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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 22-90069

ORDER

MURGUIA, Chief Judge:

Complainant, a litigant, has filed a complaint of judicial misconduct against a bankruptcy 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 alleges that the bankruptcy judge was unethical and otherwise improper throughout his bankruptcy proceedings. In support of this allegation, complainant states that the judge blatantly disregarded complainant's Constitutional Rights and improperly gave legal advice to a novice bankruptcy attorney. However, complainant fails to provide any objectively verifiable evidence in support of these allegations, which must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii) (listing reasons the chief judge may decide to dismiss the complaint, including claims that are frivolous or lacking sufficient evidence to raise an inference that misconduct has occurred); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 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 the bankruptcy judge colluded with various parties throughout the case. Specifically, complainant states that the judge colluded with the trustee by allowing the trustee to contact an online blog editor

who defamed complainant and further allowed the online blog editor to join a 341(a) meeting. Complainant also states that the judge knowingly permitted plaintiff's counsel to delete interrogatories sent by the complainant. Complainant again fails to provide any objectively verifiable evidence in support of these conclusory allegations, which must be dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii) (listing reasons the chief judge may decide to dismiss the complaint, including claims that are frivolous or lacking sufficient evidence to raise an inference that misconduct has occurred); In re Complaint of Judicial Misconduct, 900 F.3d 1163 (9th Cir. Jud. Council 2018) (dismissing as unfounded allegations that subject judges engaged in racketeering, conspiracy, and other criminal acts because complainant failed to provide objectively verifiable evidence in support of these allegations); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the judge made several improper decisions throughout the case. Complainant states that the judge improperly cancelled a call because he was no longer allowing telephonic appearances even though the plaintiff's counsel was later allowed to make a telephonic appearance. Complainant also claims that the judge improperly sanctioned complainant because complainant did not understand how to make a telephonic appearance. Complainant argues that the judge did not enter complainant's motion to dismiss

into the records because the judge was hiding his actions from public record and obfuscating the truth. These allegations are related to the merits of the case and must be dismissed on that ground. See 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including claims directly related to the merits of a decision); In re Complaint of Judicial Misconduct, 838 F.3d 1030 (9th Cir. Jud. Council 2016) (dismissing as merits-related allegations that a district judge and magistrate judge made various improper rulings in a civil case).Judicial-Conduct Rule 11(c)(1)(B). Additionally, there is nothing in the underlying record that indicates that any of the above events occurred.

Because the Judicial-Conduct Rules apply only to active federal judges, any allegations complainant raises against the trustee are not reviewable under the rules and must therefore be dismissed. See Judicial-Conduct Rule 4.

DISMISSED.