

**FILED**

MAR 16 2021

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

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 20-90120

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se litigant, 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[s] 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 alleges the judge disregarded the law concerning the unauthorized practice of law. In support of this allegation, complainant argues that the judge denied complainant's request to retain counsel for limited purposes. She also argues that the judge allowed her to file a complaint which included a derivative cause of action for a limited liability company even though complainant is not a licensed attorney. This allegation is related to the merits of the case and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009). Additionally, a review of the record reveals that the judge informed complainant on multiple occasions that she is a pro se litigant, not a licensed attorney, and that if she elects to retain counsel, her counsel must enter a full appearance rather than for limited purposes as complainant wanted.

Complainant next alleges that a clerk committed a "misprison of violation," however, the misconduct procedure does not apply to court staff. See In re Complaint of Judicial Misconduct, 632 F.3d 1287, 1288 (9th Cir. Jud. Council 2011); Judicial-Conduct Rule 4.

Complainant also alleges that the judge intimidated complainant by threat of retaliation and actual retaliation. Complainant argues that in an order denying complainant's sanctions motion, the judge cautioned complainant against impugning court staff based on speculation. Complainant believes that the judge's warning is a form of retaliation. Adverse rulings, standing alone, are not proof of misconduct. See In re Complaint of Judicial Misconduct, 583 F.3d 598, 598 (9th Cir. 2009). Furthermore, a judge may caution parties against behavior that could be harmful to court staff. Because complainant offers no other support for these allegations, these charges must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the judge had an apparent bias against pro se litigants and should have disqualified herself based on that bias. This allegation is related to the merits and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 605 F.3d 1060, 1061–62 (9th Cir. Jud. Council 2010) (“[A]lleg[ations] that the judge should have recused himself ... relate[ ] directly to the merits of the judge's rulings and must be dismissed.”)

**DISMISSED.**