

JAN 10 2017

David J. Smith  
Clerk

**CONFIDENTIAL**

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

**Judicial Complaint Nos. 11-16-90096 and 11-16-90097**

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

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IN RE: The Complaint of \_\_\_\_\_ against U.S. Magistrate Judge \_\_\_\_\_  
and U.S. District Judge \_\_\_\_\_ of 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 Magistrate Judge \_\_\_\_\_ and United States District Judge \_\_\_\_\_ (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”).

As an initial matter, after Complainant filed his Complaint, he filed two supplemental statements. The filing of those supplemental statement is permitted. See 11th Cir. JCDR 6.7.

Background

The record shows that Complainant filed a lawsuit in state court against an insurance company, and in June 2015 the defendant removed the case to federal court. In October 2015 Complainant filed an amended complaint raising multiple claims, and the defendant moved to strike or dismiss the amended complaint. In February 2016 Judge \_\_\_\_\_ issued an order dismissing the amended complaint without prejudice for failure to comply with the court’s local rules or the Federal Rules of Civil Procedure. After that, Complainant filed a second amended complaint raising various claims, and the defendant filed a motion to dismiss. In June 2016 Judge \_\_\_\_\_ dismissed the second amended complaint with prejudice due to Complainant’s failure to comply with local and federal rules, and she directed the clerk of court to, among other things, “close the file.” Complainant filed motions to reopen the case and third amended complaints, and Judge \_\_\_\_\_ denied the motions to reopen and ordered the third amended complaints stricken.

The record also shows that Complainant filed in state court a lawsuit against two attorneys and a law firm, and the defendants removed the case to federal court in June 2015. The defendants filed a motion to dismiss the complaint, and in November 2015 Judge \_\_\_\_\_ dismissed the complaint without prejudice for failure to comply with local and federal rules. Complainant then filed an amended complaint, and the defendants moved to dismiss it. In May 2016 Judge \_\_\_\_\_ dismissed the amended complaint without prejudice for failure to comply with the rules. Complainant then filed a second amended complaint raising various claims. In August 2016 Judge \_\_\_\_\_ dismissed the case due to Complainant's failure to comply with the court's orders and the rules, and she directed the clerk to, among other things, close the file. Complainant filed a motion to reopen the case, which Judge \_\_\_\_\_ denied.

### Complaint

In his Complaint of Judicial Misconduct or Disability, Complainant appears to take issue with the orders entered in his cases, states the Subject Judges were "wrong" to "close the file," and complains that they did not read the exhibits he filed. Complainant also appears to discuss the merits of his underlying cases. He attached documents to his Complaint.

### Supplements

In Complainant's first supplemental statement, he appears to take issue with the actions of entities and individuals other than the Subject Judges, and he attached various documents to the supplement. In his second supplemental statement, Complainant also appears to take issue with the actions of other entities and individuals, and he states that the Subject Judges did not read documents that he submitted. He attached various documents to his second supplement.

### Discussion

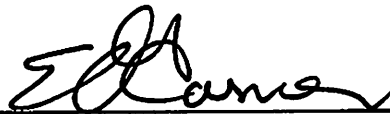
Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States provides that cognizable misconduct does not include "an allegation that is directly related to the merits of a decision or procedural ruling." The Rule provides that "[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.

All of Complainant's allegations concern the substance of the Subject Judges' official actions and orders entered in the cases, and the allegations are directly related to the merits of the Subject Judges' decisions or procedural rulings.

The allegations of this Complaint are "directly related to the merits of a decision or procedural ruling," JCDR 11(c)(1)(B). For that reason, pursuant to Chapter 16 of Title 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) 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