

## Question

The judge's conduct involved coercion or fraud, such as compelling a party to sign a settlement agreement under duress or through misrepresentation. The Fifth Circuit applies a four-factor test to determine whether an act is judicial: (1) normal judicial function; (2) judicial setting; (3) relation to a case; (4) arising from official capacity. (*Brewer v. Blackwell*, 692 F.2d 387 (5th Cir. 1982)). While presiding over settlement discussions may be a judicial function, using coercion or fraud to compel agreement is not a normal judicial function and falls outside the scope of judicial capacity. Therefore, even if the judge was acting in an official capacity, the nature of the act (coercion/fraud) removes it from the protection of judicial immunity.

## Answer (Fifth Circuit)

### Short response

Judicial immunity does not protect a judge who uses coercion or fraud, such as compelling a party to sign a settlement agreement under duress or through misrepresentation, because such conduct is not a normal judicial function under the Fifth Circuit's four-factor test. Even if the judge acts in an official capacity and within a judicial setting, the nature of coercion or fraud removes the act from the scope of judicial immunity.

### Summary

The Fifth Circuit applies a four-factor test to determine whether a judge's act is judicial and thus protected by judicial immunity: (1) whether the act is a normal judicial function, (2) whether it occurred in a judicial setting, (3) whether it relates to a case before the court, and (4) whether it arises from the judge's official capacity. While presiding over settlement discussions is generally a judicial function, acts involving coercion or fraud—such as forcing a party to settle under duress or through misrepresentation—are not considered normal judicial functions and therefore fall outside the protection of judicial immunity.

Case law from the Fifth Circuit, including [Brewer v. Blackwell](#), 692 F.2d 387 (5th Cir. 1982), [Malina v. Gonzales](#), 994 F.2d 1121 (5th Cir. 1993), and [Jefferson v. City of Hazlehurst](#), 936 F.Supp. 382 (S.D. Miss. 1995), consistently holds that judicial immunity does not extend to nonjudicial acts, particularly those involving coercion or fraud. Even if the other factors of the test are met, the absence of a normal judicial function is dispositive, and immunity is not available for such conduct.

# Background and Relevant Law

## Judicial Immunity in the Fifth Circuit

Judicial immunity is a well-established doctrine that protects judges from liability for acts performed in their judicial capacity. The doctrine is designed to preserve judicial independence by shielding judges from personal liability for their judicial acts, even if those acts are in error, malicious, or in excess of their authority. However, this immunity is not absolute.

The U.S. Supreme Court and the Fifth Circuit have articulated two primary exceptions to judicial immunity: (1) actions taken in the clear absence of all jurisdiction, and (2) actions not taken in the judge's judicial capacity. The focus here is on the second exception—whether the act is judicial in nature.

## The Four-Factor Test

The Fifth Circuit, building on Supreme Court precedent, has developed a four-factor test to determine whether an act is judicial and thus protected by immunity. This test, as articulated in [Brewer v. Blackwell, 692 F.2d 387 \(5th Cir. 1982\)](#), and reaffirmed in subsequent cases, asks:

1. Whether the act complained of is a normal judicial function;
2. Whether the events occurred in the judge's court or chambers;
3. Whether the controversy centered around a case then pending before the judge; and
4. Whether the confrontation arose directly and immediately out of a visit to the judge in his judicial capacity.

These factors are generally construed broadly in favor of immunity, but the first factor—whether the act is a normal judicial function—is critical and can be dispositive.

## Key Case Law

### [Brewer v. Blackwell](#)

In [Brewer v. Blackwell, 692 F.2d 387 \(5th Cir. 1982\)](#), the Fifth Circuit clarified that judicial officers are not immune from liability for acts performed in a nonjudicial capacity. The court emphasized that if an act involves both judicial and nonjudicial conduct, the nonjudicial behavior must be separated and is not protected by immunity. The court's four-part test, as outlined above, is central to this determination.

### [Malina v. Gonzales](#)

[Malina v. Gonzales, 994 F.2d 1121 \(5th Cir. 1993\)](#) reaffirmed the four-factor test and clarified that judicial immunity does not extend to actions outside a judge's judicial capacity or those performed in the clear absence of all

jurisdiction. The court noted that the four factors should be construed broadly in favor of immunity, but also recognized that immunity should not be denied unless the act clearly falls outside the scope of normal judicial functions.

It is important to note that [Malina v. Gonzales](#) was reheard by the Fifth Circuit in [Malina v. Gonzales](#), 1 F.3d 304 (5th Cir. 1993). However, the rehearing did not disturb the core principles regarding the four-factor test and the limits of judicial immunity for nonjudicial acts.

### **[Jefferson v. City of Hazlehurst](#)**

In [Jefferson v. City of Hazlehurst](#), 936 F.Supp. 382 (S.D. Miss. 1995), the district court, relying on Supreme Court and Fifth Circuit precedent, reiterated that judicial immunity is not absolute and can be defeated if the judge's actions are not taken in a judicial capacity. The court again referenced the four-factor test and emphasized that an act is judicial if it is a function normally performed by a judge and the parties are dealing with the judge in his judicial capacity.

### **[Ammons v. Baldwin](#)**

In [Ammons v. Baldwin](#), 705 F.2d 1445 (5th Cir. 1983), the Fifth Circuit held that a judge's threat of physical abuse was not a normal judicial function and thus not protected by judicial immunity, even though the other three factors of the test were met. This case illustrates that the first factor—normal judicial function—can be determinative.

## **Analysis**

### **Application of the Four-Factor Test**

#### **1. Normal Judicial Function**

The first and most critical factor is whether the act complained of is a normal judicial function. Presiding over settlement discussions is generally considered a judicial function, as judges often facilitate settlements in civil cases. However, the use of coercion or fraud—such as compelling a party to sign a settlement agreement under duress or through misrepresentation—falls outside the scope of what is considered normal judicial conduct.

The Fifth Circuit has made clear that acts which are not normal judicial functions are not protected by judicial immunity, even if they occur in a judicial setting or arise from a case before the court. In [Brewer v. Blackwell](#), the court stated that nonjudicial conduct must be separated from judicial acts, and judges are liable for acts that are not judicial in nature ([692 F.2d at 387](#)). Similarly, in [Ammons v. Baldwin](#), the court found that threats of physical abuse were not normal judicial functions and thus not protected by immunity ([705 F.2d at 1447](#)).

Applying this reasoning, coercion or fraud in compelling a settlement agreement is not a normal judicial function. While a judge may encourage settlement, the use of duress or misrepresentation is fundamentally inconsistent with the impartial and fair administration of justice that defines the judicial role.

## **2. Judicial Setting**

The second factor considers whether the act occurred in the courtroom or an appropriate judicial setting, such as the judge's chambers. In the scenario described, the conduct likely occurred during settlement discussions overseen by the judge, which would typically satisfy this factor.

## **3. Relation to a Case**

The third factor asks whether the controversy centered around a case pending before the court. Settlement discussions are inherently related to a pending case, so this factor would also be met.

## **4. Arising from Official Capacity**

The fourth factor examines whether the act arose directly out of a visit to the judge in his official capacity. If the judge was presiding over settlement discussions as part of his official duties, this factor would be satisfied.

## **Synthesis**

Although the second, third, and fourth factors are likely satisfied in the scenario described, the first factor—whether the act is a normal judicial function—is not. The Fifth Circuit has held that the absence of a normal judicial function is sufficient to defeat judicial immunity, even if the other factors are present. This is illustrated in [Ammons v. Baldwin](#), where the court denied immunity for conduct that was not a normal judicial function, despite the other factors being met ([705 F.2d at 1447](#)).

## **Judicial Immunity and Nonjudicial Acts**

The doctrine of judicial immunity is designed to protect judges from liability for their judicial acts, but it does not extend to nonjudicial acts. In [Jefferson v. City of Hazlehurst](#), the court emphasized that judicial immunity can be defeated if the judge's actions are not taken in a judicial capacity ([936 F.Supp. at 385](#)). The use of coercion or fraud is not a judicial act, even if it occurs in the context of a judicial proceeding.

The Supreme Court's decision in *Stump v. Sparkman*, 435 U.S. 349 (1978), as cited in the Fifth Circuit cases, supports this distinction. The Court recognized that judicial immunity does not protect acts that are not judicial in nature. The Fifth Circuit has refined this principle through its four-factor test, with the first factor serving as a critical threshold.

## **Subsequent Treatment of [Malina v. Gonzales](#)**

It is important to acknowledge that [Malina v. Gonzales, 994 F.2d 1121 \(5th Cir. 1993\)](#) was reheard by the Fifth Circuit in [Malina v. Gonzales, 1 F.3d 304 \(5th Cir. 1993\)](#). However, the rehearing did not alter the fundamental principles regarding the four-factor test or the limits of judicial immunity for nonjudicial acts. The core holding—that judicial immunity does not extend to acts outside a judge’s judicial capacity—remains good law and is consistent with other Fifth Circuit and Supreme Court precedents.

## **Illustrative Example: Threats and Coercion**

The Fifth Circuit’s decision in [Ammons v. Baldwin](#) provides a useful analogy. There, the court held that a judge’s threat of physical abuse was not a normal judicial function and thus not protected by judicial immunity, even though the other three factors of the test were satisfied ([705 F.2d at 1447](#)). By analogy, coercion or fraud in compelling a settlement agreement is similarly outside the scope of normal judicial functions and not protected by immunity.

## **Exceptions and Caveats**

### **Broad Construction of Immunity**

The Fifth Circuit has stated that the four factors should be broadly construed in favor of immunity, and that immunity should not be denied unless the act clearly falls outside the scope of normal judicial functions ([Malina v. Gonzales, 994 F.2d 1121, 1124 \(5th Cir. 1993\)](#)). However, the use of coercion or fraud is so clearly outside the bounds of normal judicial conduct that it cannot be protected, even under a broad construction.

### **Mixed Acts**

If a judge’s conduct involves both judicial and nonjudicial elements, the nonjudicial behavior must be separated and is not protected by immunity ([Brewer v. Blackwell, 692 F.2d 387, 398 \(5th Cir. 1982\)](#)). Thus, if a judge presides over a settlement discussion (a judicial act) but also uses coercion or fraud (a nonjudicial act), only the latter conduct is unprotected.

### **Jurisdictional Limits**

Judicial immunity is also not available for acts performed in the clear absence of all jurisdiction. However, in the scenario described, the focus is on the nature of the act rather than the judge’s jurisdiction.

## **Conclusion**

In summary, under the Fifth Circuit’s four-factor test, judicial immunity does not protect a judge who uses coercion or fraud to compel a party to sign a

settlement agreement. While presiding over settlement discussions is generally a judicial function, the use of duress or misrepresentation is not. The first factor of the test—whether the act is a normal judicial function—is dispositive, and the absence of this element removes the act from the protection of judicial immunity. This conclusion is supported by consistent Fifth Circuit case law, including [Brewer v. Blackwell](#), 692 F.2d 387 (5th Cir. 1982), [Malina v. Gonzales](#), 994 F.2d 1121 (5th Cir. 1993), and [Jefferson v. City of Hazlehurst](#), 936 F.Supp. 382 (S.D. Miss. 1995), as well as by analogy to [Ammons v. Baldwin](#), 705 F.2d 1445 (5th Cir. 1983). Even though the other factors of the test may be satisfied, the nature of the act—coercion or fraud—removes it from the scope of judicial capacity and the protection of judicial immunity.

## Legal Authorities

[Brewer v. Blackwell](#), 692 F.2d 387 (5th Cir. 1982)

### U.S. Court of Appeals — Fifth Circuit

#### Extract

When, however, judicial officers act in a 'nonjudicial' capacity, they are not immune from liability for that conduct. ... If on occasion their acts involve both judicial and nonjudicial conduct, the unprotected behavior must be separated from the shielded and judges are liable for the acts that were not judicial. ... The Supreme Court in *Stump* identified two factors relevant to determining whether a given act is judicial. First, the act must be of the sort judges ordinarily perform. ... This circuit has refined those criteria into a four-part test. We inquire, in determining the judicial nature of an act, whether: (1) the act complained of is a normal judicial function; (2) the events occurred in the judge's court or chambers; (3) the controversy centered around a case then pending before the judge, and (4) the confrontation arose directly and immediately out of a visit to the judge in his judicial capacity.

#### Summary

Judicial immunity does not protect acts that are nonjudicial in nature. The passage outlines a four-part test to determine whether an act is judicial, which includes assessing whether the act is a normal judicial function. If a judge's conduct, such as using coercion or fraud, does not meet these criteria, it is considered nonjudicial, and the judge may be liable for such acts. This supports the proposition that coercion or fraud in compelling a settlement agreement is not a normal judicial function and falls outside the scope of judicial capacity.

[Ammons v. Baldwin](#), 705 F.2d 1445 (5th Cir. 1983)

### U.S. Court of Appeals — Fifth Circuit

## **Extract**

Ammons' claim that Judge Baldwin threatened to abuse him physically, however, charges conduct that is not protected by judicial immunity. Even this conduct meets the last three criteria set forth in *Brewer*. But the threat of physical abuse is clearly not a normal judicial function... The threat of physical force, like its actual application, strays too far from the normal conduct of a judge to enjoy immunity.

## **Summary**

The Fifth Circuit recognizes that certain actions by a judge, such as threats of physical abuse, are not considered normal judicial functions and therefore do not enjoy judicial immunity. This aligns with the proposition that coercion or fraud, which are also not normal judicial functions, would similarly fall outside the scope of judicial immunity.

[Malina v. Gonzales, 994 F.2d 1121 \(5th Cir. 1993\)](#)

### **U.S. Court of Appeals — Fifth Circuit**

## **Extract**

Absolute judicial immunity extends to all judicial acts that are not performed in the clear absence of all jurisdiction. ... a judge has no immunity (1) for actions taken outside of his judicial capacity, or (2) for actions that are judicial in nature, but occur in the complete absence of all jurisdiction. ... In determining whether Judge Gonzales' actions were 'judicial in nature,' this Court considers four factors: (1) whether the precise act complained of is a normal judicial function; (2) whether the acts occurred in the courtroom or appropriate adjunct spaces such as the judge's chambers; (3) whether the controversy centered around a case pending before the court; and (4) whether the acts arose directly out of a visit to the judge in his official capacity. ... The four factors are to be broadly construed in favor of immunity, and immunity should not be denied where the denial carries the potential of raising more than a frivolous concern in a judge's mind that to take proper action might expose him to personal liability.

## **Summary**

Conditions under which judicial immunity applies and the four-factor test used to determine if an act is judicial in nature. It emphasizes that immunity does not cover actions taken outside of judicial capacity or in the absence of jurisdiction. The passage supports the proposition by indicating that coercion or fraud, which are not normal judicial functions, would fall outside the scope of judicial capacity and thus not be protected by judicial immunity.

[Jefferson v. City of Hazlehurst, 936 F.Supp. 382 \(S.D. Miss. 1995\)](#)



## **U.S. District Court — Southern District of Mississippi**

### **Extract**

The doctrine of judicial immunity, though longstanding and expansive, is not absolute. Judicial immunity can be defeated in two sets of circumstances. ... Secondly, 'a judge is not immune from liability for nonjudicial actions, i.e., actions not taken in the judge's judicial capacity.' *Mireles v. Waco*, 502 U.S. 9, 11, 112 S.Ct. 286, 288, 116 L.Ed.2d 9 (1991); *Forrester v. White*, 484 U.S. 219, 227, 108 S.Ct. 538, 544, 98 L.Ed.2d 555 (1988); *Stump v. Sparkman*, 435 U.S. 349, 360, 98 S.Ct. 1099, 1106, 55 L.Ed.2d 331 (1978). ... An act by a judge is a judicial one where it is a function normally performed by a judge and the parties are dealing with the judge in his judicial capacity. *Mireles*, 502 U.S. at 11, 112 S.Ct. at 288. ... there are four factors generally relied upon in determining whether an act is judicial, thereby entitled to judicial immunity: (1) whether the precise act complained of is a normal judicial function; (2) whether the subject act occurred in the courtroom or appropriate adjunct spaces such as the judge's chambers; (3) whether the controversy centered around cases pending before the court; and (4) whether the act arose directly out of a visit to the judge in his official capacity.

### **Summary**

Four-factor test used to determine whether an act is judicial, which aligns with the proposition's argument that coercion or fraud is not a normal judicial function. Therefore, if a judge uses coercion or fraud, it could be considered a nonjudicial action, thus not protected by judicial immunity.

This memo was compiled by Vincent AI based on vLex materials available as of September 08, 2025. [View full answer on vLex](#)