

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 25-048

Judge:

Complainant:

ORDER

May 23, 2025

The Complainant alleged a justice of the peace made improper rulings in post-judgment and post-appeals matters.

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 allegations of the complaint in this matter solely raised disagreements with legal rulings. The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. "A good faith error of fact or law does not violate this rule. However, a pattern of legal error or an intentional disregard of the law may constitute misconduct." *See* comment 3 to Rule 2.2 of the Code of Judicial conduct. Any violation of the Code of Judicial Conduct must be proven by clear and convincing evidence.

A mistake in a ruling does not automatically mean that the judicial officer has engaged in judicial misconduct. Judicial officers are required to exercise their discretion in making their decisions. Even if a judicial officer's decision is legally or factually incorrect, the ruling is generally considered to be "legal error" and not "ethical misconduct" that the Commission can address. When a complaint to the Commission solely relates to the correctness of a judicial officer's legal decisions, the Complainant is seeking the Commission to function in the capacity of an appellate court. Correcting legal errors is the role of the appellate courts, not the Commission.

The Commission is a regulatory body with limited jurisdiction. The Commission is not a court, and as such, it does not have any authority to overturn a judicial officer's rulings, intervene in a case, assign a new judge to hear a case, or award any monetary or other relief. The Commission process cannot be a substitute for seeking appellate review.

The Commission reviewed all information submitted by the Complainant 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).

A Duty Panel comprised of Commission members Denise K. Aguilar, Colleen E. Concannon, and Joseph C. Kreamer considered this matter.

Copies of this order were distributed to all appropriate persons on May 23, 2025.

2025-048

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.

On _____ the case was sent back to the Justice Court from the _____ Court following an eviction appellate review by Judge _____. Exhibit 1 is the Appellate Court ruling which advises that if _____ as the prevailing party is requesting attorney fees and costs, they must comply with Rule 13 Superior Court Rules of Appellate Procedure. It states "(a) Statement of Costs; Objections. A party entitled to costs may, within ten days after entry of judgment, file in the Superior Court a sworn itemized statement of costs on appeal."

Exhibit 2, _____ via Attorney _____ filed A Motion to Amend the Judgement on _____ in the Justice Court which is outside of the 10 day window per Rule 13 and it was not filed in the _____ Court as required per law. Exhibit 3, On _____ Judge _____ granted _____ Attorneys Fees in its entirety which is in violation of an Appellate court order and in Violation of Rule 13 Court Rules of Appellate Procedure. _____ objected to the Attorney fees and costs.

Exhibit 4, _____ filed a motion requesting a hearing pertaining to _____ fraudulent pleadings. The motion allows for a 10 day response time, there was no ruling, instead _____ was given 19 days to respond on _____ and _____ responded

On _____, Exhibit 5, _____ filed for a Supplemental Judgment Debtor Exam. On _____ Judge _____ signed the order while _____ motion for hearing was still pending. _____ had fully satisfied the judgement on _____. Of concern is the fact that Judge _____ was made aware that not only had _____ committed fraud, Attorneys _____ Attorney _____, and _____ Attorney _____ also were filing fraudulent pleadings and that the Judges had an ethical obligation to report them to the _____ which is spelled out in _____ reply in in Exhibit 4 and Judge _____ remained silent on the issue.

Exhibit 6, on _____ Judge _____ sent the case back to the Justice Court with final orders and stating that _____ was instructed to file for attorney fees according to Rule 13 _____ Court Rules of Appellate Procedure-Civil and as of the date of the order _____ had not filed any request and the time had expired. The case was remanded back to the Justice Court. It should be noted that it took greater than a year for Judge _____ to enter judgement per rule 54c

Following this, Judge _____ did not amend the complaint to correct the Attorney fees that she had ordered despite the order from Judge _____ being very clear that she did not have authority to order Attorney fees neither were the Plaintiffs entitled to attorney fees and costs since they did not follow the rules. That said it is unclear how Judge _____ could amend a Judgement on _____ and order a Judgement Debtor Exam on _____ on a case that did not have rule 54c language and for Attorney fees that were not granted by the Appellate court. Due process rights exist for a reason and Judge _____ has violated them and refuses to correct the violation.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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Rule 1.1 Compliance with the Law- I do not believe Judge _____ complied with the law by ordering attorney fees in non compliance with Rule 13 and in non compliance with an Appellate Court Judge remand order.

Rule 1.2 Promoting Confidence in the Judiciary- I do not have any confidence in Judge _____ ability to apply the law impartially after I've fought for years to simply have basic due process rights applied. Even after an appellate Judge provided instructions on remand, the instructions were ignored.

Rule 2.2 Impartiality and Fairness- To constantly ignore my motions and ignore the law does not give the appearance of impartiality. I had a motion pending and my order was bypassed to quickly address the opposing parties order the following day.

Rule 2.5 Competent, Diligence, and Cooperation- Rule 13 Superior Court Rules of Appellate Procedure is a Rule that Judge _____ along with _____ should be able to interpret as officers of the court. They are expected to the know the law more than pro se litigants. While it is understandable that Judges are human and make mistakes, the mistake was originally made in _____, I immediately objected, I objected again and advised Judge _____ that _____ wasn't entitled to Attorney fees. Judge _____ remanded the case with no correction even after I motioned to amend the complaint. Attorney _____ and _____ also received the remand order and had an obligation to correct the problem as opposed to ignoring their ethical obligations.

Rule 2.6 Ensuring the Right to be Heard- After the case was remanded, Judge _____ could have held a hearing to ensure that the Attorney fees were corrected seeing that Defendant satisfied the judgment in _____.

Rule 2.15 Responding to Judicial and Lawyer Misconduct- Judge _____ had an ethical obligation to hold a hearing and at least speak to the Attorneys or report to the appropriate agency but remained silent.

COURT OF ARIZONA
COUNTY

HONORABLE

CLERK OF THE COURT
Deputy

v.

(001)
(001)

COMM.

JUSTICE COURT

Justice Court Case No.

RECORD APPEAL RULING – AFFIRMED & REMANDED

Defendants/Appellants, and (“ ”), appeals from a Denial of her Motion to Set Aside Judgment (“Motion”) entered in favor of Plaintiff/Appellee (“ ”). This Court has jurisdiction pursuant to Ariz. Const. art. VI, § 16; A.R.S. §§ 12-124(A), 22-425(B); and Rule 17, Rules of Procedure for Eviction Actions. For the following reasons, this Court affirms the trial court’s denial of the Motion, affirms the granting of the Motion to Strike Counterclaim and affirms the Judgment entered in this case.

¹ did not appeal the judgment entered and has not participated in this case on appeal. This appeal will address only and will hereinafter refer to Appellant in the singular.

COURT OF ARIZONA
COUNTY

I. FACTS AND PROCEDURAL BACKGROUND

The facts necessary for determination of this appeal are set forth in this Court's Order of *See Order*. Only those facts occurring after that Order, or those related to determination of the counter-claim issue will be set forth herein. The trial court denied *Motion* on the grounds that it was moot as she had filed an appeal with this Court. *See Order* dated . It also granted *Motion to Strike the Counterclaim*. *See Calendar Events and Hearings at P:13*.

On the trial court held a status conference on the Motion. *See Recording of Proceedings ("RT") near 2:49:56*. It discussed its understanding of this Court's remand, and the limited nature of the remaining proceedings in its court. *Id. near 2:51:24*. The parties agreed that the trial judge, who was not the original court hearing the matter, could determine the pending Motion as the original trial court was no longer available. *Id. near 2:54:30; 2:56:34*. In order to make its ruling, the trial court asked each party to confirm its position regarding the legal arguments contained in the Motion and to point it to specific portions of the record which would assist in making its substantive determination. *Id. near 2:53:30*.

The parties agreed the issue raised in the Motion was whether service, of both the Complaint and the five-day Notice, was proper. *Id.* informed the trial court that a hearing was conducted on , in which testimony was taken regarding the service issue. *Id. near 2:54:30*. agreed that hearing addressed the service issue but argued the testimony during that hearing was not credible. *Id.*

The trial court agreed to review the record and issue a written decision. *Id. near 2:56:34*. On the trial court found that testimony had been taken on the service issue at the hearing. *See Minute Entry at P:1*. was provided the opportunity to cross-examine witnesses on that issue and to present her own testimony. *Id.* The original trial court had then ruled that service was proper. *Id.* It also ruled on other substantive issues which are not the subject of this appeal. *Id. at P:2*.² As to the service issue, the trial court determined the findings made by the original court regarding service were proper and that had provided no legal basis to grant the Motion. *Id.* This timely appeal then followed of that substantive ruling.

II. ISSUES ON APPEAL AND SCOPE OF APPEAL

argues the trial court erred in denying her Motion. *See Brief at P:1*. Specifically, asks this court to determine: 1) Did the trial court have a legal basis for denying the Motion to

² has limited the issues on her Appellant Memoranda to the service issue only. *See Appellant Memoranda, filed ("Brief") at P:1*.

COURT OF ARIZONA
COUNTY

Set Aside/Vacate Judgment on _____ and; 2) Did the trial court have a legal basis for denying the Motion to Set Aside/Vacate on _____?³

In addition, _____ first Brief on Appeal, dated _____ raised the issue of the trial court improperly dismissing the Counterclaim without a trial or Evidentiary hearing. *See* Appellant Memoranda (“Memoranda”), filed _____ at P:2. Because that issue was not addressed pending the resolution of the Motion, it will be addressed in this final ruling at this time.

This Court’s _____ ruling addressed the first issue raised by _____. *See* Order. The matter was remanded and determined substantively on _____. Therefore, this Court reviews only that decision using the standard of review applicable for Motions to Set Aside Judgment. *Goglia v. Bodnar*, 156 Ariz. 12, 16 (App. 1987). The issue of a legal basis for the _____ denial is moot as this Court remanded the matter for a substantive decision on same.

III. STANDARD OF REVIEW

On appeal, the first issue before this Court is whether there were proper grounds to deny the Motion, not to revisit the substance of a case. *See* Justice Court Rules of Civil Procedure Rule 141(c); *See also* Superior Court Rules of Appellate Procedure-Civil Rule 4(e). The case was remanded so that the trial court could make the necessary substantive findings for appeal. *See* Order. This court has no jurisdiction to determine a Motion to Set Aside Judgment but reviews the denial of a Motion to Set Aside Judgment for an abuse of discretion. *Norwest Bank (Minnesota), N.A. v. Symington*, 197 Ariz. 181, 184, ¶ 11 (App. 2000). It is “an abuse of discretion for a trial court to act arbitrarily or make decisions unsupported by fact or law.” *Id.*

It also reviews the granting of the Motion to Strike the Counterclaim for an abuse of discretion. Under the clear abuse of discretion standard, the trial court ruling will be upheld if there “is any reasonable evidence in the record to sustain it.” *State v. Morris*, 215 Ariz. 324, 341, ¶ 77 (2007) (internal quotation omitted). A “court abuses its discretion when it makes an error of law in reaching a discretionary decision or when the record, viewed in the light most favorable to upholding the trial court’s decision, is devoid of competent evidence to support the decision.” *Michaelson v. Garr*, 234 Ariz. 542, 544, ¶ 5 (App. 2014) (internal quotation omitted).

“Implied in every judgment, in addition to express findings made by the [trial] court, is any additional finding that is necessary to sustain the judgment, if reasonably supported by the evidence, and not in conflict with the express findings.” *Coronado Co., Inc. v. Jacome’s Dept. Store, Inc.*, 129 Ariz. 137, 139 (App. 1981). Trial judges are presumed to know the law and

³ This is the date of the hearing. The ruling is dated _____
Docket Code 512

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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.**