

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-18-90020

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

This is a judicial complaint filed by an attorney against the United States bankruptcy judge who dismissed the attorney's motion for sanctions against the bankruptcy trustee but permitted the bankruptcy trustee's motion for sanctions against the attorney.

The judicial complaint alleges that the bankruptcy judge had "improper discussions with parties or counsel for one side" based on the attorney's belief that the bankruptcy judge "questioned the Court Clerk about this matter, without [the attorney] present." In addition, the judicial complaint alleges that the bankruptcy judge treated the attorney "in a demonstrably egregious and hostile manner and retaliat[ed] against [the attorney] for [the attorney's] participation in the process." According to the judicial complaint, the bankruptcy trustee "filed a defective, baseless and deceptive motion for sanctions against" the attorney. The attorney then filed a motion for sanctions against the bankruptcy trustee, which the bankruptcy judge dismissed. The judicial complaint faults the bankruptcy judge for not dismissing the bankruptcy trustee's motion for sanctions and instead "escalate[d] and propel[led] the matter forward."

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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 judicial officer complained against are to remain confidential, except in special circumstances not here present.

With respect to the judicial complaint's bare, speculative allegations that the district judge engaged in improper ex parte communications and treated the attorney in a hostile manner, such allegations "lack[] sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); *accord* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(c)(1)(D). Accordingly, the allegations must be dismissed. The remaining allegations attacking the bankruptcy judge's failure to dismiss the bankruptcy trustee's motion for sanctions are directly related to the merits of the bankruptcy judge's decisions or procedural rulings and are not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 3(h)(3)(A), 11(c)(1)(B).

The complaint is dismissed.

May 21<sup>st</sup>, 2018



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