

FILED

JAN 22 2019

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 18-90158

ORDER

THOMAS, Chief Judge:

Complainant, a pro se plaintiff in a copyright infringement case, 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 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 claims that the judge conspired with defendants to change a hearing date and caused complainant to miss an unrelated court hearing in another state. Complainant further alleges that the judge had a "conflict of interest" because she presided over a previous copyright infringement case involving the same subject matter. Complainant alleges that the judge falsely stated during a hearing that she was unfamiliar with the defendants' disputed work, and would need to take a motion to dismiss under submission. Complainant contends that the judge should have been acquainted with the disputed work because she presided over the previous matter. However, complainant provides no objectively verifiable evidence to support claims of conspiracy, conflict of interest, or other misconduct, and so these vague and conclusory allegations are dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 715 F.3d 747, 749 (9th Cir. Jud. Council 2013) ("As we have frequently held, adverse rulings, standing alone, are not proof of misconduct"); In

re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009)

(“complainant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.