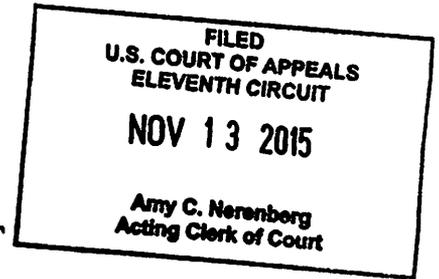


**CONFIDENTIAL**  
**BEFORE THE CHIEF JUDGE**  
**OF THE ELEVENTH JUDICIAL CIRCUIT**



**Judicial Complaint No. 11-15-90120**

**IN THE MATTER OF A COMPLAINT FILED BY \_\_\_\_\_**

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IN RE: The Complaint of \_\_\_\_\_ against \_\_\_\_\_, U.S. District Judge for  
the U.S. District Court for the \_\_\_\_\_ District of \_\_\_\_\_, under the Judicial  
Conduct and Disability Act of 1980, Chapter 16 of Title 28 U.S.C. §§ 351-364.

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**ORDER**

\_\_\_\_\_ (“Complainant”) has filed this Complaint against United States District Judge \_\_\_\_\_ (the “Subject Judge”), pursuant to Chapter 16 of Title 28 U.S.C. § 351(a) and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (“JCDR”).

**Background**

The record shows that in February 2015 Complainant filed a civil rights action against a city. He also filed a motion to proceed in forma pauperis, which the Subject Judge granted. In March 2015 Complainant filed an amended complaint raising, among other things, claims of entrapment and extortion relating to his receipt of a parking ticket and proceedings in traffic court. He later filed a motion for summary judgment. In May 2015 the Subject Judge denied Complainant’s motion for summary judgment, finding that it was premature and that he failed to show there were no genuine issues of material fact.

In June 2015 the Subject Judge issued a sua sponte order dismissing Complainant’s amended complaint without prejudice, finding that it failed to state a claim on which relief could be granted. The Subject Judge determined that the complaint failed to comply with the federal pleading standards set forth in Fed. R. Civ. P. 8(a)(2), and that Complainant failed to plead sufficient factual content to allow the court to draw a reasonable inference that the defendant was liable.

After that, Complainant filed a “Motion for Leave to Enter” and a proposed second amended complaint. The Subject Judge denied the Motion for Leave to Enter, finding that the proposed second amended complaint failed to comply with the federal pleading standards. Complainant then filed another Motion for Leave to Enter and a proposed second amended complaint. In August 2015 the Subject Judge denied the motion, again finding that the proposed complaint failed to comply with the federal

pleading standards. The Subject Judge also dismissed the case with prejudice after concluding that a more carefully drafted complaint would not state a claim for relief.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant discusses the merits of his case and asserts that his claims were supported by adequate evidence. He then contends that the Subject Judge abused her discretion and “rules in an irrational manner.” Complainant asserts that the Subject Judge denied him his due process rights and deliberately denied him his right of access to the courts by requiring him to file a “proper federal pleading” and by holding a pro se litigant to a standard that he “never learned.” Complainant states, “Instead of accommodating to the lack of legal knowledge of lay persons who simply cannot afford a lawyer, this judge discriminates against this litigant who appears pro se and in propria persona, dismissing his petitions, motions or pleading out of hand, regardless of their merits.” He attached two documents to his Complaint.

### Discussion

Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include “an allegation that is directly related to the merits of a decision or procedural ruling.” The Rule provides that “[a]n allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse, without more, is merits-related.” Id. The “Commentary on Rule 3” states in part:

Rule 3(h)(3)(A) tracks the Act, 28 U.S.C. § 352(b)(1)(A)(ii), in excluding from the definition of misconduct allegations “[d]irectly related to the merits of a decision or procedural ruling.” This exclusion preserves the independence of judges in the exercise of judicial power by ensuring that the complaint procedure is not used to collaterally attack the substance of a judge’s ruling. Any allegation that calls into question the correctness of an official action of a judge—without more—is merits-related.

To the extent Complainant’s allegations concern the substance of the Subject Judge’s official actions, findings, and orders entered in the case, the allegations are directly related to the merits of the Subject Judge’s decisions or procedural rulings. Apart from the decisions or procedural rulings that Complainant challenges, he provides no credible facts or evidence in support of his allegations that the Subject Judge deliberately violated his rights, discriminated against him, or otherwise engaged in misconduct.

The allegations of this Complaint are “directly related to the merits of a decision or procedural ruling,” JCDR 11(c)(1)(B), and the Complaint “is based on allegations lacking sufficient evidence to raise an inference that misconduct has occurred or that a disability exists,” JCDR 11(c)(1)(D). For those reasons, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and (iii), and Rule 11(c)(1)(B) and (D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, this Complaint is **DISMISSED**.



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Chief Judge