

FILED

OCT 28 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90200

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that the district judge assigned to his civil case improperly “excommunicated” him from the case. This charge relates directly to the merits of the judge’s rulings and must therefore be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B). A misconduct complaint is not a proper vehicle for challenging a judge’s decisions on the merits. See In re Charge of Judicial Misconduct, 685 F.2d 1226, 1227 (9th Cir. Jud. Council 1982).

Complainant also alleges that the judge failed to respond to his letters. But the proper way for a litigant to communicate with a judge is by filing documents with the clerk of court. A judge has no obligation to respond to letters sent to him directly; indeed, it may be improper for him to do so. Because complainant hasn’t alleged conduct prejudicial to the effective and expeditious administration of the business of the courts, this claim must be dismissed. See Judicial-Conduct Rule 11(c)(1)(A); In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th

Cir. Jud. Council 2009).

Complainant's allegations against prison officials are dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.