

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 10-094

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Complainant: No. 1390310588A

Judge: No. 1390310588B

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**ORDER**

The complainant alleged that a superior court judge was arrogant and insulting and made inflammatory remarks during a settlement conference. After analyzing the allegations and the response from the judge, the commission found insufficient evidence to support the claims. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: July 29, 2010.

FOR THE COMMISSION

\s\ Keith Stott

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E. Keith Stott, Jr.  
Executive Director

Copies of this order were mailed to the complainant and the judge on July 29, 2010.

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

April 13, 2010

State of Arizona  
 Commission of Judicial Conduct  
 1501 W. Washington St. #229  
 Phoenix, AZ 85007

APR 14 2010

RE: COMPLAINT AGAINST A JUDGE –

On June 10, 2009 my husband and I (the Plaintiffs) attended a Settlement Conference at the Arizona Superior Court in Tucson, before Judge [redacted]. The case concerned a boundary dispute over 5 ft. of land between our residential property and our neighbor's residential property (adjoining ours, on the west side).

Both my husband and I have been Real Estate Brokers for many years. I retired in 2006 and although my husband is no longer active in the business, his license does not expire until 2012. The [redacted] (Defendants) are also Real Estate Brokers and are still active in their profession. We have owned our property since 1992. The Defendants purchased theirs in 2005. We occupy our property. The Defendants use theirs as rental property.

My husband and I leave Tucson in the late spring each year and spend time in Michigan and Canada visiting friends and relatives. We were in Michigan in 2005, the summer that the Defendants purchased their property and their daughter and granddaughter moved in. When we returned in late fall, we noticed that vehicles exiting their property had been driving over the edge of our driveway. Even though we asked them to discontinue this practice they ignored our requests. Before we left Tucson in 2008, my husband hired a worker to install a cement edge on our driveway and place a row of river rock to discourage vehicles from driving over our driveway. While we were in Michigan we received a phone call from one of our neighbors that there was a worker removing the rocks, further tearing up the edge of our driveway. Apparently, while we were in Michigan, one of the Defendants drove her Lexus over our driveway, sustaining damage to her car.

Subsequently, we learned that the Defendants had hired a Surveyor who informed them that they "owned" 5 feet of our property. The Defendants demanded that we remove anything that was in that area. The survey results, they felt, gave them the right to remove the barrier on the edge of our driveway.

Our house, their house, and all of the houses on our street and, in most of the neighborhood, were built in the late 1950's and no one, until now, had ever questioned the boundary lines that the builder had established, initially, by installing privacy walls between all of the properties. No Buyer of a re-sale home in this 40 plus year old residential area has felt it was necessary to require a survey prior to their purchase. Nor did the Defendants question boundary lines, or ownership of the wall between us as the "boundary", before they purchased their home in 2005.

After a lot of time and legal expense, without resolution of the problem, we asked our legal counsel on March 25, 2009 to file a lawsuit. We believed that a case for adverse possession was very strong. We had a lot of information and photographs to support our opinion. We had decided to sell our home but could not legally do this with a "cloud" on our title. Our attorney suggested that we consider a Settlement Conference before proceeding to trial, and we reluctantly agreed. Unfortunately, because of postponements and delays by the Defendants, we were unable to schedule a date for the Conference until June 10, the day we had planned to leave for Michigan.

We spent a lot of time preparing the file for the Settlement Conference so that it would be fair and just, based upon facts. Prior to this boundary dispute, we had never been in a Settlement Conference, or Plaintiffs or Defendants in a lawsuit, and although our legal counsel had described the Settlement Conference procedure, we were not prepared for what took place with Judge Cornelio on June 10<sup>th</sup>.

Although our legal counsel accompanied us, Judge \_\_\_\_\_ would not allow them to offer any information on our behalf and, in one instance, told one of them to sit down and be quiet. The Judge's demeanor was arrogant and insulting. He accused us of "bullying" the Defendants. He asked my husband why he didn't have anything better to do than put together the file he (the Judge) had been presented with for this Conference; *then told us he hadn't even read it!* When my husband tried to respond, Judge \_\_\_\_\_ told him he didn't want to hear it. He kept demanding "What are *you* giving up"? We didn't have any idea what he was talking about. I was so upset and humiliated by the Judge's rudeness, accusations and "finger pointing" that I was in tears and lashed back, telling him he had no right to talk to, or treat us like that. He was making inflammatory, injurious remarks to us without even knowing anything about us, or the situation, beyond what the Defendants may be telling him in a separate room.

There had been other issues between us and the Defendants that had nothing to do with the boundary dispute, however the Judge brought them up and based solely on his conversation with the Defendants, proceeded to use them as ammunition for more "bullying" tactics with us. We were not given an opportunity to respond or defend the accusations. Also, during part of the Session, while we just sat there, the Judge spent time conversing with one of our legal counsel about personal matters that had no bearing on our case.

We had agreed to a Settlement Conference because we believed that we might be able to present information to a Judge who could make a recommendation based upon facts or law, not emotion. We "settled", with regret and remorse, because I felt we could no longer afford to continue our battle for justice. The relationship with the Defendants over the property boundary dispute has taken its toll on our emotional and physical health. We are in our 70's, retired, living on our social security and it was necessary for us to get a Home Equity loan to be able to pay our legal expenses (over \$20,000.00) for this kind of justice.

I am still appalled and enraged by the disgraceful behavior of Judge \_\_\_\_\_ during our Settlement Conference. In our opinion, he does not meet the acceptable judicial performance standard for Judges. I have not filed a complaint until this time because I wanted to make sure that all of the facts were in order and take time to research for other complaints about Judge \_\_\_\_\_ conduct. It is an injustice to leave him in a position where he has the power and position to achieve his personal goals by intimidation, bullying and humiliation of others who are seeking justice!