

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-026

Judge:

Complainant:

ORDER

November 16, 2022

The Complainant alleged a superior court judge made improper rulings in civil case.

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 Michael J. Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on November 16, 2022.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2022-026

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.

RE: Judge _____ / _____ made decisions Not based on Law, evidence, or testimony presented at Trial.

Example: He concluded that it was okay for the _____ to continue grading _____ miles of State Land with No permission even though: 1) it's against AZ State Law 2) it's against the CCR's and ByLaws of the _____

Example: He concluded the _____ was adhering to the _____ Laws for "maintaining and improving roads within _____" even though they produced No plans, No records, No documentation, Current Or any time back to _____
And the _____ refused on numerous occasions to allow anyone to review the books. That's against AZ Law, and the _____ Laws. (that _____ sold their business, house, and was moving to Mexico when the lawsuit got rolling.)

We cannot file an Appeal. We have a huge legal bill from _____ years of everything being cancelled due to Covid. Waiting _____ years for an Unjust decision is very harmful to the Property Owners of _____

Please see attached documents:

Full complaint / cover letter

Judge's Verdict

Motion for Reconsideration - flatly denied

Denial of Reconsideration

Condensed Laws of _____

Fm:

RE: Judge / made decisions Not based on Law, evidence, or testimony presented at Trial.

Example: He concluded that it was okay for the Association to continue grading miles of State Land with No permission even though: 1) it's against AZ State Law 2) it's against the CCR's and ByLaws of the .

Example: He concluded the / was adhering to the Laws for "maintaining and improving roads within even though they produced No plans, No records, No documentation, Current Or any time back to And the refused on numerous occasions to allow anyone to review the books. That's against AZ Law, and the Laws. (that sold their business, house, and was moving to when the lawsuit got rolling.)

We cannot file an Appeal. We have a huge legal bill from years of everything being cancelled due to Covid. Waiting years for an Unjust decision is very harmful to the Property Owners of

In there was a Trial in representing Property Owners of , vs. the

has Property Owners, and miles of gravel/dirt roads. The collects approx. , mainly to "maintain and improve" those roads. So, since thru when legal action started, they collected approx. dollars. The CCR's and ByLaws state that "the Main Purpose of the is to maintain and improve roads" within It is the costliest, and most time consuming part of the Budget.

Up until all roads throughout were maintained every year. When new people joined the Board in everything changed. In many property owners complained that their roads had been degrading for years. When they asked for maintenance they were denied, being told their roads were 'okay'. The roads in my area went without maintenance for years.

At the and Board Meetings members of the Board and told Property Owners "the is not obligated to grade roads" "owners should have vehicles" and "must live with primitive roads". Exact same speech each time. At trial, the current Road Manager denied it. (many witnesses)

Also, the Board is Illegal. There are people running the Board that haven't put their name on a Ballot since They re-elect themselves! The ByLaws say that Directors are to be elected at yearly elections by Property Owners, for a Term up to Years. Anyone who fills a position when elected by the Board mid-year for a vacancy must put their name on the Next Ballot.

The Board put one of their friends on the Board, a local Realtor, around . He was never elected by Property Owners. They put him in charge of Road Maintenance. He directed the to improve his real estate listings, moving the equipment back and forth across the mile x : mile area of He disappeared when the lawsuit came along.

In addition, the Board unanimously voted that they would grade and maintain miles on State Land. That "shortcut" from across State Land just happens to go to an area where most of the Board Members live and have property.

I'm trying to keep this letter short and concise. I'm attaching a condensed version of the , Laws to make it simple for anyone to review. Also, the Judge's decision, and the 'Motion for Reconsideration' by pointing out the legal mistakes. That Motion was flatly denied with no explanation.
Please Help!

Thank you very much for your consideration in this matter,

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

Plaintiffs, vs. Defendants.	Case No. <p style="text-align: center;">VERDICTS, FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND ORDERS</p>
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HONORABLE DIVISION	BY: DATE:	Judicial Assistant _____
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On the claim of *Failure to Produce Records of the* _____ as alleged in Count _____ of the Complaint, the Court finds in favor of **Plaintiff**.

On the claim for *Permanent Injunction* (maintenance of Plaintiff's roads) as alleged in Count _____ of the Complaint, the Court finds in favor of **Defendant** and denies the request for a permanent injunction.

On the claim for *Permanent Injunction* (maintenance of roads outside _____) as alleged in Count _____ of the Complaint, the Court finds in favor of **Defendant** and denies the request for permanent injunction.

On the claim for *Permanent Injunction* (failure to maintain _____ records) as alleged in Count _____ of the Complaint, the Court finds in favor of **Plaintiff** and grants the request for permanent injunction as to the _____ requirement to keep and maintain correct and complete records.

A. FINDINGS

Under the _____ process, the factfinder is not required to state specific findings or conclusions of law under Civil Rules 52. Nevertheless, given the nature of the claims and requested relief the Court believes specific findings and conclusions of law are necessary to explain its verdict as to the claims for Permanent Injunction. No such findings and conclusions are necessary for the claim of Failure to Produce Records of the _____ because Plaintiff showed that it was more probably true than not true that the

failed to create, keep, and maintain records it is required to maintain and therefore could not make them available for inspection. Indeed, agents of the , testified that not only were records not available for inspection, but certain records of committee activity were also never kept or maintained.

The elements of a permanent injunction as agreed to by the parties through the jury instructions require that Plaintiff show: (1) that he has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (2) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. The Court has considered the jury instructions and evidence presented during the trial.

1. Irreparable Injury

Plaintiff has shown no injury¹, let alone an irreparable one. Plaintiff has sued the alleging the violated its Covenants, Conditions, and Restrictions ("CC&R's") and bylaws by failing to maintain Plaintiff's roads for more than seven years and by maintaining a road outside of the . On those bases, along with the , failure to keep and maintain records, Plaintiff seeks injunctive relief.

a. Plaintiff's Roads

Even if the failure to maintain Plaintiff's roads is true, Plaintiff has not shown how this serves as an injury considering the evidence Plaintiff presented. Plaintiff's road and the roads in his section have not deteriorated or eroded in any way to impair or inhibit the enjoyment of his parcel. Nor have the roads been impacted such that Plaintiff cannot enjoy the use of the roads in his section for ingress or egress from his property and out of the

Neither the CC&R's nor the bylaws define what "maintain and improve roadways". *Trial Exhibit ("T.E.") 1; T.E. 3*. As to his own roads, Plaintiff's only complaint is that he had not seen a road grader on his roads in over seven years. Plaintiff did not present any evidence as to how his road was not properly or adequately "maintained or improved". It is Plaintiff's position that the failure to drive a road grader and "blade" his roads during that span is, by itself, a violation. Plaintiff has not shown his road condition had deteriorated, was in a state of disrepair, was washed out, "rutted", eroded, had damaged culverts, was missing suitable means of drainage, etc. Plaintiff testified that

¹ For purposes of the verdict and judgment, the Court considers an injury as any loss to Plaintiff which might deprive him of the benefit of the contract, as set forth in the Factors to Determine Materiality of Breach instruction.

**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.**