

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-330

Judge:

Complainant:

ORDER

The Complainant alleged a justice of the peace engaged in improper ex parte communications and participated in judge shopping.

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.

After review, the Commission found the manner in which the underlying case at issue was transferred to an out-of-county judge gave rise to an appearance of impropriety. While this was improper under Rule 1.2 of the Code of Judicial Conduct, the Scope Section of the Code provides that not every transgression will result in the imposition of discipline. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Commission Rules 16(b) and 23(a), but to issue a warning letter to the judicial officer reminding the judge to consider how the optics of a behind-the-scenes transfer can result in an appearance of impropriety.

Commission member Christopher P. Staring did not participate in the consideration of this matter.

Dated: May 13, 2021

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 13, 2021.

20-330

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.

See Appendix A: Motion to Vacate (incorporated herein).
See Letters to _____ Exhibits 1 & 2 of the Motion to Vacate.

_____ was filed on _____ After the complaint was served on the
Defendants in _____ had ex parte conversations with _____ County
Court Presiding Judge _____ and Associate Presiding Judge _____ prior to
appearing for Defendants in _____ without notice to Plaintiffs.

Plaintiffs learned of the ex parte conversations when _____ admitted to it in a pleading Plaintiffs
received on _____ Exhibit A of the Motion to Vacate in Appendix A. According to
pleading, his ex parte communications concerned his " _____ " as an inactive Pro Tempore Judge
representing the Defendants in _____ County Court. But _____ did not discuss this matter with
Plaintiffs prior to his ex parte communications with _____ County Court Presiding Judge
and Associate Presiding Judge _____

_____ was assigned to the Honorable _____ an intelligent and apparently competent
attorney. _____ is an inactive Pro Tempore Judge in _____ County. Pursuant to Code of Judicial
Conduct Application D, there is no conflict of interest in his representing the Defendants before the
Honorable _____

Without prior notice and hearing to Plaintiffs, Judge _____ who is not assigned to the case, made
several rulings involving transfer to _____ County Court and back to _____ County Court.
Judge _____ in collusion with Judge _____ aided and abetted Attorney _____ fraudulent scheme
to judge shop for a less qualified but favorable judge with political alliance and affiliations to _____. The
disgraced former _____ of _____ County endorsed _____ failed attempt to be elected a
_____ in _____ County. Former _____ is the big brother to _____ County Court Judge
as a colleague to the reassigned " _____ " judge _____ who " _____ " to preside over
the case.

Code of Judicial Conduct, RULE 1.2. Promoting Confidence in the Judiciary
"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."

For reasons stated herein and in the enclosed Appendix, Associate Presiding Judge _____
violated Rules of the Code of Judicial Conduct. Judge _____ should be reprimanded and disciplined.

APPENDIX A

1 Plaintiff *pro se*
2 Plaintiff *pro se* Legist

3
4
5
6 IN THE COURT
7 COUNTY, STATE OF ARIZONA

8
9 an unmarried woman;
10 an unmarried man;
11 Plaintiffs,
12 -vs- and
13 wife and husband; et ux;
14 Defendants.

Case No.:
} **MOTION TO VACATE COURT'S**
} **MINUTE ENTRY AND ORDER**
} **SIGNED CLAIMING**
} **ASSIGNMENT OF JUDGE WAS**
} **" " AND STAY ALL**
} **DEADLINES PENDING**
} **EVIDENTIARY HEARING**
} Assigned to Honorable
} Improperly transferred to
} who declined, then transferred back to
} County and assigned to "
} from County—
} Without Plaintiffs' Knowledge or Consent

17
18 *To Defendants per 128(c): You have a right to file a written response to this motion*
19 *within ten (10) days from the date this motion was served. Your response must be filed with*
20 *the court, and copies of your response must be served on the other parties as provided by*
21 *Rule 120 of the [" "]. The court may treat*
22 *your failure to respond to a motion as your consent that the motion be granted.*

23 Pursuant to 141(c)(1)&(3) and 143 involving errors affecting
24 " " resulting in " " per A.R.S. §§ 12-411 & 22-204
25 and A.R.S. Sup.Ct.Rules, Rule 81, Code of Judicial Conduct ("CJC") 1.1, 1.2, 2.2, 2.3,
26 2.4, 2.5, 2.6, 2.9, 2.11, 2.12, and 2.15, (" ") and
27 (" ") (collectively " ") move to vacate the Court's unfounded assertion
that the assignment of this case to Judge " ".

Plaintiffs provided evidence of how Defendants' Attorney

1 (“ ”) engaged in fraud, misrepresentation, and other misconduct. *See also*
2 letters stipulated by incorporated into argument herein, that were sent
3 (EXHIBIT 1) and (EXHIBIT 2) to with copies
4 sent to and County Court Presiding Judges and
5 Court presiding Judge Attorney and
6 Arizona Commission on Judicial Conduct. Judge rejected receipt of the letter sent
7 As such, Judge opinion that transfer was “ ” is clear error and
8 must be vacated. Further, it was issued before Plaintiffs’ Replies were due per
9 115 and 128 in violation of CJC Rules *supra*.

10 admits to *ex parte* communications with Presiding Judge
11 and Associate Presiding Judge in _____ See “Defendants Response to
12 Plaintiffs’ objection to Transfer and Reassignment” filed

13 *Ex parte* communications must comply with CJC 2.9(A)(1)(b), (A)(3), (B), (D)
14 and Comments 1, 2, 5, 9, 10. Judges and were required to **PROMPTLY**
15 notify Plaintiffs of the *ex parte* communications and give Plaintiffs an opportunity to
16 respond. Plaintiffs did not learn of the *ex parte* communications until Plaintiffs received

17 “ ” on
18 On Presiding Judge “ ” of
19 by letter to the Honorable and Associate Presiding Judge
20 issued an “ ” hearing order stating “

21 ” The letter and order do not
22 mention any *ex parte* communications with Attorney or Associate Presiding
23 Judge The case was allegedly transferred “

24
25 ” Plaintiffs did not receive notice or opportunity to respond prior to the
26 transfer. **Plaintiffs did not receive a copy of the letter and order until discovered and**
27 **received by a court supervisor on _____**, Presiding Judge and Associate

1 Presiding Judge did not comply with Rule 2.9(A)(1)(b), (A)(3), (B), (D) and
2 Comments 1, 2, 5, 9, 10. Ergo, Judges and violated CJC 1.1, 1.2, 2.2,
3 2.3, 2.4, 2.5, 2.6, 2.9, 2.11¹, 2.12², and 2.15. Plaintiffs argue that Presiding Judge
4 caused Judges and to violate CJC Rules in violation
5 of A.R.S. § 13-303³, or colluded between judges, to be determined by Arizona
6 Commission on Judicial Conduct.

7 Associate Presiding Judge was not assigned to this case. This case was
8 assigned to the Honorable

9 Associate Presiding Judge held an “ ” hearing in his order filed

10 He did not comply with Rule 2.9(A)(1)(b), (A)(3), (B), (D) and Comments 1, 2,
11 5, 9, 10. Plaintiffs did not receive prior notice of the hearing and that Judge was
12 transferring the case back to County Court per A.R.S. §§ 22-

13
14 ¹ Judge committed similar misconduct in a civil traffic ticket case against

15 ² “Court administration will identify Judge as the judge assigned to this case.
16 The matter will continue to be heard in County Court, and all
17 pleadings and motions shall be filed accordingly. Courtesy copies shall be provided to
18 Judge as provided by rule.” Order filed

19 ³ 13-303. Criminal liability based upon conduct of another

20 A. A person is criminally accountable for the conduct of another if:

- 21 1. The person is made accountable for such conduct by the statute defining the offense; or
22 2. Acting with the culpable mental state sufficient for the commission of the offense, such
23 person causes another person, whether or not such other person is capable of forming the
24 culpable mental state, to engage in such conduct; or
25 3. The person is an accomplice of such other person in the commission of an offense
26 including any offense that is a natural and probable or reasonably foreseeable
27 consequence of the offense for which the person was an accomplice.

B. If causing a particular result is an element of an offense, a person who acts with the
kind of culpability with respect to the result that is sufficient for the commission of the
offense is guilty of that offense if:

1. The person solicits or commands another person to engage in the conduct causing such
result; or
2. The person aids, counsels, agrees to aid or attempts to aid another person in planning
or engaging in the conduct causing such result.

**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.**