

MAR 14 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUITIN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 10-90146

ORDER

KOZINSKI, Chief Judge:

A pro se litigant alleges that a district judge “and its [sic] committee fail[ed] to implement any remedial measures” or “deal with [his] complaint” or “afford[him] an opportunity to show cause.” Complainant hasn’t identified the alleged members of the judge’s “committee,” so the charges against it must be dismissed. See 28 U.S.C. § 351(a). His charges against the district judge relate directly to the merits of the judge’s rulings and must be dismissed. 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). Complainant’s allegation that the judge “failed to encourage the use of . . . ‘ADR’” must also be dismissed as merits-related.

Complainant further alleges that the judge “repeatedly” prevented him from receiving impartial hearings “or the full, fair, impartial administration of justice,” but he provides no proof to support these allegations. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. 2009). Adverse rulings do not

prove bias. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Because there is no evidence of misconduct, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

In any event, the Judicial Council can't grant complainant the relief requested: "hold[ing] the [j]udge . . . personally liable for any ensuing damages or injuries." See 28 U.S.C. § 354. A misconduct proceeding is not an adversary "contest between a complainant and a judge," In re Comm. on Judicial Conduct & Disability, 517 F.3d 563, 567 (U.S. Jud. Conference 2008), and the subject judge is immune from liability for damages arising out of the performance of his judicial duties, see Bradley v. Fisher, 80 U.S. 335, 347 (1871).

DISMISSED.