

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 11-103

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Complainant: No. 1417310540A

Judge: No. 1417310540B

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**ORDER**

The complainant alleged that a superior court judge demonstrated bias, failed to follow the law, and delayed issuing rulings. The commission reviewed the allegations and the judge's response and found no evidence of bias or failure to follow the law. The commission decided to dismiss the complaint with a private comment reminding the judge of his obligation to comply with statutory and constitutional time limits on resolving pending matters. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: July 26, 2011.

FOR THE COMMISSION

/s/ Louis Dominguez

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Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed to the complainant and the judge on July 26, 2011.

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

COMPLAINT AGAINST A JUDGECase No CV 2004      Date 04/01/11

I Believe that the Judge ,Honorable constitutes judicial misconduct

1. This Civil case started on June 2004, This year June 2011 will be 7 years ,and counting at a cost to me In legal fees and Attorney fees over *TWO Hundred fifty thousand dollars* ,and counting.
2. This case is from a construction Project that was building by are company and finish June of 2004. A mortuary and Chapel in Casa Grande Arizona.
3. When project was complete and last payment was to be receive, the owners said beautiful job and we Appreciate all you done, but we are not going to pay you.
4. The amount of unpaid was \$112,765.00 dollars.
5. Just before Court September 16, 2008 ,50.13 months after the demand for payment the Defendant s Paid REA \$26,086.00 towards \$112,765.00 ,but refuse to pay and interest on this amount.
6. At trail the bill then was \$86,679.00 plus Interest.
7. At trail the Defendant presented two check that had been paid in the year 2003 on a different project In a different City (Eloy AZ) one for \$11,922.00 Check No 1016 dated 12/23/02 ,and one for \$22,000.00 Dated 12/06/02 Check No 1011 ,On the check 1016 for \$11,922.00 on the memo had Valley Chapel, that would be in Eloy, so they had to with draw that one, on the other check date 12/06/02 for \$22,000.00 the memo was left blank so they state that one had to go to the project in Casa Grande the one that the case is on
7. The Judge ask under OATH what prove she had to support her statement And she stated none ,but that is what I am going to do, and the Judge said OK
8. REA had invoice estimate City building permits, letter from the City of Eloy, City Engineer ,inspection Reports to back up that check to be on the Eloy Project
9. At the trail for closing arguments ,the judge said he would allow for 2hrs , one hour per side, the Defendant Attorney David Fitzgibbons went first and was allow to TALK FOR 1HR AND 45 MINS. The Plaintiff attorney Jason Ebe was only allow 15 Mins to talk, the judge said that was all the time they had  
That was the end of closing arguments , but the next week the Defendant Attorney David Fitzgibbons sent in a thirteen Page argument document to the court and the court accepted this.
- 10 . On the Judges decision he award the Plaintiff \$56,056.48 but no interest, and on the \$26,086 ,pre paid The judge would not allow any interest. (*Arizona state law you have to pay 18% interest*)
11. After Trail ,This Check that Janet Warren had present to the court for \$22,000.00 really bother me ,for This project in Eloy was on a fire damage remodel that was paid for by the insurance Co. Auto owners Insurance Co., I contact Auto Owners Insurance Co ,and talk with their Claims representative David S. Ponder, and ask him about the Eloy fire Project ,and ask if he had the cancel check or how the had paid On that Fire, he inform me they had paid for all of the work that was done on the Eloy project ,and he would pull up that records, but is was back East in their home office ,but he would try , and let me know, took him a couple of week or so, when he did get all of the records from back east he call me up to his office ,and said not only did he receive the cancel check but all of the invoice, statement electrical states the whole 9 yds all of these that were in court and Janet said she had never seen or else they were all forgery , And all of these had here company name on from the Fax machine time and date stamp they were sent in to the insurance co. demanding payment I was so surprise ,I contacted my Attorney Randal Stowell with Fuller and Stowell My Attorney , Randy Stowell got an Affidavit from Auto Owners Insurance Co senior claims representative David S. Ponder being first duly swon upon his oath and this

COMPLAINT AGAINST A JUDGECase No CV 2004Date 04/01/11

was on all of the check And documents Paid to the Warrens showing this to back up that check 1011 for \$22,000.00 was for their Eloy project And not for their Casa Grande project

Randy Stowell ,REA Attorney fill a motion on Misconduct a witness under Oath willfully testifying falsely to a material fact is Misconduct ,I believe that was fill around Sept of 2009 . Now when we were in Court and my consular Randy Stowell was in front of the Judge and the defendant Consular Claim that are evidence on misconduct had to be New evidence ,and this was not new evidence, so it could Not be use in court, Randy Stowell Consular for the Plaintiff said he would like to answer that Question of new evidence , AND the Judge stop him , and said consular you don't have to argue this on new evidence ,for your motion is for MISCONDUCT, and on misconduct the new evidence dose not aply, On misconduct you can enter it into court (That is what the judge said, I heard him ,and Randy heard him) And that must be on the records, but when he made his decision after the hearing ,he stated that the evidence had to be new evidence, and this was not ,and he would not let it be enter in court.

On March 12,2010 2:25 pm we fill an appeal at the Court of Appeals , the appeal court stated that it was a A Arizona State law on the 18 ½ % so they award that to the Plaintiff RERA and the Defendant was not the prevailing party and the Appeals court veto the Defendant of being the prevailing party, and sent it back to the trial Judge to correct it.

Now this was back in Dec of 2010 the trail court made his decision and gave the plaintiff the 18 ½ % But he would not follower the Court of Appeals on the prevailing party , he mad his decision but he would not sign it and still has not.

Their has been no active on this case for 3 or 4 months

I went to the internet and seen where they had change the Judge on this case from to the Hon Gilberto V Figuerol that was Mon 3/28/11 I call over their and talk with his assistance and ask if he Was the Judge on this case now, she said yes he was ,and she said he was going to look at the case thur 03/24/11 , I ask if I could call back thur and see what he had found out, call back thur and she said he was not on that case, and was, I look on the internet today and Figurerol name is still listed,don't know what is going on