

# United States Court of Appeals for the Federal Circuit

IN RE COMPLAINT NO.  
F-09-90014

Before NEWMAN, Circuit Judge.

## ORDER AND SUPPORTING MEMORANDUM

A complaint of judicial misconduct was received by the court on August 25, 2009. The complaint concerns a judge of this court.

Complainant's case in the United States Court of Federal Claims was dismissed for lack of jurisdiction. The Court of Federal Claims' decision also denied complainant's numerous pending motions. Complainant appealed, and a panel of this court affirmed.

Complainant alleges that the judge who is the subject of the complaint "allowed 65 unrulled motions by the Court of Federal Claims and the Court of Appeals for the Federal Circuit to go through the courts without even a hint of stopping them to produce even a hint of justice for me." Complainant further states that the judge is "protecting the Court of [Federal] Claims by getting the case dismissed. [Isn't] it the appeals court function to weed out the mistakes of lower court so that a person or persons gets a fair hearing and justice?"

A complaint must be dismissed if the complaint is directly related to the merits of a decision or procedural rulings. Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. To the extent that complainant alleges that the judge erred in not disturbing the ruling of the Court of Federal Claims, complainant's allegations involve the merits of the court's decision and thus must be dismissed.

Pursuant to Rule 11(c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, a complaint against a judge must be dismissed if it is based on allegations lacking sufficient evidence to raise an inference that misconduct by a judge has occurred. To the extent that the complainant alleges that the judge is improperly “protecting” the Court of Federal Claims, the complaint is based on allegations lacking sufficient evidence to raise an inference that the judge has engaged in misconduct.

Accordingly,

IT IS ORDERED THAT:

The complaint is dismissed pursuant to Rule 11(c)(1)(B) and Rule (c)(1)(D) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Sept. 18, 2009

Date

/s/ Pauline Newman

Pauline Newman  
Circuit Judge

There is a right to file a petition for review of this order. Pursuant to Rule 18(b) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings, any petition for review must be received by the circuit executive within 35 days of the date of the letter transmitting this order. Any petition must be sent to:

Circuit Executive  
United States Court of Appeals for the Federal Circuit  
717 Madison Place, NW  
Washington, DC 20439