

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

October 7, 2011

FRANK H. EASTERBROOK  
Chief Judge

No. 07-11-90057

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant filed a civil suit last April against 38 defendants and promptly began to pepper the district court with motions, none of which had been resolved. He contends that the district judge's inaction constitutes 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. Delay in a particular case is regrettable, but a judge's decision about which litigation deserves priority is covered by §352(b)(1)(A)(ii). *Report* at 146.

Complainant asserts that the court in which his suit was filed is generally slow and unresponsive. That allegation is outside the scope of §352(b)(1)(A)(ii) but is conclusively refuted. Complainant asks me to compare the performance of the district in question with the performance of other district courts. I have done just that, using data published by the Administrative Office of the U.S. Courts. The district in question takes an average of 7.6 months to resolve civil suits. The national average is 7.8 months, and the range for district courts within this circuit runs from a low of 6.2 months to a high of 10.8 months. The district in question takes longer than the national median when a case

makes it to pretrial preparations, but the difference is not enough to imply a general problem. So this aspect of the complaint is dismissed under §352(b)(1)(A)(iii).

A review of the docket sheet suggests that this case will take longer than 7.6 months to resolve. But a plaintiff who sues 38 defendants cannot demand immediate action. It may well be that some (or many) of the defendants have yet to be served with process, and the suit cannot get under way until that happens. At all events, the suit will be managed by the district judge, not by the Judicial Council.