

FILED

OCT 26 2009

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 08-90203

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that the district judge assigned to his civil case improperly dismissed 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 ignored the fact that court staff lost unspecified documents. But complainant hasn't provided any objectively verifiable proof (for example, names of witnesses, confirmed documents or transcripts) to support this allegation. See In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009). Because there is no evidence that misconduct occurred, this charge must be dismissed. See 28 U.S.C.

§ 352(b)(1)(A)(iii); Judicial-Conduct Rule 11(c)(1)(D).

To the extent complainant raises allegations against court staff, the charges must be dismissed because this misconduct complaint procedure applies only to federal judges. See Judicial-Conduct Rule 4.

DISMISSED.