

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT****IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

Nos. 21-90113 and 21-90114

ORDER**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district judge and a magistrate 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 judges 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.

This misconduct complaint arises out of complainant's two employment discrimination cases. In her misconduct complaint, complainant alleges that the magistrate judge filed false reports and violated basic rules of procedure and evidence. Complainant provides no objectively verifiable evidence of this allegation. Additionally, this complaint is related to the merits of the case and must be dismissed on that ground. See 28 U.S.C. § 352(b)(1)(A)(ii); In re Complaint of Jud. Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing allegations that a district judge and magistrate judge made various improper rulings as merits-related); Judicial-Conduct Rule 11(c)(1)(B).

Next, complainant alleges that the magistrate judge was abusive and harassing in her rulings. A review of the record does not reveal any language that is abusive or harassing, and this allegation must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Jud. Misconduct, 761 F.3d 1097 (9th Cir. Jud. Council 2016) (dismissing as unsupported allegations that a

judge's comments were rude, derogatory, or intemperate because the judge did not use demeaning language or heap abuse on anyone).

Complainant also alleges that the magistrate judge's rulings, which were aided by the district judge, were retaliatory and intended to protect the corporate system of discrimination. Complainant offers no objectively verifiable evidence in support of this allegation, which must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(C).

Finally, complainant alleges that both judges may have some association with the defendants in the two underlying cases. In support of this allegation, complainant points to the judges being previously assigned to other cases related to the defendants. Because this charge lacks sufficient evidence to raise an inference that misconduct has occurred, it must be dismissed as unfounded. See 28 U.S.C § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 650 F.3d 1370, 1372 (9th Cir. Jud. Council 2013) (dismissing complaint for lack of specific evidence to satisfy complainant's obligation in alleging misconduct); Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.