

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 14-213

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Judge:

Complainants:

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**ORDER**

The complainants alleged a superior court judge was rude and trivialized their claims during a settlement conference.

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 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: August 28, 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 August 28, 2014.

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



My wife and I are parties in the above-listed case. The trial judge ordered a third settlement conference in this matter which was held on \_\_\_\_\_ before the Hon. \_\_\_\_\_

The trial judge had ordered that all parties, including the involved insurance company's representative be physically present and actively participate in the conference under the threat of contempt sanctions (see attached order). Upon our arrival in Judge \_\_\_\_\_ courtroom on the date of the conference, we observed that five of the named parties, in addition to the insurance representative, were not present. When our attorney, Mr. \_\_\_\_\_ inquired as to this on the record, Judge \_\_\_\_\_ made light of this requirement, indicating that he believed that the other parties could be reached if necessary. This indicated to us that Judge \_\_\_\_\_ had countermanded the trial judge's order and had given the other sides permission to limit their participation.

Mr. \_\_\_\_\_ my wife and I were then directed to the judge's chambers to begin the conference. Just prior to this, Judge \_\_\_\_\_ made some comment relative to the fact that Mr. \_\_\_\_\_ one of the opposing attorneys, was contending for a judgeship. We do not know if this statement was made before the court reporter. Prior to entering the judge's office, we were introduced to a law school intern who provided only the first name of \_\_\_\_\_ to our attorney. This person was permitted to be present during the conference.

The judge immediately began the conference by trivializing our case, making the statement that no judge, including him, liked \_\_\_\_\_ cases. When we advised that we had moved to Arizona from \_\_\_\_\_ and had been advised that \_\_\_\_\_ agreements were binding contracts, he laughed at this. At one point during the conference my wife indicated that we had been forced to file the lawsuit and asked the judge what other recourse we had. His stated reply was, "Move." We found this statement to be repugnant since one of the opposing attorneys had previously attempted to make this a condition for settlement.

It quickly became clear to us that Judge \_\_\_\_\_ had made his own prior determinations regarding our case and he immediately engaged in tactics that were clearly intended to coerce us into an unfavorable settlement. He was constantly interruptive and rude. He launched into a series of anecdotes that had little or no connection to the facts of our case and which needlessly extended the length of the conference, although we obviously had to pay our attorney for his time. Throughout, the judge's demeanor ranged from one of condescension to being demeaning, with the final tactic being to engage in personal insults. The judge repeatedly made entirely inappropriate statements regarding the strength of our marriage and clearly insinuated that a negative trial verdict would result in our divorce. He also implied that a losing verdict would result in our bankruptcy, although he had no knowledge of our personal financial situation.

When I advised the judge that a prior settlement conference judge had stated that he believed that we would prevail at trial against one of the defendants, Judge \_\_\_\_\_ then began to demean that judge's experience and qualifications, indicating that he, \_\_\_\_\_ was more qualified to make such determinations. The judge admitted to us that he had been \_\_\_\_\_ on \_\_\_\_\_ occasions for his unprofessional behavior. We received the distinct impression that he was somehow proud of such a distinction rather than being ashamed.

During the meeting Judge \_\_\_\_\_ stated to me, "You're not as dumb as you look," and, "You're not as dumb as you sound." When he later called me an "idiot," I excused myself from the room. The judge then continued to try to coerce my wife into an adverse settlement. In all, this portion of the conference lasted \_\_\_\_\_ and \_\_\_\_\_ On more than one occasion during this period, Mr. \_\_\_\_\_ stated that he hoped that the judge would "beat up" on the other parties in the same way. Instead, the judge advised that he would address the other parties while they sat in the courtroom. We were amazed to learn that the extent of the time that the judge spent with the other two parties to the suit totaled \_\_\_\_\_ minutes—a clear indication of the one-sided nature of the conference and that the judge had taken sides in the matter.

My wife and I were subsequently directed back into the chambers for an additional minutes, during which time the judge again attempted to coerce us into accepting the other side's offer, although we repeatedly refused to do so. Over and over again the judge stated that we had only proven a loss to our property, and I repeatedly responded that this was not the case. I advised him that Mr. had apparently misrepresented to him what had been allowed as evidence by the trial judge and that the trial judge had allowed an expert's opinion showing a loss of over (See attached pages from appraisal report.) Judge responded that, "My attorneys don't lie to me." This indicated to us that this judge had apparently deferred to the position statement filed by Mr. under the auspices of Mr. possibly being a future colleague. We concluded that our own attorney was not held in the same regard by this judge as those he considered "my attorneys." Even though we did, in fact, exit the judge's chambers, he continued the discussion in the hallway, where there was a further lack of privacy, for another minutes.

We note that the judge did apologize to me for calling me an "idiot." I didn't accept this apology, nor does any apology excuse this judge's behavior in this matter. During my absence, my wife reproached the judge for his conduct. The judge admitted that his conduct was inappropriate.

Both my wife and I are retired law enforcement officers, of high rank, with a combined total of more than years of service. We have always striven to provide the proper respect to members of the judiciary, although we have seen a number of instances of unprofessional conduct by certain members of this same judiciary. We have also spent the entirety of our adult lives standing up for others against bullies. We have participated in a number of settlement conferences involving civil litigation. We have never seen a judge's conduct that was this abusive. It can only be classified as befitting that of a bully. This type of behavior doesn't command respect for the justice system, it diminishes it. Furthermore, this judge apparently revels in the fact that he has been lightly punished for this same behavior in the past; so much so that he feels compelled to repeat the conduct. A judge who acts in this manner doesn't serve his community, he harms it. To engage in this behavior so as to embarrass us in front of a law school intern, who is the approximate age of our daughter, is contemptible. To disregard the trial judge's order regarding participation in the settlement conference demonstrates contempt for the trial judge as well as for the system itself. Regardless of these aspects of this judge's behavior, we are personally more concerned with how many people, over a period of years, have been improperly coerced into accepting an unfavorable settlement because Judge made an unfair or improper assessment of their own valid claims.