

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-142

Complainant: No. 1363010479A

Judge: No. 1363010479B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issues raised involve legal and procedural matters outside the jurisdiction of the commission. Because the commission is not a court and cannot review evidence to determine whether or not a judge's decision is correct, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: July 21, 2009.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on July 21, 2009.

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

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

FOR OFFICE USE ONLY

CJC 09-142

COMPLAINT AGAINST A JUDGE

Your name: _____

Judge's name: _____

Date: _____

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.

On January 17, 2007, I filed a
Petition for the Removal of a Personal Representative
in _____ County Superior Court, In the Matter of
the Estate of _____, (deceased), Case # _____

The Respondent named in the Petition, _____, failed to file an answer to the
Petition, Pursuant to Rule 5 Ariz. R. Civ. P., that
failure of the Respondent to file an answer
should have constituted a default on his part
in this Matter. However my request for a
default Judgement was denied by the Court.

The Respondent in retaliation to the Petition
sent an unsigned, EX-PARTE, correspondence
to the court which was not filed with the
court or Notice given or Service of Process
performed to any other interested Party or
Person besides Commissioner
of the Superior Court of Arizona,
County, the Commissioner originally assigned
to the case. The Ex-Parte correspondence dated
12 March 2007 made false allegations to pollute
the proceedings with inflammatory rhetoric and
debase through irrelevant argumentative testimony.

(Attach additional sheets as needed)

Rule 81 Canon 3, Rules of the Supreme Court states in pertinent part, ex parte communications deprive the absent party of the right to respond and be heard. They suggest bias or partiality on the part of the Judge. At the very least, participation in ex parte communications will expose the Judge to one-sided argumentation, which carries the attendant risk of an erroneous ruling on the law or facts. At worst ex parte communication is an invitation to improper influence if not outright corruption.

On March 24, 2007 an Evidentiary Hearing on Petition for Removal of Personal Representative was held in this Matter. At this hearing based entirely on the Respondents' ex parte communication the court ordered appointing _____ as Guardian ad Litem in this matter to represent the best interests of _____ the alleged incapacitated mother of the siblings in this matter.

The Court further ordered that
shall execute a quitclaim deed
of the home at
Avenue, Phoenix, AZ. from his name
back into the name of the Estate of
and file proof on or
before May 24, 2007.

The Court advised the parties that he,
commissioner who had been assigned
to this case, is scheduled to be rotated
off this calendar and the newly assigned
Judicial officer will have access to the
exhibits utilized at today's proceedings.

On May 23, 2007, I filed a Petitioner's
request for continuance and a clarifi-
cation of court order to execute a
quitclaim deed. In the request I informed
the Court that its order to retitle the
(house) was not correct and
was a violation of the Statute of
Frauds, due to the fact that the house
had never been titled into the name
of , previously.

Pursuant to A.R.S. 14-1302, A Probate Court has Jurisdiction only over Property of the estate of the deceased. Probate court is court of limited jurisdiction, when it purports to act outside it's statutory jurisdiction, it's decrees are null and void. Orders or judgements of court are void so as to be open to collateral attack only where court attempting to exercise jurisdiction initially had no jurisdiction of subject matter of case, no jurisdiction of persons involved in the litigation, or no jurisdiction to render particular judgement given.

The courts order to retitle property did seek to enforce a contract for the sale or transfer of an interest in real property which was never reduced to writing nor performed, in whole or in part as is required by the provisions of A.R.S. 44-101.

On May 31, 2007, the court in reply to my request for continuance and a clarification of court order to execute a quit claim deed. filed May 23, 2007, ordered that _____ must comply with the Court's prior order to transfer real property to the Estate of Sr. immediately.

On June 6, 2007, I _____ did execute a quit claim deed of the subject real property located at _____ Avenue, Phoenix Arizona from the name _____ (back) into the name of the Estate of _____ at the _____ County Recorders Office and on that same day I filed a Petitioner's proof of compliance with the Court.

Pursuant to A.R.S. 33-420 A person purporting to claim an interest in, or a lien or encumbrance against real property who causes a document

asserting such claim to be recorded in the office of the County recorder, knowing or having reason to know that the document is forged, groundless, contains a material misstatement or false claim or is otherwise invalid is liable to the owner or beneficial title holder of the Real Property for the sum of not less than five thousand dollars, or treble the actual damages caused by the recording whichever is greater, and reasonable attorney fees and costs of the action.

On May 15, 2007, the court gave notice that the matter of the Estate of _____ was scheduled for mediation on June 21, 2007.

At the June 21, 2007, Probate mediation hearing all of the heirs to the Estate of _____ signed a lawful and legally binding agreement that signified their full agreement and resolution of all issues and disputes.

The first mediation agreement stated quote, " will resign as Personal Representative and Ms. will find a fiduciary to find a replacement."

The fifth mediation agreement stated quote, " to reimburse estate for \$11,000 from his share of estate when estate distributed.

Previously on June 4, 2007, I filed with the court a Petitioner's response to Respondents (request) for (motion) for an Extension filed by

. In my response I explained to the court that the Personal Representative of the Estate of , lacks a conscience, seldom lives up to expectations, and what says has little to do with what he does therefore the court, must be skeptical and discerning so as not to be bamboozled by resulting in a miscarriage of Justice and a waste of the court's time and resources.

On August 8, 2007, Commissioner _____ of the Superior Court of Arizona, _____ County proposed to reappoint _____ as the Personal Representative of the Estate of _____, to help close the Estate. Commissioner _____ stated at that time he could see from facial expressions in the courtroom that there were some persons in the courtroom (_____, myself) that have some reservations about the reappointment of _____ as Personal Representative. Commissioner Nothwehr then volunteered stating he would quote, "Make sure that the estate was administered properly," unquote.

Wherein pursuant to Chapter 3, Title 14 of the Arizona Revised Statutes, The court does not supervise probates or the conduct of a Personal Representative.

Commissioner _____, a gratuitous

volunteer, utilized misleading statements intended to induce the actions of an unrepresented person to re-appoint a personal representative with unclean hands. I in detrimental reliance on Commissioner erroneous information and gross negligence whereby Commissioner assumed a duty and I justifiably and detrimentally relied on performance of that duty to my detriment.

At the same previously mentioned, August 8, 2007, hearing Commissioner ordered that Court appointed attorney for shall prepare documents to close the estate and distribute the assets within three (3) weeks hereof.

Court appointed attorney subsequently submitted deeds for the house located at Avenue Phoenix Arizona that is the real property of the estate of

The deeds submitted by attorney [redacted] incorrectly stated the names and addresses of all of the heirs who were entitled to that property. All of the names on the deed that attorney [redacted] executed for the legitimate heirs to the estate of [redacted] had inaccuracies that prevented those deeds from being legally recorded except for a deed attorney [redacted] executed in the name of [redacted] his client. Even the name of [redacted] was incorrectly stated even though he resides at the same address as [redacted]

Attorney [redacted] then recorded a deed for the subject real property that is the primary asset of the estate of [redacted] as the sole separate property of [redacted] at the [redacted] County Recorders Office to try and bring that property under his absolute control.

ER 4.3 of the Rules of Professional Conduct states that when dealing with an unrepresented person if the lawyer knows or reasonably should

know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

ER 8.4 states it is professional misconduct for a lawyer to (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation.

Pursuant to A.R.S. 14-5506, if agent acted with intimidation or deception as defined in A.R.S. 46-456 in procuring power of attorney, the agent is subject to prosecution under Title 13 and civil penalties pursuant to A.R.S. 46-456.

On September 13, 2007, I filed a Petitioner's Request for a fractional Share of the Assets of the Estate of (deceased). In my request I informed the court that a condition of Bad Blood dominates all interactions

Between the heirs to the Estate of _____ and there is in no way possible for the heirs to the Estate to resolve any issue involving the Estate amongst themselves

On October 18, 2007, at a hearing in the Matter of the Estate of _____

, speaking telephonically to two of the other heirs to the Estate,

and I stated in court that the heirs should come together as a family and handle thier families own legal matters.

After I made that statement in court Commissioner _____ began to over-talk me to try and drown out my voice and when I stated to Commissioner _____

that I was not through talking he yelled at me guote, "You are now," unguote

And from that point forward I was ordered by Commissioner _____ to submitt everything that I want to say in writing.

As per the courts verbal recommendation I began to submit everything I wanted to say to the court in written form, a restriction on my ability to plead my case that was exclusively used for the purpose of obstructionism by Commissioner

Whenever I did file pleadings in this case the court would dismiss them in their entirety without reading them or sometimes he would lift my pleadings into the air and drop them on his bench and laugh gesturing with his hands as though this case was a personal contest between he and myself.

After I attempted to reach out to the other heirs of the Estate to handle our families legal matters by ourselves the Court sent my minute entry notice for the preceeding October 29, 2007, hearing to a fraudulent out of state address belonging to the respondent in this matter and my opponent,

At the October 29, 2007, hearing that I was deliberately excluded from by the courts manipulation of notices and court process, crucial matters were discussed relating to the Estate of _____ including but not limited to the transfer of Estate real property into the courts control by the court's exploiting the animus and psychological motivations that has dominated the actions of the heirs towards one another in this matter.

The court in the subsequent minute entry of the October 29, 2007, hearing continued to manipulate the outcome of litigation in this matter by mailing out a minute entry of the hearing that deliberately omitted any and all pertinent information about the hearing guaranteeing an absence of opposition to the courts agenda and any timely objection by myself who the court is keeping in the dark about Estate matters.

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As a consequence of the courts use of erroneous misleading statements to create a situation of detrimental reliance between the court and myself and the courts manipulation of court process to deliberately exclude me from a crucial hearing all of the heirs to the Estate of
have been disinherited.

On November 14, 2007, Personal Representative of the Estate of
whom Commissioner reappointed, sent a notarized closing statement and proof of mailing/delivery closing statement to all of the interested parties in this matter.

The closing statement fraudulently claims that the Estate has been fully administered and there are no claims against the Estate the statement and the courts complicity suborns perjury and subverts Justice to the disrepute of the court.

On January 25, 2008, Commissioner _____, at a hearing in the matter of the Estate of _____, and the Guardianship of and Conservatorship for _____ dismissed various pleadings that I had submitted to the court at the urging of the attorney for the _____ County Public Fiduciary.

The Attorney claimed that the pleadings had two case numbers which made the pleadings not related to one or another of the Estates in question.

The Court dismissed the pleadings while during this same period of time the Court submitted minute entries with two case numbers.

When the Court was asked by me if the pleadings were being dismissed on a technicality the court said quote, "No No No", unquote.

The Court subsequently submitted minute entries that stated that the pleadings had been dismissed on the technicality in contradiction of the court's own statements.

On June 6, 2008 at a hearing in the matter of the Guardianship of and Conservatorship for I attempted to explain to Commissioner that the technicalities that he had been using to dismiss many of my pleadings had been corrected by the Court's own filing clerk at the time my pleadings were filed.

Commissioner in reply stated quote, "I don't know what you're talking about", unquote.

On this same occasion I also spoke to Commissioner, after some persistence by myself, in regards to Commissioner's statement to the heirs of the Estate of, that he Commissioner

would quote, "Make sure that the Estate was administered properly," unquote.

I informed Commissioner that I had won a judgement to have the Estate administered nearly a year ago and the Estate still hasn't been administered.

I also informed Commissioner that by withholding my inheritance my only asset the court was preventing me from using my only assets to hire an attorney to represent me in court. And legal representation was a basic right.

At this time I incorrectly stated to Commissioner that the Closing Statement and Proof of mailing / Delivery Closing statement that had been filed by the Personal Representative that he had reappointed would be one year past on the (14th) fourteen of August.

At which point Commissioner turned to the Court appointed attorney's and asked them quote, "You want to have the trial on the Fifteenth", unquote.

After this blatant exhibition of Bias by the Court Commissioner recused himself, but the Court re-appointed him.

On November 3, 2008, Commissioner approached me in the hall outside of his courtroom and asked me if I had any evidence that I would like to submit at my trial, I told him yes I did and he already knew that I had left it at the guard station. I gave him the ticket and he personally went and retrieved the evidence.

After retrieving my controverting evidence Commissioner suppressed that evidence and did not allow it to be heard in court.

Commissioner
is extra ordinarily Biased and
Prejudiced when judging cases.

Commissioner is neither
fair nor impartial towards litigants
whose financial interests differ from
his own agenda, which is to bring in
revenue for County.

On January 25, 2008, at a hearing in
the matter of the Guardianship of
and Conservatorship for
questioned and then
requested an accounting of the
County Public Fiduciary's admin-
istration of that Estate.

Attorney for the Maricopa County
Public Fiduciary, in reply
told Commissioner quote,
"I want to keep this between me
and unquote. Commissioner
in compliance stated quote,
"I'm gonna hafta get something from
you in writing," unquote

Commissioner notoriously asks that pleadings be reduced to writing with all the additional difficulty that entails and then either he will dismiss those pleadings in their entirety to maintain one-sided argumentation in favor of Commissioner party of choice or Commissioner will disregard or dismiss the pleading on some made up technicality.

The court of Commissioner operates from a predetermined agenda whose game plan cannot succeed on a level field of play.

Commissioner does not apply the law, he is an economic activist who personally engineers the law to seize Estates from the rightful heirs to pay the court's exorbitant lawyer's fees or put the illicit revenue into the coffers of County to pay for such projects as the proposed gilded palace of a new Superior Courthouse.

5/25/09