

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 09-078

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Complainant: No. 1359110678A

Judge: No. 1359110678B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judge. The issue raised is a legal question and is outside the commission's jurisdiction.

The commission is not a court and cannot review or reverse a judge's determinations regarding the legality of a statute, therefore the complaint is dismissed pursuant to Rules 16(a).

Dated: April 30, 2009.

FOR THE COMMISSION

\s\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on April 30, 2009.

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

March 24, 2009

Commission on Judicial Conduct  
State of Arizona  
1501 W. Washington Ave. -- ste 229  
Phoenix, AZ 85007

**RE: Complaint Letter, Maricopa County Superior Court Judge  
LC2008-000740; default declaration of statute unconstitutionality**

Dear Sirs:

I am filing this complaint against Maricopa County Superior Court Judge for his conduct subsequent to his default decision in *Phoenix Townhouse HOA v. AZ Off. Admin. Hearings et al*, LC 2008-000740, January 29, 2009. Specifically, Judge Minute Entry Order of March 2, 2009 (attached) ordered the striking of my letter of new facts to him, and ordered the Clerk not to accept any further materials from me. My letter contained supporting documents: a quitclaim deed, the DFBSL Petition form, among others.

This incredible order by violates the overall intent and purpose of the Code of Judicial Conduct *"that judges, individually and collectively, must respect and honor the judicial office as a public trust"* (Preamble), that *"a judge shall uphold the integrity and independence of the judiciary"* (§1), and that *"a judge shall perform, the duties of Judicial Office impartially and diligently"* (§3B). It is inconceivable that my submitted information would be summarily dismissed, kept from the public, not acted upon, and the default decision allowed to stand. A decision that would be declared void ab initio based on my submitted materials, and where Judge had the power to so act under Ariz. R. Civ. P. 60(c): *"This rule does not limit the power of a court to entertain an independent action to relieve a party from judgment, order . . . or to set aside a judgment for fraud upon the court."*

This case was a special action appeal of a Petition filed with the OAH regarding an HOA complaint. The HOA attorneys sought a declaration of unconstitutionality of a statute, and an injunction against OAH from adjudicating future HOA complaints under ARS § 41-2198 et seq. The decision by Judge affects an estimated 1.5 - 2 million homeowners living in HOAs in Arizona. Neither the Attorney General nor the alleged real parties in interest responded to this special action complaint.

In support of my complaint I have enclosed my March 5, 2009 letter to the Civil Presiding Judge that summarizes the activities and events that I believe had a direct bearing on Judge highly questionable judicial conduct. It also shows why I am forced to file this

complaint. Also enclosed are my February 23, 2009 letter to Judge informing him of these important facts, with supporting documentation; my February 11, 2009 Motion to Intervene; and the relevant minute entry responses.

Please allow me to emphasize that this special action appeal, which affects millions of homeowners, resulted in an unthinkable default decision declaring a statute unconstitutional, and where the Attorney General, attorney for the state agencies, reversed its involvement from filing a brief in support of the statute to a no longer interested. The conduct of the judge must be given "heightened scrutiny" as deserving an issue of statute constitutionality. Yet, my attempts to obtain justice were summarily dismissed without an explanation or justification, given the facts and circumstances.

For the Court to do justice and maintain its integrity, my "letter of fact" and supporting materials must be made part of the case.

Respectfully submitted,

encl.