference any specific pending case, “political implications and undertones” can make it “reasonable for a member of the public to perceive . . . commentary on partisan issues” that might bear on other cases. *In re Matter of Judicial Complaint*, No. 4-24-90094 (4th Cir. 2024).

COMPLAINT

I. The United States' Interests

The Department of Homeland Security ("DHS") is the executive agency with principal responsibility for enforcing the nation's immigration laws. 8 U.S.C. § 1103(a)(1). Congress has authorized immigration officers to interrogate, arrest, detain, and remove aliens who are unlawfully present in the United States or otherwise subject to removal. *Id.* §§ 1226, 1357. Pursuant to this authority, DHS has enacted commonsense immigration enforcement policies, which included surging resources to Minnesota as part of Operation Metro Surge. To date, in Minnesota alone, Operation Metro Surge has resulted in the removal of thousands of dangerous criminal illegal aliens.

As is not uncommon for any new federal policy, whether involving immigration or otherwise, Operation Metro Surge and related issues soon became the subject of litigation.

For example, when prioritized enforcement of the immigration laws in Minnesota resulted in the apprehension of many more illegal aliens than can be detained within the state, DHS transferred detained illegal aliens to other states. Some of these illegal aliens filed habeas petitions under 28 U.S.C. § 2241—in the District of Minnesota. As the Court is aware, the Supreme Court has long held that "habeas petitions challenging present physical confinement" under § 2241 may be filed "in only one district: the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004). And yet, District of Minnesota judges have frequently entertained and granted petitions that flout the blackletter district-of-confinement rule. The United States has appealed these blatantly erroneous decisions to the Eighth Circuit; and those appeals remain pending. *See e.g., Velasquez v. Garcia, et al.*, Case No. 26-1185 (8th Cir. 2026); *Anaya v. Mullin, et al.*, Case No. 26-1226 (8th Cir. 2026).

In another case, Judge Tunheim granted a habeas petition upon concluding that 8 U.S.C. § 1225(b)(2)(A) did not authorize detention of an illegal alien who "ha[d] lived in the country for years without seeking any lawful immigration status," because, Judge Tunheim reasoned, the illegal alien was not "seeking admission" under the statute. *Avila v. Bondi*, No. CV 25-3741 (JRT/SGE), 2025 WL 2976539 at *5 (D. Minn. Oct. 21, 2025). The Eighth Circuit reversed that decision, finding the detention did in fact comply with the law. *Avila v. Bondi*, 170 F.4th 1128, 1138 (8th Cir. 2026). The appeal of that case is currently pending before the Supreme Court. *See Avila v. Blanche* (U.S. No. 26-354).

The United States is also currently prosecuting criminal cases in the District of Minnesota against anti-immigration enforcement agitators who are accused of conspiring to carry out coordinated takeover-style attacks of church services. *See U.S. v. Levy Armstrong et al.*, Case No. 26-cr-00025 (D. Minn. 2026). These "protests" of federal immigration policy are in reality outrageous violations of federal law. *See id.* at Dkt. 114 (grand jury issued superseding indictment charging (1) Conspiracy Against Federally Secured Rights, in violation of 18 U.S.C. § 241; and (2) Interference with the Free Exercise of Religion at a Place of Religious Worship, in violation of 18 U.S.C. § 248(a)(2)). Again, as even just a cursory review of the docket makes clear, these cases are very much ongoing.

The above cases are just a sampling of the Metro Surge-related cases that are currently pending. And pursuant to the laws passed by Congress, DHS remains dedicated to vigorously enforcing our nation's immigration law—in Minnesota and across the country. As such, future immigration cases such as those mentioned above are inevitable. The United States has a strong interest in ensuring that it has a fair and neutral forum for the resolution of these issues. More broadly, the United States of course has a vital interest in preserving an impartial judicial system, in practice and in appearance.

II. Unethical and Improper Judicial Conduct

Judge Schiltz and Judge Tunheim, at least, have flagrantly violated the Code of Judicial Conduct with their improper and unethical comments to the New York Times.

Judge Schiltz's comments are both overtly political *and* concern matters that are pending before him or still in the appellate process. Oddly, Judge Schiltz accused the Trump Administration of undermining the rule of law while alternately arguing that any violations of court orders were due to staffing shortages and what he characterized as "incompetence." But that characterization, while less charged than an accusation of intentional malfeasance, is itself political. Judge Schiltz's analogy between the Administration's actions and the behavior of foreign adversaries such as Russia, China, and North Korea is equally outrageous. Statements like these (to say nothing of the accompanying photograph posed for a New York Times photographer) plainly support the inference that Judge Schiltz consciously or subconsciously covets publicity. And purporting to educate or "help Americans better understand" these issues is not a justification to violate ethical rules.

Judge Tunheim's statement—while less verbose—is equally unethical. Opining that the Administration was not arresting illegal aliens who were "dangerous criminals" is factually inaccurate and unvarnished political commentary. Even if it were appropriate to comment on pending legal issues, a subjective assessment of dangerousness is no substitute for determining whether detention in these habeas cases was legally required or authorized.

Notably, these statements concern matters that, even as framed by the New York Times, have only "*largely*" concluded. In reality, the matters are still pending—as both Judge Schiltz and Judge Tunheim are well aware. The habeas issue at the core of the article is pending in courts across the country.

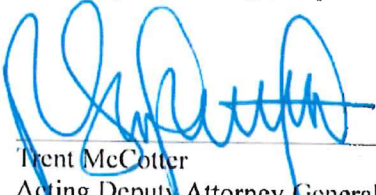
Indeed, the article conveniently omits that the Eighth Circuit has *reversed* the District of Minnesota and held that the government's detention of illegal aliens under 8 U.S.C. § 1225 comported with the law. *See Avila*, 170 F.4th at 1138 (reversing Judge Tunheim release order). In other words, as a matter of Eighth Circuit precedent, the flood of habeas petitions alleging a statutory violation, and the resulting drain on government resources that led to several instances of unintentional non-compliance with court orders—was the result of these and other district judge's own legal errors. But regardless, this issue (and the *Avila* case itself) is still pending—before the Supreme Court no less.

Judge Schiltz and Judge Tunheim are indisputably engaging in unethical and partisan commentary concerning matters that are still indisputably pending. And their commentary is especially offensive because it implicitly “decries an imperial Executive while embracing an imperial Judiciary.” *Trump v. CASA, Inc.*, 606 U.S. 831, 858 (2025). “[C]ourts may not exceed the bounds of their lawful authority simply because they may think another branch has exceeded its own.” *National Park Serv. v. National Tr. for Historic Preservation in the United States*, 609 U.S. ---, 2026 WL 2564318, at *3 (Aug. 31, 2026). Yet Judge Schiltz, Judge Tunheim, and some of their colleagues have ordered illegal aliens released when their detentions were statutorily authorized. *See e.g., Avila*, 170 F.4th at 1138.

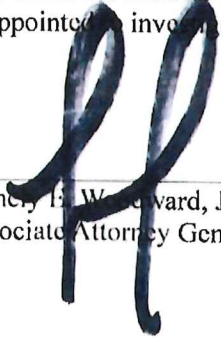
In fact, as detailed above, District of Minnesota judges have granted habeas petitions brought by aliens who were not even located in the district, in flagrant violation of the law. *See, e.g., Ali v. Blanche*, Case No. 26-cv-2799, Dkt. 31 (D. Minn. June 18, 2026). With respect to Operation Metro Surge more generally, the Eighth Circuit has reversed a District of Minnesota’s “grant of relief to a broad uncertified class” of protestors that had “no chance of getting certified,” where the district judge entered an injunction so “vague” that it amounted to an attempt to “exercise general oversight of the Executive Branch.” *Tincher v. Noem*, 164 F.4th 1097, 1099-1100 (8th Cir. 2026) (quoting *CASA*, 606 U.S. at 861). If anything is a “grave threat to the rule of law,” it is judges who repeatedly and brazenly exceed their authority—then launch a partisan press campaign that includes criticizing the government for filing an emergency appeal when a judge refused to rule on a search warrant application.

CONCLUSION

DHS frequently has cases pending in the District of Minnesota, including immigration cases before Judge Schiltz and Judge Tunheim. These judges should be ordered to recuse from any matters involving DHS because the public reasonably questions their impartiality in cases involving immigration. Moreover, the Eighth Circuit should initiate an investigation by the Judicial Counsel into the improper conduct by judges in the District of Minnesota who “covet publicity” rather than adhering to the rule of law by adjudicating cases or controversies. *NFL*, 585 F.3d at 1140. Finally, pursuant to Rules 11(a)(4) and 11(f) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, a special committee should be appointed to investigate this misconduct.



Trent McCotter
Acting Deputy Attorney General



Stanley H. Woodward, Jr.
Associate Attorney General