



proposed settlement agreement who would hire impartial consultants so that complainant would not continue to incur personal legal fees. Complainant states that she agreed to settle because she felt she had no choice.

Complainant alleges that the special master has not hired consultants at partnership expense and has, instead, relied on counsel for the parties to assist in implementation of the settlement agreement.<sup>1</sup> She further alleges that the special master has not expeditiously investigated and recommended to the court how to maximize the value of the partnership assets, as required by the settlement agreement. In addition, she alleges that portions of the settlement agreement are unenforceable. Complainant alleges that she has brought her concerns to the attention of the special master, the magistrate judge, and the district judge but has simply been told that all communication must be through counsel.<sup>2</sup>

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<sup>1</sup> Complainant alleges, for example, that her attorney was tasked with securing a loan for the partnership, and the record reflects that the partnership agreement had to be amended to provide the special master with access to partnership funds to pay the partnership's fees and expenses.

<sup>2</sup> Complainant included with her complaint a January 4, 2016, letter in which complainant asked the magistrate judge to attend a meeting between counsel, the special master, and the district judge scheduled for January 6 and 7, 2016, but there is no further information regarding what, if anything, occurred at this meeting.

Complainant has filed this judicial misconduct complaint against the magistrate judge, alleging that the magistrate judge's conduct during the mediation was coercive and prejudicial to the defendants and her failure to address alleged violations of the settlement agreement has impeded the expeditious administration of court business.

The Judicial Conduct and Disability Act provides a means to review claims relating to a judge's conduct; it does not permit review of a judge's decisions or rulings. Allegations that are "[d]irectly related to the merits of a decision or procedural ruling" cannot be raised through a judicial misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). Similarly, judicial comments that are related to the proceeding before the court are not the proper subject of a misconduct complaint. See Petition of Lauer, 788 F.2d 135, 138 (8th Cir. 1985). As long as the judge's language is relevant to the case at hand, it is presumptively merits-related and excluded from coverage under the Act. See Commentary on Rule 3, Rules for Judicial-Conduct and Judicial-Disability Proceedings, at 6.

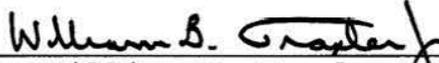
Complainant's allegation that the judge's comments during the settlement conference were coercive and prejudicial is directly related to the merits of the settlement proceedings before the magistrate judge and, therefore, outside the scope of the Judicial Conduct and Disability Act. Similarly,

complainant's allegation that the magistrate judge has not responded to her concerns regarding enforcement of the settlement agreement is also directly related to the merits of the case and barred from review under the Act. See Rule 3(h)(3)(B), Rules for Judicial-Conduct and Judicial-Disability Proceedings; Commentary on Rule 3, Rules for Judicial-Conduct and Judicial-Disability Proceedings, at 6 (a judge's determination regarding the priority to be accorded each case is a merits-related determination).

Complainant does not allege any improper motive on the part of the magistrate judge. Complainant's dissatisfaction with the pace and conduct of settlement proceedings does not give rise to a claim of misconduct.

Accordingly, this judicial complaint is dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) (related to the merits of the judge's rulings) and (iii) (lacking in factual support).

IT IS SO ORDERED.

  
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William B. Traxler, Jr.  
Chief Circuit Judge