

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

---

JCP No. 08-21-90027

---

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

This is a judicial complaint filed by a civil litigant (“complainant”) against the United States district judge (“subject judge”) presiding over the complainant’s employment-discrimination case.

First, the judicial complaint alleges that the district judge expressed hostility toward the complainant’s proposed amended complaint; erroneously advised that the complainant was “strictly limited” to certain claims; and stated an erroneous intention “to cut down [the complainant’s] proposed [c]omplaint,” resulting in the complainant’s withdrawal of the proposed complaint. Second, the judicial complaint contends that the district judge “issued a series of quite confusing and bizarre rulings,” such as ordering “that all discovery . . . had to ‘begin anew.’” Third, the judicial complaint asserts that the district judge ignored the complainant’s “Request for an Immediate Trial Date.” Fourth, the judicial complaint challenges the district judge’s holding that the complainant lacks standing to request certain declaratory relief. Fifth, the judicial complaint maintains that the district judge *sua sponte* “struck [the complainant’s punitive-damages] claim [on] a whim.” Sixth, the judicial complaint alleges that the district judge “ignored” the complainant’s motion for summary judgment. Finally, the judicial complaint asserts that the district judge “reviewed *ex parte* [the defendant’s] motion [to compel the complainant’s

---

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

deposition] and immediately assigned [the motion] to [the] magistrate [judge],” which demonstrates that the district judge “cater[s] to [the defendant].”

I have reviewed the record. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). The record shows that after the complainant’s employment-discrimination claim was removed to federal court, the complainant “asked for leave to file a Second Amended Complaint that included allegations unrelated to [the complainant’s] wrongful termination claims.” The district judge held a status conference at which it “str[uck] paragraphs from [the complainant’s] proposed Second Amended Complaint . . . that exceeded the scope of [the complainant’s] wrongful termination claims, including” the complainant’s request for certain declaratory and injunctive relief. The complainant protested, but the district judge “expressed doubt that [the complainant] had standing to assert claims on behalf of other . . . employees.” Following the hearing, the district judge allowed the parties to brief the standing issue. The complainant “effectively concede[d] that [the complainant] d[id] not have standing” and withdrew the motion to file a second amended complaint.

In a memorandum opinion and order, the district judge addressed the parties’ dispute “over the contents of the parties’ Rule 26(f) Report.” *See* Fed. R. Civ. P. 26. The district judge narrowed the issues and denied all pending discovery motions. The district judge directed that “[a]n Order for Discovery and Scheduling Information will be issued in this case. Once the parties respond and a Scheduling Order is issued, the parties will begin discovery anew, limited to [the complainant’s] claims for breach of employment agree and unlawful termination in violation of public policy.” (Footnote omitted.) Following the district judge’s issuance of the discovery order, the complainant filed a request for an immediate trial date and directly challenged the discovery order. The complainant requested that the district judge “order all discovery concluded and set a trial date.” The defendant objected to the request, indicating that it required more discovery “to assess the viability of a dispositive motion and if so pursue one.”

Before the district judge entered a scheduling order, the complainant moved for summary judgment. Thereafter, the defendant replied to the motion for summary judgment and moved to compel the complainant's deposition. The district judge referred the defendant's motion to compel to the magistrate judge for ruling, which the magistrate judge ultimately granted. The record shows that the district judge *has ruled* on the complainant's summary-judgment motion by denying that motion.

Having reviewed the record, I conclude that the judicial complaint must be dismissed because all of the allegations directly challenge the district judge's various opinions and orders; therefore, the judicial complaint must be dismissed as "directly related to the merits of a decision or procedural ruling." 28 U.S.C. § 352(b)(1)(A)(ii); *accord* J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

The judicial complaint is dismissed.

September 1, 2021



---

Lavenski R. Smith, Chief Judge  
United States Court of Appeals  
for the Eighth Circuit