

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-174

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Judge:

Complainant:

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**ORDER**

The complainant alleged a justice of the peace prematurely ruled on a motion to set aside a judgment in an eviction proceeding, improperly struck his notice of appeal, and failed to rule on a request for disqualification.

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 judge no longer held office as of January 1, 2017. As part of a stipulated resolution in another case, the commission determined that no further action was warranted under the circumstances and directed the file in this matter be closed.

Commission member Art Hinshaw did not participate in the consideration of this case.

Dated: February 28, 2017

FOR THE COMMISSION

/s/ George A. Riemer

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George A. Riemer  
Executive Director

A copy of this order was mailed to the complainant and emailed to the judge's attorney on March 1, 2017.

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

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2016-174

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

COMPLAINT AGAINST AN ARIZONA JUDGE

To Whom It May Concern:

I am a pro se litigant

STATEMENT OF THE CASE

On \_\_\_\_\_ a default judgment was entered against me for failure to appear.

On \_\_\_\_\_ after inadvertently discovering that a judgment had been entered against me, I filed a Motion to Vacate on the grounds that, I never received a Summons or Complaint even though Plaintiff had been provided with my forwarding mailing address and that Plaintiffs had fabricated to the Court that I had been served by private process at least \_\_\_\_\_ prior to the hearing.

On \_\_\_\_\_ the same day Plaintiff's attorney responded to my Motion to Vacate, \_\_\_\_\_ denied my motion and ruled in favor of the plaintiffs without allowing time for a reply to Plaintiff's response.

On \_\_\_\_\_ I filed a Notice of Appeal of the denial of my Motion to Vacate.

On Plaintiff's attorney filed a Motion to Strike my Notice of Appeal  
and, on granted Plaintiff's Motion to Strike my Notice  
of Appeal.

On I sent a Motion for Reconsideration of the Court's Order  
Granting Plaintiff's Motion to Deny my Appeal and a Motion to Recuse, Motion for  
Change of Venue based on is bias, the aura of unfairness,  
and the fact that had become too familiar with the plaintiffs  
in this case and had taken an unfair posture in Plaintiff's favor due to the fact  
that he has favorably ruled for the Plaintiffs in nearly every case since : That  
has been made aware that Defendant in this case was never  
served with a summons and complaint and that Plaintiffs deliberately withheld  
service of summons in order to obtain a judgment by default, thereby violating  
the defendant's right to due process of the law. refuses to  
reopen the matter. Instead, he creatively interprets the law as presented to him  
by Plaintiff's attorney.

To date, my Motion for Reconsideration of the Court's Order Granting Plaintiff's  
Motion to Deny my Appeal and Motion to Recuse, Motion for Change of Venue  
have not been docketed.

#### Facts of the Case

I gave several warnings to the management at  
that I would move if the home I was living in at  
was not made habitable. On I moved. My rent was  
paid up to the end of I sent the keys and my forwarding address to  
on the day I moved. A change of address had also been made with the United  
States Postal Service.

On I sent a letter to stating the reasons why  
I moved and a demand for the return of my deposit by An  
address was provided for the return of my deposit.

On a hearing was held before Plaintiffs stated that  
they had mailed a copy of the eviction proceedings and court date to my last  
known address and that I had been served with the Complaint and Summons.

I repeatedly presented to that I was never served and that;

1. the Plaintiff in this matter has committed Fraud on the Court by affirming that service of a summons was effected upon Defendant;
2. Defendant has meritorious defenses and Counterclaims;
3. had Defendant been served with a summons, an Answer along with defenses would have been properly and timely served;

4. in swearing that Defendant was served Plaintiff committed Perjury and Fraud upon the Court;
5. Plaintiff deliberately intended to commit said Perjury by deliberately not serving or causing to be served the Defendant in this matter, thus intending to deprive him of his rights to confront his accuser;
6. such fraud was committed in full knowledge, or that Plaintiff should have known, that Plaintiff's claim is subject to defenses;
7. such fraud was committed with the intention of depriving Defendant of valuable property/monies through use and abuse of Judicial Process in violation of law;
8. in falsely alleging service to have been effected when no service of summons or complaint was effected, service of Defendant has not been effected.

Plaintiffs did not send a copy of the eviction notice to \_\_\_\_\_ address or to the forwarding address provided to Plaintiffs at the time I moved. If a copy of the eviction proceedings had been sent to \_\_\_\_\_ address it would have been forwarded to me at my new address because a change of address was in effect at that time. Furthermore, Plaintiff sent a letter on \_\_\_\_\_ to my forwarding address, \_\_\_\_\_ *prior* to filing with the Court and \_\_\_\_\_ *prior* to the date for which the hearing was held. How can \_\_\_\_\_ not see that Plaintiffs deliberately withheld the Complaint and Summons so that I would not be in court to defend my legal move?

\_\_\_\_\_ is also aware that I could not have filed the notice of appeal any sooner than I did because I was not aware of the court proceedings that took place without me or the court's judgment against me.

\_\_\_\_\_ is blatantly violating my constitutional right to due process of the law. There can be no doubt in any reasonable fact-finder's mind that a direct conflict of interest exists or that \_\_\_\_\_ is biased in this case.

It would be fair to say that \_\_\_\_\_ has become too familiar with the plaintiffs in this case and has taken an unfair posture in Plaintiff's favor due to the fact that \_\_\_\_\_ has favorably ruled for the Plaintiffs in nearly every case since \_\_\_\_\_

\_\_\_\_\_ has been made aware that I was never served with a summons and complaint and that Plaintiffs deliberately withheld service of summons in order to obtain a judgment by default, thereby violating my right to due process of the law, yet \_\_\_\_\_ refuses to reopen the matter.

"The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law."

The above is applicable to this court by application of Article VI of the United States Constitution and *Stone v Powell*, 428 US 465, 483 n. 35, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976).

"State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law." \_\_\_\_\_ has deliberately violated my personal liberties and/or has wantonly refused to provide due process and equal protection to me and has behaved in a manner inconsistent with that which is needed for a full, fair, and impartial hearing.

The United States Constitution guarantees an unbiased Judge who will always provide litigants with full protection of ALL RIGHTS. \_\_\_\_\_ has not acted in a fair and impartial manner. He has been provided with proof that I was not properly served yet continues to side with Plaintiff's attorney.

Section 455, provides, in pertinent part:

- (a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

The purpose of § 455(a), and the principle of recusal itself is not just to prevent actual partiality, but to "avoid even the appearance of partiality."

If a party to an action before a justice of the peace has good reason to believe that the party cannot have a fair and impartial trial before the justice, or in such justice's precinct, the justice should request the justice of the peace of some other precinct not subject to the same or some other disqualification.

Because Plaintiffs in this case have been before the same court at least \_\_\_\_\_ the court has become too familiar with them and has taken a favorable posture toward these Plaintiffs. \_\_\_\_\_ of \_\_\_\_\_ boasts that the court

Perhaps it is the pattern and practice of the plaintiffs named in this case to commit fraud on the Court by affirming that service of a summons was effected upon the defendants (past and present) when there was no such service. Or, perhaps it is the pattern and practice of \_\_\_\_\_ to \_\_\_\_\_. Is there a personal or professional relationship, or familiar connection between the Plaintiffs in this case and the Judge?

I believe I am entitled to have my case presented to a fair and impartial court, that my right to a fair and impartial judicial has been violated and, my right to redress has also been violated.

A copy of my last two (2) pleadings in this case accompany this Complaint against [redacted]. It should be noted that, not only were these pleadings not docketed, the attorney in this case did not respond, which indicates to me that there are ex parte communications between the judge and the Plaintiff's attorney in violation of Rule 2.9.

Respectfully submitted this [redacted] of [redacted]