

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 22-028

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Judge:

Complainants:

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**ORDER**

January 11, 2023

The Complainants alleged improper rulings and abuse of discretion by a superior court judge presiding over a civil lawsuit.

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 January 11, 2023.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2022 - 028**

**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 note, two additional attorneys appeared in this case when it was assigned to Hon.  
Judge \_\_\_\_\_ retired in \_\_\_\_\_ of \_\_\_\_\_.

On \_\_\_\_\_ there was a hearing for a \_\_\_\_\_ and the attorneys  
were as follows: \_\_\_\_\_ ; and \_\_\_\_\_ of \_\_\_\_\_

This case was reassigned to Hon. \_\_\_\_\_ on \_\_\_\_\_.

(Please see attached Complaint against Hon. \_\_\_\_\_ )

## Arizona Court Commission Complaint:

Although this case was originally in Judge \_\_\_\_\_ court (he retired in \_\_\_\_\_), our Judicial Misconduct Complaint is being lodged against Judge \_\_\_\_\_ who succeeded on this case in \_\_\_\_\_. Once he became Judge of record, \_\_\_\_\_ could have vacated or amended \_\_\_\_\_ more egregious comments, rulings and orders. Instead, he vacated or amended **only** those \_\_\_\_\_ rulings and findings that supported Plaintiff's arguments.

\_\_\_\_\_ has exhibited blatant favoritism towards Defendants and has made numerous derogatory and uninformed comments toward and about Plaintiffs. He has committed repeated **errors** in facts and matters of law and has **abused his judicial discretion** on multiple occasions. His behavior has made a mockery of Commission Rules 2.2.1., 2.2.2., and especially 2.2.3. We have provided a detailed outline of \_\_\_\_\_ Misconduct in the following pages.

We are not seeking any actions or intervention from the Commission related to this case. Our legal options, including Rule 59 (already filed) and Rule 60 motions, reconsideration motions, appeals court, and criminal complaints against Defendants will be exercised as appropriate. We are, however, requesting the Commission fully investigate Judge \_\_\_\_\_ numerous and ongoing violations of Judicial conduct.

This lawsuit started as a simple Property Rights action wherein Defendants failed to abide by and/or enforce relevant Land

Development Codes, CC&Rs, and a Recorded Final Plat. An ugly confluence of Perjury, Fraud, and Judicial Misconduct has resulted in an unnecessarily lengthy, expensive and increasingly bizarre case. Had the Defendants (singly or in concert) simply **followed the existing laws and codes** a lawsuit would have never been filed and litigants would have avoided hundreds of thousands of dollars in legal costs. Forthcoming criminal complaints against Defendants would not be filed and this Judicial Misconduct Complaint would not have occurred.

The common refrain from every industry professional we have contacted ( ) has been **how could this have happened, and why didn't the court enforce the law**, and more ominously, **who got paid off?**

Judge has granted summary judgment motions predicated upon provably perjured testimony, fraud upon the court by Defendants' Counsel, and an utter disregard for and ignorance of Plaintiff's arguments. Plaintiffs have been repeatedly demonized by Defendants and the Judge as two, old, dumb, opinionated "lay people". If Judge had simply read and understood factual evidence submitted by Plaintiffs in support of their arguments, he might have issued starkly different orders and rulings. Instead, it has become increasingly and sadly evident Judge , whether due to bias, incompetence, or corruption, wants this case to **go away**.

Citizens have a right to expect their Judiciary to value and uphold **truth, facts, and the law**. When a Judge blatantly favors " and , and , ordinary citizens have few options

to hold officials accountable. Fortunately, this Commission is one of those options.

## I. ORDER AND JUDGMENT:

The Judge found "1. That [redacted] was hired as the project coordinator for the construction of residence on [redacted]. This location was next to Plaintiff [redacted] residence". The Judge **erred factually**. In fact, [redacted] was the general contractor for the project. [redacted] testimony at a [redacted] hearing on [redacted], confirmed he was the general contractor (see attachment #1). Defendant [redacted], in their Motion for Summary Judgement also claimed [redacted] was the general contractor (see attachment #2).

As general contractor, [redacted] was [redacted], and cannot escape liability for his tortious conduct (in [redacted] v [redacted], the court states "{i}t is well-established law that an agent will not be excused from responsibility for tortious conduct {merely} because he is acting for his principal" quoting [redacted]). Restatement (Third) of Agency 7.01. states "An agent is subject to liability to a third party harmed by the agent's tortious conduct".

## II. ORDER AND JUDGMENT: (cont.)

Judge [redacted] found "4. That the [redacted] claims sounded in and were based upon the allegations that [redacted] had an

affirmative duty under the relevant , to the ", "5. That the and their counsel, knew or should have known that the were inapplicable to and therefore that Plaintiff's claims were unsupportable as to ", "8. That the are not binding upon ', and "9. That owed no duty to the ".

As Plaintiff's Counsel argued, the Judge's ruling that Plaintiff's lacked "any legal support" for its claims against that the were not binding on and that owed no duty to the , ignores the agency analysis (see attachment #3) and prior rulings from both Judge and Judge denying Motion to Dismiss and ruling allegations set forth claims upon which relief can be granted against (see attachments #4/5).

In a Rule 59 Motion for New Trial, Plaintiff's counsel argued Judge findings and rulings above are **errors of law during the action** under Rule 59(a)(1)(F) and **findings of fact that are not supported by evidence or are contrary to the law** under Rule 59(a)(1)(H) (see attachment #6). Additionally, in disregarding Judge denial of Motion to Dismiss, Judge committed an **abuse of judicial discretion and an irregularity in the proceedings** under Rule 59(a)(1)(A) which has deprived Plaintiffs of a fair trial.

Judge Order and Judgment contradicts previous orders from without new evidence. Plaintiffs were justified, not only on their support for agency liability, but also in relying on Judge ruling to proceed with the case. did not carry the burden of proof in its motion to

**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.**