

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Case No. 13-019

Judge:	No. 0308110964A
Complainant:	No. 0308110964B

ORDER

A superior court judge voluntarily reported a delayed ruling.

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 facts, the commission concluded that the judge did not violate the Code in this case. Accordingly, the matter is dismissed pursuant to Rules 16(a) and 23.

Dated: March 28, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

A copy of this order was mailed to the judge on March 28, 2013.

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

SUPERIOR COURT OF ARIZONA

County of Maricopa
Central Court Building
201 West Jefferson, 6th floor
Phoenix, AZ 85003-2205

2013-019

FEB 04 2013

Honorable

January 31, 2013

George A. Riemer
Executive Director
Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

Re:

Dear Director Riemer:

I am writing to report to the Commission that I issued a ruling in the above-referenced matter denying a request for an award of attorney fees and costs after the sixty-day deadline set forth in Article 6, Section 21 of the Arizona Constitution.

The parties to the above-referenced dissolution proceeding reached a settlement in May 2012. The parties and their counsel put their agreement on the record at a telephonic status conference on May 16, 2012. One provision of the parties' agreement was that the former marital residence was to be awarded to Petitioner/Mother, who was to refinance the mortgage to relieve Respondent/ Husband of any further financial obligation for the residence.

On June 15, 2012, Petitioner/Wife filed a pleading alleging that, on the eve of the close of escrow in connection with the refinancing, Respondent/Husband abruptly informed her that he would not sign the quitclaim deed. *See* Request for Emergency Conference Call to Enforce Consent Decree filed on June 15, 2012. According to Petitioner/Wife, Respondent/Husband was acting in a "petty" manner because he was angry that he had been unable to obtain certain items of personal property that he believed to be his. *Id.* at pp. 3-4. Petitioner/Wife asked that Respondent/Husband be sanctioned for his refusal to sign the quitclaim deed, and further requested an award of attorney fees and costs. *Id.* at p. 4.

I conducted a telephonic status conference with counsel for each party that same day. At the telephonic conference, counsel for Respondent/Husband gave assurances that her client would sign the quitclaim deed as previously agreed, and asserted that the dispute was the result of a simple misunderstanding between the parties. I ordered that, within three days, Respondent/Husband was to file documentary evidence with the Court confirming that he had signed the quitclaim deed. Minute Entry of June 15, 2012 at p. 1. I also took under advisement

George A. Riemer
Executive Director
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Petitioner/Wife's request for an award of attorney fees and costs. It was my hope and expectation that the prospect of being required to pay Petitioner/Wife's attorney fees and costs would encourage Respondent/Husband to sign the quitclaim deed expeditiously.

That is, in fact, what happened. Three days after the telephonic status conference, Respondent/Husband filed a Notice of Filing Quit Claim Deed confirmed that he had signed the quitclaim deed as ordered and delivered it to Petitioner/Wife. He attached a copy of the signed quitclaim deed to his notice. *See* Notice of Filing Quit Claim Deed filed June 18, 2012 and Exhibit 1 thereto.

After Respondent/Husband filed his notice confirming that he had signed the quitclaim deed and delivered it to Petitioner/Wife, the parties filed no further pleadings and requested no further relief. I therefore took no further action on the matter, and, frankly, thought no more about it.

My bailiff recently discovered, through a review of the court file in this matter for unrelated reasons, that no ruling have ever been issued on Petitioner/Wife's request for an award of attorney fees and costs. I therefore issued a ruling denying her request.

Although I had stated on the record at the telephonic hearing on June 15, 2012 that I would take Petitioner/Wife's request for an award of attorney fees and costs under advisement, the deputy clerk who was in the courtroom that day neglected to put the matter on the "Under Advisement" log, *i.e.*, the log that is kept, for tracking purposes, of rulings that are under advisement. The deputy clerk who was in the courtroom that day was not regularly assigned to my Division, and was simply filling in for the regularly- assigned deputy clerk, who was, evidently, out sick or otherwise unavailable. Because the deputy clerk was not regularly assigned to my Division, she was, at the time, unaware that she was required to add the matter to the "Under Advisement" log.

It is of course, my responsibility to make sure that all matters assigned to me are handled in a timely manner. In the future, I will make sure that any deputy clerks who are temporarily assigned to my courtroom are aware of the necessity of listing all matters taken under advisement on the "Under Advisement" log.

Please let me know if you require additional information from me.

Very truly yours,