

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-211

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Judge:

Complainant:

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**ORDER**

October 6, 2023

The Complainant alleged delayed and improper legal rulings by a superior court judge hearing a family 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, Colleen E. Concannon, and Louis Frank Dominguez did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 6, 2023.

## Full complaint (easy to read format)

Complainant is alleging separate instances of judicial misconduct. The first is Judge not performing his legal obligation to rule within sixty (60) days as required by law. The second is Judge making inappropriately partisan statements that ran contrary to His own findings.

Background: While the couple was together the Respondent spent the last months building a case with an attorney, finding a new home and decorating it. She secretly recorded the Respondent in their family home for months to try and build a case. Respondent's goal was to gain sole custody. On Respondent's attorney filed a petition requesting that an OOP be granted as to the children against the Respondent. That petition was denied. The Petitioner then went on the internet and obtained a confidential address where she held the kids for over weeks without any contact with their father. Father had been a stay at home parent, was the primary caregiver and shouldered most of the parenting responsibilities.

A two part hearing was held in of , in which the Petitioner put out all of the evidence she felt would best serve her, that she had manufactured for months. After hearing all of the evidence, Judge specifically found that there was NO history of domestic violence. It is important to note that Respondent, on advice of counsel, did not put in evidence that would demonstrate there was a history of domestic violence by the Petitioner.

On a hearing was held to determine custody. Judge ruled that 50-50 parenting time was in the best interest of the children.

On the final dissolution hearing was held. Both parties agreed to 50-50 parenting time and joint decision making. For the first time, the issue of secret address was raised by the Respondent. Judge ruled that the Petitioner was to disclose her address no later than . He added that she could make a motion to have it reconsidered.

On the Petitioner filed a motion to continue the secret address. There were hearing dates for the Petitioner's motion with the final hearing taking place on

On the part of the hearing the Respondent brought in . The Petitioner had been taking both children there for counseling after minor child B, age began threatening to kill himself to mother. She started the process in and the Respondent did not learn of it until of . The Respondent had no knowledge of the counseling and did not provide consent. Respondent felt this was a violation of decision making. was there and represented by . Judge did not disclose that this was in fact the only firm he worked for in private practice. He not only worked for them for over years, but was a managing shareholder. The parties agreed that the kids would no longer go to and these issues were to be decided by both parents. The agreement was read into the record and ordered. At that point, in front of His cronies, Judge felt the need to go on the record with the following statement:

This comment can be found in the attached transcript (pages                      Judge                      made this statement after He found that there was no history of domestic violence. Complainants attorney,                      was so appalled by His comments that she ordered a transcript to use for future clients and immediately switched                      clients that had been assigned to Judge                      .

On                      Judge                      issued a ruling that minor child                      be examined by a court appointed psychologist to determine if the secret address was having a negative impact on him. The psychologist met with                      via Zoom while at the Petitioner's home where she could hear what was being said. The psychologist stated that it was causing                      anxiety that was visible, worry and confusion. After Petitioner hearing                      tell this to the psychologist, the petitioner immediately filed for full custody to stop the Judge from ruling on the address. A few days after filing the psychologist issued her report to the Court that it was damaging the minor child.

On                      Judge                      issued an under advisement ruling suggesting he does not have the evidence to rule in favor of the Petitioner, so he'd like it to go to the next Judge assigned to the case. Judge                      was assigned to take over the case                      months from then. He hoped maybe there was something to their latest baseless motion to be able to find in favor of the Petitioner. He opened it up to both sides for a written argument as to whether he should rule. The Respondent took the position that He should rule and the Petitioner felt he should not rule. That under advisement is attached.

On                      Judge                      issued a ruling that He was dismissing "Respondent's Motion" without prejudice, to be brought up before Judge                      . This was not only well in excess of the "                      "                      ), but FAILED to address the Petitioner's motion for which this matter was based. That ruling is attached.

— Complaint continued—

A.R.S. Sup.Ct.Rules, Rule 91(e) states "Every matter submitted for determination to a judge of the superior court for decision shall be determined and a ruling made not later than sixty days from submission thereof, in accordance with Section 21, Article VI of the Arizona Constitution". Judge \_\_\_\_\_ not ruling is to rule for the Petitioner defacto. The complainant has been denied his right to a ruling in 60 days that he is guaranteed by law.

As this issue continues to harm the children and alienate them from their father, Complainant filed a motion for the matter to be heard before \_\_\_\_\_ immediately to prevent further damage to the children. Judge \_\_\_\_\_ denied that motion, stating it could be heard when there is a hearing on the Petitioner's motion for custody filed on \_\_\_\_\_. There is no date set for that hearing.

Wherefore, Judge \_\_\_\_\_ has failed to comply with Rule 91, denying the complainant his right guaranteed by law, and has made defamatory statements on the record that he knew to be false, the Complainant is requesting that disciplinary action be taken to ensure that other litigants and their children do not suffer the same injustices.

Respectfully submitted by

\_\_\_\_\_

1           THE COURT: And do you believe all  
2 things considered, that the provisions of this  
3 agreement are in the best interest of your children?

4                                 : I do.

5           THE COURT: And have you had any drugs,  
6 alcohol, or medication that would make it difficult  
7 for you to understand what's going on here today?

8                                 : I do not.

9           THE COURT: And are you acting of your  
10 own free will without any force, threats, or  
11 coercion?

12                                : I am.

13           THE COURT: All right. Court finds  
14 pursuant to Rule 69, Arizona Rules of Family Law  
15 Procedures that the parties have knowingly,  
16 intelligently, and voluntarily entered into the  
17 agreement submitted here in court today.

18                                And do you have the provisions of those  
19 or do I tell them to do a --

20                                THE CLERK: I did one.

21           THE COURT: You've got them? All right.

22 It is ordered approving the parties' agreement.  
23 It's further ordered that the parties shall follow  
24 the terms of agreement as set forth above.

25                                Now --



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**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.**