

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 20-064

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Judge:

Complainant:

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**ORDER**

June 18, 2020

The Complainant alleged that a superior court commissioner was biased in favor of the opposing party and ignored applicable law.

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 Denise K. Aguilar and Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 18, 2020.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2020-064**

**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.

I believe she was friends with the defendants. At the very least, she was protecting him and his PLLC. He is a \_\_\_\_\_ attorney. She is a \_\_\_\_\_ judge. On a prior hearing, I mentioned that he was a Law School graduate and her demeanor changed instantly.

She ultimately ruled against me and dismissed my case. This is despite me asking to speak with an actual judge instead of the wanna-be judge that she is. I pray she never becomes an actual judge and that you remove her from the bench as soon as possible. I drove from out of state and paid for parking just to attend the hearing that she post-poned. She asked for additional info in order to approve my request for default judgment against the defendants. Instead of informing me right then and there that she felt that there may be a problem, she let it go at my expense. I paid an attorney and a paralegal after that - completely wasted money. She toyed with me. She was gaming me. She was the opposite of judicially efficient and should be severely sanctioned for that. Her actions were so egregious that she caused that her official capacity and her employer be sued (albeit briefly) by me in federal court. Her state attorneys claimed immunity and I was so disgusted with it all that I let it go.

She ignored Federal Law which SPECIFICALLY applied to my case. 28 § U.S.C. (attached) which tolls the statute of limitations. She then pretended that I had allowed the statute of limitations to lapse (I did not), dismissed my case and ordered that I pay the filing fee (also contrary to law). I had to fight that as well.

What she did spit in the face of law and justice. There is no sugar coating that. No other way to describe it. She trampled on my constitutional rights and also as a citizen and member of the general public seeking redress for an extreme wrong committed by the defendants.

WHO NEEDS DEFENSE ATTORNEYS, or even to pay an answer fee (yes, she cost her employer an answer fee by not requiring an answer from the defendant) when you have sick little wanna-be judge wenches like her protecting her friends (defendants) and ruing the only system of public trust!?

Without law, there is chaos. She has ignored the law and invited chaos.

# Supreme Court Holds That the Tolling Statute Applicable to State Law Claims Subject to Federal Supplemental Jurisdiction Stops the Statute of Limitations Rather Than According Plaintiffs a Grace Period

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Under 28 U.S.C. § 1367(a), a plaintiff may bring strictly state-based claims in federal district court if they are related to a claim over which the district court has original jurisdiction. This is more commonly known as Supplemental Jurisdiction. One major issue that has arisen when such jurisdiction is asserted is whether or not the applicable state-specific statute of limitations is tolled under 28 U.S.C. § 1367(d) upon the filing of the federal action. Recently, the Supreme Court addressed this very issue in *Artis v. District of Columbia*, 138 S.Ct. 594 (2018).

In *Artis*, after being fired by the District of Columbia, Stephanie C. Artis (Ms. Artis) filed suit in the U.S. District Court for the District of Columbia alleging four claims (one federal-based claim and three district-based claims): (1) employment discrimination in violation of Title VII of the Civil Rights Act of 1964; (2) retaliation in violation of the District of Columbia Whistleblower Act; (3) termination in violation of the District of Columbia False Claims Act; and (4) wrongful termination against public policy. After approximately two years, the federal court dismissed Ms. Artis' Title VII claim, and declining to exercise its supplemental jurisdiction over her remaining state law claims, dismissed them without prejudice. In citing the statute, the court highlighted that Ms. Artis had 30 days from the dismissal to file her claims in the D.C. Superior Court. Fifty nine (59) days after dismissal of the federal action, Ms. Artis filed her remaining district-based claims in the D.C. Superior Court, which were eventually dismissed as time-barred by 29 days.

After multiple unsuccessful appeals of the Superior Court's decision, the U.S. Supreme Court agreed to hear the case. On January 22, 2018, in a 5-4 decision, the Supreme Court held that any state statute of limitations is tolled when a claim is brought in U.S. District Court based upon Supplemental Jurisdiction.

## Specific Statutory Language at Issue

### **28 U.S.C. § 1367(d):**

**The period of limitation for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and**

*Over* → <sup>1/2</sup>

**for a period of 30 days after it is dismissed** unless State law provides for a longer tolling period.

## The Majority Opinion

Written by Justice Ginsberg, the majority opinion made three key points: (1) tolling periods are different from grace periods; (2) under a plain reading of the statute, “the limitations clock stops the day the claim is filed in federal court and, 30 days post[] dismissal, restarts from the point at which it had stopped”; and (3) the dissent’s interpretation would lead plaintiffs to file parallel suits in both courts, which is a “wasteful, inefficient duplication” that does not advance the goals of Federalism.

## The Dissent

Written by Justice Gorsuch, the dissent vehemently disagreed with the majority opinion. The dissent contends that the basic intention behind the law was to provide a plaintiff with a limited but reasonable amount of time, thirty (30) days, for re-filing state claims after the dismissal of a federal action. The dissent concludes by arguing the Court has now “wandered so far from the idea of a federal government of limited and enumerated powers that we’ve begun to lose sight of what it looked like in the first place.”

## Effect of Decision

As a result of this decision, there is now national uniformity where it previously did not exist. Pursuant to *Artis*, once a federal action is filed, state law statutes of limitations are tolled and, unless state law provides for a longer tolling period, do not restart until thirty (30) days after the district court’s dismissal of the federal claims.

SUPERIOR COURT OF ARIZONA  
COUNTY

CLERK OF THE COURT

v.

MINUTE ENTRY

Courtroom:

This is the time set for Default Hearing. Plaintiff, is present on his own behalf. No other parties appear.

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

is sworn and testifies.

Discussion is held.

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Over →

SUPERIOR COURT OF ARIZONA  
COUNTY

IT IS ORDERED Plaintiff shall file an itemized list of damages regarding Defendant The  
by **close of business**,

THE COURT FINDS that reasonable diligence was not used prior to serving through  
publication, pursuant to the Court of Appeals Decision in *Ruffino, et al. v. Lokosky*.  
Accordingly,

IT IS FURTHER ORDERED denying Plaintiff's Motion for Default Judgment against  
Defendant without prejudice.

Plaintiff's exhibits 1 through 5 are marked for identification and received in evidence.

IT IS FURTHER ORDERED setting a Telephonic Status Conference on  
in this Division. The parties are directed to contact this Division at least five  
minutes prior to the hearing to All parties appearing telephonically must be joined  
in a single conference call and be prepared to hold until called to testify.

The telephone call should be placed from a telephone in an area with no background noise  
as this will prevent the parties from hearing the proceedings in the courtroom. The call may not  
be placed from a vehicle. Also, the use of cellular telephones to call into the hearing is strongly  
discouraged.

Matter concludes.

**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.**