

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-18-90100

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se civil litigant against the United States district judge who dismissed the litigant's civil suit for failure to state a claim.

In the civil complaint, the litigant alleged that a prior lawsuit was wrongly dismissed; however, the litigant failed to name a specific government agency or individual defendant in the complaint. Instead, the litigant merely named the "United States Government." Nonetheless, the federal government entered an appearance on behalf of the defendant and moved for dismissal of the complaint for failure to state a claim. In response, the litigant moved for default judgment for failure to respond to the complaint in a timely manner. The district judge determined that the federal government, however, was not a properly named and served defendant. Assuming the federal government was the properly named defendant, the district judge granted it leave to respond to the complaint out of time. The district judge then determined that the litigant's complaint failed to state a claim upon which relief can be granted for failure to identify any government agency or defendant and for failure to set forth a specific cause of action entitling the litigant to relief. The district judge dismissed the litigant's complaint.

¹Under 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.

The judicial complaint challenges the dismissal of the litigant’s civil complaint, asserting that the litigant was entitled to a default judgment against the defendant due to the defendant’s failure to timely answer the civil complaint. The litigant requests to know the “status of the default judgment that closed the case” and why the court “clerk never used his administrative duties to process the . . . default judgment.”

These allegations are directly related to the merits of the judge’s decisions or procedural rulings and are not cognizable in 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.) Rules 3(h)(3)(A), 11(c)(1)(B).

The complaint is dismissed.

December 19th, 2018



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