

November 12, 2025

Lyle W. Cayce
Clerk

Judicial Council for the Fifth Circuit

Complaint Number: 05-26-90021

IN RE COMPLAINT OF JUDICIAL MISCONDUCT UNDER THE JUDICIAL IMPROVEMENTS ACT OF 2002.

ORDER

Complainant, a pro se litigant, has filed a complaint alleging misconduct by a United States Magistrate Judge in Complainant's civil proceeding.

Complainant alleges that the magistrate judge:

- unduly delayed issuing a ruling on Complainant's motion for leave to amend her complaint for two months;
- demonstrated "favoritism, bias, and unfairness" in violation of Canons 2(A) and 3(A)(3) of the Code of Conduct for United States Judges by failing to address the defendants' "bad faith" in proposing an "unreasonably extended" scheduling order and by adopting the defendant's proposed scheduling order;¹

¹ Canon 2(A) provides, "A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canon 3(A)(3) provides, "A judge should be patient, dignified, respectful, and courteous to litigants, jurors, witnesses, lawyers, and others with whom the judge deals in an official capacity. A judge should require similar conduct by those subject to the judge's control, including lawyers to the extent consistent with their role in the adversary process."

- denied Complainant’s motion for leave to amend her pleading despite the scheduling order permitting the parties to file motions for leave to amend, which she alleges “undermines procedural fairness and reflects a lack of consistency, impartiality, and diligence”;²
- “effectively cut[] off [Complainant’s] procedural right” by ordering the parties to confer and make a good-faith effort to resolve Complainant’s motion to compel and for sanctions before Complainant had an opportunity to file a reply;
- issued a warning in the scheduling order advising all parties that failure to follow court orders and rules may result in the imposition of sanctions, which Complainant interpreted was “directed at me, a pro se litigant”;
- “introduced arguments and terminology not raised by any party,” “relied on out-of-circuit case law,” and “misappl[ied] the statutory framework” in his report and recommendation as to Defendant 1’s motion to dismiss, evidencing “judicial overreach, a lack of impartiality, and creating a strong appearance of bias” in violation of Canons 2(A) and 3(A)(4);³
- created the “appearance of coordinat[ion]” between the court and Defendant 2’s counsel as evidenced by Defendant 2’s counsel’s reliance on the reasoning in the judge’s report recommending that the claims against Defendant 1 be dismissed;

² Contrary to Complainant’s assertion, the magistrate judge did not deny the motion as untimely or otherwise. Rather, the magistrate judge found that the proposed second amended complaint did not raise new claims against Defendant 1, so his consideration of Defendant 1’s motion to dismiss was unaffected by Complainant’s motion for leave to amend. The district judge later denied the motion for leave to amend as moot when he ordered Complainant to file an amended complaint reflecting Defendant 1’s termination from the case.

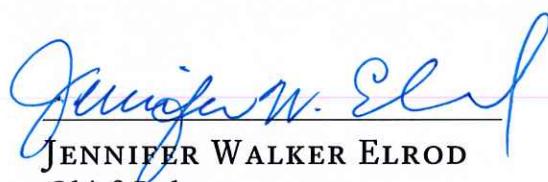
³ Canon 3(A)(4) provides in relevant part, “A judge should accord to every person who has a legal interest in a proceeding, and that person’s lawyer, the full right to be heard according to law.”

- created the “appearance that the court is more responsive to the needs of represented parties and is neglecting its obligations to treat all litigants fairly, including those proceeding pro se” by ruling on Defendant 2’s counsel’s motion to appear pro hac vice within one day of its filing while delaying ruling on matters that “directly affect[ed]” Complainant; and
- created the “appearance of bias and unequal treatment towards a pro se litigant” as demonstrated by Defendant 2’s statement in a filing that “[Defendant 2] is optimistic that once the Court issues its ruling on [Defendant 2’s] pending motion to dismiss, the case will be resolved.”

To the extent these allegations relate directly to the merits of decisions or procedural rulings, they are subject to dismissal under 28 U.S.C. § 352(b)(1)(A)(ii). The complaint procedures in 28 U.S.C. §§ 351-364 are not a substitute for the normal appellate review process and may not be used to obtain reversal of a decision or a new trial.

The conclusory assertions of bias against Complainant and pro se litigants generally are 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.”

The complaint is DISMISSED. An unredacted private order is entered simultaneously herewith.



JENNIFER WALKER ELROD
Chief Judge