

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-16-90083

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

This is a judicial complaint filed December 20, 2016, by a pro se civil litigant against the United States magistrate judge presiding over the complainant's civil trial.

According to the complainant, the magistrate judge "suggested [he] do a settlement conference instead of filing a motion for a summary judgment" and that he "reluctantly" agreed. The complainant asserts he "decided to ask for a judgment after relooking [sic] at the defenses [sic] denial of all [his] claims," but was instructed by defense counsel that he "had to contact [the magistrate judge] for the ability for a dispositive motion." After talking to the judge's chambers, the complainant states he understood that to mean he could move for summary judgment but was denied, as he was told, because "discovery has not yet begun." In the pretrial scheduling order, the magistrate judge set out the specific procedure the parties needed to follow to file any dispositive motions, including a motion for summary judgment. The complainant's motion for summary judgment was dismissed because the complainant "neither sought nor received [the required] permission [to file a motion for summary judgment] from the magistrate judge." The complainant asks that "someone look over [his] case because [he] feel[s] as if something is being overlooked and [his] case not being taken [sic] seriously."

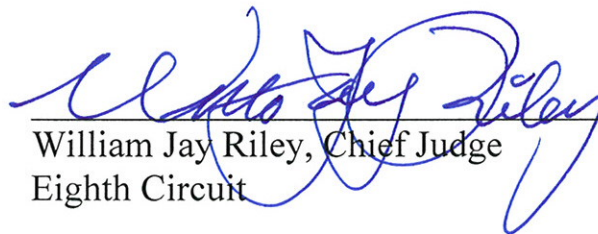
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<sup>1</sup>Under Rule 4(f)(1) of the Rules Governing Complaints of Judicial Misconduct and Disability of the Eighth Circuit, the names of the complainant and the judge complained about are to remain confidential, except in special circumstances not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

The complaint must be dismissed because it “alleges conduct that, even if true, is not prejudicial to the effective and expeditious administration of the business of the courts.” Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(A); see also 28 U.S.C. § 351(a); J.C.U.S. Rule 3(h) (providing examples of cognizable misconduct). The complainant does not allege any misconduct on the part of the magistrate judge, only that he wishes “to have someone look over [his] case” in the event “something is being overlooked.” The complainant’s assertions thus are “directly related to the merits of a decision or procedural ruling,” and “lack[] sufficient evidence to raise an inference that misconduct has occurred.” J.C.U.S. Rule 11(c)(1)(B), (D); see also 28 U.S.C. § 352(b)(1)(A)(ii), (iii); J.C.U.S. Rule 3(h)(3)(A).

The complaint is dismissed.

February 21, 2017



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William Jay Riley, Chief Judge  
Eighth Circuit