

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 13-240

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Judge:	No. 1030714764147651476614767A
Complainant:	No. 1030714764147651476614767B

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**ORDER**

The complainants alleged a superior court judge was biased, rude, and prejudged the underlying case.

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 review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: November 25, 2013.

FOR THE COMMISSION

/s/ George Riemer  

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on November 25, 2013.

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

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2013-240**

**COMPLAINT AGAINST A JUDGE**

Your name:

\_\_\_\_ Judge's name

\_\_\_\_ Date: \_\_\_\_

**Instructions:** You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

Please refer to attached Statement.  
Thank you.

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

RE: No.

Dear Commission on Judicial Conduct,

Collectively, we

have been present at the trial of

**STATE OF ARIZONA,**

*Plaintiff,*

v.

*Defendant*

each day beginning

, have been present at the aforementioned (and ongoing) trial  
for two days, and

Let it be noted:

– Attorney for the State  
Defense Attorney

According to the Arizona Code of Judicial Conduct (2009), Arizona Supreme Court Rule 81, Rules of the Supreme Court (Internet Edition), "A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety." The preamble of this statement further elaborates by stating that a judge "should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence." (Pg. 1).

Individually and collectively, we, the aforementioned attendees in the Honorable  
courtroom ( ), have noted numerous instances during the current and  
ongoing State of trial when, in our opinion, Judge has not

(2)

adhered to the defined Arizona Code of Judicial Conduct including but not limited to (Canon 1)(as quoted above), Rule 1.1: Compliance with the Law including the Law of Judicial Conduct; Rule 2.2: Impartiality and Fairness; Rule 2.3: Bias, Prejudice, and Harassment, etc.

From the onset of this trial, the state attorneys (there is a second prosecuting attorney working alongside \_\_\_\_\_ have had the opportunity to present their case in a calm, paced manner. Judge \_\_\_\_\_ has appeared attentive to their statements and where the state is concerned, we believe the judge has abided by the outlined Judicial Codes of Conduct as referenced above.

In our opinion, Defense Council, Attorney \_\_\_\_\_ has not been granted the same treatment from Judge \_\_\_\_\_ and we are concerned that this is unfavorably impacting his defense of \_\_\_\_\_. In the process of cross examination, while trying to lay groundwork for the foundation of his case, the defense has been prevented by Judge \_\_\_\_\_ from following through with relevant questioning due to minor protocol issues on many occasions. It appears that Judge \_\_\_\_\_ is more concerned with attorney courtroom protocol than getting to the facts of this case. Additionally, in spite of relevant contradictions from various state witnesses, Judge \_\_\_\_\_, again, has prevented and literally halted the cross examination, sending the jurors out of the courtroom and reprimanding Attorney \_\_\_\_\_ in front of the remainder of the court. We believe that Judge \_\_\_\_\_ is tactically trying to intimidate Defense Council, \_\_\_\_\_, and is preventing him from building his case. Judge \_\_\_\_\_ has also exhibited rude and belittling behavior towards \_\_\_\_\_ with the jury present. Attorney \_\_\_\_\_ has remained calm, polite, and professional through each of his interactions with Judge \_\_\_\_\_

It is our strong belief that Judge \_\_\_\_\_ conduct is definitely impacting a fair trial for \_\_\_\_\_. At times, Attorney \_\_\_\_\_ appears compelled to hastily move from topic to topic which has confused us and would probably confuse the jury. In our opinion, this is not the most effective way for Attorney \_\_\_\_\_ to present his case to the jury.

In our opinion, Defense Council, Attorney \_\_\_\_\_, needs to be allowed the same opportunities as the state when presenting his case. We're aware that this is the first time that defense council has presented in front of Judge \_\_\_\_\_ and though it may be more comfortable for officials of the court to work with those whom they are used to working with, at the same time, it would seem important to recognize that each presenting attorney will have variations in the way that they present and a unique style of their own. It is our belief that Judge \_\_\_\_\_ is preventing critical facts from reaching the jury, and this needs to be stopped as soon as possible or else \_\_\_\_\_ will not receive a fair trial.

There is another observation that we've noticed as attendees of the court. When \_\_\_\_\_ and his assistant are questioning state's witnesses, Judge \_\_\_\_\_ appears to be listening. On the other hand, when \_\_\_\_\_ is cross-examining witnesses, we have noticed (at times) that Judge \_\_\_\_\_ has his eyes closed; other times, it is our observation that Judge \_\_\_\_\_ is preoccupied with shuffling papers and organizing work behind his desk. It makes us wonder if Judge \_\_\_\_\_ has already determined the outcome of this case. If this has been noticeable to us from where we each sit in the courtroom, it is probable that the jurors are making note of the judge's conduct also. We are concerned that the said conduct from Judge \_\_\_\_\_ could impact the men and women of the jury, as it appears that Judge \_\_\_\_\_ is disinterested in what defense council has to say or is prejudicial towards defense council and his client.

(3)

In closing, we ask that the Commission on Judicial Conduct for the State of Arizona review this complaint with seriousness and expediency. It is our strong belief that \_\_\_\_\_ is not receiving a fair trial. Continuing in this realm is unconstitutional and does not reflect well on the \_\_\_\_\_ Court of Arizona.

We thank you for your courteous and prompt attention to this matter.

Sincerely,

Dated:

Dated:

Dated:

Dated:

cc: Honorable Judge  
Attorney  
Attorney  
State Bar of Arizona