

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 14-383

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Judge:

Complainant:

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**ORDER**

The complainant alleged a pro tem superior court judge made a delayed ruling, failed to remain impartial, and conducted an improper independent investigation.

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. The commission approved sending the judge an advisory letter recommending that his minute entries be as clear as possible as to what he needed from the parties in order to make a ruling. This should help avoid violations of the 60-day rule and complaints of unreasonable delay in ruling. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: March 26, 2015

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed to the complainant and the judge on March 26, 2015.

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

Complaint Against a Judge

Name:

Judge's Name:

I. Statement of Facts Relating to the Complaint.

The case described above was filed on Exhibit 1 hereto, the first page of the . The trial of this case began on . Exhibit 2 hereto, Court Minute Entry dated and a portion of the transcript of the proceedings on that date.

The days of trial were spread over months. Trial was conducted on and concluded on

. The parties filed exhibits with the Clerk, but many of them were not admitted into evidence. Exhibit dated . The parties rested on . Exhibit hereto, Court Minute Entry dated . Final argument of all parties was heard on . Id. Judge took the case under advisement at on . Id. At that time the case was submitted to Judge

for decision. See, 2A Ariz. Prac., Civil Trial Practice § 26.1 (2d ed. 2014), Daniel J. McAuliffe (deceased) and Shirley J. McAuliffe (“After the attorneys have completed their argument on a motion or their presentations in a non-jury case, the matter is submitted to the court for its decision.”). Although months have passed, Judge has not entered a final judgment on the issues presented at the trial.

On , Judge entered an “Order Resetting Trial” that indicated that had made a preliminary decision on one of the many issues submitted

***Complaint Against a Judge***

**Name:**

**Judge's Name:**

Exhibit hereto, Court Minute Entry dated . In this  
, Judge required the parties to file additional briefs and findings on  
. *Id.* The purpose of this requirement was to supplement the groups of briefs  
and findings that had been filed before the trial ended – the group of briefs and  
findings was filed in and the group was filed in . The  
scheduled a second final argument on  
after the trial had concluded. *Id.* The title of this  
is misleading because the trial had concluded days earlier and because no  
additional evidentiary hearing or trial regarding the merits of the case was scheduled or  
even contemplated by that . *Id.*

Although the deceptive delayed the decision, it was just  
the first of many delays imposed by or permitted by Judge . The next delay  
occurred on , when Judge continued the  
days after the trial  
concluded. Exhibit hereto, Court Minute Entry dated . Judge also  
extended the deadline to file briefs to . *Id.* All the parties timely filed  
their briefs and proposed findings by about that date.

On , Judge received and reviewed  
(the ). Exhibit

*Complaint Against a Judge*

**Name:**

**Judge's Name:**

hereto, Court Minute Entry dated . On that date, Judge ordered that the of the be heard on , at the same time as the oral argument regarding the groups of briefs and findings proposed by the parties. *Id.* Judge did **not** refer to the proceeding scheduled for

as a trial. The omission of that information on the Court Minute Entry dated provides additional support for the conclusion that the was misleading and mainly a delaying tactic by Judge .

The next delay occurred on days after the trial concluded), when Judge failed, once again, to conduct the scheduled argument on the merits of the case. Exhibit hereto, Court Minute Entry dated

Instead of conducting the oral argument Judge apparently considered the more important than arguments on the substantive merits of case that he already had under advisement for months. Judge permitted the hearing on the to consume the entire time allotted for final argument. *Id.*

After that hearing, Judge continued the argument once again on the groups of findings and briefs to , which is days after the trial concluded. *Id.* This continuance permitted Judge to delay his decision for at least more months.

The hearing (Exhibit ) on the Application decided several

***Complaint Against a Judge***

**Name:**

**Judge's Name:**

significant issues relating to the Complaint; but Judge \_\_\_\_\_ did not hear or decide the merits of the case as \_\_\_\_\_ originally intended. One, Judge \_\_\_\_\_ found that the

\_\_\_\_\_ *Id.* Two, Judge \_\_\_\_\_ ordered that all proceeds from the recent sale of most of the assets of

\_\_\_\_\_ be deposited in an escrow account. Three, Judge \_\_\_\_\_ appointed \_\_\_\_\_ as the overseer of the escrow account and the post-sale financial affairs \_\_\_\_\_ . *Id.*

Judge \_\_\_\_\_ decided that

\_\_\_\_\_ *Id.* Judge \_\_\_\_\_ intent was to \_\_\_\_\_ . Exhibit \_\_\_\_\_ , part of the transcript of the hearing on \_\_\_\_\_ , p. \_\_\_\_\_ , lines \_\_\_\_\_ . Four, Judge

found “good cause to order

” *Id.* Five, at the request of the petitioner, Judge \_\_\_\_\_ appointed \_\_\_\_\_

\_\_\_\_\_ ” *Id.* Six, Judge \_\_\_\_\_ ordered \_\_\_\_\_ to file a \_\_\_\_\_ by \_\_\_\_\_ . *Id.* Seven, Judge \_\_\_\_\_ set

\_\_\_\_\_ with one hour allotted.” *Id.*

On \_\_\_\_\_ , Mr. \_\_\_\_\_ withdrew as the \_\_\_\_\_ . In response, the petitioner filed an application to replace \_\_\_\_\_ . Judge \_\_\_\_\_

\_\_\_\_\_ the new application for a \_\_\_\_\_ and ordered

***Complaint Against a Judge***

**Name:**

**Judge's Name:**

on these matters, and an  
Hearing as to why this Court should not appoint a \_\_\_\_\_ and the  
proceeds from the sale thereof, for \_\_\_\_\_ with  
a half day allotted.” Exhibit \_\_\_\_\_, Court Minute Entry dated \_\_\_\_\_. Judge  
did not allocate any time at this additional hearing to consider the merits of the case or of  
the \_\_\_\_\_ groups of findings and briefs.

Judge \_\_\_\_\_ conducted an evidentiary hearing and oral argument on  
regarding the appointment of a \_\_\_\_\_. Exhibit hereto,  
Court Minute Entry dated \_\_\_\_\_ with the order also approving a  
\_\_\_\_\_ to pay some of its bills. The hearing took more than \_\_\_\_\_ hours  
from \_\_\_\_\_. *Id.* Yet, no action was taken with regard to the argument  
relating to the merits of the substantive issues submitted to Judge \_\_\_\_\_ for decision on  
\_\_\_\_\_. *Id.* The hearing was not completed and was, therefore, continued to  
\_\_\_\_\_. *Id.*

On \_\_\_\_\_, Judge \_\_\_\_\_ devoted more than \_\_\_\_\_ hours (from  
to \_\_\_\_\_) to the evidentiary hearing and oral argument regarding the  
\_\_\_\_\_. Exhibit hereto, Court Minute Entry dated \_\_\_\_\_

**THE COMMISSION'S POLICY IS  
TO POST ONLY THE FIRST FIVE  
PAGES OF ANY DISMISSED  
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE  
REMAINDER OF THE  
COMPLAINT IN THIS MATTER,  
PLEASE MAKE YOUR REQUEST  
IN WRITING TO THE  
COMMISSION ON JUDICIAL  
CONDUCT AND REFERENCE  
THE COMMISSION CASE  
NUMBER IN YOUR REQUEST.**