

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 07-004

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Complainant: No. 1267910481A

Judge: No. 1267910481B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no misconduct on the part of the judge. The issue of jurisdiction is solely legal in nature.

The commission is not an appellate court and cannot change a judge's decisions; therefore, the complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: January 31, 2007.

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on January 31, 2007.

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

I affirm, under penalty of perjury, that the foregoing information and the Allegations contained in the attached statement of facts are true.

31 DECEMBER 2006

CJC-07-004

Date: 31 DECEMBER 2006

STATEMENT OF FACTS

On or about [ ] my wife and I were sued by [ ]

[ ] in the [ ] Justice Court by the law firm of

[ ] The actions were captioned as [ ] The

amount sought was less than \$1000 in each of the three complaints. I was sued in my own name and in AKA [ ]

On [ ] we filed a counterclaim in the Justice Court seeking damages in excess of [ ] and seeking the affirmative relief asking of disbanding the [ ] (exhibit #1. Because the counterclaim was some 60 pages long, I have included only the first page showing the caption and the last five pages; the prayer for relief.) Upon the filing of the counterclaim, and since the claim exceeded the jurisdictional limits of the court, I did all I could to have the case transferred to the [ ] Superior Court, to no avail.

On [ ] an unidentified attorney from the firm of [ ]  
[ ] filed a Notice of Appearance with the Court. (*exhibit #2*) The  
following day, on [ ] filed a Motion to Dismiss the Counterclaim  
“on the grounds that the Court lacks jurisdiction over the subject matter of the  
counterclaims.” (*exhibit #3*). In the motion, the attorneys argued that, because  
the counterclaim sought damages in excess of [ ] and sought affirmative  
relief of disbanding the corporation, the Court lacked the jurisdiction to hear and  
decide. It is interesting that all of the parties to these actions challenged the  
Court’s Jurisdiction, yet the Court did not care.

Pursuant to A.R.S. 22-201, as the [ ] Justice Court is a court of limited  
jurisdiction, it was required by law to transfer the case to the Superior Court, which  
it refused to do.

Judge [ ] lacked Jurisdiction because, pursuant to A.R.S. 22-202,  
“Justices of the Peace have jurisdiction only as affirmatively conferred on them by  
law.”

1. The amount sought was over \$10,000;
2. The counterclaim sought affirmative relief;
3. Pursuant to A.R.S. 22-202 (d), the three original actions were only  
allowed to be filed “in the precinct where the account, contract or  
other claim was made or entered into, or where the defendant lives, at  
the option of the plaintiff. The account, contract or claim was entered  
into in the [ ] precinct, and the Defendants lived in the

[ ] precinct, yet the actions were filed in the [ ]  
precinct. As such, Judge [ ] and the [ ] Justice Court  
lacked any jurisdiction to hear or decide the matter.

Despite the fact that I could not get the Justice Court to transfer the matter to  
Superior Court and the attorneys for the opposing side filed the Motion challenging  
jurisdiction, the Justice Court dismissed the matter with prejudice.

I have been trying to get the Justice Court to undo its void order dismissing  
the counterclaim for some time, including challenging the court's jurisdiction  
(*exhibit #4*) and moving to vacate the dismissal, Judge [ ] refuses to remedy  
his unlawful actions and denied the Motion.

The real issue is that I re-filed this matter in Superior Court and the Judge  
[ ] of the [ ] Superior Court has ruled that the matter was  
properly dismissed by the Justice Court.

It is clear that the Judge [ ] did not have jurisdiction to dismiss the  
original counterclaim and he should be held accountable for his actions and the  
damage he has caused my wife and I through his unlawful actions. He denied our  
motion.

It is clear that Judge [ ] and the [ ] Justice Court, not being a  
court of general jurisdiction, was NOT allowed to dismiss our civil action which  
exceeded its jurisdictional limits. The first duty of any court is to determine  
whether it has jurisdiction in the premises, and in so determining, it must act  
judiciously.<sup>1</sup>

The test of jurisdiction is whether the court has power to enter upon the inquiry, and jurisdiction of the subject matter is the power to deal with the general question, to hear particular facts in any case relating to such question, and to determine whether or not they are sufficient to invoke the exercise of that power.<sup>2</sup>

It is well settled that justice courts have narrowly restricted power and jurisdiction<sup>3</sup> and this jurisdiction exists only to the extent conferred by the State Constitution and statutes.<sup>4</sup> Not even the parties themselves can agree to jurisdiction that a court does not otherwise have.<sup>5</sup>

<sup>1</sup> State v. Phelps, 67 Ariz. 215, 193 P.2d 921 (1948)

<sup>2</sup> Arizona Public Service Co. v. Southern Union Gas Co., 76 Ariz. 373, 265 P.2d 435 (1954); also see Van Ness v. Superior Court of State in and for Maricopa County, 69 Ariz. 362, 213 P.2d 899 (1950) (holding that a court must have jurisdiction of the subject matter of the case, jurisdiction of the persons involved in the litigation, and jurisdiction to render the particular judgment given).

<sup>3</sup> Dunlap v. Superior Court In and for the County of Maricopa, 169 Ariz. 82, 817 P.2d 27 (Ariz. 1991)

<sup>4</sup> State ex rel. Milstead v. Melvin, 140 Ariz. 402, 682 P.2d. 407 (Ariz. 1984); also see State v. Hicks, 69 Ariz. 208, 211 P.2d 473 (Ariz. 1949);

<sup>5</sup> Southwest Soil Remediation, Inc. v. City of Tucson, 210 Ariz. 438, 36 P.3d 1208 (App. 2001)

I will gladly send you any other documentation that you request. I await your reply.



Mailed this 2<sup>nd</sup> day of January, 2007  
via U.S. Certified mail

