THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

August 4, 2011

No. 07-11-90032

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

[redacted]
Complainant

ORDER

The Chief Judge gave complainant 14 days to show cause why the Judicial Council should not enter an order curtailing complainant's abuse of the Judicial Conduct and Disability Act of 1980. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. She had not done so. The matter therefore is ready for decision.

During the last year, [redacted] has filed three complaints under the 1980 Act, one of these naming two judges. See Nos. 07-10-90069, 07-10-90070, 07-10-90074, and 07-11-90032. All have been dismissed as barred by 28 U.S.C. §352(b)(1)(A)(ii), which provides that any complaint that is "directly related to the merits of a decision or procedural ruling" must be dismissed, or other parts of §352(b)(1)(A). All of the complaints arise from [redacted] belief that the judicial officers assigned to her litigation have failed to sign orders personally, and her belief that this makes the orders void. Complainant also presents other allegations that need not be recounted. Section 352(b)(1)(A)(ii) bars all of these complaints, because they concern judicial decisions that could have been, or actually were, reviewed by appeal or other procedures.

When dismissing [redacted] first complaint, the Chief Judge explained and relied on §352(b)(1)(A)(ii). When dismissing the second complaint, which did not mention that statute, the Chief Judge informed her that any further complaint that disregarded §352(b)(1)(A)(ii) would be dismissed summarily and would lead to entry of an order directing her to show cause why the Judicial Council should not take steps to prevent misuse of the 1980 Act. See Rule 10(a) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings. Complainant then filed her third complaint, which like the other

two ignores §352(b)(1)(A)(ii). And, when she was directed to show cause why this should not lead the Council to act, she ignored that order. It is evident that [redacted] misuse of the 1980 Act will continue unless the Council acts.

Curtailing frivolous complaints while leaving room for serious ones is a difficult task because the Council is not a judicial forum. Standard grants of sanctioning power, such as Fed. R. Civ. P. 11 and 37, and Fed. R. App. 38, are not available. Requiring complainant to submit future complaints for screening would not do much to conserve judicial resources; the screening process (and the inevitable appeal to the Council) could take as much time as the normal decisional process under the 1980 Act.

The only approach that holds much prospect is the creation of a financial hurdle. Unlike new suits in a district court, complaints under the 1980 Act may be filed without fee, but the statute does not preclude the use of a financial gateway as a sanction for demonstrated misconduct. Financial incentives can help curtail frivolous complaints under the 1980 Act.

In 2007 the Council decided that requiring a deposit of $1,000 by a complainant who has repeatedly abused the 1980 Act's processes would serve as an appropriate screen. See No. 07-7-352-20 (issued July 9, 2007). That approach is equally apt here.

The $1,000 is neither a fine nor a filing fee. It is a deposit, designed to make complainant think seriously before filing—though it still falls short of the costs that the federal judiciary incurs in using 21 judges to resolve a complaint. To ensure that every non-frivolous complaint can be heard and resolved on the merits without expense to the complaining party, this deposit will be refunded if the Chief Judge determines that a complaint has any arguable merit. If, however, [redacted] files a future complaint after the model of those already considered and rejected, then the deposit will not be refunded. Any complaint that [redacted] tenders without the required deposit will be returned unfiled.

It is so ordered.