

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 20-348

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Judge:

Complainant:

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**ORDER**

The Complainant alleged a pro tem justice of the peace engaged in improper ex parte communications in order to “judge shop” the litigation.

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 pro tem judge had a private conversation with two full-time sitting justices of the peace at the time the pro tem judge was considering representing the defendants in a pending civil matter in the same court where he served as a pro tem judge as he did not want to lose the ability to continue to serve as a pro tem in the future. As a result of the conversation, the underlying civil matter was transferred to an out-of-county judge in less than fully transparent circumstances, thus allowing the pro tem judge to reap the economic benefit of representing the defendants and continuing to serve as a pro tem judge. While this was improper under Rule 1.3 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 him that he cannot abuse the prestige of judicial office to advance his personal or economic interests.

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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.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

20-348

**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 attached and Complaints #1, #2, and #3 with shared Appendix A--incorporated herein.



Attachment to Judicial Complaint against  
Pro Tempore Judge #

**See also complaints** , , **with Appendix A ("App. A")**, incorporated herein.

Since the Arizona Supreme Court has issued ten Administrative Orders regarding the health, safety, and welfare of the courts during the COVID-19 pandemic. On Administrative Order suspended Rule 133(d) which provided litigants with a change of judge as a matter of right until to reduce the risk of virus exposure inherent in out-of-county judges' travel, and to ensure adequate judicial resources for backlog reduction.

is an inactive Pro Tempore Judge in County Court. Application D of Arizona's Code of Judicial Conduct ("CJC") controls activity as an attorney in County Court. As an inactive Pro Tempore Judge, must comply with Rules 1.1, 1.3, 2.2, 2.3, 2.5, 2.6, 2.9, 2.11, 2.15, and 2.16 of Arizona's Code of Judicial Conduct.

On and I filed in County Court. This case was assigned to the Honorable a competent lawyer.

The Defendants retained as their attorney. Rather than appear before the Honorable went forum/judge shopping for a non-lawyer Justice of the Peace in County that did not know the law to look for guidance from as a Pro Tempore Judge/Attorney Officer of the Court. To obtain this advantage, had *ex parte* communications with County Court Presiding Judge and Associate Presiding Judge claiming his Pro Tempore status caused " " But nothing in CJC Application D prevented from appearing before Judge to represent the Defendants. As such, conspired with Judges and to violate the letter and spirit of Administrative Orders 2020-75, 79, 114, 143, 177, and 179 to change the judge for this case.

In violation of CJC Rule 2.9, Pro Tempore or Presiding Judge did not promptly notify Plaintiffs of the *ex parte* communication or hold a status conference as to the alleged conflict. *Ex parte* communications must comply with CJC Rule 2.9 *et seq.*<sup>1</sup>, which required Presiding Judge and Associate Judge to **PROMPTLY** notify Plaintiffs of the *ex parte* communications and give Plaintiffs an opportunity to respond.

Instead, on Judge of by letter to the Honorable a non-lawyer Justice of the Peace in County, allegedly "

Associate Presiding Judge who was not assigned to the case, filed a Minute Entry with similar effect dated Exhibit C of Exhibit 1 in App. A. **Plaintiffs did not receive a copy of the letter and order until** . As such, *ex parte* communication violated Rules 1.1, 1.3, 2.2, 2.3, 2.5, 2.6, 2.9, 2.11, 2.15, and 2.16 of Arizona's Code of Judicial Conduct resulting in Presiding Judge and Associate Presiding Judge violating CJC Rule 2.9(A)(1)(b), (B), (D) and Comments 1 & 2 to violate CJC Rules 1.1, 1.2, 2.2, 2.3, 2.4, 2.5, 2.6, 2.9, 2.11, 2.12, and 2.15 and Administrative Orders 2020-75, 79, 114, 143, 177, and 179.

<sup>1</sup> See especially CJC Rule 29(A)(1)(b), (B), (D) and Comments 1 & 2.



Plaintiffs had no notice of the " " held by Judge on . On inconsistent with CJC Rules to cause misconduct of court staff per CJC 2.12, Judge improperly transferred the case back to County Court per A.R.S. §§ 22-114 and " [sic] for Judge to be a visiting judge in County Court in opposition to Administrative Orders 2020-75, 79, 114, 143, 177, and 179. Exhibit D of Exhibit 1 in App. A.<sup>2</sup> A.R.S. § 12-114 concerns surcharges on traffic diversion programs to have no bearing on this case. As such, *ex parte* communication caused Judge to violate CJC Rules 1.1, 1.2, 2.2, 2.3, 2.4, 2.5, 2.6, 2.9, 2.12, and 2.15.

In Defendants' Response filed (received ) to Plaintiffs' Objection to Transfer and Reassignment (Exhibit K of Exhibit 2 in App. A), admitted to committing fraud on the court by conducting the *ex parte* conversation. Exhibit A. Fraud on the court is analogous to the adage: " " In addition to violating CJC Rules, violated Rules of Professional Conduct ER 8.4(a), (c), (d), (e), and (f) to be address by the Arizona Bar.

There is nothing in the court record or CJC Rules to indicate that the Honorable is absent, sick, or cannot act per A.R.S. § 22-114 because Attorney is an inactive Judge Pro Tempore in County. stated in his Response filed in Exhibit A, page 1, lines 23-24: "Due to several issues pertaining to the Court, no Pro Tem will be asked to serve until further notice. Pro Tem Judges have not been used in any capacity since "<sup>3</sup>

As such, can represent the Defendants before the Honorable per CJC Rules without conflict of interest. Application D(3)<sup>4</sup> applies to . If cannot represent parties in County per Application D(2), (4), or (5), then keeping the case in County with a visiting judge does not resolve conflicts of interest<sup>5</sup> and conflicts with Administrative Orders 2020-75, 79, 114, 143, 177, and 179.

Cordially,

(Enclosure)

<sup>2</sup> "Court administration will identify Judge as the judge assigned to this case. The matter will continue to be heard in County Court. and all pleadings and motions shall be filed accordingly. Courtesy copies shall be provided to Judge as provided by rule."

<sup>3</sup> Arizona Supreme Court ordered County Court to be supervised by County Court Presiding Judge on

<sup>4</sup> "A pro tempore part-time judge who serves once or only sporadically in a specialized division of a court or in a court without specialized divisions may appear as a lawyer in such specialized division or court during such service."

<sup>5</sup> "Birds of a feather flock together." Judge , is a lifelong resident of County. He was not elected but appointed by his cronies on the County Board of Supervisors. Judge is a colleague of Judge . Judge is the kid brother of , the disgraced former of County who endorsed for Justice of the Peace

# EXHIBIT A

LAW OFFICES OF

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IN THE COURTS OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF

an unmarried woman;  
an unmarried man,  
Plaintiffs  
vs.  
and husband; and et ux, wife  
Defendant(s).

NO. \_  
***DEFENDANTS RESPONSE TO  
PLAINTIFFS' OBJECTION TO  
TRANSFER AND REASSIGNMENT***

Defendants, by and through , undersigned counsel, respectfully  
respond to Plaintiffs Objection to Transfer and Reassignment as follows:

Plaintiffs filed their complaint in the County Court.

Undersigned counsel, while maintaining a full, active law practice has sat as a Judge Pro Tem  
in that Court from time to time for the past . Although re-appointed for a  
term, the undersigned, as well as all other appointed Pro Tem Judges, have been informed that  
due to several issues pertaining to the Court, no Pro Tem will be asked to serve until further  
notice. Pro Tem Judges have not been used in any capacity since

**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.**