

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 15-180

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge did not follow the law in a civil 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.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, 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: September 22, 2015

FOR THE COMMISSION

/s/ George A. Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on September 22, 2015.

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

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: \_\_\_\_\_

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

### INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

\_\_\_\_\_ made an arbitrary and capricious ruling in our case relating to a \_\_\_\_\_ and a \_\_\_\_\_. It is also evident that \_\_\_\_\_ failed to professionally perform his duties by neglecting to consider the applicable law and apply it to the issues in our case.

#### HEARING ON

On or about \_\_\_\_\_ held a hearing on \_\_\_\_\_ relating to \_\_\_\_\_ failure to abide by the rules of discovery and \_\_\_\_\_. At the hearing, the judge ordered \_\_\_\_\_ counsel to depose the main \_\_\_\_\_ and then file a \_\_\_\_\_ if the disputed issues remained unresolved. \_\_\_\_\_ counsel objected to taking \_\_\_\_\_ deposition so early in the case but the judge insisted. \_\_\_\_\_ spent time and money to depose the \_\_\_\_\_, which actually had to be suspended due to \_\_\_\_\_ lack of cooperation and evasive responses to \_\_\_\_\_ questions. \_\_\_\_\_ was waiting to receive the deposition transcripts to prepare its \_\_\_\_\_ when it received the court's cursory and erroneous ruling. In pertinent part, the wrote

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At the same hearing, the Court structured discovery and ordered that if there was a "post-deposition" discovery dispute, \_\_\_\_\_ can file a \_\_\_\_\_ (Minute Entry, dated \_\_\_\_\_). The Court record does not contain a post-deposition \_\_\_\_\_. The Court record does not contain a post-deposition \_\_\_\_\_.

Under these circumstances,

IT IS ORDERED that this matter proceed to \_\_\_\_\_ pursuant to the \_\_\_\_\_

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The court had not received \_\_\_\_\_ post-deposition \_\_\_\_\_ because it was not ready and judge \_\_\_\_\_ did not set a deadline for filing the same.

It was obvious that judge \_\_\_\_\_ was not paying attention to our case and had also failed to read the applicable Supreme Court cases and apply the law to the facts of our case. In fact, judge \_\_\_\_\_ cited facts in the record that don't even exist and failed to cite to any authorities or supporting law whatsoever.

One of the critical issues was that judge \_\_\_\_\_ never gave a deadline for \_\_\_\_\_ to file its post-deposition \_\_\_\_\_ conducted the deposition within a reasonable time after the hearing and was moving forward to prepare the Motion when the court issued its ruling. His ruling was therefore prima facie arbitrary and capricious.

\_\_\_\_\_ promptly filed a \_\_\_\_\_ with judge \_\_\_\_\_ (a copy is attached hereto), which sets out in detail how judge \_\_\_\_\_ erred by considering facts not in evidence and by failing to consider the controlling Arizona Supreme Court case and others. \_\_\_\_\_ detailed the errors in judge \_\_\_\_\_ ruling and asked for clarification regarding whether the judge would still entertain a post-deposition \_\_\_\_\_. Not surprisingly, judge \_\_\_\_\_ denied \_\_\_\_\_ in his \_\_\_\_\_ ruling, which was even more cryptic, cursory, and confusing than the \_\_\_\_\_ ruling, if that is even possible. Judge \_\_\_\_\_ ruling failed to clarify anything but implied that he would not now entertain \_\_\_\_\_ post-deposition \_\_\_\_\_. So, to recap: judge \_\_\_\_\_ order that \_\_\_\_\_ take Defendant's deposition, ordered that Plaintiff could file a post-deposition \_\_\_\_\_ (but gave no deadline), ruled in \_\_\_\_\_ favor, claiming \_\_\_\_\_ had missed the judge's undisclosed and arbitrary deadline, then refuses to reconsider his ruling when confronted with his obvious error.

The only recourse at that point was to file an interlocutory appeal, which is prohibitively expensive and might not be taken up on appeal. Judge \_\_\_\_\_ knows this was unlikely to occur. So judge \_\_\_\_\_ fails to do his job and my client suffers. Where is the justice?

Judge \_\_\_\_\_ misconduct has harmed my client's case and caused \_\_\_\_\_ to incur substantial and unnecessary expenses. Judge \_\_\_\_\_ refusal to conduct himself properly in this case, to seriously consider the issues present to his court, and to act reasonably and conscientious in the performance of his duties, and his inability to use good judgment, disqualifies him from being on the bench. His actions in our case have not only sullied his own reputation but that of the \_\_\_\_\_ Court itself. If he wasn't working as a " \_\_\_\_\_ " judge. I would do whatever I could to get him removed. Maybe it's time to have elections for \_\_\_\_\_ Court judges if this is the kind of judges we can expect to get from the current system.

I am attaching the applicable rulings and the \_\_\_\_\_ for your review. At the very least, I would hope the \_\_\_\_\_ Court would investigate our claims and take appropriate action. But I expect, in the end, that this complaint will have little or no impact and judge \_\_\_\_\_ will suffer no ill consequences for his complete lack of professionalism. I hope the \_\_\_\_\_ Court proves me wrong.