

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-096

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Judge:

Complainant:

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**ORDER**

July 24, 2019

The Complainant alleged a superior court judge was biased against him, engaged in improper demeanor, and made multiple improper rulings in a civil matter.

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).

Copies of this order were distributed to all appropriate persons on July 24, 2019.

TO: Arizona Commission on Judicial Conduct  
FROM: Plaintiff; Case No:  
SUBJECT: Complaint  
AGAINST: Judge  
DATE:

In this case, Plaintiff has suffered and continues to suffer extreme judicial bias, impartiality and prejudice by Judge due to his pro per status. Plaintiff is aware that this esteemed Commission dismisses most if not all judicial complaints due to appellate opportunities available to a litigant.

However, Plaintiff believes that the Commission is responsible to review and take appropriate action in cases where a Judge has violated the Rules of Arizona Code of Judicial Conduct. It is Plaintiff's position that Judge has repeatedly violated these Rules and specifically Canons 1 and 2.

#### **Canon 1**

**A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.**

#### **Canon 2**

**A judge shall perform the duties of judicial office impartially, competently, and diligently.**

#### **FACTS IN SUPPORT OF COMPLAINT**

*Note: It would be helpful to the Commission to review Plaintiff's motion for new trial filed on while reviewing this Complaint as well as motion for reconsideration filed*

On [redacted] Judge [redacted] denied Plaintiff's motion for reconsideration in a single sentence ruling and without any explanation whatsoever despite Plaintiff presenting clear and obvious errors in her underlying ruling granting summary judgment against the Plaintiff.

On [redacted] Judge [redacted] granted summary judgment against the Plaintiff despite clear issues of material facts in the case which could only be decided by a jury per Arizona law. *See* Motion for Reconsideration filed [redacted] *See* Motion for New Trial filed [redacted]

On [redacted] Judge [redacted] heard oral arguments regarding motion for summary judgment. Judge [redacted] in a clear demonstration of her prejudice and bias against the Plaintiff, asked him if he could produce an admission by the Defendant of retaliatory termination to whistleblowing. This was improper because an express admission of liability by a Defendant is not a required standard in deciding a motion for summary judgment per Arizona law. This is despite the fact that in this case, Defendant does in fact expressly admit to terminating the Plaintiff in retaliation to his whistleblowing and Plaintiff has provided the evidence in his pleadings.

Also during the hearing, Judge [redacted] was rude and disparaging to the Plaintiff and refused to allow him to make his argument by telling him "[redacted]". This incited an [redacted] from the defense counsel and no admonishment of the counsel by the Judge regarding decorum in the court.

On [redacted] Judge [redacted] denied even a simple motion for clarification by the Plaintiff for clarification of the ambiguous and arbitrary ruling by Judge [redacted] denying Plaintiff's 56(d) motion for relief. Judge [redacted] had denied Plaintiff's motion by stating nothing more than "[redacted]" referring to a very brief and very confusing

telephonic hearing. There was no explanation for the basis of his ruling either during the telephonic hearing or the one sentence ruling. Yet, Judge [redacted] called the one sentence ruling [redacted] and denied any explanation of why Plaintiff was once again deprived of requested discovery.

It is also quite clear by a statement that Judge [redacted] made during the telephonic hearing that even though he was conducting the hearing in place of Judge [redacted] (for some unexplained reason), he had already been instructed by Judge [redacted] on how she wanted him to rule on Plaintiff's 56(d) motion. Judge [redacted] made the statement during the telephonic hearing that "[redacted]". It was extremely improper for Judge [redacted] to pre-determine Plaintiff's motion even before the hearing and additionally her dictating another Judge to rule against the Plaintiff is extremely disturbing and indicative of her extreme bias and prejudice against the Plaintiff.

Judge [redacted] has deprived the Plaintiff of all discovery in this case. On the other hand, she not only allowed the Defendant additional [redacted] days for discovery, she allowed Defendant to submit "[redacted]" interrogatories in clear violation of ARCP Rule 33. She also deprived the Plaintiff from discovery that he was specifically allowed.

Additionally on [redacted] Judge [redacted] denied Plaintiff's ARCP Rule 11 motion for sanctions on Defendant and counsel for repeated violations of the Rule. Judge [redacted] also denied Plaintiff's ARCP Rule 16.1(h) motion for sanctions on Defendant and counsel for sanctions for failure to properly participate in settlement conference. Judge [redacted] denied the Rule 16.1(h) motion by stating that Plaintiff may re-urge his motion depending on the strength of evidence at trial, if there is one. This was a clear violation of Arizona law since Rule 16.1 requires litigants to properly participate in the settlement conference regardless the possibility of

any subsequent trial or not. Judge [redacted] already knew that she was going to grant summary judgment and there would be no trial and therefore her “ [redacted] ” ruling was nothing more than a deceitful attempt to cover her bias and prejudice. For Judge [redacted] to game the judicial system by trickery and deceit in order to favor the Defendant and counsel is extremely improper.

In her [redacted] ruling, Judge [redacted] improperly, prematurely and unjustly awarded the Defendant sanctions on the Plaintiff in the amount of \$ [redacted] while refusing to sanction the Defendant despite filing a false affidavit of attorney fees that was mathematically incorrect. The monetary sanction on the pro per Plaintiff, who cannot even afford a lawyer to represent him, for Defendant “ [redacted] ”

was extremely improper because Plaintiff’s motion for protective order on that discovery was still pending.

In the same ruling, Judge [redacted] threatened the Plaintiff with dismissal of his case with prejudice if he did not provide the discovery in contention to the Defendant by [redacted] on [redacted]

This was despite the fact, as stated *supra*, that Plaintiff’s motion for protective order on that discovery was still pending before Judge [redacted]. Additionally, the settlement conference between the parties was scheduled for [redacted] that very day. It was extremely improper for Judge [redacted] to threaten the Plaintiff with dismissal and strong arm the Plaintiff into providing the discovery to Defendant just [redacted] before the settlement conference and while the motion for protective order on that very discovery was still pending.

Additionally in the same ruling, Judge [redacted] denied Plaintiff’s motion for sanctions against the defendant and defense counsel for fraud on the court and perjury, without even a

response from the Defendant. For Judge            to disregard and deny Plaintiff's motion without even a response filing by the Defendant shows clear and convincing proof of her extreme bias and prejudice against the Plaintiff and violates his civil and constitutional rights.

### CONCLUSION

Due to her bias and prejudice against the pro per Plaintiff in this case, Judge            has:

1. Deprived Plaintiff of all discovery in this case;
2. Allowed Defendant to submit unsworn interrogatories in violation of Rule 33;
3. Sanctioned the Plaintiff in the amount of \$            for discovery despite a pending motion for protective order on the same discovery;
4. Denied all motions by Plaintiff for sanctions on the Defendant and counsel for serious misconduct including fraud on the court and perjury and subornation of perjury, and fabrication of Plaintiff's deposition transcript;
5. Allowed Defendant to submit unsigned copy of deposition in violation of Rule 30;
6. Improperly deprived the Plaintiff to make his argument at the hearing for summary judgment by stating "            and demanding the Plaintiff to produce an admission of liability by the Defendant to avoid a summary judgment.
7. Improperly granted summary judgment against the Plaintiff despite several material issues of fact in the case;
8. Improperly granted summary judgment by disregarding evidence favorable to the Plaintiff.