

# The Judicial Council

FOR THE DISTRICT OF COLUMBIA CIRCUIT

In the Matter of

Judicial Council Complaint No. DC-14-90041

**A Charge of Judicial  
Misconduct or Disability**

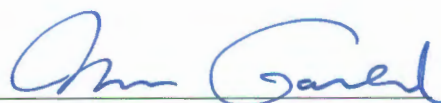
Before: GARLAND, Chief Judge

## **ORDER**

Upon consideration of the complaint described herein, filed against a judge of the United States District Court for the District of Columbia, it is

**ORDERED** that the complaint be dismissed for the reasons stated in the attached Memorandum.

The Circuit Executive is directed to send copies of this Order and accompanying Memorandum to the complainant, the subject judge, and the Judicial Conference Committee on Judicial Conduct and Disability. *See* 28 U.S.C. § 352(b); JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(g)(2).



Merrick B. Garland, Chief Judge

Date: 2/4/15

## MEMORANDUM

The complainant alleges that a judge of the United States District Court for the District of Columbia engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts. The allegations arise out of attorney's fees litigation between the complainant, who is an attorney, and his former clients.

The complainant sued his former clients, and an attorney who represented the former clients in fee arbitration, in the United States District Court. After receiving an unsatisfactory result, the complainant appealed to the United States Court of Appeals for the District of Columbia Circuit, which subsequently remanded the case to the district court for further proceedings in light of a decision in related proceedings in state court in California. Thereafter, the complainant filed a motion asking the subject judge to stay the proceedings because he anticipated filing a petition for certiorari in the United States Supreme Court relating to the Court of Appeals' decision. The subject judge denied the motion for a stay and, in a separate order, noted that because the judge who previously handled the case had dismissed the former clients' attorney from the case, the complainant was not to refer to the attorney as a party in future pleadings. The complainant again appealed, and that appeal remains pending. The complainant then filed the instant judicial misconduct complaint against the subject judge.

Among other allegations, the complainant alleges that the judge wrongly denied his motion for a stay; wrongly "failed to take any action with respect to [his former clients' attorney], even though his criminal wrongdoing was brought to her attention";

“failed to determine who prepared the legal briefs that have been submitted to the District Court on behalf of the Complainant’s former clients”; and “ignored the established ‘black-letter law’ regarding the effect of forum-selection clauses.” All of these allegations are “directly related to the merits of a decision or procedural ruling” and, therefore, “must be dismissed.” JUD. CONF. U.S., RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS 11(c)(1)(B).

The complainant also alleges that the judge “or someone acting on her behalf held up the process so that the Complainant’s payment was not docketed until she entered a new Minute Order . . . which dealt with [the attorney’s] dismissal and indicated she was proceeding with the District Court case despite the Notice of Appeal.” This appears to be a reference to the fact that, although the complainant’s appellate filing fee was physically received in the district court on November 12, 2014, and was given a docket date of November 14, 2014, the docket entry was not made until November 17, 2014. But there is no evidence that the subject judge had any involvement in the docketing of the filing fee, which is a clerical act. Accordingly, the allegation lacks “sufficient evidence to raise an inference that misconduct has occurred” and must also be dismissed. *Id.*, RULE 11(c)(1)(D). *See generally* 28 U.S.C. § 352(b)(1)(A)(ii), (iii).<sup>1</sup>

---

<sup>1</sup> Pursuant to 28 U.S.C. § 352(c) and Judicial-Conduct Rule 18(a), the complainant may file a petition for review by the Judicial Council for the District of Columbia Circuit. Any petition must be filed in the Office of the Circuit Executive for the D.C. Circuit within 35 days of the date of the Circuit Executive’s letter transmitting the dismissal Order and this Memorandum. JUDICIAL-CONDUCT RULE 18(b).