

FILED

NOV 16 2017

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 17-90080

ORDER

THOMAS, Chief Judge:

Complainant, an attorney representing himself in a civil case, has filed a misconduct complaint against the district judge assigned to the underlying case. To the extent complainant alleges that the judge improperly denied his motion for recusal, complainant offers no evidence that the judge failed to recuse for an improper purpose, so this charge must be dismissed as merits-related. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Judicial Misconduct, 647 F.3d 1181 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 11(c)(1)(B).

Complainant also alleges that the judge must have colluded or had improper ex parte communications with the opposing party, because the opposing party was aware of a recusal motion filed by complainant before it appeared on the docket. Complainant raised this issue in a subsequent motion to recuse, which the district judge denied as factually unsupported, noting that the opposing party knew of the earlier recusal motion because complainant filed an identical document in a related

case on an earlier date. Complainant presents no objectively verifiable evidence of collusion or ex parte communications, and these speculative allegations must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); 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”); In re Complaint of Judicial Misconduct, 583 F.3d 598 (9th Cir. Jud. Council 2009); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.