

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 11-134

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Complainant: No. 1419110025A

Judge: No. 1419110025B

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**ORDER**

The complainant alleged that a superior court judge violated her rights by issuing incorrect rulings. The commission reviewed the matter along with various minute entries from the case and found no evidence of ethical misconduct on the part of the judge. Whether the judge failed to submit sufficient findings in connection with a preliminary injunction order is a legal issue outside the jurisdiction of the commission. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: August 3, 2011.

FOR THE COMMISSION

/s/ George Riemer  
George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on August 3, 2011.

*This order may not be used as a basis for disqualification of a judge.*

SUMMARY OF DOCUMENTS FILED IN CASE CV2008-

May 21, 2008 Verified Complaint  
May 21, 2008 Application for Injunction as Town of Cave Creek had ignored  
my Complaints regarding defendants' unlawful and intolerable  
use of their DR89 Single Family Residential use of their property  
June 20, 2008 Show Cause Hearing for Injunction  
Temporary Preliminary Injunction Issued  
July 25, 2008 Amended Order Granting Preliminary Injunction

March 25, 2009 Application for Contempt Sanctions and Order to Show Cause  
For Defendants' Violation of the Court's Orders Granting  
Preliminary Injunction  
April 22, 2009 Hearings for above scheduled for June 2009  
May 20, 2009 Defendants file for Ch. 13 Bankruptcy  
Action in Maricopa court superior Court Stayed  
Nov. 2009 Stay lifted

March 23, 2010 Plaintiff's Request to Reset Hearing on Plaintiff's Application for  
Contempt Hearing  
March 26, 2010 Defendants' Response to Plaintiff's Request to Reset Hearing  
on Plaintiff's Request for Contempt  
April 17, 2010 Response to Order to Show Cause and Request for Evidentiary  
Hearing  
May 11, 2010 List of Exhibits for May 21, 2010 Contempt Hearing  
May 21, 2010 Petition for Contempt Hearing  
May 21, 2010 Minute Entry Evidentiary Hearing  
June 25, 2010 Motion for Reconsideration  
July 25, 2010 Defendants' Motion for Partial Summary Judgment on Complaint  
Items 2 and 3  
August 18, 2010 Motion for Reconsideration Denied  
August 18, 2010 Response to Motion for Partial Summary Judgment  
October 28, 2010 Summary Judgment granted on item 3.  
Feb. 2, 2011 Motion to Resolve Standing Issue  
Feb. 22, 2011 Motion Denied

Judge

Judicial Misconduct:

Rule 1.1 Compliance with the Law and , Rule 1.2 (5) Promoting Confidence in the Judiciary Improprieties, and Rule 2.2 Impartiality and Fairness,  
 Rule 2.6 Ensuring the Right to Be Heard

(b) Violation of Federal Constitution Fourteenth Amendment Right of Due Process to speak and be heard as well as Arizona Constitution Article 2 Sec. 3 and Sec. 4 at a Hearing on May 21, 2010 when Defendants "hijacked" a Hearing on Plaintiff's Petition for Contempt of an Injunction issued on June 20, 2008 by stating I did not have Standing for the Contempt charge because they claimed I had not followed Cave Creek Administrative Procedures. No evidence other than their statement was provided as to what I did or did not do, what the Town did or didn't do, nor what I actually was required to do Judge noted that she knew Plaintiff was not prepared for this but when Plaintiff requested to speak on the matter, Judge responded "no" and when Plaintiff requested to brief the matter, the answer was the same "no" and she dismissed the Petition for Contempt and vacated the Injunction, claiming I did not have Standing as I had failed to follow the Town's Administrative Procedures. No Hearing at all on these issues, whereby all interested parties could be heard.

It had been agreed by Defendants and Judge at the Hearing on June 20, 2008 that, after having little success in getting the Town of Cave Creek to respond to Defendants violations of Zoning Ordinances, I did have Standing for a Private Attorney General action and issued a Temporary Preliminary Injunction.

Plaintiffs wanted to obtain an Interpretation from the Town Zoning Administrator regarding the permitted uses of the Defendants property so an Evidentiary Hearing was set for July 28, 2008. The permitted use of Defendants property was issued the Cave Creek Zoning Administrator on July 1, 2008 and on July 28, 2008 Defendants then drafted a Amended Preliminary Injunction to which final agreement was made by both parties and signed by Judge

At this time the Court took over jurisdiction and enforcement of the items on that court-ordered Injunction. The two issues cited by the Defendants took place many months after the Court had taken over the case.

A. It is incomprehensible that Judge did not remember that the reason the Injunction was issued in 2008 was because of the Town's failure to do their job for inadequate or non- existent remedy or where it would be futile or useless to invoke apparent

available procedures, the criteria cited in the Town of Paradise Valley v. Gulf Leisure Corp. 557 P.2d 532, 27 Ariz. App. 600.

B. It is also incomprehensible that she does not know of Constitutional Due Process Rights so she did not comply with, apply, or uphold the law. There are many cases on this subject but I am sure you are well aware of them so I will not list them unless you request.

C. It is unbelievable that she does not know that when a Court takes over a case and issues an Injunction or any other Court Order, the Court is responsible for its enforcement and in this case, not the Town. Again, she did not either know or failed to apply the law.

D. It is also incomprehensible that she let the Defendants attorney get away with such a shenanigan rather than buy into it. If this were not an irrelevant allegation by Defendants, they would have been the ones who failed to follow the Town's Administrative Procedures by not appeal the Zoning Administrator's Interpretation of July 1, 2008 and not stipulating to that Interpretation in the Injunction. There is no provision in the Ordinances for going back 9 months later, after having violated the agreed-upon Interpretation, and ask for another Interpretation, which was labeled "Clarification" but technically was an Amendment to the Ordinances and the Zoning Administrator does not have the authority to amend or modify any Ordinance. That is an entirely different procedure, involving hearings and the Town Council approval.

E. On June 25, 2011 Plaintiff filed a Motion for Consideration of her actions but it was denied by Judge George Foster, Jr. who had taken over her cases in June 2010 after a judge rotation.

F. Defendants filed for a Summary Judgment of Counts 2 and 3 of my Complaint and Count 3 was dismissed as that related to the Zoning Ordinances Defendants had violated.

G. I filed a Motion to Resolve Standing Issue on Feb. 2, 2011 which was Denied on Feb. 22 by Judge Foster, who stated that the Court did not rule that Plaintiff is without standing but that Plaintiff had failed to first exhaust administrative remedies, which he says is an entirely different thing. I fail to understand that at all as Judge clearly stated in her Ruling on May 21, 2010 that I did not have Standing because I had failed to exhaust administrative remedies. Since all of this was determined at the Show Cause Hearing June 20, 2008, when the Temporary Injunction was issued, this makes no sense at all, as well as Defendants Stipulating to and judge signing the Amended Preliminary Injunction on July 25, 2008 giving the Court authority over the Issues stated thereon.

H. I will also note that had the proper hearing been held on May 21, 2010, that of the Petition for Contempt, I could have been awarded attorneys fees as a Private Attorney General had I been successful

in winning. The Exhibits Plaintiff provided for that Hearing were absolute evidence of Defendants guilt.

These are not simply "good faith errors of fact or law". Judge has had numerous postings on the internet regarding "ignorance, incompetence, unprepared, does not know the case, does not know the law" etc. mostly by attorneys. Litigants should not be required to appeal such decisions as they it is not only unaffordable for most people but actions like those demonstrated in my case are so basic that all judges attorneys should be well aware of them. The comments by both judges in this case are contradictory, confusing, inaccurate, double talk and essentially "gobbledy gook". Inexcusable!!!

Judge action of dismissing the Petition for Contempt and vacating the Injunction after two years of it having been in place without any Hearing and evidence by both parties on the issues is an inexcusable miscarriage of justice. and has precipitated virtual irretrievable damage to this case in Superior Court as well as Plaintiff's Adversary Complaint in the Bankruptcy Court against Defendants. Plaintiff was not only caused tremendous expenditures of effort and attorney fees and costs in both courts but was left to suffer the Defendants unlawful and intolerable actions as I was left with no recourse by which to stoop them. My health is ruined, I am financially ruined and now am left to represent myself at age 78 in both courts, although it appears that may never happen as the defendants have pulled yet another game and after the civil case trial date of July 11, 2011 was set, they converted to Ch. 7 Bankruptcy and the June 10, 2011 date for filing Objections to discharge in the Bankruptcy Court precedes the trial date. Had the Contempt Hearing taken place on May 21, 2010, I have no doubt I would have been awarded damages for Defendants willfully and maliciously disobeying a Court Order as well as attorney fees, which would not be discharged in Bankruptcy.

There is apparently no place to go to remedy such egregious behavior on the part of judges. If the trial in the Maricopa County Superior Court scheduled for July 11, 2011 in front of Judge Foster should by some miracle actually take place, considering that the Defendants having successfully pulled every possible trick to avoid any responsibility for their behavior coupled with the judges actions, I will now have an almost impossible task of winning my case as he has already ruled against every effort I have made to rectify this horrendous situation.

What happened to "justice for all"??!!