

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-350

Judge:

Complainant:

ORDER

June 15, 2023

The Complainant alleged a superior court judge made improper rulings and failed to report attorney misconduct 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 members Barbara Brown 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 15, 2023.

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

FOR OFFICE USE ONLY

2022-350

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.

I am submitting this Complaint based on my belief, knowledge of events, understanding and to the best of my ability. The mere concerns I have about the judge have been culminating into a pattern of legal error or an intentional disregard of the law that may constitute misconduct. Accordingly, I am seeking engagement from the Arizona Commission on Judicial Conduct.

The disciplinary authority of the commission extends to every judge and judicial officer subject to article 6.1 of the constitution and the code. Rule 1. The purpose of the commission is to administer the judicial discipline and incapacity system established by the constitution. The commission has jurisdiction over judges and former judges concerning allegations of misconduct occurring prior to or during service as a judge and allegations of incapacity during service as a judge. Rule 2. The purpose of the judicial discipline and incapacity system is to protect the public and to maintain high standards for the judiciary and the administration of justice. Any disciplinary remedy or sanction imposed shall be sufficient to restore and maintain the dignity and honor of the position and to protect the public by assuring that the judge will refrain from similar acts of misconduct in the future. Rule 5. Pursuant to Rule 6 the grounds for judicial discipline include willful misconduct in office, willful and persistent failure to perform judicial duties, habitual intemperance, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or a violation of the code.

A party that did not plead, respond or defend should forfeit. Instead of maintaining high standards for the judiciary and the administration of justice, the judge does not recognize standards of law or justice. It is a kangaroo court. As a consequence, we are recommending for discipline appropriate to the misconduct; that after _____, the chaos creating new issues and for ancillary cases that are attributable to the judge's misconduct. Nothing short of an intervention is necessary, the case and consolidated cases must be taken away for judge for independent review and finalization.

PREAMBLE

An independent, fair, and competent judiciary being one of the cornerstones of our legal system, judges must respect and honor their judicial office as a public trust. To preserve the integrity of the judiciary and to enhance public confidence in the judicial system, Arizona regulates judicial conduct through a system comprised of the Arizona Supreme Court and the Commission on Judicial Conduct, which is established by article 6.1 of the Arizona Constitution.

1. _____ did not answer the Counterclaim of the Company.
2. _____ did not answer the Counterclaim of investor member _____.
3. _____ did not file a sur-response to Response dated _____.
(On being presented the estimated break-even financial calculation for the company. In Minute Entry Order dated _____ was authorizing to file a sur- response in response to Response filed by the Company and member _____ on _____.
4. The Court deemed _____ Motion for Summary Judgment Withdrawn in Hearing held on _____.
5. The consolidation of claim for _____ was Granted
6. The consolidation of claim for secured creditor was Granted.

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- 7 In _____ the consolidation of claim for company owned property was Denied
- 8 In _____ the consolidation of claim of a creditor was Denied.
9. The Defendants did not file a response to Complaint and no objection made to the Application for an Entry of Default in _____
10. The Defendants did not file a response to Complaint and no objection made to the Application for an Entry of Default in _____
11. The consolidation of claim for company property was Denied
12. _____ was not kept separate though amended stipulation stated it is a separate matter. _____ made admission _____ and _____ are _____ long-time close friends. The time and fee Journal with _____ before dated _____ refers [] interactions with _____ and _____ with _____.
13. Multiple Requests for Instruction and Request for Decision were made of the Judge in _____ and _____ which either went unheeded or with delay causing additional problems.
14. On _____ the parties agreed that no party will seek to amend his pleading in this action to add claims against the other; yet indulged requests from _____ for busy work not previously called for.
15. _____ failed to file a response to Motion for Summary Judgement by investor member _____ in accordance with Ariz. R. Civ. P., Rule 56 or pursuant to Minute Entry Order dated _____
16. _____ failed to file a response to Motion for Summary Judgement by company in accordance with Ariz. R. Civ. P., Rule 56., or pursuant to Minute Entry Order dated _____
17. Despite the rotation of Judge to another division, Judge _____ as chosen to retain this and consolidated cases.

Application of Law - Code of Judicial Conduct

CANON 1 A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1. Compliance with the Law A judge shall comply with the law, including the Code of Judicial Conduct.

For a discussion of the judge's obligation when applying and interpreting the law, see Rule 2.2 and the related comment.

RULE 2.2. Impartiality and Fairness A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially. Comment

1. To ensure impartiality and fairness to all parties, a judge must be objective and open-minded. 2. Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.
3. A good faith error of fact or law does not violate this rule. However, a pattern of legal error or an intentional disregard of the law may constitute misconduct.
4. It is not a violation of this rule for a judge to make reasonable accommodations to ensure self-represented litigants the opportunity to have their matters fairly heard.

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Rule 2.15 (B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

I do not know if he did, but the judge had duty to report lawyer _____ for his misconduct under rule 66 on receipt of information indicating a substantial likelihood of such misconduct. Ignoring or denying known misconduct, among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to public respect for the justice system. This rule limits the reporting obligation to those offenses that an independent judiciary must vigorously endeavor to prevent.

Commission's Rules

Article 6.1 of the Arizona Constitution is the governing law for the Commission on Judicial Conduct and was approved by the Arizona electorate in November 1970. Minor changes were made to this section of the constitution in 1976, and substantial revisions were adopted in 1988.

SECTION B. GENERAL PROVISIONS Rule 5. Purpose of Judicial Discipline The purpose of the judicial discipline and incapacity system is to protect the public and to maintain high standards for the judiciary and the administration of justice. Any disciplinary remedy or sanction imposed shall be sufficient to restore and maintain the dignity and honor of the position and to protect the public by assuring that the judge will refrain from similar acts of misconduct in the future.

SECTION B. GENERAL PROVISIONS Rule 6. Grounds for Discipline The grounds for judicial discipline include willful misconduct in office, willful and persistent failure to perform judicial duties, habitual intemperance, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or a violation of the code.

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This case and the ancillary cases may have completed, on or about

Rule 1, Arizona Rules of Civil Procedure, states that the rules "should be construed, administered, and employed by the court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding."

Plaintiff demanded mediation under _____ contract governed by _____. Subsequent to Minute Entry Order _____ the manager of company and member signed up to do it, but then the Plaintiffs did not.

Behaviors of _____ gave rise to unnecessary ancillary litigations in _____, and _____ had (3) Mediation opportunities and _____ rejected _____ Settlement attempts in _____ and _____. The long-time friends of _____ have encumbered the properties, not as owner occupant, but as investors.

Thereafter, the judge has:

- failed and is furthermore failing to manage case Rule 1
- failed and is furthermore failing to apply the Law, as in Complaint and Answer Rule
- failed and is furthermore failing to timely intervene
- failed and is furthermore failing to make timely decision
- failed to furthermore allowing escalation of some matters.
- failed to have investigated or selectively giving it a free pass
- failed to call _____ to task per Rule 66
- failed to comply with the Court administration.

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- is furthermore prejudicing _____, who was forced to engage and defend the company and herself when the only income coming in to the company is the rental income from the company properties.
- is furthermore curtailing the authority given to _____ by the members, the Court, the Counsel of the Company and by _____.
- being wasteful in the time and resources in the administration of justice.
- failed and is furthermore failing to apply the Law, as in Motion for Summary Judgment Rule 56.
- failed at avoiding impropriety and furthermore the appearance of a kangaroo court.

Per Rule 19 the following nonexclusive factors may be considered in determining appropriate disciplinary action:

- (a) the nature, extent, and frequency of the misconduct. Is it just in this case or is the judge dispensing with the content in responsive pleadings in all of his cases? Both are injustice.
- (b) the judge's experience and length of service on the bench. Is the judge captured or can he guess at who he going to win?
- (c) the conduct occurred in the judge's official capacity.
- d) the nature and extent to which the acts of misconduct injured other persons or respect for the judiciary.

See point _____ on page _____, while the judge authorized a sur-response he did not rule when none was forthcoming in _____ with result that now in _____ five creditors have still not been paid. The outstanding amounts shown in Additional Addendum

**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.**