

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-232

Complainant: No. 1450110978A

Judge: No. 1450110978B

ORDER

The complainant alleged a superior court commissioner should have recused himself from his case because he had a conflict of interest. He further alleged the commissioner ruled incorrectly on various issues.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner 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 along with various minute entry orders in the case, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the commissioner's rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: September 28, 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 September 28, 2012.

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

I believe that there was Judicial Misconduct in the fact that the Judge ruled and signed orders on the case, that he should have excused himself from, under the Arizona Rules of Judicial Conduct.

Commissioner [redacted] in 2008 ran for public office in the Arizona General Election under the alias [redacted] for the position of Arizona State Representative District 6. In this election [redacted] lost to [redacted] was a senior partner of the law firm of [redacted]. The law firm of [redacted] was the counsel representing the [redacted] in this litigation. Arizona Rules of Judicial Conduct (Rule 2.11) states in the Comment Section “(1) Under this rule, a judge is disqualified whenever the judge’s impartiality might reasonably be questioned, regardless of whether any of the specific provisions of paragraphs (A) (1) through (5) apply., and (2) A judge’s obligation not to hear or decide matters in which disqualification is required applies regardless of whether a motion to disqualify is filed. Commissioner [redacted] at the very least had the duty to inform both counsels. Arizona Rules of Judicial Conduct Rule 2.11 (C) which states: “A judge subject to disqualification under this rule, other than for bias or prejudice under paragraph (A) (1), may disclose on the record the basis of the judge’s disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.” Commissioner [redacted] made no attempt to disclose this conflict of interest and in turn decided to hide these facts from the [redacted]. This unethical behavior by the Commissioner shows extreme prejudice towards the [redacted].

Commissioner [redacted] is directly involved with the Real Estate industry. Commissioner [redacted] is a licensed Broker, license # BR04419 [redacted]. The defendants and Intervenor, in this case, are both a part of the Real Estate industry. This in itself is another conflict of interest, which may or may not create an economical advantage for the Commissioner and in either case this is a grounds for disqualification.

Commissioner [redacted] rulings were prejudice. As recently as the motion to reconsider, Commission [redacted] was presented with the Arizona Supreme Courts guidelines for reasonable

attorney fees. Commissioner ignored these guidelines. In the motion to appeal there were a couple of matters that were brought the Commissioners attention. The Commissioner made a ruling on only one of the matters, ignoring the rest. The Arizona Justice system requires the judge make impartial rulings. This impartiality was denied to the by Commissioner

In a motion referencing Arizona Rules Civil Procedures 60 (C), Commissioner took it upon himself to change the pleading to Motion for Change of Judge for Cause under Rules of Civil Procedure Rule 42(f)(2). This was not the intent or the wishes of the The HONORABLE ROBERT H. OBERBILLIG CIVIL PRESIDING JUDGE OF THE SUPERIOR COURT stated in his ruling "In the Reply, the Plaintiffs clarify that they do not seek the disqualification of Commissioner Instead, Plaintiffs' relief is based on Rule 60(c), Arizona Rules of Civil Procedure." It is our content that Commissioner purposely change the pleading, knowing that the motion would be denied.

In motions to reconsider attorney fees, sighting AZ ST RCP 59(a)(5), Excessive Damages and other laws, Commissioner repeatedly ignored legal presidencies set forth in motions and only ruled on the parts of the motion that he wanted to. His disregard for the law has caused harm and this harm would have been avoided.

Commissioner has been ethical in his handling of this case, and has not only given an appearance of prejudice, he has ruled with extreme prejudice. I have enclosed documentation of Commission failed bid to take Mr. position as a State Representative, Biography on showing in fact that this is an Alias for (Commissioner and Commissioner record as a Real Estate Broker.