

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT  
219 South Dearborn Street  
Chicago, Illinois 60604

February 4, 2010

FRANK H. EASTERBROOK  
Chief Judge

No. 07-10-90007

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in pending civil litigation. A magistrate judge set a date for filing motions and responses to discovery requests; the magistrate judge also told the parties how much time they had to ask the district judge for review of these dates. Complainant believes that the filing dates are incompatible with the civil rules and accuses the magistrate judge of misconduct.

Any complaint that is "directly related to the merits of a decision or procedural ruling" must be dismissed. 28 U.S.C. §352(b)(1)(A)(ii). See also Rule 11(c)(1)(B) of the Rules for Judicial-Conduct and Judicial-Disability proceedings. "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." Standard 2 for Assessing Compliance with the Act, *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* 145 (2006). The allegations of this complaint fit that description. Setting due dates is a "procedural ruling". If the magistrate judge erred, the district judge can provide relief. Complainant may have confused the way the civil rules treat "filing" from the way they treat "service," and complainant also may be unaware that the rules were amended on December 1, 2009, to provide that weekend days are no longer added automatically to periods for filing. But it does not matter whether the magistrate judge's date calculations were correct, because §352(b)(1)(A)(ii) puts that subject outside the 1980 Act's scope.