



# **Arizona Commission on Judicial Conduct Annual Report for Calendar Year 2016**

**February 2017**

## **Introduction**

This is the Arizona Commission on Judicial Conduct's Annual Report highlighting its activities during calendar year 2016.

## **Purpose of the Commission**

Arizona judges and other judicial officers are required to comply with the Arizona Code of Judicial Conduct. The Arizona Commission on Judicial Conduct is the agency that reviews complaints that a judge or other judicial officer has violated one or more of the provisions of the Code or otherwise engaged in judicial misconduct that warrants judicial discipline.

All complaints are first analyzed and investigated, as necessary, by commission staff. The commission reviews the results of staff investigations to determine if a judge has violated any rule of judicial conduct and, if so, whether he or she should be disciplined for misconduct. The commission may issue a public reprimand for low level judicial misconduct unless a formal hearing is requested by the judge. More serious sanctions such as censure, suspension, or removal, must be approved by the Arizona Supreme Court.

## **History of the Commission**

The Arizona Commission on Judicial Conduct was created in 1970 when voters approved Article 6.1 of the state constitution. The new article, which was subsequently amended in 1988, established the commission as an independent state agency responsible for investigating complaints against justices and judges on the supreme court, court of appeals, superior court, and justice and municipal courts. The commission's jurisdiction extends to court commissioners, pro tem judges, and hearing officers serving any of these courts.

Judicial conduct commissions exist in every state and are responsible for overseeing the ethical conduct of judges both on and off the bench. They play a vital role in promoting public confidence in the independence, impartiality, and competence of the judiciary and in preserving the integrity of the judicial process.

### **Structure of the Commission**

The commission consists of eleven members with diverse backgrounds who serve six-year terms. Six judge members are appointed by the Arizona Supreme Court: two from the court of appeals, two from the superior court, one from a justice court, and one from a municipal court. Two attorney members are appointed by the board of governors of the State Bar of Arizona. Three public members, who cannot be attorneys or active or retired judges, are appointed by the governor and confirmed by the state senate.

Commission members are not compensated for their work, but are reimbursed their actual expenses in serving on the commission. The commission meets periodically throughout the year and is supported by a five-member staff located in the State Courts Building in Phoenix. Although the commission operates independently, it is housed within the judicial branch of state government and its rules must be approved by the Arizona Supreme Court.

### **How the Commission investigates and resolves complaints**

The commission's rules contain the technical details of how complaints about judges are investigated and resolved. They can be found on the commission's website at <http://www.azcourts.gov/azcjc>. The following is an overview of that process.

Complaints can be submitted to the commission by anyone who believes a judge has engaged in judicial misconduct. The commission also has the authority to open an investigation if, for example, a news report contains information that suggests a judge may have engaged in judicial misconduct.

A file is opened for each new complaint. The commission's professional staff reviews each submission, relevant electronic court documents, and other relevant records, and then prepares a written report for review by the commission. Each commission member, unless unavailable due to a conflict of interest or other commitments, reviews each docketed complaint. If all commission members concur that no ethical misconduct occurred, the complaint is dismissed and the complainant and judge or judges involved are notified in writing of that action.

**Example:** A defendant in an injunction against harassment proceeding alleges a justice of the peace was rude and condescending to him at a hearing. Commission staff obtain the audio/video recording of the hearing and prepare a written report that all eleven commission members review, along with the defendant's written complaint. A review of the recording shows the justice of the peace was not rude, did not raise her voice, and was respectful of and listened to both parties before ruling on the petition. The commission determined the complaint was not substantiated by what actually happened at the hearing and the complaint was dismissed.

\* \* \*

If a complaint raises an issue or issues that professional staff believes warrants further investigation, it may obtain audio or video recordings of court proceedings, other court records, and/or ask the judge or judges involved to provide a written response. Professional staff prepares a report for review by the commission which then decides whether to dismiss the complaint, dismiss the complaint with an advisory or warning, or to issue a public reprimand. A judge can ask the commission to reconsider its decision to issue a public reprimand or reject the reprimand and ask for a formal hearing to contest the alleged violation or violations.

**Example:** A litigant alleges a judge yelled at her during a hearing, was extremely impatient, and gave her a disproportionately short period of time to present her case in comparison to the time allowed the adverse party. Commission staff obtains a copy of the recording of the proceeding and presents a written report to the commission on what happened. After a review of the report, the written complaint, the judge's response, and the recording, the commission determines that the judge did not comply with Rule 2.6 (Ensuring the Right to be Heard) and Rule 2.8(B)(A judge shall be patient, dignified, and courteous to litigants). After considering all relevant aggravating and mitigating circumstances, the commission publicly reprimands the judge for the violations and the judge does not seek reconsideration of that sanction. The reprimand is posted to the commission's website ([www.azcourts.gov/azcjc](http://www.azcourts.gov/azcjc)).

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If a complaint appears, upon initial investigation, to involve judicial misconduct that may warrant a sanction greater than a public reprimand, the commission's disciplinary counsel will request the commission chair to appoint an investigative panel of three commission members (one judge, one lawyer, and one public member) to determine if reasonable cause exists to believe the judge has engaged in judicial misconduct. If the investigative panel makes that finding, disciplinary counsel is charged with filing a formal complaint against the judge which initiates a formal proceeding to hear the evidence presented by disciplinary counsel and the judge. Based on the record in the formal proceeding, the hearing panel (the

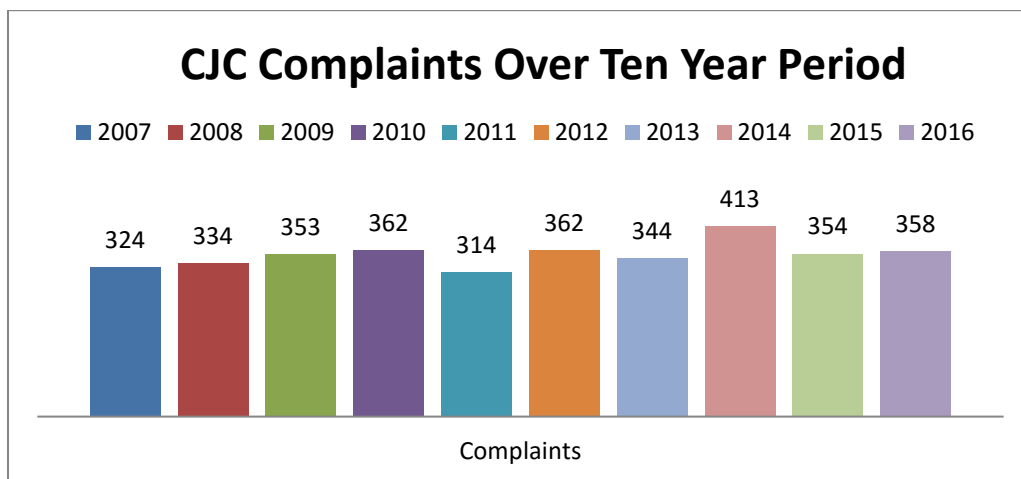
remaining eight members of the commission, excluding the three members who served on the investigative panel) will file written findings of fact and conclusions of law and a recommendation with the Arizona Supreme Court as to whether the formal charges should be dismissed or a sanction imposed for a violation of one or more of the judicial conduct rules judges must comply with. The final decision as to the dismissal of the charges or the imposition of public discipline is up to the Arizona Supreme Court.

It is possible that following the filing of formal charges a judge will agree to stipulate to facts that demonstrate the judge violated one or more judicial conduct rules and to a sanction for the stipulated violations. Stipulations must be approved by both the hearing panel and the Arizona Supreme Court for the agreed-upon sanction to resolve the formal proceeding.

It is important to point out that complainants are not parties to any proceeding initiated by the commission. It is possible a complainant could be asked for additional information during the course of an investigation or be called as a witness in a formal proceeding against a judge, but the actual parties are the commission and the judge. The judge is entitled to be represented by counsel of his or her choice. Both parties have discovery rights similar to that which is allowed pre-trial in a civil lawsuit in superior court, and both parties can subpoena witnesses to testify at a hearing conducted by the hearing panel.

### Calendar Year 2016 Activities

The principal mission of the commission is to fairly and efficiently review, investigate, and resolve complaints about the conduct of judges. The commission docketed 358 complaints in 2016, a slight increase of 4 complaints from the number filed in 2015 (354). As of January 1, 2017, the commission had resolved most of those complaints. The balance remain under review. The following chart shows the trend of complaints about Arizona judges over the ten year period 2007-2016:



The following data summarizes the disposition of the complaints resolved in 2016.

**a. Dispositions**

**i. Public Discipline**

Unless a judge requests a hearing to contest the charges, the commission can issue a public reprimand for one or more violations of the Code of Judicial Conduct or other applicable ethics standards. Reprimands are the lowest level of public sanction and serve to disapprove of inappropriate conduct that does not warrant the filing of formal charges against the judge.

Upon the filing of formal charges against a judge, a commission hearing panel can recommend and the Supreme Court can impose the sanctions of censure, suspension, or removal.

Five judges were publicly disciplined in 2016 (One 2015 case was closed in 2016, but is reported on the commission's website as a 2015 case). Twelve judges were publicly disciplined in 2015. The details of the five cases can be found at the following locations on the Internet:

<http://www.azcourts.gov/azcjc/Public-Decisions/2015>

<http://www.azcourts.gov/azcjc/Public-Decisions/2016>

**2016 Public Discipline**

**Public Reprimands (5)**

- Pima County Justice of the Peace Jose Luis Castillo was publicly reprimanded in Case No. 15-267 for violating Rules 1.2 and 2.8(B) by failing to be patient, dignified, and courteous to an attorney who appeared before him.
- Yavapai County Superior Court Judge Celé Hancock was publicly reprimanded in Case Nos. 16-004 and 16-036 for violating Rules 1.2 and 2.8(B) by failing to be patient, dignified, and courteous to litigants in two separate family law cases.
- El Mirage Municipal Court Pro Tem Judge Timothy Forshey was publicly reprimanded in Case No. 16-011 for violating Rules 2.6(A) and 2.8(B) for failing to accord a litigant the right to be heard according to law and for failing to be patient, dignified, and courteous to a litigant in a civil traffic ticket case.
- El Mirage Municipal Court Pro Tem Judge Timothy Forshey was publicly reprimanded in Case No. 16-160 for violating Rules 1.2, 2.2, 2.6(A), and 2.8(B)

for failing to accord a litigant the right to be heard according to law, for failing to be fair and impartial, and for failing to be patient, dignified, and courteous to the litigant in a civil injunction against harassment proceeding.

- Apache County Justice of the Peace Jay Yellowhorse was publicly reprimanded in Case No. 16-167 for violating Rules 1.2, 1.3, 2.10(A), and 2.11. Judge Yellowhorse briefly participated in a case involving members of his family and spoke to the adverse party in a public setting about the merits of his family's claim while the case was pending in court.

## **ii. Advisory and Warning Letters**

The commission may determine that a judge has not engaged in judicial misconduct or has engaged in misconduct that does not warrant public discipline. A judge may nevertheless benefit from cautionary advice to avoid potentially problematic behavior. Advisory and warning letters are used to bring issues and rules to the attention of judges. Hopefully, a judge receiving an advisory or warning will make appropriate corrections on a going forward basis. Repeating conduct for which a judge previously received one or more advisory or warning letters could lead to a public reprimand or the filing of formal charges. The commission expects judges to self-correct problematic conduct.

The commission issued twenty (20) advisory letters in 2016 (as compared to twenty-four (24) in 2015). The commission issued ten (10) warnings in 2016 (as compared to eleven (11) warnings in 2015). The commission issued five (5) advisories and five (5) warnings in 2014. Advisory letters are issued when a judge's conduct does not technically violate the rules, but the commission believes the judge would benefit from ethics advice in a particular area. A warning letter advises the judge of a concern that, absent correction on a going forward basis, could lead to judicial discipline.

### **Warnings (10)**

- A municipal court judge was determined to have engaged in improper ex parte communication, independently investigated a case, and failed to afford a party the right to be heard. Noting that the Scope Section of the Arizona Code of Judicial Conduct provides that not every transgression of the rules warrants the imposition of discipline, the commission warned the judge to refrain from engaging in the indicated conduct in the future.
- A justice of the peace was reminded of his obligations under Rule 2.6(A) to afford litigants the right to be heard according law. He was also reminded to review Rule 2.9(A)(3), authorizing judges to consult with other judges in carrying out their adjudicative responsibilities, and Rule 2.16, the duty to cooperate with the commission in the investigation of complaints.

- A superior court judge was determined to have improperly spoken to a prosecutor regarding his performance during the pendency of a case. The judge was warned to refrain from engaging in such communication and of the far-reaching consequences of discussing trial performance with lawyers depending on the status of the case.
- A justice of the peace was reminded that it was his duty to promptly remove his name from his former firm's website upon the assumption of judicial office and that he improperly failed to do so for an extended period of time. The judge was advised that he had the personal and ongoing duty to comply with the Code of Judicial Conduct at all times as a full-time judge.
- A justice of the peace was determined to have directly solicited funds for an organization, which conduct was improper under Rules 1.3 and 3.7(A). The judge was warned to avoid the complained of conduct in the future.
- A superior court judge was determined to have worn a button supporting a political candidate on one occasion, which was improper under Rule 4.1(A)(3). The judge was urged to avoid publicly endorsing or opposing another candidate for any public office.
- A justice of the peace was urged to ensure any personal fiduciary duties complied with Rule 3.8 and did not give the appearance of impropriety under Rule 1.2.
- A justice of the peace was determined to have had inappropriate interaction with a member of court staff. The judge was reminded of his obligation pursuant to Rule 2.8(B) to be patient, dignified and courteous with court staff.
- A justice of the peace was reminded to promptly update biographical information so as not to create an appearance of impropriety in violation of Rule 1.2 (Promoting Confidence in the Judiciary).
- A small claims hearing officer was warned to refrain from making comments that gave the appearance that he had prejudged a case so as not to violate Rule 1.2 (Promoting Confidence in the Judiciary) and Rule 2.2 (Impartiality and Fairness).

### **Advisory Letters (20)**

- A justice of the peace was advised to avoid referencing his judicial position in any promotional material used in an authorized private business activity and to disclose pertinent information about his business ownership to litigants who may come before him on cases involving issues similar to his businesses. This matter involved two related complaints.

- A justice of the peace was advised to refrain from making comments that could be perceived as favoring one party and encouraged the judge to conduct proceedings in a more formal fashion so as to promote confidence in and the impartiality and fairness of the judiciary.
- A justice of the peace was advised of his obligations under Rule 2.8(B) to be patient, dignified, and courteous to judicial employees.
- A superior court judge was advised to more fully review case files before issuing orders so as not to violate Rule 2.6 (Ensuring the Right to be Heard).
- The commission suggested that a municipal court judge re-evaluate how the court's practice of delaying civil traffic cases was reflected on the court's case docket available to the public.
- A pro tem justice of the peace was reminded to ensure all applicable response times expired prior to issuing a ruling so as not to violate Rule 2.6 (Ensuring the Right to Be Heard).
- A justice of the peace was encouraged to implement and/or enhance her case tracking system for matters taken under advisement.
- A superior court judge was reminded of the need to rule promptly and of the need to implement measures to track pending matters and deadlines.
- A pro tem municipal court judge was reminded that the use of a cell phone during a hearing can give appearance of impropriety.
- A superior court commissioner was encouraged to thoroughly review her cases to avoid conflicts of interest warranting recusal.
- A superior court judge was reminded to refrain from making comments that could give the appearance that the judge had prejudged a case.
- A justice of the peace was reminded to avoid using language that some may find offensive so as not to violate Rules 1.2 or 2.8(B). The judge was also reminded that he was not required to recuse himself from a case merely because a litigant had filed a complaint against him with the commission.
- A superior court commissioner was advised to ensure that lawyers were not appointed as counsel in cases in which they had previously served as public officers.

- A justice of the peace and small claims hearing officer were reminded that they needed to clarify the status of business entities involved in litigation and that if an individual appeared on behalf of a business entity the individual had the legal capacity to do so in order to avoid violation of Rule 1.1 (Compliance with the Law).
- A superior court commissioner was reminded to ensure that all response times had elapsed before issuing a ruling so as not to violate Rules 1.1 (Compliance with the Law) and 2.6(A)(Ensuring the Right to Be Heard).
- A justice of the peace was reminded that when managing a high volume calendar with tight time constraints, it was important not to give litigants the impression that their matter would not be fully heard, thereby avoiding a violation of Rule 2.5(A) (Competence, Diligence, and Cooperation).
- A superior court judge was advised to thoroughly familiarize himself with the applicable family law rules so as not to violate Rule 1.1 (Compliance with the Law).
- A justice of the peace was advised to thoroughly familiarize himself with the applicable rules of criminal procedure so as not to violate Rule 1.1 (Compliance with the Law) and to refrain from viewing social media postings that could lead to inadvertent ex parte communication and/or acquisition of factual information outside of the record so as not to violate Rule 2.9 (Ex Parte Communications).
- A pro tem superior court judge was reminded of the appropriate parameters for taking judicial notice so as not to violate Rules 1.1 (Compliance with the Law), 2.5(A) (Competence, Diligence, and Cooperation), and 2.6(A) (Ensuring the Right to Be Heard).

### **iii. Dismissals**

Most complaints are dismissed as the facts do not support the allegations or the alleged misconduct does not constitute unethical conduct. For example, many complaints allege the judge was biased in favor of a litigant and prejudiced against the adverse party. The evidence supporting the claims of bias and/or prejudice is one or more unfavorable rulings. Unfavorable rulings do not constitute, in and of themselves, evidence of unethical bias or prejudice. A party dissatisfied with a judge's ruling must appeal to bring alleged legal error to the appropriate appellate court for possible reversal of the adverse ruling. Complaints based on alleged legal errors are routinely dismissed. The commission does not have jurisdiction to review the legal sufficiency of judicial rulings.

The disposition of all complaints filed with the commission since 2006 are posted to the commission's website ([www.azcourts.gov/azcjc](http://www.azcourts.gov/azcjc)). The names of the complainants and the judges (and other identifying information) is redacted from dismissed complaints. The names of the complainants and judges are disclosed if the commission has issued a public reprimand or if the Arizona Supreme Court has issued a ruling in a judicial discipline case.

### **b. Rule Revisions**

The commission supported proposed amendments of Supreme Court Rules 46(c) and (d) proposed by the Arizona Supreme Court Attorney Regulation Advisory Committee (Rules Petition R-15-0041). The proposed amendments sought to clarify the jurisdiction of the State Bar of Arizona and the Commission on Judicial Conduct over lawyers seeking to become judges, lawyers who are judges, and lawyers following their removal, resignation or retirement as judges. The Arizona Supreme Court approved only part of the recommended language in a subsequent order concerning the petition. The Court added the following language to Supreme Court Rule 46(d): "The State Bar and Commission on Judicial Conduct have concurrent jurisdiction over judges for misconduct as lawyers before becoming judicial officers."

### **c. Outreach**

Members of the commission and staff take part in education programs to inform judges and court staff about its procedures and practices and to educate them about the Arizona Code of Judicial Conduct and the Arizona Code of Conduct for Judicial Employees. A sampling of the programs commission members and staff participated in during 2016 include:

- Limited Jurisdiction New Judges Orientation
- General Jurisdiction New Judges Orientation
- Maricopa County Justice of the Peace Training
- Maricopa County Justice Court Small Claims and Traffic Hearing Officer Training
- Arizona Magistrates Annual Conference
- Administrative Office of the Courts (AOC) Judicial Staff Training
- Supreme Court and Court of Appeals Law Clerk Training
- Ethics Presentations at the Annual Arizona Judicial Conference
- Arizona Justice of the Peace Association Annual Conference
- Pima County Justice Court Training for Pro Tem Justices of the Peace and Hearing Officers

### **Commission Membership**

The commission is comprised of eleven members (six judges, two attorneys, and three public members):

### **Arizona Court of Appeals, Division One**

**Margaret H. Downie** was appointed to the Arizona Court of Appeals in 2008. Previously, Judge Downie spent 11 years on the Maricopa County Superior Court, where she was Associate Presiding Judge and Civil Presiding Judge. Judge Downie graduated with a B.A. degree in Radio, TV, and Film from the University of Arkansas at Little Rock. She received her J.D. from Georgetown University in Washington, D.C. in 1984. After law school graduation, Judge Downie worked in the civil litigation department of Jennings, Strouss & Salmon in Phoenix. Thereafter, she spent almost 10 years in the discipline department of the State Bar of Arizona, ultimately serving as Chief Bar Counsel. Before being appointed a judge of the superior court in 1999, Judge Downie served as a court commissioner.

### **Arizona Court of Appeals, Division Two**

**Peter J. Eckerstrom** (Commission Vice-Chair) is Chief Judge of Division Two of the Arizona Court of Appeals. He was appointed to the court by Governor Napolitano in 2003.

Judge Eckerstrom earned his bachelor's degree from Yale University and a law degree from Stanford University.

Prior to his appointment to the court, his practice focused on criminal defense with an emphasis on capital trial and capital appellate litigation. In that capacity, he served on the Ninth Circuit's Federal Habeas Corpus Oversight Committee.

As a judge of the Arizona Court of Appeals, he serves on the Arizona Supreme Court Commission on Judicial Conduct and has served on the Arizona Supreme Court Commissions on Judicial Performance Review and Court Technology. He is the current Chief Judge of the southern division of the Arizona Court of Appeals. He has acted as an adjunct professor at the University of Arizona, James E. Rogers College of Law, teaching trial practice and, more recently, a seminar on Capital Punishment.

Judge Eckerstrom is a resident of Tucson, Arizona. He is married to Ann-Eve Pedersen, a public education advocate, and they have a fourteen-year-old son, Lars. Judge Eckerstrom is an enthusiastic owner of a fantasy baseball team and an avid college basketball fan.

### **Arizona Superior Court, Maricopa County**

**George H. Foster, Jr.** is a Judge of the Maricopa County Superior Court. He is a graduate of Boston College Law School in Newton, Massachusetts. He completed his undergraduate work at The City University of New York where he graduated *magna cum laude*. He was a law clerk to the Hon. David S. Nelson of the Federal

District Court in Boston, Massachusetts. He was admitted to the State Bar of Arizona in 1983.

Judge Foster practiced with the law firm O'Connor, Cavanagh, Anderson, Westover Killingsworth & Beshears from 1983 to 1990. While there his practice began in commercial real-estate transactions and finance. It thereafter progressed into banking, bankruptcy, securities, land use and zoning law. In 1990 he joined the firm of Allen, Kimerer & LaVelle and continued in the commercial practice where he also became involved in civil rights litigation, securities litigation and general commercial litigation. In 1993 he joined the firm of Wilenchik & Bartness and became managing attorney from 1996 through 1999.

Judge Foster began his judicial career in 1999 as a commissioner in the Juvenile Division of the Maricopa County Superior Court. He was appointed to the Maricopa County Superior Court as a trial judge by Governor Janet Napolitano on June 30, 2003. Judge Foster has served in each division, Family, Civil, Juvenile and Criminal. He currently serves in the Criminal Department.

Judge Foster has served as an adjunct professor at The Sandra Day O'Connor College of Law at Arizona State University where he taught a course in Advanced Real Estate Transactions. He has served as President of the Thurgood Marshall Inn of Court, as a member of the State Bar Civil Practice and Procedures Committee and Rules of Professional Conduct Committee, and as chairman of the Maricopa County Superior Court Family Court Division Rules Committee. He has also served as a member of the Arizona Supreme Court's Committee on Superior Courts and has served as a pro tem judge on the Arizona Court of Appeals. In January 2011 he was appointed by the Arizona Supreme Court to the Commission on Judicial Conduct. In June 2014 he was appointed to the Commission on Judicial Performance Review.

### **Arizona Superior Court, Pima County**

**Gus Aragon** is a native of Tucson, Arizona. He completed his undergraduate and law school studies at the University of Arizona. While at U of A as an undergraduate, he participated on the men's gymnastics team, serving one year as team captain. Licensed to practice law in 1977, he practiced in the areas of administrative, criminal, and civil law for a total of twenty-eight and a half years, including both government service and private practice before being appointed to the Pima County Superior Court in May 2006. He has served assignments on the criminal, juvenile and civil bench, where he is currently assigned. Judge Aragon also enjoys being on the Volunteer Lawyers Advisory Board of Southern Arizona Legal Aid, the Pima County Bar Association Writ Editorial Board, and the Arizona Commission on Judicial Conduct. He previously served on the Arizona Supreme Court Committee on Character and Fitness and the Morris K. Udall Inn of Court Executive Board. He enjoys exercise and spending time with family.

## **Surprise City Court**

**Louis Frank Dominguez** (Commission Chair) is the Presiding Judge for the Surprise City Court. He served as a judge for the Phoenix Municipal Court from October 1994 until March 2013. Judge Dominguez was appointed as the Surprise City Court Presiding Judge in March 2013.

Judge Dominguez received his B.A. in Psychology at Arizona State University and graduated from the A.S.U. College of Law.

Judge Dominguez is a Past Board Chair of Valley Leadership. He is also a member of the Arizona Minority Judges Caucus, Los Abogados and the Arizona Supreme Court Judicial Conference Planning Committee. His volunteer efforts focus on working with youth in the community and leadership development. In April 1998, Judge Dominguez received a “Distinguished Leadership Award” from the National Association of Community Leadership. In June 2003 Judge Dominguez was presented with a “Distinguished Service Award” from the Arizona Supreme Court.

Judge Dominguez is chair of the Arizona Commission on Judicial Conduct. He is a current member of the Arizona Supreme Court Work Group on the Code of Judicial Conduct. He also served as a member of the Arizona Task Force on the Code of Judicial Conduct in 2008 and 2009. Judge Dominguez is also a member of the Arizona Judicial Council.

Judge Dominguez has served as faculty for the Arizona Supreme Court, the State Bar of Arizona, and other organizations on various law-related topics. Judge Dominguez has also served as Chair of the Arizona Supreme Court Limited Jurisdiction New Judge Orientation Program. In May 2010, the Arizona Supreme Court presented Judge Dominguez with a 2009 Trainer Excellence Award. This award was in recognition of his contributions to the goal of excellence in judicial education and his commitment to serving the Arizona judiciary as faculty.

## **Bagdad-Yarnell Justice Court**

**Anna Mary Glaab** has been the Justice of the Peace in Bagdad-Yarnell Justice Court since 1992.

Judge Glaab presides in both the Bagdad and Yarnell courts in southwestern Yavapai County and is actively involved in judicial education and the Arizona Justice of the Peace Association. She is a third-generation Arizona native and was raised on her family’s cattle ranch in central Arizona. The Arizona Supreme Court recognized Judge Glaab as the 2014 Judge of the Year for her outstanding and long-term service to her community and the Arizona court system.

## **Lawyer Members**

**Art Hinshaw** is a Clinical Professor of Law at the Sandra Day O'Connor College of Law at Arizona State University. His research and teaching interests lie in the field of alternative dispute resolution (ADR), primarily mediation and negotiation. His research bridges ADR theory and practice, and his teaching responsibilities include the Lodestar Mediation Clinic and Negotiation among other ADR courses.

Professor Hinshaw is active in the ADR community having served on several academic and professional committees at the state and national levels. Currently, he serves as a member of the American Bar Association's Standing Committee on Mediator Ethical Guidance. Additionally, he is a Senior Fellow at the Center for the Study of Dispute Resolution at the University of Missouri School of Law and is a contributor to *Indisputably, the ADR Prof Blog*.

Professor Hinshaw graduated from Washington University in St. Louis with an A.B. in History (1988) and he received both his J.D. and LL.M. from the University of Missouri (1993 and 2000). He joined the College of Law faculty after teaching at the University of Missouri School of Law and at the Washington University School of Law in St. Louis. Before his academic career, he practiced law in Kansas City, Missouri.

**J. Tyrrell (Ty) Taber** is a trial lawyer licensed to practice law in Arizona and California. Ty has represented plaintiffs and defendants, both sides of the courtroom, since 1977. He is a certified specialist in Injury & Wrongful Death litigation. Ty has served on the Board of Directors for the Arizona Association of Defense Counsel and the Arizona Association for Justice. He has also served the state as a volunteer for the Town of Paradise Valley Magistrate Court, the Arizona Court Reporter Board, and the Arizona Commission on Judicial Conduct.

## **Public Members**

**Christopher ("Chris") R. Ames** has 40 years of software industry experience ranging from programmer to senior executive. He is the President of Paragon Technology, Inc., a company he co-founded in 1983. Early clients included the Apache County Treasurer and Trans World Airlines. In 1992, he entered into a project management contract with ADS Communications, Inc., for the development of its field service product. Over the next 11 years he led the company through several phases of expansion in product offering and corresponding revenue growth. ADS was purchased by EFI (Electronics For Imaging, Inc.) in 2004, and Chris continued his responsibility as Chief Technology Officer for another 2 years. Chris is a patented inventor and holds a B.S. in Computer Information Systems from Arizona State University's W.P. Carey School of Business. The Ames family has lived in the east valley since 1976. Chris was a member of the Capital and Development Fees

subcommittee of the 2009 Town of Gilbert Citizen's Budget Committee and is an original member of Gilbert's Operation Welcome Home Committee.

**Roger Barton** is the owner of Badger Roofing, a Prescott area owned and operated licensed residential and commercial roofing contractor business serving Central and Northern Arizona. Roger is a native of Arizona with more than thirty years of experience in sales and marketing of a variety of products and services. Throughout his professional life, he has sought opportunities to serve within the communities he has resided in and as a result, has volunteered on a number of boards of organizations making a significant difference.

**Colleen Concannon** (Commission Secretary) is an IT Project Management Consultant with RCSC, LLC. She is a native Tucsonan who received her Bachelor's Degree from the University of Arizona, a Master of Public Administration from the University of North Texas, and a Master of Science in Accounting from the University of Houston. She has worked in finance, executive management, information technology, and project management in both the public and private sectors throughout her career. She is also a dedicated community volunteer and has served as a board member for numerous public and private organizations within the State of Arizona.

### **Commission Budget and Finances**

The commission is funded as a part of the legislature's general fund appropriation to the Arizona Judicial Branch. For the fiscal year ending on June 30, 2017, the commission's budget totals \$498,500 to cover all operations and activities. Employee compensation and benefits and facilities rent make up over ninety percent of the commission's expenditures.

### **Commission Staff**

The commission's full-time staff consists of an executive director, disciplinary counsel, commission specialist, and administrative assistant. A part-time temporary employee supports the commission's database program and related activities.

George Riemer has been the commission's executive director since July 2011. He is an active member of the State Bar of Arizona and has been a licensed attorney since 1975. Mr. Riemer also serves as the Staff Director for the Arizona Supreme Court Judicial Ethics Advisory Committee and is a member of the Arizona Supreme Court Attorney Regulation Advisory Committee and the Arizona Supreme Court Task Force on Lawyer Ethics, Professionalism, and the Unauthorized Practice of Law.

April Elliott has been the commission's disciplinary counsel since October 2014. Ms. Elliott is an active member of the State Bar of Arizona and most recently

served as the Public Defender in Pinal County. Her previous experience includes serving as a Pinal County family court commissioner and Pinal County Superior Court Judge.

Administrative support for the commission in 2016 was provided by Kim Welch, commission specialist, and Marcina Lutz, administrative assistant.

Pursuant to Arizona Supreme Court Administrative Order 2016-44, the position of independent bar counsel (IBC) was placed under the supervision and direction of the commission's executive director and is located in the commission's office suite. IBC investigates and resolves, through the lawyer discipline process, complaints filed against lawyers, which for conflict of interest reasons cannot be investigated and resolved through that process by the Office of Chief Bar Counsel of the State Bar of Arizona. IBC also assists the commission in the investigation and resolution of complaints about judges. Administrative support for IBC is provided by commission staff.

Meredith Vivona has served as Independent Bar Counsel since April 2014. Ms. Vivona is an active member of the State Bar of Arizona. Her prior experience includes the private practice of law with several Phoenix area law firms for over 10 years.

### **Judicial Ethics Advisory Committee**

The commission's executive director supports the activities of the Arizona Supreme Court Judicial Ethics Advisory Committee (JEAC). The JEAC has nine members, including seven judges and two lawyers. The committee's charge, as set forth in Arizona Supreme Court Rule 82, is to provide prospective advice to judges and judicial employees in order to avoid violations of the Code of Judicial Conduct and the Code of Conduct for Judicial Employees. The executive director is the initial contact for judicial ethics inquiries. He provides inquirers with his reaction and if requested, the inquiry is submitted to the committee for further consideration. The objective is to assist judges and judicial employees in avoiding ethics violations. A complaint that can be avoided by inquiry to the JEAC is one less complaint that the commission must resolve through its procedures. The JEAC responded to 190 inquiries and issued four formal advisory ethics opinions in 2016.

16-01 – Threats; Taking Appropriate Action; Disqualification

16-02 – The Use of Judicial Titles and Photographs by Part B Judges

16-03 – Family Members Posting Political Signs on Judge's Property

16-04 – Judges Offered Training By An Advocacy Group The Members of Which Represent One Side In Contested Cases Before Those Judges

The foregoing formal advisory opinions can be found on the commission's website via the following link:

<http://www.azcourts.gov/azcjc/Judicial-Ethics-Advisory-Opinions/2016>

Additional information about the Judicial Ethics Advisory Committee can be found the commission's website via the following link:

<http://www.azcourts.gov/azcjc/Judicial-Ethics-Advisory-Committee>

### **Future Activities**

The commission and staff will continue to participate in education programs and other outreach activities to ensure judges and judicial employees are aware of the resources available to them to avoid violations of the ethics rules they must follow and to understand the procedures used to enforce the rules when necessary.

Complaints may now be submitted to commission staff as PDF attachments to e-mail communications and commission staff has also implemented procedures to assist non-English speaking complainants in communicating with them.

Commission staff continue to work on improving the commission's database of complaint information to ensure it meets the commission's needs. Commission staff also continue to convert commission paper records to electronic format to streamline storage and retrieval of those records.