

FOR PUBLICATION

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

Nos. 16-90117
16-90118

ORDER

Filed October 3, 2016

ORDER

THOMAS, Chief Judge:

Complainant alleges that a district judge and a magistrate judge made various improper rulings in his civil case. These allegations relate directly the merits of the judges' rulings and must be dismissed. *See* 28 U.S.C. § 352(b)(1)(A)(ii); *In re Charge of Judicial Misconduct*, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982); Judicial-Conduct Rule 11(c)(1)(B).

Complainant alleges that the judges committed "Fraud Upon the Court" and favored the defendants. Adverse rulings are not proof of bias or fraud. *In re Complaint of Judicial Misconduct*, 583 F.3d 598 (9th Cir. Jud. Council 2009). Because complainant has not offered any evidence of misconduct, these charges must be dismissed. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant further alleges that, during a settlement conference, the magistrate judge encouraged him to settle the case, and after the conference the judge engaged in “ex parte” communications by calling to advise him that the defendants had received approval of the settlement by the company’s officials. A judge conducting settlement proceedings may meet with the parties separately, may encourage settlement, and may convey a party’s offer and acceptance to facilitate the settlement. Complainant has presented no objectively verifiable evidence of misconduct in this matter, and so the allegations must be dismissed. *See* 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

DISMISSED.