

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 17-208

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court commissioner failed to remain impartial and made improper rulings in a probate proceeding and a civil case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

The commission does not have jurisdiction to review the legal sufficiency of the commissioner's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23(a).

Dated: October 12, 2017

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer  
Executive Director

Copies of this order were distributed to all appropriate persons on October 12, 2017.

*This order may not be used as a basis for disqualification of a judge.*

Comp

2017 208

**Complaint Against Maricopa County  
Commissioner**

**Complainant:**

**Commissioner's Name:**

**Commissioner's Court:**

**Cause of Action and Caption** - *In the Matter of the Guardianship of*

, breached her duty of impartiality pursuant to Rules 2.2, 2.3 and 2.4(B), Arizona Code of Judicial Conduct, by a) consciously disregarding the facts in order to deny twice Complainant's *Request for Status Conference*; b) consciously misstating the facts in order to deny Complainant's *Motion for More Definite statement*; c) striking his entire *First Amended Complaint* (after Complainant already had dismissed the offending Count One) despite the fact that two valid causes of action remained to be litigated; d) consolidating Complainant's civil action with

in violation of Rule 4(B)(1)(b), Arizona Rules of Probate Procedure; and e) granting the Guardian *ad Litem's* request for attorney fees of against Complainant via the Court's specious interpretation of ARS Section 14-1105(B);

\* \* \*

This Judicial Commission may recall that back on [redacted] filed a complaint against [redacted], who was then presiding over this very case, [redacted], regarding his purported ex-parte conversation with key witness [redacted]. (Upon his later being appointed a judge, the case was transferred to [redacted].) Ultimately, this Commission concluded that [redacted] was free of any misconduct, possibly concluding that he violated no ethical rule via his ex-parte communication with [redacted]. Therefore, on [redacted], Complainant mailed his letter of that date to [redacted], a copy of which is attached hereto as Exhibit 1. He never responded, rejecting even his simple option of checking a box and returning the letter in the self-addressed, stamped envelope.

In view of [redacted] chronically dishonest and biased mistreatment of Complainant [redacted], it is reasonable to conclude that [redacted] vented to her his anger and frustration with [redacted], thereby creating in her an irrepressible urge to retaliate against him by thwarting his every request. Regardless of [redacted] motivation, however, her pervasive dishonesty and partiality are undeniable.

Accordingly, the following five judicial decisions of [redacted] in [redacted] between [redacted] and [redacted] demonstrate a pattern and practice of unremitting hostility toward [redacted], thereby breaching the rules cited above.

### **Factual Background**

In early [redacted], [redacted] appointed [redacted] and his sister-in-law [redacted] to serve as co-guardians for [redacted], [redacted], who suffers severe [redacted]. On [redacted], [redacted] carelessly permitted [redacted] to wander away from his care at [redacted] in [redacted], as described in [redacted] pleading, *Response in Opposition to Petition to Remove [redacted] as Co-Guardian and Request for Status Conference of [redacted]*, attached hereto as Exhibit 2.

About two weeks after [redacted] wandered away from [redacted] care, and without every speaking with [redacted], [redacted] imposed upon him an Order preventing him from taking [redacted] (alone) for brief visits away [redacted], his assisted-living facility. The Order was illegitimate for two reasons: 1) nothing legally empowered her to impose her Order, i.e., [redacted] only option was to inform [redacted] of her opinion that [redacted] was a danger to [redacted] and let [redacted] take any steps he deemed necessary; and 2) [redacted] never spoke with [redacted] before concluding that an order was necessary,

leaving her unaware that he had taken away from on five occasions *after* and *before* she imposed her Order on , returning him safely thereafter because he never let out of his sight. In other words, for the first time in years, on demonstrated a propensity to wander away from his caregiver. From that date to the present, neither , nor has responded to five written requests that they articulate the reasons for which imposed her Order.

During that same period, consistently rejected three requests that all parties attempt to reach a settlement with the help of a trained mediator. Later, on , and without ever sharing her concerns with , filed a *Petition to Remove as Co-Guardian*, attached hereto as Exhibit 3. filed a single pleading: *Response in Opposition* and a *Request for a Status Conference* (which *Request* explained the Order's lack of merit) because he was convinced that if the Court and the parties could discuss the illegitimate nature of the order, could quickly resolve the contentious family dispute by striking the spurious Order.

**1) Palpably-False Claim that the four-minute initial hearing “was essentially a status conference”**

After the parties met on for the first hearing on *Petition to Remove*, the Court issued her Minute Entry on

regarding the four-minute hearing. In the first sentence of

first Minute Entry, she stated:

, the Court held a hearing (essentially a status conference).” (See page one, Minute Entry of \_\_\_\_\_, attached hereto as Exhibit 4.) That sentence is palpably false because during the four minutes of that hearing, neither the Court nor the parties discussed any element of \_\_\_\_\_.

Indeed, in the hearing the Court addressed only three topics: 1) the need to appoint an attorney for \_\_\_\_\_; 2) the month-late delivery of \_\_\_\_\_ *Petition* to \_\_\_\_\_; and 3) the dates by which the parties should exchange their List of Witnesses and Exhibits for the future hearing.

Therefore, eager to have the merits of the \_\_\_\_\_ Order discussed, \_\_\_\_\_ filed on \_\_\_\_\_ his *Motion for Reconsideration* (attached hereto as Exhibit 5), supplemented with a copy of the six-page transcription of the \_\_\_\_\_ hearing, urging the Court to reconsider her denial of his *Request for a Status Conference*. About four months later, at the hearing on \_\_\_\_\_, and despite the fact that the transcription demonstrated the absence of any discussion of \_\_\_\_\_ *Request for Status Conference*,

\_\_\_\_\_ immediately denied the *Motion for Reconsideration* without any discussion whatsoever, claiming that the “matter was moot.” (See Minute Entry of \_\_\_\_\_, page two, a copy of which is

**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.**