

DEC 04 2008

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-89014

ORDER

KOZINSKI, Chief Judge:

A misconduct complaint has been filed against a district judge. Complainant, a pro se litigant, filed a civil rights action in district court. The subject judge was assigned to the matter.

Complainant alleges that the judge improperly referred the case to a magistrate judge without her consent. However, a litigant’s consent is not generally a prerequisite for referring many pretrial matters to a magistrate judge. See 28 U.S.C. § 636(b)(1). This charge must be dismissed because the charged behavior does not 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).

DISMISSED.