

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-090

Judge:

Complainants:

ORDER

The complainants alleged a justice of the peace made erroneous legal rulings, prejudged their case, attempted to coerce settlement, advocated for the opposing party, made a premature ruling, was biased in favor of attorneys, improperly attended a seminar conducted by attorneys who routinely appear before the judge, received favorable treatment at a community event by a party with many pending matters before the judge, and engaged in improper political or campaign activity.

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 that the judge prematurely ruled on a matter and engaged in improper political or campaign activity. The Commission did not find clear and convincing evidence to support the remaining allegations of the Complaint. While the judge's conduct was improper under Rules 1.2, 2.6(A), and 4.1(A)(5) 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 to ensure all response times have elapsed prior to ruling and to avoid engaging in conduct that gives the appearance he has publicly endorsed another candidate for public office.

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Commission members Roger D. Barton, Barbara Brown and Delia R. Neal did not participate in the consideration of this matter.

Dated: September 17, 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 September 17, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

21-090

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.

Please see attached statement.

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

Dear Commissioners:

We are writing to inform the Commission of conduct by Judge _____ in the management of case _____.

Our case arose from a dispute with a homeowners' association.

("_____") filed suit against us seeking \$ _____ in unpaid assessments and "charges"; we countersued claiming the _____ maintained an invalid lien on our home. Judge _____ ultimately entered a decision dismissing the counterclaim and awarding the \$ _____ in principal, \$ _____ in attorneys' fees, and _____ in costs. This judgment was reversed on appeal (_____) and remanded back to the _____ Court; the remanded case has not yet been decided.

Judge _____ has made _____ key rulings in our case so far: to dismiss our counterclaim and to grant summary judgment to the _____ (*Ruling to Dismiss Counterclaim _____ ; Ruling to Grant Summary Judgment _____*). In both instances, Judge _____ ruled against us without any explanation as to why. Judge _____ showed through his statements and rulings that he was not weighing the arguments being made before his court but was, instead, attempting to get our case off his docket as quickly as possible and deliver a decision in favor of the _____, even if this meant ruling without any basis in the facts.

1. " _____ ." At the pre-trial conference, Judge _____ held forth at some length about how it would be expensive for us if we did not settle the case. (*Recording of Pre-Trial Conference _____ , _____*). This

was the same argument made by the [redacted] to us in our negotiations outside of court: if we did not agree to their demands, we would pay exorbitant attorneys' fees. The attached email from paralegal [redacted], in which she explains, post-judgment, that her law firm will waive all but \$ [redacted] in principal as long as we agree to pay \$ [redacted] in attorneys' fees, is an example of the communications we had with them. (*Exhibit A*) Judge [redacted] should not have been making the plaintiff's extortionate argument—*settle this case or else*—at the pre-trial hearing; it was challenging enough to have to fight our HOA over their billing practices. Judge [redacted] made no mitigating statement that he would rule on the reasonableness of the attorneys' fees before awarding them. In fact, he said the opposite:
“

.” (*Recording,*

The Because-You-Owe-*Something* standard is unique to Judge [redacted], and provides an incentive to plaintiffs in his court to overstate their damages, since *any* award is enough to establish them as the prevailing party and all their attorneys' fees as reasonable. Judge [redacted] ultimately gave the [redacted] everything they asked for without any review.

2. “ [redacted] .” Judge [redacted] went on to show at the pre-trial conference that he was prejudiced against us before the case was even argued. (*Recording,* [redacted]) He stated that there was “ [redacted] ” we owed money to the [redacted]; the appeals court, to the contrary, found the [redacted] “

.” (*Appeal Ruling in*

Judge [redacted] went on to say that the amount of money we ultimately owed would depend on the success of our counterclaim. Notwithstanding the fact that the appeals court ruled that Judge [redacted] was wrong to dismiss our counterclaim, his statements at the pre-trial conference made it impossible to negotiate a settlement with the [redacted]. In response to Judge [redacted] asking whether the [redacted] had given

her settlement parameters, attorney [redacted] demurred: “ [redacted] .” (Recording, [redacted]) In an email, she confirmed that the dismissal of the countersuit prevented settlement. (Exhibit B, “ [redacted] .”) Judge [redacted] should not have pre-judged our case, told the [redacted] that there was no doubt they were owed money, or asserted that our counterclaim was the only obstacle to their receiving judgment in full.

3. “ [redacted] .” At the pre-trial conference, after concluding there was no doubt that we owed money to the [redacted] Judge [redacted] went into a lengthy exposition on how the case would proceed. (Recording, [redacted]) He said that if we did not settle, the [redacted] would move for summary judgment; this is indeed what happened—after Judge [redacted] cleared the way for summary judgment by dismissing our counterclaim without any explanation. In this regard, Judge [redacted] was directing the proceedings of the case rather than ruling on them as a disinterested arbitrator. Judge [redacted] should not have communicated to the [redacted] what amounted to legal strategy. With Judge [redacted] guarantee that an unanswered motion for summary judgment would be granted, the [redacted] refused to settle with us and filed their motion for summary judgment without serving it on us. Despite Judge [redacted] assurances to the [redacted] , the appeals court pointed out that an unanswered motion for summary judgment is not automatically granted, citing “ [redacted] ”

[redacted] .” (Appeal Ruling, p. [redacted]) Judge [redacted] official biography on the Justice Courts website states that: “ [redacted] ”; he is aware that he cannot grant a motion for summary judgment just because it goes unanswered, even as punishment for not taking his advice and settling.

4. “ [redacted] .” Throughout the preliminary hearing, Judge [redacted] repeatedly signaled that his preferred resolution was that we settle the case

without a trial. (*Recording*, _____) The Arizona Code of Judicial Conduct Rule 2.6 warns: “(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute, but shall not coerce any party into a settlement.” Judge _____ statements that we clearly owed something, were at risk for exorbitant attorneys’ fees, and should enter a stipulated judgment with a covenant not to execute (*Recording*, _____), along with his dismissal of our counterclaim without explanation, certainly seemed coercive.

5. **The Counterclaim.** In petitioning Judge _____ to dismiss our counterclaim, the _____ had the burden of showing that the counterclaim was invalid on its face, otherwise Judge _____ was obliged to hear it. The appeals court decision explains at length how Judge _____ erred in dismissing the counterclaim and comments on how Judge _____ failure to provide an explanation for the dismissal required the appeals court to guess at his reasoning. (*Appeal Ruling*, _____) By dismissing the counterclaim out of hand, Judge _____ prepared the way for his granting the _____ its summary judgment motion and awarding it all of its attorneys’ fees; a counterclaim, no matter how decided, would have established material facts at issue—preventing summary judgment—and would have obliged Judge _____ to actually consider who was the prevailing party and to make a carefully considered ruling on specific attorneys’ fees. Judge _____ should not be permitted to shirk his duty to the litigants in his court.

6. **The Motion for Summary Judgment.** Judge _____ granting of the _____ motion for summary judgment unfairly favored the _____. In its analysis, the appeals court stated unequivocally: “

_____.” (*Appeal Ruling*, pp. _____)

On _____ and _____, Judge _____

“_____” _____ . Both

**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.**