

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

July 31, 2013

FRANK H. EASTERBROOK
Chief Judge

No. 07-13-90049

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

The three complainants have been ordered to appear at a hearing to tell a bankruptcy judge why they have not turned over funds as directed. They contend that the judge scheduled the hearing only because he accepted hearsay evidence at an earlier hearing, and that he must be biased against them.

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. Any adverse decision can be appealed to a district judge (and if necessary the court of appeals); the Judicial Council is not authorized to superintend the management of ongoing litigation.

The allegation of bias is not supported by anything other than the judge’s orders. This does not satisfy legal standards. See *Liteky v. United States*, 510 U.S. 540 (1994). Moreover, a judge’s decision that he is entitled to serve in an adjudicatory capacity is itself a procedural ruling for the purpose of §352(b)(1)(A)(ii). See Rule 3(h)(3)(A) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

At least two of the complainants are lawyers; all three may be. Yet the complaint does not mention any case, any portion of the 1980 Act, or any of the governing Rules. It is irresponsible and unprofessional for lawyers to hurl charges of misconduct without doing legal research.