

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT

219 South Dearborn Street
Chicago, Illinois 60604

August 7, 2009

FRANK H. EASTERBROOK
Chief Judge

No. 07-09-90079

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant is representing himself in pending civil litigation. He contends that the judge has committed misconduct by failing to enter any orders since January 2009.

The judge's most recent order stayed discovery pending decision on a motion for a protective order. Briefing on that motion was completed in February. While it was under advisement, defendants filed a motion for summary judgment. Were that motion to be granted, a protective order would be unnecessary. Briefing on the motion for summary judgment lasted until mid-June. Then complainant filed a motion to amend the complaint and add both additional defendants and additional theories of relief. That motion, too, potentially affects the propriety of a protective order. Briefing on the motion to amend the complaint was finished less than a month ago.

It is evident from this recitation that the district judge had good reason to defer ruling on the motion for a protective order. What is more, 28 U.S.C. §352(b)(1)(A)(ii) provides that any complaint "directly related to the merits of a decision or procedural ruling" must be dismissed. A judge's decision about how to allocate time, and when to address particular motions, is related to a procedural ruling and thus is covered by this statute. Standard 2 for Assessing Compliance with the Act, *Implementation of the Judicial Conduct and Disability Act of 1980: A Report to the Chief Justice* 146 (2006).

This is complainant's second charge under the 1980 Act against the judge handling this suit. When resolving the first, I informed complainant about 28 U.S.C. §352(b)(1)(A)(ii). The current complaint ignores that statute. Apparently complainant thinks that the chief judge of the circuit should use the 1980 Act to manage litigation pending in a district court. That is not what the 1980 Act is for. Any further complaint that does not make a serious effort to demonstrate how it is compatible with §352(b)(1)(A)(ii) will be dismissed summarily.