

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 25-050

Judge:

Complainant:

ORDER

April 18, 2025

The Complainant alleged a superior court judge failed to be a gatekeeper for upholding evidentiary standards for scientific evidence.

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 Joseph C. Kreamer, Regina L. Nassen, and Cathy Riggs did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on April 18, 2025.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2024-050

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.

SEE ATTACHMENT

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

Subject: Formal Complaint Against Judge [redacted] and Arbitrator [redacted]
Case: [redacted]
Date: [redacted]

Introduction

I am submitting this formal complaint to the Arizona Commission on Judicial Conduct regarding the actions of Judge [redacted] and Arbitrator [redacted]. Their handling of a highly technical case failed to meet judicial and ethical standards, particularly under the gatekeeper role outlined in *Daubert v. Merrell Dow Pharmaceuticals, Inc.* and related Arizona legal standards. These failures compromised the fairness and integrity of the proceedings.

Details of the Complaint

1. Failure to Uphold the Gatekeeper Standard

The case involved a complex technical matter, specifically the evaluation of [redacted] containing 3.7 million lines of code, over 500 menu selections. Under the gatekeeper standard, judges and arbitrators are required to ensure that only reliable, expert testimony is admitted when addressing scientific or technical evidence. Neither Arbitrator [redacted] nor Judge [redacted] adhered to this critical standard.

- **Arbitrator [redacted]** failed to involve or require testimony from qualified experts to evaluate the software's functionality or its response to erroneous data. Instead, she relied on incomplete and non-expert evidence, which significantly impacted the outcome of the case.

- **Judge** in her capacity as a judicial gatekeeper, failed to address this procedural shortcoming and allowed the flawed decision to stand without ensuring the involvement of appropriate technical expertise.

2. Lack of Expert Testimony

Despite the complexity of the case, neither the arbitrator nor the judge required expert witnesses in fields such as software engineering, data science, or coding. This omission resulted in reliance on erroneous or incomplete data, rendering the decision procedurally deficient.

3. Procedural Inconsistencies

- Arbitrator did not evaluate or properly review the data and software code central to the case.
- Hearsay and anecdotal evidence were improperly considered in place of technical analysis.
- The decision-making process ignored the fundamental need for expertise in evaluating such sophisticated evidence.

4. Judicial Oversight Deficiency

Judge compounded these procedural failures by failing to question or rectify the arbitrator's lack of expertise and reliance on non-expert data. This negligence raises concerns about her impartiality and adherence to judicial duties.

Applicable Legal Standards

Under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and Rule 702 of the Arizona Rules of Evidence, adjudicators have a duty to act as gatekeepers for expert testimony. This role includes ensuring that any technical or scientific evidence presented is reliable, relevant, and supported by qualified expert witnesses.

The failure of Arbitrator and Judge to enforce these standards directly contravenes established legal precedents and undermines the principles of procedural fairness.

Impact of Their Actions

The lack of expert analysis and reliance on flawed evidence severely prejudiced my ability to receive a fair adjudication. The decision-making process in this case was not based on

objective evidence but on subjective and unsupported interpretations, causing significant harm to my legal position and undermining public confidence in the judicial and arbitration systems.

5. Due Process Violations Regarding Service and Review of Validity

One of the most glaring procedural deficiencies in this case is the failure to confirm whether I was ever properly served with notice of the arbitration and related proceedings. Proper service is a cornerstone of due process under both state and federal laws. Without confirmation that I was duly notified, my ability to participate and defend myself was completely undermined.

The Arizona Rules of Civil Procedure, specifically Rule 4, mandate that a defendant or respondent be properly served to ensure that all parties are aware of the proceedings. In this case, there is no indication that the court or Arbitrator reviewed whether proper service was executed. This omission violates my fundamental right to notice and an opportunity to be heard.

Failure to verify valid service not only contravenes procedural norms but also deprives the court of jurisdiction to proceed. This oversight has severely prejudiced my ability to receive a fair adjudication and must be addressed to preserve the integrity of the judicial process.

6. Abuse of Discretion by Judge

Judge further compounded the procedural deficiencies in this case by abusing her discretion in several ways:

Failure to Rectify Procedural Errors: As a judicial gatekeeper, Judge had a responsibility to address and correct the lack of expert testimony and other procedural shortcomings during the arbitration. Instead, she allowed the flawed decision to stand, despite its reliance on hearsay and non-expert evidence.

Neglecting the Complexity of the Case: The highly technical nature of this case required careful oversight and adherence to procedural safeguards, particularly given the involvement of 3.7 million lines of software code. Judge failed to acknowledge the necessity of expert analysis or take steps to rectify this omission.

Inequitable Treatment of Parties: Throughout the proceedings, the defense was afforded opportunities to present their case extensively, while I was not given an equitable chance to respond. Judge decisions created an imbalanced and unfair process that violated my rights as a pro se litigant.

An abuse of discretion occurs when a judge's actions are arbitrary, unreasonable, or not supported by evidence. Judge [redacted] handling of this case demonstrates a clear departure from established judicial norms and a failure to uphold her duties as a neutral adjudicator.

Requested Actions

I respectfully request that the Arizona Commission on Judicial Conduct:

1. Investigate the actions of Judge [redacted] and Arbitrator [redacted] regarding their failure to uphold procedural standards and ensure a fair process.
2. Take disciplinary action to address their failure to adhere to their responsibilities as outlined under Arizona law and judicial ethics.
3. Provide recommendations or implement reforms to prevent similar misconduct in cases involving highly technical or scientific evidence.

Conclusion

This complaint highlights the critical need for judges and arbitrators to adhere to their duties as gatekeepers in cases involving complex technical evidence. The actions of Arbitrator [redacted] and Judge [redacted] represent a failure to uphold the standards necessary to ensure justice and fairness. I urge the Commission to take appropriate action to address this misconduct and restore confidence in the judicial process.

Dated:

Sincerely,

[redacted signature]
Pro Per Litigant