

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-247

Judge:	No. 1450810581A
Complainant:	No. 1450810581B

ORDER

The complainants alleged a justice of the peace was biased, prejudiced their case, displayed an improper demeanor, and made inappropriate statements during hearings.

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 thoroughly reviewing all of the information provided by the complainants, the judge's responses, and the recordings of two hearings, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: May 24, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on May 24, 2013

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

To the Commission on Judicial Conduct:

Should I protect children? Any rational human being would answer that question with an affirmative response. No one should ever hesitate to report child abuse or neglect. No one should be punished for reporting or assisting authorities in child abuse cases. While I do not have a job that legally requires me to report, I do, as a morally responsible citizen, have an obligation to report child abuse and neglect. I am comforted in the fact that three young boys are removed from an abusive and neglectful home environment. Given the events that followed after assisting Child Protective Services, I ask, "Would I do this again?"

I request that the Commission on Judicial Conduct investigate the following events and activities in court as a judicial officer in the . These events occurred on between the hours of 9:00 am and 12:30 pm. The following case numbers are pertinent:

Facts and Events on

#1: Defendants, did not get a hearing within the 10 days required by law. Defendants requested a hearing on April 25, 2012 even though court records show that date to be April 26, 2012. Mediation was scheduled for court on May 15, 2012. That's 20 calendar days and 14 business days from the date of our request for a hearing. Does this violate ARS 12-1809H? The statute reads in part:

A hearing that is requested by a defendant shall be held within ten days from the date requested unless the court finds compelling reasons to continue the hearing.

Was our hearing request delayed to fit mediation schedule and pilot program? That is not a valid or compelling reason. Why am I selected to be a "judicial guinea pig"?

#2: Judge arrived late to court that morning - approximately 9:12am. She explained that she had spilled coffee in her car. Her courtroom was full; the gallery was standing room only.

#3: Our copy of the audio recording from the court was modified. It did not contain key events of the day. It is unknown as to how this happened or who may have been responsible for the modified court

recording. But, [redacted] is responsible and accountable for all matters in her court. Perhaps, the most telling omission [redacted] Judge [redacted] outburst directed at [redacted] within the first few minutes of court. I am certain this outburst occurs that morning. I quote **"I DON'T LISTEN TO THE SHERIFF'S DEPARTMENT!"** The bold and caps are to emphasize that [redacted] was quite vocal in her response. This is missing from the copy of the audio recording our attorney received from the court. The audio recording was requested with the intent to use it in our appeal.

The courtroom was full of parties set to appear before [redacted]. What is noteworthy was Prosecutor [redacted] reaction to her outburst. Why? I would categorize [redacted] outburst as yelling. At a minimum, she substantially raised her voice unbefitting of any Judge. Prosecutor [redacted] stopped what he was doing, as he had numerous cases before him, and looked at [redacted]. It took him several seconds to return to his work. The court went deathly quiet.

[redacted] only spoke to [redacted] because the Civil Division of the Sheriff's Office requested that she bring the matter to [redacted] attention. It was important and relevant to our hearing. Judge [redacted] states that the matter was not on her docket. Judge [redacted] replies that the case, [redacted] was NOT on her docket. As such, [redacted] could not explain the relevance to our cases. [redacted] the mediator, [redacted] includes this case as well as 4 additional un-docketed cases during mediation. And, after our time before [redacted] he dismisses case numbers [redacted] and directs the [redacted] to dismiss her injunction, case number [redacted] in Superior Court. Please refer to item #14 for further details regarding this matter.

#4: J [redacted] spent the next 10 minutes talking about the importance of mediation in civil disputes. This included a comment about her presentation at an International Legal Conference. This was the only IAH mediation scheduled that morning in [redacted] court. Why did she spend so much time promoting the merits of mediation when she started her day at least 10 minutes late? Why lecture the entire court?

#5: No printed documentation explaining the mediation process from [redacted] court, the [redacted] or the mediator was presented to the Detendams. Mediation was and still is a black hole to me. Wouldn't a simple printed brochure streamline the process for the court and disputing parties? This seems odd, because [redacted] has submitted a large volume of information adopting new court rules with respect to civil mediation.

#6: [redacted] is highly motivated to make mediation a part of the civil dispute process. She has ample comments on the processes necessary for mediation to be effective. Please review the proposed rule changes for civil procedure – R12-0006 Petition to Adopt Court Rules of Civil Procedure. [redacted] as is her right and responsibility as a judge, is a strong and vocal proponent of mediation in civil disputes.

Additionally, [redacted] has taken her pilot mediation efforts to the press. She calls it a "Contract for Civility" in a civil dispute among neighbors. She has granted both television and print interviews on the subject with media representatives. Please review the following video, news link, and mediation reference:

Does this bias _____ toward mediated resolutions rather than a judicial hearing? Does _____ automatically schedule mediation for all neighborly disputes? Does _____ ever conduct a judicial hearing before mediation? Is this a reasonable judicial approach? Do her actions comply with Arizona court rules and statutes? Is it not my right to request a hearing and to be heard before a court? At the end of our time before _____, she calmly and politely tells us that we may return to court 'anytime' for additional mediation efforts if 'properly motivated'. Is this a form of judicial coercion against the Defendants, especially given our amended orders? Is her pilot mediation project just a numbers game to validate her program?

#7: _____, a named protected party on the Plaintiff's Injunction Against Harassment, had a pending criminal domestic violence against children case in _____. Based upon court records, _____ was assigned this case on or shortly after April 10, 2012 when the summons was served on _____. _____ attorney communicated with _____ court on or before April 19, 2012, per court records. See case _____. On May 15, 2012, Mr. _____ was calendared to appear before _____ on May 24, 2012 for his arraignment, per county attorney records.

_____ pending criminal domestic violence against children case was before a different Judge in the Justice Court at that time. See case number _____. _____ is the Plaintiff on the IAH against the _____. In _____, against the _____ is directly linked to _____ criminal cases. _____ provided photographs showing deceptive behavior to Child Protective Services.

Should the Judicial Commission need further information, please review _____ report number _____. Criminal charges for both parties relate to _____ children, and her children are currently in CPS custody. _____ residence is directly across the street from our residence. Should our IAH mediation / hearing even been scheduled in _____ court?

#8: I spent approximately 1 hour and 45 minutes in _____ court on _____. During that time frame, I do not recall anyone being sworn-in to testify in her court. In our appearance, before _____, none of the Defendants were sworn-in and neither was the Plaintiff. I'm not sure how to describe the events in court. It was not an evidentiary hearing as no evidence was presented. I believe _____ determined it was best to keep the order in place. It appears the basis for her decision was failed mediation efforts. Shouldn't a judicial hearing be an automatic process when mediation fails?

#9: _____ readily and openly admits that she did not know what the protective orders are about. _____ clearly states this around 9:20 am on the recording. Is it proper judicial behavior to automatically assign an IAH to mediation without reading Plaintiff's and Defendant's petitions to the court? Shouldn't the Judge know the facts and issues before her court? Should I be required to mediate with alleged and accused criminals? Should a potential witness in their criminal case even be in mediation with the accused? How could confidential mediation impact a criminal case? Could information discussed and disclosed in court impact the pending criminal cases?

#10: Mediation discussions are confidential. As such, I must carefully phrase my comments about the mediation efforts without disclosing what was said in mediation. First and foremost, the mediator was biased in favor of the Plaintiff because of her place of employment. This is clearly stated and listed on her request for the Injunction Against Harassment. The Plaintiff also states where Mr.

works. Both appear to be Federal employees - U.S. Marshals Service and Federal Bureau of Prisons.

By observation, the mediator is sexist and biased against women. At one point, the mediator repeated a question to me after just asking the same question. Under the circumstance, the legal decision was not mine. I assume he thought I would coerce my wife to agree with his request to achieve a mediated solution.

The mediator disclosed information shared with him, presumed to be in confidence, with the Plaintiff,

the mediator were highly illegal. The mediator ignored factual information presented to him and refused to acknowledge relevant facts. He spent most of the mediation time talking about issues not relevant to mediation efforts. Per , we were to return to her court by 11:00 am. This allowed about 90 minutes for mediated efforts. Yet, we sat in the courtroom for nearly an hour prior to our appearance before .

For mediation to be successful, it would have put the ' personal safety at risk. That was absolutely unacceptable and as such mediation failed. Frankly, mediation was completely inappropriate in this instance and could never succeed. How do you mediate with a Plaintiff when you may be a potential witness in their related criminal case? As a point of information to the Commission, I had never had a direct conversation with either or prior to mediation efforts on

As we sat in the courtroom, the mediator approaches 's bench in open court, between cases. He clearly states the following to , "Mediation failed - no hearing!" When we heard that, we assumed our right to a hearing was denied because mediation failed. This was just the opposite of what the Judge had stated earlier in the day. Other than jury duty, we had never appeared in a court of law. We do not know court rules. We are not attorneys. We just assumed that we were stuck with this IAH without any evidentiary proof. Without any printed materials to review or read, the ground rules and guidelines of mediation in s court were muddled beyond recognition. What would you assume without legal training? Given the events of the morning and Judge aggressive demeanor, we assumed that we MUST agree with her decision to leave the injunctions stand. The mediator made the legal decision for us.

#11: A Judge's court is their absolute domain. Legal decorum must dictate that the Judge is in charge of the courtroom. Even so, doesn't a defendant deserve an attentive, patient, and respectful day in court? Admittedly, I started the day badly - spilled coffee anywhere is almost criminal for serious coffee drinkers. Her bad early morning, or lack of coffee, does not excuse her demeanor or behavior that day. Her attitude to multiple defendants was at times rude, condescending, and disrespectful. Not once did I ask me, "Did you do the things listed on the IAH?" Given argumentative attitude that morning, I just wanted out of her court. There was no point in even attempting to ask a question. I can confidently state that multiple parties had the exact same feeling that morning. If a Judge has a bad day on the bench, parties on the other side could have an even worse day.

#12: As I watched work that morning for nearly two hours, it did occur to me that something must be wrong. I am not a trained psychologist or medical professional, but her mental state and confusion at times was very disconcerting. She did have a busy calendar, but I'm positive it was not her first busy day in court. I cite the amended orders I wrote that day.

Defendant will not come or be within 25 feet of Plaintiff or protected person. Defendant will not videotape, photograph, record or otherwise visually contact the Defendant or protected persons.

Two days after my court date, I received an amended order. I added a protected person - I. My orders should have been the easiest for I to amend. I was the last Defendant to receive them. She had already written I's and I orders. Any reasonable person would know the Judge fully intended to write "Plaintiff" in the last sentence. But, I am absolutely stunned such an experienced attorney and judge would make such an error. Judge I is a highly educated person, and this error is surprising. Could you explain, "... or otherwise visually contact"? Would I violate the order just by casually observing I? Confusion reigned in her court that morning.

#13: While I correctly excludes I as a protected person, she does include his daughter upon his request from the gallery, I. Regrettably, I had no choice as I asserts that I is their daughter. This can be clearly heard on the recording. Victoria is NOT I and I biological daughter. Please refer to Superior Court Case number - I. In this case, I is the Petitioner and I is the Respondent. Unfortunately, I would not be aware of this information. Since I was not sworn, is this perjured testimony? Is the order valid for I? Had I carefully reviewed I order, she would have noted four children listed - I and I, I, share the same birth year but different surnames.

In my opinion, this proves beyond any reasonable doubt that I did not read or review the IAH against the I. Nor did she read our reasons for requesting a hearing. initial IAH clearly lists her children as protected persons on the IAH. It is the first item listed on I's request for an IAH against the I. We were allegedly harassing her and her I children by taking photographs. Since these photographs were submitted to Child Protective Services, there was no harassment.

Why did I omit I? On the recording, I asks I if the Defendants have gone to the two schools. Why would two different elementary schools be listed on the initial IAH when only one child is named as a protected person on the amended orders?

I about her children. She would assume they are protected based upon the initial order from Judge I. As a concerned parent, wouldn't you be sure your children were protected? To be fair to I, she provided ample opportunities for I to add her children to the order. Even when I received I, the point in our petitions for a hearing - retaliation against potential witnesses in their criminal cases.

#14: The I received their amended orders from I. We left the courtroom. Shortly afterwards, I, in her courtroom, speaks to I with the mediator present, I do recall I: being present in the courtroom through the small window in the door. I dismisses I IAHs against I, I presumably directs I to dismiss her IAH against I. This event occurs between 12:15 pm and 12:30 pm on I courtroom and should be available via the court recording. This involves case numbers:

And yet, within the first five minutes of court that day, [redacted] states, "... I'm going to first just deal with just what's before me. There's nothing that is before me that involves this individual - at all. ..." This comment relates to [redacted] raising the issue of the [redacted]; [redacted] was present as a witness for our hearing. Juin Oroz had received Injunctions Against Harassment against [redacted] and [redacted] in [redacted] court. No one in the [redacted] party had ever appeared before Judge [redacted]. Yet, [redacted] continually refers to [redacted] during our "hearing" that day. Are you totally confused at this point? Can you imagine what it was like to be in her court that day? Do you understand why the issue was raised? Juin is NOT [redacted] filed for an IAH against a non-existent person, and that is what [redacted] was trying to address with [redacted] earlier that morning.

What do I ask of the Commission on Judicial Conduct?

Based upon the above information, I request that the Judicial Commission perform the following activities.

1. I ask the Commission to attempt to determine when, how, who, and why the court recording was modified. I do not accuse anyone of this activity. I do hold [redacted] accountable and responsible for all activities in her court and for all documentation from her court. It is her job and responsibility as an elected Judicial Official of [redacted] and the State of Arizona. Upon searching court records, this is not first occurrence of a faulty recording in [redacted] court. Is this happening in other courts within the [redacted]?
2. I request the Commission ask [redacted] to halt any further mediation efforts regarding civil complaints between and among neighbors. I see this as a temporary cessation of mediation. Mediation may resume at such a time as the court provides ALL mediation participants with printed documentation explaining the mediation process.
 - a. This 'mediation brochure' must detail the mediation process, ground rules of mediation, confidentiality requirements, the mediator's role and responsibilities, the judge's role and responsibilities, the mediating parties roles and responsibilities.
 - b. When mediation fails to reach a solution, parties have an automatic right to a hearing before a judicial officer. Mediation should never be a consideration or an option when any party involved has a pending criminal trial - Plaintiff or Defendants.
 - c. The mediator and the Judge may only address the issues on the Judge's docket for that day. Additional civil cases may not be included in the mediation process.
 - d. When mediation fails, a hearing must be scheduled at a future date before a different judge. This eliminates any possibility of bias or favoritism toward the parties when mediation fails.
 - e. Copies of any and all signed documents must be made available to every party involved for future record and reference. Furthermore, these documents must be added to the court record.
 - f. Confidentiality must be explained in detail, and the legal implication of violating confidentiality post mediation.
3. The Commission must determine if the delay, beyond the 10 day time limit, in getting a hearing for this matter was appropriate and legally reasonable as provided by statute - ARS 12-1809H. I do NOT consider a delay to schedule mediation as valid.
4. Is it reasonable and appropriate for parties appearing before a Judge not be sworn-in before the court?
5. Is it permissible for any Judge not to read and review cases before them and on their docket for the day?
6. Was it appropriate for [redacted] to hold a hearing and / or mediation when a named party, [redacted], has a pending criminal case in her court and on her calendar? This is especially critical when Defendants may be called as witnesses in the criminal case.
7. Did [redacted] display judicial bias when mediation failed? Because this is her pilot project and she wants it to be successful are parties at a disadvantage when mediation fails in her court? While I certainly respect and applaud [redacted] efforts to promote mediation and amicably resolve issues among parties, clear ground rules and a complete understanding of the process is essential for all parties involved. Her current efforts are, to say the least, helter-skelter. It is an exceptionally disorganized and convoluted process for participants. Given her experience and education, I expected much more from [redacted] court. It's extremely

disappointing. Written details of the mediation are an absolute must for this pilot program to be successful. Until such time as these are available, her mediation efforts must be halted.

8. Did the mediator violate confidentiality in the mediation process? How do I know given the vagueness of what is confidential in mediation? What is his primary role? Is he allowed to share information with the other party even when that activity is alleged to be criminal? What is confidential? What is not confidential? Was the mediator biased in favor of the Plaintiff and her witness? Were their places of employment viewed as favorable by the mediator? Was it appropriate for the Plaintiff to not address the Defendants during the mediation process? Is it reasonable and fair to allow a surrogate to speak on behalf of the Plaintiff? Shouldn't the Plaintiff be required to mediate with the Defendants?
9. Was it appropriate for [redacted] to modify the protected order when no evidence was presented to the court? Why did the mediator advise the Judge that a named protected party was an adult and removed from the IAH? Was that appropriate? Was he giving legal counsel to a judge? Isn't this a Judge's job - what is legal and what is not legal?
10. Is [redacted] permitted to address other judicial orders and civil cases from two different judges and two different courts when they were not on [redacted] docket for the day? Can she legally dismiss another judge's case? How is this fair to either party - Plaintiff or Defendant?

I have no faith in the Judicial Process in [redacted] court. The truth is not relevant, and perjury appears to be tolerated. The law and adherence to law is just a guideline. Laws and law enforcement are unimportant in her court. Evidentiary proof is unnecessary. Mediation is more important than judicial process. Is it ever appropriate for a judge to yell at parties in their court?

I respectfully ask the Commission on Judicial Conduct to review this matter and to take whatever steps deemed appropriate under the circumstances.

Lastly, I leave the commission with this quote from the 2007 Handbook from the Arizona Commission on Judicial Conduct.

"Four things belong to a judge: to hear courteously; to answer wisely; to consider soberly; and to decide impartially." - Socrates

Respectfully submitted,

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