

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

February 13, 2009

FRANK H. EASTERBROOK
Chief Judge

Nos. 07-09-90021, -90022 & -90023

IN RE COMPLAINT AGAINST THREE JUDICIAL OFFICERS

MEMORANDUM

Complainant is the plaintiff in a pending civil case. She accuses two district judges and one magistrate judge of misconduct because they screened her complaint, dismissed some of its allegations, and have so far declined to schedule a jury trial.

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). The allegations of this complaint fit that description. “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). All of the complaint’s allegations concern procedural rulings. If complainant eventually loses the suit, any argument that these rulings were erroneous may be presented on appeal from the final decision.

It is apparent, moreover, that complainant does not appreciate how federal litigation proceeds. Complainant believes that, once a suit has been filed, a trial must be held. Complainant maintains that she has not consented to screening of her complaint or any judicial action other than a jury trial. Anything that prevents or delays a trial, complainant asserts, is just “a means to deny constitutional rights to African Americans.” How the federal judiciary handles civil litigation depends, however, on the United States Code and the Federal Rules of Civil Procedure. Because complainant asked for leave to proceed *in forma pauperis*, the district court was required by 28 U.S.C. §1915(e)(2) to review (that is, to “screen”) the complaint to determine whether some or all of it must be dismissed under that statute’s terms. Once the complaint was accepted for filing, some or all allegations were subject to disposition under Rules 8 and 12(b). The next step is discovery under Rules 26 to 37. Pretrial practice also may include motions for summary judgment under Rule 56. None of this depends on complainant’s consent; these are simply the procedures required by law. A judicial officer does not commit misconduct, or exhibit bias, by following these steps.