

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**

No. 25-90186

ORDER

MURGUIA, 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 the 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 is a defendant and cross-plaintiff in an interpleader action involving his former attorney and money from a personal injury settlement.

Complainant alleges that the district judge committed misconduct in a number of ways while presiding over the underlying case, including refusing to rule on complainant's motions to dismiss, misapplying state and federal law, and suppressing evidence by striking documents from the record. The docket demonstrates that both of complainant's motions to dismiss were denied in reasoned orders. Accordingly, that portion of the allegation is dismissed as belied by the record.

The docket also reflects that the judge found that many of complainant's filings did not comply with the local civil rules and therefore should not be accepted. Complainant challenges the judge's application of the local rules, as well as state and federal law. "Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related. The phrase 'decision or procedural ruling' is not limited to

rulings issued in deciding Article III cases or controversies.” *See* Commentary on Rule 4. Accordingly, these allegations are dismissed because they seek to challenge the judge’s decisions, including the decision to reject certain documents as well as the judge’s determinations regarding jurisdiction and venue. *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 or procedural ruling); *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).

Next, complainant alleges that the judge suffered from a conflict of interest because the judge had been licensed by, and paid membership dues to, the state bar association. Complainant had previously filed a complaint with the state bar against his former attorney, who is the plaintiff and cross-defendant in the underlying matter. Complainant asserts, without explanation, that this situation created the appearance of partiality. Because complainant provides no objectively verifiable evidence to support this allegation, it is 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 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).

Finally, complainant alleges that the judge exhibited “coercive conduct” by rejecting a proposed resolution. The parties came to a tentative agreement to dismiss the case after participating in an Early Neutral Evaluation conference, but complainant disagreed with certain details in the proposed order drafted by the opposing party. Complainant does not describe any conduct or language by the judge that was coercive, and the record does not include any. Any allegation that the judge exhibited “coercive conduct” is dismissed as unfounded. *See id.* To the extent complainant challenges the judge’s handling of the proposed order, the allegation is dismissed as merits-related. *See* Judicial-Conduct Rule 11(c)(1)(B).

DISMISSED.