

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 18-226

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Judge:

Complainant:

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**ORDER**

The complainant alleged a commissioner routinely delayed deciding matters, prevented him from being heard, was biased against him, improperly failed to recuse himself and had an “unbecoming character” that “has undermined the credibility of the judiciary and cost both parties time, faith and stability.”

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 the commissioner violated Rule 2.11 where he failed to inform the parties on the record of his past relationship with counsel. While this was improper under Rule 2.11, the Scope Section of the Code of Judicial Conduct provides that it is not intended that every transgression will result in the imposition of discipline. The Commission decided, after considering all the facts and circumstances, to dismiss the complaint pursuant to Rules 16(b) and 23(a), but to issue a warning letter to the judge that he should advise the parties and their counsel directly of any disqualifying information that may lead a reasonable person to question the judge’s impartiality.

Further, the commission found that although not technically a Code violation, where the commissioner issued an order stating a party did not object, but where the party had in fact timely objected, the commissioner should consider issuing an amended order noting the opposition was received, reviewed and did not change the commissioner’s decision. The Commission approved sending an advisory letter regarding this point and the right of a party to be heard under Rule 2.6.

The commission found no evidence of further Code violations. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

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

Commission members George H. Foster, Jr., Diane M. Johnsen and J. Tyrrell Taber did not participate in the consideration of this matter.

Dated: November 7, 2018

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were distributed to all appropriate persons on November 7, 2018.

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

Judge \_\_\_\_\_ exhibits a pattern of misconduct as matters under his charge are routinely delayed, refused to be heard, and inappropriately vacated. His actions are perpetually biased in favor of the respondent and her council, \_\_\_\_\_ unbecoming character has undermined the credibility of the Judiciary and cost both parties time, faith, and stability. His unwillingness to uphold his fiduciary responsibilities is prevalent in every proceeding held in the case thus far. With the preeminent issue in the case being child custody, there is no excuse for his inability to perform timely, impartially, and within the bounds of the law. The judicial misconduct perpetrated by \_\_\_\_\_ is chronologically highlighted as follows:

Judge \_\_\_\_\_ was a former colleague of both Petitioner and Respondent's Council. He served with \_\_\_\_\_ as a \_\_\_\_\_ and on the bench with \_\_\_\_\_ before she was relieved for cause. Of the \_\_\_\_\_ Judges in \_\_\_\_\_ and \_\_\_\_\_ were \_\_\_\_\_ Judges. There is no denying that they developed a relationship that could bias decisions to this day. This information was not brought to the petitioner's attention before the start of the trial. \_\_\_\_\_ also filed for a change of judge to increase her chances that Judge \_\_\_\_\_ would the \_\_\_\_\_ over the case. While not inappropriate on its face, \_\_\_\_\_ knew the likelihood of Judge \_\_\_\_\_ to rule in favor of her \_\_\_\_\_. The petitioner objected to the change of Judge because petitioner learned this judge has a reputation of acting outside the law and in the favor of women. Either way, Judge \_\_\_\_\_ should have recused himself for his unduly familiarization with \_\_\_\_\_

In \_\_\_\_\_ and \_\_\_\_\_ the respondent/mother refused to be subjected to a deposition in person or via telephone. The petitioner filed a timely motion to compel the deposition on \_\_\_\_\_. During the \_\_\_\_\_ trial, Judge \_\_\_\_\_ stated that a ruling on the motion to compel will happen after the day's trial concluded; (Pg. \_\_\_\_\_ Transcript). The matter was never heard either during or after the \_\_\_\_\_ trial. The motion was neither denied nor granted. Judge \_\_\_\_\_ never ruled on the motion to compel deposition and allowed the mother to withhold information that would have drastically altered the course of the case.

During the \_\_\_\_\_ trial, respondent acknowledged that she did not release mental health, financial records, or business documents prior to or during the divorce proceedings. The records contain damaging information which would have reasonably altered the case. When questioned on why she did not disclose the information, the respondent stated for the record, " \_\_\_\_\_" (Pgs. \_\_\_\_\_ Transcript). Judge \_\_\_\_\_ concluded the trial in favor of the respondent and did not investigate the potential misconduct further; A violation of Judicial ethics Rule 2.15.

At conclusion of the \_\_\_\_\_ trial, Judge \_\_\_\_\_ ordered that both parties file proposed memorandum of facts. Petitioner was not given a chance to respond to respondent's proposed findings which is a violation of Judicial Ethics Rule 2.9. The respondent submitted not a finding of facts, but a list of opinions which were not supported by any evidence. If Judge \_\_\_\_\_ had paid any attention to the facts of the case, he would have realized that mother did not have a plan to care for the child and to this day, the child \_\_\_\_\_

situation during the trial. Judge                      was so blind to the facts due to his egregious bias, the child was

Judge                      issued a ruling under advisement on                      The ruling was not provided to the parties until it was filed on                      The decree was lodged by the respondent on                      To this day,                      almost                      after the ruling under advisement was submitted, Judge still has not signed the divorce decree. The petitioner and respondent have requested through council several times that he sign the divorce decree. No reason has been given for this unnecessary delay. A formal request was drafted and submitted to Judge                      on

While many of the findings of fact in Judge                      rulings under advisement contradict any evidence presented, the most concerning finding is in paragraph                      regarding "                      " Judge cites, "

                    ." The physician in question, Dr.                      was not the mother's presiding mental health physician. The physician states for the record as such. He also affirms is not a qualified psychiatrist, psychologist, able to diagnose disorders, assess the respondent's inpatient treatment, nor is he versed in child custody matters. (pg                      Transcript). Presence of bias toward the respondent could not be any more prevalent.

In paragraph                      of the ruling under advisement, a plea deal was inappropriately used in determining a finding of fact: "

                    " Judge                      found during trial that the plea deal was inadmissible; (Pg.                      Transcript). Hypocritically, he used it as a foundation in paragraph                      of his own findings of fact. Another undeniable indication of bias.

Judge                      calculated child support obligations on his own accord without any evidence to show the                      Additionally, even if the child                      the arithmetic was done incorrectly and favored the mother. The father was also not awarded any child support in arrears even though the child

The mother was awarded half of the father's pension even though they had only been married for roughly                      Ultimately, division of property was so far outside the wishes of both parties, it is not worth mentioning other than Judge                      interest in upholding his fiduciary responsibility is woefully absent.

The father filed a motion for new trial and reconsideration on                      The prominent basis was that Judge                      allowed mother to relocate the parties' minor child even though the relocation statute, ARS 25-408, was not applied. Judge                      has not made a ruling on the new trial even though it has been over                      He has since been reminded to take action and continues to delay his response for unknown reasons.

On                      the father was granted an ex-parte order by Judge                      (Judge                      was on vacation) because mother failed to comply with the father's court ordered parenting time. Father asked for reimbursement of attorney's fees and no hearing was set. In fathers, "

" Judge                      was reminded to set a hearing for attorney's fees, to rule on the new trial, and to sign the divorce decree. He has taken no action on the responsibilities before him.

The mother filed a separate motion against father in regards to his ex-parte order. A hearing was subsequently set for . On , no evidence was presented and in conclusion for the day, Judge ruled that father could not execute his summer parenting time in absence of an agreement between the parties or until after the next hearing. Judge essentially gave mother sole authority to dictate father's parenting time without any evidence. Also during the hearing, petitioner notified the Judge of an impending notice of appeal that would include a request for a stay. Judge replied, " " even though he had not heard the grounds for it; (Pg Transcript). The next hearing was then set for .

After the Hearing, the mother requested Judge vacate the hearing where as the father requested the hearing be continued. Judge vacated the hearing under the premise that the father's reply to mother's request to vacate was untimely. Father's reply was in fact timely filed on which was within the required ten days per rule 6(a)(2)- was a legal holiday.

When Judge vacated the hearing and failed to clarify when father could execute his parenting time, mother withdrew on her obligation to provide the child to father on Judge was then notified on that an impending ex-parte order would be filed by father. Both parties requested they would like to be present and heard before Judge ruled on the order. The motion was filed later in the day, but prior to close of business and wasn't able to be heard because Judge already had begun conducting Marriage Ceremonies prior to Judge ignored both parties and on the morning of ruled that mother must bring the child to the paternal grandmother on

In the afternoon of Mother's council filed a motion to quash father's order however Judge denied the request. Father then spent money on airline tickets and arranged travel plans for his parents to visit their granddaughter during his summer parenting time since mother does not let the paternal grandparents see the child. Mother's council then filed a second motion to quash because she had been intentionally withholding damaging information from the court: The mother had taken the child to without the petitioner's permission and claimed she was unable to arrange travel for the child because they were on vacation. Again, biased toward mother, Judge granted mothers request to quash the order he signed in the morning. He essentially rewarded mother and punished father. This ethical violation is twofold since it shows bias towards mother and reinforces Judge pattern of apathy and failure to treat attorney misconduct seriously.

Judge explains to the parties that he is busy, not the best suited judge for the case, and pre-occupied with presumably more important matters than the case at hand; (See Pg transcript, Pg transcript, and Pg transcript).

As you will find, the above information proves that Judge has an ulterior agenda other than upholding the law. The respondent and her attorney have repeatedly withheld information in which they have a duty to disclose. Judge failure to investigate, failure to act on the petitioner's motions, and failure to rule impartially are a direct threat to the credibility of the Judiciary. His rulings which favor the respondent were made outside the bounds of procedure and indicate a significant presence of bias. There is an extreme likelihood of ethical and judicial misconduct and wherefore it is respectfully requested that Judge be investigated by the Arizona Commission on Judicial Conduct.