JUDICIAL COUNCIL

OF THE NINTH CIRCUIT

IN RE COMPLAINT OF	No. 08-90185
JUDICIAL MISCONDUCT	**ORDER**

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that the magistrate judge assigned to his civil case improperly stayed proceedings and ordered him to participate in alternative dispute resolution. Federal judges have broad authority to manage the conduct of proceedings, and suspending proceedings for a reasonable time so that the parties may pursue settlement is well within this authority. This charge of misconduct must be dismissed because the conduct alleged is not prejudicial to the effective and expeditious administration of the business of the courts. See Judicial-Conduct Rule 3(h).

Complainant also alleges that the judge improperly returned two of his motions without ruling on them. A review of the docket confirms that the court did not file or rule on these two motions. Complainant provides no proof that this was anything more than a mistake, and a misconduct complaint is not a proper means of challenging judicial mistakes. See In re Charge of Judicial Misconduct,

685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982). Further, the judge ruled on

related motions which resolved the issues raised in the unfiled motions. Because

there is no evidence that misconduct occurred, these charges must also be

dismissed. See 28 U.S.C. § 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

Complainant's allegations against one of the defendants and defense

counsel are dismissed because this misconduct complaint procedure applies only

to federal judges. See Judicial-Conduct Rule 4.

Complainant's requests that the district court commence trial and rule on his

petition for a writ of habeas corpus ad testificandum are not cognizable in this

misconduct proceeding. See Judicial-Conduct Rule 3(h). Moreover, the requests

are moot as the docket reveals that the judge has since considered complainant's

habeas petition and a jury trial has concluded.

DISMISSED.