

**FILED**

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

MAR 5 2026  
MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

Nos. 25-90192, 25-90193,  
25-90213

**ORDER**

**MURGUIA**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against 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 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 filed two lawsuits against two credit reporting agencies. They were noted as related cases and referred to the magistrate judge for purposes of discovery. Complainant requested to attend a discovery hearing remotely, but the judge denied the request. When complainant failed to appear in person at the hearing, the judge issued an order to show cause regarding sanctions, ordered complainant to file a one-page written response, and scheduled an in-person hearing. Complainant again requested to appear at the hearing remotely, the judge again denied the request, and complainant again failed to appear.

Complaint Nos. 25-90192 and 25-90193

Complainant alleges that the judge committed misconduct by denying his request to appear remotely at both hearings, and that the denial restricted his right to access the courts. He further alleges that the judge had no legal basis to require a one-page written response to the order to show cause, or to threaten sanctions.

These allegations are dismissed because they seek to challenge the judge's decisions, including the decision to require in-person attendance at hearings, the

consideration of sanctions for failing to appear, and the appropriate length of the response to the order to show cause. *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). “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.

The allegation that complainant was denied access to the courts is dismissed as belied by the record and unfounded because complainant chose not to attend the hearings, despite being ordered to do so. *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).

Complainant next alleges that the judge applied the wrong legal standard when resolving a motion. This allegation is dismissed because it relates to the merits of a decision. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); Commentary on Rule 4.

Complainant next alleges that the judge was “sarcastic” and invited the defendants to attack his character during the discovery hearing. A review of the transcript reflects that the judge asked the defendants about their prior interactions with complainant, in an attempt to better understand why complainant was not present at the hearing and how to best proceed. The judge offered suggestions on how to conduct discovery and reminded the defendants that discovery “goes both ways,” and the parties would “need to start cooperating.” The judge noted a preference for resolving disputes “sooner rather than later,” and gave a hypothetical example of a dispute: complainant wanting to take “1,000 depositions.” Complainant alleges that this example “mocked” him. However, the record does not support an allegation that the judge used sarcasm or mockery. The judge’s conduct was “not prejudicial to the effective and expeditious administration of the business of the courts.” *See* Judicial-Conduct Rule 11(c)(1)(A). Further, judicial remarks that express “impatience, dissatisfaction, annoyance, and even anger, that are within the bounds of what imperfect men and

women, even after having been confirmed as federal judges, sometimes display” do not establish bias or partiality. *Liteky v. United States*, 510 U.S. 540, 555-56 (1994).

Complainant next alleges that the judge failed to timely rule on a motion. Although he does not identify the motion by date or docket number, it appears he is referring to his discovery brief. Although the parties had been ordered to file a joint brief regarding discovery, complainant filed his independently. After the discovery hearing, and within three months of complainant’s brief, the judge resolved the discovery issues. The record does not reflect undue delay. Without a showing of an “improper motive in delaying a particular decision or a habitual delay in a significant number of unrelated cases,” delay alone is not cognizable misconduct. *See* Judicial-Conduct Rule 4(b)(2). Despite complainant’s belief that the delay was “intentional,” he has not demonstrated an improper motive. Because there is no indication of misconduct by the district judge, this allegation is dismissed as unfounded. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

#### Complaint No. 25-90213

After complainant filed the first two misconduct complaints, he filed a third and explained that it included “new, distinct acts” that occurred after his original

filings. However, the third complaint largely reiterates the same allegations already addressed. Any such allegations are dismissed as duplicative.

Complainant emphasizes that the judge granted a motion filed by the defendant within one day, while complainant's own motion took several weeks to resolve. Complainant alleges this "reflects an unmistakable bias in favor of the defendant." However, "[a]dverse rulings are not proof of bias." *In re Complaint of Judicial Misconduct*, 650 F.3d 1370, 1371 (9th Cir. Jud. Council 2011).

Accordingly, this allegation is dismissed as unfounded and as an impermissible challenge to the judge's decisions, including the timing of resolving pending motions. *See* 28 U.S.C. § 352(b)(1)(A)(ii), (iii); Judicial-Conduct Rule 11(c)(1)(B), (D).

**DISMISSED.**