JUDICIAL COUNCIL OF THE SIXTH CIRCUIT

MICHIGAN-OHIO-KENTUCKY-TENNESSEE

In re:	*	
	*	
Complaint of Judicial Misconduct	*	06-25-90187
	*	
	*	
	*	
	*	

MEMORANDUM AND ORDER

This complaint of judicial misconduct was filed by [redacted] ("complainant") against [redacted] ("subject judge"), under 28 U.S.C. § 351.

After conducting an initial review, the chief judge may dismiss a complaint of judicial misconduct 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." Rules 11(c)(1)(A)–(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings ("Judicial-Conduct Rules"); *see* 28 U.S.C. § 352(a), (b).

The complainant is an attorney and managing partner of a law firm specializing in bankruptcy. The subject judge presided over several actions involving attorneys from the complainant's firm. The firm does not maintain an office in the subject judge's district.

During those cases, the subject judge became concerned about the firm's representation of debtors. The subject judge issued a show-cause order directing the complainant and others to appear to address potential violations of the court's local rules and the state rules of professional conduct. A copy of the order was served on the court's other judges, the chief judge of the district court, bankruptcy trustees, and state bar disciplinary authorities.

After an initial hearing on the matter, the subject judge withdrew the show-cause order as to the complainant and another attorney. This order was served on the same individuals who received the first order. After a final hearing, the subject judge concluded that the firm's procedures for substituting counsel and assigning cases were

unacceptable. The subject judge issued an order indefinitely suspending the firm from practicing before the bankruptcy court. The complainant's firm has appealed this ruling.

This misconduct complaint challenges the subject judge's issuance of the show-cause order, including its service on individuals who were not parties to the proceeding. This, it alleges, caused reputational damage to the complainant and others. The complaint also claims that the subject judge denied the complainant "a meaningful opportunity to be heard in response to the allegations" during the ensuing hearing. Compl. 1. And it claims that the subject judge's order and statements during the hearing created an appearance of bias against "debtors' counsel who [do] not reside or maintain offices" within the district. Compl. 4.

This complaint warrants dismissal. It mostly challenges the issuance and handling of the show-cause order and related proceedings. Those allegations "call[] into question the correctness of an official decision or procedural ruling of a judge." *See* Commentary to Judicial-Conduct Rule 4(b)(1). The judicial-complaint process may not be used to challenge rulings made in underlying proceedings; such decisions are not the proper subject of a misconduct complaint. *See* Judicial Conduct Rule 4(b)(1). The Judicial Council is not a court and has no jurisdiction to review the subject judge's rulings or to grant relief requested in the underlying case. *See In re Complaint of Judicial Misconduct*, 858 F.2d 331 (6th Cir. 1988). The allegations concerning the subject judge's rulings and handling of the show-cause proceedings warrant dismissal because they are merits-related. *See* 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B).

The allegation that the subject judge harbored bias against out-of-state attorneys is also dismissed. The complaint alleges that the "tenor and language" of the show-cause order coupled with the subject judge's statements during the initial hearing demonstrated bias. Compl. 4.

An allegation that decisions are "the result of an improper motive" can constitute cognizable misconduct. Judicial-Conduct Rule 4(b)(1). And "treating . . . attorneys . . . in a demonstrably egregious and hostile manner" amounts to misconduct. Judicial-Conduct Rule 4(a)(2)(B). But "opinions formed" by "events occurring in the course of the current proceedings, or of prior proceedings, do not constitute a basis for a bias or partiality motion unless they display a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky v. United States*, 510 U.S. 540, 555 (1994). Moreover, when the language in an opinion or ruling is "relevant to the case at hand," "then that choice of language is presumptively merits-related and excluded, absent evidence apart from the ruling itself suggesting an improper motive." Commentary to Judicial-Conduct Rule 4(b)(1).

The material contained in the underlying record is legally insufficient to suggest that the subject judge harbored bias against the complainant. *See* Commentary to Judicial-Conduct Rule 11(b) (permitting dismissal when "a complaint refers to transcripts . . . and the chief judge determines that the transcripts . . . all support the subject judge"). The show-cause order itself contains no irrelevant language that would

remove it from the realm of a merits challenge. And the transcripts reveal only "ordinary efforts at courtroom administration" which, even when "stern and short-tempered," "remain immune." *Liteky*, 510 U.S. at 556. The subject judge was concerned about the firm's lack of a local presence insofar as it affected "consumer debtors," "some of the most vulnerable people who access the federal courts." Initial Hearing Tr. Nothing about that concern exhibited "a deep-seated favoritism or antagonism that would make fair judgment impossible." *Liteky*, 510 U.S. at 555. This allegation is thus dismissed as lacking sufficient evidence to raise an inference that misconduct has occurred. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Accordingly, it is **ORDERED** that the complaint be dismissed under 28 U.S.C. § 352(b)(1)(A)(ii)–(iii) and Judicial-Conduct Rules 11(c)(1)(B) and (D).

/s/ Jeffrey S. Sutton
Chief Judge

Date: June 17, 2026