

DEC 05 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF
JUDICIAL MISCONDUCT

No. 08-89003

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a bankruptcy judge. Complainant, a pro se debtor, petitioned for bankruptcy. The subject judge was assigned to the matter.

Complainant alleges that the judge improperly ruled on his motion to avoid a creditor's lien without first conducting an evidentiary hearing. Complainant also alleges that the judge misapplied the law, misapprehended the facts and otherwise incorrectly denied the motion. All these charges relate directly to the merits of the judge's ruling and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Misconduct Rule 4(c)(1). A misconduct complaint is not a proper vehicle for challenging the merits of a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant further alleges that the judge denied his request for an invocation or benediction. This charge must be dismissed because the charged

behavior doesn't amount to "conduct prejudicial to the effective and expeditious administration of the business of the courts." See 28 U.S.C. § 351(a); Misconduct Rule 4(c)(2)(A).

Complainant's allegations against the creditor must be dismissed because this complaint procedure applies only to federal judges. See Misconduct Rule 1(d).

DISMISSED.