

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-23-90006

JCP No. 08-23-90068

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

These are judicial complaints filed by a civil litigant (“complainant”) against two United States district judges assigned to the complainant’s cases.

The first judicial complaint alleges that the district judge’s denial of the complainant’s motion for default judgment constituted “unequal protection of the law and blatant unequal application of the law.” The second judicial complaint alleges that another district judge “act[ed] in violation of the law and [the complainant’s] protected right to justice and trial by jury” by dismissing the complainant’s lawsuit.

I have reviewed the record in both civil actions. *See* Judicial-Conduct and Judicial-Disability Proceedings of the Judicial Conference of the United States (J.C.U.S.) Rule 11(b). In the first civil action, the complainant sought “the return of the property and eviction of those individuals who are unlawfully occupying the property, removal of the property from the county and state assessment rolls and \$1,500,000 in damages” but “failed to specify what causes of action [the complainant] [was] asserting against which defendants.” In a written order, the district judge ordered the complainant to file a second amended complaint to remedy this failure. In the same order, the district judge denied the complainant’s pending motion for

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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.


default judgment. After the complainant filed a second amended complaint, the complainant again moved for default judgment. Ultimately, the district judge denied the motion in its written order dismissing the lawsuit.

In the second civil action, the complainant alleged that the defendant wrongfully foreclosed on the complainant's property. The defendant filed a motion to dismiss for failure to state a claim. In a written order, the district judge dismissed the lawsuit due to res judicata or, in the alternative, for failure to state a claim.

Having reviewed the record, to the extent the judicial complaints' allegations challenge the district judges' orders, they 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). To the extent the judicial complaints allege that the district judges violated the complainant's rights or engaged in other judicial misconduct, such allegations are "frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred." 28 U.S.C. § 352(b)(1)(A)(iii); *accord* J.C.U.S. Rule 11(c)(1)(C), (D).

The judicial complaint is dismissed.

July 5, 2023

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