

CONFIDENTIAL

**FILED
U.S. COURT OF APPEALS
ELEVENTH CIRCUIT**

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

JAN 06 2022

**David J. Smith
Clerk**

Judicial Complaint No. 11-21-90132

IN THE MATTER OF A COMPLAINT FILED BY _____

IN RE: The Complaint of _____ against United States District Judge _____ of the United States 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.

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 July 2021 Complainant filed a civil complaint against a company, alleging in part that the defendant’s employees stole her money and that the defendant violated its user agreement. The next month, the defendant filed a motion to compel arbitration and to stay the case, arguing Complainant had signed a user agreement that provided for mandatory arbitration of disputes. Complainant filed a response in which she argued arbitration was not warranted because she signed the user agreement as a result of undue influence and misrepresentations.

In September 2021 the Subject Judge issued an order granting the defendant’s motion to compel arbitration and to stay the case. The Subject Judge stated that Complainant alleged the defendant violated the terms of its user agreement and determined that the arbitration agreement was valid and that Complainant presented no basis to assert the defense of undue influence. After that, Complainant filed a motion for reconsideration, and in December 2021 the Subject Judge entered an order denying the motion.

Complaint

In her Complaint of Judicial Misconduct or Disability, Complainant alleges the Subject Judge violated multiple canons of the Code of Conduct for United States Judges and engaged in conduct that undermined public confidence in the integrity and

impartiality of the judiciary. She asserts she has “reasonable grounds to suspect” that the defendant colluded with or bribed the Subject Judge to falsify facts and make a decision in the defendant’s favor or that the Subject Judge has a financial interest in the company.

Complainant alleges that, in the Subject Judge’s September 2021 order, she: (1) made a “biased and unfair decision” on the basis of Complainant’s signing of an unconscionable arbitration agreement that was the result of undue influence; (2) deliberately and intentionally concealed Complainant’s allegations of fraud and grand theft by employees; (3) failed to consider all of Complainant’s arguments and used “different law” in addressing the complaint to make a biased decision; (4) deliberately assisted the defendant in hiding crimes; (5) made a “wanton and malicious” decision without all the facts; (6) deliberately delayed ruling on Complainant’s motion for reconsideration so she could not appeal the “wrong decision”; and (7) obstructed Complainant’s efforts to obtain justice. She attached documents to her Complaint.

Discussion

Rule 4(b)(1) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States, “Allegations Related to the Merits of a Decision or Procedural Ruling,” provides in part that “[c]ognizable misconduct does not include an allegation that calls into question the correctness of a judge’s ruling, including a failure to recuse.” The “Commentary on Rule 4” states in part:

Rule 4(b)(1) 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 authority by ensuring that the complaint procedure is not used to collaterally call into question the substance of a judge’s decision or procedural ruling. Any allegation that calls into question the correctness of an official decision or procedural ruling 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, rulings, and orders in the above-described 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, she provides no credible facts or evidence in support of her claims that the Subject Judge violated the Code of Conduct for United States Judges, acted with an illicit or improper motive, colluded with or was bribed by the defendant, was biased, 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**.

/s/ William H. Pryor Jr.

Chief Judge