

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-224

Judge:

Complainant:

ORDER

October 9, 2019

The Complainant alleged a superior court judge improperly denied his request to hold a party in contempt.

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 Colleen E. Concannon did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 9, 2019.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2019-224

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.

Refer to the time line on the next page.

On or about _____ I filed a notice of non compliance in order to enforcement a non expiring contempt order. The State responded and a reply was filed.

On _____ ME: _____ (STATE REMOVED AS PARTY TO THE ACTION) With a hearing date of _____

I fully complied with all the requirements in the courts orders including a motion to appear by phone as I am

Reviewing the filed documents in the time line, the Petitioner (custodial parent) did not file or make any attempt to file or comply with the courts orders. The Petitioner did the same in a hearing in _____ failed to appear and was held in contempt of court thereafter, this also involves an accumulating daily contempt fine of _____ a day for non compliance.

On _____ a message was received from Judge _____ judicial assistant "

On _____ a ME was filed by Judge _____ "The Court on its own motion vacates the previously set for _____ The Notice of Non-Compliance filed by Respondent, _____ and the subsequent motions related to the notice are not proper. Respondent may not at this late date seek sanctions against Petitioner for an alleged failure to provide documents related to the education of a child who emancipated _____ and attempt to have those sanctions offset against child support arrearages. There is no basis in the law for what Respondent is seeking and this Court lacks jurisdiction to implement such a remedy in any case. The notice and motions are improper and denied.

Although the ME was drafted on _____ and file on _____ according to the _____ records, filings were still be entered into the system, and therefor the Judge could not have reviewed the totality of the motions for all relevant content.

The ME to vacate was premature and that all remedies sought within the motions, agreements, was a matter for the parents to decide, the Judge decision to preempt parental rights dangerously infringes upon constitutionally protected fundamental rights afforded to parents.

The ME is also fails to state a legal basis for the decision, with the appropriate statutory citations to affirm the judges decision, which makes it impossible to infer where the legal infirmity lays. Without that clear declaration the Judges ME is impossible to appeal as it provides no tangible known legal grounds to place the challenge. The ME also fails to delineated all of the infirmities involved, and simply cherry picks.

The abuse of discretion is both capricious and arbitrary, as it give the clear impression of basis, as the Custodial Parent failed once again to file any documents at all, and simply relied on the States legal representations in violation of ARS 25-509.

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COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: The Honorable _____

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.

It is not possible to render any decision without examining the totality of evidence. It appears that the Judge did not read the preliminary notice and motions made prior to the _____ setting the _____ and hearing for _____ as they contained the same information as is contained in the documents leading up the _____ ME to vacate.

Time line:

- Hearing Vacated
- Motion To Continue -
- Statement - PART 1 OF 1 -
- Response - PART 1 OF 1 -
- Motion - PART 1 OF 1 -
- Notice - PART 1 OF 1 -
- Updated Information Address and/or Name
- Motion - PART 1 OF 1 - ID
- Disclosure Statement Of Parties - PART 1 OF 1 - ID
- Notice - PART 1 OF 1 - ID
- Proof and/ or/ Notice of Mailing - PART 1 OF 1 - ID
- Motion to Appear Telephonically - PART 1 OF 1 - IC

ME: Resolution Management Conference Set

- Updated Information Address and/or Name - PART 1 OF 1 -
- Reply - PART 1 OF 1 - ID
- Response - PART 1 OF 1
- Notice - PART 1 OF 1 - IC
- Motion - PART 1 OF 1 - ID
- Motion - PART 1 OF 1 - ID
- Motion - PART 1 OF 1 - ID
- Notice Non Compliance - PART 1 OF 1 -

FILINGS NOT CONSIDERED. ACCEPTED

COSC eFiling ACCEPTED Filing ID:
COSC eFiling ACCEPTED Filing ID:

FILINGS BEFORE THE DECISION,

COSC eFiling ACCEPTED (Filing ID:
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COSC eFiling ACCEPTED (Filing ID:

COURT OF ARIZONA
COUNTY

HONORABLE

CLERK OF THE COURT

AND

MINUTE ENTRY

The Court having received Respondent's Notice of Non Compliance Records and Information Exchange -- Motion for Sanctions filed on

IT IS ORDERED setting a Resolution Management Conference on
(allowed) before Judge at:

COURT OF ARIZONA
COUNTY

Both parties, together with their counsel, if represented, shall appear in person, and be prepared to discuss the final resolution and, if necessary, pre-trial management of this case. IF ONLY ONE PARTY APPEARS, THE COURT MAY ENTER A DEFAULT AGAINST THE ABSENT PARTY, AND ALLOW THE PARTY THAT APPEARS TO PROCEED BY DEFAULT. IF BOTH PARTIES FAIL TO APPEAR, THE ACTION MAY BE DISMISSED.

MANDATORY RESOLUTION STATEMENT

IT IS FURTHER ORDERED that each party shall fully complete and file a Resolution Statement as required by Rule 76(B), Arizona Rules of Family Law Procedure, in proper form without argument, narrative statements or other documents, and provide a copy to the adverse party and to this Division at least before the Conference. The Court is required to consider the reasonableness of each party's positions, including the failure to take a position, in any subsequent requests for attorney's fees made pursuant to A.R.S. §§ 25-324 and 12-349. The Resolution Statement may be obtained through the

PRE-CONFERENCE SETTLEMENT MEETING

IT IS FURTHER ORDERED that the parties and counsel, if any, shall personally meet and confer prior to the Resolution Management Conference to resolve as many issues as possible. In the event the parties and counsel, if any, have not met prior to the Resolution Management Conference, they shall all be present and meet at the court one to the scheduled Resolution Management Conference. If there is a current court order prohibiting contact of the parties or a significant history of domestic violence between the parties, the parties shall not be required to personally meet or contact each other in violation of the court order, but the parties and their counsel shall take all steps reasonable under the circumstances to resolve as many issues as possible prior to the RMC.

DISCLOSURE

IT IS FURTHER ORDERED that both parties shall complete the initial disclosure

who fails to timely disclose information required by Rule 49 or 54 shall not be permitted to use such evidence in future motions, hearings or trials, except by leave of court for good cause shown, unless such failure is harmless.

COURT OF ARIZONA
COUNTY

PARENT EDUCATION PROGRAM

IT IS FURTHER ORDERED that in the event the parties have a natural or an adopted minor, unemancipated child in common, both parties shall have completed, or be scheduled to complete, an approved Parent Education Program in accordance with A.R.S. §25-351 et seq. prior to the Resolution Management Conference and file proof thereof prior to or at the time of the Conference.

Failure to obey this order in all respects may subject the offending party or counsel to all sanctions provided and allowed by court rule, statute or other law.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by _____, must submit a written request to the assigned judicial officer at least _____ in advance of the hearing, and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at:

**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.**