

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-127

Complainant: No. 1410810259A

Judge: No. 1410810259B

ORDER

The complainant alleged that a superior court judge was prejudiced, engaged in fraud, allowed the opposing party to violate the rules, and issued delayed rulings.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge 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.

After reviewing the information provided by the complainant and available minute entries in the case, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: August 21, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on August 21, 2012.

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

May 13, 2012

Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

Subject: Complaint Against
Maricopa Sup. Ct. Case No. CV2010

To Whom It May Concern:

Please allow this to serve as my initial complaint against Judge _____ of the Maricopa County Superior Court. Attached you will find a copy of a pleading recently submitted in the case before him. The pleading is indicative of the never ending stream of unethical and unlawful behavior that Judge _____ has not only tolerated and encouraged, but willfully participated in, during the proceedings in his court.

As I am not an attorney and therefore may not present this complaint in a form preferred by the Commission, it is requested that the Commission review all of the pleadings in this case in order to fully comprehend the depth of blatant prejudice, lack of diligence, willful violations of the law, deliberate judicial misconduct, and willing involvement in fraud by Judge _____

Having been advised and substantiated on the record with unrefuted evidence that the "Plaintiff's" case was grounded in criminal fraud Judge _____ not only allowed it to proceed, he eventually aided it to the point of becoming a willing accomplice. (Separate complaints seeking criminal prosecution are being prepared for the Office of the Arizona Attorney General and the United States Department of Justice.)

CASE SYNOPSIS

Note: The purpose of this synopsis is to provide the Commission with a general insight into Judge _____ willing involvement in the fraudulent activities taking place in his court, and to highlight some of the incidents where he deliberately ignored evidence and made rulings and issued orders in direct conflict with establish law, and generally acted in a manner that was openly prejudicial and in violation of the Judicial Code of Conduct. Obviously since I am not a judge or officer of the court, a diligent investigation by the Commission will more than likely discover additional incidents and acts which would be considered unlawful or unethical. **It is therefore demanded that the Commission investigate and prosecute any and all offenses discovered to the fullest extent of the law.**

The initial case was filed by attorney _____ of _____ asserting herself as attorney for Plaintiff _____ . As has been raised to Judge _____ on numerous occasions and in numerous pleadings:

has never authorized the litigation.

_____ has never produced any signed document from any Board meeting or anyone of lawful authority directing her to initiate or pursue the litigation or granting her permission to appear before Judge _____

The only document has produced is a one page undated letter from an individual that uses multiple names (identity theft/fraud), has committed fraud in Maricopa County Superior & Justice Courts and US Bankruptcy Court, falsified property records, committed forgery and perjury, has been involved in mail fraud and theft of mail, has served time in prison (but both he and refuse all disclosure on such), claims to be a former Maricopa County Judge, and claims to be the President of the Association. As has always known, and was informed by motion and irrefutable evidence, this person has never been lawfully elected or appointed to Board, is ineligible to serve on Board, and has no legal standing as a homeowner within due to his fraudulent property filings with the Maricopa County Recorders Office and the US Bankruptcy Court. is fully aware of this from prior legal actions she personally pursued against and on behalf of this individual using different identities, from disclosure documents, and from notices to her from the former president of

As the use of multiple identities is felony fraud under multiple Arizona and US laws and as this person has no lawful status as a Board member, then the case is one grounded in fraud and and are therefore willing accomplices in fraud and fraud upon the court.

Trial courts have "the right and obligation to deter fraudulent claims from proceeding in court." *Savino v. Fla. Drive In Theatre Mgmt., Inc.*, 697 So. 2d 1011, 1012 (Fla. 4th DCA 1997). "Fraud destroys the validity of everything into which it enters," *Nudd v. Burrows* (1875), 91 US 426, 23 Led 286, 290; particularly when "a judge himself is a party to the fraud," *Cone v. Harris* (Okla. 1924), 230 P. 721, 723. *Windsor v. McVeigh* (1876), 93 US 276, 23 Led 914, 918.

To this end, "where a party perpetrates a fraud on the court which permeates the entire proceedings, dismissal of the entire case is proper." *Desimone v. Old Dominion Ins. Co.*, 740 So. 2d 1233, 1234 (Fla. 4th DCA 1999) (quoting *Savino*). Fraud upon the court exists "where the judge has not performed his judicial duties" *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985)

At the sole direction of a person who's true identity is unknown because he uses multiple identities (aka aka unknown number of other aliases, herein), on August 9, 2010 a complaint was filed by in Superior Court in the name of against myself (Defendant).

On September 27, 2010 I filed an answer and a counter-suit asserting numerous claims including breach of contract by the Association, and fraud and embezzlement by and the [supposed] Board of Directors for with the assistance of attorney . Part of the relief sought was an order permanently baring from doing business with and her partner business Property Management (true pecuniary interest in is unknown because she refuses all disclosure on the subject and there is no record of any business with that name registered with the Arizona Corporation Commission or Secretary of State.)

On September 27, 2010 I filed the required certificate of compulsory arbitration clearly stating that the case was not subject to compulsory arbitration because the relief sought was beyond the amount specified by law and because non-monetary relief was sought.

On October 10, 2010, filed a Petition For Injunction Against Harassment in the Justice Court against me, citing my counterclaim against as the primary grounds for his petition. He refuses to give any reason why he chose the justice court instead of Judge Court records show that this contemptible act occurs with litigants.

On December 1, 2010 filed a Notice of Association of Counsel asserting himself as attorney of record for the defense of the counterclaims against . Though it has been brought before Judge in numerous pleadings that has never obtained permission from to appear in this case, continues to allow to proceed, against the Defendant's objections. (In a pleading filed in violation of the Rules of Civil procedure, asserted that he was hired by an insurance company, but refuses to identify the insurer or disclose any contract for services.) (See Rule 1.1: Compliance with the law; Rule 2.2: Impartiality and fairness; 2.5: Diligence and promptness)

On December 3, 2010 an [unlawful] hearing of petition for injunction against harassment was heard in the Arcadia justice court. At the very beginning of testimony he stated "This all started because he [Defendant] refused to pay his dues..." As can clearly be seen by testimony and his petition, the Superior Court action was the basis for the Justice Court action. On that same date the Defendant filed cross petitions for injunctions against harassment against (and his female companion aka who like uses multiple identities but whose true identity attorneys and refuse to disclose.)

On December 27, 2010 the Defendant moved to have the Justice Court action(s) transferred and consolidated with the Superior Court action. Though himself claimed the Superior Court case was the basis for his petition, both attorneys each filed separate (see ARCP 7.1) responsive briefs contradicting their own client by asserting there was no relationship between the Superior and Justice Court actions. Though petition was obviously meant to harass and intimidate the Defendant, Judge denied the motion to consolidate, took no action against for his clearly contemptible act, and took no action against the attorneys for filing unlawfully duplicitous responsive pleadings (ARCP 7.1) or for filing pleadings that clearly contradicted the stance and testimony of their [supposed] client (ARCP 11). (See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary)

Before Judge could rule on Defendant's motion to consolidate the justice cases with the superior court case, in disregard for the automatic stay created by Defendant's motion, the justice in the lower court issued decisions on those cases. On January 19, 2011 Defendant filed a motion before Judge to have the unlawful lower court rulings vacated. Again, both attorneys for the [supposed] Plaintiff each filed separate responsive pleadings to Defendant's motion (ARCP 7.1 allows only one responsive pleading per party.) Judge ignored that counsel for the [supposed] Plaintiff filed duplicitous and therefore unlawful pleadings. (See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary)

On February 24, 2011, in direct conflict with Local Rules of Practice 3.1, ARCP Rule 42(a), and numerous relevant case authorities cited in the Defendant's pleadings, denied the motion to consolidate. Acknowledging and at the same time ignoring the attorneys unlawfully duplicitous pleadings, failed to articulate his ruling and stated only: "For the reasons stated in the responsive pleadings, it is denied..." (For the benefit of reviewing courts, trial courts should explain a decision on the record *Girouard v. Skyline Steel, Inc.*, 215 Ariz. 126, 158 P. 3d 255) (See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary)

On April 18, 2011, more than sixty days after Defendant's Motion to Vacate had been fully briefed, Judge again issued a second ruling denying Defendant's motion to consolidate, this time including a denial of his motion to vacate citing a lack of jurisdiction (presumably predicated on refusal to consolidate the cases in direct conflict with Local Rules of Practice 3.1, ARCP Rule 42(a), and numerous relevant case authorities cited in the Defendant's pleadings.) (*See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

These two ruling set the tone for the remainder of the case. A tone of pure prejudice against the Defendant by and an ongoing refusal of to provide articulated rulings. rulings were limited to statements such as "Denied" or contained deliberately vague and obtuse statements such as "the Defendant is confused", and were generally devoid of Findings of Fact or Conclusions of law. (Our Supreme Court has urged trial judges "to articulate their reasoning so appellate courts can determine on appeal whether the ruling was erroneous." *Hawkins v. Allstate Ins. Co.*, 152 Ariz. 490, 495 n. 3, 733 P.2d 1073, 1078 n. 3 (1987); "We urge trial judges to articulate their reasoning so appellate courts can determine on appeal whether the ruling was erroneous." *Airfreight Exp. Ltd. v. EVERGREEN AIR CENTER*, 215 Ariz. 103, 158 P.3d 232, at 237 (2007) citing *Hawkins v. Allstate Ins. Co.*, 152 Ariz. 490, 495 n.3, 733 P.2d 1073, 1078 n.3 (1987)); "for the benefit of reviewing courts, trial courts should explain a decision on the record" *Girouard v. Skyline Steel, Inc.*, 215 Ariz. 126, 158 P. 3d 255) (*See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

Early on in the case there were numerous problems with discovery and disclosure. One of which was centered on Defendant's counterclaim that Plaintiff's had withheld maintenance of his home and it had been damaged by such. Counsel for the [supposed] Plaintiff demanded entry into the Defendant's home for an inspection. Defendant responded by offering to accommodate opposing counsel after they disclosed the identity, credentials, and qualifications of the proposed expert/inspector. Thus began a monotonous exchange between the parties where continually demanded entry without disclosing any information on their proposed expert/inspector, and the Defendant continually offering to accommodate them after counsel provided disclosure on their proposed expert/inspector. On January 18, 2011 filed a Rule 34 Request for entry upon [Defendant's] land with the court, lacking any disclosure on their proposed expert/inspector. On January 27, 2011 Defendant filed a response stating he would accommodate the request after counsel provided disclosure on the proposed expert/inspector. To date, Judge has never made any ruling on this issue. (*See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 1.2 Promoting Confidence in the Judiciary*)

Due to the ongoing issues with discovery and disclosure (from both sides), on February 23, 2011 filed a motion for a Rule 16 Status conference. Though by the rules of procedure this created an automatic stay in the case, Judge ignored the automatic stay, and the motion in general. To date, Judge has never made any ruling on the Status Conference request. (*See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 1.2 Promoting Confidence in the Judiciary*)

Throughout this time, submitted a number of interrogatories, requests for admissions, and other discovery demands upon the Defendant. The Defendant responded by refusing to comply with any

of demands until he produced proof that he had legal authority/permission to appear in the case. On March 22, 2011 filed a Motion to Compel against the Defendant.

On April 5, 2011 the Defendant responded to motion to compel outlining to the court the numerous discovery offenses committed by and ; their refusal to follow the most basic of disclosure protocols such as stamping documents; their theft of Defendant's mail; theft of Defendant's intellectual property; their deliberately misleading and false statements to the Court (including blatant perjury by attorney himself); deliberate and blatant refusal to disclose any evidence in Plaintiff's files that was damaging to their case; and the blatantly vexatious nature of the multiple civil actions Plaintiff/ had been pursuing against the Defendant. Additionally, the Defendant not only reminded Judge of request for a Rule 16 Conference, but notified that Defendant welcomed the Conference. Defendant also requested that the conference include an evidentiary hearing to establish true identity and whether he had authority to initiate the action on behalf of On October 11, 2011, almost six months after briefing completed on the motion to compel, Judge finally issued a ruling. In it, he ignored all points concerning Plaintiff's discovery abuses, ignored the request for a Rule 16 Conference, ignored Defendant's request for an evidentiary hearing, and summarily ruled in Peshek's favor. As further acts of blatant bias and prejudice, Judge ignored all discovery offenses by and including their blatant acts of perjury in their motion(s), ignored Defendant's demands that and produce proof of permission/authority to appear, and threatened the Defendant with "severe sanctions" if he did not fully comply with discovery requests within 45 days. (*See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)¹

On April 14, 2011 the Defendant filed a Rule 12(b) Motion to Dismiss Plaintiff's action. The motion included: over seventy pages of documents and affidavits showing had no legal standing within no authority to engage or to initiate legal action on behalf of had never authorized the litigation; failed to meet statutory standing requirements; and that had no lawfully sitting Board due in [great] part to interference with the lawful operations of and her deliberate acts of fraud against its members. In short, the motion provided indisputable evidence (and supporting law) that the suit was a blatant act of fraud upon the court. The Defendant sought dismissal and sanctions against and for perpetuating a fraudulent case upon the court.

Again, in violation of ARCP Rule 7.1 which allows only one responsive pleading per party, both and each filed responsive pleadings to Defendant's Motion to Dismiss (labeled his as a "Reply" to "Defendant's Reply", which isn't allowed under any rule) Again, Judge allowed the unlawfully duplicitous pleadings and refused to take action against counsel for their deliberate violation of the rules of procedure. (*See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

April 30, 2011 **illegal appointment of Arbitrator**. With Defendant's Motion To Dismiss briefed and pending, on April 30, 2011 a Notice of Appointment of Arbitrator post dated for May 6, 2011 was entered into the docket. This act was blatantly illegal, and showed the premeditated prejudice and bias of

¹ In a footnote in this ruling Judge attempts to justify his over six month delay to issue a ruling on the Motion to Compel by asserting that Defendant had filed a motion to stay proceedings pending an appeal to the Arizona Court of Appeal on a different issue. However, this is inane as sat on the motion to stay for several months and then denied it.

Judge [redacted] against the Defendant. The Defendant had previously filed the required Certificate Of Compulsory Arbitration clearly stating that the amount sought was far in excess of the compulsory limit and contained requests for non-monetary relief. [redacted] appointment of an Arbitrator was in clear violation of the law.² (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 1.2 Promoting Confidence in the Judiciary*)

On May 11, 2011 Judge [redacted] denied Defendant's Motion to Dismiss. In keeping with his refusal to abide by the Arizona Supreme Court rules and directives for judges to articulate their rulings, and in direct defiance of the Defendant's request for an Articulated Ruling, [redacted] entire ruling consisted of: "*For reasons stated in Plaintiff's responsive pleading IT IS ORDERED denying Defendants' Rule 12(b) Motion to Dismiss.*" (Our Supreme Court has urged trial judges "to articulate their reasoning so appellate courts can determine on appeal whether the ruling was erroneous." *Hawkins v. Allstate Ins. Co.*, 152 Ariz. 490, 495 n. 3, 733 P.2d 1073, 1078 n. 3 (1987); "We urge trial judges to articulate their reasoning so appellate courts can determine on appeal whether the ruling was erroneous." *Airfreight Exp. Ltd. v. Evergreen Air Center*, 215 Ariz. 103, 158 P.3d 232, at 237 (2007) citing *Hawkins v. Allstate Ins. Co.*, 152 Ariz. 490, 495 n.3, 733 P.2d 1073, 1078 n.3 (1987)); "for the benefit of reviewing courts, trial courts should explain a decision on the record" *Girouard v. Skyline Steel, Inc.*, 215 Ariz. 126, 158 P. 3d 255) (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 1.2 Promoting Confidence in the Judiciary*)

Though Defendant's brief and overwhelming amount of [undisputed] evidence showed that [redacted] had no authority to initiate or pursue any claim in [redacted] name, [redacted] allowed the action to proceed even though Plaintiff ([redacted]) was required "to allege facts demonstrating that he is a proper party to invoke judicial resolution of the dispute." *Warth v. Seldin*, 422 U. S. 490, 518 (1975). (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 1.2 Promoting Confidence in the Judiciary*)

On May 19, 2011, Defendant filed an Objection to the appointment of the Arbitrator, reiterating that the case was not subject to compulsory arbitration and that neither party had consented to such. However, [redacted] continued to willfully violate the law by ignoring the Defendant's Objection and allowing the Arbitrator to remain in place. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

Furthermore, according to ARCP Rule 74 by appointing an Arbitrator to the case, [redacted] divested himself of jurisdiction and authority to rule on most motions and pleadings. However, [redacted] ignored this and continued to willfully violate the law by making rulings on motions and issues he no longer had authority over. Each subsequent ruling [redacted] made on motions or issues constitutes a separate violation of the law, and, creates a separate reversible error/issue for appeal. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 1.2 Promoting Confidence in the Judiciary*) ("Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process." *Gonzalez v. Commission on Judicial Performance*, (1983) 33 Cal. 3d 359, 371, 374)

² The Defendant did request that the case be assigned to a mediator, but, [redacted] ignored that.

Compounding the unlawful appoint of the Arbitrator and deliberate rulings in excess of his authority, are that on no less than thirty occasions post-dated entries were made into the case docket for "ME: Notice To Set Arbitrn Hrng." Yet within one to two days after each of the entries being made, they were deleted. According to Defendant's phone conversations with the Clerk's office, Judge was the only person with authority to remove/revoke these entries. Though the Defendant is a party in the case, and the docket files (including computer records) are public records, the Clerk's office has refused to disclose any of the records concerning these repeated interferences with the [unlawful] Arbitration proceedings.

On May 23, 2011 the pro-se Defendant filed a Notice Of Appeal and paid the Cost/Copying Bond of \$500 with the Clerk of the Court, in the belief that he could immediately appeal denial of his Motion to Dismiss to the Court of Appeal. On May 31, 2011 while filing the required Civil Appeal Docketing statement Defendant also filed a Motion to Stay the Superior Court proceedings pending resolution by the Court of Appeals. This motion sat dormant before for over five months, at which time he denied it.³ (See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 1.2 Promoting Confidence in the Judiciary)

As discovered from a pleading by the pro-se Defendant became aware that his Notice Of Appeal was premature. At which time the Defendant called the Clerk of the Court's office to request that the Appeal be canceled and his \$500.00 copying bond be refunded. According to the [recorded] conversation with the Clerk's office, they had not yet begun processing or preparing the record for transfer to the Court of Appeals, but, the only way it could be halted would be by an order directly from Judge. Subsequently the Defendant filed a Motion to Vacate the Appeal and Refund Copying Bond (paid to the Clerk of the Superior Court). Though the Clerk has since halted processing of the Appeal, without explanation, as of this date, has never ruled on that motion and the \$500.00 paid by the Defendant has simple disappeared. (See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 1.2 Promoting Confidence in the Judiciary)

Further complicating the quagmire of Defendant's attempts to appeal, is that in addition to all the reversible errors and other offenses outlined thus far, Judge has recently issued a summary judgment ruling against the Defendant. Thus creating circumstances where an appeal to the Court of Appeals will be necessary and prudent. Since has never ruled on Defendant's Motion to Vacate Appeal and Refund Copy Bond, on April 18, 2012 the Defendant filed a Notice of Withdrawal of Motion to Vacate Appeal (A copy of which was sent to the Court of Appeals notifying them of the Appeal sitting in limbo, unprocessed by the Clerk of the Court without any order requiring them to not to proceed.) Like so many other motions and issues before the issue of Defendant's Notice of Appeal is still undecided. (See Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 1.2 Promoting Confidence in the Judiciary)

Following the denial of Defendant's Motion to Dismiss, and with numerous motions concerning discovery, appeals, [unlawful] arbitration, unethical behavior by counsel motions to strike the unlawful pleadings of counsel, and motions to recuse counsel, on May 26, 2011 filed a Motion For Summary Judgment against the Defendant. While it was unknown what she actually

³ Being a pro-se, Defendant was unaware his attempt to immediately appeal denial of the Motion to Dismiss was premature. However he did pursue a Petition for Special Action with the Arizona Court of Appeals. ignored the outstanding Motion to Stay for over five months, then denied the stay request after the Court of Appeal refused to accept Defendant's Petition for Special Action (Rule 2.5. Competence, Diligence, and Cooperation;)

filed with the Court, the pleading she sent Defendant was deliberately illegible and in direct conflict with the pleading form requirements of the Rules of Civil Procedure. Instead of being single paged, with a font of 12pts, maximum of 28 lines per page, sent the Defendant a monstrosity that was four pages reduced to fit on a single page, double sided, and compressed to a font size so small it required a magnifying glass to read. Immediately the Defendant responded by notifying the court that the pleading was illegible, not in conformance with the rules of procedure, and motioned the court to strike the pleading because it was impossible to respond to and therefore allowing it to proceed would be a denial of Defendant's due process rights to respond. Defendant also filed a separate motion to strike the pleading and sanction for her deliberate attempt to defraud the Defendant of his due process rights. As of this date, has never ruled upon that motion. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.7. Responsibility to Decide; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

However, a year later on April 16 2012, after multiple requests from for the Court to rule on her Motion for Summary Judgment, granted the motion with full knowledge that the Defendant had never been afforded his due process rights to respond to the motion. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.6. Ensuring the Right to Be Heard; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

Compounding the deliberate violation of Defendant's right to be heard on Motion for Summary Judgment, ignored everything previously entered into the record concerning; issues of financial irregularities, use of fraudulent identities; not having a lawfully sitting Board for several years (due in part to fraudulent acts); a complete lack of evidence to any changes to Defendant's home/structure; and disputes over primary issues too numerous to cite here, and stated in his ruling: "there are no issues of material fact in this matter." (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.6. Ensuring the Right to Be Heard; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

ADDITIONAL INFORMATION AND OFFENSES:

Throughout the proceedings, the Defendant filed numerous motions: to strike the unlawful duplicitous pleadings of requests for sanctions for deliberate acts of perjury and Rule 11 violations; and a host of other unethical and unlawful acts by and their client Many of those motions have remained undecided for months if not years, and for those that were decided summarily ruled against the Defendant with little or no explanation, and more often than not in contradiction to the evidence and established law. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.6. Ensuring the Right to Be Heard; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

unlawful appointment of an Arbitrator creates a legal quagmire over whether or not significant portions the rulings he made were done in excess of his jurisdiction. His other rulings not only bring his competence to serve as judge into question, but his blatant disregard, bias and prejudice against the Defendant, his rights, and his efforts to present his case made it clear early on that should have recused himself. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and*

Cooperation; Rule 2.6. Ensuring the Right to Be Heard; Rule 2.11. Disqualification; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary)

early on made it known to the Defendant that attorneys for the "Plaintiff" were free to violate any rule of procedure, commit open acts of perjury, interfere with and refuse discovery, and withhold any and all disclosure which would be damaging to their case. Any and all motions from the Defendant, no matter how well supported by [uncontested] evidence and case law, were denied with no explanation or under the vaguest of pretenses, even when opposing counsel failed to produce even a scintilla of contravening evidence or legal authority. (See *Rule 1.1 Compliance with the law; Rule 2.2 Impartiality and Fairness; Rule 2.3. Bias, Prejudice, and Harassment; Rule 2.5. Competence, Diligence, and Cooperation; Rule 2.15 Responding to Judicial and Lawyer Misconduct; Rule 1.2 Promoting Confidence in the Judiciary*)

has deliberately made it impossible for the Defendant to proceed to trial and his doing so was only one of numerous acts of fraud upon the court and the Defendant. By allowing to pursue any legal action while committing identity fraud makes a willing accomplice to fraud himself. (fraud upon the court exists "where the judge has not performed his judicial duties" *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985); Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process. *Gonzalez v. Commission on Judicial Performance*, (1983) 33 Cal. 3d 359, 371, 374

Each ruling without an articulated ruling constitutes a separate act of misconduct by failing to competently fulfill his duty and by failing to comply with the Supreme Court's directive on such (It also constitutes a violation of the state Bar ethics rule against filing pleadings that frustrate a litigant's efforts as it makes appealing an unarticulated ruling difficult to argue and determine.)

Each motion where failed to issue a ruling within the sixty day period specified by statute and the rules of court constitutes a separate act of misconduct, if not multiple offenses per act.

Each motion never ruled upon constitutes a separate act of fraud upon the court by himself (fraud upon the court exists "where the judge has not performed his judicial duties" *Bulloch v. United States*, 763 F.2d 1115, 1121 (10th Cir. 1985))

Each time filed an affidavit with the Court stating he had no outstanding issues he committed separate acts of: criminal perjury; fraud upon the court; and criminal fraud and theft against the State of Arizona for accepting his paycheck under deliberately false pretenses.

Each time failed to inform the state Bar of unethical and unlawful acts committed by attorneys he committed a separate act of judicial misconduct and violated state Bar ethics rules by not reporting a fellow attorney's misconduct. (is an attorney first, and a judge second. "A judge is an officer of the court, as well as is all attorneys. A state judge is a state judicial officer, paid by the State to act impartially and lawfully. A federal judge is a federal judicial officer, paid by the federal government to act impartially and lawfully. State and federal attorneys fall into the same general category and must meet the same requirements. A judge is not the court. *People v. Zajic*, 88 Ill.App.3d 477, 410 N.E.2d 626 (1980).)

SUMMARY AND CLOSING:

The previous pages are not a complete list of the acts of misconduct by Judge [redacted]. However, they should be more than substantial enough for the Commission to review the entire docket and perform a diligent investigation of this, and other cases which [redacted] presided over. It is my belief that any pro-se appearing before Judge [redacted] would likely have been subjected to much the same.

As clearly shown herein, Judge [redacted] was made aware at the onset of the case that [redacted] and [redacted] were perpetuating fraud upon the court, and by [redacted] failure to thwart such made himself a willing accomplice. Any doubt to his complicity was erased when he granted [redacted] motion for summary judgment after deliberately denying the Defendant his right to be heard. "Fraud destroys the validity of everything into which it enters," *Nudd v. Burrows* (1875), 91 US 426, 23 Led 286, 290; particularly when "a judge himself is a party to the fraud," *Cone v. Harris* (Okl. 1924), 230 P. 721, 723. *Windsor v. McVeigh* (1876), 93 US 276, 23 Led 914, 918.

Since the case is ongoing and the pattern of misconduct began at the very onset, there is every reason to believe that many more offenses have already occurred, and that even more will occur if [redacted] is allowed to remain on the bench. Judge [redacted] actions have brought the entire judiciary into disrepute and allowing him to proceed in this or any case is an affront to the constitution and all that it stands for.

This is a demand for a full and diligent investigation of [redacted] for his deliberate misconduct and his willing accomplice to fraud against the Court, the Defendant, and the State. It is a demand that he be prosecuted to the fullest extent of the law, for any and all violations of administrative, civil, and criminal statutes or rules, seeking the maximum penalty allowed by law.

Sincerely