

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-183

Judge:

Complainant:

ORDER

The complainant alleged a judge is unsuitable for his position, issued improper, inconsistent orders, had poor demeanor, was biased and was deteriorating.

The responsibility of the Commission on Judicial Conduct is to impartially determine if a judicial officer 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 a judicial officer's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judicial officer did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23(a).

Dated: October 11, 2018

Copies of this order were distributed to all appropriate persons on October 11, 2018.

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

Disciplinary Counsel
 Arizona Commission on Judicial Conduct
 1501 W. Washington St., Ste. 229
 Phoenix, AZ 85007

Re: Complaint against

Dear Commission Members:

This Complaint arises from my most recent encounter with _____ and his increasingly bizarre and inconsistent interpretations of probate rules and statutes. On _____ issued a signed minute entry order (MEO), entitled “ _____,” in the _____. A copy of the MEO is enclosed as is my motion to vacate. In setting the _____ without prelude or warning, _____ ignored the usual procedural and substantive prerequisites of an _____ including issuing an order directing _____ to do something which _____ has ignored. Instead, _____ set an _____ hearing directly from the nonappearance hearing that had been set solely to _____ of the _____ which the Court _____ had recommended for approval. The _____ ordered the _____ to come to his courtroom on _____ to explain why they should not be removed as _____ and sanctioned. The _____ is actually quite illustrative because it explains a number of his “ _____” and even introduces a new interpretation of an existing rule, which is truly unique. I believe that this is getting worse and that it suggests that he is mentally incapable of functioning as a judicial officer.

A _____ judicial officer’s calendar will include many nonappearance hearings set for _____. Following the _____ review of an _____ he or she requests corrections or changes and then finally _____. At that point in the process, the nonappearance hearing is automatically set on the judicial officer’s nonappearance calendar. That hearing is then noticed by the attorney _____ which in the _____ is me. The parties who are entitled to receive notice of the nonappearance hearings _____ are not the same, however, as those who were entitled to receive notice of the initial hearing or _____.

There are explicit rules as to who must receive notice of the hearing on the original petition, but once _____ has occurred, only _____ else having entered an appearance and their attorneys remain entitled to notice of all filings during the _____ before the _____. If someone who is not already a party of record wants to enter an appearance and pay the filing fee, they can become a party of record and are entitled to notice of everything that is filed in the case. They are obligated to keep their address current with the court if they want to continue receiving notice of all filings in a case. _____ on the other hand, asserts that any person initially noticed of the first hearing continues to carry the right to receive notice of everything that

happens on the case thereafter, unless the person actually files a waiver of notice. That person would presumably have the right to have input into what happens on the case; otherwise, notice by itself would be pointless. Also, this “ ” is bestowed by randomly, without requirement of an appearance fee, without any obligation to keep a current address on file with the court, and without obligation to provide a notice if applicable. This person deemed entitled to notice is always disclosed by him in the minute entry issued from the nonappearance hearing explaining why

This particular states that I needed to have noticed , who was the of the nonappearance hearing. died in about the time of the original hearing and The first of the covered a total of because have been only required in recent years. Those were approved by the previously assigned to the matter, none of whom decided that notice needed to have been given to however, is infamous for asserting that how other judges and commissioners interpret rules is irrelevant, even those who were assigned to the case prior to himself. He decided that notice needed to be given to even if her whereabouts are unknown, as if the is likely to have simply vanished. However, there is no problem with any of this says in the paragraph of his because notice may be done by publication if the person’s whereabouts are unknown. Publishing notice for a nonappearance hearing to anyone living or dead is a ridiculous exercise in futility for any number of reasons. are rarely actually present in the courtroom during each of the many nonappearance hearings set on their calendars. It is doubtful the case on the nonappearance calendar would actually be called to see who showed up as a result of the notice. It is difficult to imagine what would do if, after requiring notice of a nonappearance hearing to a nonparty, that person actually showed up and started making demands. The entire exercise is completely pointless except that it does appear to have a goal which has nothing to do with economy.

When notice is required for an appearance hearing it may be necessary to publish the notice of hearing either or depending on the type of hearing set. using his own explanation, insists that notice must be published times to any person he deems to have been entitled to notice at any time for any reason, if that person’s whereabouts are unknown. Experienced probate attorneys have been stymied to find that they are incapable of getting what they believed to be a simple uncontested petition noticed according to ever-changing interpretations and inconsistent applications, so they cannot get the relief requested. This is because is content to wait until the initial hearing to announce the notice rules for this case in this court at this time, which inevitably are not the ones the attorney actually read about in the statutes. The legal fees that are wasted are irrelevant to him because the filing attorney should have known his version of these rules, he asserts. Now the has added yet another weapon to the arsenal of tools he uses to frustrate the parties, which I call “ ”

The is a great tool for invalidating documents in the court file, especially those filed by the Attorney The asserts that of the Rules of Civil Procedure doesn’t just require an attorney to sign everything that the attorney’s office files with the Court, but that failure to sign a document invalidates the contents of the document. He then applies this newly found “ ” authority against the Proof of Notice because it was signed by This gave him yet another ‘ ’ to add to my others listed above. However, many documents filed in are not signed by the attorney who files the document, including

just to name a few, and even if I mistakenly filed something without my signature that I should have signed, that doesn’t invalidate the entire document retroactively.

however, appears to have found in , the authority to pick and choose which documents not signed by the Attorney he wants to invalidate. As he does not recognize the concept of precedence within the

Courtroom, this is a tool with many imagined uses, none of them good. Yet this particular version of this most recent tool is inconsistently applied. _____ approved the _____ at a nonappearance hearing set for _____ that was noticed _____ in _____ the _____ despite my _____ Proof of Notice and without publication or delivery of notice to anyone other than the parties of record. The _____ nonappearance hearing resulted in an order approving that particular annual accounting, but the _____ nonappearance _____ weeks later resulted in an _____ to the _____ and a laundry list of notice " _____ " added against me for good measure. The _____ continues the hearing for approving the accounting to the same date and time set for the _____ and directs me to _____ All I have to do between now and _____ is to figure out how to publish notice to a person who has been deceased for _____ and how many times that notice needs to be published to be effective. My husband, who is a _____ and very good at coming up with practical solutions, has suggested that I visit _____ gravesite with a copy of the notice of hearing, tape it to the headstone, and take a picture of the notice for the court file. I would, of course, sign this Proof of Notice personally.

_____ is in his _____ on the _____ bench and he is getting worse, not better. He is clearly mentally unsuitable for the job he now has. Unfortunately, he will remain the judicial officer on a number of cases I have and I fully expect this bizarre trend to continue.

Very truly yours,