

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-233

Judge:

Complainant:

ORDER

October 6, 2023

The Complainant alleged a superior court judge made improper rulings 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, 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.

CONFIDENTIAL

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

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2023-233

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.

This is the most difficult and painful thing I've ever written. The summary of events and decisions that led to the mental, emotional, and financial destruction of myself, my wife, and my children reads like fiction. It's all too real for my family, a large number of Special Needs children, and at the risk of sounding "High Handed," our country, and Civil Rights. It was a great triumph for the guilty party.

Breach of Contract

On _____, I, _____, entered a contract to secure ownership of _____ on Interstate _____, eight miles East of _____ Arizona. It had been for sale for approximately two and a half years. For the next _____ months, I worked hand-in-hand with ownership in an attempt to secure financing for the deal. Ownership was very participatory, cooperative, and enthusiastic. I received texts from them almost daily, prodding me to get the deal done.

On _____ I met with ownership at their Real Estate Agent's office in _____. I attempted to bow out gracefully. I thanked them for all their efforts, but after _____ months and a long list of bank rejections, I had to get on with my life. I had to find some other business to buy.

They instantly offered to owner finance the difference between what I could secure from a bank and the purchase price. They said I was, "_____". Even with _____ the holidays things moved rapidly after that. I acquired financing from _____ in _____. The Seller and I agreed to terms and set a closing date for _____. The Final Terms sheet was approved by both parties on _____.

Ownership failed to show up on the closing day. As the buyer, I met every contractual requirement. The Title Company notified ownership and their attorney this was the case. At _____ an email was received by the Title Company from ownership's attorney stating they would not be executing the contract because of a few Scrivener's errors. My attorney sent a demand letter the next day,

The following _____, I received a communication from the owner's attorney stating if I could meet a new set of requirements, not contained in the contract, the sellers agreed to close on _____.

The prime hurdle of their gambit was insisting I come up with an additional _____ in _____ days. In an effort to avoid litigation, I met every new requirement on the _____, in addition to those actually in the contract I had complied with on the _____. They refused to close again, sighting standard Scrivener's errors and lack of documents they had never requested.

Liability Phase

We filed a Breach of Contract suit. My family, and my children, were devastated. My wife is a Certified Special Education Teacher specializing in _____. We had huge plans that we advertised throughout the _____ community. Many people were hurt and disappointed. The real estate professionals were shocked. Not one of them had ever seen anything close to a withdrawal with only four minutes to spare. Pulling me back into the deal by terms the Defendants themselves proposed, only to breach last minute made it even more deplorable.

The Defendants had groomed my children with free items from the gift shop and stories of how wonderful it would be to own the _____. They ripped away that dream in the cruelest

fashion, literally last minute. It was abusive. My children were victims of emotional abuse at the hands of the Defendants.

I heard it said once, "If you ever harm a child for your own selfish desires, you have forfeited your membership to the human race and become an animal." The Defendants selfishly abused my children and knowingly harmed thousands more, denying children with special needs an opportunity to interact and work with animals in an environment specifically set up for them.

They told verified lies in their depositions. One time a question was answered and the defense council immediately asked for a ten-minute break. When we resumed the question was asked again and the answer was the exact opposite, but not a retraction. When my attorney asked which one was true and which one was a lie, the defense council wouldn't allow an answer saying, " They would later show up at mediation with a document containing verifiable untruths, most of which they had already been corrected on.

months later, on we received a judgment in our favor from The Honorable Judge . A Mediator would later call it the harshest judgment he'd ever seen, " Much to my surprise the judgment is meaningless until you have a damages trial, which we filed for immediately. We also reached out to the Defendants in good faith suggesting we meet, at their attorney's office if they wished, to talk about a settlement. They completely ignored us.

Damages Phase

The defense council employed a host of stall tactics and refused to cooperate with discovery, particularly financial disclosures, for the next years. The Honorable Judge retired shortly after handing down the Liability Judgement and the case was assigned to Judge . To my knowledge, Judge did not apply any pressure or urge Defense to comply with discovery. The process was stalled and nothing was being done about it. Eventually, a trial was finally scheduled for years after the Defendants broke the law and many people's hearts.

On with the trial fast approaching defense council submitted a counterclaim request based on items dated between and , a year earlier. Nothing had ever been mentioned about these items. They consisted of text messages, email messages, copies of a letter, and the placement of small protest signs on the off-ramp to the Defendant's business.

There was no coarse or foul language, no threats, or even intimidating tones. There were no violence or vandalism threats of any kind. The protest signs and letters gave an accurate list of the people who had been hurt by the Defendant's illegal actions. They asked pointed questions. They were protests appealing to the Defendant's conscience in the hope of prodding them to do the right thing.

On the judge admitted every single one of the counterclaims and pushed the trial date out to a -month delay extending the entire process to years. An eye witness to the hearing on the counterclaims reported the judge had become " over a picture of a puppy.

According to the eyewitness account, the judge completely misinterpreted the caption of the photo. It was 180 degrees wrong, the complete opposite of what it said. She read it as accusing the Defendants of killing puppies AT the farm, not a comment about denying him his life living ON the farm. That puppy is my beloved who we specifically got to keep me

company on the _____ until my family moved up. The Defendants knew this. They knew he was arriving at the _____ days after the closing day to help celebrate my daughter's birthday with a bunch of her friends. The Defendants gave suggestions for the party.

The _____ even took away this puppy's life on the farm. What kind of people would treat an innocent animal like that?

For a layperson, this misunderstanding wouldn't be so shocking. Although "Life on the farm" is practically an idiom. I doubt many laypersons would make the mistake. For someone sitting on the bench interpreting the law, which is all about interpreting words, while holding justice and people's futures in their hands, it's an egregious error. An error that has destroyed my family, the ones who complied with and honored the contract. Even if it had been an accusation of killing one dog, does that come anywhere near the level of the verified illegal actions of defendants and the subsequent hurt and pain suffered by my family and many others?

The Eyewitness report that the misinterpretation " _____ " leading to her admitting all the counterclaims demonstrate a temperament and value system not suited to the bench. It also indicates the judge was prejudiced by that misinterpretation.

The picture of my puppy was the last item in the letter. It was preceded by a list of the humans that had been hurt by the defendant's illegal acts, including children, special needs children. The eyewitness reported Judge _____ was never visibly upset about the human damage. Only the dog. If Judge _____ gets upset over a misinterpreted comment about a dog, but not actual illegal acts that harmed children, I find that frightening and unconscionable.

Admittedly our Attorney should have been able to correct this misconception, but she never went through the counterclaims with us. She declared it, " _____ ' We weren't notified the hearing was taking place, what her strategy was, or what positions she was committing us to. We were not notified of the outcome until _____ days later. There was shock all around. We have asked, but have never received a transcript from the hearing.

The extension itself was cruel and devastating. The old legal saying, "Justice Delayed is Justice Denied," applied to the situation perfectly. _____ years was already an unjust timeframe to litigate a case with such a one-sided judgment. My family kept the faith for _____ years, through the first heartbreaking breach, the broken promise to honor the contract a week later, the stress of the case always hanging over us, struggling through the anxiety of being unable to plan for the future, all the stress of the legal process, through Covid. We kept the faith for _____ years, for _____ months.

Judge _____ decided adding _____ more months to pursue claims with no declared legal basis and no demonstrated damages was appropriate. Judge _____ felt it was acceptable to pile _____ more months on the _____ years of mental, emotional, and financial pressures my family had already endured. Once again, my children were severely traumatized. For the very first time in my life, I needed therapy. It broke me. It broke all of us, we lost ourselves. We lost all faith in the process, its ability to serve justice, its moral or ethical foundation, and its basic legitimacy.

People who committed illegal acts simply couldn't use reasonable protest and criticism with no demonstrable damages from those protests as a defense, right? This is America, we have the

Right to Free Speech, and we have the right to protest injustice. In fact, the Founding Fathers saw the right to protest as essential for a democracy. We honored the contract. What the defendants did was by definition unjust, they broke the law. They committed a grave injustice to my family and loads of special needs kids and their parents. Since the court wasn't doing anything, protests almost became almost inevitable. Criminalizing it was illogical, anti-democratic, and un-American.

We decided to drop the case but were quickly reminded of who and what we were fighting for. It was said we were being " " People stopped asking for updates, they could see the misery on our faces, in our eyes. Folks felt the same pain and disgust. I was plagued by anxiety, panic attacks, anger, and frustration through sleepless nights, and paranoia. I worried about a conspiracy. I doubted my own sanity. This simply could not be! Eventually, I was prescribed four medications and sent to a Therapist by my Psychiatrist.

When Defense Council had proudly announced with great bravado he was going to spend to file the counterclaims, he made no attempt to hide his intention of driving us financially out of the case. He was very proud, precise, and repetitive about the amount. Truth or justice was not his motivation. He made it very plain he expected that would bankrupt us. When the counterclaims were actually admitted he won the lottery.

I lived in for years and in for years. I shared the Counterclaims with attorneys I know from all over the world and several here in Arizona. The unanimous feedback was the counterclaims were a frivolous attempt at delay and obfuscation, with nearly zero chance of being admitted. I was told under the English code a judge would censure a Barrister for wasting the court's time with such a farcical gambit. When I informed them the Counterclaims had indeed been admitted, each of them was shocked and asked on what legal basis?

No legal basis has ever been given for the admission of the Counterclaims. I've asked over and over and no one has been able to answer. No damages from the Counterclaims of any kind were ever presented. The admission of the counterclaims elevated truthful words to a negative act on a level with the Defendant's proven illegal actions. It in effect criminalized Free Speech and Rightful Protest, while providing the lawbreakers' protection from legitimate criticism.

One attorney said, "

" Judge allowed it, with no legal basis, and no damages. The judge allowed it.

We repeatedly offered to settle for of what the Expert said we were entitled to. The defendants never even responded. Covid had doubled their revenues. The employees told me they needed more deer because the herd would be overfed by the guests and stop eating. The cups of food for feeding the Deer are a big part of the attraction and revenue.

In mid- our attorney said of the defense attorney, " He did. It's a reasonable guess that Defense Council told them to reject any offer no matter how fair.

The admission of the Counterclaims handed a large crowbar to the Defense Attorney which he wielded with gleeful malevolence. I actually caught him laughing about my wife's tears during a break in her deposition. I stood feet away in a hallway and heard him jovially ask the Junior Counsel, " It seemed he wanted to know if there would be any more entertaining tears. When he looked up and saw me all he said was, " and the two of them scuttled away.

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