

FILED

APR 28 2011

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

**JUDICIAL COUNCIL
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF
JUDICIAL MISCONDUCT**

No. 10-90167

ORDER

KOZINSKI, Chief Judge:

Complainant alleges that a district judge has unduly delayed review of a second amended complaint filed in a case to which complainant isn't a party.

Complainant's allegation is unfounded because the record shows that the subject judge timely reviewed the second amended complaint. This charge must be dismissed as "conclusively refuted by objective evidence." 28 U.S.C.

§ 352(b)(1)(B); see also Judicial-Conduct Rule 3(h)(3)(B) (delay isn't cognizable misconduct "unless the allegation concerns an improper motive in delaying a particular decision or habitual delay in a significant number of unrelated cases").

DISMISSED.