

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**

No. 08-89051

MEMORANDUM AND ORDER

KOZINSKI, Chief Judge:

A complaint of misconduct has been filed against a commissioner of this circuit. Complainant is a pro se litigant. A panel of this court of appeals granted certain opposing parties' requests for attorneys fees against complainant, and referred the determination of the appropriate amount of the fee awards to the commissioner. The commissioner issued a detailed order, awarding specific fee amounts to the parties. The panel denied complainant's motion for reconsideration of the commissioner's order.

Complainant alleges that the commissioner acted outside his authority, and was without jurisdiction to seek further information from the parties and to issue the order determining fee amounts. He also alleges that the commissioner should not have considered some of the parties' fee information, because he alleges it was untimely submitted. The local rules authorize the commissioner to make determinations regarding fee award amounts, and the amount is reviewable by the

panel that referred the case to the commissioner. See 9th Cir. R. 39-1.9.

Complainant also alleges that the commissioner acted arbitrarily and erred in determining the fee amounts. Because all of these charges are directly related to the merits of the commissioner's determination, they must be dismissed. 28

U.S.C. § 352(b)(1)(A)(ii); Rule 4(c)(1) of the Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial Misconduct or Disability (Misconduct Rules). A complaint of judicial misconduct is not a proper vehicle for challenging a judge's rulings. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Finally, complainant alleges that the commissioner was biased against him, but he hasn't included any objectively verifiable proof (for example, names of witnesses or recorded documents) supporting these allegations. Because there isn't sufficient evidence to raise an inference that misconduct occurred, the charge is dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); Misconduct Rule 4(c)(3).

DISMISSED.