

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-431

Judge:

Complainant:

ORDER

May 17, 2024

The Complainant alleged a superior court judge violated due process rights 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 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 May 17, 2024.

2023-431

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.

The undersigned alleges that the Honorable Judge _____ in his capacity as a public trustee, is engaging in misconduct within his judicial office. _____ alleges that the Judge engaged in retaliatory conduct following _____ exercise of her constitutional rights.

The members of the LLC had already agreed in _____ to dissolve the company and/or partition its assets, the Operating Agreement provides for it, the members stipulated to have a receiver. _____ suggested she should be the receiver. Another person was appointed receiver. [Certificate of Receiver _____]

The Order of the Court entering a judgment of dissolution against _____, an Arizona limited liability company, pursuant to A.R.S. § 29-3701(4)(b). [Minute Entry _____]

The Order of the Court that _____ shall wind up its activities and affairs under the supervision of the Court pursuant to A.R.S. § 29-3702. [Minute Entry _____]

Proper case management could have concluded this case but _____ contends that the Judge's handling has distressing the fundament purpose of the LLC, why this action was put on in and defended in the instance and hindered the manager/member _____ from benefitting from their rights as Defendant in one case and Plaintiff in the consolidated cases.

The alleged retaliations includes imposing excessively harsh sanctions, and demonstrating a clear bias in favor of the opposing party. _____ finds the Judge's repetitive behaviors alarming and threatening, and claims unfair treatment by the Judge, a law official.

A Complaint was filed against Judge _____ in CJC Case No. _____ for failed to adhere to the Arizona Rules of Civil established rules and procedures, specifically answer to Counterclaim, Rule 56 and Rule 66.

The Judge knew of protected activity, in the next hearing he apologized for taking so long and stated he would be moving things along.

I _____ In Minute Entry _____ the Court affirming the Courts previous orders following the evidentiary hearing.

_____ asserts that the Judge retaliatory actions are an attempt to punish her for asserting her protected rights and deter her from pursuing her legal claims. Judge _____ focus is to isolate issue so as to obtain social security number for _____. The manager/member believes that the Judge's conduct has severely undermined her ability to receive a fair and impartial outcome, thereby violating her due process rights under the Constitution.

Judge _____ has unnecessary prolonged this case furthermore since _____, for another () years and it is still ongoing. He made known, that despite multiple court rotations, this is case he wants to keep.

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

FOR OFFICE USE ONLY

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Chronology:
Background: In _____ Member _____ filed a Complaint for dissolution against the LLC under A.R.S. §29-785 (Count I), and an accounting (Count II) against all Defendants or, alternatively, for breach of contract against _____ with claim for attorney fees (Count III). The Order of the Court Granted the Dismissal of Count III. Counsel for _____ is judicially estopped in Count III or to claim attorney fees.

On _____ filed a Motion for Order to Show Cause, for reason " _____ ' of the returns.

On _____ admits in Notice _____.

On _____ : Brief discussion is held regarding Plaintiff _____ s _____ Notice of Possession of Limited Tax Return Information with Motion to Prepare Amended and Final Tax Returns of _____ LLC. This matter will remain open for the purpose of resolving the Motion to Prepare Amended and Final Tax Returns of _____ LLC.

On _____ , On the Court's own motion.

On _____ informs the Court that neither the federal not state return have been filed. The LLC by and through it s manager/member _____ informs the Court that the Federal and State tax return for year _____ was filed in _____ and the Federal and State tax returns for year _____ filed in _____.

In _____ the Judge sets a hearing for _____.

In Order of the Court that _____ shall advise the Court in writing not later than _____ if he objects to the proposed Notice of Winding Up.

In _____ a creditor claim in _____ is brought to the attention of the court by _____ and she asks for further instruction.

In _____ files a Complaint against the Judge, alleging disregard in the application of Rules of Civil Procedure for the Superior Courts of Arizona, specifically, answer to counterclaim, Rule 56 and Rule 66.

On _____ , the Court awards that creditor a Default Judgement against the LLC. (Minute Entry _____ in _____)

Retaliation On _____ ' "Application for Further Instructions to Manager"
is Denied. _____ is ordered to pay _____ attorney fees and costs for responding to
application re. _____ .

On _____ in Order of the Court authorizing _____ to file the amended returns.

[

The IRS position, in their Frequently Asked Questions, is that **an LLC is not prevented from filing a tax return if the SSN of one of its members is unknown.**

On _____ that creditor files a new case in _____ as in _____ , and
naming the same defendant, the manager/member of the LLC. Motion to Consolidate is Denied in
Minute Entry dated _____ : _____ considered in post-judgement proceedings
and _____ considered active.

[Retaliation - isolate tactic] On _____ in Order of the Court that _____ shall provide
her social security number and mailing address.

[Repeat 2] On _____ the matter set for hearing on _____ re Application
for an Order to Show Cause regarding _____ ' alleged non-compliance with the Court's
. The manager/member has stated: "
_____ "

[To be willful a member must be shown to have known the legal duty to the LLC which he
violated] The application for an order to show cause does not work due to Judicial estoppel (also
known as estoppel by inconsistent positions) is an estoppel that precludes a party from taking a
position in a case that is contrary to a position it has taken in earlier legal proceedings.]

[Repeat 3] On _____ setting an Evidentiary Hearing on _____ re:
failure to provide her social security number and mailing address.

[Isolate tactic 2] _____ requests to appear virtually at the evidentiary hearing set for
_____ at _____ a.m.

The Motion to appear Telephonically submitted on _____ .

[Substantial rights] _____ appears telephonically at the hearing on _____ at
. No other parties appear. Hearing is not held. This is not a harmless error, it affects
substantial rights.

On
brought the

Minute Entry Filed. However, Counsel for
date to the attention of the Judge.

had on

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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.
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.

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.

Rule 2.16 (B) A judge shall not retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.
A Compliant against a Judge was filed