

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-024

Judge:

Complainant:

ORDER

April 7, 2021

The Complainant alleged a superior court judge was biased against her, ruled prematurely, failed to report attorney misconduct, and made erroneous rulings in a civil matter.

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 members Roger D. Barton and Louis Frank Dominguez did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on April 7, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2021-024

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.

Statement of Facts and Judicial Misconduct

On [redacted] the Plaintiff [redacted] filed a complaint against Defendant [redacted]

On [redacted] the Plaintiff [redacted] amended her complaint to add [redacted] ([redacted] and [redacted])

[redacted] filed a good faith consultation certificate and a motion to dismiss on the deadline date at [redacted]. [redacted] filed a good faith consultation certificate and motion to dismiss after the Plaintiff filed an affidavit for default judgement. The filings were recorded on the deadline date for the default judgement.

On [redacted] Judge [redacted] stated in [redacted] Minute Entry, the Court grants the motion to stay the proceedings and to transfer to compulsory arbitration.

Judge [redacted] also stated "There is a motion to dismiss Defendant [redacted] Item [redacted]. The Court holds that in abeyance until the conclusion of the arbitration. Also pending is a motion to dismiss Defendant [redacted] Item [redacted]. The briefing times for that motion have not expired, and the parties may put their response and reply on hold until the conclusion of the arbitration (Exhibit A).

On [redacted] Judge [redacted] appointed an arbitrator and listed all parties (Exhibit B).

Judge [redacted] later reversed her ruling without any explanation or consideration for the Plaintiff, after the Defendants expressed their displeasure.

This is a violation of Arizona Code of Judicial Conduct Rule 2.3 Bias, Prejudice and Harassment (A) a judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

The Plaintiff was anxiously waiting for the arbitrator to schedule the arbitration hearing. Which according to the Rules must begin no later than [redacted] from the date of the Notice of appointment. The fraud and misrepresentation perpetrated by [redacted] happened over [redacted]

Judge [redacted] issued [redacted] other ruling after, the Defendants expressed their displeasure: Order striking Plaintiff's [redacted] amended complaint dated [redacted] Order granting Defendant [redacted] Motion to Dismiss dated [redacted] Order granting [redacted] Motion to Dismiss dated [redacted]; Despite, previously stating she would not rule until after, the conclusion of the arbitration.

The Minute Entries were out of sequence and they were electronically filed after the Plaintiff sent a letter to the Judge detailing the Defendants Violation of the Rules of Professional Misconduct which included a fabricated letter by [redacted] attorney [redacted]. This was deeply concerning.

The Minute Entry dated [redacted] was filed electronically on [redacted]. The Minute Entry dated [redacted] and [redacted] were both filed electronically on [redacted]. It seems strange that the Minute

Entry dated _____ was electronically filed before the Minute Entry dated _____. The Plaintiff believes this was a calculated decision by Judge _____ that was intended to prejudice her.

Judge _____ Minute Entry dated _____ granting _____ Motion to Dismiss stated the record does not show an affidavit of service of process on _____ through the director of _____. This is inaccurate. _____ was served through the director of _____ on _____ and the affidavit was recorded on that same day (Exhibit C).

Judge _____ Minute Entry dated _____ stated the briefing time had not expired. She then granted _____ motion to dismiss on _____ based on Rule 12(b)(5); although, the briefing time had not expired. It is apparent she knew _____ was served through the director of _____ on _____. It is also apparent that she knew the briefing time did not expire until _____. The Minute Entry was dated _____ but wasn't electronically filed until _____. Which is extremely presumptuous and prejudicial.

Judge _____ Minute Entry dated _____ referenced _____ (_____) argument that the Plaintiff argued that she did not sue _____ but instead _____. This argument was referenced although, it is not supported by law. The Plaintiff's intentions are defined by the names on the complaint and the service of process. _____ is listed on the Summons/Complaint and they were served through the department of _____ pursuant to A.R.S. 20-221 (Exhibit D).

This is a violation of Arizona Code of Judicial Conduct Rule 1.1 Compliance with the law. A judge shall comply with the law, including the Code of Judicial Conduct.

Judge _____ also stated in her Minute Entry dated _____ that she was granting motion to dismiss based on Rule 12(b)(6); although, the rule is rarely successful when there is cause for action. _____ denial of the Plaintiff's claim was in bad faith. The reason _____ gave for denial of the Plaintiff's claim is the _____ only covers _____ instances of _____ conduct. This is a lie pursuant to ADOT dealer application and every _____ in the area (Exhibit E).

Judge _____ Minute Entry dated _____ granting _____ Motion to Dismiss was based on Rule 12(b)(6) which as previously stated is rarely successful when there is a cause for action.

Judge _____ Minute Entry dated _____ also stated " _____ objected to _____ good faith consultation certificate that it attached to the motion to dismiss. But a motion under Rule 12(b)(6) did not require at the time a separate Rule 7.1(h) certificate, unlike a motion, for example, for sanctions under Rule 11(c). A Rule 12(b)(6) motion was governed at the time by Rule 11(b) (Exhibit F).

Judge _____ completely ignored Plaintiff's objection stating: There was no attempt at a good faith consultation. _____ attorney (_____) did not attempt to confer with her. _____ attorney stated in his good faith consultation certificate that his only attempt to contact the Plaintiff was _____ before he filed a good faith consultation certificate and a motion to dismiss. Which is a lie. He did not contact the Plaintiff but this essentially proves there was no reasonable attempt to confer with the Plaintiff.

Judge [redacted] had knowledge of the Plaintiff's statement and [redacted] admission and she still encouraged [redacted] to lodge a judgment against the Plaintiff for a case where she is the judge.

Judge [redacted] violation Rule 2.6(A) Ensuring the Right to Be Heard: A judge shall accord to every person who has a legal interest in a proceeding or that person's lawyer, the right to be heard according to law.

Judge [redacted] also ignored the evidence that the Plaintiff's presented showing attorney contacted her via email encouraging her to respond to his motion to dismiss. It is unethical, a conflict of interest and a violation of rule 3.2 expediting litigation for a defense attorney to email a Plaintiff encouraging a response. A defense attorney has a fiduciary responsibility to seek a result advantageous to his client and speedy outcome is considered advantageous.

[redacted] is not entitled to benefit from events they intentionally prolonged. However, Judge [redacted] is the judge and she believes this behavior is acceptable.

Judge [redacted] in her Minute Entry dated [redacted] encouraged [redacted] to lodge a judgment against the Plaintiff in a case where she is the judge; although, she is aware there was no attempt to confer with the Plaintiff, [redacted] reply memorandum did not address any of the claims asserted and the attorney contacted the Plaintiff via email encouraging a response. [redacted] filed a joint notice of lodging proposed judgment on [redacted]. This is a conflict of interest and highly prejudicial (see Exhibit F).

Judge [redacted] bias and impartiality is hurtful and truly mind blowing. Arizona Code of Judicial Conduct clearly states: a judge shall uphold and promote the independence, integrity and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety; a judge shall perform the duties of judicial office impartially, competently and diligently.

The Plaintiff provided the Court with details of the dilatory tactics, lies, deception, misrepresentation and fraud (including a fabricated letter) perpetrated by not only the Defendants but their attorneys and she was punished by Judge [redacted] for doing so.

Arizona Code of Judicial Conduct Rule 2.15(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

Rule 2.15(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.

Rule 2.11 Disqualification (A) a judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned.

Conclusion: This is a case of fraud and greed. This should have never happened. This case has derailed the Plaintiff's life in the middle of a pandemic. The Plaintiff did nothing to deserve this. No one deserves to be treated like this. The Plaintiff presented to the Court an email from her attorney at the time of (Mr.) stating his intent to prejudice the Plaintiff (Exhibit G). Judge actions undermines confidence in the judiciary and impairs the administration of justice.

**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.**