

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-375

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Judge:

Complainant:

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**ORDER**

January 28, 2020

A superior court judge self-reported delayed rulings in two civil matters.

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 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 Gus Aragón, Roger D. Barton and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on January 28, 2020.

Camp  
2019-375

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

[Submitted electronically via e-mail: [cjc@courts.az.gov](mailto:cjc@courts.az.gov)]

RE: Self Report on Possible Code Violation- Judge

Dear Members of the Commission:

I humbly come before you to report a possible violation of the Judicial Code.

I have consistently submitted Affidavits of Compliance, noting that I had no cases that were beyond 60 days from the date in which the issue was to have been decided by me. In my \_\_\_\_\_ on the bench, I have made it a priority to rule promptly on all cases, never coming anywhere near the 60-day limit. Yet this afternoon, I discovered that there are cases pending in our court that have exceeded the 60-day time limit.

By way of background, I was assigned to our court's \_\_\_\_\_ through \_\_\_\_\_ of \_\_\_\_\_ Following the annual judicial conference, I was rotated to my current position of \_\_\_\_\_ Judge and Judge \_\_\_\_\_ assumed my prior \_\_\_\_\_ calendar.

I received a communication late this morning from Judge [redacted]. She referenced [redacted] cases that were now pending before her but for which I had issued rulings before I rotated to [redacted]. She noted that each had pending motions for reconsideration that I had not ruled upon. I thanked her for notifying me and assured her that I would address them without delay.

The circumstances relating to why the rulings were past due differ so I will address each case separately.

This case involves a claim for personal injury. A Motion For Summary Judgment was filed in [redacted] and I denied the Motion in [redacted]. One month later, on or about [redacted] Defendant moved for reconsideration of my denial.

When the Motion For Reconsideration was filed, judicial staff entered the Motion into the divisions' e-filing system. The Motion was listed as an "event" in that system. It was then forwarded to me for review. I decided that the Motion For Reconsideration raised issues worthy of further review and, as such, directed that a responsive pleading be filed by Plaintiff by no later than [redacted]. The minute entry detailing my order was dated [redacted] but was not issued by the Clerk of the Court until [redacted] at [redacted].

Whether or not Plaintiff had recognized that the rules did not require a responsive pleading to a motion for reconsideration unless directed by the court, Plaintiff filed a Response on [redacted] the same day that the minute entry was drafted but BEFORE the minute entry had been issued. I had not received or reviewed that responsive pleading when I drafted my minute entry and I must assume that Plaintiffs were not aware of the fact that I was directing them to file a substantive response.

The electronic filing system utilized by our court is constructed in a fashion that when I ordered that a responsive pleading was to be filed by Plaintiff and directed the issuance of the minute entry that detailed that order, the electronic system [redacted] resulted out the "event" in a fashion that was similar to having the underlying issue resolved. Unbeknownst to me, this removed the pending Motion For Reconsideration in a fashion that would no longer have it flagged within the system.

In consultation with judicial staff, I learned this afternoon that in all likelihood, when the electronic system resulted out the Motion For Reconsideration on [redacted] concurrent with the actual issuance of the minute entry drafted [redacted] earlier, it would have appeared that the ruling included my consideration of the Response filed by Plaintiff on [redacted]. As such, the Response was not separately flagged.

I appreciate that someone not familiar with our e-filing system may not fully understand this explanation. So I will say that because of a combination of automation and the coincidental timing of the filing of the responsive pleading just before the issuance of minute entry directing a responsive pleading, there was no preservation of the "under advisement" or "pending ruling" status.

While the above explains how this Motion went without ruling, it does not excuse the delay. I and I alone am responsible for every case before me. While I would detail for you the new procedures that I am putting in place to ensure that this not occur again, I must conclude that the events as they transpired formed a "perfect storm" for this error to occur. I cannot construct how this would occur again as it would not have been overlooked, even with the circumstances described, had I remained on the \_\_\_\_\_ thereafter. This error would have been somehow discovered months ago if I were still managing that calendar.

This case is a somewhat complex property-related action with facts that are quite convoluted.

In addressing the matters before me, I issued a detailed minute entry on \_\_\_\_\_ that was designed to resolve all of the pending issues. Exactly \_\_\_\_\_ later, I rotated from the \_\_\_\_\_ that had me managing this case and, as referenced above, became the \_\_\_\_\_

Approximately \_\_\_\_\_ AFTER my reassignment ( \_\_\_\_\_ ), Plaintiffs filed a motion for reconsideration of my ruling that had been issued \_\_\_\_\_ earlier. The motion was not submitted to me, was not copied to me by Plaintiff and was not part of any e-filing system that I was overseeing. Rather, it was directed to Judge \_\_\_\_\_

As best as I have been able to reconstruct, sometime after the motion for reconsideration was filed, a copy of the motion for reconsideration was forwarded by Judge \_\_\_\_\_ staff to my judicial assistant. There is record of it having been logged in by my judicial assistant sometime after it was forwarded, but I have no recollection of having seen or reviewed the motion after it was received. It was not until after Judge \_\_\_\_\_ communicated with me earlier today that I had the motion printed and completed my review.

In any event, since I was no longer managing the previously assigned \_\_\_\_\_ calendar, the motion was not technically before me. However, with that said, it is clear that Judge \_\_\_\_\_ had forwarded the motion to me for determination. That is not at all uncommon for motions for reconsideration as the litigant is asking a judicial officer to reconsider that judicial officer's ruling. It would be unfair for a newly assigned judge to have to determine what was in the mind of the judge who issued the ruling so it is an unwritten policy among our bench that these motions should be decided by the judge who issued the underlying ruling, when possible.

#### *Current Status*

I was made aware of the timeliness issues in these two cases at \_\_\_\_\_ today. By \_\_\_\_\_ today, I completed rulings on both cases and forwarded them on to our Clerk of Court for issuance of a minute entry. Given the fact that it is a \_\_\_\_\_ I expect both minute entries to be issued and forwarded to parties and counsel by close of business on \_\_\_\_\_

I have therefore taken all steps I could to ensure that no further delay was suffered by any of the parties.

*Further Action*

I have had the privilege of serving the \_\_\_\_\_ for the past \_\_\_\_\_  
I have signed an oath to uphold the law and the Constitution of the United States and the State of Arizona. It is my hope that over these \_\_\_\_\_ serving on this bench, I have lived up to the ideals of the institution that I serve. To the extent I have fallen short in these \_\_\_\_\_ I hope you can see that it was the result of error or unforeseeable circumstances and not in any fashion an effort to mislead or misrepresent.

With that said, I must reiterate that I take sole responsibility for not having issued a timely ruling in these \_\_\_\_\_. It therefore naturally follows that I must take full responsibility for having signed a certification that incorrectly stated that I had no under advisement rulings past 60 days. I therefore submit this violation to you for any further action you may feel is warranted under the circumstances.

Thank you for your time and consideration.

Sincerely,

Judge