

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

March 23, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90045

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant was the plaintiff in a civil case that a district judge decided against him. The time for appeal has expired. He believes that the judge's decision is incorrect and that his lawyer was incompetent; he asks the Judicial Council to permit him to relitigate his claim before a different district judge.

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). The Judicial Council is an administrative rather than a judicial body; it is not a forum for the relitigation of closed cases.

If counsel committed malpractice, the appropriate remedy is by a claim against the attorney, not a new round of litigation against the original defendant. See *United States v. 7108 West Grand Avenue*, 15 F.3d 632 (7th Cir. 1994). Unless complainant and his former lawyer are citizens of different states, and the value of the claim exceeds \$75,000, litigation against the former lawyer belongs in state court.