

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

January 28, 2010

FRANK H. EASTERBROOK
Chief Judge

No. 07-10-90006

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is the spouse of the plaintiff in pending civil litigation. When the spouse's law firm moved for leave to withdraw, a magistrate judge held a hearing. The magistrate judge ordered some documents to be sealed because of attorney-client privilege. During the hearing the lawyers were seated at a table separate from complainant's spouse. Complainant believes that the magistrate judge should have stopped the law firm from making statements that complainant describes as false and defamatory. According to complainant, these events constitute judicial 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. Decisions about whether documents are covered by a privilege, how participants are seated in court, and which evidence will be received, are procedural rulings. The Judicial Council is an administrative body. Arguments about a magistrate judge's legal errors must be presented to the district judge and eventually to the court of appeals, if they affect the district court's final decision.