

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-065

Judges:

Complainant:

ORDER

July 10, 2019

The Complainant alleged a superior court judge destroyed her substantial rights to justice. The complainant further alleged a second superior court judge made false statements in a ruling.

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 does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Commission member George H. Foster, Jr. did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 10, 2019.

CONFIDENTIAL

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

Comp
FOR OFFICE USE ONLY

2019-065

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.

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2019-065

COMPLAINT AGAINST A JUDGE

Name: _____

Judge's Name: Pres. Judge

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.

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Phoenix, Arizona 85007

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[Empty box for office use only]

COMPLAINT AGAINST A JUDGE

Name: _____

Judge's Name: Court Admin.

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.

SEE ATTACHED "NOTICE OF CHANGE OF JUDGE" (RULE 42(F))
CRT. – CASE NO.

JUDGE He has violated AZ statutes and Rule 42(f), and refused to step down from his bench in Plaintiff's action against et al. Rule 42(f)(3)(A) states as follows:

"When a notice or an affidavit for change of judge is timely filed, the judge named in the notice or affidavit **shall proceed no further in the action** [emphasis added] except to make such temporary orders as may be absolutely necessary to prevent immediate and irreparable injury, loss or damage from occurring before the action can be transferred to another judge."

1. In Plaintiff's Notice (pg. 1), she requested Judge be changed with Judge for the logical reason Judge was assigned Plaintiff's three filed actions in a *Complaint (False Light Invasion of Privacy)*, *Complaint for Declaratory Judge (New Request)*, and *Motion for Consolidation of Actions Re:* These matters filed on have not been ruled on in Judge Court; nor have other matters Plaintiff filed on been ruled on.

2. Judge has violated Federal statutes applicable to State court cases (28 U.S.C. § 455):

"(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned," [or] "(1) Where he has a personal bias or prejudice concerning a party" . . .

3. Judge has violated the ACJC Preamble (2017) by not avoiding the " " causing Plaintiff to lose all " " in his biased and prejudice against Plaintiff, Pro Se. Plaintiff avers Judge has systematically attempted to destroy Plaintiff's " " to obtain a fair administration of justice. In Plaintiff's Demand for Relief (see Notice attached hereto, pg. 4), she asserts her peremptory right to change of judge pursuant to A.R.S. Rule 42(f).

PRESIDING JUDGE In Plaintiff's Notice (pg. 2) Plaintiff exercises her " " to obtain a fair administration of justice by objecting to Judge ' false statements in her ruling. Judge denied Plaintiff's Motion for Change of Judge for Cause pursuant to **A.R.S. § 12-409(A)(B)(5)** with attached supporting 10 pg. Affidavit.

4. Judge Judge never mentions Plaintiff's Affidavit in her ruling constituting " " Instead, the judge deceptively implies Plaintiff " " Judge knew Plaintiff's Affidavit was attached to her Motion, supra.

5. Further, pursuant to Rule 42(f)(2)(A), no burden of proof is required because a proceeding based upon cause is governed by statute A.R.S. § 12-409. Plaintiff's Notice (pgs. 2-4) points out with particularity how Judge defiled and subverted the integrity of the Court to cover up Judge judicial misconduct, and " " violated Plaintiff's " "

6. In Plaintiff's Notice attached hereto (pg. 4, Demand for Relief), Plaintiff demands as follows:

That Judge _____ be referred to a disciplinary Judicial Commission for his " _____ " violation of the **2017 ACJC (Rule 2.15(B) cmt. 1**, by refusing to take action against Defendants (and counsel, _____ " _____ " violations of Rule 11(b)(1)(2)(3)(4), with many false misrepresentations to the Court, and violations of Rules of Professional Conduct, and for *knowingly* violating Plaintiff's " _____ " preventing the fair administration of justice as set forth in Plaintiff's _____ pg. Affidavit;

That Presiding Judge _____ be referred to a disciplinary Judicial Commission for her " _____ " by covering up (with false suggestions and trick) Judge _____ judicial misconduct of bias and prejudice against Plaintiff in violation of **ACJC Rule 2.15 (A)(C)**, which Judge _____ was obligated to report to the appropriate authority regarding his honesty, trustworthiness, or fitness as a judge; and

That Presiding Judge _____ ruling denying Plaintiff's _____ Motion for Change of Judge for Cause be vacated for her " _____ " (Rule 60(b)(3)); and for " _____ " violation of **A.R.S. Rule 42(f)(2)(D)** requiring a **hearing** to determine the issues in Plaintiff's _____ 10 pg. Affidavit by a preponderance of the evidence pursuant to A.R.S. § 12-409.

7. Judge _____ also *knew* Plaintiff's Affidavit (§ 27) attached to her _____ Motion, _____ stated the grounds for change of judge pursuant to A.R.S. § 12-409(B)(5) as follows:

"

"..."

CRL ADMINISTRATOR): Plaintiff alleges " _____ " Mr.

has done nothing to make sure a change of Judge _____ is *promptly* administered so her " _____ " in the fair administration of justice do not continue to be violated.

8. Plaintiff _____ has violated **Rule 2.15(A)(C)**. He has failed to take " _____ " against Judge _____ for violating the ACJC Code raising a substantial question regarding her honesty, trustworthiness, and fitness as a judge. By Judge _____ " _____ " in her _____ ruling against Plaintiff, supra, the ruling should be vacated pursuant to Rule 60(b)(3); and also vacated for denying Plaintiff's _____ Motion for Change of Judge for Cause (with attached supporting Affidavit) without a required hearing pursuant to A.R.S. Rule 42(f)(2)(D).

I affirm, unde penalty of perjury, that the foregoing information, facts, and allegations contained in the attached Complaint are true and correct to the best of my knowledge and belief.

Signature

Date

COPY
FOR CLERK'S USE ONLY

Person Filing:
Address (if not protected) _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

**COURT OF ARIZONA
COUNTY**

Name of Plaintiff or Petitioner _____ Case Number: _____
Title: Notice of Change
of Judge
Name of Defendant or Respondent _____

Explain what you want the Court to order. The Judge may grant, deny, or change your request (or "motion"). A ruling will be issued by "minute entry."

Plaintiff, Pro Se, hereby exercises her preemptory right to a change of judge pursuant to A.R.S. Rule 42(f) in an action in _____ Court in which . . . "

" . . . The name of the judge, who is presently assigned to Plaintiff's case to be changed is Judge _____ Plaintiff requests that Judge _____ be assigned to Plaintiff's civil action _____ for the logical reason Judge _____ was assigned Plaintiff's _____ filed actions in _____ re *Complaint (False Light Invasion of Privacy), Complaint for Declaratory Judge (New Request), and Motion for Consolidation of Actions Re: _____* which have not been ruled upon.

Plaintiff hereby certifies that this Notice of Change of Judge (i) is timely pursuant to Rule 42(f)(1)(C); (ii) Plaintiff is entitled to file this notice under Rule 42(f)(1)(D) because no trial date has been set and Judge _____ has not been permanently assigned to case _____ and (iii) Plaintiff has not previously been granted a change of judge as a matter of right in _____

On _____ Plaintiff called Judge _____ judicial assistant, _____ telephonically about _____ as shown on her cell phone. According to _____ the judge had made no rulings regarding Plaintiff's Complaints, and Motion for Consolidation of Actions filed on _____ in Judge _____ court (_____), supra; nor ruled on Plaintiff's **AFFIDAVIT IN OPPOSITION TO DEFENDANT,**

FRAUDULENT AFFIDAVIT FILED AND NOT MADE UNDER PENALTY OF PERJURY, AND CONTAINING FALSE STATEMENTS; nor on PLAINTIFF'S **OPPOSITION TO**

DEFENDANTS' RESPONSE (FRAUDULENT AFFIDAVIT NOT
MADE UNDER PENALTY OF PENALTY OF PERJURY AND FALSE STATEMENTS) TO PLAINTIFF'S
MOTION FOR SANCTIONS; AND FOR COUNSEL'S " VIOLATIONS OF RULE 11,
RULES OF PROFESSIONAL CONDUCT, WHICH " VIOLATES PLAINTIFF'S "
" PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE BY WHICH SANCTIONS
ARE WARRANTED.

Rule 42(f)(3)(A) states:

"When a notice or an affidavit for change of judge is timely filed, the judge named in the notice or affidavit **shall proceed no further in the action** [emphasis added] except to make such temporary orders as may be absolutely necessary to prevent immediate and irreparable injury, loss or damage from occurring before the action can be transferred to another judge."

OBJECTION TO JUDGE FALSE STATEMENTS IN RULING RE
PLAINTIFF'S MOTION FOR CHANGE OF JUDGE FOR CAUSE
CONSTITUTING " "

Plaintiff, Pro Se, hereby exercises her " " to obtain a fair administration of justice, and objects to Presiding Judge false statements in her ruling denying Plaintiff's Motion for Change of Judge for Cause pursuant to A.R.S. § 12-409(A)(B)(5) – with attached supporting 10 pg. Affidavit. Judge never mentions Plaintiff's Affidavit in her ruling, and deceptively implies Plaintiff " ". Further, pursuant to Rule 42(f)(2)(A), no burden of proof is required because a proceeding based upon cause is governed by statute A.R.S. § 12-409. Plaintiff alleges Judge made deceptive false statements in her ruling to cover up Judge judicial misconduct against Plaintiff, which constitutes " "

Federal law and Supreme Court cases apply to state court cases. *Howlett v. Rose*, 496 U.S. 356 (1990). Pursuant to Fed. R. Civ. P. Rule 60 (d)(3) fraud upon the court, there are no statutory limitations, and no limit of motions that can be filed by a plaintiff/defendant. A judgment obtained by fraud is no judgment at all and must be vacated.

"Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery can not perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.2d 689 (7th Cir. 1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Cir. further stated that "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

In Presiding Judge ruling (see Ex. A attached hereto, 2 pgs.), Plaintiff alleges this " " defiled " " with " " (see , and subverted the " ' of the Court in which " " *Broyhill Furniture Indus., Inc. v. Craftmaster Furniture Corp.*, 12 F.3d 1080 (Fed. Cir. 1993).

**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.**