

## JUDICIAL COUNCIL OF THE EIGHTH CIRCUIT

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JCP No. 08-24-90078

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In re Complaint of John Doe\*

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This is a judicial misconduct complaint by a plaintiff against a district judge who is presiding in his civil action alleging employment discrimination.

The complainant alleges that he “became aware that there was sealed document [sic] as the result of ex parte communication,” namely, a memorandum opinion and order denying the plaintiff’s motions to unseal court documents. The complainant asserts that “[t]his document [was] sealed without [his] presence or knowledge,” and that “[t]his communication between the defendant and the judge create sealed documents.” The complainant states that the sealed document concerns his work records. The complainant expresses concern that this alleged ex parte communication may impact his case and comprise the fairness of the proceedings.

In the underlying case, the district court granted summary judgment for the defendant, and the complainant filed a notice of appeal. The complainant then moved to unseal certain documents, and the district court denied the motion.

A memorandum opinion shows that the judge denied the complainant’s motions to unseal documents because the complainant had “complete access” to them as a party to the action and was able to use the documents to prepare for an appeal in

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\*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.

the case. The judge restricted public access to the documents as a matter of course given the sensitive, personal information contained in employment discrimination disputes.

Insofar as the complaint challenges the correctness of the judge's denial of the motions to unseal, the complaint 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); Rule 4(b)(1). The complaint's allegations of improper *ex parte* communications are frivolous and "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: December 3, 2024

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