

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-440

Judge:

Complainant:

ORDER

July 5, 2023

The complainant alleged improper procedures by a superior court judge hearing a civil matter.

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.

Arizona Commission on Judicial Conduct

1501 West Washington Street, Suite 229

Phoenix, Arizona 85007

Tel: (602) 452-3200

Email: cjc@courts.az.gov

Re:

See list of Agencies below. *Complaints filed*

Regulatory Complaints

MEMORANDUM OF ISSUES AND FORMAL COMPLAINT

COMPLAINANT

PLAINTIFF

Tel:

Email:

_____(Disclaimer: Please excuse the length of this complaint. I am not a lawyer, nor do I have legal training or knowledge. I am disabled but not incompetent. I am the plaintiff in the case reference above. I have a difficult time reading and understanding the process, expectations and all my legal responsibilities to file in court. Due to the timely nature of the proceedings by the time i figure out how to file a motion and file the motion, timely dates and events will have occurred and my motion will be moot. I have attempted to state these issues with the Judge when emailing all the parties involved in my case. I was advised by the judges staff not to copy the judge on any email communication but was advised to file a motion for judicial review or hearing. During the last status conference the judge advised me to contact _____ with any concerns regarding the judges orders. _____ works for opposing counsel. Once i emailed my concerns and copied _____ the response from _____ was that all my concerns were false. _____ refused to address or comment on my concerns. _____ merely requested the court to issue an expedited order and disregard my issues. Out of respect, the Judge requested I not copy the judges staff on my emails. In our status hearing, I advised the judge that I am disabled. I have not been provided with any special accommodations as a result of my disability. This will be the last communication that I copy the judges staff for purpose of providing notice regarding the complaint details.)

CHARGING PARTIES

- A. Honorable Judge
- B. Special Commissioner
- C. _____ (opposing counsel)
- D. _____ (Judicial Staff)
- E. _____ (Opposing Counsel)
- F. _____ (Defendant)

ADMINISTRATIVE AGENCY COMPLAINTS & VIOLATIONS

- A. CIVIL RIGHTS COMPLAINT (Arizona) filed
B. CONSUMER COMPLAINT (Arizona) filed
C. COMPLAINT filed
D., COMPLAINT filed
E. COMPLAINT filed
F. COMPLAINT filed

H. () ADA COMPLAINT filed
i. LAWYERS REGULATION OFFICER COMPLAINT filed
J. ARIZONA COMMISSION ON JUDICIAL CONDUCT COMPLAINT filed
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EVIDENTIARY SUPPORT

(All exhibits listed below are attached to this complaint for review and support.)

- EXHIBIT A. Settlement Agreement ()
EXHIBIT B. Order Appointing Special Commissioner ()
EXHIBIT C. Residential Purchase Contract ()
EXHIBIT D. () Order Est. Special Commiss)
EXHIBIT E. (Def) Request for Emergency Hearing
EXHIBIT F. Gmail - ()
EXHIBIT G. Gmail - Email Introduction)
EXHIBIT H. Gmail - ()
EXHIBIT I. Gmail - ()
EXHIBIT J. Gmail - ()
EXHIBIT K. Gmail - Request for Expedited Hearing ()
EXHIBIT L. (def) Request for Expedited Status Conference ()
EXHIBIT M. Gmail - Regarding Defendants Renewed Request ()
EXHIBIT N. Defendants Renewed Request to Grant Signing ()
EXHIBIT O. Proposed Order ().
EXHIBIT P. Gmail - to All ()
EXHIBIT Q. Gmail - Regulatory Complaints
EXHIBIT R. Gmail - Response ()
EXHIBIT S. Gmail - ()
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ETHICS/CODE/RIGHTS VIOLATIONS

LAWYERS CODE OF ETHICS

RULE 3.3	CANDOR TOWARD TRIBUNAL
RULE 3.4	FAIRNESS TO OPPOSING PARTY AND COUNSEL
RULE 4.1	TRUTHFULNESS IN STATEMENTS TO OTHERS
RULE 4.3	DEALING WITH UNREPRESENTED PERSONS
RULE 4.4	RESPECT FOR RIGHTS OF OTHERS
RULE 5.2	RESPONSIBILITIES OF SUBORDINATE LAWYERS
RULE 8.2	JUDICIAL AND LEGAL OFFICIALS
RULE 8.3	REPORTING PROFESSIONAL MISCONDUCT
RULE 8.4	MISCONDUCT

FACTS

- A. Appointment. _____ is appointed Special Commissioner for the sale of real property (hereinafter referred to as “Special Commissioner”). Special Commissioner shall market and sell the real property located at _____ (“the Property”). **EXHIBIT B.**
- B. Cooperation, Access, and Documentation. The Parties and their attorneys shall cooperate, in good faith, in providing access to the Property to Special Commissioner. The Property is currently occupied by _____ shall provide a key to Special Commissioner within _____ hours of Special Commissioner’s request. _____ shall maintain the Property in showing ready condition at all times. Special Commissioner is hereby authorized to provide access for showings at anytime Monday through Sunday and may utilize an MLS/SUPRA lockbox for showings. **EXHIBIT B.**
- C. Listing. The Property shall be listed for sale in a commercially reasonable manner at the value estimated by the market analysis or, if applicable, at the appraised value. The Parties shall execute and deliver a listing agreement substantially consistent with the current model listing agreement approved by the Arizona Association of Realtors, and shall so deliver said listing agreement within _____ () days of presentation by Special Commissioner. As used in this Order, the term “commercially reasonable manner” includes, but is not limited to: [a] listing the Property on the Multiple Listing Service (hereinafter, “MLS”); [b] stating a fair description of the Property’s features; and [c] a statement of terms the Parties and Special Commissioner will, and (as appropriate) will not, consider. If either Party fails or refuses to execute the listing agreement as presented, Special Commissioner may sign for that party. The listing shall contain a provision that “the sale is subject to court approval.”. **EXHIBIT B.**
- D. Offers. The Parties shall consider all written offers for purchase of the Property. Approval of terms of offer shall not be unreasonably withheld, and approval, rejection, or counter-offer shall be made within the time stated in any offer to purchase, and in the manner necessary to consummate an arms-length real property transaction. **EXHIBIT B.**
- E. Court Approval. If Special Commissioner receives a written offer to purchase the

Property that the Parties, or either of them individually, rejects, Special Commissioner may petition the Court for an accelerated hearing and for acceptance of the offer. If, after accelerated hearing, the Court determines the offer should be accepted, the Court may direct Special Commissioner or the Clerk of Court, to make, execute, and deliver the appropriate documents for consummation of sale. The Court may impose sanctions against the party having unreasonably withheld approval of sale. **EXHIBIT B.**

- F. On _____ requests an expedited status conference pursuant to Section 9 of this Court's _____ Order Appointing Special Commissioner for Sale of Real Property (the "Order"). A status conference is necessary to discuss and resolve Plaintiff/Counter-Defendant's failure to cooperate with the court appointed special commissioner, **EXHIBIT E.**
- G. On _____ this court entered an Order and appointed special commissioner, for sale of real property. **EXHIBIT E.**
- H. On _____ and counsel for Defendant/Counterclaimant claimed to have made multiple attempts to encourage Plaintiff/Counterdefendant to communicate with _____ regarding the sale of the Property with no success. This statement is a false and misleading, _____ did not receive any communication from _____ or Defendant's counsel until _____ request for expedited hearing. **EXHIBIT E.**
- I. On _____ emailed _____ and _____ providing his email information. _____ three line email finished with _____ did not receive any other communication form _____ or Defendant's counsel until the request for expedited hearing on **EXHIBIT E.**
- J. On _____ during the status conference the Judge requested to know why _____ hadn't responded to the alleged attempts of the commission to contact him. _____ had only received one email communication from _____ that was three sentences and not one communication from Defendant's counsel. **EXHIBIT F.**
- K. _____ had reviewed the order appointing the special commission whereby it states that the commissioner will contact _____ to make arrangements. Thus absent having specific instructions to contact he waited to hear from the commissioner. Yet, in the hearing the commissioner falsely stated that he did not have _____ contact information. _____ as the plaintiff's contact information is listed on the top or the very bottom of every motion filed in the court regarding this matter as well as online, including the motion granting his role as special commissioner. Furthermore, the defendant who claimed to also contact _____ but did not, has all _____ contact information. **EXHIBIT F.**
- L. On _____ the Defendant's Request for an Expedited hearing states; "

had not contacted multiple times. Thus did not demonstrate a failure to respond/cooperate. The defendant is making false allegations to persuade the court to rule in her favor. **EXHIBIT E.**

M. On after the status conference, sent the following email to , the Judge's staff, and defendant's counsel:

Re:

First and foremost, it is my pleasure to make your acquaintance. My name is I am the Plaintiff in the above referenced litigation. I am a 'pro se' litigant thus I am representing myself. As there is a teleconference scheduled for I wanted to clear a few items of contention.

After receiving the Defendant Request for Emergency Hearing I became extremely confused and concerned with the inaccurate statements listed within the request. Below I've listed and detailed my comments and concerns. If possible I'd like to have some understanding prior to the teleconference to enable a possible speedy resolution to any problems impeding the potential sale of the property.

I. Communication.

Please forgive me if I'm wrong. The email dated is the first and only communication I received from you. Is this email your attempt to encourage communication. In the email which is provided below you merely provide your contact information and state, "

Per the initial email from the first Commissioner, I assumed you would contact me to schedule a time to come to the property. My apology for assuming you would contact me when your schedule permitted time for you to visit, view and assess the property. Based on the first Commissioners email I assumed the rules and guidelines in the email were industry standard and would merely be conducted by you verses the initial commissioner. The first Commissioner provided a list of events that were to take place. I've listed these items below.

A Visit, View & Assess.

You would visit and view the interior and exterior of the property, prior to the assessment.

B. Resolve Assessment Issues.

Any issues with the assessment including property boundaries and any repairs would be discussed.

C. Access to the property.

The commissioner and potential buyers would be given access to view the property (e.g. a key given to the commissioner, a lockbox accessible to prospective buyers, or notification of any pending potential buyers.)

D. Property Online Listing Pictures.

Pictures would be taken of the interior and exterior of the property.

E. Sale Process Discussed.

Process to permit viewing to potential buyers and accept potential offers.

Unfortunately, none of the above occurred prior to the property listing online or prior to any potential prospects viewing the property.

**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.**