

March 2, 2007

Hon. Deanell Reece Tacha, Chief Judge  
United States Courts for the Tenth Circuit  
Byron White United States Courthouse  
1823 Stout Street  
Denver, Colorado 80257

Re: Judicial Misconduct Complaint No. 07-10-372-07

Dear Chief Judge Tacha:

I think we can safely add *Mann v. Boatright*, No. 05-1559 (10th Cir. Feb. 15, 2007) to the list of pro se cases receiving disparate treatment in the courts of this Circuit. Specifically, I draw your attention to the following statement, from the published appellate decision:

“[H]er attempt to state any such claims failed miserably, and thus we affirm the dismissal of the balance of her complaint for its utter disregard of the pleading requirements mandated by Federal Rule of Civil Procedure 8. [*Id.*, slip op. at 10.]

As any judge should know, the Federal Rules “shall be construed and administered to secure the just, speedy, and inexpensive determination of every action.” To dismiss a complaint on Rule 8 grounds, without even granting leave to cure the defect, is an act without precedent in this Circuit (by stark contrast, in the case the Court cites as its justification for dismissal, *United States ex rel. Garst v. Lockheed-Martin Corp.*, 328 F.3d 374, (7th Cir. 2003), the litigant was given several warnings and thus, every reasonable opportunity to cure the defect). To create a precedent of this nature, substantially certain to be used against pro se litigants by district court judges in a reflexive manner (as *Rooker-Feldman* has been used heretofore by judges complained of herein) to dismiss cases they have an unflagging duty to hear, is nothing short of open treason on the part of this Circuit.

As Beverly Mann is a licensed attorney, *Mann*, slip op. at 15, the only reasonable conclusion that can be drawn is that pro se litigants (as opposed to citizens without legal training, who file in propria persona out of practical necessity) are systematically subjected to disparate treatment in these judges’ courts, in violation of a breathtaking array of federal laws and a judge’s most sacred oath. 28 U.S.C. § 453; see, *Code of Conduct for United States Judges*, Canon 3, A(2).

Sincerely,

Kenneth L. Smith, J.D.  
23636 Genesee Village Rd.  
Golden, CO 80401  
Phone: (303) 526-5451