

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-325

Judge:

Complainants:

ORDER

The complainants alleged a superior court judge improperly denied their request to amend their civil lawsuit and dismissed the case. The complainants also alleged misconduct by individuals over whom the commission lacks jurisdiction.

The responsibility of the Commission on Judicial Conduct is to impartially determine if a judicial officer 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 a judicial officer's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judicial officer 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 member Gus Aragón did not participate in the consideration of this matter.

Dated: February 20, 2019

Copies of this order were distributed to all appropriate persons on February 20, 2019.

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**2018-325****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.

This is a case of a Pro Se litigant filed a _____ case against _____ The reason for the filing was because they failed to file for Pro Hac Vice and allowed a paralegal to represent a corporation in a legal proceeding. The person who represented the corporation in the proceeding is also involved in cases around the country, _____ and others. _____ made unethical statements about Discovery. We tried to file a complaint, but the _____ can not file against a _____ We currently have _____ investigations opened. One in _____ and the other in _____ The _____ stated they do not do any vetting of attorney's. In fact, the _____ sanctioned the arbitration and we filed _____ complaints, none ever addressed. We have those complaints, and _____ of Pro Se for the emailed us and threatened to close our claim if we continued to seek answers when no one from the would help or respond. In the case of _____ the _____ Court held that a disbarred attorney's representation of a client in private arbitration constituted the unauthorized practice of law. Although not exactly on point, the court did provide that " _____ " had been defined in that state as follows: Those acts, whether performed in court or in the law office, which lawyers customarily have carried on from day to day through the centuries constitute the practice of law. Such acts . . . include rendering to another any other advice or services which are and have been customarily given and performed from day to day in the ordinary practice of members of the legal profession. The court also noted that, under _____ law, a person must be an " _____ " in order to practice law in _____ argued that because his actions took place in the context of a private he did not engage in the unauthorized practice of law. However, the court disagreed and found that the services he provided were the type that is ordinarily given by members of the legal profession and that " _____ " ; thus, he was engaged in the practice of law. Movant now asserts Defendant not only participated in UPL, they did not apply for Pro Hac Vice. ABA Model Rule 5.5, there is no single test to determine whether the out-of-state attorney's services were provided on a " _____ " in a jurisdiction, but the comment does provide that said services may be " _____ " even when the attorney is representing a client in a single lengthy negotiation. However, the out-of-state attorney " _____ " The rationale for the current ABA Model Rule 5.5, as it relates to arbitration, is that in an arbitration proceeding without local rules, judges, or juries, a lawyer from the forum state is often not better qualified than an out-of-state attorney, and the denial of a client's chosen counsel or representative could arguably impede prompt resolution of disputes. Also, given that the Rule 38(f) authorization contemplates that the out-of-state lawyer is active and in good standing in his or her home jurisdiction and given that the out-of-state lawyer is being given authorization to practice law in _____ without taking a Bar exam, based upon his or her home jurisdiction license, the out-of-state lawyer must stay active and in good standing in their home jurisdiction. Initially when we filed we can only check one box and wanted to be as honest as possible, so we checked UPL. After we filed our claim, the attorneys representing _____ filed a letter with the _____ asking for the award be changed because the name listed was _____ and not the supervising attorney. Every part of the arbitration was done by _____ and no one else. We asked leave and amend, Judge _____ failed to reply and ruled motion to dismiss. We would have amended the complaint to vacate the arbitration award, but never had the opportunity. He also stated her involvement did not harm us. The fact show different. We filed a complaints about her ethics but she is not an attorney so nothing could happen to her. Here's a timeline:

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- 1) Demand Letters and Demand letter served through third party. The rules state one time through and email/certified mail and never with a third party.
- 2) failed to pay for the fees and missed two deadlines issued as a contract. and
 There was no arbitrator assigned to the claim at this time, so the only help was from an administrator who was clueless on the rules
- 3) We had a conference call to discuss fees and at that time our Demand letter was sent out. A Judge would never allow a party to say they did not receive the Demand letter, then in the same sentence say they had. Counsel's confusion was to blame. The hard deadline for fees came and went. We raised questions about the process and wanted answers on why they refused to pay. No one responded. The administrator promised even harder deadlines.
- 4) We sent our administrator one email a day from We did not call, nor did we hassle the administrator. We simply were lost on where the process was and what came next. had yet to follow their own rules.
- 5) On and we called because we had heard from the administrator. We were on the verge of giving up. No one was informing us what was going on. It was absolutely frustrating. The administrator submits to web file an Arbitrator has been assigned. rules state, "

" We do not hear from the arbitrator until our hearing.
 6) The Preliminary Hearing was next, and it was cancelled due to nonpayment by I asked for a termination of the proceedings and we were denied. We felt as though we were doing something wrong and being punished for being the IF WE HAD NOT PAID OUR FEES, OUR CLAIM WOULD HAVE BEEN TOSSED.

7) The Administrator set the next deadline for to pay, and there was a contract sent out about consequences for missing the deadline.
 8) failed to pay by the deadline. They did, however, decide to pay on By this time, we had enough. We emailed the administrator and asked why was allowed to miss every deadline, did not answer the Demand Letter, sent in no evidence, and was allowed to make up the rules in which the arbitration would proceed. The administrators reply was that everything had been resolved and the claim would proceed as initially planned. days after we filed our claim finally paid. We filed a complaint about the proceedings. The complaint process was as flawed as it went to the administrator handling our claim. That did nothing but fan the flames even more. After her nasty email, we were going to have to find someone that could help us.

9) On we filed complaints, and in all a total of After the arbitration and allowed appeal time lapsed, we filed complaint and filed times to have name changed from to the attorney Arbitrator refused. Judge stated could not have harmed the process though she doesn't answer to Court Rule 31 states the rules of UPL. Finally, is not authorized to transact here in the State of The states, " They do not get a counterclaim nor can they be apart of any proceeding if they are not legally authorized to transact in (§ Application for certificate of authority :: Arizona .)