

**FILED**

SEP 27 2017

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 17-90068 and 17-90069

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a civil litigant, has filed a misconduct complaint against two district judges. To the extent complainant alleges that the judges improperly dismissed his civil complaints, rejected his fraud claims, or otherwise made improper substantive or procedural rulings, such allegations relate directly to the merits of the judges' 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 also appears to allege that the judges colluded with the opposing parties to commit fraud, software piracy, and various other violations of the law. Specifically, complainant alleges that the judges use the same software products that are the subject of complainant's underlying civil cases, and that by using these products and ruling against complainant, the judges have taken part in fraud and antitrust violations. Adverse rulings are not evidence of conspiracy or

fraud, and complainant provides no objectively verifiable evidence to support these allegations, which are dismissed as unfounded. See 28 U.S.C.

§ 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. 2016) (“Adverse rulings are not proof of bias or fraud”); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1371 (9th Cir. 2011) (“adverse rulings do not prove bias or conspiracy”); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

Next, complainant alleges that one of the judges used his office to obtain special treatment for friends or relatives, accepted bribes, treated litigants or attorneys in a demonstrably egregious manner, and violated “other specific, mandatory standards of judicial conduct.” Complainant offers no objectively verifiable proof to support these vague and conclusory allegations, which are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. 2009); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that one of the judges used improper, hostile language in an order dismissing complainant’s suit. This allegation is belied by

the record. A review of the subject dismissal order reveals no abusive or hostile language, or any other implication of misconduct. Accordingly, this allegation is dismissed as unfounded and conclusively refuted by objective evidence. See 28 U.S.C. § 352(b)(1)(A)(iii), (b)(1)(B); In re Complaint of Judicial Misconduct, 761 F.3d 1097, 1099 (9th Cir. Jud. Council 2014) (“Misconduct includes treating litigants or attorneys in a demonstrably egregious and hostile manner. The comments here do not meet that standard. The judge did not use demeaning language or heap abuse on anybody”) (internal quotations omitted); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant raises allegations against the Clerk of Court or other court personnel, such allegations are dismissed because this misconduct complaint procedure applies only to federal judges. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

Complainant has now filed three separate misconduct complaints against a total of six judges, raising allegations that have been dismissed as merits-related, unfounded or non-cognizable. Complainant is cautioned that a “complainant who has filed repetitive, harassing, or frivolous complaints, or has otherwise abused the

complaint procedure, may be restricted from filing further complaints.”

Judicial-Conduct Rule 10(a); see also In re Complaint of Judicial Misconduct, 552

F.3d 1146, 1148 (9th Cir. Jud. Council 2009).

**DISMISSED.**