

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-347

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge did not afford him an opportunity to be heard, engaged in ex parte communication, and should have disqualified herself.

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 27, 2019

Copies of this order were distributed to all appropriate persons on February 27, 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**2018-347****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.

Plaintiff s come before this court to notify Judge _____ of the glaring procedural mistakes on the record. On _____ Plaintiff filed a motion titled Remedy of an Account of Profits. It is an action taken against a defendant to recover the profits taken as a result of the breach of duty, in order to prevent unjust enrichment. After filing this motion, we had an expectation of Judge _____ to reply, that never came. The code of judicial conduct does require a judge to " _____ to " _____ and to " _____.

Plaintiffs state,

An individuals right to self-representation was first recognized by Congress in the Judiciary Act of 1789. 25 J. Legal Prof. 167, 168 (2001). This right was later codified in 28. U.S.C. § 1654 (1994) (parties may plead and conduct their own cases personally). A second constitutional source may be found in the First Amendment right to petition the government for redress of grievances. See _____ Presidents _____

() (The right of petition is one of the freedoms protected by the Bill of Rights, and we cannot, of course, lightly impute to Congress intent to invade these freedoms.). See also

v. _____ (). (Petitioners, of course, have the right of access to the agencies and courts. As indicated, it is part of the right of petition protected by the First Amendment.) A third constitutional basis is the Due Process clause of the Fifth and Fourteenth Amendments to the U.S. Constitution. In _____ the

Court observed: Many controversies have raged about the abstract words of the Due Process Clause but there can be no doubt that at a minimum they require that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing appropriate to the nature of the case." v. _____ U.S.

() v. _____ U.S. (U.S.). During hearings involving pro se litigants, judges should use the following protocol to guide their actions:

- 1) Verify that the pro se litigant is not an attorney and understands that he or she is entitled to be represented by an attorney, and chooses to proceed pro se without an attorney.
- 2) Explain the process.
- 3) Explain that the party bringing the action has the burden to present evidence in support of the relief sought.

4) Explain the kind of evidence that may be presented.

5) Explain the limits on the kind of evidence that can be considered.

6) Ask both parties whether they understand the process and the procedures.

7) A non-attorney may be permitted to sit at counsel table with either party to provide oral support but shall not be permitted to argue on behalf of a party or to question witnesses.

On _____ Plaintiffs filed a Motion for Leave to Amend the original complaint, and waited on Judge _____ to reply. On _____ Judge _____ had not answered multiple motions from Plaintiffs leaving us clueless. The overwhelming feeling the Plaintiff s had that Judge _____ was going to rule without answering the Plaintiffs Motion came true. The day the Plaintiffs filed the amended complaint, without waiting for the Judges answer, was the same day of the Judge s answer filed _____ There is also the new rule

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concerning E-filing. If Defense is e-filing to the court, but sending Plaintiff paper, they are violating Administrative Order No. 2018 - 81 pursuant to Article VI, Section 3, of the Arizona Constitution. On _____ Plaintiffs receive an email from Judge _____ clerk

That email stated the Defendant (_____ had Counsel call the Judge _____ s chambers for clarification as Defendant _____ that the Motion to Dismiss ruling be changed from _____ without prejudice, to _____ with prejudice. Instantly we knew this was a violation. We had previously filed a Motion for Ex Parte pertaining to _____ filing fraudulent evidence on the court, the day _____ filed Motion to Dismiss. We do have evidence and the record should show the multiple times we asked the court to address this issue to no avail. On the _____ of _____ (after _____ for postal delivery) Defense Counsel filed a Motion for Clarification, Plaintiffs did receive it _____ filed via _____ Next, on _____

at _____ a letter is typed up on Judge _____ s ruling, but was not filed until the _____ of _____ How did all this happen in less than _____ hours, and yet Judge _____

failed to answer multiple Plaintiffs Motions? The most important was the request for Leave to Amend. The accusation from Judge _____ reads, Although Plaintiffs did, _____ Plaintiffs had not sought or received permission to file the _____ That is a huge problem. Because as of _____ the Plaintiff did in fact file for Leave to Amend and Judge _____ failed to rule on that motion. According to 16 A.R.S. Rules of Civil Procedure, Rule 15. A party may amend its pleading once as a matter of course. (B) no later than _____ days after a responsive pleading is served if the pleading is one to which a responsive pleading is required or, if a motion under Rule 12(b), (e), or (f) is served, on or before the date on which a response to the motion is due, whichever is earlier. 1. Under this rule, a judge is disqualified whenever the judge _____ impartiality might reasonably be questioned, regardless of whether any of the specific provisions of

paragraphs (_____ through _____) apply. 2. A judge _____ obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed.

3. A judge should disclose on the record information that the judge believes the parties or their lawyers might reasonably consider relevant to a possible motion for disqualification, even if the judge believes there is no basis for disqualification. To finalize our motion, we leave you with an example. We would ask you to think of a very stressful, energy draining, and at times hopeless moment in life. Remember how it felt when you no longer had options to turn to for help. Imagine the stress but amplify it with _____ times the stress and hopelessness. This is the feeling most of the Pro Se litigants feel before trial. This is not a hobby, nor is it the equilibrium to our chi. We have sacrificed, studied, and tried to maintain a glimmer of hope that there is justice. This is a opportunity to tell people that read this, our system is more than a broken, insensitive, biased, and a highly toxic rerun. Where philanthropist become lobbyist. A commissioner becomes a CEO of an energy company he/she is suppose to regulate. The Legal system is about what can you do for me and less what you do for others.