

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-356

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Judge:

Complainant:

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**ORDER**

February 12, 2020

The Complainant alleged a superior court commissioner was biased against her and acted against the best interests of the wards in a probate proceeding.

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 Commission Rules 16(a) and 23(a).

Commission members Colleen E. Concannon and George H. Foster, Jr. did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 12, 2020.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

2019-356

### 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.

The office of \_\_\_\_\_ was nominated to serve as temporary guardian and conservator for \_\_\_\_\_ parents on \_\_\_\_\_. The referral came to our office from \_\_\_\_\_ who was in need of assistance with her parents. She was requesting that \_\_\_\_\_ be appointed as Guardian for her parents and \_\_\_\_\_ be appointed as Conservator for her parents. On \_\_\_\_\_ the Emergency hearing was scheduled before \_\_\_\_\_. Testimony was provided to indicate the grave medical need for \_\_\_\_\_ due to his cardiac issues and the consent required for him to have surgery. \_\_\_\_\_ did not grant the emergency. Testimony was also provided that the \_\_\_\_\_ assets would waste or dissipate if a conservator was not appointed for them. This was supported by the court investigator and there was no objection by counsel. Later that week, my office obtained a letter from \_\_\_\_\_ cardiac surgeon indicating he required this life sustaining procedure and it would not be done until such time he had a legal decision maker. On \_\_\_\_\_ we appeared again before \_\_\_\_\_ on an emergency basis with the same testimony indicating the emergency for \_\_\_\_\_ and presented the letter from the cardiac surgeon. It was at this time that \_\_\_\_\_ was appointed as Temporary Guardian for \_\_\_\_\_. On \_\_\_\_\_ later that day, I received a notice of eviction for the \_\_\_\_\_ from the care home due to non-payment of their rent. It was provided to my counsel that same day and an emergency petition was filed to request the appointment of a temporary conservator. On \_\_\_\_\_ the emergency hearing was held and testimony was provided. There was no objection by anyone and \_\_\_\_\_ proceeded to inquire with \_\_\_\_\_ while under oath of a pending \_\_\_\_\_ matter concerning her licensure. He indicated he did not feel comfortable appointing \_\_\_\_\_ due to the board matter and pending decision. Counsel in the courtroom objected to his position as it placed their clients at risk and after a short time the temporary conservatorship was granted as it was necessary to protect the wards. \_\_\_\_\_ engaged in a topic that was outside of what was in the best interest of the wards and should have been addressed in a confidential forum out of respect for the fiduciary. He illustrated bias against \_\_\_\_\_ under a matter that had nothing to do with the protection of the wards or what was in their best interest. He was prepared to place their safety at risk due to a biased opinion of \_\_\_\_\_. On \_\_\_\_\_ a Permanent Evidentiary Hearing was held at which time all counsel was present with the wards who were all in agreement of the need for a permanent guardian and conservator. Testimony was provided to indicate the long standing assistance that \_\_\_\_\_ and \_\_\_\_\_ had provided, the efforts they made to stabilize both wards and their financial affairs. The testimony supported the need for the permanent appointment. \_\_\_\_\_ ruled that he saw the need to appoint a permanent guardian and conservator for the wards but was not appointing \_\_\_\_\_ or \_\_\_\_\_ due to the board matter and pending decision. He provided counsel with \_\_\_\_\_ to locate another fiduciary and bypassed the wishes of the wards or the petitioner (daughter). He placed them at risk and illustrated bias towards the fiduciaries that once again has nothing to do with the best interest of the wards. He chose to pass over the fiduciaries that had been providing care and protection per request of their daughter and left them without a decision maker. \_\_\_\_\_ acted in a way that illustrated bias and complete disregard for the best interest of the ward. He engaged in communication with the fiduciaries on a matter that was confidential and had no basis for doing so. To rule in this manner oversteps his bounds of judicial authority and attempts to illustrate defamatory action against the fiduciaries.

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Additionally, by acting in the manner he did, he incurred unnecessary fees and costs to the ward and their estate. A transcript of the initial hearing is being attached for reference to \_\_\_\_\_ conduct.

IN THE COURT OF ARIZONA  
FOR THE COUNTY OF

IN THE MATTER OF GUARDIANSHIP  
OF AND CONSERVATOSHIP FOR:

AN ADULT.

BEFORE THE HONORABLE

TRANSCRIPT OF PROCEEDINGS

Hearing

Proceedings recorded by electronic sound recording; transcript  
produced by

Transcriptionist

I N D E X

<u>PETITIONER'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>
	5	7,8			
	9	16,17,19	20,24	25	

<u>RESPONDENT'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VD</u>
None					

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APPEARANCES

Judge:

For the Petitioner:

Witnesses:

For the Ward:

Witnesses:

None

For the Nominee:

Also Appearing:

**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.**