

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-15-90009

In re Complaint of John Doe¹

This is a judicial complaint filed on May 5, 2015, by a civil litigant against the United States bankruptcy court judge who presided over complainant's corporate bankruptcy proceedings. Complainant alleges the judge "created her own personal trial in bankruptcy court against [complainant] as if he were on trial for a crime," and complainant declares the judge's actions denied complainant his "constitutional rights" and "[r]ight to a fair trial." According to complainant, the judge was prejudiced against him because she "receiv[ed] derogatory, defaming and false information about [complainant] through her secretary who was the mother of [complainant's employee]." Complainant also contends the judge had ex parte hearings with "adversarial creditor lawyers" without including complainant or his counsel, and that these hearings led the judge to wrongly distribute complainant's corporate bankruptcy estate. Finally, complainant argues the judge's misconduct led her to approve a settlement agreement on a related lawsuit that granted complainant's lawyers and creditors settlement funds, but did not allocate funds to complainant.

Complainant's judicial complaint describes alleged misbehavior of not just the bankruptcy judge, but also complainant's lawyers, other lawyers involved in complainant's corporate bankruptcy proceedings, and other individuals involved in the case. The judicial complaint procedure is limited to United States judges, see

¹Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit (E.C.), the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

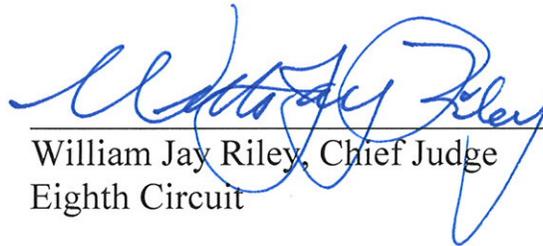
28 U.S.C. § 351(a), (d); therefore, any complaint against attorneys or other non-judicial individuals is not considered here.

I conclude most of complainant's allegations concerning the bankruptcy judge must be dismissed because they directly relate to the merits of the judge's decisions and therefore are not proper subjects of a judicial complaint. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B); E.C. Rule 4(c)(2). "An allegation that calls into question the correctness of a judge's ruling, . . . without more, is merits-related." J.C.U.S. Rule 3(h)(3)(A). Complainant's challenges to the bankruptcy judge's distribution of the estate and the approval of a settlement agreement are entirely merits-related and can only be challenged through a direct appeal. Although complaints of prejudice and improper motive are not necessarily merits-related, such complaints must be dismissed as merits-related where, as here, the only support for the allegations is the merits of the judge's decision. See id.

Complainant's remaining allegations of judicial misconduct must be dismissed because they are "lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); see also J.C.U.S. Rule 11(c)(1)(D); E.C. Rule 4(c)(3).

The complaint is dismissed.

June 16, 2015



William Jay Riley, Chief Judge
Eighth Circuit