

**FILED**

January 3, 2024

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-23-90084

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## MEMORANDUM

Complainant, a pro se litigant, alleges misconduct by the subject United States District Judge in a pending civil proceeding.

In May 2023, the judge granted the Defendant’s Motion to Stay Deadlines—including a settlement conference set for nine days later—pending entry of the magistrate judge’s Findings, Conclusion, and Recommendation, and eventual district judge ruling, on Defendant’s pending motion to dismiss.

Complainant complains that the judge’s decision to grant the Defendant’s Motion to Stay Deadlines was “prejudicial to the effective and expeditious administration of the business of the courts” because it stayed the settlement conference which would have “afforded both parties an opportunity to come to terms.” Noting that his Objection to the Defendant’s motion included a copy of a “proposal” to withdraw two pending misconduct complaints against the judge if the parties “were able to come to terms,”<sup>1</sup> complainant submits that the judge’s decision to overrule his Objection constitutes evidence of “retaliation” against him

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<sup>1</sup> Complainant is admonished that the complaint process does not affect the merits of pending litigation and therefore should not be used to gain an advantage in litigation.

for filing the two prior complaints and evidence of “favoritism” towards the Defendant.

To the extent that these allegations relate directly to the merits of a decision or procedural ruling, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, the conclusory assertions of retaliation and bias lack sufficient evidence to raise an inference that misconduct has occurred and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii).

Judicial misconduct proceedings are not a substitute for the normal appellate review process, nor may they be used to obtain reversal of a decision or a new trial.

This is complainant’s third merits-related and conclusory complaint in three months against the same judge regarding the same proceeding. Complainant is WARNED that should he file a further merits-related, conclusory, frivolous, or repetitive complaint, his right to file complaints may be suspended and, unless he is able to show cause why he should not be barred from filing future complaints, the suspension will continue indefinitely. *See* Rule 10(a), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An order dismissing the complaint is entered simultaneously herewith.



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Priscilla Richman  
Chief United States Circuit Judge

December 26, 2023