

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 15-224

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Judge:

Complainant:

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**ORDER**

A pro tem superior court judge self-reported a potential violation involving an abuse of the prestige of his judicial office.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission approved sending the judge an advisory letter that he should tailor his resume so as not to abuse the prestige of judicial office to advance his personal or economic interests in violation of Rule 1.3 of the Code. The commission considers the matter dismissed pursuant to Rules 16(b) and 23(a).

Dated: November 13, 2015

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez  
Commission Chair

A copy of this order was mailed  
to the judge on November 13, 2015.

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

**Via Email & Hand-Delivery**

Members of the Judicial Commission  
 ARIZONA COMMISSION ON JUDICIAL CONDUCT  
 1501 W. Washington Street, Suite 229  
 Phoenix, AZ 85007  
[cjc@courts.az.gov](mailto:cjc@courts.az.gov)

**Re:**

**Dear Members:**

I am currently a Judge in [redacted] Court. I was appointed and have been reappointed since then. Recently, I was in a case titled [redacted] Court, [redacted] which went to trial before the Honorable [redacted] on [redacted] through [redacted]. As [redacted], I provided testimony at the [redacted] trial on [redacted]. As with all [redacted], for the first part of my testimony, I was asked questions regarding my credentialing and background. The lawyer examined me on direct examination from my CV. A copy of my CV was marked as [redacted]. Ultimately, my CV was admitted into evidence. Attached hereto as **Exhibit 1** is a copy of my CV as it existed at or about the time of the trial.<sup>1</sup> Among the [redacted] of recitations regarding my education, publications and speaking engagements, there appeared at page 3 a two line entry which states:

During my testimony in the [redacted] trial, the following questions and answers were given as the lawyer asked me questions regarding entries on my CV:

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<sup>1</sup> My CV is constantly revised because of additional articles, speaking engagements, or case reviews that I have done since the last iteration of the CV. Exhibit 1 is the iteration of my CV as of [redacted]. It may not be the exact CV which is reflected in [redacted] at the [redacted] trial because it may have one or more articles or additions beyond what was actually introduced at trial. What is relevant is the reference to being a Judge [redacted] on Exhibit 1 remained the same from the first day I listed it on my CV up through its recent deletion.

See **Exhibit 2**, Trial Transcript

At the time I was asked the above questions, I had not given any thought to whether the answer to those questions was improper under the Code of Judicial Conduct. When I first became a Judge \_\_\_\_\_, the materials I received from the Court asked me to review the Code of Judicial Conduct which I did. When I answered the above questions I did not intend in any way to violate any Rule of Judicial Conduct.

The trial in which I testified ultimately was \_\_\_\_\_ because \_\_\_\_\_ . After the trial concluded, I received from Judge \_\_\_\_\_ a letter expressing some concern that my testimony set forth above might be inconsistent with Rule 1.3 of the Code of Judicial Conduct. Judge \_\_\_\_\_ asked me to self-report myself. Attached hereto as **Exhibit 3** is a copy of Judge \_\_\_\_\_ correspondence to me. You will note from the transcript attached as **Exhibit 2** that Judge \_\_\_\_\_ did not intervene when I was asked the question about being a Judge \_\_\_\_\_ and, as reflected in **Exhibit 3**, my testimony

Rule 1.3 of the Code of Judicial Conduct states: "A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so." When I answered the questions stated above at trial, I had no intent to abuse the prestige of the judicial office of Judge \_\_\_\_\_ to advance some personal or economic interest. I did not, and do not, feel my testimony violated the Rule. My Curriculum Vitae is rather long and the fact

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of my service as a Judge is only two lines on a CV. When asked the question, I tried to be accurate in my answer so as not to mislead anyone. In referring to my voluntary service, I used the term and respectively. I did not intend by my answer to suggest that I was a judge like Judge . I tried to fairly and accurately report what Judge do. As a , I have been asked by one Judge (Judge ) to consider presiding over an actual in his Court and I have received emails asking Judge generally if they were willing to cover calendars. In that regard, once I was asked the question about being a Judge Pro Tem, an explanation of what that meant was appropriate and, in fact, was given. Any possibility of a misstatement or over-emphasis being placed on that role on my part was subject to cross-examination. No objection was raised to my answers or the questions asked.

Because Judge has asked me to self-report this incident to the Commission on Judicial Conduct, I am now doing so. I have already taken corrective action, however. First, I have removed from my CV the reference to being a Judge Pro Tem. Second, upon receiving Judge letter, I called the Pro Tem Coordinator and suspended my active involvement as a Judge Pro Tem indefinitely. Additionally, I will resign as a Judge Pro Tem once this matter is resolved. I am concerned that if I resign before the matter is resolved somehow that could be perceived as an admission of wrongdoing. Hopefully the Commission will determine that it does not need to take any further formal action. Once this matter is resolved, I will resign as a Judge Pro Tem so that this issue can never arise again under any circumstances.

It is my hope that the members of the Commission on Judicial Conduct will consider my long service at the bar in volunteering to educate lawyers in my field of practice, . I have donated my time in setting up seminars for CLE credit, in writing a book in my field which was donated to the State Bar, and coordinating as a contributing editor various lawyers in producing the *Arizona Tort Law Handbook*. I became a Judge Pro Tem to further my voluntary service which, unfortunately, has led to this issue. It was not my intent to do anything wrong in answering the questions that were put to me at the trial. As I read Rule 1.3, if a violation has occurred, I did not knowingly or intentionally violate that Rule. I am available to answer any questions that the Commission may have regarding this matter.

Very truly yours,

Enclosures