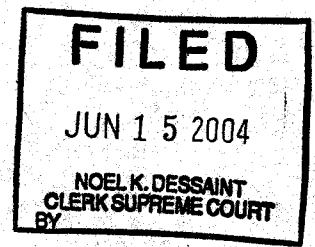


IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-03-0034



**NUNC PRO TUNC ORDER AMENDING
THE EFFECTIVE DATE OF AMENDMENTS TO
RULES 4, 5, 9, 10, 16, 17, 18, 22, 23, 27, 28, and 34
RULES OF THE COMMISSION ON JUDICIAL CONDUCT**

Amendments to the above rules were adopted on June 8, 2004, effective December 1, 2004. At the request of the petitioner in this matter, and good cause appearing,

IT IS ORDERED, nunc pro tunc, that the amendments previously adopted shall be effective as of June 8, 2004.

DATED in the City of Phoenix, Arizona at the Arizona Courts Building, this 15th day of June, 2004.

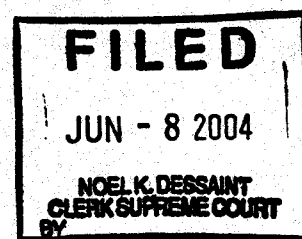
For the Court:

A handwritten signature in cursive script that reads "Charles E. Jones".

CHARLES E. JONES
Chief Justice

IN THE SUPREME COURT OF THE STATE OF ARIZONA

Supreme Court No. R-03-0034

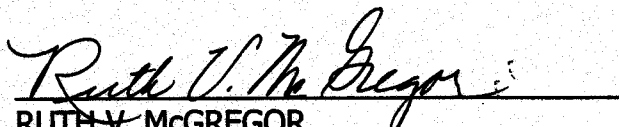


**ORDER AMENDING
RULES 4, 5, 9, 10, 16, 17, 18, 22, 23, 27, 28, and 34
RULES OF THE COMMISSION ON JUDICIAL CONDUCT**

IT IS ORDERED amending Rules 4, 5, 9, 10, 16, 17, 18, 22, 23, 27, 28,
and 34, Rules of the Commission on Judicial Conduct, in accordance with the
attachments hereto,* effective as of December 1, 2004.

DATED in the City of Phoenix, Arizona at the Arizona Courts
Building, this 8th day of June, 2004.

For the Court:


RUTH V. MCGREGOR
Vice Chief Justice

* Changes or additions in text are indicated by underlining and deletions from text
are indicated by ~~strikethroughs~~.

RULES OF THE COMMISSION ON JUDICIAL CONDUCT

SECTION A. ORGANIZATION AND STRUCTURE

Rules 1 through 3. [no change in text]

Rule 4. Administration

(a) through (c) [no change in text]

(d) Policies, procedures and forms. The commission may adopt administrative policies, procedures and forms that do not conflict with these rules.

SECTION B. GENERAL PROVISIONS

Rule 5. Purpose of Disciplinary Actions

The purpose of the judicial discipline and incapacity system is ~~not to punish the judge,~~ but to protect the public and to maintain high standards for the judiciary and the administration of justice. Any disciplinary ~~measure~~ 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.

Rules 6 through 8. [no change in text]

Rule 9. Public Access and Confidentiality

(a) through (b) [no change in text]

(c) Discretionary disclosure. The commission may disclose a complaint to a judge and a judge's response to a complainant at any time. It may also disclose confidential information to confirm a pending investigation or clarify proceedings in a case in which an investigation has become public ~~or to clarify proceedings in such cases;~~ to ~~disclose~~ explain the final disposition of a complaint; to protect individuals, the public, or the administration of justice; and to ~~assist~~ qualified comply with official requests from agencies conducting and other organizations

involved in criminal prosecutions, bar discipline investigations, or judicial nomination, selection, and retention proceedings.

Rule 10. Notification to Complainant

Commission staff shall provide written acknowledgment of every complaint, if the complainant is known, and notify the complainant in writing of a public hearing, if any, and of the final disposition of ~~a proceeding under these rules~~ the complaint.

Rules 11 through 15. [no change in text]

SECTION C. DISCIPLINARY ~~MEASURES~~ REMEDIES AND SANCTIONS

Rule 16. ~~Preliminary Measures~~ Disciplinary Remedies

(a) through (c) [no change in text]

Rule 17. Informal Sanctions

(a) through (b) [no change in text]

(c) Other ~~measures~~ informal sanctions. The commission may adjust an informal sanction by any other appropriate means consistent with these rules, including, but not limited to, the ~~imposition of measures~~ the use of any remedies set forth in Rule 16 or the assessment of attorney fees and costs.

Rule 18. Formal Sanctions

(a) through (d) [no change in text]

(e) Other ~~measures~~ formal sanctions. The commission may recommend the imposition of other ~~measures~~ formal sanctions consistent with these rules, including, but not limited to, the assessment of attorney fees and costs.

(f) [no change in text]

Rule 19. [no change in text]

SECTION D. DISCIPLINARY PROCEEDINGS

Rules 20 and 21. [no change in text]

Rule 22. Investigation

(a) through (e) [no change in text]

(f) **Finding of reasonable cause.** At the conclusion of a full investigation, the investigative panel may instruct disciplinary counsel to prepare formal charges if it finds reasonable cause to believe that one or more grounds for discipline of a judge exists that cannot be resolved through dismissal, disciplinary remedies, ~~or imposition of preliminary measures~~ or informal sanctions. In all other cases, the investigative panel shall refer the matter to the full commission for final disposition.

Rule 23. Commission Review of Informal Proceedings

(a) [no change in text]

(b) **Motion for reconsideration.** When the commission dismisses a complaint or imposes ~~preliminary measures~~ disciplinary remedies or informal sanctions, it shall notify the judge, the complainant, and disciplinary counsel of the outcome. Except as provided in Rule 16(a), within fifteen days of the date of mailing notice of disposition, the judge or the complainant may file a motion for reconsideration, which may include a request to appear before the commission. The commission shall serve the motion for reconsideration ~~shall be served~~ on the opposing party, who may respond within fifteen days from the date of mailing. If the request to appear is granted, the commission shall notify the judge, the complainant, and disciplinary counsel of the time and place of the appearance. The commission shall provide written notification of its decision on the motion within fifteen days after the time for a response to the motion has expired, or if a request to appear was granted, within fifteen days after the appearance.

(c) [no change in text]

Rules 24 through 26. [no change in text]

Rule 27. Hearings

(a) [no change in text]

(b) Duties of presiding member. The presiding member of the hearing panel shall oversee all pre-hearing proceedings, rule on pre-hearing motions, and preside over the formal hearing. To facilitate the prompt and timely resolution of the case, the presiding member shall prepare a case management order setting forth a schedule and deadlines for each stage of the proceedings, and may order a settlement conference, review discovery procedures with the parties, rule on pre-hearing motions, and conduct pre-hearing conferences to obtain admissions or narrow the issues presented by the pleadings.

~~(b)~~ (c) [no change in text]

~~(e)~~ (d) [no change in text]

(e) Settlement conference. At anytime prior to the hearing, the presiding member of the hearing panel may order the parties to participate in a settlement conference conducted by a member of the investigative panel. Any proposed agreement for discipline by consent shall conform with the requirements of Rule 30.

~~(d)~~ (f) [no change in text]

~~(e)~~ (g) [no change in text]

~~(f)~~ (h) [no change in text]

Rule 28. Recommendations

~~(a) By a hearing panel. Within fifteen days after final submission of a matter, the hearing panel shall file and serve on the parties its proposed recommendations to dismiss the formal charges or impose disciplinary measures or sanctions as provided in these rules. Within~~

~~fifteen days thereafter, the parties may file objections with the hearing panel, which may accept or reject the objections without further proceedings.~~

(a) By a hearing panel. The hearing panel may file proposed recommendations at any time after the conclusion of the formal hearing and shall do so no later than fifteen days after the transcript of the hearing is filed with the commission. The recommendations shall be served on both parties, and either party may file a motion for reconsideration within ten business days. The motion shall be limited to whether the evidence in the record supports the findings of fact. If a motion is filed, the adverse party may file a response within ten business days, and no reply shall be filed unless ordered by the hearing panel. The hearing panel may accept or reject any objections to the factual findings without further proceedings.

~~(b) By a hearing officer.~~ Within fifteen days after final submission of a matter, the hearing officer shall file and serve on the parties proposed recommendations. Commission members who have not previously participated in the investigation shall review the findings of fact based on a clearly erroneous standard and the conclusions of law on a de novo basis. The commission so constituted may thereafter adopt, reject, or modify the proposed recommendations. Within fifteen days after service of the commission's recommendations, the parties may file objections with the commission, which may accept or reject the objections without further proceedings.

(b) By a hearing officer. The hearing officer may file proposed recommendations at any time after the conclusion of the formal hearing and shall do so no later than fifteen days after the transcript of the hearing is filed with the commission. Commission members who have not previously participated in the investigation shall review the findings of fact based on a clearly erroneous standard and the conclusions of law on a de novo basis. The commission so

constituted may thereafter adopt, reject, or modify the proposed recommendations. The recommendations shall be served on both parties, and either party may file a motion for reconsideration within ten business days. The motion shall be limited to whether the evidence in the record supports the findings of fact. If a motion is filed, the adverse party may file a response within ten business days, and no reply shall be filed unless ordered by the commission. The commission may accept or reject any objections to the factual findings without further proceedings.

(c) [no change in text]

Rule 29. [no change in text]

SECTION E. SPECIAL PROCEEDINGS

Rules 30 through 33. [no change in text]

Rule 34. Compliance Proceedings

(a) ~~Failure to comply~~ Compliance procedure. Whenever the commission or supreme court enters an order of discipline that includes terms and conditions prescribing behavior or requiring a corrective course of action by the judge, commission staff shall investigate, evaluate, and report on compliance with the order. If the commission has reason to believe that further disciplinary action is appropriate, the commission may reopen any suspended matter, hold additional hearings, or ~~may~~ initiate further proceedings consistent with these rules.

(b) Certificate of compliance. ~~Upon application and submission of sufficient information by the judge, the commission may find that the judge has complied with or satisfied the terms and conditions of a disciplinary order. The commission may concur with the application, may dispense with further compliance proceedings, and may enter an order certifying the judge's compliance with the disciplinary order, or take any other action consistent with these rules.~~ Upon completion of a course of action prescribed by the commission, the judge

may submit an application for a certificate of compliance and such other information in support of the application as the judge deems appropriate. The commission shall consider the application and supporting material and may find that the judge has complied with or satisfied the terms and conditions of the disciplinary order. If the commission finds the application persuasive, it may dispense with further compliance proceedings and may issue a certificate or order certifying the judge's compliance with the disciplinary order. Alternatively, the commission may deny the application and may recommend to the supreme court, with or without an additional hearing, further disciplinary action consistent with these rules.

(c) [no change in text.]