

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
JAN 29 2016  
Amy C. Nerenberg  
Acting Clerk of Court

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

**Judicial Complaint Nos. 11-15-90149 through 11-15-90154**

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

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IN RE: The Complaint of \_\_\_\_\_ against U.S. Magistrate Judges \_\_\_\_\_ and \_\_\_\_\_ and U.S. District Judge \_\_\_\_\_ of the U.S. District Court for the \_\_\_\_\_ District of \_\_\_\_\_, and U.S. Circuit Judges \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of the U.S. Court of Appeals for the \_\_\_\_\_ Circuit, 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 Magistrate Judges \_\_\_\_\_ and \_\_\_\_\_, United States District Judge \_\_\_\_\_, and United States Circuit Judges \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ (collectively, “the Subject Judges”), 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 August 2012 a corporation filed a lawsuit against Complainant and two other defendants, raising claims of trademark infringement, unfair competition, and cybersquatting. Following mediation, in April 2013 the parties filed a Stipulation of Dismissal. Judge \_\_\_\_\_, who was then a district judge, entered a Final Judgment Upon Consent (the Consent Judgment), and the case was closed.

In June 2013 the plaintiff moved to reopen the case and for an order to show cause why the defendants should not be held in contempt for failure to comply with the Consent Judgment. The plaintiff later filed a second motion seeking to hold Complainant and others in contempt. In August 2013 Judge \_\_\_\_\_ entered an order directing the defendants to show cause why they should not be held in contempt. In December 2013 Judge \_\_\_\_\_ issued a report and recommendation in which he recommended, among other things, that the plaintiff’s motions to hold the defendants and others in contempt be granted in part. The next month, Judge \_\_\_\_\_ adopted the report and recommendation, finding that Complainant and others were in contempt of the Consent

Judgment and determining that they were jointly and severally liable for liquidated damages.

Complainant filed a notice of appeal as to Judge \_\_\_\_\_ order adopting the report and recommendation. In May 2014 Judge \_\_\_\_\_ entered an order granting a motion for reconsideration and for sanctions that the plaintiff had filed, finding that Complainant had exhibited bad faith. The order awarded attorney's fees and costs to the plaintiff. A final judgment was entered in favor of the plaintiff and against Complainant and others in May 2014 and an amended judgment was entered in June 2014. Complainant filed an amended notice of appeal.

The case was reassigned to Judge \_\_\_\_\_ as the presiding district judge and to Judge \_\_\_\_\_ as the presiding magistrate judge. After additional proceedings, Complainant filed a second amended notice of appeal as to various orders. In December 2014 Judge \_\_\_\_\_ issued an omnibus report and recommendation on numerous contempt motions filed by the plaintiff and Complainant, recommending that the plaintiff's motions be granted and that Complainant's be denied. The next month, Judge \_\_\_\_\_ adopted the report and recommendation, denied Complainant's motions for contempt, granted the plaintiff's motions for contempt, imposed monetary sanctions on Complainant, and ordered other relief. After that, both parties filed multiple motions seeking various types of relief, and Complainant filed another notice of appeal. In June 2015 Judge \_\_\_\_\_ entered an order denying Complainant's motions, deeming him a "vexatious litigant," and enjoining him from submitting future filings without permission of the court.

In Complainant's first appeal, in January 2015 a panel of this Court on which Judges \_\_\_\_\_ and \_\_\_\_\_ sat granted in part and denied in part a motion to dismiss that the appellee had filed. The panel dismissed the appeal as to certain orders because the second amended notice of appeal was untimely as to those orders and dismissed the appeal to the extent it included orders not in existence at the time the second amended notice of appeal was filed. In July 2015 a panel of this Court on which Judges \_\_\_\_\_ and \_\_\_\_\_ sat affirmed various orders entered by the district court, holding that Complainant had abandoned his arguments concerning the orders properly before this Court on appeal, and that, in any event, the district court did not abuse its discretion or commit error. In Complainant's second appeal, in June 2015 Judge \_\_\_\_\_ issued an order denying a motion to stay that Complainant had filed and denying the appellee's construed motion to consolidate the appeals.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant asserts that the Subject Judges deprived him of his rights, violated his rights, "engaged in Racketeering/Obstruction of Justice and Misrepresented Facts and Spoiled Evidence and

Abused Judicial Discretion.” Complainant states that he believes that the Subject Judges “did not apply the law as it is written and were not fair and were not in compliance with our constitution.” He states that he believes Judge \_\_\_\_\_ “is an activist judge” who “attempted to craft reasoning” to justify her preferred outcome. Complainant asserts that other judges “in an act of brotherhood further crafted reasoning to justify [Judge] \_\_\_\_\_ violations and non-compliance, violating the law themselves.” Finally, Complainant asserts that the Subject Judges’ actions were illegal and that he “believe[s] them to be Intentional and or Negligent inflictions of emotional distress.”

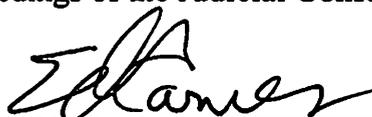
### Discussion

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 Judges’ official actions, findings, reports and recommendations, and orders entered in the case and on appeal, the allegations are directly related to the merits of the Subject Judges’ decisions or procedural rulings. Apart from the decisions or procedural rulings with which Complainant takes issue, he provides no credible facts or evidence in support of his allegations that the Subject Judges 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**.



\_\_\_\_\_  
Chief Judge