

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-021

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Judge:

Complainant:

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**ORDER**

The Complainant alleged a superior court commissioner was biased against him, improperly recused and issued erroneous orders.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The Commission approved sending the judicial officer an advisory letter regarding Rules 1.2 and 2.3 of the Code of Judicial Conduct, which require a judge to conduct his or her duties without creating the appearance of bias, prejudice or impropriety. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Roger D. Barton and Colleen E. Concannon did not participate in the consideration of this matter.

Dated: September 23, 2019

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on September 23, 2019.

ARIZONA COMMISSION ON JUDICIAL CONDUCT

COMPLAINANT'S NAME,

Case No.:

vs.

JUDICIAL COMPLAINT #2

SUPERIOR COURT JUDGE,

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**I. Chronology of Facts**

1. This is the second judicial complaint filed by ( ) regarding the misconduct of Judge ( ) [Exhibit 1] This complaint highlights newly discovered misconduct.

2. On ( ) issued a final custody order to allow ( ) to relocate with the parties' ( ) Child from ( ) to ( ) even though relocation was never pled nor ARS 25-408 applied to determine whether or not relocation was in the child's best interests. [Exhibit 2]

3. On ( ) , Father requested a new trial on multiple grounds. [Exhibit 3]

4. On ( ) and ( ) , Mother requested Judge ( ) clarify paragraph ( ) of the findings, conclusions and order as issued on ( ) ; the language was

1 confusing and causing conflict between both parties as to who would accompany the  
2 minor child when exchanging parenting time dates. **[Exhibits 4,5]**

3 5. On [redacted] Father also requested the court clarify paragraph [redacted]; Neither Mother nor  
4 Father asked the court to clarify the financial aspects for splitting the child's airfare.  
5 **[Exhibit 6, 7]**

6 6. [redacted] inappropriately vacated the paragraph [redacted] hearing scheduled for [redacted] 07,  
7 [redacted]; the Commission on Judicial Conduct issued an advisory letter in this matter. See  
8 disposition of complaint [redacted]. **[Exhibit 1]**

9 7. On [redacted] [redacted] published an order re: paragraph [redacted] attempting to clarify  
10 who travels with the Minor child. The order failed to accomplish the task as requested by  
11 both parties. **[Exhibit 8]**

12 8. On [redacted], the [redacted] found that in [redacted]  
13 [redacted] values his personal opinions much more than he values the  
14 law. The [redacted] opinions are staggering. **[Exhibit 9]**

15 9. Judge [redacted] findings in the case at hand, [redacted] mirror many of the findings  
16 made by [redacted] in his [redacted] case and are stated herein.

17 10. On [redacted] [redacted] the final divorce decree; nearly  
18 [redacted] after the trial concluded. **[Exhibit 10]**

19 11. On [redacted] [redacted] the [redacted] findings,  
20 conclusions, and order even though no more material facts were presented in the case.  
21 **[Exhibit 11]**

22 12. On [redacted] [redacted] denied the Petitioner's request for new trial.  
23 **[Exhibit 12]**

1 13. On [redacted] issued an order stating, “

2  
3 ” As previously stated, no additional material facts  
4 were presented in this case since [redacted] . **[Exhibit 13]**

5 14. Sometime after his recusal, [redacted] was removed from family court and sent to  
6 [redacted] for reasons unknown to the Petitioner.

7  
8 **II. Opinion**

9 [redacted]’ actions constitute willful misconduct in office, a willful and persistent  
10 failure to perform his duties, habitual intemperance, and conduct prejudicial to the administration  
11 of justice that brings the judicial office into disrepute. Contrary to the best interests of the public,  
12 Judge [redacted] is still afforded the opportunity to remain on the bench even though it has been  
13 proven over and over that he values his personal opinions more than he values the law. In this  
14 second complaint filed by the Petitioner, additional evidence has surfaced to prove that  
15 [redacted] is more concerned about protecting himself rather than accepting responsibility for his  
16 incompetence and misconduct. Judge [redacted]’ misconduct as outlined in this complaint violates  
17 the following provisions of the Code of Judicial Conduct:

- 18 • **Rule 1.1:** A judge shall comply with the law, including the Code of Judicial Conduct.  
19 • **Rule 1.2:** A judge shall act at all times in a manner that promotes public confidence in the  
20 independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and  
21 the appearance of impropriety.  
22 • **Rule 2.2:** A judge shall uphold and apply the law, and shall perform all duties of judicial  
23 office fairly and impartially.

- 1 • **Rule 2.3(B):** A judge shall not, in the performance of judicial duties, by words or conduct  
2 manifest bias or prejudice
- 3 • **Rule 2.5(A):** A judge shall perform judicial and administrative duties competently,  
4 diligently, and promptly.
- 5 • **Rule 2.6(A):** A judge shall accord to every person who has a legal interest in a  
6 proceeding, or that person's lawyer, the right to be heard according to law.
- 7 • **Rule 2.11(A):** A judge shall disqualify himself or herself in any proceeding in which the  
8 judge's impartiality might reasonably be questioned...

9  
10 **A. Order re: Paragraph dated**

11 In paragraph of the findings, conclusions, and order,  
12 guidance regarding who performs the traveling with the parties' minor child was more focused  
13 on splitting the financial costs rather than who would make the nearly : journey of round  
14 trip travel between . As such, both Mother and Father spent  
15 significant attorney's fees to ask the court to clarify the travel guidance [Exhibits 4, 5, 6, 7].

16 failed in the task set before him:

17 The order re: paragraph [Exhibit 8] does not mention which party is  
18 responsible for physically traveling with the child. Traveling is important because Father is an  
19 : who requires advance notice to and Mother is  
20 physically incapable of traveling with the child due to physical and mental health issues. The  
21 facts surrounding this matter were mentioned in the petitioner's previous judicial complaint.  
22 Also, Mother routinely prevents Father from exercising parenting time unless he does all the  
23 traveling. Father has been awarded ex-parte orders from the court on : occasions to date in

1 order to force Mother to comply with court orders. failure to understand the  
2 facts of the case and rule in accordance with the pleadings and evidence violates **Ethics Rules**  
3 **1.1, 1.2, 2.2, and 2.5(A).**

4 In the end of pages through of the order re: paragraph (exhibit 8),  
5 addresses concerns not relevant to the travel arrangements for the child. The opinions in  
6 the order are not supported by the law or the evidence; They are merely statements to cover the  
7 incompetence of judgement from the divorce. The Judge stated that,

8  
9 *"The court has previously made findings expressly under ARS 25-403 and 25-403.01*  
10 *which include the findings required by ARS 25-408..."*

11  
12 That statement is not true. ARS 25-408 is a separate statute. Its provisions cannot be satisfied by  
13 combining ARS 25-403 and ARS 25-403.01. Judge failure to comprehend or apply ARS  
14 25-408 is a violation of **Ethics Rules 1.1, 1.2, and 2.2.**

15  
16 Furthermore, Judge directly contradicts the legislative intent of **ARS 25-408(I)(3)**  
17 by saying:

18  
19 "...

20 .."

21  
22 He also contradicts **ARS 25-408(I)(5):**

**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.**