

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-322

Judge:

Complainant:

ORDER

January 17, 2025

The Complainant alleged a superior court judge erroneously dismissed a pending motion without providing an opportunity to be heard and failed to follow proper procedure.

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 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 Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on January 17, 2025.

Email:

Telephone:

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

RE: JUDICIAL ETHICS COMPLAINT AGAINST THE HONORABLE JUDGE

Dear Members of the Arizona Commission on Judicial Conduct,

My name is _____, and I am writing to formally file an ethics complaint against The Honorable Judge _____, who is currently presiding over our case against the defendants, _____ (_____). This complaint arises from Judge _____ conduct during the proceedings, which we believe constitutes a serious breach of judicial ethics.

After reviewing our attorney's letter that updated us about our case, we saw that Judge _____ actions might have violated several judicial canons, which raised concerns about fairness in the judicial process. Although our lawyer concentrated on the merits of the case, we believed it was crucial to address these issues ourselves. We felt it was unfair to ignore what was happening, so we took the initiative to inform the commission about the situation, using the information we received regarding our case.

The first red flag we encountered was his ruling that any pending motion not addressed by the court would be deemed abandoned unless the moving party requested oral argument within ten days. This ruling blatantly contravenes the Arizona Constitution, which requires that motions be deliberated within 60 days of submission. Such a disregard for established legal procedures may also violate Canon 2, Rule 2.5(A), which mandates that judges perform their judicial and administrative duties competently and diligently. This initial concern raised by our lawyer highlights a troubling lack of diligence in following the legal framework.

The red flags got bigger. Just one week before oral arguments, Judge _____ struck our Motion for Partial Summary Judgment and Statement of Facts, citing procedural defects without any legal basis in case law or Civil Procedure rules. The judge dismissed the entire motion due to the length of the documents, despite our compliance with Rule 56 and inclusion of essential facts. Our lawyer reviewed and confirmed there was no justification for prejudging our case, highlighting the court's failure to recognize our adherence to necessary requirements. This action raises ethical concerns, including a failure to uphold impartiality and fairness, and a lack of diligence and competence in ignoring the motion's merits and procedural compliance.

On the day of oral arguments, Judge _____ misled our lawyer regarding the rejection of our motion. After reviewing our argument for substantial compliance and the presence of evidence, the judge changed his rationale, claiming that the evidence was not in the record, despite it being included in previous pleadings and reattached to the motion for summary judgment. Our lawyer confirmed that this assertion was untrue, as the evidence was indeed on the record and aligned with our claims of substantial compliance. This misleading behavior raises significant ethical concerns. First, by altering his rationale and providing false information, Judge _____ may have eroded trust in the judiciary. Second, misleading our lawyer and ignoring the facts compromises fairness and due process, violating the fundamental principle of adherence to the law. Lastly, his failure to consider the evidence presented and the inaccurate reasons for the dismissal undermine the impartiality and fairness expected in judicial proceedings.

As the plaintiffs, we were granted a 30-day extension to resubmit our motion for summary judgment, with a new deadline set for _____. However, Judge _____ ruled in favor of the defendants' cross-motion for summary judgment on _____, before we had the opportunity to submit our revised motion. This premature ruling created procedural prejudice against us, denying us the chance to present our case fully. Furthermore, by issuing a decision prior to the deadline established by his own court order, Judge _____ violated the legal framework and principles of procedural fairness. This not only undermined our right to due process but also raised serious concerns about judicial ethics. The failure to adhere to the timeline he set reflects a disregard for impartiality and fairness, essential tenets of judicial conduct, thereby compromising the integrity of the judicial process.

Further compounding these issues is Judge _____ apparent failure to properly review the court record, which has resulted in unjust rulings against us while neglecting violations by the defendants. This constitutes a dereliction of duty and directly violates Canon 2, Rule 2.7 (Responsibility to Decide), which requires judges to hear and decide matters assigned to them with thoroughness and integrity. Such gross negligence in reviewing the record not only leads to erroneous rulings but also fundamentally undermines the integrity of the justice system.

Judge _____ actions have seriously hurt our case, leading to a major loss of fairness and trust in the judicial process. His disregard for established case law, the unfair striking of our motions, failure to review court records properly, and misleading our counsel show clear violations of several judicial canons, including Canon 1, Rule 1.1 (Compliance with the Law). These actions undermine due process and fairness, damaging public confidence in the judiciary and reflecting a failure to uphold the essential standards of competence, diligence, impartiality, and fairness.

As we prepare to go public with our case, we respectfully request that an investigation be launched into Judge _____ conduct and that he quietly recuse himself from our matter. We believe his continued involvement could distract from the core issues of the case once it is made public.

Given the conflict of interest created by his misconduct, we feel that his participation compromises the integrity of our proceedings. Therefore, we request his recusal or, at the very least, guidance on how we can proceed with a judicial officer who has engaged in misconduct.

Our goal is to ensure that the focus remains on the merits of our case rather than any controversies surrounding the judge. We also want to avoid casting a negative light on the other hardworking members of the Court who are committed to upholding the justice system. Many of these judges, including the one we had previously, demonstrate professionalism and respect for the law. It is important for us that the integrity of the judicial process is maintained, and we believe that a recusal would help preserve that integrity as we move forward.

The events that transpired are as follows:

I. Background

Before Judge [redacted] took over, our case was handled by Judge [redacted], who showed a strong commitment to fairness and impartiality. Judge [redacted] made rulings based on the merits of the case, sometimes favoring one party and sometimes the other. We want to express our gratitude to Judge [redacted] for his fair and honest approach, especially as we face multi-billion dollar insurance companies.

Our lawsuit concerns the defendants, [redacted], who canceled our renter's insurance policy without giving us proper notice. The defendants mailed notices to the wrong address, and despite knowing that their communications were not reaching us, they failed to address the issue. This negligence resulted in financial losses and property damage during a flooding incident. The defendants' refusal to reinstate the policy prompted us to take legal action for wrongful termination, negligence, and breach of contract. We had obtained evidence prior to filing the lawsuit proving this misconduct.

II. Summary of Misconduct

A. Red Flags: Judge [redacted] Ruling on Pending Motions Violates Arizona Constitution and Judicial Standards

Before Judge [redacted] departure, in [redacted], both parties submitted motions for summary judgment, and a hearing was scheduled for [redacted]. Because the nature of the Defendants misconduct was so clear, according to my lawyer, we apparently filed before the end of formal discovery or before trial date was set in a scheduling order.

Judge [redacted] had no objections to the style or format of the motions for summary judgment submitted by either party. In [redacted], his assistant [redacted] scheduled oral arguments for mid July. Although neither party wanted to have a time for oral arguments so far into the future, this was the only available time the Court had in its schedule. We were unaware that Judge [redacted] had taken over until a week before oral arguments, when he started making nonsensical prejudicial rulings that disrupted that harmony that Judge [redacted] was able to create.

On [redacted], after Judge [redacted] took over, he issued a ruling that “

.” This ruling raised red flags as it runs contrary to the Arizona

Constitution, which requires that motions must be deliberated within 60 days of submission. In other words, a judge cannot just deem good faith submissions by parties that the Court has not had time to rule on as abandoned simply because he does not feel like reviewing them. By asserting he wanted to merely abandon pending motions, Judge [redacted] not only made a poor first impression on the parties, but also initiated alarming and ethically questionable actions, especially because it ignored established case law and procedural requirements, causing confusion and undue prejudice.

It got worse.

B. Striking the Motion for Summary Judgment

On the same day, and again, one week before oral arguments, Judge [redacted] struck our entire Motion for Partial Summary Judgment, along with our Statement of Facts, citing procedural defects. He claimed that our documents did not meet the requirements of Rule 56(b) because we submitted over 170 pages of documents instead of a concise, separately numbered statement of facts. This decision ignored the substantial compliance of our motion with Rule 56, which included concise, numbered paragraphs with specific references to the record.

Our lawyer reviewed, confirmed and explained that there was no basis to unfairly prejudice the us since the Court failed to consider the substantial compliance of our motion with Rule 56. Our motion adhered to the essential requirements: it was presented separately from the supporting memorandum, set forth each material fact concisely in individually numbered paragraphs, cited specific admissible parts of the record for each fact, included only facts referenced in the moving party's memorandum, and refrained from making legal arguments within the statement itself. It was modeled in an easy to read column format consistent with the California model.

As we understand from our lawyer, case law, such as *Gorney v. Meaney* (214 Ariz. 226, 150 P.3d 799, Ct. App. 2007), emphasizes that a trial court is not required to deny a motion for summary judgment solely because it lacks a statement of facts. Furthermore, *Hunt v. Richardson* (216 Ariz. 114, 122 n.7, 163 P.3d 1064, 1072 n.7, App. 2007) and *State ex rel. Corbin v. Sabel* (138 Ariz. 253, 256, 674 P.2d 316, 319, App. 1983) hold that courts must prioritize substantive merits over technical compliance.

In the matter, the issue was not that we did not have a statement of facts. We did and they substantially complied. we had a statement of facts, that prior judicial officer raised no objections to us proceeding with in Judge [redacted] ruling to strike our motion due to alleged formatting issues caused both procedural and substantive prejudice, because he made such a ruling on the eve of oral argument.

It gets worse.

C. Failure to Review Court Record

Further, upon reviewing the pleadings, it was evident that there was substantial compliance with the requirements outlined in Ariz. R. Civ. P. 56. The statement of facts adhered to the rule, and any discrepancies were due to the court filing system's limitations, not our actions. Our exhibits

were filed separately as required, but due to the limitations of the filing system, they were not treated separately as intended. This discrepancy was a result of the filing system's constraints rather than a deliberate action on our part. Judge [redacted] failure to properly review the court record and understand the filing system's constraints led to an unjust ruling against us.

Judge [redacted] decision was highly prejudicial because he failed to address the issues in the Defendants' pleadings that should have been pointed out to them if he was being fair. The Defendants had multiple problems with their submission. One significant issue was the font size discrepancy. While our lawyer used Century font, similar to the United States Supreme Court, creating a larger appearance, the Defendants used Times New Roman, a smaller font. Additionally, the Defendants condensed their pleadings to a 12.5-point font, below the required 13-point font according to local rules. This manipulation allowed the Defendants to include more content on the page, resulting in an unfairly higher word count. Despite these clear violations and the advantage gained by the Defendants, the Court did not take any corrective action.

Prior to the hearing, multiple violations of civil procedure and Arizona judicial ethics were observed, raising significant ethical concerns. Firstly, a blatant disregard for the Arizona constitution was evident when it was implied that a ruling would be considered abandoned if no motion for oral arguments was made, indicating a lack of respect for procedural rules. Additionally, discrepancies arose in the subsequent rulings. According to the Arizona Rules of Civil Procedure, a motion for summary judgment is typically required to be filed at least 60 days before the trial date, unless otherwise ordered by the court. However, Judge [redacted], upon striking the motion, incorrectly stated that we had only "30 days" to submit a summary judgment motion. This erroneous directive not only demonstrated a misunderstanding of procedural requirements but also resulted in increasing prejudice and unfairness to our case.

To avoid engaging in a trivial dispute between the parties, our lawyer endeavored to propose a course of action that would not unfairly bias the parties but would address the escalating concerns leading up to oral arguments. Consequently, our legal representative felt compelled to file a motion addressing these issues and submitted a formal letter to the Court in an attempt to rectify the situation:

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**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.**