

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 19-362 and 19-363

Judge: Bradley Astrowsky

Complainants: Commission on Judicial Conduct; Diane Sullivan

ORDER

The complainant in each matter alleges a superior court judge failed to issue a timely ruling.

Maricopa County Superior Court Judge Bradley Astrowsky presided over a dissolution trial in the matter of *David Ryan Lettrich v. Pamela Michelle Lettrich*, Case No. FN2018-001185. At the conclusion of trial on May 17, 2019, Judge Astrowsky took the matter under advisement. The sixty-day time period to issue a ruling expired no later than July 18, 2019. When no ruling had been made by that date, Diane Sullivan, the attorney for Mr. Lettrich, and the complainant in Case No. 19-363, filed a request with the court for an immediate ruling. She also emailed Judge Astrowsky's division inquiring as to the status of the ruling on July 16, 2019, July 18, 2019, July 22, 2019, and July 30, 2019. When there was still no ruling, Ms. Sullivan emailed Maricopa County Superior Court Presiding Family Court Judge, Bruce Cohen, seeking assistance in having Judge Astrowsky issue a ruling. There were five emails sent between August 21, 2019 and October 15, 2019. Judge Cohen's responses indicated he had been assured a ruling was imminently forthcoming, but one was still not issued. On October 17, 2019, Ms. Sullivan filed a special action with the Arizona Court of Appeals, Division One seeking an order directing Judge Astrowsky to issue a ruling. On October 31, 2019, the Court of Appeals issued a ruling in 1 CA-SA-19-0237 directing Judge Astrowsky to issue his ruling. The Commission received a copy of this ruling and initiated an investigation in Case No. 19-362. Judge Astrowsky finally issued a ruling on November 11, 2019, which was filed with the Clerk of the Court on November 13, 2019.

In his response, Judge Astrowsky acknowledged the delayed ruling. He indicated that he had increased his calendar management to avoid similar issues in the future. He cited a heavy caseload, including coverage of an out-of-county criminal trial, and personal issues as contributing to the delayed ruling. However, he also acknowledged signing payroll certifications that did not reflect this matter

had been pending for more than sixty days. The record before the Commission establishes that Judge Astrowsky was aware of the overdue ruling.

The Commission found that Judge Astrowsky's conduct violated the following provisions of the Code of Judicial Conduct and Arizona law:

- Rule 1.1 which states, "A judge shall comply with the law, including the Code of Judicial Conduct."
- Rule 1.2 which states, "A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."
- Rule 2.5(A) which states, "A judge shall perform judicial and administrative duties competently, diligently, and promptly."
- Article 2, Section 11 of the Arizona Constitution which states, "Justice in all cases shall be administered openly, and without unnecessary delay."
- Article 6, Section 21 of the Arizona Constitution which states, "Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the date of submission thereof. The supreme court shall by rule provide for the speedy disposition of all matters not decided within such period."
- Rule 91(e), Arizona Rules of Supreme Court which states, "Every matter submitted for determination to a judge of the superior court for decision shall be determined and a ruling made not later than sixty days from submission thereof, in accordance with Section 21. Article VI of the Arizona Constitution. Each superior court clerk shall report to the Administrative Director of the Courts, in writing, on the last day of March, June, September and December, in each year, all matters in that court submitted for decision sixty days or more prior to the date of such report and remaining undecided on the date of the report. The report shall contain the title of each action or proceeding, the matter submitted, the judge to whom submitted, and the date of submission."
- A.R.S. §12-128.01 which states:

Receipt of salary by judges and commissioners; affidavit; pending and undetermined causes; violation; classification

A. A superior court judge or commissioner shall not receive his salary unless such judge or commissioner either certifies that no cause before such judge or commissioner remains pending and undetermined for sixty days after it has been submitted for

decision or there is submitted by the chief justice of the Arizona supreme court a certification that such superior court judge or commissioner has had a physical disability during the preceding sixty days or that good and sufficient cause exists to excuse the application of this section to particularly identified litigation then pending.

B. Any certification submitted by the chief justice pursuant to subsection A shall set forth in detail the nature and duration of the physical disability involved or the reason why subsection A should not apply to the specified pending litigation.

C. Any person who issues or causes to be issued any check, warrant or payment to a judge or commissioner knowing that, pursuant to this section, such judge or commissioner should not receive his salary is guilty of a class 3 misdemeanor.

Accordingly, Judge Bradley Astrowsky, is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judicial officer's response, and this order shall be made public as required by Commission Rule 9(a).

Commission members Michael J. Brown and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: May 19, 2020

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on May 19, 2020.

comp
2019-362

NOV 12 2019



DIVISION ONE
FILED: 10/31/19
AMY M. WOOD,
CLERK
BY: RB

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

| | | |
|----------------------------------|---|---------------------|
| DAVID LETTRICH, |) | Court of Appeals |
| |) | Division One |
| Petitioner, |) | No. 1 CA-SA 19-0237 |
| |) | |
| v. |) | Maricopa County |
| |) | Superior Court |
| THE HONORABLE BRADLEY ASTROWSKY, |) | No. FN2018-001185 |
| Judge of the SUPERIOR COURT OF |) | |
| THE STATE OF ARIZONA, in and for |) | |
| the County of MARICOPA, |) | |
| |) | |
| Respondent Judge, |) | |
| |) | |
| PAMELA LETTRICH, |) | |
| |) | |
| Real Party in Interest. |) | |

ORDER ACCEPTING JURISDICTION; GRANTING RELIEF

The Court, Presiding Judge Kenton D. Jones and Judge James B. Morse Jr. and Judge Diane M. Johnsen participating, has received and reviewed the petition for special action, in which Petitioner asserts that the superior court has failed to rule after a dissolution hearing conducted on May 17, 2019. Based on the record provided, it appears that the matter has been under advisement since that day. No response was filed to the petition for special action. Accordingly, and for good cause,

IT IS ORDERED accepting jurisdiction of the petition for special action because Petitioner has no adequate remedy by appeal. See *W. Sav. & Loan Ass'n v. Diamond Lazy K Guest Ranch, Inc.*, 18 Ariz. App. 256, 261 (1972).

IT IS FURTHER ORDERED directing the superior court to comply with its duty under Art. 6, Section 21, of the Arizona Constitution and Rule 91(e) of the Arizona Rules of Court to issue its ruling on the matters at issue in the dissolution.

_____/s/_____
KENTON D. JONES
PRESIDING JUDGE

A copy of the foregoing
was sent to:

Dianne Nicole Sullivan
Pamela Lettrich
Hon Bradley H Astrowsky

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Sullivan Law Office
Dianne Sullivan, Bar No. 020445
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(480) 285-1908
Email: dianne@sullivanlawaz.com
Attorney for Petitioner

COURT OF APPEALS, STATE OF ARIZONA
DIVISION ONE

DAVID LETTRICH,

Petitioner,

v.

SUPERIOR COURT OF THE STATE
OF ARIZONA, in and for the County
of Maricopa, the Honorable Bradley
Astrowsky, a Judge thereof,

Respondents,

PAMELA LETTRICH,

Real Party In Interest.

Court of Appeals
Division One
No:

Maricopa County Superior Court Case
No.: FN2018-001185

PETITION FOR SPECIAL ACTION

DATED this 17 day of October 2019.

Sullivan Law Office

By: _____
Dianne Sullivan
Attorney for Petitioner

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TABLE OF CONTENTS

| | Page |
|------------------------------|-------------|
| Table of Authorities | 3 |
| Introduction | 4 |
| Jurisdictional Statement | 5 |
| Statement of Issues | 7 |
| Statement of Facts | 7 |
| Argument | |
| I. Standard of Review | 8 |
| II. Applicable Rules and Law | 8 |
| III. Sanctions | 9 |
| IV. Attorney's Fees | 11 |
| V. Conclusion | 11 |

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TABLE OF AUTHORITIES

CASES

City of Phoenix v. Superior Court, 158 Ariz. 214, 216,
762 P.2d 128,130 (App. 1988).....5

Fragoso v. Fell, 210 Ariz. 427,
111 P.3d 1027, 1030 (App.2005).....

Matter of Guardianship/Conservatorship of Denton,
190 Ariz. 152, 154, 945 P.2d 1283, 1285 (1997).....6

Volk v. Brame, 235 Ariz. 462, 464, 333 P.3d 789, 791
(Ct. App. 2014)5

W. Sav. & Loan Ass'n v. Diamond Lazy K Guest Ranch, Inc., 18 Ariz. App.
256, 261, 501 P.2d 432, 437 (1972).....6

RULES

Ariz.R.P.Spec.Actions 3(a), 17B A.R.S. Special Actions,
Rules of Procedure.....5

Ariz.R.P.Spec.Actions 1(a), 17B A.R.S 17B A.R.S. Special Actions,
Rules of Procedure.....5

Ariz.R.P.Spec.Actions 4(g), 17B A.R.S. Special Actions,
Rules of Procedure.....11

Rule 91(e), Arizona Rules of the Supreme Court.....4,6,7,8,9

CONSTITUTIONAL PROVISIONS

Article 6, Section 21, of the Arizona Constitution..... 4,6,7,8,9

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INTRODUCTION

The issues addressed in this Special Action pertain to a family court dissolution of non-covenant marriage. Petitioner seeks relief from this Court for the Trial Court's failure to issue an under advisement Ruling (Decree of Dissolution) pursuant to Article 6, Section 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme Court.

In the instant case, the parties appeared before the Trial Court on May 17, 2019 for a two-hour evidentiary hearing on Petitioner's Petition for Dissolution of Non-Covenant Marriage without children. The issues before the Court were spousal maintenance, division of real and personal property, debts, retirement assets, and attorney's fees. At the conclusion of the hearing, the Trial Court took the matter Under Advisement.

No ruling or Decree was issued as required by Article 6, Section 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme Court. After several calls and emails to the Court staff regarding a ruling, Petitioner's counsel filed a Request for Immediate Ruling on July 22, 2019. When this Request failed to produce a Decree, counsel for Petitioner sought the assistance of the Presiding Family Court Judge. Although she was given assurances that the matter would be resolved, as of the date of this filing, no ruling or Decree has been issued by the Trial Court.

1 For these reasons, this Special Action was initiated, and Petitioner seeks an
2 expedited review.

3 JURISDICTIONAL STATEMENT

4 This Court has discretion to accept special action jurisdiction to review the
5 denial where there is a need to expedite resolution of the issue. *City of Phoenix v.*
6 *Superior Court*, 158 Ariz. 214, 216, 762 P.2d 128, 130 (App. 1988). The questions
7 that may be raised in a special action include, “(a) [w]hether the defendant has
8 failed to . . . perform a duty required by law as to which it has no discretion . . .”
9 Ariz.R.P.Spec.Actions 3(a), 17B A.R.S. Special Actions, Rules of Procedure.

10 Special action jurisdiction is appropriate where there is no equally plain,
11 speedy and adequate remedy by appeal. Ariz.R.P.Spec.Actions 1(a), 17B
12 A.R.S. 17B A.R.S. Special Actions, Rules of Procedure. It is also
13 appropriate to accept jurisdiction when “under no rule of law can a trial
14 court’s actions be justified.” *Volk v. Brame*, 235 Ariz. 462, 464, 333 P.3d
15 789, 791 (Ct. App. 2014). In the present case, unless special action
16 jurisdiction is accepted, Petitioner will continue to be unfairly and
17 prejudicially denied resolution of his dissolution of marriage within the
18 statutory timeframe. This Court has previously stated that,
19

20 “Failures of due process are inherently of statewide importance. When due
21 process succumbs to the demands of expedience created in high-volume
22 settings such as family court, the risk that the error will recur is real and
23 special action jurisdiction is appropriately exercised.”

1 *Id.* at 464.

2 The issues raised in this Petition are purely questions of law and procedure,
3 and the acceptance of special action jurisdiction is appropriate. *Matter of*
4 *Guardianship/Conservatorship of Denton*, 190 Ariz. 152, 154, 945 P.2d 1283,
5 1285 (1997). Petitioner contends that the Trial Court violated Article 6, Section
6 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme
7 Court, by failing to rule within sixty days of the parties' May 17, 2019 Evidentiary
8 Hearing, as well as Petitioner's Request for Immediate Ruling, filed on July 22,
9 2019.

10
11 Petitioner has no equally plain, speedy and adequate tool for review of the
12 Trial Court's ruling by appeal. Petitioner's claim involves a purely legal question
13 – Whether the Trial Court failed to perform a duty when it failed to issue an Under
14 Advisement ruling within 60 days, as well as failed to rule on Petitioner's Request
15 for Ruling within 60 days.

16 As this issue was previously been specifically addressed by this Court in
17 the published decision of *W. Sav. & Loan Ass'n v. Diamond Lazy K Guest Ranch,*
18 *Inc.*, 18 Ariz. App. 256, 501 P.2d 432 (1972), when it stated that if a Trial Court
19 violated the sixty-day Rule, the remedy is “a mandate from this court that the
20 family court enter a ruling on the matter.” *Id.* at 261, 437. Petitioner respectfully
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1 requests that this Court accept special action jurisdiction and address the merits
2 of this matter.

3 STATEMENT OF ISSUES

- 4 **1. Did the Trial Court violate Article 6, Section 21, of the Arizona**
5 **Constitution and Rule 91(e), Arizona Rules of the Supreme Court by**
6 **failing to issue a Decree of Dissolution with sixty days of the parties'**
7 **final evidentiary hearing?**
- 8 **2. Did the Trial Court violate Article 6, Section 21, of the Arizona**
9 **Constitution and Rule 91(e), Arizona Rules of the Supreme Court by**
10 **failing to rule on the Petitioner's Request for Immediate Ruling, filed**
11 **on July 22, 2019?**
- 12 **3. Should the Trial Court be sanctioned for failing to comply with**
13 **Article 6, Section 21, of the Arizona Constitution and Rule 91(e),**
14 **Arizona Rules of the Supreme Court?**
- 15 **4. Should the Petitioner be awarded his fees and costs on appeal**
16 **pursuant to Rule 4(g), 17B A.R.S. Special Actions, Rules of**
17 **Procedure?**

18 STAMENT OF FACTS

19 Petitioner and Appellee were married on December 23, 2006 in Gilbert,
20 Arizona. Petitioner filed his Petition for Dissolution of Marriage on June 7, 2018.
21 Appellee was served with a copy of same o June 19, 2019. Appellee filed a
22 Response on August 6, 2018. The parties were unable to reach a final agreement
23 in mediation, so the Trial Court set a final Evidentiary Hearing to resolve all
outstanding issues for May 17, 2019.

The parties appeared for trial on May 17, 2019. The Trial Court took the
matter under advisement. When the Trial Court failed to issue a decision (in this

1 case a Decree of Dissolution) within sixty (60) days, Petitioner filed a Request for
2 Immediate Ruling on July 22, 2019. As of the date of this Special Action, no
3 ruling or Decree has been entered by the Trial Court.

4 ARGUMENT

5 I. STANDARD OF REVIEW

6 In this case, Respondent failed to violated Article 6, Section 21, of the
7 Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme Court by
8 failing to issue a Ruling within sixty (60) days. Respondent failed “to perform
9 a duty required by law as to which he has no discretion.”
10 Ariz.R.P.Spec.Actions Rule 3(a), 17B A.R.S. Special Actions, Rules of
11 Procedure.

12 II. APPLICABLE RULES AND LAW

13 A. **Did the Trial Court violate Article 6, Section 21, of the Arizona 14 Constitution and Rule 91(e), Arizona Rules of the Supreme Court 15 by failing to issue a Decree of Dissolution with sixty days of the 16 parties’ final evidentiary hearing?**

17 The Petitioner contends that Rule 91(e), Arizona Rules of the
18 Supreme Court and Article 6, Section 21, of the Arizona Constitution
19 have been violated by the Respondent. The parties appeared before the
20 Trial Court for a final Evidentiary Hearing on all outstanding issues on
21 May 17, 2019. As of the date of this filing, no ruling or Decree has been
22 issued by the Respondent. Therefore, there is no argument that Article 6,
23

1 Section 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of
2 the Supreme Court have been violated.

3 **B. Did the Trial Court violate Article 6, Section 21, of the Arizona**
4 **Constitution and Rule 91(e), Arizona Rules of the Supreme Court**
5 **by failing to rule on the Petitioner’s Request for Immediate**
6 **Ruling, filed on July 22, 2019?**

7 The Respondent violated Article 6, Section 21, of the Arizona
8 Constitution and Rule 91(e), Arizona Rules of the Supreme Court by
9 failing to issue a Ruling within sixty (60) days. The Petitioner filed a
10 “Request for Immediate Ruling” regarding the under advisement
11 Petition for Dissolution on July 22 2019. As of the date of this filing,
12 no ruling or Decree has been issues by the Respondent. Therefore,
13 there is no argument that Article 6, Section 21, of the Arizona
14 Constitution and Rule 91(e), Arizona Rules of the Supreme Court have
15 been violated.

16 **C. Should the Trial Court be sanctioned for failing to comply with**
17 **Article 6, Section 21, of the Arizona Constitution and Rule 91(e),**
18 **Arizona Rules of the Supreme Court?**

19 The “sixty-day rule”, at least as it pertains to Rule 91(e), Arizona
20 Rules of the Supreme Court, is an administrative rule, meant to ensure
21 that cases are resolved in a timely fashion, in the interests of justice.
22 There is no quasi-judicial immunity for administrative acts. Additionally,
23 sitting Superior Court Judges are required to submit regular affidavits
(March, June, September, and December) that no cases assigned to them

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have any matters that have been under advisement for more than sixty days. Petitioner is unaware as to whether or not the Respondent has disclosed this case on the September report to the Administrative Director of the Court.

The Petitioner is a Major in the United States Army. Upon information and belief, he is about to be deployed for the second time since the May trial date to an active combat zone. Military regulations required that the Petitioner provide the Real Party in Interest with monthly support, similar to spousal maintenance. He cannot cease these payments to the Real Party in Interest until a Decree of Dissolution is entered. The Respondent's delay has cost the Petitioner several thousand dollars in additional payments to the Real Party in Interest.

Based on these facts, the Petitioner requests that this Court enter sanctions against the Respondent in an amount equal to the additional payments he has been required to make to the Real Party in Interest since the end of the sixty- day period.

D. Should the Petitioner be awarded his fees and costs on appeal pursuant to Rule 4(g), 17B A.R.S. Special Actions, Rules of Procedure?

Petitioner requests an award of his reasonable attorney's fees and costs. There is no argument that can be made to justify the Respondent's

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inaction in this matter. The Petitioner should not have to bear the burden of his attorney's fees and costs incurred to have this Court enter an Order that the Respondent perform his job duties as a Superior Court Judge.

III. CONCLUSION

Based upon the foregoing, Petitioner respectfully requests that this Court order the Respondent, Judge Bradley Astrowsky, to issue a Decree of Dissolution in this matter. The Petitioner furthermore requests that a reasonable sanction be ordered to compensate the Petitioner for his losses incurred due to the Trial Court's lack of diligence in this matter. Petitioner also requests an award of his reasonable attorney's fees and costs.

DATED this ___17___ day of October 2019.

Sullivan Law Office

By: _____
Dianne Sullivan
2929. Power Road, Suite 210
Mesa, Arizona 85215
(480) 285-1908
Email: dianne@sullivanlawaz.com
Attorney for Petitioner

2019-363

COMPLAINT AGAINST A JUDGE

Name: Dianne Sullivan Judge's Name: Bradley Astrowsky

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.

I am counsel of record for David Lettrich, Petitioner in Maricopa County Case Number FN2018-001185. This is a Dissolution of Marriage case. The parties appeared before Judge Astrowsky on May 17, 2019 for a Final Evidentiary Hearing on the Petition for Dissolution of Marriage, filed by Mr. Lettrich on June 7, 2018. The matter was taken Under Advisement on that date. Pursuant to Rule 91(e), Arizona Rules of the Supreme Court, a final ruling (Decree of Dissolution) should have been issued no later than July 18, 2019.

When no ruling was issued as of that date, I filed a "Request for Immediate Ruling" on July 22, 2019.

As of today's date, no Decree has been issued. No ruling has been made on the Request for Immediate Ruling.

In an attempt to resolve this matter, I sent emails to Judge Astrowsky's Judicial Assistant on July 16, 2019, July 18, 2019, July 22, 2019, and July 30, 2019. Additionally, I sent several emails to Family Court Presiding Judge Bruce Cohen, who assured me a ruling would be forthcoming.

On October 17, 2019, I filed a Petition for Special Action with the Court of Appeals, requesting an Order directing Judge Astrowsky to issue a Ruling. On October 31, 2019, the Court of Appeals granted the Petition and issued an Order directing "the superior court to comply with its duty under Art. 6, Section 21, of the Arizona Constitution and Rule 91(e) of the Arizona Rules of Court to issue its ruling on the matters at issue in the dissolution."

I emailed a copy of this Order to Judge Astrowsky's Judicial Assistant on October 31, 2019.

Judge Astrowsky's failure to issue a Decree of Dissolution in this matter within sixty (60) days of the parties final hearing (May 17, 2019) is a violation of Rule 91(e), Arizona Rules of the Supreme Court, as well as Article 6, Section 21 of the Arizona Constitution.

Mr. Lettrich is a Major in the United States Army. He is obligated to continue to provide financial support to Ms. Lettrich until the final Decree is entered. Judge Astrowsky's failure to issue a ruling in this matter has not only violated his Constitutional rights as set forth above, but has caused him to continue to pay Ms. Lettrich financial support each month, as well as additional attorney's fees and costs.

I have enclosed the following documents:

- The Minute Entry from the May 17, 2019 hearing taking the matter Under Advisement;
- The Request for Immediate Ruling filed on July 22, 2019;
- The Petition for Special Action, filed on October 17, 2019;
- The Order from the Court of Appeals granting Relief dated October 31, 2019.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

COMPLAINT AGAINST A JUDGE

Name: Dianne Sullivan Judge's Name: Bradley Astrowsky

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.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FN 2018-001185

05/17/2019

HONORABLE BRADLEY ASTROWSKY

CLERK OF THE COURT
C. Vigil
Deputy

IN RE THE MARRIAGE OF
DAVID RYAN LETTRICH

DIANNE N SULLIVAN

AND

PAMELA MICHELLE LETTRICH

PAMELA MICHELLE LETTRICH

JUDGE ASTROWSKY

MINUTE ENTRY

Prior to the commencement of this proceeding, Petitioner's Exhibits 1 through 49 are marked for identification.

Courtroom 104 – Old Courthouse

1:28 p.m. This is the time set for Trial. Petitioner, David Lettrich, is present with counsel, Dianne Sullivan. Respondent, Pamela Lettrich, is present on her own behalf.

A record of the proceedings is made digitally in lieu of a court reporter.

David Lettrich and Pamela Lettrich are sworn.

Ms. Sullivan moves to strike Respondent's Pretrial Statement and any exhibits she wants to present.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FN 2018-001185

05/17/2019

Respondent argues her position to the Court.

IT IS ORDERED denying the request to strike.

The Court notes that no exhibits have been submitted by Respondent. Also, there has been a failure to comply with the Motion to Compel, which the Court will take into consideration when there is a request for attorney fees. However Respondent will be able to testify to whatever she wants to testify to. If she needs to refer to anything to refresh her recollection, the Court will allow that but those documents will not be marked or admitted.

For Petitioner:

David Lettrich now testifies.

Petitioner's Exhibit 1 is received in evidence.

Petitioner's Exhibit 2 is received in evidence.

Petitioner's Exhibit 3 is received in evidence.

Petitioner's Exhibit 4 is received in evidence.

Petitioner's Exhibit 5 is received in evidence.

Petitioner's Exhibit 6 is received in evidence.

Petitioner's Exhibit 7 is received in evidence.

Petitioner's Exhibit 14 is received in evidence.

Petitioner's Exhibit 13 is received in evidence.

Petitioner's Exhibit 15 is received in evidence.

Petitioner's Exhibit 32 is received in evidence.

Petitioner's Exhibit 49 is received in evidence.

Petitioner's Exhibit 33 is received in evidence.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FN 2018-001185

05/17/2019

Petitioner's Exhibit 34 is received in evidence.

Petitioner's Exhibit 35 is received in evidence.

Petitioner's Exhibit 36 is received in evidence.

Petitioner's Exhibit 38 is received in evidence.

Petitioner's Exhibit 40 is received in evidence.

Petitioner's Exhibit 42 is received in evidence.

Petitioner's Exhibit 19 is received in evidence.

Petitioner's Exhibit 20 is received in evidence.

Petitioner's Exhibit 21 is received in evidence.

Petitioner's Exhibit 22 is received in evidence.

Petitioner's Exhibit 23 is received in evidence.

Petitioner's Exhibit 24 is received in evidence.

Petitioner's Exhibit 25 is received in evidence.

Petitioner's Exhibit 26 is received in evidence.

Petitioner's Exhibit 27 is received in evidence.

Petitioner's Exhibit 28 is received in evidence.

Petitioner's Exhibit 29 is received in evidence.

Petitioner's Exhibit 30 is received in evidence.

Petitioner's Exhibit 48 is received in evidence.

Petitioner's Exhibit 43 is received in evidence.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FN 2018-001185

05/17/2019

Petitioner's Exhibit 44 is received in evidence.

Petitioner's Exhibit 45 is received in evidence.

Petitioner's Exhibit 46 is received in evidence.

Petitioner's Exhibit 47 is received in evidence.

Petitioner rests.

For Respondent:

Pamela Lettrich now testifies.

Petitioner's Exhibit 12 is received in evidence.

Both sides rest.

Closing arguments are presented to the Court.

IT IS ORDERED taking this matter under advisement.

This matter having been taken under advisement, and there being no further need to retain the exhibits not offered in evidence in the custody of the Clerk of Court,

IT IS FURTHER ORDERED that the clerk permanently release all exhibits not offered in evidence to the counsel/party causing them to be marked or their written designee. Counsel/party or written designee shall have the right to refile relevant exhibits as needed in support of any appeal. Refiled exhibits must be accompanied by a Notice of Refiling Exhibits and presented to the Exhibit Department of the Clerk's Office. The Court's exhibit tag must remain intact on all refiled exhibits.

ISSUED: Exhibit Release Form

3:03 p.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at:
<http://www.superiorcourt.maricopa.gov/SuperiorCourt/LawLibraryResourceCenter/>

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Attorney for Petitioner

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

DAVID LETTRICH,

Petitioner,

and

PAMELA LETTRICH,

Respondent.

Case No.: FN2018-001185

**REQUEST FOR IMMEDIATE
RULING**

Petitioner, DAVID LETTRICH, by and through counsel undersigned, and pursuant to Rule 91(e), Rules of the Supreme Court of Arizona, hereby requests this Court to issue an immediate Ruling regarding the Petitioner's Petition for Dissolution, filed with this Court on June 7, 2018. The parties appeared before this Court on May 17, 2019 for a final Evidentiary Hearing. After the Hearing, the matter was taken Under Advisement.

Rule 91(e) of the Rules of the Supreme Court of Arizona state:

Every matter submitted for determination to a judge of the superior court for decision shall be determined and a ruling made not later than sixty days from submission thereof, in accordance with Section 21, Article VI of the Arizona Constitution.

1 A Decree of Dissolution was to be filed by this Court no later than July 18,
2 2019. The parties are anxious to have this matter finalized. Petitioner, as he
3 advised this Court, is active duty military and is due to be deployed overseas. It is
4 imperative that he have a Decree of Dissolution from this Court as soon as
5 possible.

6 DATED this ___22___ day of July 2019.

7 **Sullivan Law Office**

8
9 By: _____
Dianne Sullivan
Attorney for Petitioner

10 ORIGINAL of the foregoing e-filed this
11 ___22___ day of July 2019, with:

12 CLERK OF SUPERIOR COURT
13 County Superior Court

14 COPY of the foregoing electronically distributed this
___22___ day of July 2019, to:

15
16 The Honorable Bradley Astrowski
Maricopa Superior Court
17 Old Courthouse

18 COPY of the foregoing e-mailed this
___22___ day of July 2019, to:

19 Pamela Lettrich

20
21 Respondent pro se

22 /ds/

Sullivan Law Office
2929 N. Power Road, Suite 101
Mesa, Arizona 85215

IN THE
COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE



DIVISION ONE
FILED: 10/31/19
AMY M. WOOD,
CLERK
BY: RB

DAVID LETTRICH,)
) Court of Appeals
) Division One
Petitioner,) No. 1 CA-SA 19-0237
)
v.) Maricopa County
) Superior Court
THE HONORABLE BRADLEY ASTROWSKY,) No. FN2018-001185
Judge of the SUPERIOR COURT OF)
THE STATE OF ARIZONA, in and for)
the County of MARICOPA,)
)
Respondent Judge,)
)
PAMELA LETTRICH,)
)
Real Party in Interest.)
)

ORDER ACCEPTING JURISDICTION; GRANTING RELIEF

The Court, Presiding Judge Kenton D. Jones and Judge James B. Morse Jr. and Judge Diane M. Johnsen participating, has received and reviewed the petition for special action, in which Petitioner asserts that the superior court has failed to rule after a dissolution hearing conducted on May 17, 2019. Based on the record provided, it appears that the matter has been under advisement since that day. No response was filed to the petition for special action. Accordingly, and for good cause,

IT IS ORDERED accepting jurisdiction of the petition for special action because Petitioner has no adequate remedy by appeal. See *W. Sav. & Loan Ass'n v. Diamond Lazy K Guest Ranch, Inc.*, 18 Ariz. App. 256, 261 (1972).

IT IS FURTHER ORDERED directing the superior court to comply with its duty under Art. 6, Section 21, of the Arizona Constitution and Rule 91(e) of the Arizona Rules of Court to issue its ruling on the matters at issue in the dissolution.

_____/s/_____
KENTON D. JONES
PRESIDING JUDGE

A copy of the foregoing
was sent to:

Dianne Nicole Sullivan
Pamela Lettrich
Hon Bradley H Astrowsky

Sullivan Law Office
2929 N Power Road, Suite 101
Mesa, Arizona 85215

1 **Sullivan Law Office**
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3 2929. Power Road, Suite 210
4 Mesa, Arizona 85215
5 (480) 285-1908
6 Email: dianne@sullivanlawaz.com
7 Attorney for Petitioner

8 **COURT OF APPEALS, STATE OF ARIZONA**
9 **DIVISION ONE**

10 DAVID LETTRICH,
11
12 Petitioner,

Court of Appeals
Division One
No:

13 v.

14 SUPERIOR COURT OF THE STATE
15 OF ARIZONA, in and for the County
16 of Maricopa, the Honorable Bradley
17 Astrowsky, a Judge thereof,

Maricopa County Superior Court Case
No.: FN2018-001185

18 Respondents,

19 PAMELA LETTRICH,
20
21 Real Party In Interest.

22 **PETITION FOR SPECIAL ACTION**

23 DATED this 17 day of October 2019.

Sullivan Law Office

By: _____

Dianne Sullivan
Attorney for Petitioner

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TABLE OF CONTENTS

| | Page |
|------------------------------|-------------|
| Table of Authorities | 3 |
| Introduction | 4 |
| Jurisdictional Statement | 5 |
| Statement of Issues | 7 |
| Statement of Facts | 7 |
| Argument | |
| I. Standard of Review | 8 |
| II. Applicable Rules and Law | 8 |
| III. Sanctions | 9 |
| IV. Attorney's Fees | 11 |
| V. Conclusion | 11 |

1 **TABLE OF AUTHORITIES**

2
3 **CASES**

4 *City of Phoenix v. Superior Court*, 158 Ariz. 214, 216,
762 P.2d 128,130 (App. 1988).....5

5 *Fragoso v. Fell*, 210 Ariz. 427,
6 111 P.3d 1027, 1030 (App.2005).....

7 *Matter of Guardianship/Conservatorship of Denton*,
8 190 Ariz. 152, 154, 945 P.2d 1283, 1285 (1997).....6

9 *Volk v. Brame*, 235 Ariz. 462, 464, 333 P.3d 789, 791
(Ct. App. 2014)5

10 *W. Sav. & Loan Ass'n v. Diamond Lazy K Guest Ranch, Inc.*, 18 Ariz. App.
11 256, 261, 501 P.2d 432, 437 (1972).....6

12 **RULES**

13 Ariz.R.P.Spec.Actions 3(a), 17B A.R.S. Special Actions,
Rules of Procedure.....5

14 Ariz.R.P.Spec.Actions 1(a), 17B A.R.S 17B A.R.S. Special Actions,
15 Rules of Procedure.....5

16 Ariz.R.P.Spec.Actions 4(g), 17B A.R.S. Special Actions,
17 Rules of Procedure.....11

18 Rule 91(e), Arizona Rules of the Supreme Court.....4,6,7,8,9

19 **CONSTITUTIONAL PROVISIONS**

20 Article 6, Section 21, of the Arizona Constitution..... 4,6,7,8,9

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INTRODUCTION

The issues addressed in this Special Action pertain to a family court dissolution of non-covenant marriage. Petitioner seeks relief from this Court for the Trial Court's failure to issue an under advisement Ruling (Decree of Dissolution) pursuant to Article 6, Section 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme Court.

In the instant case, the parties appeared before the Trial Court on May 17, 2019 for a two-hour evidentiary hearing on Petitioner's Petition for Dissolution of Non-Covenant Marriage without children. The issues before the Court were spousal maintenance, division of real and personal property, debts, retirement assets, and attorney's fees. At the conclusion of the hearing, the Trial Court took the matter Under Advisement.

No ruling or Decree was issued as required by Article 6, Section 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme Court. After several calls and emails to the Court staff regarding a ruling, Petitioner's counsel filed a Request for Immediate Ruling on July 22, 2019. When this Request failed to produce a Decree, counsel for Petitioner sought the assistance of the Presiding Family Court Judge. Although she was given assurances that the matter would be resolved, as of the date of this filing, no ruling or Decree has been issued by the Trial Court.

1 For these reasons, this Special Action was initiated, and Petitioner seeks an
2 expedited review.

3 JURISDICTIONAL STATEMENT

4 This Court has discretion to accept special action jurisdiction to review the
5 denial where there is a need to expedite resolution of the issue. *City of Phoenix v.*
6 *Superior Court*, 158 Ariz. 214, 216, 762 P.2d 128, 130 (App. 1988). The questions
7 that may be raised in a special action include, “(a) [w]hether the defendant has
8 failed to . . . perform a duty required by law as to which it has no discretion . . .”
9 Ariz.R.P.Spec.Actions 3(a), 17B A.R.S. Special Actions, Rules of Procedure.
10 Special action jurisdiction is appropriate where there is no equally plain,
11 speedy and adequate remedy by appeal. Ariz.R.P.Spec.Actions 1(a), 17B
12 A.R.S. 17B A.R.S. Special Actions, Rules of Procedure. It is also
13 appropriate to accept jurisdiction when “under no rule of law can a trial
14 court’s actions be justified.” *Volk v. Brame*, 235 Ariz. 462, 464, 333 P.3d
15 789, 791 (Ct. App. 2014). In the present case, unless special action
16 jurisdiction is accepted, Petitioner will continue to be unfairly and
17 prejudicially denied resolution of his dissolution of marriage within the
18 statutory timeframe. This Court has previously stated that,
19

20 “Failures of due process are inherently of statewide importance. When due
21 process succumbs to the demands of expedience created in high-volume
22 settings such as family court, the risk that the error will recur is real and
23 special action jurisdiction is appropriately exercised.”

1 *Id.* at 464.

2 The issues raised in this Petition are purely questions of law and procedure,
3 and the acceptance of special action jurisdiction is appropriate. *Matter of*
4 *Guardianship/Conservatorship of Denton*, 190 Ariz. 152, 154, 945 P.2d 1283,
5 1285 (1997). Petitioner contends that the Trial Court violated Article 6, Section
6 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme
7 Court, by failing to rule within sixty days of the parties' May 17, 2019 Evidentiary
8 Hearing, as well as Petitioner's Request for Immediate Ruling, filed on July 22,
9 2019.

10
11 Petitioner has no equally plain, speedy and adequate tool for review of the
12 Trial Court's ruling by appeal. Petitioner's claim involves a purely legal question
13 – Whether the Trial Court failed to perform a duty when it failed to issue an Under
14 Advisement ruling within 60 days, as well as failed to rule on Petitioner's Request
15 for Ruling within 60 days.

16 As this issue was previously been specifically addressed by this Court in
17 the published decision of *W. Sav. & Loan Ass'n v. Diamond Lazy K Guest Ranch,*
18 *Inc.*, 18 Ariz. App. 256, 501 P.2d 432 (1972), when it stated that if a Trial Court
19 violated the sixty-day Rule, the remedy is “a mandate from this court that the
20 family court enter a ruling on the matter.” *Id.* at 261, 437. Petitioner respectfully
21
22
23

1 requests that this Court accept special action jurisdiction and address the merits
2 of this matter.

3 STATEMENT OF ISSUES

- 4 **1. Did the Trial Court violate Article 6, Section 21, of the Arizona**
5 **Constitution and Rule 91(e), Arizona Rules of the Supreme Court by**
6 **failing to issue a Decree of Dissolution with sixty days of the parties'**
7 **final evidentiary hearing?**
- 8 **2. Did the Trial Court violate Article 6, Section 21, of the Arizona**
9 **Constitution and Rule 91(e), Arizona Rules of the Supreme Court by**
10 **failing to rule on the Petitioner's Request for Immediate Ruling, filed**
11 **on July 22, 2019?**
- 12 **3. Should the Trial Court be sanctioned for failing to comply with**
13 **Article 6, Section 21, of the Arizona Constitution and Rule 91(e),**
14 **Arizona Rules of the Supreme Court?**
- 15 **4. Should the Petitioner be awarded his fees and costs on appeal**
16 **pursuant to Rule 4(g), 17B A.R.S. Special Actions, Rules of**
17 **Procedure?**

18 STAMMENT OF FACTS

19 Petitioner and Appellee were married on December 23, 2006 in Gilbert,
20 Arizona. Petitioner filed his Petition for Dissolution of Marriage on June 7, 2018.
21 Appellee was served with a copy of same o June 19, 2019. Appellee filed a
22 Response on August 6, 2018. The parties were unable to reach a final agreement
23 in mediation, so the Trial Court set a final Evidentiary Hearing to resolve all
outstanding issues for May 17, 2019.

The parties appeared for trial on May 17, 2019. The Trial Court took the
matter under advisement. When the Trial Court failed to issue a decision (in this

1 case a Decree of Dissolution) within sixty (60) days, Petitioner filed a Request for
2 Immediate Ruling on July 22, 2019. As of the date of this Special Action, no
3 ruling or Decree has been entered by the Trial Court.

4 ARGUMENT

5 I. STANDARD OF REVIEW

6 In this case, Respondent failed to violated Article 6, Section 21, of the
7 Arizona Constitution and Rule 91(e), Arizona Rules of the Supreme Court by
8 failing to issue a Ruling within sixty (60) days. Respondent failed “to perform
9 a duty required by law as to which he has no discretion.”
10 Ariz.R.P.Spec.Actions Rule 3(a), 17B A.R.S. Special Actions, Rules of
11 Procedure.

12 II. APPLICABLE RULES AND LAW

13 A. Did the Trial Court violate Article 6, Section 21, of the Arizona 14 Constitution and Rule 91(e), Arizona Rules of the Supreme Court 15 by failing to issue a Decree of Dissolution with sixty days of the 16 parties’ final evidentiary hearing?

17 The Petitioner contends that Rule 91(e), Arizona Rules of the
18 Supreme Court and Article 6, Section 21, of the Arizona Constitution
19 have been violated by the Respondent. The parties appeared before the
20 Trial Court for a final Evidentiary Hearing on all outstanding issues on
21 May 17, 2019. As of the date of this filing, no ruling or Decree has been
22 issued by the Respondent. Therefore, there is no argument that Article 6,
23

1 Section 21, of the Arizona Constitution and Rule 91(e), Arizona Rules of
2 the Supreme Court have been violated.

3 **B. Did the Trial Court violate Article 6, Section 21, of the Arizona**
4 **Constitution and Rule 91(e), Arizona Rules of the Supreme Court**
5 **by failing to rule on the Petitioner’s Request for Immediate**
6 **Ruling, filed on July 22, 2019?**

7 The Respondent violated Article 6, Section 21, of the Arizona
8 Constitution and Rule 91(e), Arizona Rules of the Supreme Court by
9 failing to issue a Ruling within sixty (60) days. The Petitioner filed a
10 “Request for Immediate Ruling” regarding the under advisement
11 Petition for Dissolution on July 22 2019. As of the date of this filing,
12 no ruling or Decree has been issues by the Respondent. Therefore,
13 there is no argument that Article 6, Section 21, of the Arizona
14 Constitution and Rule 91(e), Arizona Rules of the Supreme Court have
15 been violated.

16 **C. Should the Trial Court be sanctioned for failing to comply with**
17 **Article 6, Section 21, of the Arizona Constitution and Rule 91(e),**
18 **Arizona Rules of the Supreme Court?**

19 The “sixty-day rule”, at least as it pertains to Rule 91(e), Arizona
20 Rules of the Supreme Court, is an administrative rule, meant to ensure
21 that cases are resolved in a timely fashion, in the interests of justice.
22 There is no quasi-judicial immunity for administrative acts. Additionally,
23 sitting Superior Court Judges are required to submit regular affidavits
(March, June, September, and December) that no cases assigned to them

1 have any matters that have been under advisement for more than sixty
2 days. Petitioner is unaware as to whether or not the Respondent has
3 disclosed this case on the September report to the Administrative Director
4 of the Court.

5 The Petitioner is a Major in the United States Army. Upon
6 information and belief, he is about to be deployed for the second time
7 since the May trial date to an active combat zone. Military regulations
8 required that the Petitioner provide the Real Party in Interest with monthly
9 support, similar to spousal maintenance. He cannot cease these payments
10 to the Real Party in Interest until a Decree of Dissolution is entered. The
11 Respondent's delay has cost the Petitioner several thousand dollars in
12 additional payments to the Real Party in Interest.

13 Based on these facts, the Petitioner requests that this Court enter
14 sanctions against the Respondent in an amount equal to the additional
15 payments he has been required to make to the Real Party in Interest since
16 the end of the sixty- day period.

17
18 **D. Should the Petitioner be awarded his fees and costs on appeal**
19 **pursuant to Rule 4(g), 17B A.R.S. Special Actions, Rules of**
20 **Procedure?**

21 Petitioner requests an award of his reasonable attorney's fees and
22 costs. There is no argument that can be made to justify the Respondent's
23

1 inaction in this matter. The Petitioner should not have to bear the burden of
2 his attorney's fees and costs incurred to have this Court enter an Order that
3 the Respondent perform his job duties as a Superior Court Judge.

4 **III. CONCLUSION**

5 Based upon the foregoing, Petitioner respectfully requests that this Court
6 order the Respondent, Judge Bradley Astrowsky, to issue a Decree of
7 Dissolution in this matter. The Petitioner furthermore requests that a
8 reasonable sanction be ordered to compensate the Petitioner for his losses
9 incurred due to the Trial Court's lack of diligence in this matter. Petitioner
10 also requests an award of his reasonable attorney's fees and costs.

11 DATED this ___ 17 ___ day of October 2019.

12 **Sullivan Law Office**

13
14 By: _____
15 Dianne Sullivan
16 2929. Power Road, Suite 210
17 Mesa, Arizona 85215
18 (480) 285-1908
19 Email: dianne@sullivanlawaz.com
20 Attorney for Petitioner
21
22
23

Resp
19-362 & 19-363
2/11/20



**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

From the Chambers of
Bradley H. Astrowsky
Judge of the Superior Court

125 W. Washington Street
Phoenix, AZ 85003

February 10, 2020

Commission on Judicial Conduct
1501 W. Jefferson Street, Suite 229
Phoenix, Arizona 85007
cjc@courts.az.gov

RE: Response to Case Nos. 19-362 & 19-363

Dear Commission Members:

Thank you for the opportunity to respond to the Notice of Complaint. I am both humbled and embarrassed by this experience. I understand why the complaint was made. I sincerely apologize to the complainant, her client, and the other party concerning this matter.

While I experienced issues with clerk calendaring, calendaring is ultimately my responsibility. A change in personnel and an increase in calendar management by me, has addressed and will continue to resolve any potential calendaring issues.

Another reason for the delay, and one that has been resolved, concerns my involvement with an out-of-county criminal matter. Long before I learned of my rotation to a Family Department assignment, I volunteered to handle a high-profile child molestation matter for Yavapai County. I volunteered to handle this matter when I was assigned to the Criminal Department. This matter required much work and even resulted in a published opinion via a special action with the Court of Appeals. Before this matter was scheduled for trial, I learned that I was to be rotated to a Family Department assignment. When I asked the then presiding judge what would happen to the Yavapai County matter given my re-assignment, I was told that I must keep the matter, but a commissioner would be assigned to cover my Family Department calendar while I was in trial, as the trial was scheduled to begin after my rotation. In advance of trial, I asked for the identity of the person who would cover my calendar while I was in trial in Camp Verde. I was told that I would not receive any coverage or other assistance, other than for emergency matters. The trial lasted over a month and required me to cover my family calendar on Monday, drive to Yavapai County Monday

night, preside over the trial Tuesday through Friday, and then drive home Friday night. I worked on my Family Department cases as best I could on nights and weekends, however, the criminal trial required me to do research and address trial issues nightly as well. As a result of this schedule, it became difficult to stay on top of the volume of filings we receive on a Family Department calendar. Unfortunately for me, the jury could not reach a verdict on all counts charged in the indictment. The presiding judge directed me to handle the re-trial as well. Again, while I was promised assistance during this lengthy re-trial, I was not provided with same. I repeated the same schedule as before. Having to preside over two lengthy criminal trials in another county, created a deep hole from which it was difficult to recover.

Regardless of the above the main reason for the delay in the ruling concerns personal issues, of which I would prefer not to be made public. My issues do not pertain to substantive competence, an inability to make decisions, or an inability to author opinions. The reason for the delay concerned issues in my personal life that rendered working on a family department calendar to be difficult.

I have been a Maricopa County Superior Court Judge for nearly eight years without issue, absent the present one. I take my role as a judge and my responsibility to the litigants very seriously. However, issues that developed in my personal life made my assignment in the family department most difficult.

Family Department judges are tasked to handle several hundred cases. This requires me to routinely work 70+ hours per week. The assignment required me to read about or hear testimony concerning families falling apart, the amazingly cruel things people do to each other during the break-up of a relationship, and the impact of same upon children. If one is experiencing issues in one's own life that relates in any way to these issues, one can easily become overwhelmed. If one is feeling any sort of depression concerning one's related personal issues, dealing with the similar issues of a plethora of others will, naturally, lead to the worsening of one's depression. This is what occurred to me.

I presided over very sad child abuse and homicide matters. I heard many people tell extremely emotional stories of their trauma. While the impact of this secondary trauma upon me is unknown, it didn't impact my performance as a judicial officer. This is due to the fact that I, thankfully, hadn't personally experienced or was presently experiencing such trauma. Unfortunately, the close connection between what I was actively experiencing and the cases I handled led to a depression. That, in turn made it difficult for me to muster the energy and motivation to complete certain tasks such as the one involved in this present complaint.

I had to preside over cases that have had a negative impact upon my personal health. As I have no control over my assignment, I was at a loss as to what to do. I felt alone and unsupported, albeit those were feelings I imposed upon myself. In retrospect I should have been more vigilant in my need for assistance. In the moment, I lacked the ability to do same.

Please note that I choose not to divulge specifics concerning matters of a personal nature. It is enough to state that my issues related to the topics I read and heard about every day, for hours a day. Should the Commission require additional information or detail, I would prefer to provide same, if necessary, in as confidential a manner as this process allows.

I will accept whatever decision the Commission makes concerning my conduct. The existence of this matter and my own actions that led to same are most

embarrassing. I failed to perform in conformance with the requisite standards and in conformance with the standards I set for myself. Again, I stress that the responsibility concerning the subject matter of this complaint is mine and mine alone. A temporary re-assignment to a different department certainly would have assisted me and perhaps prevented this letter. Unfortunately, such accommodations are not made. I felt alone, unsupported, and stuck. I didn't have the strength to be a better advocate for myself or address my needs. As a result, my difficulties grew with each passing day which, in turn, increasingly negatively impacted my mental health, and made completing my work more difficult. Regardless, I am alone responsible for the delay, and should have been more vigilant to avoid same.

This experience has, honestly, scared me and caused me to focus more on the litigants' needs than my own. I am on top of my work. I know that I must remain in my current assignment for at least 18 more months. I will strive to do my best, treat litigants with respect, and completely and timely fulfill my obligations in the interim.

I willingly and humbly accept and await your decision. Thank you for the opportunity to provide my input into this process.

Sincerely,

/s/ Brad Astrowsky

Resp Supp 1
3/17/20
19-362 &
19-363



**SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY**

From the Chambers of
Bradley H. Astrowsky
Judge of the Superior Court

125 W. Washington Street
Phoenix, AZ 85003
(602) 372-2048

March 17, 2020

Commission on Judicial Conduct
1501 W. Jefferson Street, Suite 229
Phoenix, Arizona 85007
cjc@courts.az.gov

RE: Supplemental Response to Case Nos. 19-362 & 19-363

Dear Commission Members:

Thank you for the opportunity to provide supplemental information to the Notice of Complaint. I will address each issue you raised in the same order and numbering system used in your correspondence.

1. I did sign payroll certifications in the time period in question. Given my mental state at the time I generally did not think about this issue, nor did I think about seeking relief from the Chief Justice. Not as an excuse, but to explain my mental state, I was in a depression concerning personal issues that led to my not prioritizing the underlying matter as I should have and will in the future. My personal issues were overwhelming and more stressful than anything I had experienced to date. As indicated in my first response, I would prefer not to be more specific, but am willing to do so, in person, if requested. Again, I take full responsibility for my failure.

2. With prior assigned clerks I did not regularly receive a copy of the under advisement list. In addition, when I received same I observed that some cases were not on the list that should be, and others were on the list that should not have been. In addition, I noted several errors concerning the date on which matters were placed under advisement and the due date. For example, I can recall at least one case that was listed, but as the parties were to file supplemental information, the matter should not have been listed until the supplemental information was received. I can also recall at least one case that was on the list on which I had already ruled. I addressed these issues as they developed. Given these issues, I did not take the list as seriously as I should have. That was my error, and one that I regret. With my newest clerk, I receive a weekly updated under advisement report. If I do not receive a new report by Friday

morning, I ask the clerk for same. In addition, I go over the list weekly with my clerk to ensure its accuracy. Furthermore, I maintain my own list of the cases that I take under advisement in my office and compare that to the list I get from the clerk. When I have noted an error, which occurred just two weeks ago, I met with the clerk to amend the list, i.e. there was one case that I had on my list that she did not have on her list; thus, she added it. As I type this, there are three matters on my list, for which rulings are not due until late April. In addition, as I have developed more comfort in my first assignment in the Family Department, I am able to address matters more expeditiously than I was when I first began the assignment.

3. The trial in Yavapai County concerned *State v. Thomas Chantry*, P1300CR201600966. The first trial took place between July 20, 2018, through August 21, 2018; and there were pre-trial hearings leading up to the trial to address trial issues that were held on June 19, 2018, June 29, 2018, July 11, 2018, July 19, 2018, and several other dates. The first trial resulted in some guilty verdicts, some not guilty verdicts, and the jury were unable to reach verdicts on other counts. Between the first trial and the re-trial, hearings were held on September 18, 2018, September 28, 2018, October 19, 2018, November 14, 2018, December 17, 2018, January 29, 2019, and February 12, 2019. The re-trial took place between April 23, 2019, and May 8, 2019; there were post-verdict hearings held on June 14, 2019, and July 19, 2019. For this trial, I spent only one day per week handling my assigned calendar, then I would drive up to Camp Verde at night, spend the rest of the week there, and drive back home on Friday night. In the evenings of the trial, I was often required to do legal research to address evidentiary issues, as this was the most litigious case and labor-intensive case than any other I handled to date.

Again, I will accept whatever decision the Commission makes concerning my conduct. I repeat that the existence of this matter and my own actions that led to same are most embarrassing. I failed to perform in conformance with the requisite standards and in conformance with the standards I set for myself. Again, I stress that the responsibility concerning the subject matter of this complaint is mine and mine alone.

I willingly and humbly accept and await your decision. Thank you for the opportunity to provide additional input into this process.

Sincerely,

/s/ Brad Astrowsky