Gustavo Escamilla
1315 Highland Avenue
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Petitioner in Pro Se

FILED
CLERK, U.S. DISTRICT COURT
11/13/26
CENTRAL DISTRICT OF CALIFORNIA
BY: ASP DEPUTY

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

In Re:

GUSTAVO ESCAMILLA, an individual,

Petitioner,

v.

UNITED STATES OF AMERICA; UNITED STATES DEPARTMENT OF JUSTICE; and OTIS D. WRIGHT, II, in his official capacity as a United States District Judge,

Respondents.

Case No. 2:26-cv-09383-AB

PETITIONER'S EMERGENCY NOTICE OF SUPPLEMENTAL FACTS: COMPLAINT OF JUDICIAL MISCONDUCT CONCERNING THE HONORABLE ANDRÉ BIROTTE JR. FILED WITH THE NINTH CIRCUIT; ASSERTION OF RIGHTS UNDER 18 U.S.C. § 3771; DECLARATION OF GUSTAVO ESCAMILLA; EXHIBIT A

[No Hearing Requested; No Ruling Requested]

Hon. André Birotte Jr.

TO THE HONORABLE COURT, TO THE CLERK OF THE COURT, AND TO ALL PARTIES:

PETITIONER'S EMERGENCY NOTICE OF SUPPLEMENTAL FACTS

PLEASE TAKE NOTICE that Petitioner Gustavo Escamilla, a federally identified crime victim appearing in pro se, gives notice that on November 13, 2026, he mailed to the Office of the Circuit Executive of the United States Court of Appeals for the Ninth Circuit a verified Complaint of Judicial Misconduct concerning the Honorable André Birotte Jr., under 28 U.S.C. §§ 351–364 and the Rules for Judicial-Conduct and Judicial-Disability Proceedings. (Ex. A; Escamilla Decl. ¶ 2.) This Notice requests no ruling and no relief beyond what is already pending, and it asks the Court to find nothing concerning any judge. Petitioner is filing the same Notice in Nos. 2:26-cv-05207 and 2:26-cv-13079.

LOCAL RULE 7-3 STATEMENT

The United States Attorney's Office for the Central District of California (the "Office") has not responded to any of close to a dozen prior written requests to meet and confer under Local Rule 7-3 regarding Petitioner's crime victims' rights enforcement actions or any of his other matters. (No. 2:26-cv-13079, Dkt. 14 at 6–7, Page ID #:275–276.)

This Notice concerns a complaint of judicial misconduct, a matter of which the Office has been on written notice, from which it suffers no prejudice, and on which it has not responded.

On October 12 and October 28, 2026, Petitioner asked the Office in writing whether it would respond to either crime-victim petition and whether it had reported the misconduct allegations under Justice Manual § 1-4.340, which requires that "[a]llegations that non-Department attorneys or judges have committed misconduct shall be reported to OPR." (No. 2:17-cv-07748, Dkt. 40-1, Ex. A; Dkt. 52, Ex. A.)

On October 30, he placed before the Court, with service on the Office, his complaint of judicial misconduct concerning the Honorable Otis D. Wright, II, since docketed by the Ninth Circuit as No. 26-90261. (No. 2:17-cv-07748, Dkt. 54, Ex.

A.) On November 1, he asked the Office whether it had reported the matter under 28 U.S.C. § 535(b). (Dkt. 60, Ex. A.)

On November 6, his notices of disqualification, served on the Office, stated that a complaint of judicial misconduct concerning Judge Birotte was being filed with the Circuit Executive. (No. 2:26-cv-05207, Dkt. 54; Dkt. 62.)

On November 11, he gave the Office written notice of his Notice of Clerical Error, which recited the same unanswered requests. (No. 2:26-cv-13079, Dkt. 14 at 6–7, Page ID #:275–276.)

The Office has not responded to any of them. Notwithstanding that continued non-responsiveness, on November 13, 2026, as a professional courtesy, Petitioner gave the Office written notice of this filing, by email to Acting Civil Chief Daniel A. Beck and AUSA Alarice M. Medrano, and advised the Office that he will place its position on the record whenever it provides one. As of filing, the Office has not responded. (Escamilla Decl. ¶ 4.)

ASSERTION OF RIGHTS UNDER THE CRIME VICTIMS' RIGHTS ACT

Petitioner, a federally identified crime victim, asserts each right the Act guarantees him and that has not been afforded in this proceeding, including:

- the right to be reasonably protected from the accused, 18 U.S.C. § 3771(a)(1);
- the right to reasonable, accurate, and timely notice, § 3771(a)(2);
- the right to be reasonably heard, § 3771(a)(4);
- the reasonable right to confer with the attorney for the Government, § 3771(a)(5);
- the right to full and timely restitution as provided in law, § 3771(a)(6), which is mandatory for an offense committed by fraud or deceit, 18 U.S.C. § 3663A(c)(1)(A)(ii);
- the right to proceedings free from unreasonable delay, § 3771(a)(7); and

- the right to be treated with fairness and with respect for his dignity and privacy, § 3771(a)(8).

The Court "shall ensure that the crime victim is afforded" these rights, § 3771(b)(1), and "shall take up and decide any motion asserting a victim's right forthwith," § 3771(d)(3), including a petition for restitution under 18 U.S.C. § 3664(d)(5). *In re Davis*, Nos. 24-3090 & 24-3092, 146 F.4th 710 (9th Cir. 2025). Petitioner asserts these rights here, and reserves all others.

I. THE COMPLAINT OF JUDICIAL MISCONDUCT

November 13, 2026: the complaint is mailed. Petitioner mailed the complaint from Glendale, California, by USPS Priority Mail Express, return receipt requested, in an envelope marked "COMPLAINT OF MISCONDUCT," as the Circuit's rules require. (Escamilla Decl. ¶ 2.) Exhibit A is a true and correct copy as mailed: the Ninth Circuit's official complaint form and a five-page Statement of Facts. (Ex. A.)

What it says. The complaint does not ask anyone to decide whether a ruling was correct, and it asks no one to credit Petitioner's allegations. On November 4, 2026, "[u]pon review of these filings and the entire docket," Judge Birotte described Petitioner and Greenway Nutrients, Inc. as "victims of the criminal counterfeiting," and denied relief "[e]ven accepting" as true that attorneys of the United States procured the 2018 judgment with a fabricated federal court ruling. (No. 2:17-cv-07748, Dkt. 58 at 1–3, Page ID #:1466–1468.)

The complaint describes what followed: no response required of the Office, no referral, and the striking of six of the victim's notices, including the one transmitting complaint No. 26-90261. (*Id.* at 3 n.2, 4, Page ID #:1468–1469.) It rests on *Lanuza v. Love*, 899 F.3d 1019, 1029, 1033–34 (9th Cir. 2018); *In re Davis*; Canons 1, 2A, 3A(4), and 3B(6) of the Code of Conduct for United States Judges; Justice Manual § 1-4.310; and Rule 4(a) and (a)(4) of the Judicial-Conduct Rules. It asks the Chief Judge of the Circuit to conduct a limited inquiry under Rule 11(b),

to appoint a special committee under 28 U.S.C. § 353, and to consider it together with No. 26-90261. (Ex. A.)

The rights at stake. The complaint reports the deprivation of rights the Act guarantees: notice and fairness, § 3771(a)(2), (a)(8); the right to be heard, § 3771(a)(4), in a proceeding where the victim's notices were stricken and the hearing vacated (No. 2:17-cv-07748, Dkt. 58 at 1, 4); and the Court's duty to "ensure" those rights are afforded, § 3771(b)(1).

II. JUDGE BIROTTE HAD ADVANCE NOTICE OF THE COMPLAINT

On November 6, 2026, Petitioner stated in notices served on the Office and filed before Judge Birotte that a complaint of judicial misconduct concerning him, arising from his November 4, 2026 order, was being filed with the Circuit Executive. (No. 2:26-cv-05207, Dkt. 54; Dkt. 62; Escamilla Decl. ¶ 3.) The same day, Petitioner filed No. 2:26-cv-13079, naming Judge Birotte as a respondent in his official capacity.

On November 10, 2026, Judge Birotte recused himself from that action because "[t]he undersigned is named as a defendant/respondent in this case and therefore has a conflict requiring recusal." (No. 2:26-cv-13079, Dkt. 11, Page ID #:250.) This Notice completes the record of what was reported, and when.

III. THE OFFICE WAS TOLD, AND THE DEPARTMENT'S OWN RULES REQUIRED A REPORT

The fabrication at the root of this record was reported to federal authorities long before this Notice. Petitioner's June 2025 complaint to the DHS Inspector General was copied to the Attorney General, the DOJ Inspector General, and the DOJ Office of the Victims' Rights Ombudsman. (Dkt. 19, Ex. B at 1, 31, Page ID #:895, #:925.)

His December 2025 through February 2026 reports to First Assistant United States Attorney Bilal A. Essayli and the Office's Victim-Witness Coordinator were

answered only with "[i]t does not appear that [he is] an identified crime victim." (Dkt. 2-1, Exs. P, S, T, Page ID #:343–353, #:383–391.)

The Department's rules do not leave reporting to discretion. Department employees "shall report to their supervisor any evidence or non-frivolous allegation that a Department attorney engaged in professional misconduct," Justice Manual § 1-4.300; Department attorneys "shall report to their supervisors any statement by a judge or magistrate indicating a belief that misconduct by a Department attorney has occurred, or taking under submission a claim of misconduct," *id.* § 1-4.310; and "[a]llegations that non-Department attorneys or judges have committed misconduct shall be reported to OPR," *id.* § 1-4.340.

Government attorneys are subject to the State's rules, 28 U.S.C. § 530B(a); C.D. Cal. L.R. 83-3.1.2, including the duty to correct a false statement of material fact previously made to the tribunal, which continues "to the conclusion of the proceeding." Cal. R. Prof. Conduct 3.3(a)(1), (c).

The Office has not said whether any report was made. Its silence bears on the victim's reasonable right to confer, § 3771(a)(5), and on the best efforts the Act requires of the Department, § 3771(c)(1).

IV. WHAT REMAINS PENDING IN THIS ACTION

This crime-victim petition, which includes a petition for restitution under 18 U.S.C. § 3664(d)(5), was filed August 21, 2026, and has been before Judge Birotte since September 14, 2026. (Dkts. 1, 21.)

The victim's application for reasonable protection, his applications to have the petition decided forthwith, and his related applications remain undecided (Dkts. 9, 15, 18, 23, 26, 37, 44), and the motion to disqualify the Office is set for November 20, 2026 (Dkt. 36).

Those facts bear on the rights to reasonable protection, § 3771(a)(1), to full and timely restitution, § 3771(a)(6), to proceedings free from unreasonable delay, § 3771(a)(7), and to a decision "forthwith," § 3771(d)(3).

V. WHY THIS NOTICE IS FILED HERE

This Notice reports a pending complaint of judicial misconduct concerning the presiding judge. It requests no ruling. The Judicial-Conduct Rules treat as cognizable misconduct **"retaliating against complainants, witnesses, judicial employees, or others for participating in this complaint process, or for reporting or disclosing judicial misconduct."** Rule 4(a)(4). Petitioner files it so that the record of what was reported, and when, is complete, and so that the victim's right to notice and to fair treatment, § 3771(a)(2), (a)(8), is honored in the record of this action.

VI. RESERVATION OF RIGHTS

Nothing in this Notice waives any right, claim, or remedy of Petitioner or of Greenway Nutrients, Inc., in this or any other forum. Petitioner will supplement the record with the Ninth Circuit's acknowledgment of the complaint upon receipt.

DATED: November 13, 2026

Respectfully submitted,

GUSTAVO ESCAMILLA
1315 Highland Avenue
Glendale, California 91202
(818) 355-0062
gescamilla@ymail.com
Petitioner in Pro Se

DECLARATION OF GUSTAVO ESCAMILLA

I, Gustavo Escamilla, declare:

1. I am the Petitioner in this action. I have personal knowledge of the facts stated in this declaration and, if called as a witness, could and would testify to them.
2. On November 13, 2026, I mailed a verified Complaint of Judicial Misconduct concerning the Honorable André Birotte Jr. to the Office of the Circuit Executive, United States Court of Appeals for the Ninth Circuit, from Glendale, California, by USPS Priority Mail Express, return receipt requested, in an envelope marked "COMPLAINT OF MISCONDUCT." Exhibit A is a true and correct copy of the complaint as mailed, consisting of the Ninth Circuit's official complaint form and a five-page Statement of Facts.
3. On November 6, 2026, I filed notices in No. 2:26-cv-05207 (Dkt. 54) and No. 2:26-cv-09383 (Dkt. 62), served on the United States Attorney's Office, stating that a complaint of judicial misconduct concerning Judge Birotte, arising from his November 4, 2026 order, was being filed with the Circuit Executive.
4. On November 13, 2026, before filing this Notice, I emailed written notice of it to Acting Civil Chief Daniel A. Beck and AUSA Alarice M. Medrano of the United States Attorney's Office and told them that I will notify the Court of the Office's position whenever it provides one. As of the time I sign this declaration, neither has responded, and the Office has not responded to any of my prior written requests to meet and confer described in this Notice.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on November 13, 2026, at Glendale, California.

DATED: November 13, 2026

GUSTAVO ESCAMILLA
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INDEX OF EXHIBITS

Ex. A Complaint of Judicial Misconduct concerning the Honorable André Birotte Jr., as mailed to the Office of the Circuit Executive, United States Court of Appeals for the Ninth Circuit, on November 13, 2026 (official complaint form and Statement of Facts).

CERTIFICATE OF COMPLIANCE (L.R. 11-6.2)

The undersigned, Petitioner in pro se, certifies that this Notice contains 1,643 words, which complies with the word limit of L.R. 11-6.1.

DATED: November 13, 2026

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CERTIFICATE OF COMPLIANCE WITH THE COURT'S GENERATIVE ARTIFICIAL INTELLIGENCE ORDER

The undersigned certifies the following regarding the use of generative artificial intelligence in the preparation of this filing:

_X_ This filing USES generative artificial intelligence.

____ This filing DOES NOT use generative artificial intelligence.

Petitioner used a generative artificial intelligence tool to assist in drafting portions of this filing. Petitioner has reviewed and revised the content, has verified the legal citations and the factual assertions to the best of his ability, and adopts the filing as his own. The positions and representations set forth herein are made in good faith and in compliance with Federal Rule of Civil Procedure 11.

DATED: November 13, 2026

GUSTAVO ESCAMILLA
1315 Highland Avenue
Glendale, California 91202
(818) 355-0062
gescamilla@ymail.com
Petitioner in Pro Se

EXHIBIT A

Complaint of Judicial Misconduct concerning the Honorable André Birotte Jr., as mailed to the Office of the Circuit Executive, United States Court of Appeals for the Ninth Circuit, on November 13, 2026 (official complaint form and Statement of Facts)

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY (page 1 of 2)

1. Name of Complainant: Gustavo Escamilla

Contact Address*: 1315 Highland Avenue

Glendale, California 91202

Daytime telephone: (818) 355-0062

*Please notify the Office of the Circuit Executive in writing of any changes to your address as soon as possible. We will use your last known address on file to communicate about your complaint.

2. Name(s) of Judge(s): Hon. André Birotte Jr.

Court: U.S. District Court, Central Dist. of Cal.

3. Does this complaint concern the behavior of the judge(s) in a particular case or cases?

☒ Yes ☐ No

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

Court: U.S. District Court, Central Dist. of Cal.

Case Number: 2:17-cv-07748; 2:26-cv-05207; 2:26-cv-09383

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

☒ Party ☐ Lawyer ☐ Neither

If you appealed the decision, please provide information about your appeal.

Case Number: None

Current status of appeal: N/A

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY (page 2 of 2)

4. Have you filed any lawsuits against the judge?

☒ Yes ☐ No

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

Court:	U.S. District Court, Central Dist. of Cal.
Case Number:	2:26-cv-13079 (filed Nov. 6, 2026)
Present status of lawsuit:	Pending; Judge Birotte recused Nov. 10, 2026 (Dkt. 11)

If you appealed the decision, please provide information about your appeal.

Case Number:	None
Current status of appeal:	N/A

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts that support your claim of judicial misconduct or disability. Describe what happened, when and where it happened, and any information that would help an investigator check the facts. **Your Statement of Facts must be no longer than five standard 8.5x11 inch, single-sided, double-spaced pages using 12-point font.**

You must provide objectively verifiable proof such as the names of witnesses or docket numbers of transcripts to support your allegations. You cannot prove misconduct only by saying that the judge ruled against you. The appellate court is the appropriate place to argue that a judge's rulings were wrong. Do not include copies of your filings in the underlying case or the judge's orders because those documents are already accessible via PACER (the federal filing system). Excess or irrelevant documentation will not be considered. Do not submit any original documents, as they may not be returned to you.

6. **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) November 13, 2026

STATEMENT OF FACTS — COMPLAINT OF JUDICIAL MISCONDUCT AGAINST THE HONORABLE ANDRÉ BIROTTE JR. (C.D. CAL.)

The Ninth Circuit has already said what this conduct is. In *Lanuza v. Love*, 899 F.3d 1019 (9th Cir. 2018), a government attorney forged evidence to strip a Mexican father of relief Congress had made available to him. The court refused to let an officer "cloak himself in the government's protection when he commits the crimes of forgery and perjury," *id.* at 1029, and held that remedying "circumstances where a court's integrity is compromised by the submission of false evidence . . . falls within the natural ambit of the judiciary's authority." *Id.* at 1033. "[T]his case is about a lie, and all the ways it was used, over several years, to defraud the courts." *Id.* at 1034. So is this one, only worse.

The Ninth Circuit has also said what crime victims are owed. A victim's petition to amend restitution under 18 U.S.C. § 3664(d)(5) is a motion asserting a victim's right under 18 U.S.C. § 3771(d)(3), which the court "shall take up and decide . . . forthwith," and Congress "elevated crime victims' rights above finality concerns in the restitution context." *In re Davis*, Nos. 24-3090 & 24-3092, 146 F.4th 710 (9th Cir. 2025), slip op. at 28. Restitution for an offense committed by fraud or deceit is mandatory. 18 U.S.C. § 3663A(c)(1)(A)(ii).

Judge Birotte had both before him. On November 4, 2026, "[u]pon review of these filings and the entire docket," he identified complainant and Greenway Nutrients, Inc. as "victims of the criminal counterfeiting." (No. 2:17-cv-07748, Dkt. 58 at 1–2, Page ID #:1466–1467.) It was this Court's first order to call them victims in its own words; in 2021 the prior judge called their account "merely speculation pulled from the ether." (No. 2:21-cv-01910, Dkt. 10, Page ID #:293–295.) He then denied relief "[e]ven accepting" as true that attorneys of the United States procured the judgment with a fabricated federal court ruling (Dkt. 58 at 3, Page ID #:1468), required nothing of them, made no referral, and struck the victim's notices, including his report of the prior judge's

misconduct. A complaint against the first judge who let the lie pass is pending. This one concerns the second, who had more, accepted it as true, and did less.

Complainant is a Mexican-American crime victim and grandfather, appearing pro se. DHS identified his company as a victim in Operation Software Slashers. (Dkt. 13 at 2–3, Page ID #:210–211.) Rule 4(a), (a)(4); Code of Conduct, Canons 1, 2A, 3A(4), 3B(6).

1. The record Judge Birotte accepted as true.

- **2016.** A DHS-ICE agent wrote that "a District Court found in favor of Selakovic"—the primary criminal suspect, the "alleged criminal mastermind" of "a vast transnational counterfeit goods operation"—"against Greenway Nutrients." (Dkt. 1, Ex. 9, Page ID #:50; Dkt. 28 at 15, Page ID #:823; No. 2:26-cv-09383, Dkt. 19, Ex. B at 3, 5, Page ID #:897, #:899.) No court so ruled; the court wrote, "The Court disagrees." (*Greenway Nutrients, Inc. v. Blackburn*, No. 1:13-cv-01088 (D. Colo.), Dkt. 129 at 10–11.)
- **2018.** Under U.S. Attorney Hanna, the Office carried that fabricated ruling into this case; the judgment rested on a "negative judgment in the Colorado action" that never existed. (Dkt. 9 at 11, 22, Page ID #:132, #:143; Dkt. 13 at 13, Page ID #:221.)
- **2021.** Under Acting U.S. Attorney Wilkison, the Office recast the fabrication (Dkt. 15 at 2–3, Page ID #:320–321), then, confronted with proof, did not deny it: "assuming arguendo" a fraud on the court existed, "it would not 'affect the outcome of the case.'" (Dkt. 23 at 5, Page ID #:753.)
- **2026.** The Office told Chief Judge Gee the victim's claims had been "repeatedly rejected." (*United States v. McCormick*, No. 2:20-cr-00346, ECF No. 864 at 4–5, Page ID #:11427–11428.) No court ever rejected them. It filed no opposition to the motion before Judge Birotte, nor did he require them to. (Dkt. 47 at 21–22, Page ID #:1122–1123.)

2. Reliable information, from every direction.

Beyond the Office's own concession, his dockets held complainant's June 2025 complaint to the DHS Inspector General reporting the fabrication, copied to the Attorney General, the DOJ Inspector General, and the DOJ Victims' Rights Ombudsman; it identified the Office's attorneys as having carried the fabrication into this case. (No. 2:26-cv-09383, Dkt. 19, Ex. B at 1, 23, 27, 31, Page ID #:895, #:917, #:921, #:925.) So were complainant's December 2025 through February 2026 reports to First Assistant U.S. Attorney Essayli and the Office's Victim-Witness Coordinator, answered only with "[i]t does not appear that [complainant is] an identified crime victim." (*Id.*, Dkt. 2-1, Exs. P, S, T, Page ID #:343–353, #:383–391.) So were the State Bar's acknowledgments of complaints against the Office's attorneys, struck notwithstanding acknowledging he lacked subject matter jurisdiction. (*Id.*, Dkt. 56, Ex. G, Page ID #:1943–1947.)

3. The rules that information implicated.

Government attorneys are "subject to State laws and rules, and local Federal court rules, governing attorneys." 28 U.S.C. § 530B(a); C.D. Cal. L.R. 83-3.1.2. A lawyer shall not "fail to correct a false statement of material fact or law previously made to the tribunal," and when material evidence proves false "shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal"; those duties "continue to the conclusion of the proceeding." Cal. R. Prof. Conduct 3.3(a)(1), (a)(3), (c). See also Cal. Bus. & Prof. Code § 6068(d); Cal. R. Prof. Conduct 5.1(c)(2), 8.4(c), (d); Justice Manual 1-4.300. The record he accepted as true implicates each; whether they were violated is for the State Bar.

4. Canon 3B(6): the appropriate action was one request away.

What Judge Birotte accepted as true began with an agent's fabricated court ruling, which the Ninth Circuit treats as "the crimes of forgery and perjury," *Lanuza*, 899 F.3d at 1029, and

which had been reported to federal authorities under 18 U.S.C. §§ 241, 242, and 1519. Attorneys of the Office then carried it forward by name: Hanna in 2018, Wilkison in 2021, and in 2026 a filing listing Essayli and filed through AUSAs Castañeda, Alexander, and Seiden. (Dkt. 28 at 39, Page ID #:847.) The fraud built on that fabrication was committed, repeatedly, on his own court.

A judge "should take appropriate action upon receipt of reliable information indicating the likelihood . . . that a lawyer violated applicable rules of professional conduct," and "the overarching goal of such action should be to prevent harm to those affected by the misconduct and to prevent recurrence." Canon 3B(6) & cmt. It was quoted to him. (No. 2:26-cv-09383, Dkt. 60 at 21–23, Page ID #:2028–2030.) The recurrence had happened: "repeatedly rejected" came nearly five years after "arguendo."

The least of the available actions required one sentence. Whenever a judge "requests an inquiry by the Department into possible misconduct," Department employees "shall immediately report the . . . request to the employee's supervisor and to OPR, regardless of whether the matter is regarded as serious." Justice Manual 1-4.310. Judge Birotte made no request. He required no response and no correction, found "neither oppositions nor a hearing are necessary," and vacated the hearing two days before it was to be held. (Dkt. 58 at 1, Page ID #:1466.) He struck six of the victim's notices as "repetitive and unduly burdensome," though each followed a meet-and-confer notice, required by his Standing Order, that the same Office ignored (No. 2:26-cv-09383, Dkt. 22 ¶ 12; Dkt. 47 at 21, Page ID #:1122), and warned that filings in the victim's "related cases" "may be stricken." (*Id.* at 3 n.2, 4, Page ID #:1468–1469.) The only person admonished was the victim who reported the misconduct by an Office who refused to appear or respond.

5. He struck the report of judicial misconduct.

On October 30, 2026, complainant filed notice of his complaint against the prior judge (Dkt. 54, Ex. A), docketed November 2 as No. 26-90261. Two business days later Judge Birotte struck the notice with the others and warned against further filings. (Dkt. 58 at 3 n.2, 4.) Retaliating against those "reporting or disclosing judicial misconduct" is misconduct. Rule 4(a)(4). Meanwhile the victims' two restitution petitions under *Davis*, which the Act requires be decided forthwith, have been before him since August 26 and September 14, 2026, and remain undecided. (No. 2:26-cv-05207, Dkt. 49; No. 2:26-cv-09383, Dkt. 21.)

6. Why this is cognizable, and what complainant asks.

Complainant asks no one to decide whether a ruling was correct or to credit his allegations: the subject judge accepted them as true. The proof is the judge's own order and the Office's own filings, the "objectively verifiable proof" this Circuit requires. *In re Complaint of Judicial Misconduct*, 569 F.3d 1093 (9th Cir. 2009). The conduct is what he did next, and "[t]he existence of an appellate remedy is usually irrelevant to whether an allegation is merits-related." Rule 4 cmt. A judge "should maintain and enforce high standards of conduct." Canon 1; see Canon 2A. The Canons are "instructive," and "a pattern of such violations of the Code might well rise to the level of misconduct." Rule 4 cmt. Here: three cases in ten weeks. This Circuit's Judicial Council publicly reprimanded a judge of this District whose orders rested on an improper basis and "caused significant harm" to litigants. *In re Complaint of Judicial Misconduct* (Judge Manuel L. Real) (9th Cir. Jud. Council Nov. 16, 2006). Remedies include reprimand "by public announcement" and "ordering that no new cases be assigned to the subject judge for a limited, fixed period." Rule 20(b)(1)(D)(i), (ii). Complainant respectfully asks for a Rule 11(b) inquiry, a special committee under 28 U.S.C. § 353 if warranted, and joint consideration with No. 26-90261.