

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-130

Complainant: No. 1314400444A

Judge: No. 1314400444B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The determination of child support is a legal issue and is outside the jurisdiction of the commission. The commission is not a court and cannot review evidence to determine whether or not a judge's decision is correct. Therefore, the complaint is dismissed pursuant to Rule 16(a).

Dated: June 11, 2008.

FOR THE COMMISSION

 /s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on June 11, 2008.

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

COMES NOW, Respondent in the above entitled case number to provide formal Notice to all interested parties and to demand mandatory judicial notice by this honorable court Pursuant to Rule 201 (D) of the Arizona Rules of Evidence, of this Respondent's AFFIDAVIT OF GROUNDS FOR CHANGE OF JUDGE AND RECUSAL FOR CAUSE, submitted Pursuant to Rule 42 F (2) of the Arizona Rules of Civil Procedure and Rule 6 of the Arizona Rules of Family Law Procedures.

I, _____, hereby exercise my Constitutional Right in asking that Hon. _____ excuse himself from any further involvement pertaining to this case for the following reasons:

1. _____, the Respondent filed a Petition to Modify Child Support and Alimony, Pursuant to ARS 25-327, a decree respecting maintenance or support may be modified or terminated only on showing of changed circumstances that are substantial and continuing. The Respondent is given the right for such modifications, due to financially being responsible for two extra children as the Parent's Worksheet for Child Support Amount showed. It is the Respondent's belief that Hon. _____ is acting unjust and denying the Respondents right by law and, to the MODIFIED Divorce Petition which both the Petitioner and Respondent clearly agreed to by signing. These agreements are not binding upon the parties, and do not state that the terms for maintenance or support shall not be modified as stated in ARS 25-319 C. The Court does have this authority and the Court knows it and for the Court to state that it doesn't have this authority is an act of deception and a violation to these laws. SEE EXHIBIT A AND B

2. The Respondent believes that Hon. _____ is prejudice not only to the Respondent but, of his former attorney due to a conflict of interest on a previous Appeals case. The Respondent can only conclude the reasoning for accepting an Ex Parte Order of Assignment, which was not agreed or signed upon by either party in their _____ Parenting Plan and Child Support Agreement is due to bias and a lack of interest to his case. The Respondent questions the Courts motivations on denying Modification, but accepting the Ex Parte Order and believes that such actions are a violation to ARS 12-409 B 2,5 and Rule 81 Arizona Code of Judicial Conduct Canon 3 B 7(a) scheduling or an emergency did not apply. SEE EXHIBIT C

3. _____ the Respondent submitted a Request to Modify Post Judgment and Motion for a New Trial, which was vacated by Hon. _____. The Respondent finds this to be prejudicial and expects the Court to uphold the Constitution as sworn to do so and protect the fundamental rights to due process as guaranteed by the 14th Amendment. The court is fully aware of the Respondent's financial

responsibilities, he has at this time one child with his fiancé and another baby due shortly and that he also pays for another child in the amount of a Parents Worksheet for Child Support Amount of \$565, Respondent states that this amount is from the worksheet itself and not an agreed amount, this party actually works. The Court is also aware of what the Respondent makes, that the Respondent pays \$374 for insurance for his two children with the Petitioner, being a supervisor insurance is supplied free to myself, and what the Respondent now brings home \$350 per week, having to claim max. exemptions just to keep that little of amount, the Respondent believes that this is clearly a violation to ARS 33-1131 C, which states any order for the support of a person, one-half of the disposable earnings of a debtor for any pay period is exempt from the process. SEE EXHIBIT D. The Respondent reminds the court that he gave the Petitioner the exemptions, due to the fact the Petitioner making an oral agreement, which is just as good as paper in , that the Petitioner lied that being a single mom and working she would get a larger tax refund, so we could work something out. The Respondent realizes that this was one more malicious attempt by the Petitioner to get more than what is fair and reasonable, as fraudulently done before. SEE EXHIBIT E. The fact is the Petitioner has not worked long enough to file a tax return but instead; has free rent, utilities, and groceries supplied by her boyfriend to which Respondent can only presume due to the fact the Court has never asked for proof of such, like the state does when providing assistance. The Respondent realizes that Arizona Law does not take cohabitation into consideration when a modification or stop for alimony is petitioned but, would like the Court to be aware that does see *Brister v. Brister*, 92 N.M. 711, 594 P.2d 1167 (N.M. 1979). The Respondent would also like to clarify to the Court that the amount and term of alimony for 5 years, IS NOT what was Ordered by Court, but only that of the Verified Marital Settlement Agreement.

4. The Respondent would like the Hon. to acknowledge that because of his refusal to Modify Child support, and alimony that the Respondents only vehicle was repossessed shortly after this denial and that he and now wife have to seek out assistance of the state just to survive. The Court is duty bound to make a finding as to how it concluded the Respondent has the ability to pay this sum of money. If the Court refuses to make this finding then it can be concluded by reasonable people that it is the intention of the court to deliberately drive the Respondent into financial ruin, whereby the Respondent believes this to be a violation to ARS 25-320 D (5) The Supreme Court shall base the Guidelines and criteria for deviation from them on all relevant factors, including; the financial resources and needs of the non-custodial parent. It is the duty of the Court to uphold and abide by the Constitution and the Laws of Arizona set down by the Legislature, which; defines the roles and authority of Judges to conduct a trial and make an honest attempt at a fair and equitable judgment.

5. As a judge of Family Court it is your job to do the work of a Family Court Judge and only that. The Law does not give a Judge of Family Court the authority to deliberately ruin a individual financially. Such an act would be seen by a reasonable person to be an act that is clearly outside all judicial authority. Clearly a Family Court Judge does not have the right under the Law to use his positions and immunities to shield him from malicious acts that are clearly outside his scope of authority. The authority of the Court exists so that judges can do the work of the Court that it is mandated to do under Law. If the Court isn't doing its mandated work then the Court has no authority. It is the responsibility of the Court to make fair and equitable decisions as required by the Law. And when it is pointed out that the Court has mistakenly made a decision that isn't possible, it is the Courts duty to correct it, as stated in Rule 85 of Arizona Rules of Family Law Procedures. To make a decision that the Court, or any reasonable person knows is impossible and to refuse to correct it will not lead to the fulfilling of the work the Court is mandated to perform. If the judge isn't acting in a manner that would lead to the fulfillment of his mandate, he is acting in the absence of all judicial authority. I on the other hand; have always been an honorable person, a decent citizen who has upheld the Laws of the States I have resided in, I have no criminal history, and always have supported my family to the best of my abilities.

6. After researching prior case # _____ and finding the modified amount in all cases; I would have to ask the Judiciary Review Committee, if Hon. _____ has continually ignored Arizona Statutes to a modification of more than 50% for each case, or is it just mine and in fact; is truly prejudicial to myself and

my family. The Respondent is now legally responsible for 5 children, which was made clear at the 2008 hearing. I have never stated that I am not financially responsible in providing for my children of my first marriage, I have simply asked that the Court complies with Arizona's Laws and Statutes towards the child support and alimony amounts of the Modified Divorce Petition which was agreed upon and signed by both parties. For you to state that I should not of had anymore children because of my prior obligations is complete biased and prejudicial and affront to the right afforded to me by the Bill of Rights included in our U.S. Constitution. The amount you decided on, (for the second time, as to date the Respondent or former attorney has yet to receive such order) is still over more than \$368 of what the Parent's Work Sheet and the Guidelines clearly showed to be, and the true amount of \$374 for insurance I pay for these two children is still being ignored and violated as well. I am further being cheated out of my valuable visitation with the two prior children due to having to work six days a week whenever possible, in order to meet my current ordered obligations by the Court, in direct opposition to Arizona's Law. As a Family Court judge you are aware that the number one reason for divorce is due to financial problems, thus I believe it is your intention to deliberately and maliciously force the Respondent not only into bankruptcy but to break-apart his current family.

7. It has been clearly pointed out to the Court in a manner that any reasonable person can understand, that the Court has made obvious errors, which have been brought to the attention of the Court, these obvious errors have been deliberately ignored. The Respondent can only conclude that the judge is on a mission that has nothing to do with the job the Law mandates him to perform. If the judge is not doing the work of the court than the judge does not have the authority or the immunities of the Court and his decisions are therefore defective and invalid. Because of the obvious errors in the decision, it is the Respondent's position that no decision has been made. If the Judge can not or will not perform his duties as Judge then he is obligated under Law to recuse himself from the Respondent's case. A judge who stands in the way of justice and the Law is acting outside of all judicial authority and thereby waives his rights to immunity from civil liability. The 14th Amendment guarantees the fundamental rights of citizens to due process and such rights require strict scrutiny of the Court. The Respondent therefore puts the Court on notice that the Respondent intends to defend his rights and to hold the Court liable for acts the Court takes against the Respondent that are done in the absence of judicial authority. Wherefore; of the fact that the judge is either unwilling or unable to perform his duty as mandated by the Constitution and ARS 12-409 (5) which states; that the party filing the Affidavit has cause to believe and does believe that on account of bias, prejudice, or interest of the judge he cannot obtain a fair and impartial trial; and a violation to Rule 81 Arizona Code of Judicial Conduct Canon 1 (A), a judge shall uphold the integrity and independence of the judiciary and Canon 3 (B) 2, a judge shall be faithful to the law and maintain professional competence in it. B (4), a judge shall be patient, dignified and courteous to litigants, B(5), a judge shall perform judicial duties without bias or prejudice, a judge shall not in the performance of judicial duties, by words, or conduct manifest bias or prejudice(B) 7, a judge shall accord to every person who has a legal interest in a proceeding Respondent asks the judge to recuse himself and order for a new trial.

I swear and affirm this to be correct to the best of my knowledge, information, and belief.

RESPECTFULLY SUBMITTED,