

JUDICIAL COUNCIL
OF THE FIRST CIRCUIT

IN RE
COMPLAINT NO. 01-25-90005

BEFORE
Barron, Chief Circuit Judge

ORDER

ENTERED: MAY 27, 2026

Complainant, a pro se litigant, has filed a complaint under 28 U.S.C. § 351(a) against a district judge in the First Circuit. Complainant alleges that the judge engaged in judicial misconduct in connection with a civil case over which the judge presided.¹ The misconduct complaint is baseless and not cognizable.

Complainant alleges that, in presiding over the civil case in which complainant is a defendant, the judge demonstrated a pattern of bias, misconduct, and "infirmity" that "stripped the court of authority to rule." Complainant provides that the judge is biased against pro se defendants "who stand up for themselves," has "some mental limitation" rendering the judge unable to preside over the case, and has "do[ne] everything in [the court's] power" to ensure that the civil case goes to trial, "where the [court] gets leeway" that it is not afforded when disposing of pretrial issues.

¹ In the complaint, complainant asserts that court staff and/or unnamed judges in the First Circuit failed to address the merits of his cases and altered a motion that he submitted in one such case. As the governing statute and the Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct) require that the subject judge(s) be identified by name and provide for the filing of complaints against federal judges only, these allegations are not addressed. See 28 U.S.C. § 351, and Rules of Judicial-Conduct, Rules 1, 3(h), and 6.

Specifically, complainant asserts that the judge disregarded plaintiff's repeated failure to serve complainant and "stomp[ed] on [his] rights" as a pro se litigant to use "checks and balances available to attorneys," such as filing motions to vacate and for mandatory judicial notice. Complainant objects to the court's order sanctioning complainant without any reasoning and alleges that the judge either lied about or "misremembered . . . prior findings" when providing the basis for the sanctions. Complainant adds that, in the sanctions order, the judge explained that the court denied complainant's most recent motion for judicial notice for the same reasons that complainant's prior such motions were denied, although the judge never provided any bases for denying these motions.

Complainant further contends that the judge illegally filed an answer in the case on complainant's behalf, instead of waiting for plaintiff to file a motion for default, in order to "push the case . . . to trial," even though complainant had a right to refuse to file an answer. Complainant also seems to disagree with the judge's determination of the date upon which the court received an unspecified document submitted by complainant and seems to assert that complainant provided evidence of the actual date the document was delivered to the court. Complainant additionally contends that the judge relied on outdated law, objects to the judge's referral of the case to a magistrate judge, and states that the judge "took umbrage at [c]omplainant's use of language from the time of common law."

Complainant further states that, while the First Circuit Judicial Council routinely dismisses judicial misconduct complaints concerning the merits of decisions, the allegations outlined in his misconduct complaint "hav[e nothing] to do with merits."

The reviewed record, including the misconduct complaint and docket of the proceeding, provides no basis for complainant's allegations of judicial misconduct. According to the record, plaintiff filed a civil action against complainant and another defendant, and the summons was returned as executed as to each defendant. Plaintiff filed a motion for entry of default against complainant the day after his answer was due, as complainant had not made an appearance in the case, and default was entered. On the same day the default was entered, complainant filed a notice of pro se appearance and a motion to strike portions of the civil complaint. The judge vacated the default and treated complainant's motion to strike as a motion to dismiss, explaining that the court provides leniency to pro se litigants and that complainant's motion was filed shortly after the entry of default.

Following this order, complainant filed a motion for relief from judgment in which he, in part, argued that the court deprived him of his right to file a motion to strike and that his motion to strike was timely. In a multiple-page order, the judge discussed the procedural history of the case, including that complainant's motion to strike was filed after his responsive pleading was due; explained that the court determined that treating the motion to strike as a motion to dismiss was in complainant's best interest; vacated the portion of the order that treated the motion to strike as a motion to dismiss; and denied

the motion for relief from judgment without prejudice because no judgment had been entered.

Complainant filed two additional motions for relief from judgment asserting that the motion to strike was timely and requesting that the court take judicial notice of same, and the judge denied the motions because no judgment had been entered and because the court did not need to make a ruling regarding the timing of submission of complainant's motion to strike, as the court had accepted the filing. In the order denying the latter motion, the judge explained that, if complainant persisted in filing the same non-meritorious motion, the court would consider sanctions.

After plaintiff filed an opposition to the motion to strike, the judge issued an order denying without prejudice the motion to strike as it was not the proper mechanism to resolve the issue raised by complainant, explaining that the matter would be addressed through dispositive motion practice or trial, and setting a deadline for complainant to file an answer to the civil complaint.

Complainant filed a motion, in part, to vacate the order denying his motion to strike in which he asserted that plaintiff had sent its opposition to the motion to strike to complainant's outdated address, and the court denied the motion to vacate but ordered plaintiff to send copies of filings to complainant's updated address.

Subsequently, complainant filed a motion requesting, in part, judicial notice of the court's lack of jurisdiction over the matter, and the court held the case in abeyance pending disposition of complainant's appeal of the denial of his motion to vacate. Once the appeal concluded, the judge ordered plaintiff to respond to complainant's motion for

judicial notice and complainant to file an answer to the complaint, as a defendant's answer notices the disputed matters in a case and is a necessary step for the scheduling order to be issued and for the case to proceed, and explained that complainant's failure to do so could result in a default judgment against him. Plaintiff filed an opposition to complainant's motion for judicial notice. After the deadline to file an answer passed, complainant filed two motions to dismiss, and plaintiff filed an opposition to the second motion to dismiss. The judge entered multiple-page orders denying the motions to dismiss in which the court outlined the relevant procedural history and the grounds for denial and ordered complainant to file an answer to the civil complaint. The judge also issued an order denying complainant's motion for judicial notice in which the court described complainant's various requests for judicial notice and concluded that there was no proper basis under the applicable federal rules for the court to do so.

Complainant then filed a motion requesting that the court vacate its order dismissing complainant's second motion to dismiss in which he explained that he had filed a request for an extension of time to reply to plaintiff's response to the motion to dismiss that had not been docketed. The judge entered an order explaining that complainant's motion for an extension of time had been misplaced, vacating the order denying the motion to dismiss, and granting complainant an extension to file a reply. After complainant filed his reply, the court, in an order that was more than ten pages long, denied complainant's motion to dismiss because it raised issues that the court had previously rejected and ordered complainant to file an answer to the complaint by a specified deadline or be subject to sanctions.

After the deadline passed for complainant to file an answer without his having done so, plaintiff filed a motion for an entry of default, and complainant filed a motion for judicial notice and to alter judgment. In a multiple-page order, the judge denied the request for judicial notice on the same grounds as its previous denials of such relief; denied the request to alter judgment as no judgment had been entered; ordered that court staff enter, on complainant's behalf, a general denial of the allegations in the complaint with no affirmative defenses so the case could proceed; determined that complainant had filed numerous, frivolous filings solely to delay the case; and warned complainant that, if he filed additional non-meritorious motions, the court would deny them, and that the court was contemplating issuing a judgment or filing restriction against him as a sanction for abusive litigation. Thereafter, the magistrate judge, to whom the case had been referred, entered a scheduling order.

Complainant then filed a motion to vacate the subject judge's most recent order, asserting, in part, that the court exceeded its authority by entering an answer on his behalf, as well as the scheduling order entered by the magistrate judge, as he did not consent to the magistrate judge's involvement in the case. The judge entered an order denying this motion, explaining that the court entered an answer on complainant's behalf because of his repeated violations of court orders and that a magistrate judge has authority to enter a scheduling order, reminding complainant that the court could sanction him for further frivolous filings, and ordering the magistrate judge to enter a new scheduling order, as the deadlines outlined in the previous scheduling order had lapsed, and the magistrate judge did so. Complainant filed pleadings objecting to the subject

judge's order, as well as the magistrate judge's involvement in the case and issuance of the scheduling order, and, after briefing concluded on the motions, the subject judge entered an order outlining the relevant background, summarizing complainant's arguments, and denying his motions.

Plaintiff filed a motion to sanction complainant due to his repetitive, frivolous filings, complainant filed an opposition and a cross-motion for judicial notice, plaintiff filed a reply, and complainant filed a surreply. The judge entered a multiple-page order explaining the background of the case, discussing the court's multiple warnings to complainant and complainant's continued vexatious conduct, granting plaintiff's motion for sanctions, restricting complainant from making any filings without leave of court, and striking the cross-motion for judicial notice for the reasons previously explained by the court.²

The misconduct complaint is without merit. Neither the complaint nor the record of the proceeding provides any evidence that the judge was biased or discriminated against complainant based on his pro se status or for any other reason, lied, was motivated to deprive complainant of his rights, forced complainant's case to trial, or was otherwise improperly motivated in presiding over the case. Nor is there any support for complainant's allegation that the judge has a disability that "render[s the] judge unable to discharge the duties of the . . . judicial office." See Rules for Judicial-Conduct and Judicial-Disability Proceedings (Rules of Judicial-Conduct), Rule 4(c) ("Disability is a

² Ultimately, and after this misconduct complaint was filed, the court entered judgment in favor of plaintiff.

temporary or permanent impairment, physical or mental, rendering a judge unable to discharge the duties of the particular judicial office. Examples of disability include substance abuse, the inability to stay awake during court proceedings, or impairment of cognitive abilities that renders the judge unable to function effectively."). Contrary to complainant's allegations, the record indicates that the judge considered complainant's pleadings, provided complainant numerous opportunities to file an answer with warnings that failure to do so could result in sanctions, explained that filings submitted by pro se litigants are liberally construed and that the court determined that it was in complainant's best interest to treat his motion to strike as a motion to dismiss, and issued several lengthy, reasoned orders explaining the bases for the court's decisions. See supra pp. 3-7. Accordingly, the complaint is dismissed as baseless, pursuant to 28 U.S.C. § 352(b)(1)(A)(iii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(D).

In the absence of any evidence of an improper judicial motive, complainant's objections to the substance of the judge's decisions, including, but not limited to, those denying complainant's requests for judicial notice, to vacate the court's orders, and for relief from judgment, rejecting complainant's objections to the referral of matters to the magistrate judge, ordering court staff to enter an answer on complainant's behalf and the magistrate judge to issue a scheduling order, and restricting complainant's ability to file pleadings, are not cognizable. See 28 U.S.C. § 352(b)(1)(A)(ii), and Rules of Judicial-Conduct, Rule 11(c)(1)(B). See also Rules of Judicial-Conduct, Rule 4(b)(1) ("Cognizable misconduct does not include an allegation that calls into question the correctness of a judge's ruling If the decision or ruling is alleged to be the result of

an improper motive . . . the complaint is not cognizable to the extent that it calls into question the merits of the decision. . . ."), and Commentary to Rule 4 ("Any allegation that calls into question the correctness of an official decision or procedural ruling of a judge — without more — is merits-related."). Accordingly, the complaint is dismissed as not cognizable, pursuant to 28 U.S.C. § 352(b)(1)(A)(ii). See also Rules of Judicial-Conduct, Rule 11(c)(1)(B).

For the reasons stated, Complaint No. 01-25-90005 is dismissed pursuant to 28 U.S.C. §§ 352(b)(1)(A)(ii) and (iii). See also Rules of Judicial-Conduct, Rules 11(c)(1)(B) and (D), respectively.

May 27, 2026
Date



Chief Judge Barron