

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 10-071

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Complainant: No. 1388400448A

Judge: No. 1388400448B

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**ORDER**

The complainant alleged the judge improperly dismissed his case and then failed to rule on a motion to reconsider. After investigating the allegations and reviewing the judge's response, the commission found no evidence of ethical misconduct on the part of the judge. The judge did consider and rule on the motion to reconsider. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: June 17, 2010.

FOR THE COMMISSION

\s\ Keith Stott

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Executive Director

Copies of this order were mailed to the complainant and the judge on June 17, 2010.

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

ATTACHEMEMNT TO COMPLAINT RE: The Hon.**Commission on Judicial Conduct**

1501 W. Washington Street, Suite 229  
 Phoenix, AZ 85007  
 (602) 452-3200

**INFORMATION REQUESTED ON THE FORM 'COMPLAINT AGAINST A JUDGE**

1. Case No. CC2009-
2. Judges: The Hon.                      The Hon.                      (subject to complaint)
3. Parties:                                      Vs. Laptopncall, Hamilton, Ohio.
4. Case subject: Breach of contract
5. Jurisdiction: Section 7 of the contract states, in the applicable part of Arizona jurisdiction:  
                   "7. APPLICABLE LAW: *The parties agree that this agreement shall be construed according to the laws of the State of Arizona, and that jurisdiction and venue shall be held in Maricopa County....*"
6. Upon failure to file a response to Plaintiff's (myself) Civil Complaint for \$10,000 by the defendant, I filed a motion to grant filing application for default judgment.
7. On 12-14-2009, the Hon. Judge Protem                      entered an order granting me filing such application for default judgment.
8. On 12-20-2009, I filed said application.
9. Within less than 48 hours (!!!) the Hon.                      took the illegal liberty and enter an order of 12-22-2009 dismissing the case citing "No Personal Jurisdiction".  
                   By doing so, the Hon.                      had violated the laws and rules, especially since neither part had requested a hearing or consideration. Because Judge                      if a Judge Pro Temp, it may be that - should the defendant ad contested the order, Judge                      would have had Jurisdiction and authority to reconsider the request. Otherwise, the Hon.                      had abused the legal system, my civil and constitutional rights, and over stepped his boundaries, judge  
                   because he is the presiding Judge.
- Please respectfully note that this is not a small claim; This is a civil Case, and the law should e carefully applied and used.
- That was not enough.
10. On **12-31-2009**, Plaintiff (Myself) than filed a Motion to Reconsider and Motion Requesting "Finding of The Facts & Letter of The Law".  
                   On 1-2-2010, the respondent filed a response.
11. On 1-4-2010 Plaintiff filed a Reply to Response.

12. Since the Hon.        needed less than 48 hours the illegally dismiss the case, and since no order was entered on the motion to reconsider, assuming the Judge may have been searching for the answer, Plaintiff decided to assist the judge by provided mountain of legal points to consider reversing his decision, by filing an Amendment of Motion to Reconsider, which was filed 1-19-2010.
13. As times passed, and in violatiob of the court civil procedures, the Hon.        neglected to enter any order on the motion to reconsider, whereby the status of the case remains DISMISSAL.
14. In yet another illegal move, for assumed reasons plaintiff have expressed in other Communications, including to the Hon. Supreme Court Chief Justice – the Hon.        asked Judge pro Temp to conduct a hearing on other pending motions - EXCLUDING the motion to reconsider.
15. On 2/19, 59 days after filing the motion to reconsider, the Hon.        entered an order for a hearing for April 7, 2010 citing "Motion(s)".
16. Such order was initiated by the Hon.        with strict violation of any possible applicable law and procedures for the following reasons:
  - A. The hearing exclude the motion to reconsider, thus being illegal as the case is under dismissal order;
  - B. The Hon.        reverse Judge        order, so that he is the one who may conduct a hearing on the motion to reconsider, which, may be included other pending motions.
  - C. The order does not specify the motion; However, plaintiff has personal knowledge from court personnel that the hearing was in no way intended for th4e motion to reconsider, just to deal with other pending motions. Either way, Judge        cannot, should not, and am not authorized to conduct a hearing on a motion which challenged an order which had reversed his own order. This conduct by the Hon.        changed the legal system upside down, as it is his own private company.
17. After a few days of discussing the hearing issue with court personnel, on 2-24-2010, plaintiff filed a Notice of Appeal.
18. On March 1, 2010, at 9:05, a legal appeal, by the standards of the Arizona Courts of Appeals, filed legally and properly filed with the clerk of the court, whereby a court stamp was put by the electronic filing machine on the first page of the appeal, and on two other related documents.
19. In further violation of my constitutional, civil and legal rights, the Hon.        to my best assumption – had told the clerk of the court that I have no rights to appeal because there was a hearing pending.
20. Note that after the order to dismiss the case, and before a court order on the motion to reconsider, the plaintiff has the right to appeal. Any hearing cannot, and should not stop the appeal process, as the legal system would be than paralyzed.

21. Further, on 2-24-2010, Plaintiff filed a (just in case) motion to stay proceeding. The Hon. refused to even consider said motion, mainly the illegally scheduled hearing for 4-7-2010.
22. On March 8, 2020, I sent a fax letter to Clerk Ms. Angie, asking if the 4-7 hearing was vacated. She never responded.
23. On March 17, 2010, I contacted the court asking about the appeal. Ms. Sandy advised me that a \$72 fee was not paid, and transferred me to Ms. Angie, the clerk, to make a credit payment.
24. Ms. Angie had advised me some astonishing steps, saying "you have no right to appeal because there was no hearing...". She ad refused to collect the \$72, even when I argued that:
  - A. The clerk failed to request and collect the fee;
  - B. I had no knowledge of the fee despite my previous calls asking about the appeal process
  - C. I do have the right to appeal, and making the payment should be accepted. I was turned down.
25. Being somehow familiar with the court process, I have cause to believe that the clerk did not initiate the refusal. I believe that she must have consulted with the Hon. because it would be too much responsibility to put aside a legal appeal in the legal system, something that violate the constitution and Arizona Laws and procedures.
26. On March 18, Court Administrator Mr. Stewart REFUSED to deal with the issue of IGNORING the appeal and not collecting money, and told me that my choices are to appear at the hearing or file a special action.
27. Such statement by a top administrator of the court at the same day it was published that the Hon. Supreme Court Justice addressed the Arizona Legislature of significant increase of filing in Arizona courts is troubling for that reason and others:
  - A. Although special action is an option, why would the court system cause me paying significant amount of money for a special action including filing fee and attorney's fee, while I was denied DUE process, and while the issue of processing the appeal and collecting the fee is administrative?
  - B. Note that the Justice Court system class for filing an appeal with the justice court. For that, no clerk has the right to stop the appeal process. If a judge believes there is no right to appeal, he should have entered an order denying the Right To Appeal. Mr. Stewart washed his hands, and played along with the ill court system by constantly refusing to address this technical administrative issue of collecting the fee and proceeding with the appeal, until he, after an ultimatum, terminated the conversation.

28. Putting a citizen, which happen to be with a very low income, or any other citizen in such an ordeal, whereby everyone, including the assistant to Supreme Court Administrator Mr. Beyers, is cruel punishment, UNFAIR IMPORAL, and put a person like me in a farther hardship,
29. More than anything, a simple case has turned into a "war between the plaintiff and the judge", something which raises serious question about the ethical conduct of Judge no matter how many years he is in the job.
30. Failure of the Hon. to apply proper and reasonable discretion in this case, in my opinion, revoking his moral and legal right to serve as a judge, especially since he had refused to consider any pending motion, which is unfair, unreasonable, illegal, in violation of the Civil procedures, and which shows abuse of power and discretion.
31. My constitutional right, and due process rights have been violated by the Hon. constantly, whereby he had dismissed my case in less than 48 hours, by, if a hearing is conducted, delays his decision for the motion to reconsider by FOUR MONTHS. Throwing me to the extended legal proceeding while one judge had lost his desertion, violated the laws and rules, and forcing me to spend thousands on legal battle with the special actions and other legal, unnecessary, actions, is inhuman, illegal, unfair, immoral and unconstitutional.

I would respectfully ask the Ethical committee to ACCELERATE this case, so that a decision be made before the hearing schedule for April 7, 2010.

Respectfully submitted this 19<sup>th</sup> day of March, 2010.