

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 21-430

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Judge:

Complainant:

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**ORDER**

June 24, 2022

The Complainant alleged a superior court judge did not read his complaint before dismissing it.

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 Christopher W. Ames and Colleen E. Concannon did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 24, 2022.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

2021-430

**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.

REFER TYPING

Dear Sirs/Madame,

Honorable [redacted] didn't read Complaint!

Wait [redacted] days to hear back.

Attorney [redacted] and Honorable [redacted], wrote same thing dismissal.

- (1) no signature (Honorable [redacted])
- (2) no res judicata (Hon. [redacted])
- (3) no ORDER (Honorable [redacted])

Honorable [redacted] should strive to be an individual of flawless character, technical competence, moral courage.

Negligence - Conduct that falls below the standards of behavior established by law for the Protection of others against unreasonable risk of harm:

Honorable [redacted] Honorable [redacted]  
Attorney [redacted] Honorable [redacted], and [redacted] have acted negligently if he and she has departed from the conduct expected of a reasonably prudent person acting under circumstances.

COURT OF ARIZONA  
COUNTY

HONORABLE

MINUTE ENTRY

The Court has reviewed Defendants Motion for Attorney Fees. No response has been filed.

This was a breach of contract claim under which Defendant was the prevailing party. Defendant is requesting an award of attorney fees pursuant to A.R.S. 12-341.01.

In considering whether to award fees, the Court has considered the factors set out in

1. The merits of the claim or defense presented by the unsuccessful party: Plaintiff's claim had merit. He, however, misinterpreted the contract.
2. Whether the litigation could have been avoided or settled and the successful party's efforts were completely superfluous in achieving the result; Plaintiff lost at arbitration and again lost on appeal. The trial could have been avoided.
3. Whether assessing fees against the unsuccessful party would cause an extreme hardship; Plaintiff is disabled with limited income. Assessing fees against him may cause a hardship.

COURT OF ARIZONA  
COUNTY

4. Whether the successful party did not prevail with respect to all of the relief sought; Defendant was successful on the only claim brought.

5. The novelty of the legal question presented; there was nothing novel about the claims in this case.

6. Whether such claim or defense had previously been adjudicated in this jurisdiction; these types of claims have been adjudicated many times.

7. Whether the award in any particular case would discourage the other parties with tenable claims or defenses from litigating or defending legitimate contract issues for fear of incurring liability for substantial amounts of attorney's fees. There is nothing about awarding fees that would discourage another party from litigating or defending legitimate contract issues.

In the Court's discretion,

IT IS ORDERED granting Defendant an award of fees but in a reduced amount of plus costs in the amount of:

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**IN THE COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF**

Case No.:

Plaintiff,  
vs.

Defendants.

**ORDER**

**THE COURT** has considered Defendants' Motion to Dismiss Plaintiff's Complaint Pursuant to Arizona Rules of Civil Procedure 12(b)(6) ("Motion"), filed ; and Plaintiffs' Response to same, filed . Defendants have declined to file a reply. Oral Argument has not been requested by either party and the Court finds argument unnecessary.

**THE COURT FINDS** that Defendants correctly analyze that all elements of a res judicata bar are present under these facts.

Accordingly, **IT IS ORDERED** granting the Motion to Dismiss and dismissing this cause with prejudice, recognizing that Judge has already determined this dispute on its merits after a full trial.

**DEFENDANTS** are entitled to their reasonable attorneys' fees and costs pursuant to A.R.S. § 12-341.01, however, Defendants have declined to exercise their entitlement to these fees and costs.

**IT IS ORDERED THAT**, Plaintiff is barred from further litigation related to the contract signed on .

**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.**