

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-202

Judge:

Complainant:

ORDER

The complainant alleged a pro tem superior court judge made erroneous rulings and was biased in favor of the adverse party due to military and religious affiliations.

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. The commission does not have jurisdiction to review the legal sufficiency of the court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: August 6, 2014

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on August 6, 2014

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

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

FOR OFFICE USE ONLY

2014-202

HOW TO FILE A COMPLAINT AGAINST A JUDGE

To file a complaint against a judge, complete this form and send it to the Commission on Judicial Conduct at the address above. The information you provide will be used to evaluate and investigate your allegations.

To learn more about the purpose and jurisdiction of the commission and the types of allegations it can investigate, read the available brochure or visit our website at www.azcourts.gov/azcjc. A copy of the commission's rules and the Code of Judicial Conduct can be printed from the website.

Under the rules approved by the Arizona Supreme Court, complaints may be made public at the conclusion of their review by the commission or upon the filing of a formal complaint against a judge. If a complaint is dismissed, all personal information will be redacted from what is made public.

Please provide the following information

1. Name: _____
2. Mailing Address: _____
City: _____ State: Arizona Zip Code: _____
3. Phone: _____
4. Judge's name: _____ Location: _____
5. Court: _____
6. Did you have a case before this judge? _____

a. Case name and number: _____

b. List any attorneys who appeared in the case: _____

c. List names and phone numbers of any witnesses who observed the judge's conduct: _____

7. I understand the commission **cannot** reverse court orders or assign a new judge to a case: _____

8. Please read the following statement and sign on the line below: _____

I affirm, under penalty of perjury, that the foregoing information and the

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COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

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 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.

See the 3 page attached document that narrates the order of events.

On I filed a Petition to Enforce Support in County Court against my ex-husband, The filing was the result of years of difficulties in obtaining reimbursements for I incurred for our child. One of those years was during our process and of those years had been As such the past Mr. was in non-compliance with our Consent Decree and so in contempt of court. Additionally, since by the end of Mr. had owed me expense reimbursements, he was not eligible to claim our as a deduction (per our decree Mr. was to her for and me for . In at which time Mr. owed me reimbursements for and Mr. filed a motion to modify My attorney, immediately requested Mr. reimburse me for the expenses, or I would claim our tax (as is allowed in Arizona since Mr. was arrears in his support of me). Neither Mr. nor his attorney answered any of my attorney's several communications regarding either the reimbursement or support modification matters. One week before the case went to trial Mr. did reimburse me for (thus far after deadline). The modification case went to trial in which case the modification was denied, but the issue of Mr. arrears was not addressed. Mr. was assessed approximately in my attorney fees due to his refusal to communicate with our reasonable attempts to address this matter during the leading up to the trial. In Mr. Objection to the attorney fees he acknowledged that several of my communications were about these Mr. attorney, withdrew; Mr. immediately hired a new attorney My attorney withdrew and I then communicated directly with Ms. In I received a notification from the that had for deduction (presumably Mr.

By Mr. owed me reimbursements for only. During the entire year I had timely solicited the money from Mr. by email, regular mail and certified letters. My certified letters were mostly returned undeliverable, as Mr. refused to sign for them. Additionally, before my attorney withdrew she had written numerous letters to Mr. (Mr. attorney) requesting the money. Almost all the communications were ignored by both Mr. and Mr. After Mr. withdrew Ms. and new attorney, Ms. communicated via email about the medical expenses owed to me; Ms. provided Ms. with all my expense documentation After Ms. withdrew as my attorney I then requested the reimbursements by writing letters to in and and provided documents a second time). Ms. did not respond to my letters or phone calls, until I filed the Petition to Enforce Support.

Mr. was fully aware of all the by several means: my multiple letters, emails and texts to Mr. the trial exhibits included all the documentation, both attorneys had copies of trial exhibits via court documents and directly sent from my attorney, I had personally delivered all documents (via my to home, and I had personally resubmitted all expense documents to Ms. again on Not only had all these efforts cost me in time and money lost wages and attorney time), it finally cost me more to submit the Petition to Enforce Per my Consent Decree/ Property Settlement Agreement (page 13, #31): "Attorneys Fees: In the event of Default in the performance of this Agreement, the aggrieved party shall be entitled to receive from the defaulting party in addition to the remedies provided for by law or this agreement, reimbursement of costs, expenses, and fees, including without limitation of the foregoing reasonable Attorneys fees and accounting costs incurred by the aggrieved party in obtaining performance and enforcement of the terms of this Agreement."

My Petition to Enforce support requested reimbursements AND "court costs and interests" AND "find the other party in contempt of court" AND "such other relief as deemed just and proper by the court". Ms submitted a Motion to Dismiss after Mr. reimbursed the medical expenses ONLY. I then submitted a Supplemental Response/Objection to Motion to Dismiss. Ms. then submitted a Motion to Strike the Petitioner's Reply. Judge did not act on her Motion to Strike until the Court date of Judge walked into the

Courtroom, nodded to my ex-husband, and called the court to order. His first announcement was that the Motion to Strike was granted. I reminded him of the other requests in my Petition to Enforce, as they had not been addressed. Judge refused to act on those matters, stating the case was "moot". In doing so, Judge did not abide by my Consent Decree/Property Settlement Agreement and refused to acknowledge Mr. long-standing defaults. Furthermore, Judge was ridiculing of me in Court on saying "We are not getting anywhere" when I insisted that I requested the Court, in my Petition, address the other issues in my Petition to Enforce Support. Judge insisted the issue was "moot" and admonished me that I should be familiar with Rules of Family Law if I am to represent myself. To make matters worse, Ms then orally requested attorney fees for my ex-husband (never having requested them in her pleadings) and Judge granted such. This action now rewarded my ex-husband for defaulting in the performance of our Consent Decree/Agreement. The entire "trial" lasted

In representing myself, I then submitted my Objections to attorney fees. At this time, I sought counsel in writing my Objection (enclosed), and incurred in attorney fees to (enclosed). Judge granted my ex-husband attorney fees in the amount of and signed the Order (enclosed). I then hired of to write my Motion to Reconsider the attorney fees. I now had to put down a deposit. Ms. submitted the Motion to Reconsider on days after Judge filed the Order of Attorney Fees on enclosed). She submitted the Motion to both Judge and my family Law judge, the Honorable (in the hopes that Judge might see the injustices being done and act to remedy the situation). The Motion to Reconsider cost me in attorney fees. Two days later Ms. withdrew, contending "This matter is concluded and there are no motion's, hearings, trials or other matters pending before the Court". On weeks after submission) Judge denied the Motion to Reconsider on the grounds that it was untimely (enclosed). My attorney then had to resubmit the Motion, reminding Judge that the original Motion to Reconsider was not untimely. but within the of FILING his Order of attorney fees (enclosed). This action cost me an additional On Judge set aside the Order denying the Motion to Reconsider as untimely but then denied the Motion to Reconsider (enclosed). This Order was not sent to my attorney's office. On I requested information from Ms. on my pending case. Only upon request to office did Ms. now receive Judge Order dated This now cost me

In Ms. Motion to Reconsider, she pointed out many important facts to Judge

1. How does a judge "deny" a Petition when the only reason we were in court was BECAUSE of my Petition? Both Mr. and Mrs. acknowledged as such in emails to me RESPONDING TO Petition BEFORE court date. My case was not "moot" by the simple reimbursement of ONLY . Mr. long-standing default in our Consent Decree/Agreement was repeatable unless he was punished for his actions in some manner. Additionally, all matters addressed in Petition were not disposed of.
2. Ms. reminded Judge that the request for attorney fees must be made in writing prior to the court date; Ms. original request was done orally, in Court on Her request was not proper as under Rule 78 (D)(1) Rules of Procedure.
3. Ms. reminded Judge that Mr. had repeatedly defaulted in our Consent Decree/Agreement in and and provided multiple documentation of my timely requests for reimbursement throughout This Agreement is an Order of the Court and the Court should uphold its intent.
4. Ms. reminded Judge that both of Mr. attorneys knew of the and reimbursement well before my filing of the Petition to Enforce, the most notable in Trial exhibits. It is undisputable that action was taken by Mr. and Ms. only after/because the Petition was filed.
5. Ms. reminded Judge that an award of attorney fees to Mr. would penalize me for seeking the Court's support and reward Mr. for his repeated contentious and evasive behavior of noncompliance with a Court Order. This would not be in best interest or serve to settle any disputes between the parties. We have a bill to come in which is why I filed the Petition in the first place.
6. Ms. explicitly pointed out to Judge that my Consent Decree/Agreement specifically addressed " In the event of Default in the performance of this Agreement, the aggrieved party shall be entitled to receive from the defaulting party in addition to the remedies provided for by law or this agreement, reimbursement of costs, expenses, and fees, including without limitation of the foregoing reasonable Attorneys fees and accounting costs incurred by the aggrieved party in obtaining performance and enforcement of the terms of this Agreement." Without acting on this default, Judge was not abiding by my Consent Decree/Agreement and following the laws of

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Judge disregard for my Consent Decree/Agreement has rendered the Decree null and void with regards to medical expense reimbursements. My ex-husband has not been punished, but rewarded for his of defaults and years of unreasonable non-cooperation on this issue. This is in direct contrast to my Consent Decree/Agreement, which was arbitrated in County Court itself. I have had to incur the original in communicating this issue to Mr. Mr. and Ms. and the Court. I had to pay the Peitition to Enforce filing fee I sought the legal advice of Ms. Mrs. and now Ms. Judge untimely attention to my case resulted in us attending court when he could have granted Ms. Motion to Strike before the court date. Ms. did not abide by Rules of when she orally requested attorney fees in court , and Judge supported this infraction. Judge Order to Dismiss my Motion for Reconsideration as untimely itself was untimely as he based it on the Order date and not the filing date. Judge office did not report the final Order to my attorney until we solicited the information. At the same time, County Clerk of Court destroyed and Trial Exhibits even though I had requested in writing in for them not to be destroyed. **Essentially, Judge has forced my hand to incur in seeking the Court's support in enforcing my Consent Decree/Agreement. And, I now have been ordered by Judge to pay my ex-husband his attorney fees of**

While one cannot put a price on the frustrations and anxieties that I have endured by my ex-husband and his two attorneys' contentious non-cooperative behavior, Judge Order has effectively eradicated any hope of dispelling the contentiousness of my situation. It's one thing to have to just deal with an ex-husband who is evasive, noncompliant and non-cooperative, but now Mr. has been rewarded for his behavior. I cannot imagine that this will serve the Court well in any future proceedings. We have before

Judge blatant disregard for my court ordered Consent Decree/Agreement, the Rules of AZ and Procedure, his untimeliness in dealing with my pleadings, his discounting of the significant financial drain I have endured to process a reimbursement, and his comments to intimidate me while in Court on cannot all be measured. Should Judge have recused himself as he is a strong supporter of the military (Mr. is a the Do the men attend the one and only in our small town (where Mr. has positions of prominence)? I respectfully seek restitution from Judge for what can be measured and documented and request he submit such payment directly to me. That amount is in direct costs and lost wages and in attorney fees he ordered me to pay Mr. in contrast to my Consent Decree/Agreement).

The past have been a physical, financial and emotional drain for me. I meticulously developed a workable Consent Decree to be the guidepost for dealing with a documented irresponsible and vindictive ex-husband. I never imagined that the Court would ignore Mr. well-documented defaults and contemptuous actions and inactions. And, I never imagined that a judge would be permitted to overlook all these transgressions, and arbitrarily penalize the law-abiding parent who has taken great pains despite these burdens. The Court system, Judge in particular, has completely failed me and setting a precedent for bias, impunity and arbitrary judgment, while ignoring their civic duty as defenders of the law.

Respectfully Submitted,