

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-139

Judge:

Complainant:

ORDER

The complainant alleged that a justice of the peace engaged in conduct that violated numerous judicial ethics rules, including retaliation, bullying, and personally abusive behavior, accepting a gift, making misrepresentations, and publicly commenting on a pending 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(a).

It is further ordered denying as moot the complainant's request for any and all responses the judge submitted to the commission.

Dated: August 2, 2017

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on August 2, 2017.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2017-139

COMPLAINT AGAINST A JUDGE

Name: _____ **Judge's Name:** _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

All allegations of misconduct are attached with exhibits as though fully set forth

2017 - 139

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

RE: Judge

TO: Members of the Commission on Judicial Conduct

Recusal of

While I understand the inclusion or exclusion of a staff member of the Arizona Commission on Judicial Conduct is exclusively in the discretion of this Committee, I am requesting that

_____ be excused from reviewing the merits of this complaint. _____ has repeatedly demonstrated evident bias in favor of _____. As disclosed, _____ demonstrated a _____

_____ to office prior to _____ being a judge. (Exhibit One, emails provided by _____ regarding candid interactions with _____) Furthermore, publically, in _____ cooperated with _____ that

_____ during _____ could have easily sufficed. Informal polls indicated _____ that strongly condemned _____ while an ethical complaint levied by _____ was pending before _____ was _____

(Note, _____ comments, as quoted below, starkly contrast _____ recent public comments regarding the investigation of _____

_____ is the _____ said, " _____ " In _____ first _____ on _____ case, _____ told the _____ that the _____ said, "

Therefore, it is requested that other _____ consider the merits of this complaint.

Request for Responses:

Please consider this letter and complaint as notice and written request to receive any and all replies filed by _____ and/or legal counsel as a response to this complaint.

Factual Allegations

In _____ I, _____ filed a complaint about _____ to this Commission with allegations of his misconduct while serving as a _____ . In _____ my _____ apparently, unknown to me, also filed a complaint on unrelated matters against _____ For an inexplicable

reason, the unrelated complaints were combined into a single numerical event for to respond and resolve. On [was denied a request to review responses.

In filed a complaint to this Commission against me, alleging injudicious misconduct occurred during also filed a complaint. An anonymous complaint was also pursued.

After and upon the advice of my attorney, without a hearing, I stipulated to for my conduct My had exceeded and I could not afford to pursue more legal recourses. I assumed that this Commission's finding of misconduct would suffice for

In requested a formal hearing regarding an allegation based on the complaints to the Commission. On Court directed an be imposed. I was denied the opportunity to receive a copy of response to our and my allegations.)

After before the Commission and on filed a lawsuit against The complaint is attached. (Exhibit Two) did not serve the lawsuit until Essentially, sought for the ethical complaints that levied against me.

Furthermore, lawsuit was the brought either before a The lawsuit appears to have been filed in retaliation for our making a Commission complaint against and the resulting

The lawsuit was frivolous and injudicious, especially for a sitting judge. submitted the censures as part of evidence. effort to from the findings, omissions and orders of this Commission appears to be unethical. motivation, apparently, also was to prevent me from (Exhibit Three)

Furthermore, filing this complaint was delayed because disclosed to third parties that since I was a defendant in a pending lawsuit, if I made a complaint to the Commission about this retaliatory lawsuit, one of them would and allege my reporting conduct was solely to gain an advantage in litigation. Therefore, I hope that this Commission will find my complaint to be timely.

A lawsuit that emerges from commission findings as filed by a sitting judge against a citizen are violations of Canon 1, Canon 3, and Canon 4

Canon One:

Rule 1.2 -- A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.

Comment:

1. Public confidence in the judicial eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

2. A judge should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the code.

As disclosed in the attached pleadings,
publically humiliate me
occurred (See Exhibit Two)

used this litigation to continue to berate and
complains about events that allegedly

Rule 2.3 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice... and shall not permit court staff, court officials, or other subject to the judge's direction and control to do so.

Canon 3

A judge shall conduct the judge's extrajudicial activities to minimize the risk of conflict with the obligations of judicial office.

Rule 3.1 A judge may engage in extrajudicial activities, except as prohibited by law or this code. However, when engaging in extrajudicial activities, a judge shall not:

- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality or demean the judicial office;**
- (D) engage in conduct that would appear to a reasonable person to be coercive**

The allegations made in _____ complaint necessitated depositions and discovery from _____ who were _____ and who are now _____ submitted an affidavit and was listed as a witness. _____ was deposed for _____ repeatedly avoided service of process and refused to engage in any cooperative conduct. _____ statements during _____ sworn deposition testimony also indicated _____ could not _____ as a " _____ " (It should be noted that _____ did not attend the deposition, but was at a _____ a primary Plaintiff's witness was _____ from _____ to being a " _____ " The lawsuit used _____ to sustain and/or deny _____ against _____ and _____

Rule 2.16

(B) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or lawyer.

1. Cooperation with investigations and proceedings of judicial and lawyer discipline agencies, such as required in Paragraph (A), instill confidence in judges' commitment to the integrity of the judicial system and the protection of the public.

The complaints made in _____ were reasonably based and appropriately investigated by the Commission. The aftermath of _____ lawsuit against _____ by naming _____ subjects for _____ lawsuit was _____

Canon 3

RULE 3.13 Acceptance and Reporting of Gifts, Loans, Bequests, Benefits or Other Things of Value

- (A) A judge shall not accept any gifts, loans, bequests, benefits or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the judge's independence, integrity or impartiality.**
- (C) A judge shall report the acceptance of any gift, loan, bequest or other thing of value as required by Rule 3.15**

represented in this case. a
indicated to an unnamed person that [Judge]
was “ ” and that he was
as “ ” characterized as “ ” in
testimony in favor of may be the
beneficiary of the gift of legal services and should either report to this Commission the value
the gift of legal services or provide actual documentation of billing and paid receipts for the
legal services with respect to this lawsuit. filed
motions, served an excess of of documents, argued at hearings, conducted or
attended depositions and prepared and presented settlement
conferences. represented for the
majority of this litigation. The legal fees incurred for representation exceeded

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITIES THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

Rule 4.1 (A) A judge shall not do any of the following:

- (3) publically endorse or oppose another candidate for any public office;**

Comment:

(8) Judges and judicial candidates retain the right to participate in the political process as voters in all elections.

(12) The role of a judge is different from that of a legislator or executive branch official, even when the judge is subject to public election. Campaigns for judicial office must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

(13) Paragraph (A)(10) makes applicable to both judges and political candidates the prohibition that applies to judges in Rule 2.10(B), relating to pledges, promises or commitments that are inconsistent with the impartial perform of the adjudicative duties of judicial office.

(14)When making such statements, a judge should acknowledge the overarching judicial obligations to apply and uphold the law, without regard to his personal views.

Rule 4.1

(A)A judicial candidate shall:

- (1) Act at all times in a manner consistent with the independence, integrity and impartiality of the judiciary.**
- (2) Rule 14: Prohibitions Against Retaliation:**
- (3) A judge against whom a complainant shall not directly or indirectly engage in any act of retaliation against any person who files a complaint. “Retaliation” includes, but is not limited to...creating a hostile working environment, filing a frivolous bar complaint against an attorney who is a complainant...**

**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.**