

JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

JCP No. 08-24-90049

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In re Complaint of John Doe*

This is a judicial misconduct complaint by a pro se civil plaintiff against a magistrate judge and a district judge who are assigned to her case.

The complainant alleges that the judges “have been biased and prejudiced in the lawsuit; they have not honored [her] . . . motion to schedule [a] settlement conference at a reasonable time.” The complainant further states that the magistrate judge has been trying to delay the litigation process and that the court has not contacted her about the settlement conference date.

The record contradicts the complaint’s allegations. Although the district court previously had restricted the complainant from filing new pro se cases in the district without written authorization from a judicial officer, she was authorized to file her civil complaint in this case. The magistrate judge granted her request to proceed *in forma pauperis*. The judge also granted her electronic filing privileges with the understanding that she agreed to waive service by other means for all later filings in the case. Three months after the complainant filed her lawsuit, she filed a motion to amend her complaint to dismiss specific claims. One week later, she filed a motion to schedule a settlement conference.

*Under Rule 24(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, the names of the complainant and the subject judge are not disclosed. Citations or references herein to a “Rule” refer to these Rules.

On the same day, the magistrate judge issued an order dismissing the specified claims and granting the motion to schedule a settlement conference in part. In the order, the magistrate judge stated that the complainant was “filing multiple motions, calling and emailing the Court. Some of these communications relate to scheduling but make requests that are unrealistic, for example, that a settlement conference be scheduled within a week.” The magistrate judge stated that a conference would be scheduled on the earliest available date, and that the date would be communicated to the parties by further order. Six days later, on the same day that the complainant filed this judicial complaint, the magistrate judge entered an order setting a status conference for one month later and a settlement conference for nearly a month after the status conference.

Much of the judicial complaint challenges the judges’ orders, and those allegations must be dismissed as “directly related to the merits of a decision or procedural ruling.” 28 U.S.C. § 352(b)(1)(A)(ii); Rule 11(c)(1)(B). The allegation of delay is also dismissed as merits-related because there is no evidence of habitual delay or improper motive. *See* Rule 4(b)(2). The complaint’s conclusory allegations of bias and prejudice are “frivolous” or “lacking sufficient evidence to raise an inference that misconduct has occurred.” 28 U.S.C. § 352(b)(1)(A)(iii); Rule 11(c)(1)(C), (D).

For these reasons, the judicial complaint is dismissed.

/s/ Steven M. Colloton
Chief Judge

Filed: October 15, 2024
