



Arizona Superior Court

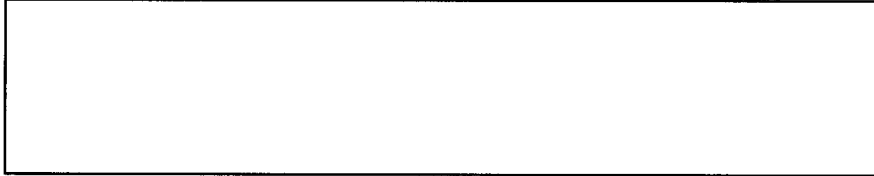
AUG 23 2007

CJC-07-227

August 21, 2007

E. Keith Stott, Jr., Executive Director
State of Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

Re: Tardy rulings on motions pending for more than sixty (60) days



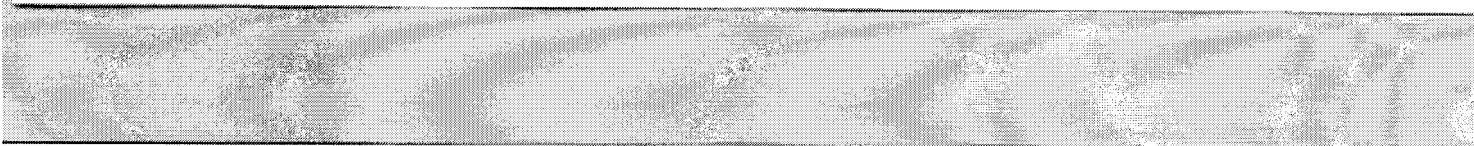
Dear Mr. Stott:

Regretfully, I submit this report of recently discovered oversights that resulted in my failure to timely rule on pending motions in the above-referenced matters. Canon 3.C. of the Arizona Code of Judicial Conduct.



On [redacted] this matter was referred to ADR as Plaintiff's Motion to Set and Certificate of Readiness filed on [redacted] indicated the case was subject to compulsory arbitration. In addition, Plaintiff's Certificate of Compulsory Arbitration and the parties' Joint Alternative Dispute Resolution Statement to the Court indicated that this case was subject to compulsory arbitration.

On [redacted] Plaintiff filed a Motion for Finding that Statements in Request for Admissions are Deemed Admitted and the Judicial Assistant forwarded the motion to the file for the arbitrator to address.



CJC-07-227

On [] the Plaintiff filed a second Motion to Set and Certificate of Readiness that indicated the case was not subject to Arbitration. When the response time had elapsed and the Judicial Assistant obtained the file from the file room, it was discovered that no arbitrator had been assigned and the file had been returned by ADR to the [] Clerk's Office where it was placed in the file room without notice to our Division. The Motion for Finding that Statements in Request for Admissions are Deemed Admitted remained pending. On [] I ruled on the Motion for Finding that Statements in Request for Admissions are Deemed Admitted to which no response had been filed and set a Status Conference to address the conflicting information regarding compulsory arbitration.

As the result of this event, my division will tickle motions filed in arbitration cases to review the file in order to confirm the appointment of an arbitrator and determine whether the responsibility for ruling upon any pending motion at issue belongs to an arbitrator or to me.

[]

On [] the notice setting a hearing on [] at 10:00 a.m. to consider the Personal Representative's Motion to Dismiss, filed on [] was processed and mailed to counsel for the personal representative. A subsequent file review revealed that the Court's calendar for [] failed to list the matter for hearing on that date despite the setting, therefore, the file was not retrieved from the file room to inform me of the pending Motion to Dismiss. Moreover, no party or counsel appeared on [] therefore, no action was taken.

This was a calendaring error coupled with a nonappearance of party or counsel. The error was discovered in [] when the file was reviewed for inactivity, and the motion to dismiss was reset for hearing on [] at which time the case was dismissed. This appears to have been a mistake for which current procedures are adequate when followed, and no additional procedures are necessary.

[]

On [] this matter was assigned to my Division after transfer from [Navajo] County. A Petition for Approval of Annual Account was pending. After conducting a couple of status conferences, the Petition for Approval of Annual Account was set for review on the

Court's Non-Appearance Calendar of [redacted] The Court Accountant Review Report was filed [redacted] and the Conservator did not file any response to the Court Accountant Review Report. Following my review of the file on [redacted] the matter was to have been set for hearing on the Division's [redacted] probate calendar, but the file was mislaid until discovered on [redacted] at which time a hearing on the Petition for Approval of Annual Accounting was set for [redacted] at 9:00 a.m. at which time it will be addressed. Again, this appears to have been an oversight for which current procedures are adequate when followed, and no additional procedures are necessary.

Please bring this matter to the State of Arizona Commission on Judicial Conduct, allow me to provide you any additional information requested, and advise me of any action needed to be taken.

[redacted]

[redacted]

