

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 06-059

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Complainant: Kim Baker

Judge: Victor "Mike" Wilkins

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**ORDER**

After reviewing the complaint, the evidence gathered during preliminary investigation, and the judge's response, the commission finds that the judge's actions in this case violated the Code of Judicial Conduct.

The judge improperly dismissed a lawsuit when he unilaterally applied Arizona Revised Statute §12-502 and dismissed a lawsuit against a minor defendant. The statute only applies to minor plaintiffs who are trying to file lawsuits. In this case, the defendant was a minor and was present with his parent. A minor under 16 may be sued in justice or small claims court as long as the parents are served with notice. The judge's action in dismissing the case pursuant to a clearly inapplicable statute violated Canon 3B(2).

Accordingly, the judge is hereby reprimanded for his conduct pursuant to Rule 17(a), and the record in this case, consisting of the complaint, the judge's response and this order, shall be made public as required by Rule 9(a).

Dated: July 11, 2006.

FOR THE COMMISSION

/s/ J. W. Brammer, Jr.  
Hon. J. William Brammer, Jr.  
Commission Chair

Copies of this order were mailed to the complainant and the judge on July 11, 2006.

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

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

**CJC-06-059**

COMPLAINT AGAINST A JUDGE

Your name: Kim Baker Judge's name: Victor M. Wilkins Date: 2/22/06

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

On or about January 17, 2006 there was a pretrial Conference held in the Case of Baker v. Wilson. During the meeting Both parties were ask by the Judge if the Case could be settled, all parties said no. Judge Wilkins said he would set the Case for trial. He also stated he could not act as Counsel or advise any party on how to proceed. Prior to this a pretrial Conference was set for December 13, 2005, all parties attended Judge Wilkins ordered me to contact County attorney Jason Easterday, to ask if I could be compensated through Superior Court for the engeries I suffered. After hearing that the Criminal side of the matter was closed Judge Wilkins set the Case for trial, On or about Jan. 30, 2006, I recieved a notice of Court Date (see attachments). Today Feb. 22, 2006, I showed up for trial along with witnesses, only to have Judge Wilkins call all parties to the bench show me a paper of some statute that was not introduced by either Defendant, but by Judge Wilkins. He then dismissed the Case, I believe Judge Wilkins was bias when he did this, If this Commission would examine the file you will find no motion by defendant to support the Judges dismissal. Further more all documents filed by defendant was signed by one of defendants parent's. Mrs. Wilson signed under oath that she was one of the parties in this action (See Answer) dated 8/12/05. I have spent alot of time and money for my day in Court only to be denied biasly.

(Attach additional sheets as needed)

Commission on Judicial Conduct  
1501 W. Washington # 229  
Phoenix, Arizona 85007  
Att: Linda Haynes  
Staff Attorney

MAR 10 2006  
06-059

3/8/06

Dear Ms. Haynes

I have read the complaint from Mr. Baker and his complaint fairly outlines the proceedings in this matter. This matter was transferred to The West Tempe Court on 9/26/06, as it was filed in the wrong Court. It was then set for mediation on 11/1/05 where no settlement was reached. It was then set for a Pretrial conference where I first had anything to do with it. I learned that this was a matter whereby the Plaintiff was seeking restitution for some alleged damages, and I was informed that trial had just been completed in a criminal matter involving these subjects. I asked the Plaintiff if restitution had been granted thru the completion of the criminal matter. I then reset a pretrial conference on 1/17/06. I was informed that no restitution had been ordered so I set the matter for a Bench trial.

On 2/17/06 the parties appeared for trial. Both were ProSe. The file now contained a motion to continue that was signed by the Defendants Mother, the Clerk had then called the Mother and notified her that her son would have to sign the motion. It was not timely and had not been directed to the Plaintiff. No action was taken at that time. I then noticed that the complaint originated from the Tempe High School and I then suspected that the Defendant might be a Juvenile. I then called both parties to the Bench and I asked the Defendant his age, he replied that he was 17 years of age. I requested his Drivers license and then verified that he was in fact 17 years of age.

I then pulled the statute ARS 12-502 and showed it to the Plaintiff. I advised him that he had not brought the parents into this suit, had not served them as required and could not proceed until the defendant was 18. I then dismissed this action, on the courts motion, Mr. Baker was upset and indicated that someone should have told him before this. I did not know it before I started reading the file preparing for the trial.

Please contact me if further information is required.

Victor M. Wilkins