

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 22-318

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Judge:

Complainant:

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**ORDER**

July 5, 2023

The complainant alleged a superior court judge lacked competence and made legal and factual errors in a ruling in a probate 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).

Copies of this order were distributed to all appropriate persons on July 5, 2023.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2022-318**

**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

VIA email and Regular U.S. Mail

Arizona Commission on Judicial Conduct  
1501 W. Washington Street  
Suite 229  
Phoenix, AZ 85007  
cjc@courts.az.gov

Re:

Dear Commission:

The purpose of this letter is to report and document unethical and unprofessional behavior with Commissioner in the above referenced matter.

On I was hired as counsel for and (husband and wife) and met with both and at their residence. The purpose of the representation was to modify certain aspects of the which had been drafted in by attorney . On I was advised by that had an in from which he was recovering and that his cognitive ability may or may not be impaired. On I responded to . See letter and response, attached as Exhibit

After my first meeting with I personally assessed ability to make informed decisions. He was alert, responsive, engaging, gave answers to direct questions and carried much of the conversation with changes and modifications he and his Wife wanted done to the trust schedules. Shortly after that first meeting, had a previously scheduled doctor's appointment. His doctor, provided a short letter stating his medical opinion of . See letter from dated attached as Exhibit . page .

Thereafter, I met with more times to discuss the modifications and changes to the I review the changes and get their notarized signatures on the changed/modified Trust Schedules. One of the primary reasons wanted certain beneficiary changes to the Trust was due to his estranged son – stated every time I met with him

that he wanted to " " and " with " was articulate and comprehensive with the exact reasons and rationale for his decisions. Thereafter, on " the new Schedules to the " were finalized with notarized signatures.

On " , though counsel " , file an Emergency Petition for Appointment of Temporary Conservator (Without Notice) and Petition for Appointment of Permanent Conservator. On " an emergency hearing was held. Prior to that emergency hearing the Court (on its own motion) appointed " as "court-appointed counsel" for the proposed ward " , even though I have been " attorney since " . See Minute Entry, dated " , attached as Exhibit " .

At that Emergency Hearing " stated that he had personally met with " prior to the hearing at his home and found him to be competent. At the hearing Commissioner " declared " to be incompetent, discharged me as his attorney, and dismissed me from any further participation in the hearing. Commissioner " , on her own motion, also changed the Petition to be one for a Guardianship and Conservatorship. These actions alone are considerably troubling.

My next participation in this matter was being called as a witness to testify in the Guardianship/Conservatorship evidentiary hearing held on " to provide testimony regarding what " expressed to me during my representation. When called to the stand, attorney " objected to my testimony and Commissioner " sustained the objection. As stated in the " Minute Entry, Commissioner " stated reason for discharging me as " attorney (without " permission) was because I " " in the guardianship matter. Commissioner " thereafter granted the Guardianship/Conservatorship of

My next involvement was being called as a witness in a second evidentiary hearing on " which involved a Petition (by " ) to cancel the " trust amendments made by " and " , while I was their counsel, and to have himself ( " ) appointed as a new Trustee. Over objection by " (counsel for " ) I was allowed to testify. Commissioner " ruling that I was not allowed to testify at the Guardianship/Conservator hearing but now was allowed to testify at the "trust amendment" hearing makes no legal sense. Her rulings are completely arbitrary. The Minute Entry from the "trust amendment" hearing was issued on

In my " years as an " attorney I have never provided sworn testimony. I was questioned by " , counsel for " ( " daughter) and " , counsel for " ( " son). The questions concerned " (and his Wife " ) competency to make changes to the " trust in " when I met with

them. I testified truthfully, accurately and stated verbatim some of the comments made to me each of the six times I met with Commissioner statements in her Minute Entry, dated , directed at my testimony, have left me with the conclusion that she is unfit to serve as a Commissioner in the . Her Minute Entry clearly holds that she personally believes I was untruthful under oath. (See Minute Entry, dated page attached as Exhibit ).

Commissioner held in her ruling that as counsel for and my truthful testimony was " " I did not " " I was " " that may be a vulnerable adult, and that "

**Every single one of these statements in Commissioner Minute Entry concerning my testimony and her personal opinions of my testimony are categorically false.** None of Commissioner statements, as defamatory as they are, are in-line with my under-oath trial testimony.

My testimony centered on my attorney/client conversations with and Every single word stated under oath was completely truthful. That was Commissioner " " with my testimony. It was " " to Commissioner because she now had under-oath facts from and attorney (not just a lay witness) that did not match her pre-conceived view of the case and what she had presumably been told by and attorney, , who Commissioner seems to be much more "friendly" with than "professional."

This entire matter centered on alleging, through counsel, that he had been prevented from seeing his Father – and that others were " " to make changes to his Estate. The absolute truth is that as attorney every single time I met with him (either with present or alone) stated that he wanted to " " his son and he wanted to " " That was stated reasons to be making estate planning amendment. That honest testimony did not fit well with Commissioner view of the matter. So, her Minute Entry discounts my testimony as " " as well as providing defamatory statements in a public Minute Entry.

I relied on a Medical Doctor's opinion as one piece of evidence that was competent to make changes to his Trust. I met with six times, each time for at least one hour, and each time I assessed his mental capacity. opinion regarding the Trust changes he wanted made never changed over the course of all six meetings. At each meeting directed the conversation, was lucid, made independent decisions, was articulate and was specific in the Trust changes he wanted and provided significant background information as to the reasons for the Trust changes. That was my under-oath testimony. For Commissioner to hold as she did concerning my testimony is evidence of her incompetence, bias, and prejudice and she should not continue to serve as a Commissioner.

Commissioner                      violated the following Canons and Code of Judicial Conduct:

1. Dismissing my representation of my client –                      , without consent or my consent, without cause.
2. Finding                      incompetent during a telephonic hearing, after Court assigned counsel found him competent just a week prior in a face-to-face meeting.
3. Failure to uphold and promote the integrity and impartiality of the Judiciary
4. Failure to avoid impropriety or the appearance of impropriety
5. Failure to act in a manner that promotes confidence in the Judiciary
6. Failure to be objective
7. Failure to apply the facts and law without regard to her personal philosophy
8. Intentional disregard of the facts (and not a good faith error of law or fact)
9. Bias and prejudice towards a party
10. Failure to perform judicial duties in a competent manner

It is requested that a formal investigation into Commissioner                      conduct during the course of her assignment to this matter be initiated and that actions be taken against Commissioner                      as the Commission on Judicial Conduct deems necessary. I am available at my cell phone number (                      ) to discuss this matter at any time

Very truly yours,

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Former Counsel for

cc: Commissioner  
Commissioner  
Judge

**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.**