

FEB 07 2023

David J. Smith
Clerk

CONFIDENTIAL

Before the Chief Judge of the
Eleventh Judicial Circuit

Judicial Complaint No. 11-23-90002

ORDER

An individual has filed a Complaint against a United States bankruptcy judge under the Judicial Conduct and Disability Act of 1980, 28 U.S.C. §§ 351–364, and the Rules for Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States.

Background

The record shows that in October 2020 Complainant filed a voluntary petition for Chapter 7 bankruptcy. The same month, a company filed an adversary complaint against Complainant to determine non-dischargeability of debt owed to it and alleged that Complainant, a former employee, improperly used company funds to benefit herself and others. In September 2021, Complainant moved to stay the case and to disqualify the plaintiff's attorneys due to unethical conduct. The Subject Judge denied the motion.

The next month, the plaintiff filed a notice that Complainant had failed to appear for her deposition and that during the time she was to be deposed, she posted several videos on a social media platform, including audio recording of hearings before the court. The Subject Judge then entered an order directing Complainant to show cause as to why she should not be sanctioned for allegedly broadcasting a recording of a court proceeding on social media. After a hearing, the Subject Judge entered an order favorably discharging the show-cause order.

At a hearing in January 2022, when addressing the completion of Complainant's deposition, the Subject Judge stated:

So I'm going to pull a page out of the Clinton litigation and I am going to sit here while you all depose [Complainant], and I will be the arbiter. If anybody is raising their voice, if anyone is ducking a question, if anyone is not responding and it's not a fair ground for not responding according to the rules, or if anyone mis-cites an answer, I will be here to call balls and strikes on that.

During the hearing, counsel for the plaintiff noted that, in connection with a motion for sanctions they had filed, they sought a trial on the issue whether Complainant was posting on social media when she should have been in the courthouse. After the hearing, the Subject Judge entered an order scheduling a trial concerning Complainant's activity on social media. In February 2022, Complainant filed a notice in which she acknowledged "the Court's

appearance during” her deposition and “show[ed] gratitude for her using her personal time to serve as arbiter to ensure a smooth deposition between the parties” The record also shows that the Subject Judge was present for the deposition of the plaintiff’s principal.

In March 2022, Complainant filed a motion for a protective order for the deposition of a certain witness, stating in part that the plaintiff’s notice of taking deposition was “designed to upset” the witness by not using her married name. In an order dated March 10, 2022, the Subject Judge denied the motion as frivolous and “reflect[ed] yet another instance of the parties’ miscommunicating and talking past each other.” The Subject Judge’s order provided, “Defendant is directed to immediately cease and desist the sniping, nitpicking, and stonewalling and shall work collaboratively with Plaintiff’s counsel to figure out a way so that the tasks remaining before trial are accomplished.” The order also stated that, to prevent the filing of “any more delay-inducing or near- or totally meritless motions,” Complainant could not file any motions or papers seeking affirmative relief without first obtaining the court’s permission.

Afterward, the Subject Judge issued an order directing Complainant to turn over her cellular telephone to a company for forensic analysis and extending the screening injunction to provide that any documents Complainant submitted that referenced certain state-court litigation or an alleged attempt by the plaintiff’s counsel to require Complainant to produce her “rapist” for a

deposition would be summarily stricken from the record. In August 2022, Complainant filed a motion for leave to file a motion to disqualify the plaintiff's expert witness due to a failure to disclose a professional relationship with the plaintiff and the plaintiff's principal. The Subject Judge denied the motion with prejudice, finding it violated a previous order that prohibited her from filing motions pertaining to the expert. In addition, due to Complainant's failure to comply with the court order, the Subject Judge extended the scope of the screening injunction and required any request by Complainant for affirmative relief to be endorsed by an attorney admitted to practice before the court.

At hearing in September 2022, the Subject Judge noted that Complainant's sister had contacted her chambers and stated that Complainant had been taken to the hospital due to an inability to speak. An attorney for the plaintiff then made the following statements: "you've known me for many years," "What's credible? This case is about lies and deceit," "She has been insulting to every one of us as we have gone through the case," and "You were at depositions. I can't believe -- you didn't say anything." The Subject Judge later stated:

So, I need to have a plan to finish this trial that would give her an opportunity to get cured. And, by that, I mean if she has paranoia, she gets on medication. If she has panic attacks, she gets on medication. If she has a neurological disorder, she does whatever neurologists tell you to do for that with a treatment plan.

The Subject Judge also stated, “If she fails to control her health issues, then I’m just going to go ahead and have a trial and we’ll finish it with or without her. I have to give her an opportunity to control her health issues. I’m not a doctor.” In December 2022, the Subject Judge issued an order rejecting a filing Complainant made in violation of the extended screening injunction imposed against her. The adversary proceeding remains pending.

Complaint

Complainant alleges the Subject Judge engaged in misconduct that undermined public confidence in the integrity and impartiality of the judiciary and created a strong appearance of impropriety. She asserts the Subject Judge engaged in conduct including “habitual delay, favoritism of opposing counsel, threats of sanctions, and disregarding Complainant’s status as a disabled litigant . . . and a hostile temperament towards Complainant, including attempts to coerce Complainant to settle,” and that she treated Complainant “as a criminal” based on unsupported allegations.

Complainant asserts the Subject Judge and the plaintiff’s attorneys subjected her to “constant harassment and attacks on [her] character,” exhibited hostility, and disparaged, bullied, disregarded, and traumatized her. She states that the adversary proceeding was “premised on an employment relationship,” but the plaintiff admitted there was no proof of an employment relationship between Complainant and the plaintiff, and she asserts the Subject Judge “stated that she does not care about the (non-existent) employment relationship and only wants to determine who is

credible.” She states the Subject Judge never sanctioned or reprimanded the plaintiff’s attorneys despite their misconduct, and she contends the Subject Judge treated a motion to disqualify she filed as a motion *in limine* to foreclose her access to the court and protect the plaintiff.

Next, Complainant alleges the Subject Judge violated canons of the Code of Conduct for United States Judges by conveying the impression that the plaintiff’s attorneys, as officers of the court, were in a special position to influence her, and Complainant asserts that the language in the Subject Judge’s orders was influenced by opposing counsel. She contends that, at the hearing in September 2022, the Subject Judge “permitted opposing counsel to influence her,” disparaged Complainant when she was not present, and “invade[d] her privacy in respect of her health issues” in order to “humiliate her.” She also asserts that the Subject Judge held a hearing on September 30, 2022, while Complainant was absent and without giving her notice of the hearing.

Complainant states that the scheduling of a trial on the social-media related claims “changed the proceeding into a witch hunt against” her. She complains the Subject Judge sanctioned her even though the social-media related allegations were unfounded, and that the Subject Judge “refused to acknowledge” evidence that the allegations were unfounded. Complainant asserts the Subject Judge has a social media account where she follows one of the plaintiff’s attorneys and her law firm and where the attorney follows the Subject Judge, and that, prior to the proceeding, the

attorney “retweet[ed]” posts made by the Subject Judge, which shows there was a “social connection.” Complainant states she discovered one of the Subject Judge’s “court staff” followed her on a social media platform in violation of the Code of Conduct for United States Judges. She also contends the Subject Judge violated her constitutional right to privacy by ordering that she turn over her cell phone to a third party.

Complainant alleges the Subject Judge “served as arbitrator in this proceeding in violation of Canon 4,” and in an attachment to her Complaint, she asserts the Subject Judge violated Canon 4 by attending Complainant’s and the plaintiff’s principal’s depositions. Complainant states that in November 2022 the plaintiff contacted the Subject Judge’s courtroom administrator in a prohibited *ex parte* contact concerning availability. Complainant asserts that the Subject Judge’s “bias and willingness to foster Plaintiff’s abusive practices” was reflected in her March 10, 2022, order, when she noted that the parties had miscommunicated, but imposed a screening injunction only on Complainant. She contends the Subject Judge disregarded a federal statute, 11 U.S.C. § 102(1)(5), by failing to afford Complainant notice and an opportunity to be heard before placing restrictions on her ability to file and then extended the screening injunction after she raised legitimate objections. She also asserts the injunction violated her due process rights. She attached documents to her Complaint.

Discussion

Judicial-Conduct Rule 4(b)(1) 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 explains the rationale for this rule as follows:

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.

Canon 4A(4) of the Code of Conduct for United States Judges states, “A judge should not act as an arbitrator or mediator or otherwise perform judicial functions apart from the judge’s official duties unless expressly authorized by law.” The Commentary to Canon 4A(4) states, “This Canon generally prohibits a judge from mediating a state court matter, except in unusual circumstances (*e.g.*, when a judge is mediating a federal matter that cannot be resolved effectively without addressing the related state court matter).”

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant's allegations concern the substance of the Subject Judge's official actions, rulings, findings, and orders in the above-described adversary proceeding, the allegations are directly related to the merits of the Subject Judge's decisions or procedural rulings. Judicial-Conduct Rule 11(c)(1)(B). Complainant's remaining claims are based on allegations lacking sufficient evidence to raise an inference that the Subject Judge acted with an illicit or improper motive, was biased or partial, treated Complainant in a demonstrably egregious or hostile manner, attempted to coerce Complainant to settle, engaged in improper *ex parte* communications, had a conflict of interest, exhibited habitual delay in a significant number of unrelated cases, violated the Code of Conduct for United States Judges, or otherwise engaged in misconduct. Judicial-Conduct Rule 11(c)(1)(D). For these reasons, this Complaint is **DISMISSED**.

/s/ William H. Pryor Jr.
Chief Judge