

FOR PUBLICATION

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

IN RE COMPLAINT OF JUDICIAL
MISCONDUCT

No. 13-90073

ORDER

Filed August 13, 2013

ORDER

KOZINSKI, Chief Judge:

Complainant has filed an Emergency Motion to Stay Proceedings Below captioned as a motion in this misconduct proceeding. The misconduct complaint is pending before me in my administrative capacity as presiding officer of the Judicial Council of the Ninth Circuit. The Judicial Council is not a court and has no authority to interfere with judicial proceedings. *In re Complaint of Judicial Misconduct*, 630 F.3d 1262 (9th Cir. Jud. Council 2011). Complainant cites 28 U.S.C. § 2106 but that statute only applies to “court(s) of appellate jurisdiction,” which the Judicial Council is not.

The emergency motion is denied. The misconduct complaint is held in abeyance pending resolution of the appellate proceedings in the underlying litigation. *See* Commentary to Judicial-Conduct Rule 3 (“[C]onsideration and disposition of a complaint under these Rules may be

properly deferred by a chief judge until appellate proceedings are concluded ...”).

DENIED.