

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 15-188

Judge:

Complainant:

ORDER

The complainant alleged a superior court commissioner was biased against him, did not afford him an opportunity to be heard, and was rude and abusive to him.

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.

The commission does not have jurisdiction to review the legal sufficiency of the commissioner's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: August 19, 2015

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the commissioner on August 19, 2015.

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

CONFIDENTIAL

2015-188

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

COMPLAINT AGAINST AN ARIZONA COMMISSIONER

Name:

Address:

City:

State: Arizona

Zip Code:

Commissioner's Name:

Did You Have A Case Before This Judge?

If Yes, Is The Case Still Pending?

Case Name and Number:

Case No.

Names of Witnesses Who Observed the Commissioner's Conduct:

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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 allegation of judicial misconduct are true and correct to the best of my knowledge.

Signature: _

Date: _

COMPLAINT**Background**

Immediately following is some background on the case.

Commissioner inherited this Case No. from
upon retirement effective

Commissioner set the Default Judgment amount in Defendant
absence. Mr. was absent following recommendations that he not subject
himself to the unique as a result of a that could initiate
another life-threatening stroke similar, or more severe, than the acute stroke
incurred on

Commissioner asked Plaintiff Attorney if he sees a problem with
proceeding without responded that he did not. Commissioner
proceeded with the hearing over attorney's strenuous objections. Interestingly,
this lawsuit began in answer was stricken in Not until
 was a debtor hearing called. Meanwhile the case has been expanded and is
due for jury trial in has not been allowed to participate in the trial
since his answer was stricken.

Commissioner permitted during the proceeding while knowing
that it could be a problem without Defendants being present. This decision permitted the
Plaintiff to gain a procedural, substantive, and tactical advantage as a result of the
Defendants being The Court made no effort to include Defendants in the initial
hearing.

Not incidentally, Judge allowed a judgment of more than in
and later reversed it on following Mr. objection to *"giving the trophy to the other
team at half-time."* Now, months later, we are in the same position and the case has not
yet been tried (after of discovery by the Plaintiffs). However, the judgment is now

Now to Commissioner Conduct:

Commissioner continued the case as though all had been settled and it was
his responsibility to collect the incredible amount of from the Defendants,
also known as Judgment Debtors.

Commissioner has treated in Defendant unfairly,
unreasonably and disrespectfully. He has not been patient, dignified, and courteous to
Defendants. During his process of creating orders, the Commissioner has refused to hear the
Defendants' arguments as to the reasonability, fairness and/or legality of his orders.

Defendant was the only defendant whose answer has been stricken by
Judge (who has not filed an oath of office) due to

alleged obfuscation of discovery and alleged perjury. Defendant has never been a part of businesses and has improperly been named as a Defendant by the Plaintiffs. Defendants and are and or age, respectively.

has troublesome health problems, including the latest of which was an on for which he was taken to emergency at and hospitalized for He has been following a rehabilitation regimen and still suffers from challenges, numbness, numbness, balance issues and strength issues. doctors do not believe he should be subjected to the unusual stress of a atmosphere in which all of and his assets, income and financial wellbeing are at risk as the result of a default judgment. Dr. has written that such may place Mr. at risk of another In because was exhibiting and in that he was in severe pain. He was hospitalized at for It was concluded that stress issues probably caused the attack.

In Commissioner originally approved the Default Judgment without attendance in Court due to his stroke concerns. Commissioner continues to disregard health concerns. Defendants believe that such an procedure and biased testimony by Plaintiff attorney have allowed for a perverted deduction by Commissioner and spinning of information by Mr. leading to ridiculous, outrageous and foolish conclusions and, hence, orders.

Defendants have stated to the Court that, as of approximately all of their former assets were no longer owned or controlled by the Defendants and, therefore, they do not have access to them. The Commissioner, without determining the validity of Defendant's statements, ordered that all documents be delivered on The Commissioner stated, in Court and, in his Minute Entry of *"It is ordered that Judgment Debtors are to produce their tax records to Judgment Creditors by as stated for the record."*

Commissioner suggested to that he had to prove he was a He told Court that this relates to an old midwestern phrase about getting blood from a turnip, stating he is from

has given his good faith constitutional rights in his objections to discovery. The 4th Amendment is the right to be secure in a person's book and records and Right of Privacy. The 5th Amendment is the Right of Due Process of Law and Right to Privacy. The 9th Amendment secures other rights not referred to and Right of Privacy. The 14th Amendment applies those rights to the States and Equal Protection under the law. The Due Process Clause "Guarantees more than fair process." Washington v. Glucksberg, 321 U.S. 702.

The Commissioner will not allow discussion regarding the Defendants' concerns that the Commissioner is forcing Defendants to violate rules and laws about Defendants' conduct regarding assets that they do not own or control.

On _____ Defendants' attorneys withdrew and now _____ is representing his
and himself in _____. The Commissioner has not allowed Defendants sufficient time
within which to retrieve their documents from former attorneys, to organize the documents,
to arrange their schedules and to be prepared for Court. The Commissioner has not allow
Defendants a reasonable time period with which to prepare to meet his orders following the
withdrawal of their attorneys.

Defendants have made the Court aware of other lawsuits in which Defendant are involved,
including: an _____ of this case to the _____ State of Arizona, _____ Case
No _____ vs _____ et al, Case No. _____
and the _____ Case in the _____ Franchise,
Docket No. _____. Each of these _____ cases is concurrently in process and/or
preparation. Defendants have made it abundantly clear to the Commissioner that they are
overwhelmed with timelines and orders that are all but impossible. Defendants have asked
for sufficiently reasonable time to respond to document production orders. Interestingly,
the Commissioner established Defendants' production date as _____ a date that he
know is _____ following the _____ hearing beginning _____ for
which it has been estimated may last as long as _____

Some, or each, of these cases may have criminal implications. Defendants should not have
their discovery subjected to public scrutiny or available to Defendants' opponents in these
cases. Therefore, the Defendants have objected to discovery, production of documents and
testimony until these cases have been concluded. _____ has given his good faith
constitutional rights in his objections to discovery.

The Commissioner's mistreatment of the Defendants has been quite ill-mannered,
disrespectful, punitive, threatening and stress inducing. The Commissioner stated, in open
Court, that he was going to treat Defendant _____ The Commissioner,
thereafter, stated in open Court and in his Minute Entry of _____ "*Judgment Debtors
were warned in open court that future non-compliance with the Court's order may result in
contempt proceedings with possible consequences ranging from confiscation of their
and of their _____ being held in custody.*"

Defendants are well-mannered, respectful, well-groomed, mature individuals who are
seeking reasonable discussion and reasonable decisions based on fairness and on legal
foundations. _____ has made it clear to the Commissioner that, even if his orders were fair
and legal, they would be impossible to comply with by _____ due to the additional
obligations of other lawsuits and, additionally, attempting to earn a living.

Defendants accuse Commissioner _____ with violations of the Arizona Code of Judicial
Conduct whereby his demeanor has been _____ he used his contempt power
ridiculously, unnecessarily threateningly and abusively. The Commissioner has not
maintained the dignity of judicial office at all times in that his conduct does not ensure the
greatest possible public confidence in his independence, impartiality, integrity, and
competence.

Commissioner _____ has not been impartial or fair in that he has not been open-minded,
reasonable or objective with Defendants. As a result, he has not insured impartiality. The

Defendants are in The Arizona Code of Judicial Conduct states, *"It is not a violation of this rule for a judge (commissioner) to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard."* Commissioner has rarely allowed the Defendants to comment without his interruption while he has allowed Plaintiff Attorney to speak (actually to testify) without interruption.

The Commissioner appears to be performing the duties of his office in this case with bias, prejudice, and harassment. Defendants believe that his attitude with them may be due to their in status and therefore their naivety regarding some proceedings.

Commissioner has not required Plaintiff Attorney to refrain from testifying and manifesting bias or prejudice, or engaging in harassment, based upon attributes of opinions of Defendant health issues and character. Commissioner has demonstrated bias and/or prejudice with threats and intimidation.

Commissioner has not accorded in Defendants' rights to be heard. He has not allowed Defendants to explain their position with the exceptions of when he had made up his mind prior to the explanation and treated the explanation as though it was a waste of time. Example: Commissioner had determined that some documents are to be produced by in spite of Defendants' explanation that they would be in Court with the beginning until possibly Defendants feel their rights to be heard have not been observed.

While Commissioner plays an important role in overseeing the settlement of this dispute, he has not been careful that his efforts to further settlement do not undermine Defendants' rights to be heard according to law. The Commissioner has not been mindful of the effect that that his participation in settlement discussions will have on the perceptions of the lawyers and the parties if the case settlement efforts are unsuccessful.

The Defendants believe that the Commissioner has not considered all of the following when, and if, he decided upon an appropriate settlement practice for the case: (1) whether the parties have requested or voluntarily consented to a certain level of participation by the Commissioner in settlement discussions, (2) whether the parties are relatively sophisticated in legal matters, (3) whether the case will be tried by a judge or a jury, or is on appellate review, (4) whether any parties are unrepresented by counsel, (5) whether the matter is civil or criminal, and (6) whether the Commissioner involved in the settlement discussions will also be involved in the decision on the merits.

Commissioner is aware of motions in which the Plaintiff is accused of misconduct. The Commissioner has created and allowed motions based on Plaintiff's misconduct and without consideration of the motions. (See Exhibit A).

In summary Commissioner has placed Defendants in a paradoxical position of being forced to do things that are impossible, incorrect or dangerous. He has done this threateningly, unfairly, unreasonably and disrespectfully. He has not been patient, dignified, and courteous. He has violated the Arizona Code of Judicial Conduct in numerous manners.