

Complaint vs. judge probed

Whether Nottingham tarred office is taken under advisement

By Sara Burnett

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U.S. District Judge Edward Nottingham, recently linked to a high-priced escort service in Denver, is the focus of a broadening investigation into allegations he "has brought disrepute to the judiciary," the *Rocky Mountain News* has learned.

In an order made public Thursday, Robert Henry, chief judge of the 10th Circuit, said he is taking under advisement a complaint about a judge's conduct. The order doesn't name the judge, but the person who filed the complaint confirmed that it was Nottingham.

Sean Harrington, who runs a legal technology firm and who represented himself in two cases before Nottingham, provided the *Rocky* with a copy of his complaint.

Harrington alleged that Nottingham ignored the law when he ruled against him in two civil rights cases and undermined "the dignity of the court" with his personal conduct.

Henry quoted from the complaint in his order, in which he dismissed the first charge.

But Henry's decision to move forward with allegations about Nottingham's conduct is significant because complaints against judges typically are dismissed after a preliminary review.

Between fiscal years 2005 and 2007, fewer than half the complaints filed nationwide moved forward, according to a report by the Administrative Office of the U.S. Courts. Almost all those complaints were later dismissed.

The inquiry into Nottingham's behavior could lead to a public or private reprimand, a request that Nottingham voluntarily retire, a restricted caseload or other corrective action.

Nottingham's office on Thursday referred calls to his attorney, Stephen Peters.



U.S. District Judge Edward Nottingham is the focus of a broadening investigation into allegations he "has brought disrepute to the judiciary."

Photo by Chris Schneider

"We are pleased that the 10th Circuit has dismissed at least a portion of the complaint involving Chief Judge Nottingham, and we look forward to the prompt resolution of the remainder of this matter," Peters said.

He declined to discuss any other complaints, saying the process is confidential.

Nottingham, 60, is the chief judge of the U.S. District Court for Colorado, one of six states in the 10th Circuit.

His current troubles started last year, when his ex-wife went public with statements Nottingham made during their divorce proceedings.

The judge admitted he had spent \$3,000 over two days at the Diamond Cabaret, a topless dance club in downtown Denver, and that he didn't remember everything that happened because he had been drinking.

Nottingham released a statement after his comments were publicized, saying he wouldn't discuss the allegations and calling them "private and personal matters involving human frailties and foibles."

A few months later, a Denver woman who is disabled filed a complaint with the 10th Circuit, saying Nottingham parked in a handicapped spot outside a Denver Walgreens drug store without a handicapped permit.

When the woman, Jeanne Elliott, blocked him from pulling out of the parking spot, Nottingham became angry and threatened to call U.S. marshals to remove her, Elliott said.

In a 911 tape from the incident obtained by the *Rocky*, Nottingham is heard calling police and asking for an officer to come and get Elliott to move.

In a calm voice, Nottingham admitted he parked illegally.

"I'm in the wrong . . . I'm happy to get a ticket," he said.

Officers gave Nottingham a \$100 ticket, which he later paid, Denver police said.

Harrington's complaint, filed in January, cited those two incidents as examples of conduct that has "brought disrepute to the judiciary" and undermined "the dignity of the court."

Last week, 9News reported that Nottingham's name and phone number were on a list of clients seized during a raid on a Denver prostitution ring known as Denver Players or Denver Sugar.

The TV station quoted a man who said he drove prostitutes to encounters with Nottingham. The man signed an affidavit stating that what he said was true, 9News reported.

Nottingham is not charged with a crime.

The U.S. Attorney's Office and Internal Revenue Service are investigating the alleged owner of the prostitution business, Brenda Stewart, for tax fraud, but no charges have been filed.

Denver police declined comment on whether charges may be filed against the alleged prostitutes or customers.

Even if Nottingham were charged, soliciting a prostitute is a misdemeanor in Colorado.

"The likelihood a judge would be removed from office for a violation of prostitution law is small," said Steven Lubet, a professor at Northwestern University Law School and co-author of *Judicial Conduct and Ethics*.

An Eagle County native, Nottingham was appointed to the federal bench in 1989. He has presided over several high-profile trials, including that of ex-Qwest CEO Joe Nacchio.

Legal experts have said the complaints against Nottingham are unlikely to affect his previous cases.

Judicial discipline:

From fiscal 2005 to 2007, 2,108 complaints against federal judges reached a final disposition.

Of those:

1,205 were dismissed by the chief judge

846 were dismissed by a Judicial Council after a secondary review

36 resulted in corrective action

21 were withdrawn

Impeachments:

13 judges have been impeached by the House of Representatives.

The first — John Pickering, from New Hampshire — was in 1803, on charges of mental instability and intoxication on the bench.

The most recent — Walter Nixon, U.S. District Judge for the Southern District of Mississippi — was in 1989, for perjury before a federal grand jury.

Source: Administrative Office of the U.S. Courts, Federal Judicial Center