

JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT

**FILED**

NOV 26 2008

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

IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT

No. 07-89127

**ORDER**

**KOZINSKI**, Chief Judge:

A complaint of misconduct has been filed against a magistrate judge. Complainant, a pro se litigant, filed a civil case in district court. The case was referred to the subject magistrate judge.

Complainant alleges that the judge was biased against him and intentionally prevented him from receiving a fair trial. Among the actions listed as examples of bias are the judge's denial of discovery and refusal to recuse herself. These charges of bias are based solely on the merits of the judge's rulings and must therefore be dismissed. See Commentary on Misconduct Rules 1 and 4.

Complainant also alleges that the judge repeatedly made improper threats to induce him to dismiss his case. He further alleges that the judge made untruthful statements and disparaged him. However, complainant hasn't included any objectively verifiable proof (for example, names of witnesses, recorded documents

or transcripts) to support these allegations. Because there isn't sufficient evidence to raise an inference that misconduct occurred, these charges must be dismissed.

See 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

**DISMISSED.**