

JUDICIAL COUNCIL OF THE SIXTH CIRCUIT
MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:
Complaint of Judicial Misconduct

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*Nos. 06-14-90120/121
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M E M O R A N D U M

This complaint of judicial misconduct was filed by a pro se litigant against the district judge and magistrate judge who were assigned to his civil action. The complainant alleges that the judges failed to enforce procedural rules and substantive law, refused to appoint him a pro bono lawyer, and violated his civil rights by ruling against him. The complainant also asserts that the magistrate judge should have recused himself. For relief, the complainant requests "a new trial with a jury and new [j]udges, and financial relief."

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, "is not prejudicial to the effective and expeditious administration of the business of the courts"; (B) that the complaint "is directly related to the merits of a decision or procedural ruling"; (C) that the complaint is "frivolous," a term that applies to charges that are wholly unsupported; or (D) that the complaint "lack[s] sufficient evidence to raise an inference that misconduct has occurred." Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings.

An initial review of the district-court record reveals that the complainant, proceeding pro se and in forma pauperis, sued a well-known corporation for patent infringement, copyright infringement, trademark and trade dress infringement, unfair competition, and unjust enrichment. The defendant moved to dismiss the action for failure to state a claim. The magistrate judge recommended that the motion be granted. The district judge adopted the magistrate judge's report and recommendation and dismissed the case.

This complaint is based entirely on the subject judges' procedural and substantive rulings in the underlying civil action. The complaint is thus subject to dismissal under Rule 11(c)(1)(B). See also 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of the judges' decisions is outside the scope of judicial-misconduct

proceedings. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review any ruling by a judge or to grant the relief requested by the complainant. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

For these reasons, the complaint will be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) and Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/ *R. Guy Cole, Jr.*
Chief Judge

Date: January 21, 2015