

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

May 5, 2010

FRANK H. EASTERBROOK  
Chief Judge

No. 07-10-90024

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, the plaintiff in civil litigation, was awarded a favorable judgment. The defendants contend that they have satisfied this judgment and want complainant to acknowledge full payment; complainant's refusal to do so has led defendants to ask the court to vacate the judgment under Fed. R. Civ. P. 60(b)(5) on the ground, recognized by that Rule, that "the judgment has been satisfied, released, or discharged". The judge has twice denied these motions as unnecessary, instructing defendants to file with the court a notice of their payment.

Complainant now charges the judge with misconduct, but I cannot understand what he thinks the judge has done wrong. The decision to leave the judgment in effect is favorable to complainant. At all events, 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 asserts that the judge has encouraged defendants to file a notice of satisfaction, but how that could constitute misconduct escapes me. The only alternative is vacatur under Rule 60(b)(5). Complainant thinks that the defendants are harassing him by filing motions and notices, but his objections to their conduct are outside the scope of the 1980 Act, which covers only judges.

If complainant believes that the defendants have not fulfilled their obligations, he should initiate collection proceedings under Fed. R. Civ. P. 69. Otherwise he should sign the acknowledgment of satisfaction. Either way, there is no problem with the subject judge's handling of this litigation.