

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

**In the Matter of**

**Judicial Council Complaint No. DC-15-90006**

**A Charge of Judicial  
Misconduct or Disability**

Before: GARLAND, *Chief Judge*.

## **ORDER**

Upon consideration of the complaint described herein, filed against a judge of the United States District Court for the District of Columbia, it is

**ORDERED** that the complaint be dismissed for the reasons stated in the attached Memorandum.

The Circuit Executive is directed to send copies of this Order and accompanying Memorandum to the complainant, the subject judge, and the Judicial Conference Committee on Judicial Conduct and Disability. *See* 28 U.S.C. § 352(b); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(g)(2).

  
Merrick B. Garland, Chief Judge

Date: 10/1/15

## MEMORANDUM

The complainant has filed a complaint of judicial misconduct against a judge of the United States District Court for the District of Columbia. For the following reasons, the complaint will be dismissed.

A plaintiff bank brought an action in the United States District Court for the District of Columbia, seeking foreclosure of property of the complainant. After the subject judge denied the complainant's "Motion to Strike Plaintiff's Deed of Appointment of Substitute Trustees" and "Motion to Strike Deed of Trust," the complainant filed the instant complaint of judicial misconduct.

The complainant asserts that the judge failed to provide reasons for his decisions and "ignored all of the material facts, federal and local law," "ignor[ed] all of the professional research," and "ignored the fact that the Plaintiff has fabricated critical documents." Because these allegations are "directly related to the merits of" the judge's decisions, they "must be dismissed." JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS RULE 11(c)(1)(B). *See* 28 U.S.C. § 352(b)(1)(A)(ii). The complainant maintains that, because several of the judge's orders allegedly did not contain reasoned explanations, "there is no valid argument that the elements of the complaint are merits-related." A challenge to a judge's decision on the ground that it does not contain a reasoned explanation, however, constitutes a challenge to the merits of that decision. (It should be noted that the subject judge subsequently issued a thirteen-page memorandum opinion explaining the grounds for granting the

plaintiff bank's motion for summary judgment and for dismissing the complainant's counterclaims.)

The complainant also alleges that the judge conspired with the plaintiff and had *ex parte* contacts with the plaintiff or its counsel. The complainant correctly notes that “[a]n allegation -- however unsupported -- that a Judge conspired with a banking institution and its counsel to make a particular ruling is not merits-related.” But while such an allegation may be cognizable because it is not merits-related, *see* JUDICIAL-CONDUCT RULE 3(h)(3)(A), the absence of support may nonetheless render it dismissible, *see id.* RULE 11(c)(1)(D).

The complainant asserts that the fact the judge “neglected to notify Complainant of the changes to [plaintiff’s] counsel implicates the Court as co-conspirator . . . . This appears also to indicate improper discussions with parties or counsel for one side by the Court.” Even if the complainant were not notified of plaintiff’s counsel, that would neither indicate a failure attributable to the subject judge, nor constitute evidence of a conspiracy with plaintiff’s counsel. A review of the court’s public docket, however, shows that it contains the notices of appearance of plaintiff’s counsel. The complainant also suggests that an indication of conspiracy can be found in the judge’s refusal to grant his motion to strike an allegedly “fraudulent Assignment of Deed of Trust.” Disagreement with the complainant’s challenge to that deed, however, is insufficient to suggest a conspiracy with the complainant’s opponents.

Finally, the complainant alleges that the judge “has shown a particular dislike for the Complainant by denying him access to the CM/ECF system.” The judge denied the complainant access because he failed to “demonstrate his capacity to assume the[] responsibility” of electronic filing. Denial on that basis does not constitute evidence of improper bias.

In sum, because some of the complainant’s allegations are “directly related to the merits” of the subject judge’s decisions, JUDICIAL-CONDUCT RULE 11(c)(1)(B), and the remainder “lack[] sufficient evidence to raise an inference that misconduct has occurred,” *id.* RULE 11(c)(1)(D), the complaint of misconduct must be dismissed, *id.* RULE 11(c)(1). *See* 28 U.S.C. § 352(b)(1)(ii), (iii).<sup>1</sup>

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<sup>1</sup> Pursuant to 28 U.S.C. § 352(c) and Judicial-Conduct Rule 18(a), the complainant may file a petition for review by the Judicial Council for the District of Columbia Circuit. Any petition must be filed in the Office of the Circuit Executive for the D.C. Circuit within 35 days of the date of the Circuit Executive’s letter transmitting the dismissal Order and this Memorandum. JUDICIAL-CONDUCT RULE 18(b).