FILED

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

JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF **JUDICIAL MISCONDUCT**	Nos. 09-90038, 09-90039, 09-90040 and 09-90041 **ORDER**

KOZINSKI, Chief Judge:

Complainant, a pro se litigant, alleges that the district judge assigned to his civil case improperly failed to issue a summons and that three circuit judges affirmed. These charges relate directly to the merits of the judges' rulings and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not a proper vehicle to challenge a judge's rulings on the merits. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the district judge failed to properly supervise personnel in the office of the clerk of court. Judges ordinarily do not have supervisory responsibility over the clerk of court's office. This charge is therefore dismissed for failure to allege "conduct prejudicial to the effective and expeditious administration of the business of the courts." 28 U.S.C. § 351(a); Judicial-Conduct Rule 11(c)(1)(A). In any event, although complainant alleges that one of his

filings was stolen or destroyed, a review of the docket reveals that it was merely misplaced, and that a conformed copy was filed in its place.

Complainant's allegations against court staff are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

Complainant's request that his complaint be transferred to the judicial council of another circuit is denied. Complainant asserts that the Ninth Circuit "cannot sit in judgment of their own house," but the rules contemplate that judges will decide complaints related to colleagues in their circuit except in "exceptional circumstances." Judicial-Conduct Rule 26. Complainant's bare allegation of "prejudice at the Ninth Circuit" does not provide the concrete and substantiated showing of exceptional circumstances that the rules require.

Complainant's requests to vacate the district court's decision, to authorize him to re-file his action in another court and for damages are not cognizable under the misconduct complaint procedure. See Judicial-Conduct Rule 3(h).

DISMISSED.