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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**	No. 25-90278 **ORDER**

MURGUIA, Chief Judge:

Complainant has filed a complaint of judicial misconduct against a district judge. 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 the complainant and the subject judge 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 was a member of a class action lawsuit but opted out of the lawsuit to pursue his own litigation. This complaint concerns the district judge's handling of the class action lawsuit and resulting settlement.

Complainant alleges that the district judge violated Canon 3(B)(6) of the Code of Conduct for United States Judges by failing to report misconduct committed by the defendants' attorneys to the state bar. Contrary to complainant's assertions, neither Canon 3(B)(6) nor the Judicial-Conduct Rules required the district judge to inform the state bar of the attorneys' misconduct.

It is worth noting that while the Canons provide guidance on judicial performance and activities, they are separate from the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, which governs the judicial misconduct complaint process.

The district judge issued a 53-page order documenting the "unusually egregious and persistent" misconduct of the defendants' attorneys and imposing a substantial financial sanction. "Any allegation that calls into question the

correctness of an official decision or procedural ruling of a judge — without more — is merits-related. The phrase "decision or procedural ruling" is not limited to rulings issued in deciding Article III cases or controversies." Commentary on Rule 4.

Accordingly, this allegation is dismissed because it seeks to challenge the judge's decisions, including the decision to impose sanctions rather than to report the attorneys to the state bar. *See* 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are directly related to the merits of a decision or procedural ruling); *In re Complaint of Judicial Misconduct*, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing as merits-related allegations that a judge made various improper rulings in a case); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the district judge imposed "weak sanctions" against defendants' attorneys, suggesting the attorneys or the company they represented have "undue influence" over the district judge. Any challenge to the amount or method of calculating the sanctions is dismissed because it relates to the judge's decisions. *See id*. Because complainant provides no objectively verifiable evidence to support the allegation of "undue influence," it is dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii) (listing reasons the chief judge may

decide to dismiss the complaint, including claims that are lacking sufficient evidence to raise an inference that misconduct has occurred); *In re Complaint of Judicial Misconduct*, 569 F.3d 1093 (9th Cir. Jud. Council 2009) ("claimant's vague insinuations do not provide the kind of objectively verifiable proof that we require"); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.