

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**FILED**

AUG 17 2015

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

<p><b>IN RE COMPLAINT OF JUDICIAL MISCONDUCT</b></p>
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No. 14-90128

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se litigant, alleges that a district judge should not have “associated ill will case law” to her refusal to be deposed in her civil case, and should not have issued terminating sanctions. These allegations relate directly to the merits of the judge’s rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant further alleges that the judge made degrading comments about her in an order denying her motion for reconsideration. However, a review of the order demonstrates that the judge was at all times respectful. Because there is no evidence that misconduct occurred, this claim must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D). Complainant also claims that the judge belittled her during a scheduling conference, and possibly favored defense counsel because they attended the same university. She does not specify any comment that the judge made to her, other than an alleged statement that

defense counsel were “great.” Even if the judge made such a comment, it would not amount to misconduct. Because the judge’s comments did not prejudice the effective and expeditious administration of the business of the courts, this claim must be dismissed. See Judicial-Conduct Rule 11(c)(1)(A). Further, any allegation that the judge should have recused from the case because he attended the same university as defense counsel is merits-related and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 570 F.3d 1144 (9th Cir. Jud. Council 2009) (“[A]ll[eg]ations that the judge should have recused himself . . . relate[] directly to the merits of the judge’s rulings and must be dismissed.”).

Complainant filed a supplement in which she offered to withdraw her misconduct complaint in exchange for reimbursement of her civil filing fees in her underlying case. However, this form of relief is not available through the misconduct complaint procedure. See 28 U.S.C. § 354(a)(2); Judicial-Conduct Rule 11(a).

**DISMISSED.**