

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-217

Judge:

Complainant:

ORDER

October 2, 2019

The Complainant alleged a superior court judge violated Rules 1.1, 1.3, 2.2, 2.3, 2.4, 2.6, 2.9(C), 2.11, 2.15, and 2.16 of the Code of Judicial Conduct 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).

Commission member Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 2, 2019.

Judge

19-217

COMPLAINT:**Hearing**

On Judge conducted in Hearing in Judge allowed a fact witness in this case, attorney to argue the Motions before the Court. I informed the Court that Mr was a fact witness and was disclosed as a fact witness. I stated that Mr should not be permitted to observe the case proceedings. I stated that Mr should not be permitted to present Motion arguments before the Court. Under the Arizona Rules of Evidence, at a party's request, the Court must order witnesses excluded so that they cannot hear other witnesses' testimony. We made these statement during the seal records portion. **Judge violated RJC 1.1 Compliance with the Law and violated RJC 2.2**

Impartiality and Fairness.

Judge conducted ex parte communications with attorney regarding his Motion to Withdrawal over our objections and the objections of . (see transcript pages) **Judge violated RJC 2.9 Ex Parte Communication 2.9 (C) "a judge shall not investigate facts in a matter independently.**

We were not able to face our accuser, Mr . We were unable to determine if he presented any hearsay testimony. We tried to objection to Judge granting Mr his own private in-camera, in-camera hearing without us present, but the Court refused to let me speak. **Judge violated RJC 2.6 Right to be heard.** (see transcript pages through page) We did objected to the private ex-parte hearing granted Mr during the sealed records portion.

Judge allowed attorney to be present and observe the Court proceedings. We

objected to Mr [redacted] presence due to the fact that he is the attorney representing [redacted] in a federal Declaratory Relief Action case regarding the insurance coverage issues in [redacted]. Mr [redacted] is also a fact witness in the federal Declaratory Relief Action case. Under the Arizona Rules of Evidence, at a party's request, the Court must order witnesses excluded so that they cannot hear other witnesses' testimony.

(see transcript page [redacted] line [redacted] page [redacted]; page [redacted] lines [redacted] **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

Judge [redacted] granted Mr [redacted] Motion to Withdraw as Counsel. Mr [redacted] handed us a USB thumb drive containing [redacted] he worked on during his representation. Mr [redacted] then left the courtroom.

I then made an oral motion to continue this matter to allow time for the corporation, [redacted], to retain counsel.

Judge [redacted] then forced [redacted] to engage in the unlicensed practice of law (a violation of Arizona rules of the Supreme Court, Rule 31.B Regulation of the Practice of Law), by representing the corporation, [redacted] (Arizona LLCs, corporations and partnerships MUST be represented in court by a LICENSED Arizona attorney). **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

Judge [redacted] forced us to argue against the Plaintiff's Motion to Compel Disclosure of the corporation's financial records. (see [redacted], pages [redacted]), Judge [redacted] granted Plaintiff's Motion. **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

Judge [redacted] then allows Plaintiff's counsel to take advantage of Defendants by forcing lay people to represent the corporation in two other pending motions that were NOT set for hearing on [redacted] **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

I made an oral motion to once again continue this matter to allow the corporation to obtain counsel. Judge [redacted] denied my oral motion. (see [redacted] (**Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

We were forced to argue in support of Defendants Motion to Vacate and for [redacted] of

Substantive and Dispositive Ruling in [redacted] Minute Entry Order (filed [redacted]). (see transcript page [redacted]) We mention that we filed a Motion to Strike Judge [redacted] and a CJC Complaint against her. (see [redacted] page [redacted]) Judge [redacted] then denies

Defendants' Motion. **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

Judge [redacted] forced us to represent the corporation and argue Plaintiff's Rule 57 Motion. **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC 2.2 Impartiality and Fairness.**

We then brought the issue of the Supplemental Disclosure of Defense Expert Witness, [redacted] of [redacted], to Judge [redacted] attention. We stated that per Judge [redacted] Ruling, we were entitled to request re-inspection of the Plaintiff's property based upon the expert's testimony that he required more inspection time (which was limited to only [redacted] per Plaintiff's counsel – not the Court) including elevations, inspection of the entire building (not just one wall), and inspection of the roof to evaluate claims to trespassing [redacted] from the Defendants' property. (see [redacted] page [redacted] through page [redacted]) Judge [redacted] ignored our Oral Motion to Compel the Inspection of Plaintiff's building. Judge [redacted] stated she didn't see our oral motion and stated, “

[redacted].” (see [redacted] transcript page [redacted] through page [redacted]) **Judge [redacted] violated RJC 1.1 Compliance with the Law and violated RJC**

2.2 Impartiality and Fairness.

Documentation: [redacted] Minute Entry , [redacted] Transcript

Hearing

At the [redacted] Hearing, Judge [redacted] re-scheduled the trial for [redacted] She then schedule the motions in limine to be filed no later than [redacted] which is [redacted] days before trial. This is a violation of the Arizona Rules of Civil Procedures for the Superior Courts, Rule 7.2(b) Motions in Limine. **Judge [redacted] violated RJC**

1.1 Compliance with the Law.

Documentation: Minute Entry

Hearing

Judge stated that no one made ANY motion to compel inspection of plaintiff's property prior to Defendants' Motion to Compel Inspection of Plaintiff's property. I then tried to speak, but Judge refused to allow me to be heard. **Judge violated RJC 2.6 Right to be heard.** Defendants' counsel, , then read from the Transcript of the Hearing and reminded Judge that had made an oral motion to compel inspection and that Judge refused to acknowledge that oral motion. (see page page

Judge then corrects herself, but still denies our Motion to Compel Inspection. (see Minute Entry)

Plaintiff's counsel, , made a statement to the Court on , that Mr was "I " or similar words.

This statement by Mr was a false statement, and was repeated by the Judge herself, and apparently a factor in her decision to deny access. In the Defendants First Amended Answer, at paragraph very clearly put Mr on notice that water was potentially coming from doors and/or the roof. Moreover, the video and Non-Party at Fault filing also put Mr on notice that defendants believed the water was coming from others sources.

I tried to bring Mr violation of the Arizona Rules of Professional Conduct, (Rule 42, ER 3.3 toward to Tribunal) to the Court's attention under **RJC 2.15 Responding to Judicial and Lawyer Misconduct and RJC 2.16 Cooperation with Disciplinary Authorities.** (see Minute Entry) Judge denied my request to be heard. **Judge violated RJC 2.6 Right to be heard AND RJC 2.15 AND 2.16**

Judge then denied Defendants ability to present evidence gathered at the inspection. Judge denied Defendants ability to present the final report being prepared by Defendants' expert witness, . Judge denied Defendants' ability to present any testimony from expert witness,

regarding his evaluations of Plaintiff's property based upon the inspection. **Judge** **violated RJC 2.2 Impartiality and Fairness through a pattern of legal errors and an intentional disregard of the law.**

Documentation: Defendants Motion to Compel Inspection of Plaintiff's Property;
Minute Entry Denying Defendants Motion to Compel Inspection; Email from to
regarding false statement

Telephonic Hearing

On , Judge held a telephonic conference with our attorney, , and Plaintiff's attorney, . We were not notified of this Hearing. Judge revealed her conflict with our counsel, . Mr is representing a homeowner that is suing their HOA. Judge stated that she is a member of that HOA Board and that she may be personally liable in any judgment against the HOA. Judge is willing to recuse herself if we think her potential financial interest (judgment against the HOA) is a conflict. **Judge violated RJC 2.11 Disqualification "The judge has a personal bias or prejudice concerning a party or a party's lawyer." and The judge is a party to a proceeding and has an "economic interest" that would disqualify them.**

Judge knew of the conflict and yet ruled on previous substantial motions, mainly Defendants Motion to Compel Inspection of the Plaintiff's property. **Judge violated RJC 2.2 Impartiality and Fairness through a pattern of legal errors and an intentional disregard of the law.**

Documentation: Email from regarding Judge personal financial conflict with Mr

Notice of Recusal

On we spoke (on occasions) with our counsel, , regarding Judge Ruling. I stated that it sounded to me that Judge was accusing Defendants' counsels: , and of legal malpractice. I stated that

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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.**