

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-16-90013

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In re Complaint of Jane Doe<sup>1</sup>

This is a judicial complaint filed on February 5, 2016, by an attorney against the district judge who presided over a civil lawsuit filed by the complainant's former client. Six days before a jury trial was scheduled to begin in the case, the district judge's law clerk sent an email informing the complainant and opposing counsel "[the district judge] has decided to grant the Defendants' motion for summary judgment." The district judge cancelled the trial the same day, but did not issue an order granting summary judgment or giving reasons for his decision until more than three months later.

In the meantime, according to the complainant, the plaintiff—her client—"became distraught and confused" and "continuously ask[ed] [the complainant] why the judge had decided to dismiss the case," which the complainant could not answer. The plaintiff ultimately asked the complainant to withdraw from the case, and the complainant did so. The complainant "does not believe that she would have been asked to withdraw had the judge entered an order/judgment on [the date of the email] and given reasons for granting the defendants' motion."

The complainant alleges the district judge's conduct prejudiced the plaintiff by causing the plaintiff to end the representation, which left the plaintiff in a situation

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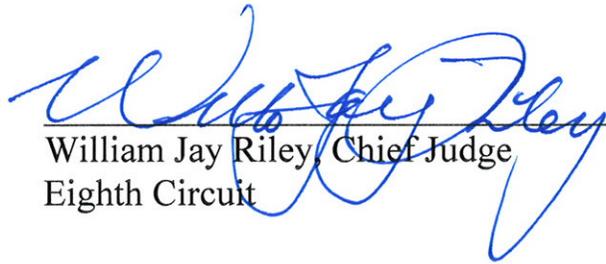
<sup>1</sup>Under Rule 4(f)(1) of the Eighth Circuit Rules Governing Complaints of Judicial Misconduct and Disability, the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not present here.

where it is difficult to find replacement counsel and, as a result, made it “highly unlikely” the plaintiff will be able to file a timely appeal; depriving the plaintiff of “an opportunity to fully prosecute [the plaintiff’s] case”; and—by acting on such short notice—making the plaintiff waste money preparing for trial. The complainant also declares the delay between the email and the judge’s order “suggests . . . that the judge decided to grant the motion for reasons other than the merits of the case based upon an improper motive.” The complainant believes “Plaintiff has been dealt a grave injustice” and explains that even though she no longer represents the plaintiff, she filed this complaint because “[t]he judge’s conduct should not be condoned or acceptable.”

Notwithstanding the “irregular[ity]” or alleged detrimental effect of the district judge’s approach to dealing with the summary-judgment motion, the complainant’s concerns are “directly related to the merits of a decision or procedural ruling” and so cannot be raised or addressed in a judicial-complaint proceeding. 28 U.S.C. § 352(b)(1)(A)(ii); accord Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(B). The complainant’s speculation about the district judge having an improper motive and her conclusory characterization of the district judge’s treatment of the plaintiff as “demonstrably egregious and hostile,” though they are not necessarily merits-related, are unsupported except by reference to how the district judge resolved the case, so they must also be dismissed for the same reason. See J.C.U.S. Rule 3(h)(3)(A); see also 28 U.S.C. § 352(b)(1)(A)(iii) (calling for dismissal of complaints “lacking sufficient evidence to raise an inference that misconduct has occurred”); J.C.U.S. Rule 11(c)(1)(D).

The complaint is dismissed.

February 26, 2016



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William Jay Riley, Chief Judge  
Eighth Circuit