

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

February 22, 2012

FRANK H. EASTERBROOK
Chief Judge

No. 07-12-90008

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

One of the two complainants is the plaintiff in pending civil litigation; the other is her husband. The suit has been assigned to a magistrate judge for pretrial proceedings. Complainants believe that the plaintiff's lawyer has behaved unethically. The magistrate judge has allowed counsel to withdraw and has not imposed sanctions. Complainants contend that the subject judge has committed misconduct by not determining that the lawyer behaved unethically and imposing appropriate sanctions.

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. The decision to allow counsel to withdraw without sanctions is a "procedural ruling" in the litigation. If the magistrate judge erred, the appropriate response is a request that the district judge, who retains full control of the litigation, intervene. (Another potential response is a malpractice suit against the lawyer.) The Judicial Council is an administrative body rather than a forum for interlocutory review of decisions in pending litigation.