

**FILED**

February 5, 2025

Lyle W. Cayce  
Clerk

# Judicial Council for the Fifth Circuit

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Complaint Number: 05-25-90022

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## MEMORANDUM

Complainant, a pro se litigant, has filed a complaint alleging misconduct by the subject United States District Judge in a civil proceeding. Complainant also appears to allege that the judge is suffering from a disability that renders him “unable to discharge the duties of office.”<sup>1</sup>

Complainant complains that the judge denied his motion to remand the case to state court “even though he had no subject matter jurisdiction and there was not a diversity issue,” “inflat[ed] the demand number to \$75,000,000 [sic]” to establish federal jurisdiction, and “refused to allow me to nonsuit the case and have access to an attorney.”

Without providing any evidence in support of the assertions, Complainant further alleges that the judge:

- “held an ex parte hearing” with defense counsel regarding awarding attorney’s fees and costs as a sanction against Complainant and “[t]he billing was sealed”;<sup>2</sup>

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<sup>1</sup> See Rules 1(a) and 4(c), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

<sup>2</sup> A review of the docket suggests that Complainant is referring to a discussion during a show cause hearing he failed to attend. In discussing whether the Court would award attorney’s fees and costs to the Defendant, the judge agreed with defense counsel’s request to submit supporting documentation for the Court’s in camera review because it included attorney-client communications and work product and because of pending state court litigation. The docket entry associated with the filing of that documentation is sealed.

- “colluded with” defense counsel “to sign over one million dollars in assets” to the Defendant”;<sup>3</sup>
- participated in “a conspiracy” after the case was closed by “sen[ding] two vans with U.S. Marshals to kidnap me” on two separate dates “after we went public about the corruption”; and,
- “sent the SWAT team to [an address] to damage the home ... and pull guns on my mom [at another address]” on a third date.

To the extent that these allegations relate directly to the merits of decisions and procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). In other respects, any assertions of improper motive, ex parte communication, collusion, and conspiracy, appear entirely derivative of the merits-related charges, but to the extent the allegations are separate, they are wholly unsupported, and are therefore subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference that misconduct has occurred.”

Noting that the judge is over 80 years old, Complainant asserts the judge “seems to be forgetting the rule of law. ... He struggled with hearing in court.”

To the extent that these statements might be construed as alleging age-related disability, the allegation is subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(iii) as “lacking sufficient evidence to raise an inference” that the judge is suffering from a disability that renders him “unable to discharge the duties of office.”

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<sup>3</sup> Complainant appears to be referring to an order granting the Defendant’s motion to appoint a Receiver to enforce the Court’s judgment awarding attorney’s fees and costs, and in which Complainant’s leviable assets were listed.

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.

An order dismissing the complaint is entered simultaneously herewith.

/s/Jennifer W. Elrod

Jennifer Walker Elrod

*Chief Judge*

February 4, 2025