

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-506

Judge:

Complainant:

ORDER

May 17, 2024

The Complainant alleged a justice of the peace pro tem was rude and ignored his evidence in a contract case.

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).

Copies of this order were distributed to all appropriate persons on May 17, 2024.

2023-506

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.

The Judge had very very rude and/or abusive demeanor. She was communicating improperly with only one side to the proceeding. She admitted all Exhibits filed by Plaintiff's attorney, on the other side, she admitted ZERO exhibits filed by Defendant. We are infuriated by the Judge's decision because she completely ignored all of our evidence and testimony which rightfully proved our case. She may have potential Bribery and Nepotism with the Plaintiff.

She even used the exhibit summary page with the case number and the Judge's name as one of the major reasons for reiecting all of our Exhibits, but the "exhibit summary page" was requested by the _____ County _____ Court by another case and another Judge. Even if she treated our Exhibits as Arguments, Defendant should win, but she did not. She only gave us limited time, so we cannot go over all of our exhibits at the Court.

We have filed "MOTION to SET ASIDE / VACATE JUDGMENT" at the trial court. We have also filed "NOTICE OF APPEAL" and related legal paperwork, and will file "APPELLANT MEMORANDUM". We will file a Civil Rights violation report at the Civil Rights Division, _____. We will also file "COMPLAINT FOR VIOLATION OF CIVIL RIGHTS" at the District of Arizona if necessary.

Below, you can find a summary of our Exhibits. We will also email you all of our (_____) exhibits and Trial audios/videos held on _____, and _____. The trial video/audio files are so big, seems we cannot email you, so we have uploaded them at _____ and _____ and our Exhibits are located at _____

1. Based on _____ case law and _____ ruling by Arizona Court of Appeals (Short Term Rental version of _____ law), Defendant should win this case.
2. Based on ARS definitions of "dwelling" and "dwelling unit" and CC&Rs definitions of "Exempt Property" and "unit", Defendant's property is an Exempt Property.
3. Defendant started the eviction process in _____ but Plaintiff refused to help.
4. Defendant rents to a "Person", which is a Corp.
5. Defendant has never received any notification from Plaintiff, which violated ARS 33-1803 (B) "After notice and an opportunity to be heard, the board of directors may impose reasonable monetary penalties on members for violations of the declaration, bylaws and rules of the association". And, all Resolutions have violated Arizona Corp law. The fine increased from _____ to _____ per day is NOT reasonable.
6. Selective Enforcement: based on Plaintiff's exhibits, there are at least (_____) other properties in this community doing STR, but Plaintiff only filed one lawsuit against Defendant.
7. All ads posted by Defendant's Tenant show a minimal stay of _____ days (Exhibit 7.8)
8. Plaintiff has never notified Defendant of the potential amendment of new CC&Rs, which violated the State Law.
9. The President of Plaintiff (_____) runs _____ businesses at his home, which violated the new CC&Rs.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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10. illegal and abused access to Defendant's property by the President of Plaintiff. All photos were taken by illegally entering into Defendant's property.

11. Defendant has never collected any monetary or material considerations from the Tenant, etc, and Defendant's Tenant joined the " " program, the payout from is and Plaintiff refused to send a subpoena to and they would show Defendant has never collected a penny from these STR companies.

12. Defendant has a long-term lease with his Tenant who is a Corp/Joint Venture.

13. Plaintiff has never signed on the Complaint form, never signed on the Answer form (to Counterclaim), and filed on () days after the legal deadline. Plaintiff's attorney filed the Reply to Counterclaim on () days after the legal deadline.

14. Another house in the same community, , got a City STR license (license number is), and was purchased after the new CC&Rs got "passed" and recorded. It would be much easier for Plaintiff to win the lawsuit, but Plaintiff did not take any action on it, only sued Defendant. Another house is Refer to Plaintiff's Exhibit 15. Arizona Attorney General's Office has a case number: for this Selective Enforcement case.

15. Plaintiff sent Consent forms to his friends/relatives, but not the real then owner, illegally "passed" new CC&Rs (Exhibit 24.11.3), that's why Plaintiff and Community Managers refused to show the Consent forms to Defendant

16. On Plaintiff's attorney's website, it clearly shows a fine increase from to is NOT reasonable (increase), but from (or) to increase) is reasonable?

17. travel log data shows all fines posted on Plaintiff's Exhibit were occupied by Defendant Tenant's employees/directors/.....

18. Based on Court lawsuit , The Ruling made on , "The Resolution was not approved by 75% of the homeowners.". In this lawsuit, none of the resolutions was approved and signed by the majority of directors, only 2.38% of homeowners approved the Resolution (the President himself). So, the Resolution can be voided.

19. All ads presented by Plaintiff's attorney showed the host names were etc, no one is related to Defendant.

20. The Judge denied all Motions filed by Defendant, but granted all Motions filed by Plaintiff.

Judge simply ignored all these facts, and made a decision FOR Plaintiff, AGAINST Defendant. She did not put any reason why she made such judgment. She also deliberately made a mistake on the judgment form, she put as the date of judgment, however, the last trial was held on Probably the reason is Defendant has only calendar days to file "NOTICE OF RIGHT TO APPEAL", so she can claim Defendant has passed the deadline.

Judgment should be based on exhibits/evidence/arguments, with legal explanations as to why the judge can ignore it or consider it. Right now, it shows nothing on the Judgment order. It cannot be based on race, color, national origin, etc.

Exhibit ONE: Defendant purchased the subject property on _____, Plaintiff's CC&Rs were amended on _____, based on _____, No. _____, Arizona Supreme Court Ruling _____ and _____ ruling by Arizona Court of Appeals, Defendant requests to dismiss the complaint filed by Plaintiff and grant court and legal fees and costs paid by Defendant.

Exhibit TWO: The defendant is an Arizona registered nonprofit organization, with IRS and Arizona tax-exempt status (501(C)(3)).

Based on ARS 33-2001. Definitions "dwelling" and ARS 33-1310. General definitions of "dwelling unit", and HOA's CC&Rs definitions of "unit", "properties", and "common area" and based on CC&Rs Article V, Section 10 (Both new and old versions): Exempt Property, Defendant has no obligation to pay any assessment, including, but not limited to monthly/annual assessment, special assessment (fine), etc. Plaintiff should pay back all assessments paid by Defendant plus interest at 10% per year, accumulated. The final amount depends on when this case has a final judgment, we can do math at that time. Four and a half years plus interest should be around _____.

Also, Defendant shall stop paying monthly assessments and any other assessments since this is an Exempt Property.

Exhibit THREE: Defendant already started the eviction processes without demand from Plaintiff (in _____ without knowledge of Exhibit ONE), and Plaintiff refused to provide help, or evidence at that time. Based on the study of Arizona State Laws, Tenant did not violate any of Plaintiff's CC&R (and this CC&R can be voided), and the Defendant and/or his Tenant is not in violation at all!!!

Exhibit FOUR: Based on "ARIZONA RESIDENTIAL LANDLORD AND TENANT ACT", ARS 33-1310. General definitions. and the nature of this case, Defendant rents this property to a Person, which is a Corporation/Joint Venture, which occupies this dwelling unit to the exclusion of other organizations.

Defendant's Tenant is a Corp/Joint Venture who is entitled to occupy this dwelling unit based on the Arizona State Law!!!

Exhibit FIVE: Based on Arizona law ARS 33-1803 (B) “After notice and an opportunity to be heard, the board of directors may impose reasonable monetary penalties on members for violations of the declaration, bylaws and rules of the association”. The HOA may not issue a fine until it first offers Defendant a hearing before the board of directors. If the HOA fails to provide Defendant an opportunity for a hearing before the fine is imposed, the fine is illegal and not enforceable.

Also, the fine increased from _____ to _____, which is _____ and that is also much more than the city of _____ fine limit, it is **NOT reasonable**.

_____ has a very permissive definition of what is a reasonable fine. The statute permits a reasonable fine of _____ per single violation with fines permitted to accrue **up to** _____. Arizona is not _____, but Arizona is NOT much richer than _____.

In the WITNESS section of “Enforcement Resolution”, there is **no Secretary’s printed name** (and from the signature, we cannot tell his/her name), and **no signatures** of the Board of Directors, who have approved it. Only one person’s name is there, _____.

In “Short-Term Rental Enforcement and Fine Policy”, **no witness**, and **no signatures** from the Board of Directors, who have approved it. Only one person’s name is there, _____.

Only the original policy “Rules Enforcement Policy”, which follows ARS 33-1803(B) has all signatures of all board of directors who have approved it.

Based on _____ Court lawsuit _____, _____ The Ruling made on _____, “The **Resolution was not approved by 75% of the homeowners**.”

Defendant **has never** received any notice from Plaintiff. Plaintiff is supposed to send all communications to Defendant **by certified mail and return receipt**. Then, we can resolve this issue at the HOA hearing or hearing stage. Now it’s too late. Plaintiff needs to reimburse all court fees and costs paid by Defendant.

Exhibit SIX: Based on the Federal and Arizona State Law and _____ city Ordinance 4497, i.e., Anti-Discrimination Ordinance, also in Plaintiff’s CC&R, Article XV, **Section 2. Equal Treatment of Owners.** No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any owner or owners in favor of the other owners. However, the **President (_____) of the Board of Directors of Plaintiff discriminates against Defendant in favor of himself. NO selective enforcement is allowed!!!**

Exhibit SEVEN: Fine history. This exhibit shows how each fine was added to Defendant’s account; however, they were not valid fines and should be removed. Based on exhibit TWO, Exempt Property, Defendant does not need to explain here, because Defendant should not pay any assessment (including all the fines), and most of them were already explained to Plaintiff by Defendant, but Plaintiff just ignored all that Defendant stated in the past. Plaintiff’s goal was explained in exhibit SIX, i.e., discriminating against Defendant in favor of the President of the Plaintiff. **NO selective enforcement is allowed!!!**

Exhibit EIGHT: Plaintiff has violated the State Law and the CC&R when trying to pass the new CC&R, so the new CC&R is invalid. Also, there are a lot of potential Fraud activities made by Plaintiff when tried to pass the new CC&R and the discrimination against Defendant.

Exhibit NINE: The new CC&R has **voided** the Association Rules Resolution A, but the President of Plaintiff is still running his two businesses with persons/customers coming on to his house and for commercial purposes. Unless we honor the **Grandfathered-in Clause** (the older version of CC&R does not have “persons coming to promises and the Association Rules Resolution A covers for commercial purposes), the **President of Plaintiff violates the new CC&R.** However, the **discrimination still exists!!!** (There was a 911 police emergency car parked at the President’s house on _____, please pull the police report).

Exhibit TEN: Regarding the **illegal and abused access to Defendant’s property** by the President of Plaintiff and the **Restraining Order request.**

**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.**