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CONFIDENTIAL

David J. Smith  
Clerk

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-24-90241

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**ORDER**

An individual has filed a Complaint against a United States district 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 establishes that Complainant filed in state court a lawsuit against a company, and the defendant removed the case to federal court. Complainant then filed, among other things, a motion for leave to file an amended complaint seeking to add additional defendants, and the Subject Judge denied the motion to amend. The defendant filed a motion for summary judgment, and Complainant filed multiple motions seeking various types of relief, including two motions seeking disqualification of the defendant's attorneys due to alleged fraud on the court. After a hearing, the

Subject Judge entered an order ruling on various motions and denying the motions to disqualify the defendant's attorneys.

Complainant filed a motion to recuse the Subject Judge, contending the defendant and their attorneys' "deception and fraud" had compromised her impartiality, and the Subject Judge issued an order denying the motion to recuse and ruling on other motions. Complainant filed a notice of appeal and multiple other motions seeking various types of relief. The Subject Judge later issued an order staying and administratively closing the case pending the outcome of Complainant's appeal. Complainant's appeal has been clerically dismissed for want of prosecution.

### **Complaint**

Complainant takes issue with the Subject Judge's failure to recuse herself from the case, alleges she denied a motion to recuse because an appeal was pending despite knowing that no appeal was pending, and contends she "refuses to follow any federal mandates" to assign recusal motions to another judge or to provide a finding of fact as to the sufficiency of the affidavits. Complainant alleges the Subject Judge was biased, made biased statements, denied him due process, failed to report misconduct by opposing counsel, allowed counsel to engage in fraudulent behavior and make misrepresentations, improperly allowed an attorney to testify and file pleadings, refused to disqualify counsel when they were a required witness in the case, retaliated against him for bringing the misconduct to the Subject Judge's attention, aided the defendant in covering up fraud, "allowed the Defendants to act

disrespectfully (and held them to no standards),” refused to address the issue of the defendant’s “unclean hands,” disregarded evidence with the intention of helping the defendant, and acted as the defendant’s advocate by allowing it to take certain actions and disallowing most of the discovery he requested.

Complainant also alleges the Subject Judge “attempted to invent law” by classifying his amended complaint as a “renewal action,” took action to prevent him from adding defendants, contradicted her own orders, retaliated against him by sanctioning him for submitting untimely and improperly spaced briefs, held him to a higher standard than that the defendant’s attorneys, and interfered with his presentation of evidence. He contends the Subject Judge’s actions caused his case to become a “sham proceeding.” Finally, he alleges the court’s standing instructions are unconstitutional and violated the Federal Rules of Civil Procedure by preventing a party from filing a motion to compel without permission. He attached documents 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 Judge’s official actions, rulings, findings, and orders in the above-described case, 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 otherwise impartial, retaliated against him, 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