

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

April 13, 2012

FRANK H. EASTERBROOK
Chief Judge

No. 07-12-90021

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

A disappointed litigant has sent to the House of Representatives a “complaint” asking the House to impeach a federal judge. The litigant also has sent this document to the court, attached to the form for filing complaints under the Judicial Conduct and Disability Act of 1980. It has been docketed as a complaint under the 1980 Act.

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 district judge dismissed complainant’s suit because the federal diversity jurisdiction does not cover the probate of a decedent’s estate, see *Ankenbrandt v. Richards*, 504 U.S. 689 (1992), and because the judge found the complaint largely unintelligible. Complainant believes the judge erred. But the forum for such a contention is the court of appeals, not the Judicial Council. (The district court dismissed the suit more than a year ago, but no appeal was filed.)

Complainant believes that the judge must be biased against him and should have recused himself. Recusal decisions are procedural rulings for the purpose of §352(b)(1)(A)(ii). See *Report* at 146. Moreover, complainant does not supply any evidence of bias. All complainant has is a belief that the judge erred. A judge’s function

is to decide lawsuits; every suit produces a loser as well as a winner, and many if not most of the losers sincerely believe that they should have prevailed. This has nothing to do with bias, which means a prejudice against a litigant independent of the merits. See *Liteky v. United States*, 510 U.S. 540 (1994). A judge who forms an opinion based entirely on the documents filed in court is simply doing his job.