

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 12-209

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Complainant: No. 1448400432A

Judge: No. 1448400432B

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**ORDER**

The complainant alleged a superior court judge demonstrated bias against her by making numerous erroneous rulings and by engaging in ex parte communications with opposing counsel.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing all of the information provided by the complainant and the judge's response, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: December 4, 2012.

FOR THE COMMISSION

/s/ George Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed  
to the complainant and the judge  
on December 4, 2012.

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

Case #D2011

July 30, 2012

Commission on Judicial Conduct

1501 W. Washington Street, Suite 229

Phoenix, AZ 85007

To Whom It May Concern:

Subject: Complaint against a Judge

Concerning the Judge in my divorce case #D2011 concerning Judge

I had to recently fire my attorney for non-compliance and not looking out for my interest in my case. I am also reporting this Judge for the same. Judge will be known here as and referred to as He or Judge

He has openly admitted that any action that I do will affect the outcome of this divorce. He never told or gave the respondent the same warning. Even after the respondent had perjured himself in court several times, and the judge has not admonished or even put him on contempt of court.

Causes to report:

1) The first case, Execution of judgment not followed, was that the I was to enter the joint property of the petitioner and the respondent, the Judge ordered that I take any personal possessions from the premises and was given 30 minutes to do so and she better have a lot of friends to help her get things out because that is the all time she would have and no more. The respondent had taken what he decide was petitioners and put them out on the street in bags. The county sheriff denied entry to the home, stating that the respondent did not want the petitioner in the house, and was told by sheriff officer that she could not go in even though it was ordered by the Judge she would not be allowed and arrested if she set foot in the home. Said (sheriff), Judges order did not apply he was in charge of who went in and out of the house. The following open court session that both parties went to the Judge was informed of the actions of the respondent and the Judge took no action against the respondent. Admonished the petitioner that her actions would affect the outcome of the trial.

2) The second case, a Consent of judgment not followed, it was ordered by the Judge that both parties continue to pay for the bills assigned to them by the courts and nothing was to change or stopped in paying for said bills. It was so ordered by the Judge, which both parties agreed upon mutual consent and the court set it forth. It was a week later that the respondent stop paying some of the bills and claimed that he could not afford to pay them anymore and that the petitioner had to pay all her own bills. The next open court date was set and the respondents income was revealed that the respondent clearly made \$4000.00 a month and the petitioner had clearly made only \$732.00 a month. The Judge made it clear

that the petitioner should pay her own bills that the respondent chose which bills not to pay now. And that the respondent was clearly unable to keep paying her bills and his own bills. And she was capable to live on \$700.00 a month. And it was established earlier in court that the respondent had supported the petitioner for seven years, had the money for all the bills and I kept up and paid all the bills from the joint accounts before the divorce, and which all joint accounts were cleaned out and left only a dollar in each. This was clearly a case of not following court orders set by the Judge and courts. And yet the Judge did not admonish the respondent or punish the respondent for possible contempt of court, and I was given warning not to stop paying bills and quit harassing the courts.

3) Third case, In Rem, regarding the real property that still is in both parties name. The petitioner was not given a choice but to give into the demands of the court to forego use of the property. This was to be but a temporary issue to be determined later, and yet when I tried to get back into the house I was never told by my attorney Michael Aaron that I vacated any rights to go back to that house. Judge told me that I had no vested interest in the house and it solely belongs to the respondent and it was paid for in cash and no mortgage owed. Even though it is a fifty fifty state. And that due to the several restraining orders that the respondent had issued to me. I was never to go to our home again, and never to return to my own home church also and if I would step foot ever again on to Mount Zion Lutheran Church. I would be arrested so ordered by the Judge. I have been a Lutheran member since childhood, and the respondent had never been a member only through the spouse's name only, This in itself to order someone from attending the church of their religion is a violation of the US Constitutional rights, the Freedom to Religion and the right to Pursuit of Happiness. How can a Judge order this?

4) Forth case, Restraining orders, since the beginning of the case of divorce was filed the respondent has abused the court system and has continually done so without any regard to orders from the Judge. The respondent has filed 7 restraining orders in county 6 against me and 1 against the my friend. The petitioner had file just 2 restraining orders against the respondent. The Judge admonished both parties and made it clear and direct to the parties that if either party that they would be in contempt of court, if filed one more restraining order, so ordered by the Judge. It was a week later that the respondent filed his seventh restraining order against the my friend. And at that time the same Judge was assigned to this case to be heard for the restraining order, which was wrangled by the respondents lawyer Thomas Niemeir, which is a personal and long time friend of Judge

The Judge was reminded that the respondent had filed another excessive restraining order and Judge did not admonish or hold the respondent in contempt of court. Or the fact that the respondent had perjured himself on the court documents and in court once again in this restraining order hearing..

5) Fifth case, Filings of petitions and of motions, Thomas Niemeir has had exclusive access to contact Judge and his staff. He has had signed several documents for the respondents counsel during after hours and on weekends and has exclusive time in with the Judges staff and the Judge in his chambers for private consultations to get motions and petitions signed without petitioner and petitioners lawyer being there.

6) Sixth case, Change of Judge, apparently there has been a special clause so that the petitioner cannot change Judge, and my attorney Michael Aaron of did not tell me this

and I would have not agreed, and He has flatly refused to give this case up. Since the Judge is assigned to hear criminal cases and not divorce cases. Yet with some wrangling and putting in a wrinkle in the law and use of the justice system, Thomas Niemeir had his long time friend, Judge hear this divorce case in front of him. He is a criminal judge and not a divorce judge. In my opinion, the respondent's lawyer had this planned in order to gain an unfair advantage to get what he wants for his client. Therefore the Judge in this case has been bias since the beginning of this case set forth be for him. I feel that I am being harassed by legal means by which the respondent's lawyer Thomas Niemeir is using the courts to harass me to no end.

7) Seventh case, since firing my lawyer, and having a mild heart attack brought by stress and high blood pressure, I was unable to attend and show up for the last court date, which was set for June 26<sup>th</sup>, 2012. In the minute entry, it shows that I was present, and was not there, and that my lawyer was fired, and no longer represented me. So a date was set without my presence being there and my ex-lawyer had no right to make any such date to appear for court without my permission. My lawyer had clearly stated this and the Judge accepted the information that my lawyer no longer was representing me and was let go from this case. And yet a court date was set. Do not both parties have to be present to set and agree to set a mutual court date?

8) Filing Motion to continue, Judge refused to do a motion to continue. Since I am looking for an attorney to represent me, He put in that I am pro per se. And so asking for more time to go to my doctors appointment for my heart attack after care, and also for a motion to Request for admission, and a Request for production, or to ask for a motion of Replevin I did not get a chance to do this. Due to the fact that I did not have access to retrieve all of my sole and personal property due to restraining orders. Also it was admitted in court in front of the Judge that the respondent he sold some of my personal property and or got rid of some of it. The Judge was made aware that I did not retrieve all my personal belongings prior to the marriage that I had in our home, which both our names are on our property, and yet the respondent was never put in contempt of court or admonished for not following the Judges orders or the courts.

Yet the respondent lawyer set a motion while I was in Ohio, and sent paper work to sign that I had retrieved any and all personal belongings. Which in court documents the Judge knows that I have not gotten all of my sole personal property yet. Still the Judge signed paper work from the respondent's lawyer and signed it, for me to agree that I have gotten all my personal possessions. I did not sign any paperwork.

I filed the motion to continue on July 28<sup>th</sup>, 2012, to September 16<sup>th</sup>, 2012. I was not given the chance to file another motion for this case since it has to be filed at least 5 business days prior to the court date. I was not informed of the denial of Motion to continue until Friday the 27<sup>th</sup>, 2012. So could not file any motions for a continuance to gather evidence and had to change my doctors appointment for after care for my heart, from August 2<sup>nd</sup>, 2012 in Phoenix, AZ and once again the respondent has change insurance and has taken me off his medical insurance and our auto insurance without the consent of the courts which he is still suppose to be paying on, and keeping me on the medical insurance until we have signed the final divorce decree which I have not signed yet. And the Judge denied me at my request for change of judge, and motion to continue. Also I have never signed any paper work for the final divorce decree.

These are just a few instances where Judge has not been fair, or impartial to this case. He is obviously bias and judging without impartiality. It seems that He has judged this case in the beginning as a Summary judgment. He is also suppose to have retired and this case had been assigned to another, Judge for the rest of the hearings. Yet we are still seeing Judge a criminal judge, and Judge Simmons which is the Head of the judges in County, said not to bother her and that she has nothing to do with the case and has no jurisdiction to do anything about the case, or the Judge in question. I feel that they are rushing me through the system to take advantage of the Judges retirement to make his final decisions and for me not to be able to file an appeal on Judge rulings. I have been in Ohio since May and now had to rush back in to try and set a new date. And had to cancel my appointments for my carpel tunnel syndrome, in Ohio, so I could get my surgery done there, where it happened there.

Respectfully yours,