

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

August 8, 2008

FRANK H. EASTERBROOK
Chief Judge

No. 07-08-90068

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, formerly a debtor in bankruptcy, charged the bankruptcy judge with misconduct. I dismissed that complaint (No. 07-08-90025) earlier this year. A district judge affirmed the bankruptcy judge's decisions. Now complainant has charged the district judge, too, with misconduct—and for good measure filed a suit against the bankruptcy judge, the district judge, and various participants in the bankruptcy.

This process of cascading suits and charges of misconduct is regrettably common. Complainant simply refuses to accept the outcome of litigation—though doubtless she believes that, if she should prevail, her adversaries must accept *their* defeats. See *Homola v. McNamara*, 59 F.3d 647 (7th Cir. 1995). All that is necessary for current purposes is to understand that a complaint “directly related to the merits of a decision or procedural ruling” must be dismissed. 28 U.S.C. §352(b)(1)(A)(ii). “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).

Complainant does not mention §352—although my order earlier this year informed her of its existence and import—but may believe that she sidesteps §352 by contending that the district judge should have recused himself. The judge is not participating (except as a litigant) in the suit in which he is a defendant. He is entitled, however, to continue serving in other litigation. If a suit against a judge automatically disqualified that judge in all cases involving the plaintiff, any litigant could remove a judge at will. The federal system does not allow litigants to pick their judges by the expedient of filing suit against any judge the litigant wants removed. See Committee on Codes of Conduct, Advisory Opinion 103, Part I.D (July 12, 2002). At all events, the decision to recuse oneself, or not, is itself a “procedural ruling” for the purpose of §352(b)(1)(A)(ii). See *Implementation Report* at 146.