

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

March 8, 2007

FRANK H. EASTERBROOK
Chief Judge

No. 07-7-352-9

IN RE COMPLAINT AGAINST A JUDICIAL OFFICER

MEMORANDUM

Complainant, the plaintiff in a civil action in a federal district court, contends that the judge committed misconduct by denying his motion for sanctions against the attorneys representing the defendant.

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). The allegations of this complaint fit that description. “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 propriety of sanctions may be raised on appeal—and was. The court of appeals affirmed the district court’s judgment. After complainant then sued the law firm, the court of appeals summarily affirmed the order (by a different district judge) dismissing that suit for lack of federal jurisdiction. A complaint under the 1980 Act is not a means to reopen a question that has been litigated and resolved adversely to the complainant.

Complainant, a black man, also asserts that the district judge is prejudiced against black men. This aspect of the complaint is not merits-related, but it is frivolous and is dismissed on that ground. The only “evidence” complainant offers for this assertion is that the district judge not only denied his motion but also, some time earlier, sanctioned a black lawyer for a violation of Fed. R. Civ. P. 11. This does not begin to make out a *prima facie* case of discrimination. The district judge resolved more than a thousand cases during this period, handing

out victories (and defeats) to black and white, male and female, litigants and lawyers. The observation that two black men (one litigant and one lawyer) have been unsuccessful over a span of years does not imply discrimination, and complainant offers no other basis for such an inference.