

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 14-089

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Judge:	No. 103301491714918A
Complainant:	No. 103301491714918B

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**ORDER**

The complainants alleged that a superior court judge coerced them into a settlement and displayed an inappropriate demeanor during settlement negotiations. They also asserted that the judge inappropriately prevented them from relying on their attorney or contacting their insurance representative.

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 review, 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 14, 2014.

FOR THE COMMISSION

/s/ George A. Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed  
to the complainants and the judge  
on May 14, 2014.

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

**CONFIDENTIAL**

State of Arizona  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

**FOR OFFICE USE ONLY**

2014 089

**COMPLAINT AGAINST A JUDGE**

Name: \_\_\_\_\_ and \_\_\_\_\_ Judge's Name: \_\_\_\_\_ Judge

**Instructions:** Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

Please see attached pages with our complaint regarding the conduct of Judge

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Arizona

State of Arizona Commission on Judicial Conduct  
 1501 West Washington Street, Suite 229  
 Phoenix, Arizona 85007

Dear Member of the Commission:

We are providing this narrative in support of our complaint against Judge \_\_\_\_\_ County \_\_\_\_\_ Court. We have listed below the facts of the matter in terms of direct and specific comments made to us during a Non-Binding Settlement conference that was held on \_\_\_\_\_ in the \_\_\_\_\_ County \_\_\_\_\_ Court Building. Had we understood that we would be intimidated, bullied, and coerced into a settlement we would never have agreed to attend this event. In addition, as the harassment and coercion continued, had we been advised that we had an option to excuse ourselves from this Non-Binding Settlement Conference, we would have left the proceeding immediately. This entire experience was reported in detail to the Claims Office, as well as the Arizona State Bar Association.

The assigned Attorney to represent us in this matter was Mr. \_\_\_\_\_ He was assigned to work with us through the \_\_\_\_\_ Office of \_\_\_\_\_ He was retained and compensated through the office of \_\_\_\_\_ Insurance Company,

**Judge**                      **Behavior and Comments on**  
**during the Non-Binding Settlement Conference**

**NOTE:** Prior to the start of this Non-Binding Settlement Conference and contrary to what we were told by the Attorney assigned to represent us, Mr. \_\_\_\_\_ Judge \_\_\_\_\_ unilaterally blocked our access to our Insurance representative, Mr. \_\_\_\_\_

Despite our requests for access and to clarify critical elements of potential harm and cost to us, we were not allowed to access this professional at any time during this conference, even though we requested access to him. Mr. \_\_\_\_\_ was to have been available via conference all throughout the entire Non-Binding Settlement Conference, since his office is in \_\_\_\_\_

1. At the very beginning of the non-binding settlement conference, and immediately after going off-record, Judge immediately began harassing us with combative statements such that he was criticizing us for allegedly not being cooperative with a neighbor who is demanding unfettered access to our walled/gated patio home yard in the neighborhood of southeast He stated: *"Why won't you give her a key? "I give my neighbor a key to my backyard and they can even swim in my pool!"*

2. Judge then directed us to *represent ourselves* despite the fact that the assigned Attorney was present in the Courtroom. Judge ordered our assigned Attorney, Mr. to not speak and ordered us to speak on our own behalf. We are not Attorneys and had no forewarning that we would even be asked to speak and explain any merits of our case. When Judge demanded to know the issues of the '*dispute*' and we responded (as we had in the written confidential overview of the case that Mr. required us to submit to Judge prior to the Non-Binding Settlement Conference) that we had no disputes and had always gotten along with this neighbor, Judge turned to Mr. and loudly stated, *"I am going to sanction your clients for bad faith negotiations!"* We were stunned by this aggressive manipulation and coercion tactic. We had no idea what he meant by sanctions and assumed that it meant being publicly harmed, financially harmed or arrested.

3. Judge then bellowed loudly, *"What do you mean you have no disputes?"* He then ticked off five (5) alleged demands from a piece of paper in his hand that represented the Plaintiff's demands. Judge then yelled at us, *"... will you give that.....(again reading from the Plaintiff's demands and repeating this behavior over and over) ....when we tried to speak to explain the harm to our property, its security and the value of our home, he cut us off and stated: "Then you have a dispute!"* This all occurred within the first 2-3 minutes of the Non-Binding Settlement Conference. The clock on the courtroom wall was in direct line of vision for Dr.

## Arizona

4. Judge [redacted] at one point upon returning to the courtroom where we were located during this Non-Binding Settlement Conference stated, *"You have no case – adverse possession cases are not winnable --- this attorney (pointing to Mr. [redacted] isn't even a good enough attorney to win this case for you ...."*

We were particularly stunned by this statement in that absolutely no specific merits of our case were ever researched for or conveyed to Judge [redacted] during this Non-Binding Settlement Conference. He refused to hear any comments that we were even partially trying to verbalize.

5. At another point in the Non-Binding Settlement Conference, Judge [redacted] stated that, *".....a Judge can find that you owe \$ [redacted] in attorney's fees.....you don't want to have to pay that do you?"* We had absolutely no idea how we could be held responsible for any legal fees since we had purchased a home with a clear title and not done anything to alter or harm our neighbor's home next door to us. We tried to confirm this with Mr. [redacted] who immediately threw his hands up in the air and said we would have to ask our Insurance Company. We had been told prior to the Non-Binding Settlement Conference that Mr. [redacted] the Insurance adjuster and claims representative, would indeed be available to us for questions and advice throughout the Hearing. As noted above, Judge [redacted] reversed that decision and despite our requests during the hearing barred us from access to Mr. [redacted]. Dr. [redacted] stated; *"Can we call [redacted] and clarify this?"* This request was ignored by both Judge [redacted] and Mr. [redacted]. Mr. [redacted] was not called until the Judge wanted to clarify the total amount that would be willing to pay to eliminate the claim – allegedly Mr. [redacted] told Judge [redacted] we had no way to authenticate any part of this conversation at any time. The call was allegedly held away from our location inside the courtroom.

6. Judge [redacted] continually stated throughout this Non-Binding Settlement Conference *"...he would dismiss our case if he heard it and talked about how ridiculous this case was because he had handled a multi-million case earlier in the morning....."* Judge [redacted] continuously belittled our case from the

start of the Non-Binding Settlement Conference. This continued throughout the entire afternoon. Judge also stated, “...sometimes I settle these matters by flipping a coin....!”

Respectfully, we ask that a full investigation and resulting appropriate public discipline be meted out for the improper and coercive tactics used by Judge in this matter. We have incurred significant loss of time from our employment, escalating legal fees and unrelenting duress from this experience. The matter still remains unsettled and Judge remains in the background as the current Motion to Vacate this Non-Binding Settlement Conference is pending. Although he has technically recused himself from Hearing the Motion to Vacate, we question how his undue influence will continue to bring us harm in the weeks ahead. The violations of the Arizona Judicial Rules of Conduct is egregious. Judge behavior was highly unprofessional and has resulted in the escalation of this matter to untenable levels.

**Rules Violations include, but are not limited to:**

**CANON 1**

A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

**Rule 1.2 Promoting Confidence in the Judiciary** - A judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety. **Judge failed at this obligation.**

**Rule 2.2 Impartiality and Fairness**

1. To ensure impartiality and fairness to all parties, a judge must be objective and open-minded. **Judge failed at this obligation.**

**Rule 2.6 Ensuring the Right to Be Heard**

- (A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyers, the right to be heard according to the law. **Judge failed at this obligation.**
- (B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute, but shall not *coerce* any party into settlement. **Judge failed at this obligation**

**Rule 2.8 Decorum, Demeanor and Communication with Jurors**

- (A) A Judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control. **Judge failed at this obligation.**

**Rule 2.11 Disqualification**

- (A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstance:
- (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer or personal knowledge of facts that are in dispute in the proceeding,
- (6) The judge:
- (c) was a material witness concerning the matter. [In the event Judge is called to be a witness for the Plaintiff in the forthcoming Motion to Vacate Hearing.]



Ed.D.  
Ed.D., D.P.A.

Arizona

We thank you in advance for your thorough investigation of this entire matter. We are bringing it forward in a formal complaint to prevent the same impact on any other Arizona citizens. We may be reached at \_\_\_\_\_ for any questions or further information about this matter.

Sincerely,