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

April 5, 2012

FRANK H. EASTERBROOK
Chief Judge

No. 07-12-90017

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the plaintiff in a civil suit. He contends that the district judge assigned to the suit is biased against him and has delayed disposition of the litigation. He also contends that the federal judge has conspired with several state judges (and two other federal judges) to undermine his legal interests.

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. Complainant believes that the judge has made incorrect decisions, but that argument should be presented to the court of appeals, not the Judicial Council, which is an administrative body.

A complaint about delay in a single suit is covered by §352(b)(1)(A)(ii). See *Report* at 146. So is an assertion of judicial bias. *Ibid*. Deciding which suits deserve first priority, and whether to serve in a given case, are procedural rulings for the purpose of the 1980 Act. Complainant does not allege that the subject judge is generally dilatory; his complaint concerns his case only. What is more, the district court's rulings are the only basis for the assertion of bias. Adverse decisions, even a cascade of adverse decisions, do not imply bias. *Liteky v. United States*, 510 U.S. 540 (1994). Every suit, indeed every

motion within a suit, produces a loser as well as a winner. Identifying winners and losers is a judge's job, not a basis for thinking that the judge is biased. A litigant's belief that he should have prevailed may imply an issue for the court of appeals; it does not imply bias. Complainant believes that the subject judge made an error in another case that complainant deems similar. In that other case, the subject judge was reversed by the court of appeals. It is debatable whether the cases *are* similar, but I shall assume that they are. Still, making the same mistake twice does not imply bias. Error is part of human nature and is why there is a hierarchy of courts, allowing review by larger panels of judges. Complainant should press his arguments in the appellate forum.

Complainant's belief that multiple judges have conspired against him adds nothing. He bases this allegation on the fact that he once saw the subject judge get out of an elevator on the same floor as the chambers of a different federal judge who formerly was assigned to complainant's case. Judges are entitled to talk with one another about pending cases; knowledge helps avoid mistakes and can expedite resolution. So if I assume that the reason for visiting the formerly assigned judge's floor was to discuss this case (though complainant has no evidence of that), there is still no basis for a charge of misconduct.