

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. 24-90010

ORDER

MURGUIA, Chief Judge:

Complainant, an attorney, 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.

In this complaint (No. 24-90010), complainant alleges that the bankruptcy judge issued an order to show cause with retaliatory intent. The complainant had previously filed a complaint of judicial misconduct against the bankruptcy judge (No. 23-90148). About one month after Complaint No. 23-90148 was filed, the bankruptcy judge issued an order that, in complainant's view, was overly broad, included an unwarranted threat of sanctions, and included other factors that suggested retaliation.

A limited inquiry was conducted pursuant to Judicial-Conduct Rule 11(b). This included requesting and considering a written response from the bankruptcy judge, as well as reviewing other available information. This inquiry revealed insufficient evidence of retaliation "to raise an inference that misconduct has occurred." See Judicial-Conduct Rule 11(c)(1)(D). Accordingly, this allegation is denied 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).

DISMISSED.