

SEP 29 2023

David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint Nos. 11-23-90113 and 11-23-90114

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**ORDER**

An individual has filed a Complaint against a United States district judge and a United States magistrate 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 2023 Complainant filed a patent-infringement lawsuit against a company. Complainant later filed an amended complaint, and the defendant filed a motion to seal the amended complaint and other documents on the ground that the filings contained confidential information. The defendant also filed a motion to stay the case due to ongoing activity in another case involving the same parties, and the Subject District Judge granted the motion to stay. Complainant filed a motion for reconsideration, which the Subject District Judge denied. Complainant then

filed an emergency motion again seeking reconsideration, a motion for clarification, and a motion for leave to file during the stay.

The Subject District Judge entered an order denying the motion for reconsideration, stating in part, “Any further filings related to the merits of the litigation shall be stricken as improper.” The Subject District Judge also granted the motion for clarification and granted in part the motion for leave to file, stating in part that if the outstanding motion to seal was resolved in the defendant’s favor, the defendant “may subsequently file a Motion to Strike seeking related relief on similar grounds.” The Subject Magistrate Judge then entered an order granting in part the defendant’s earlier motion to seal and directing that several documents be sealed. Complainant filed a motion taking issue with multiple orders and seeking reconsideration. The Subject District Judge entered an order denying the motion. The order stated that Complainant’s filings had “assault[ed] the dignity of the Court” and that his “outbursts may be satisfying” to him, and it cautioned that the filing of additional frivolous or vexatious pleadings would result in sanctions.

Complainant then filed a motion to recuse the Subject Judges in which he took issue with orders issued in the case and alleged the Subject Judges were biased against him and in favor of the defendant, exhibited “demonstrable prejudice” against him, ignored arguments he made, denied him opportunities to be heard, failed to explain their orders, and intentionally cited the wrong local rule in an order. Complainant asserted that the Subject District Judge “personally attack[ed]” him in the order cautioning him

about sanctions, and that the Subject District Judge acted to protect another judge who had a financial interest in the case. Complainant contended that the Subject District Judge's statement, that "Any further filings related to the merits of the litigation shall be stricken as improper," proved that he was prejudiced against Complainant and intended to ignore the merits of the case. He also contended the Subject District Judge's statement that the defendant "may subsequently file a Motion to Strike seeking related relief on similar grounds" constituted "suggestive comments to the benefit of the Defendant," and he asserted the Subject District Judge "gleefully takes on defendant's frivolous arguments." He further contended that the Subject District Judge's statement that his "outbursts may be satisfying" to him suggested that he "is some kind of a sick person." Finally, he stated that the Subject District Judge infringed and "tramp[ed]" on his rights. The Subject District Judge denied the motion to recuse. The case remains pending.

### **Complaint**

Complainant states his Complaint is based on the allegations in the motion to recuse filed in the above-described case, and he attached the motion to his 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.

The Complaint fails to present a basis for a finding of misconduct. To the extent Complainant’s allegations concern the substance of the Subject Judges’ official actions, rulings, findings, and orders in the case, the allegations are directly related to the merits of the Subject Judges’ 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 Judges acted with an illicit or improper motive, were biased or otherwise not impartial, treated him in a demonstrably egregious and hostile manner, 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