

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-097

Judge:

Complainant:

ORDER

The complainant alleged two superior court judges (one now retired) denied him due process and made improper rulings in a probate proceeding.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judges 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 judges' rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judges 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: June 14, 2017

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were distributed to all appropriate persons on June 14, 2017.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2017-097

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.

I believe that _____ is in a "rush to judgment" because this case has been before the
for more than _____ I believe he is violating my "rights to due process" by not treating me equally to the
defendants in the case simply because I can no longer afford an attorney and am representing myself.

See the attached documents.

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I do not believe _____ was qualified to hear a Probate/Trust case, yet he was appointed by the court to hear this complex case after a qualified probate judge recused himself. even though he was not a probate judge and therefore not familiar with Trust/Probate law he rendered a Minute Entry Ruling that was simply not based upon statutes or laws applicable to that area of the law. Because of the vagueness and imprecission of his Ruling the Defendants in the case were able to misrepresent the Ruling to another court in a separate jurisdiction. He then refused to hold a hearing to examine how his ruling was misrepresented and the following judges have refused to address that issue. There have now been judges in this case and each of them have refused to address the fundamental error that made in determining my constructive trust interest in the disputed property. This case has now been before the court for over _____ and because of the subsequent courts to address these fundamental errors. it promises to be before _____ It should not take _____ to reach a just decision in a simple Breach of Trust case. His Ruling was not based upon the facts of the case because he ignored many of the facts of the case. Nor did he understand the facts of the case and the nuances and subtleties of Trust law and the fundamental "Duty of Loyalty" that any probate judge should be familiar with.

See the attached documents for the particular complaints against

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This complaint is being filed against _____ both of whom have presided over the same case in _____. There have now been _____ different judges who have presided over this case. Because this case is a somewhat complicated _____ taking place in _____ different jurisdictions, I have tried to keep each new judge apprised of the status and background facts of the case. Since the defendants (secretly) filed a separate ancillary Quiet Title case _____ re. the same property, we have attempted to keep the _____ apprised of the status of that case. One of the complaints against both judges in the _____ is that they have refused to address any of the facts from the _____ despite the fact that it involves the same litigants and the same property that is in dispute in _____. A motion to consolidate the facts of the _____ (_____) was rejected by _____. Because that case was still ongoing when the trial in _____ was held, many of the facts had not yet been introduced to the _____ court. However, enough of the relevant facts of that case had been presented to _____ so that he issued a "preliminary" Minute Entry ruling on _____ subject to the " _____" Despite that ruling, both _____ and now _____ refused and are refusing, to address the relevant facts from that case, particularly the relevance of the manner of the attempted theft and fraudulent distribution of the _____ by the decedent.

_____ was informed at trial that the _____ (_____) should have been distributed per the _____ to other members of the family and not _____ must _____ the decedent in this case. He was informed that the stock certificate for _____ owned by _____ and claimed by the decedent, and now claimed by _____ as belonging only to _____ in fact, should have been distributed according to the _____

_____ He was also informed at trial that my brothers and I inherited all of the Estate of our _____ as well as the _____ giving us a total of _____ of that _____ instead, after finding that I was entitled to a constructive trust interest in the " _____" only attributed to my brothers and I the _____ shares that we should have received from our fathers Estate. He based this upon the mistaken assumption that the _____

_____ that our father should have received. He completely ignored, or failed to comprehend, that we also inherited the _____

Further, that decision of _____ we continued to claim and still do claim, was never a decision as to **TITLE** to the _____ but was rather a judgment to my interest in the **Lease Income** attributed to the _____ that was leased to a mining firm by the decedent _____ and was also received by his _____ during the administration of this Estate. The defendants repeatedly argued (and we agreed) that _____ had no jurisdiction to decide the issue of title, that that matter was clearly _____

before the [redacted] But, once [redacted] made that vague and ambiguous ruling, the [redacted] then deliberately misrepresented it to the [redacted] as a “ [redacted] ”. Though that court then said that it was “ [redacted] ”, it is clear from the pleadings by me [redacted] and the transcripts of the motion for summary judgment hearing that these misrepresentations were directly from [redacted] 's intentionally misstated that he had made a decision as [redacted] The transcript of the hearing on the Estate's Motion for Summary judgment, wherein counsel for the [redacted] repeatedly misstated this judgment has several times been submitted to the [redacted] However, the court has refused to address that issue. A motion requesting a hearing to address the issue of how the [redacted] fraudulently presented the [redacted] uling to the [redacted] was denied by [redacted]

FACTUAL BACKGROUND OF THE CASES

[redacted] was the second judge appointed to this case. He informed the litigants at the first hearing that he was “ [redacted] ”. It is my belief that it was because of this unanimity with probate law and trust law that this case has become a “ [redacted] ”. There are [redacted] involved in the case, and now [redacted] hat have had to sort out [redacted] convoluted [redacted]

Instead of looking at all of the evidence that has been presented to the court at trial and after the trial ([redacted]), each new judge seems content to simply “ [redacted] ” on this first ruling of the court. It is my understanding that each judge must look at all of the facts that are presented to the court, prior to the Final Judgment, instead of simply relying strictly on [redacted] , now more than [redacted]

The original judge, [redacted] was a probate judge. Unfortunately, he recused himself after a motion was submitted by me to disqualify [redacted] from representing the Estate because of a [redacted] I alleged that [redacted] an attorney with that firm, who was the decedents and then the [redacted] personal attorney, was deeply involved in the “ [redacted] ” by my uncle, and then the Personal Representatives of his estate, to take a very valuable piece known as the [redacted] that was formerly in a Family Trust ([redacted]) between [redacted] My Uncle was the Trustee of that trust. [redacted] was the attorney for my Uncle, and, as the attorney for the Trustee, I felt that he had a Duty of Loyalty to me and the other beneficiaries of that Trust. ([redacted])

[redacted] found that there was an “ [redacted] ” between myself and the [redacted] in the past, because his firm represented the family in a prior condemnation action, so [redacted] was disqualified from Representing the Estate at trial, though he continued as the personal attorney for the [redacted] and his firm continued to represent the [redacted] n the Quiet Title action that was filed in [redacted] . Despite his disqualification, [redacted] was also the key [redacted]

witness for the Defendant Estate, without issuing any rulings as to any violations of the previous attorney/client relationship or the possible ethical rules violations, or whether or not to the beneficiaries of the Trust. denied the existence of that Trust, a position that was soundly refuted at trial. Yet, with each new Judge, th continue, through their attorney to deny the existence of that Trust, though they are only too glad to accept the Ruling of to award the Estate their attorney fees “?! I believe this was an indication of bias on the part of as he relied entirely upon the testimony of to make his ruling that “the estate was just doing what it needed to do

They have still not made a of title to that property. In addition, at trial, admitted to lying to a n the presentation of an affidavit to that court affirming the existence of that Trust! And yet, despite this admitted perjury, made had no reservations about accepting the hearsay testimony of an admitted perjurer.

Were the property simply fee-owned property like the other property that was in the Trust that was formed between my and it would be a pretty straight forward case about whether committed fraud, and or breached his fiduciary duties to his brothers and or their residuary heirs (by making several secret transfers of the property and then divided up the property in the trust without including the property, and then assigned (before attempting to take sole title to the property. Perhaps this is how the court should look at the case.

Unfortunately that is not the case: were in fact properties

and thus ending in were aware for many years that the had in fact gone defunct. as far back as They did not tell me this until I was informed by after I inquired as to why the were not in the names of all of the beneficiaries after the ‘ and instead were still in the name of

It is in fact, the disingenuous plan by and his attorney to take title to the after the lease expired in that makes this case more difficult to follow. But it can be done. died before that could be accomplished (), while he and were in the middle of a “ ’, after the lease expired. before he could file a Quiet Title action. That was done by his in fact, never OWNED the during his lifetime.

However, he did ASSIGN all of the to the lease in after the lease expired, but before he was able to obtain title. My brothers and I were left out of this lease, though the were included. I maintained that my brothers and I were not included in that lease (because at the time of the signing of that lease I was engaged in e mail conversations with is to why we were not being shown in the tax records as being part owners of the , since all of the had been

**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.**