

FILED

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 18-90031, 18-90032,
18-90033 and 18-90034

ORDER

THOMAS, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district judge and three circuit judges. Review of this complaint is governed by the Rules for Judicial Conduct and Judicial-Disability Proceedings (“Judicial-Conduct Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 et seq., and relevant prior decisions of the Ninth Circuit Judicial Council. In accordance with these authorities, the names of complainant and the subject judges shall not be disclosed in this order. See Judicial-Conduct Rule 11(g)(2).

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling,

or is frivolous or lacks sufficient evidence to raise an inference of misconduct.

See 28 U.S.C. §§ 352(b)(1)(A)(i)-(iii). Judicial misconduct proceedings are not a substitute for the normal appellate review process, and may not be used to seek reversal of a judge's decision, to obtain a new trial, or to request reassignment to a different judge.

Complainant alleges that all of the subject judges' orders are invalid because they do not include original written signatures. Complainant cites a 1952 Ninth Circuit decision which held that an unsigned, un-docketed and un-recorded minute order was invalid because the parties received no notice that the order was issued. In the instant case, the district judge's minute order was docketed and sent to the parties, and complainant filed a timely appeal. Further, the district at issue has a local rule providing that: "[A]ny order or other Court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of the order." Circuit judges do not normally affix their signatures to appellate orders. See In re Complaint of Judicial Misconduct, No. 11-90097 (9th Cir. Jud. Council July 29, 2011) ("Judges aren't required to sign their orders Failing to do so, therefore, isn't 'prejudicial to the effective and expeditious administration of the business of the courts'"). Finally, an "allegation that calls into question the correctness of an

official action of a judge . . . is merits related.” See Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice 145 (2006).

Because this charge relates directly to the judges’ orders, it is dismissed as merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

DISMISSED.