

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-161

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace had a poor demeanor and lacked knowledge of the law.

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.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23(a).

Commission members Roger D. Barton, Peter J. Eckerstrom and Diane M. Johnsen did not participate in the consideration of this matter.

Dated: November 8, 2017

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie
Executive Director

Copies of this order were distributed to all appropriate persons on November 8, 2017.

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

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2017-161

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

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2017-161

Judicial Complaint Against

To Whom It May Concern:

On _____ I attended a _____ trial wherein our company was sued by a previous tenant. The case was _____ Judge _____ presided over that trial and I observed numerous inappropriate actions and rulings by her and want to notify you that she is in need of training and even perhaps some disciplinary action.

While I understand that she is a _____ she represents the Court system and she is required to abide by the law. The following are but just a few of her violations of the law and I strongly urge this panel to review the entire trial that I know was recorded because I am sure that you will find even more issues that I have reported.

1. Court room proceedings and decorum: This judge failed to follow procedural rules and she openly stated that she did not follow the standard court room trial procedures. These actions resulted in bias against our company. Here are some examples:
 - a) She failed to remember to swear in witnesses and then laughed and said she forgets to do that all the time.
 - b) She laughed inappropriately multiple times throughout the trial and seemed nervous and unsure of her role as the trier of facts in the case.
 - c) She made comments about how she identified with the tenants and the fact that they each had _____
 - d) She allowed, over objections by our legal counsel _____ the Plaintiffs to testify simultaneously and finish each other's thoughts and comments. Our attorney objected because she said it created issues for her cross examination of the parties and the judge ignored the objections and stated that either tenant could decide which questions they wanted to answer when the attorney was doing her cross examination. She openly stated that this was her decision and how she chose to run her courtroom.
 - e) She allowed in evidence that was violated the rules of evidence and seemed untrained about basic evidence rules.
2. Lack of knowledge on the law: The Plaintiffs filed a lawsuit because they believed we owed them back their security deposit and some other money damages. We disagreed and filed a

counterclaim for the damages to the property. The Plaintiffs both admitted that they owed some rent and for some of the damages to the property but their version of the facts were that some third party had entered the home during the _____ after they returned keys but before the home was inspected by our company. They presented _____ date stamped photos that showed the home was in need of the removal of some possessions they left behind and yard work in the front yard. They did not show pictures of the entire home. The judge's ruling was contrary to the law and the facts. Here are my examples:

a) The judgment stated that because the landlord failed to meet the tenants for a moveout inspection, the landlord waived the right to charge anything at all. ARS 33-1321 states that a tenant has the right to attend a moveout inspection but it also requires them to request in writing to be present. The testimony of _____ was that the tenant _____ they were moving out and demanded to have the inspection done _____ The lease requires the tenant to schedule a time to do the moveout inspection. Despite this evidence and the testimony of witnesses, this judge made a ruling _____ to any statute. I have spoken to _____ attorney, and she has _____ loses all rights to charge anything even if they actually had refused to allow a tenant to attend a moveout inspection, which is _____ I have watched this judge on _____ and have noticed that she routinely states that her decision to not follow the law is simply her rule in her court. I think this is very dangerous and should not be allowed. Every judge should have to agree to apply the existing law, regardless of whether they agree with that law or think it is unfair. This is not Her court. This is a court of law, governed by Arizona law in the county of _____ and she has _____ She was _____ to make up her own rules nor run the court as she feels is appropriate.

b) We submitted well over _____ photos taken by an employee whose sole job _____ Our pictures were of the identical areas covered by the tenants' photos but also showed the condition of the entire home and yard. Any person who looked at these photos would have found that this home required the removal of a large amount of debris. The Tenants did not even produce any evidence that showed the condition of most of the home and any of the backyard. We had clear date stamped pictures too but the Judge's ruling was that because the tenants presented date stamped photos of the home, those were the only ones that she was going to find were the true condition of the home. While that seems like just a difference of believing a certain set of facts, her actions in the trial have led me to believe that she actually believed the tenants' story that some third party broke into the home and brought in _____ trash, furniture and clothing **BUT** they did not steal any appliances or vandalize the home with graffiti, etc. Her comments made it clear that she couldn't conceptualize that a tenant would take pictures of only the areas they want the judge to see.

c) The tenants admitted that they owed us some money but the judge ruled that they were _____ Her ruling was contrary to the actual testimony and admissions of the parties.

In closing, we have had [redacted] cases before this new judge, most of which are evictions. I have grave concerns about her ability to apply the appropriate law, follow the existing law, and treat all parties fairly. I understand that the fear of every litigant is that if they dare to report misconduct of a judge that sits in the jurisdiction where they own rental properties, judges have been known to retaliate. This is part of the reason that I have waited so long to say anything. However, her behaviors have not changed, despite the fact that she is now [redacted]

She has power over people's lives and the [redacted] and other governmental entities have a duty to protect their citizens and ensure that justice is served equally and fairly to all. I urge whomever is reading this complaint to review not just this case but other cases too. We have determined that we will take legal steps to not allow her to hear our cases until and unless she is [redacted] and follows the law but there are other people out there that do not even know they have rights that she is violating or what to do when she fails to comply with the law or judicial rules. Thank you for your time and please contact me if you feel the need to do so.

Sincerely

[redacted signature block]