

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-373

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Judge:

Complainant:

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**ORDER**

February 23, 2024

The Complainant alleged a superior court judge improperly failed to reverse the rulings of a prior judge in a 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 member Denise K. Aguilar did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 23, 2024.

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

2023-373

Subject: Complaint Against Visiting Judge [redacted] Proceedings and his claim that he cannot change another recused, and biased Court's Decisions.

Judge [redacted] has continued to violate my Constitutional Rights to Free Speech that prohibits me from acting in my capacity as President of the [redacted] (hereinafter " [redacted] "). The Gag Order was imposed by Judge [redacted] who recused himself when my Complaint to this Commission, that was supported with multiple issues of bias, was filed with an Affidavit.

Visiting Judge [redacted] of [redacted] County continues the practice of violating my First Amendment Rights. Judge [redacted] has a duty to serve justice and not a duty to serve the Defendants in [redacted]

I did nothing wrong or illegal as a Plaintiff in the case who was required to mail the Summons and proactively sought physical addresses for the USPS Return Receipt signature card.

I did nothing wrong as President of the [redacted] in mailing a Ballot to property owners for Amendments to the CC&Rs that could prevent law suits. Purpose of the Ballot reads as follows:

**"Purpose of Your Ballot and Your Pending Summons to Join You in a Law Suit**

This is an urgent Ballot measure in rebuttal to a letter with false claims that was mailed to property owners by an anonymous property owner who provided an address of rental property on [redacted]. This property owner sought signatures to Revoke the Covenants, Conditions and Restrictions (CC&Rs). [redacted], President of the [redacted]

( [redacted] ), did not receive the letter but was provided a copy by a property owner. [redacted] forced retraction of the letter. You should have received the retraction in a post card on or about [redacted]

Rules are meant to protect our property values and protect the Subdivision from blight. Revoking the CC&Rs is the goal of those who wish to do as they please regardless of any reduction in our property values.

The high priority of this Ballot for Amendments to the CC&Rs that affects your lot or lots is that no HOA (Home Owner Association) could be formed by the [redacted] that required annual dues from any property owner.

The First Amended Declaration, if approved by owners of 75% of the lots subject to the CC&Rs, may eventually supersede all five existing Declarations with Ballots mailed to property owners in \_\_\_\_\_ and \_\_\_\_\_ as well for consistency and protection from Law Suits within the entire Subdivision

In brief, the proposed amendments are as follows: wrought iron fences will allow more than black in color, minimum livable space square footage, will conform to that cited \_\_\_\_\_ CC&Rs, errors that caused less than five foot side yard setbacks allows an exception for a minimum of ten feet (10') between two existing adjacent structures, chain link that is prohibited for boundary fences is allowed on golf ball safety barriers, the minimum garage size dimensions includes a minimum twenty foot (20') depth, trash pickup is modified for times before and after pickup, hauling trailers that need to be hidden from public view is differentiated from recreational vehicle trailers, prohibited business advertising signage is clarified, gate access to the golf course is omitted, the antenna and satellite dish restriction is omitted, fencing all the way to the front yard street setback that does not obstruct views is allowed, the initial Architectural Committee whose term of service expired over twenty years ago clarifies members pursuant to Statute 33-1817 B, the \_\_\_\_\_ President is authorized to prepare, execute and record the written instrument setting forth the approved amendments pursuant to Statute 33-1817 A. Two volunteers are sought to complete the three-member Committee who define procedures and to fill vacancies by a majority vote of the Committee.

Attached is the Proposed "First Amended Declaration of Covenants, Conditions and Restrictions For Subdivision \_\_\_\_\_". If approved, it will be filed with the \_\_\_\_\_ County Recorder's Office. Stricken text is language that will be omitted before filing. Underscored text includes additions and replaced text for the prepared and executed instrument that will be recorded.

Attached is a Ballot for your signature and for your insertion of your Assessor's Property Number (APN). Each APN counts as one affirmative vote in the calculation for 75% of the lots approved for filing the instrument.

Contributions to the costs incurred by \_\_\_\_\_ in preparing the First Amended Declaration, having it reviewed by an attorney, and mailing it to property owners is greatly appreciated. If 75% of the property owners returned a \_\_\_\_\_ contribution enclosed with their signed Ballot, it would reimburse a portion of her costs in her efforts to protect \_\_\_\_\_ with these amendments and for the costs incurred in \_\_\_\_\_ for Recording the Resolution that created the

Your pending Summons to be joined in a law suit is by Court Order. See included separate letter for details.

**Spread the Word.**

**Not every property owner will take the time to read and understand the importance of this Amended Declaration.**

**Encourage every property owner you know to Approve Amendments**

For questions or for a PDF of the Original Declaration for any of the five Tracts  
contact \_\_\_\_\_”

The separate page that provided information on the Summons was as follows:

**“COURT HAS ORDERED YOU TO BE JOINED IN A LAW SUIT  
YOUR SUMMONS NEEDS TO BE DELIVERED TO A PHYSICAL ADDRESS**

Please provide your physical address for Process Service below.

\_\_\_\_\_ is the Plaintiff in that law suit.

\_\_\_\_\_ and the \_\_\_\_\_ are the Defendants.

In brief, the cause of action is Injunctive Relief to stop the Defendants from violating the CC&Rs on the homes they build and sell to buyers who become subject to prosecution for Breach of Contract and to stop their “Build to Suit” business advertising in \_\_\_\_\_. You will be provided with a copy of the Complaint that was filed in \_\_\_\_\_. The cause of action for Breach of Contract for one home built in violation of front and rear yard setbacks was dismissed in \_\_\_\_\_. That home is situated in \_\_\_\_\_. Plaintiff, \_\_\_\_\_, was adjudicated rights to only prosecute violations subject to the \_\_\_\_\_ CC&Rs.

Your Physical Address \_\_\_\_\_

Your City, State, Zip Code \_\_\_\_\_

E-mail Optional but Appreciated for purposes of communication updates on this case.

E-Mail Address \_\_\_\_\_

**Please return in the same envelope as your Official Ballot  
even if you chose not to sign for the Amendments.**

**POTENTIAL CLASS ACTION LAW SUIT**

Are you vulnerable to prosecution for setback violations  
on your home as caused by a Developer?

Check your plot plan at the Planning & Zoning annex on \_\_\_\_\_ in \_\_\_\_\_ to see if your home was built in violation of the twenty foot (20’) setbacks, front and/or rear.

A Class Action Law Suit has been advised, depending on the number of homes found to be in violation of twenty foot (20’) setbacks.

Send an inquiry on how and when to join to:

Pursuant to the above details of mailing, believes the Gag Order is an abuse of power that unfairly supports the Defendants. Motive is unknown but it is clear that the Ballot, that is still available for signatures today, would defeat the Defendant's affirmative defense of abandonment. The Defendants' Motion for Summary Judgment, in their third effort at dismissal, was not granted or the case would have been dismissed in

The Declaration has not been thoroughly disregarded as the Defendants wish to claim. The fundamental character of the subdivision remains a golf course community of estate homes therefore the non-waiver clause remains in full force and effect. There are no sections of the CC&Rs that are defeated because every violation listed by the Defendants as frequency data in support of their MSJ either have remedy, has been made legal since by the FCC, or are not violations at all because law follows language in the CC&Rs and not the Defendant's interpretation of the language.

The Defendant's knowingly and willfully building homes in violation of setbacks has the cutting away remedy that has been imposed on fences in the past. Defendants are at risk of being prosecuted by the property owners for selling homes in violation of setbacks without a Sellers Property Disclosure Statement.

Judge has shirked his responsibility to have the Defendants follow Rule 12 (b )(6) for stating a claim of each section of the Declaration that is to be litigated in this matter. Judge said he would have decisions on all of my Motions by and has failed his duty.

Justice Delayed, is Justice Denied.

Further, case law and an abuse of discretion for Rule 19 (a) by the recused Judge remains in effect. Plaintiffs who file Breach of Contract law suits are not the movants on abandonment. is a Defendant of the Declaration of CC&Rs.

Case law is clear that the Party who seeks abandonment, MUST join other affected Parties and give them a day in Court. A Party who seeks abandonment is the movant and has the burden of proof. is not the movant on Abandonment. should not be subjected to a Rule 19 Order imposed by a biased Court that continues to be imposed by Judge . For this reason, the Attorney General is receiving a Complaint and request for a Petition to amend Rule 19 a.

This entire fiasco has been a travesty of incompetency that needs a higher authority to clean up the mess before a very serious precedent is set in Arizona. If the Plaintiff who files a law suit for violations of sections of a Declaration can be punished with a Rule 19 Order, it will chill any future real property protections for subdivisions with CC&Rs.

The Gag Order needs to be lifted or imposed on both sides of the case for fairness.

The Notice to Property Owners needs to be clear that the Parties are not being sued in this case by and that they are being noticed so they can join for their day in court either as a defendant or plaintiff on the issue of abandonment.

Judge needs to revise his Notice to make it clear to the Parties that they do not have to file any document electronically if they join pro per. As was explained to Judge , Pro Per Plaintiffs and Pro Per Defendants are not required to use TurboCourt. It is costly for filings and is not intuitive software.

Judge [redacted] needs to revise his Final Order to allow the Plaintiff to only send one Service Packet to each Address and addressed to the primary property owner or primary Trustee. A Waiver of Service Form is to be included for each known joint tenant. One Trustee is all that is required for a Waiver of Service whether the Trust is held in two parties or multiple unnamed parties as et. al. The primary property owner will sign the USPS Return Receipt that is Plaintiff's proof to the Court that she complied substantially with the Order.

Judge [redacted] needs to revise his Final Order to comply with the agreed language of both the defense counsel and Plaintiff's former attorney that she will have 150 days from the Order to substantially comply.

It is an abuse of discretion to now give the Plaintiff only 52 days from [redacted] especially when the Plaintiff and all other Parties have no Rule 12 (b )(6) on which to defend or support at trial.

The date needs to be amended to be 150 days from the final date of the latter of either the Defendant's Motion pursuant to Rule 12 (b) (6) or 150 days from the Court's Corrected Final Order. A Motion to Correct has been filed with the Clerk of the Court.

The Court needs to include in his Final Order whatever the Court decides "substantial" means and his criteria for substantial needs to be reasonable based on his decision on how the Service Packets are to be filled with documents and mailed.

One envelope for each primary property owner or trustee has been requested of the Court and based on this criteria there are [redacted] envelopes among [redacted] where substantial was requested to be at least [redacted] in postal costs not including the copying costs of the minimum of [redacted] pages of documents to insert in the Priority Mail Envelopes with hand addressing every Return Receipt card. As any reasonable person would agree, the Order is labor intensive and 150 days is not unreasonable especially for a [redacted] year old who is still having to work a full time job to pay for all of these legal costs and whose home has been threatened for payment of the Defendant's attorney fees.

The Court has not considered the language in Plaintiff's Final Order or he would have given the Order he signed on [redacted] better consideration of the needs of both the Plaintiff and the Parties.

Plaintiff requires all of her motions to be decided and with the rationale used by the Court in his decisions.

One such other pending motion is Injunctive Relief for signage. Attorney [redacted] claim that the signs were protected by Statute as "for sale" signs was fraud and stalled Injunctive Relief. The signs were dilapidated from long-term exposure to the elements and were a hazard to persons and property.

One such other pending motion is for Attorney [redacted] to pay damages for his fraud and delay in this case for damages up to the maximum award of [redacted] and for the Court to request that the Plaintiff file an affidavit of her expenses.

One such other pending motion is rationale for the Gag Order that the Court says he cannot change. Judge [redacted] merely said he "thinks" she did something wrong. [redacted] deserves more specificity than that.

One such other pending motion is for a change of venue for multiple reasons including a hindrance for jury selection. Consolidation into [redacted] would be appropriate since two of the defendants in this case are already defendants in that case. Judge [redacted] Erred in his Dismissal and

**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.**