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David J. Smith  
Clerk

CONFIDENTIAL

Before the Chief Judge of the  
Eleventh Judicial Circuit

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Judicial Complaint No. 11-25-90019

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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 a civil complaint and an amended complaint against one defendant, as well as a motion for entry of default. The defendant filed an answer, and the Subject Judge denied the motion for default. The Subject Judge later entered an order dismissing the amended complaint without prejudice for lack of jurisdiction. Complainant then filed a second amended complaint, and the defendant filed an answer. After additional proceedings, the defendant filed a motion for summary judgment and, after a hearing before the Subject Judge, the defendant

filed a supplemental motion for summary judgment on the issue of *respondeat superior*. The Subject Judge entered an order granting the defendant's supplemental motion for summary judgment, and judgment was entered in the defendant's favor.

### **Complaint**

Complainant states the Subject Judge denied her motion for entry of default "without a valid legal basis by abusing his authority and an abuse of discretion," and allowed her case to proceed despite the "substantial evidence of fraud and misconduct perpetrated by the defendants and their legal counsel." She alleges the Subject Judge ignored "key issues" and "critical evidence," unnecessarily prolonged the case by failing to rule on her motion for a default judgment, exhibited bias and prejudice in his rulings, allowed the defendant to delay the case and "to manipulate the process to their advantage," "appeared to offer the defense an unfair advantage," directed defense counsel to refile a motion for summary judgment raising an argument that "was not part of the original claim and had been refuted by the overwhelming evidence," and violated her constitutional rights.

### **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.

Furthermore, Judicial-Conduct Rule 4(b)(2) provides that cognizable misconduct does not include “an allegation about delay in rendering a decision or ruling, unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases.” The “Commentary on Rule 4” states that “a complaint of delay in a single case is excluded as 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, 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. 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 not impartial, 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