

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-20-90004

In re Complaint of John Doe¹

This is a judicial complaint filed by a pro se litigant against the United States district judge who dismissed the complainant's breach-of-contract action.

The judicial complaint alleges that the district judge "showed bias against the [complainant] and favoritism for [the defendants]" by (1) "allow[ing] [the defendants] to make proven false statements to the court without consequences"; (2) "ignor[ing] a motion for the Defendants to be sanctioned for lying to the courts"; (3) "rul[ing] in the Defendants favor consistently on motions proven to contain lies and misinformation"; (4) giving "motions filed by the Defendants priority over motions filed by the [complainant] even though the [complaint's] motions were filed first"; and (5) "grant[ing] the Defendants['] motion to dismiss." In support of these allegations, the complainant cites the district court's order granting the defendants' motion to set aside the default entry of judgment, despite the motion for default judgment having been filed first; (2) the district judge's failure to rule on the complainant's motion for sanctions against the defendants; and (3) the district court giving priority to and granting the defendants' motion to dismiss.

The record shows that the complainant moved for default judgment and an entry of default judgment on the breach-of-contract claim. The clerk of court then

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.

entered default. The complainant again moved for default judgment. Four days later, the defendants moved to set aside the clerk's entry of default. The district judge granted the defendants' motion to set aside the clerk's entry of default, concluding that the defendants showed "good cause" to set aside the default. Because "[a] default judgment can only be obtained following an entry of default by the Clerk," and "[s]ince that entry ha[d] been set aside," the district judge denied as moot the complainant's motions for default judgment and request for oral argument.

After the district court set aside the default entry, the defendants moved to dismiss the complaint. Thereafter, the complainant moved for summary judgment and moved to compel the defendants to produce documents. In a single order, the district judge granted the defendants' motion to dismiss with prejudice and denied as moot the complainant's motion for summary judgment and motion to compel.

Contrary to the complainant's allegation, the record does not show any favoritism toward the defendant or bias against the complainant in adjudicating the parties' motions. As a result, the judicial complaint's allegation of bias is "frivolous [and] lack[s] 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.) 11(c)(1)(C), (D). To the extent the judicial complaint challenges the district judge's orders on the various motions, such allegation is directly related to the merits of the district judge's decision and is not cognizable in a judicial complaint. *See* 28 U.S.C. § 352(b)(1)(A)(ii); J.C.U.S. Rules 4(b)(1), 11(c)(1)(B).

The complaint is dismissed.

3/2/2020, 2020

A handwritten signature in blue ink, reading "Lavenski R. Smith", written over a horizontal line.

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