

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-327

Judge:

Complainant:

ORDER

December 16, 2020

The Complainant alleged a pro tem superior court judge disregarded his pleading and made judgments without sufficient information.

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

Copies of this order were distributed to all appropriate persons on December 16, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

20-327

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 have filed another separate complaint in which Judge _____ behavior constitutes judicial misconduct. That complaint is related to Case _____ Please see that complaint for comparison.

What I am experiencing with _____ County's judicial system is a fundamental misunderstanding of the importance of establishing the true merits of a case at the outset so that litigants and the court system aren't bogged down with the civil pretrial process related to a case without merit. The judicial conduct that I am experiencing is a result of judges who seem to follow one rule being, " _____ " the difficult questions on the underlying merits of a case until later in the litigation process. Legal questions should be determined by a Judge and not left to a jury to decide. Leaving jurors with a legal decision is, in my opinion, judicial misconduct. That is what is happening in this case.

In this matter, Judge _____ is exhibiting similar behavior that I experienced in the other complaint against Judge _____ (Case _____ . Judge _____ also exhibits behavior(s) similar to Judge _____ with interruptions when I attempt to present my arguments (See, Audio Recording Oral Arguments in general). Judge _____ also exhibits an appearance of bias in favor of litigants who have counsel compared to pro se litigants.

This case (_____) has been transferred from Judge _____ (a complaint was filed by me regarding Judge _____ conduct and he recused himself). This is the same case _____ with the new Judge _____ Judge _____ misconduct is most notably his making judgments either without sufficient information, not familiarizing himself with the matter prior to a hearing (audio recording oral arguments _____ in general) using the excuse that his docket is full, interrupting me during the hearing, disregarding a pleading (my motion to dismiss which had no ambiguity but was filed with a response). For example, Judge _____ did not discuss _____ motion to dismiss most likely because he either didn't read it or because he asked _____ if she had any prior motions that were not previously ruled on and _____ said, " _____ ". Judge _____ did ask both _____ and myself early in the hearing if we had any motions pending but we both misunderstood Judge _____ question to mean " _____ ". As such, I noticed near the end of the hearing that Judge _____ had not responded to either of our motions to dismiss. Again, both dismissal motions (included in a response to plaintiff's motion to compel) were very clear and lacked no uncertainty or ambiguity (I'm happy to provide those to the Commission if requested). Judge _____ responded to me when I asked why we hadn't addressed the motions to dismiss and his response was, "

" He further states, " _____ " (See, audio recording at _____ forward). My thoughts on Judge _____ comments are that it is unfair to me as a defendant for the Court to not consider my (or _____) so called, " _____ " as a " _____ "

This is where we are as of now. I am expecting continued judicial misconduct similar to what I have expressed in both this complaint against Judge _____ the other complaint against Judge _____ and Judge _____ Please accept this along with my emails already provided to _____

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IN THE SUPERIOR COURT
COUNTY, STATE OF ARIZONA

HONORABLE
JUDGE PRO TEMPORE COURTROOM:
DIGITALLY RECORDED

CLERK OF SUPERIOR COURT
BY: DEPUTY CLERK
HEARING DATE:

	Plaintiff,	
vs.		ORAL ARGUMENTS
		START:
	Defendants,	
	Third Party Defendant,	

APPEARANCES: Attorney for Plaintiff.

APPEARANCES: Defendants.

The Court confirms that is a party to the case but is not present.

This is the time set for oral argument on the Motion to Compel filed by Plaintiff. The Court finds all parties are ready to proceed.

The Court has only been recently assigned this case and discussion ensues regarding whether there are any outstanding motions which were previously filed that need to be addressed. The parties confirm all previously filed motions have been addressed.

The Court advises the parties that a trial scheduling conference will be set today and hopes to see a joint report and scheduling order filed.

The Court will divide the time today equally between the parties, and is advised will be relying on her written pleadings.

presents arguments to the Court.

presents arguments to the Court. The Court confirms it has no conflicts of interest.

Discussion ensues regarding the exchange of disclosure and discovery.

* requests the Court dismiss the case. The Court declines to dismiss this case at this time as the hearing today is not on a dispositive motion, but on a motion to compel discovery.

continues to provide argument to the Court.

The Court is advised by that there is outstanding disclosure which he still needs to gather with regard to historical relationship documents and financial records.

provides final statements regarding the motion to compel.

* The Court states its findings for the record, including that the hearing today is only with regard to the motion to compel and not a re-hearing on the dispositive motions that were already ruled on by Judge . In preparation for any trial, the parties must disclose the witnesses and evidence they will be presenting and must do so in accordance with the rules of procedure.

indicates the Court has not addressed a motion to dismiss within his motion to compel. The Court advises that if he has a dispositive motion to file, he needs to file it separately.

WHY? PLAINTIFF DIDN'T REPLY BUT

IT IS ORDERED granting Plaintiff's motion to compel.

IT IS ORDERED that Defendant's provide a Rule 26.1 Initial Disclosure Statement to Plaintiff within forty days of today's date.

HAD THE

The Court does find there was a response provided to the request for production, but it is deficient. If Defendant intends to provide additional information in response to interrogatories or the request for production, he is to do that within forty days of today's date.

SUPPORT ON IT?

WHY?

. Defendant leaves the Courtroom at this time.

* addresses the Court with regard to the fact that this Court is presiding over two cases involved in with Defendants. Discussion ensues regarding any possible conflict. The Court confirms there is no conflict of interest, and again indicates to that the Court is only addressing the motion to compel today and is not making or re-visiting any dispositive motions today.

IT IS ORDERED setting a Trial Scheduling Conference on The Court allots one hour for that hearing. The parties and counsel may appear meeting if they wish to do so. The

IT IS ORDERED that the Joint Report and proposed scheduling order are to be filed with the Court no later than

is directed to provide a form of order for the Court's signature containing the rulings made today.

The Court stands in recess at

Filed on

Cc:

Attorney for Plaintiff

Co-Counsel for Plaintiff

Defendant

Defendant

Defendant

Honorable

**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.**