

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 14-399

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Judge:

Complainant:

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**ORDER**

The complainant alleged a justice of the peace utilized the wrong legal standard in an injunction against harassment proceeding and was biased toward her.

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 did find that that the judge applied the wrong legal standard, however, there was no evidence of any bad faith on the part of the judge. Therefore, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission approved sending the judge a private warning letter to be more diligent in determining the appropriate legal standard to apply to protective order proceedings. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: February 5, 2015

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed  
to the complainant and the judge  
on February 5, 2015.

*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

**COMPLAINT AGAINST A JUDGE**

**Name:**

**Judge's Name:**

I am respectfully requesting a thorough investigation into the conduct of \_\_\_\_\_ County Justice Court's \_\_\_\_\_ with respect to case # \_\_\_\_\_

I have enclosed copies of the relevant documents labelled A-K, and have included a disc containing digital copies of those documents as well as the pertinent audio files. The following are the details of the events for which I believe Judge \_\_\_\_\_ conduct should be reviewed:

1. On \_\_\_\_\_ upheld an Injunction Against Harassment against me. I appealed this lower court's ruling to the Arizona Superior Court in \_\_\_\_\_ County. On \_\_\_\_\_ the appeals court Judge \_\_\_\_\_ reversed the lower court ruling and dissolved the Injunction Against Harassment due to an abuse of discretion by \_\_\_\_\_. During my initial hearing on \_\_\_\_\_ (documents D&F) in a clear misapplication of the law, and for reasons devoid of any logic, Judge \_\_\_\_\_ wrongly applied the **criminal** harassment standard, (A.R.S. 13-2921), instead of the **civil** harassment standard, (A.R.S. 12-1809). The appeals case was remanded back to Judge \_\_\_\_\_ who agreed that the higher court's decision was based on his own improper reliance on Title 13, and that the Injunction was in fact dissolved (document G).

2. Judge \_\_\_\_\_ ruling deprived me of my constitutionally protected property rights for eight months. For unknown reasons Judge \_\_\_\_\_ refused to clarify or modify the terms of the Injunction in a denied Motion for New Trial on \_\_\_\_\_ (documents B&C). The unnecessarily harsh Injunction terms prohibited me from accessing my own real (rental) property which is \_\_\_\_\_ (document A). At the hearing for appeal, Arizona Superior Court Judge \_\_\_\_\_ first priority was to clarify and affirm that I have the right as a \_\_\_\_\_ to enter my property, thus modifying the lower courts terms of the Injunction, reinstating my constitutionally protected property rights (document E).

3. At the conclusion of the lower court hearing on \_\_\_\_\_ inexplicably changed the facts presented in my case by falsely claiming that there was an additional complaint made by me to \_\_\_\_\_ County Animal Control \_\_\_\_\_, so that my case would 'fit' with A.R.S. 13-2921; specifically Judge \_\_\_\_\_ wanted to be able to claim that I had made more than one false complaint to a government agency (documents D,I,&K). It is very clear when reading or listening to the transcript of the lower court hearing (documents H&J), that both the plaintiff and the defendant only

presented evidence of two complaints to ; one of which led to a hearing where the plaintiff prevailed, and another which went unresolved. As a matter of fact, Superior Court's Judge reviewed the hearing transcript and also concluded "In the year leading up to the Injunction, Ms. made **two** complaints to , on and . The complaint resulted in a citation by and a hearing, after which no violation was found. It is unknown what the outcome of the complaint was" (document F). At the hearing on against all reason, Judge concluded differently; at the conclusion of that hearing, he erroneously stated that there were **three** complaints, two of which were deemed false because they resulted in two distinct hearings where the plaintiff prevailed. This led Judge to uphold the Injunction based on A.R.S. 13-2921(documents D, I,&K) which was the improper law on which to base his ruling even had three complaints existed!

4. On , the original Injunction was granted by Judge in three minutes during an ex-parte hearing; Judge did this without gathering the evidence required based on A.R.S. 12-1809 (documents H&J). During this ex-parte hearing the Injunction was granted in the first minute and forty seconds while the rest of the three minute hearing dealt with how the plaintiff could find my home address. *During the first minute and forty seconds the plaintiff never presented evidence to support that he was seriously annoyed or alarmed or that any subjective or objective harassment existed (a requirement outlined in A.R.S. 1809). Judge and the plaintiff never even discussed the time period or the dates of this alleged harassment. In fact, the only date written on the Petition for the Injunction is 10/12~ (document A). When listening to the recording of the ex-parte hearing (audio file, document J), one gets the impression that the plaintiff and the judge had communicated previously; in other words, it seems as though Judge had already heard the plaintiff's allegations prior to the ex-parte hearing. Judge seems to speak for the plaintiff saying, "and you just want to be left alone to be able to enjoy your house or residence", and again, "so you just want to be left alone in your residence"(document H at 3:23-24 and at 4:24-25). The plaintiff never made these statements on his own behalf during the ex-parte hearing, nor in his Petition for the Injunction (documents A&H).*

5. For unknown reasons, it appears that Judge displayed a positive bias toward the plaintiff and against me while presiding over the case. The Judge's bias against me is exemplified by the unnecessarily harsh Injunction terms whereby I was deprived of my constitutionally protected property rights for eight months. As mentioned previously, I asked for clarification of this condition, but Judge would not even allow a hearing on the matter. During the lower court hearing Judge showed a great bias in favor of the plaintiff by seemingly taking on the role of counsel for the plaintiff. The plaintiff had no counsel and seemed quite relieved by the Judge's 'help'. At the onset of the hearing, rather than allow the plaintiff to speak and explain his allegations, Judge took it upon himself to explain the 'crux of the case' to all of us; specifically he says, "it looks like you are alleging a false report to a law enforcement agency" (document I at 4:1-17and 6:25-7:5). Though it appeared as if Judge was reading from the Petition, neither the Petition nor the plaintiff ever stated such an

allegation. Later in the hearing Judge \_\_\_\_\_ told the courtroom that "this is based on A.R.S. 13-2921", which is the **Criminal** Harassment Code (document I at 28:11-12). Judge \_\_\_\_\_ seemed to know there was no case against me if he relied on the **Civil** Harassment Code, A.R.S. 12-1809, so he mis-applied the law in his courtroom to favor the plaintiff, stating that a civil Injunction of Harassment was ruled by the criminal statute A.R.S. 13-2921! As mentioned previously, since the plaintiff did not present more than one 'false complaint', Judge \_\_\_\_\_ simply said there were two false complaints and quickly ended the hearing upholding the Injunction against me.

This was my first time involved in a legal dispute, and it was quite devastating to me in many ways. My defense of the original false claim of harassment came at a financial cost of \_\_\_\_\_. After Judge \_\_\_\_\_ bogus ruling based on his abuse of discretion and mis-application of the law, my appeal of his decision came at an even higher financial cost of an additional \_\_\_\_\_. Even worse than spending my hard earned savings was the emotional cost of this ordeal in trying to cope with eight months of the loss of my constitutionally protected property rights, and with the psychological impact of having my otherwise "clean" record besmirched by Judge \_\_\_\_\_. When learning of the many incidences of misconduct that occurred while Judge \_\_\_\_\_ presided over my case, I was completely shocked and lost confidence in the legal system. It is still difficult to make peace with the fact that I had to spend so much money and eight months of my time in my own defense in order to dissolve a bogus harassment charge against me; it took the plaintiff only one minute and forty seconds to obtain the Injunction from Judge \_\_\_\_\_, and it cost the plaintiff nothing.

Since the time of the appeal and the reversal of the Injunction, my confidence in the legal system has been partially restored. I am grateful and relieved to finally have had a fair hearing with a conscientious and unbiased judge in the higher court. Interestingly, the plaintiff and his dogs moved out of the property \_\_\_\_\_ as soon as the Injunction was dissolved. The ordeal is over for me now, but I have concerns for my fellow citizens who, either in the past, now, or in the future will be treated unjustly and unfairly by Judge \_\_\_\_\_. The allegations of Judge \_\_\_\_\_ abuse of discretion, violation of property rights, and fabrication of facts have been confirmed by the Arizona Superior Court and have not been disputed. Judge \_\_\_\_\_ has been presiding over the \_\_\_\_\_ County Justice Courtroom for over \_\_\_\_\_ years. I believe that the \_\_\_\_\_ County community has the right to know how long this Judge has been confusing the criminal and the civil harassment statutes (either purposefully or unwittingly), and how many other innocent citizens have been or will be wronged by this injustice. I feel it is my duty as a citizen of \_\_\_\_\_ County Arizona to alert the Arizona Commission on Judicial Conduct as to the details of my case, and with due respect, ask for a full investigation to bring to light why Judge \_\_\_\_\_ presided over my case, and possibly others, with such bias and disregard to the rule of law.

Respectfully,