



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

FOR OFFICE USE ONLY

CJC-07-279

### COMPLAINT AGAINST A JUDGE

**Instructions:** Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

*See Attached memo which lays out the substance of the complaint against this judge.*

*(Attach additional sheets as needed)*

## MEMORANDUMS OF POINTS AND AUTHORITIES

The following items listed below are a not so brief synopsis of the Court's irregular, illegal, and most likely unethical conduct against Defendant and his counsel:

1. On [REDACTED] it refused to make a record of oral argument when requested or in the alternative, refused to acknowledge that it was making a record
2. It refused to forward a Motion for Determination of the Sufficiency of the Record, a procedural motion to the Superior Court when Rule 8 (C) Superior Court Rules of Appellate Procedure-Civil clearly mandates that this is the Procedure to be followed.
3. It has continually allowed opposing counsel to request a dozen or more frivolous Rule 11 sanctions against counsel without admonishing counsel that this conduct is improper.
4. Possessed such a basic lack of knowledge of the law that she had to have another judge sit on the same bench to whisper comments in her ear on how to thwart Defendant's efforts to have his day in court and a trial in front of a jury.
5. Failed to manage its staff so as to allow Defendant's counsel communicate with it so as to obtain all relevant parts of the record so as to prepare an adequate appeal.
6. Rule on timely filed Motions filed with the Court.
7. Failed to follow basic law allowing an appellant in a [REDACTED] to remain in possession of the property pending appeal.

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8. When informed that it had not properly followed the law after a successful special action—refused again to allow Defendant to retain possession of the property pending appeal.
9. Arbitrarily without evidence granted a money Judgment against Defendant for rent for [REDACTED] per month property without evidence of any amount due or evidence at all.
10. Would not allow access to the file so as to preclude Defendant from knowing when his time for appeal would expire.
11. Allowed ex parte judgments to filed by Plaintiff's counsel so as to preclude Defendant an opportunity to oppose the form of Judgment.
12. Would not allow counsel to argue relevant law on issues at motions hearings and would allow opposing counsel free reign to interrupt with objections.
13. Never gave notice to counsel of when a judgment was filed, presumably to prejudice Defendant's appellate rights.
14. Promises a hearing on the defective record for which it is responsible on the form of the judgment and then fails to set that hearing.
15. Prevented Defendant from having a jury trial when there were genuine disputed facts.

1 16. Allows opposing counsel to blatantly short circuit the rules of procedure by allowing  
2 motions at the time of hearing without giving Defendant an adequate time to respond,  
3 thereby violating his right to due process of law.  
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5 Given the actions of the court stated above, can any reasonable person ever come to the conclusion  
6 that the Court would rule in Defendant's favor in opposition to Plaintiff's oral motion to dismiss for  
7 alleged lack of prosecution? Defendant would have no better chance of having his appellate rights  
8 preserved by this Court than a snow ball on the equator.

9 The law and procedure in this matter is quite simply in on the side of Defendant. The Court should  
10 rule in his favor, but for the fact of the Court's bias and prejudice against him or his counsel. The Court  
11 failed to follow the law and hold a hearing to allow Defendant to post a supersedeas bond for the purpose  
12 of a stay in [REDACTED]. The Court then failed to hold a hearing despite its promise to counsel that a  
13 hearing would be held regarding the form of the judgment. After Defendant's appellate rights were  
14 prejudiced by the Court and opposing counsel due to the failure to serve a copy of the proposed judgment  
15 upon Defendant's counsel, a successful special action was filed and relief granted shortly after [REDACTED].  
16 [REDACTED] The Court didn't bother to set a hearing on the supersedeas bond and stay on appeal until [REDACTED]  
17 [REDACTED] more than two months later, yet it stated that Defendant was dilatory. This is asurd.

18 On [REDACTED] the Court issued two new judgments, yet it failed to follow the direction of the  
19 Superior Court to follow A.R.S. § 12-1179 as ordered which provides in part:  
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21 The party seeking to stay the execution of the judgment for possession shall file a supersedeas  
22 bond in the amount of rent accruing from the date of the judgment until the next periodic rental  
23 date, together with costs and attorney fees, if any. **The tenant shall pay to the clerk of the justice  
court, on or before each periodic rental due date during the pendency of the appeal, the  
amount of rent due under the terms of the lease or rental agreement.** (emphasis added).

24 Defendant then decides it is futile to have any further dealings with this Court because of its complete  
25 failure to understand the law, even after guidance from the appellate court, so he decides to work on the  
26 appeal. This too also proves to be futile because of the Court's failure to preserve the record. Therefore,  
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1 on [REDACTED] Defendant files a timely Motion for Determination of Sufficiency of the Record and  
2 Grant of Trial De Novo, which under Rule 8 (c) of the appellate rules clearly indicate that the trial court  
3 does not determine the sufficiency of its own record. Instead the trial court rules on the motion, which is  
4 like having the fox guard the henhouse. Not surprisingly the Court rules in favor of itself with the type of  
5 logic that would make George Orwell proud.

6 Then to add insult to injury, opposing counsel spews venom at Defendant's counsel asking that he  
7 be sanctioned; the court report this matter to the State Bar and that the appeal be dismissed even though he  
8 has not followed normal procedures and filed a written motion like regular attorneys must<sup>1</sup>. This Court  
9 then indicates that it will dismiss the appeal and would have done so, except for the fact that Defendant's  
10 counsel reminded the Court that that type of conduct clearly indicated the fact that there was a severe  
11 shortage of fundamental due process due to the fact that there was no notice and reasonable opportunity to  
12 respond. The Court indicated that it only wanted to assist the Defendant by expediting the process in order  
13 to help reduce costs or something to that effect. That gesture was disingenuous at best. A fair inference  
14 about the Court's conduct is that it fully intends to do everything within its power to prejudice Defendant's  
15 appellate rights regardless of the rule of law. This type of conduct is clearly prejudicial to the concept of a  
16 fair and impartial treatment by a court of law.

17 The Court then states that Defendant is entitled to file a Response within ten days of Plaintiff's oral  
18 Motion to Dismiss. Basically the situation is that the Court committed error in entering the first judgment  
19 without notice to the client and its intentional sandbagging of the file to preclude Defendant an opportunity  
20 to file a timely notice of appeal. The Court had a second opportunity to file a correct judgment, which  
21 include a proper supersedeas amount and payment of rent into the court in order to grant a stay. The Court  
22 committed error a second time. Defendant filed a timely notice of appeal; Defendant reviewed a pathetic  
23 record made by the trial Court and filed a timely Motion to Determine the sufficiency of the record— well  
24 within the sixty days prescribed by Rule 8 for the submission of appellate memoranda. Part c of Rule 8 of

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26 <sup>1</sup>This diatribe should all be on the record—if not it is because the Court would not state whether  
27 the proceedings were being recorded after a specific request was made.

1 the Rules of Appellate procedure clearly states that preparation of transcripts and the deadline to file  
2 appellate memoranda shall be suspended— yet this Court’s bias and prejudice is so intense that it rules on  
3 a motion that it has no power to rule on; and then has the audacity to conclude that it is inclined to grant an  
4 oral motion to dismiss for lack of prosecution.

5 The only reason there are several different judgment is the Court’s failure to understand the law. It  
6 is a fundamental principal of appellate practice that piece meal litigation should be avoided. Defendant  
7 waited until the final incorrect judgment was entered by the Court and then properly calculated deadlines  
8 which have all been timely met. Granting an oral motion to dismiss for lack of prosecution is improper  
9 and would be done so only because the trial court is attempting to thwart justice by not allowing appellate  
10 review the horrendous manner in which the trial court dispenses justice.

11 There has been debate in the legal community regarding the wisdom of allowing nonlawyers to sit  
12 on the bench as Justices of the Peace. This Court and [REDACTED] are poster children for the argument  
13 that attorneys should fill these positions. A copy of this motion is being forwarded to the Commission on  
14 Judicial Conduct. The Court needn’t bother submitting this to the State Bar—A copy of this motion will  
15 also be forwarded to their attention.

16 The oral Motion to Dismiss is specious and must be denied.

17  
18 Dated this [REDACTED]

19 [REDACTED]

20  
21 [REDACTED]

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25 Copy of the foregoing mailed/faxed  
26 this [REDACTED] to: