

FILED

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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**

Nos. 25-90006, 25-90007,
25-90008

ORDER

MURGUIA, Chief Judge:

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

Complainant filed multiple lawsuits in the district court, which were assigned at different times to a district judge and two magistrate judges. Complainant alleges that the three subject judges “did not conduct any inquiry or review of documentary evidence” and failed to address fraud committed by opposing counsel. A review of the relevant records demonstrates that each of these subject judges wrote thoughtful, detailed orders, citing the evidence. Each of the subject judges also considered, but ultimately rejected, complainant's allegations that opposing counsel had committed fraud. Accordingly, these allegations are dismissed as belied by the record and because complainant provides no objectively verifiable evidence to support his claims. *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 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). To the extent complainant alleges that the subject judges committed misconduct by finding that opposing counsel had not committed fraud, the allegation is dismissed because it relates directly to the merits of the judges’ decisions. *See* 28 U.S.C. § 352(b)(1)(A)(ii) (listing reasons the chief judge may decide to dismiss the complaint, including that claims are 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 judge made various improper rulings in a case); Judicial-Conduct Rule 11(c)(1)(B).

Finally, complainant alleges that one of the magistrate judges committed misconduct by distributing certain documents that the judge had previously ordered sealed. Although these documents appear to have been provided beyond the scope initially intended, the magistrate judge acknowledged the “oversight” and immediately remedied the mistake, ensuring that minimal harm occurred. Complainant provides nothing to suggest this was anything more than an honest and minor error. Accordingly, this allegation is dismissed because the conduct, “even if true, is not prejudicial to the effective and expeditious administration of the business of the courts.” *See* Judicial-Conduct Rule 11(c)(1)(A).

DISMISSED.