

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-123

Complainant: No. 1285410245A

Judge: No. 1285410245B

ORDER

The commission reviewed the complaint filed in this matter and found no misconduct on the part of the judge. The court records show that the complainant was represented by an attorney and that the judge dismissed her lawsuit without prejudice upon agreement of the attorneys for both sides.

The complaint is dismissed pursuant to Rule 16(a).

Dated: June 27, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on June 27, 2006.

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

Judicial Complaint-

[redacted]

Superior Court

CJC-06-123

[redacted]

April 25, 2006

[redacted]

On [redacted] Judge [redacted] had a telephonic conference with all Defense attorneys, Plaintiff's attorneys were present and Plaintiff (I) with two friends as witnesses: [redacted] and [redacted]

Judge [redacted] stated that there had been many arguments between counsels that needed to stop. He said this case had been delayed for too long causing much expense to the court system. He said we should be rushing this case to set the jury trial date as soon as possible (I believe for [redacted]). Plaintiff was not allowed to speak. He invited all attorneys to his office for coffee and donuts [redacted] was asked by the Judge what kind of donuts he wanted, he responded "blueberry") early on [redacted] in order to arrive at an agreement regarding the scheduling for the upcoming proceedings. Plaintiff (I) was excluded from attending.

After the telephonic conference was over, I asked [redacted] to please obtain for me an itemized list of all the expenses, fees, costs, from his son [redacted] since I had not been able to obtain a complete itemized list from him and the charges seemed excessive: e.g. [redacted] paid to our Public Adjuster [redacted] who did minimal work and was hired by [redacted] against my wishes. Also, he was [redacted] client so there was a serious "conflict of interest". [redacted] got very upset with me for questioning these issues and as he was walking out he said you will need to get yourself another attorney. Later on the [redacted] I received a call from [redacted] saying I needed to come to the meeting the following morning. I called a couple of friends to accompany me so that I would not be alone.

[redacted]

When I arrived to the courtroom all the attorneys were there except for [redacted] They seemed to have had a meeting. Judge [redacted] greeted all. He again mentioned the long delays of the case and how expensive this case had been for the court system. I said I could assure him this had been a much greater financial burden to our family than to the court, since we had been living away from home for four years. He was very patronizing

in his responses. [] stated that they would withdraw as Plaintiffs' counsels as this would allow for a "fresh start". Judge [] granted the withdrawal right away.

I objected to the granting of the withdrawal, since I knew I would not be able to hire an attorney to replace []. Furthermore it was too late; it was a four year old case. Also, this was the [] second withdrawal/abandonment without any formal notice and I feared this would prejudice the Judge, the Defense and any other attorney. I did not think any attorney would take a case abandoned by []. Again, Judge [] made a condescending remark like "I am sure you do" (referring to my objection).

I was floored, in view of the fact that Judge [] had been saying we needed to rush this costly case and get it to a jury trial by []. Since the Judge went ahead and granted our counsels' withdrawal I immediately requested permission to represent my children and me "Pro Per". The Judge did grant this saying he would not recommend it but that I certainly could do so. I was concerned about all the approaching deadlines and I asked [] about these; he stood up and requested that in fairness to the Plaintiffs Judge [] should waive all approaching deadlines. Judge [] granted this also. Judge [] turned to the Defense and asked for their thoughts on the Plaintiffs counsels' withdrawals. They took turns and said that as long as the [] would not be allowed to come back on the case, as they had done a year ago in their first withdrawal, it was OK with them. They also requested all defense fees, costs etc. for the duration of the case if Plaintiff did not re-file the case within the time allowed. Judge [] also granted this request. I objected as this was in my mind granting our open wallet to the Defense, for an unknown amount of money. Jokes were exchanged between the Judge and the defense attorneys reminiscing over some old cases and how Judge [] remembered a similar case to mine that he had years ago. When [] arrived late the Judge joked with him also.

Judge [] gave me one week to put my objections in writing regarding what he had granted. [] The donuts brought in by the Defense attorney were given to the Judge's staff.

After the hearing ended, [] told Plaintiff he is waiving all fees, everything! Plaintiff asked [] about the total amount owed to him, he responded [] then he corrected himself and said [] He has since then sent correspondence claiming Plaintiffs owe him [] although never provided any documentation.

While still in the court room I had asked Judge [] personal Court Reporter [] Crocci for a copy of the transcript. I received it on []. This transcript did not reflect what transpired in the court room. I filed my objection and requested the tapes of the conference on [] and the hearing of []. I went a couple of times to pick up the transcripts and I was told by the court reporter and [] in the Judge's office that no tapes were ever done. I have witnesses that know different and can testify.

Weeks later, I received the Judge's ruling in the mail. This stated he could not understand my objection because there had been no Withdrawal from my attorneys! He had granted a Dismissal for Failure to Prosecute without Prejudice.

I have now seen two different versions of the transcript of that "hearing" and neither reflects accurately what was said in the court room. I have not yet been able to obtain the tapes, though we know both proceedings were recorded.

I went to the Judicial Commission to ask for help. I spoke to [] She was an obstacle to my filing this complaint. She tried to dissuade me. She questioned me for awhile and finally told me the Judge had done nothing wrong. I said, you were not there and I have witnesses as to what really happened. She said every complaint is reviewed by her or her assistant and if I wanted I could file anyway. I asked her where I could obtain or request copies of these tapes. She said she did not know. Her assistant did not know either. I was finally able to reach the place in charge of doing the copies of court tapes. I left a message for them. Then I was left a message saying they were looking for them; then another apologizing for the long time it took them to respond. Finally, I spoke to the girl who found them and she told me she had both of these tapes (for both dates) and gave me more information. I have witnesses who heard this conversation and the messages. She later called saying her boss said I needed to obtain the transcripts instead and that she was very, very sorry, but that there was nothing else she could do.

Last week I received a call from [] insurance company's attorney [] saying I could not represent my children "Pro Per" and that he did not remember the Judge saying I could do so. He also said another law firm would be handling the case in the near future. He did not know the names yet.

I ask and plead that you investigate what I believe are egregious injustices committed by Judge []

1. Judge [] knowingly and, despite complaining about how "lengthy and costly" this case has been, suddenly decided to grant Plaintiffs' counsels a second withdrawal within year without ever obtaining or demanding, either time, for the Plaintiffs (the children and myself) any justifiable reason in writing from the attorneys involved.
2. There was a meeting prior to the hearing. Since the attorneys for the Plaintiffs (my children and me) were withdrawing and all parties obviously agreed to this legal maneuver, which of the attorneys present was representing my children and my best interest? Judge [] on the [] conference call clearly stated I could not attend this meeting. Judge [] was not surprised by the withdrawal and granted it immediately. He did not question why the withdrawal wasn't raised during the conference call? Should I have been excluded from attending the coffee and donut party?
3. Judge [] apparently did not think through the grave legal repercussions of this last minute change. He dismissed Plaintiff's objections in a condescending manner without reflection. This was a second "bomb shell" withdrawal, a complete surprise to me. By Judge [] comment "of course you object to this" and his immediate granting of this request, which was in express opposition

to his previously stated desire to expedite the jury trial date' it appears he knew in advance this was coming and was ready to grant it. This was a grave injustice!

4. I tried to tell Judge [] in the courtroom, no attorney will want to risk taking on someone else's legal mistakes/decisions/moves. No attorney would want a case [] drops. It was a four year old case he "allowed to get away" from him, he stated. He explained he had never seen such conduct from attorneys. He had not realized how he had allowed so many delays and extensions. Then he opts to start over? Is this an indication of exercising good judicial judgment?
5. Judge [] made explicit jokes and comments of remembering his defense work with a case similar to mine. He clearly made comments where he identified with the defense attorneys. The "coffee and donut invitation" is just a taste of his friendship with the "good old boys". Is this indicative of conduct of an unbiased judge?
6. Judge [] said he had granted six extensions in this case, something he has never done before. Why? Does he realize who is favored by granting these numerous unnecessary extensions, when one party has significantly less resources to fund such prolonged periods of waiting? A mother with two sick children and no job does not have a chance to outlast an insurance company's deep pockets for four years without incurring brutal financial distress. I worked for the insurance companies for over twenty years. I have only received a couple of calls in the past several years. I believe my ex- clients are not happy with our lawsuit situation. I know I requested an extension to find an attorney when the prior/ original defense attorney I hired announced he had a conflict of interest. He was and currently is mainly doing insurance defense work. I would like to find out, for what reasons all these extensions were granted by Judge []
7. Judge [] "ruling" is diametrically opposed to his stated concerns for the court's budget (saving taxpayers money) since this requires starting "fresh" again. He used faulty/deceptive reasoning and granted the withdrawal without a coherent or unbiased explanation. Why?
8. Judge [] did not "Dismiss the Case for Failure to Prosecute without Prejudice" in the court room. He had mentioned this as something he had thought about because of such long delays he has granted. He expressed urgency that the attorneys come to an agreement with an expedited calendar. The whole purpose of this meeting that took place prior to the hearing was, I thought, to "iron out" the differences between the attorneys and come up with a much needed jury trial date. (Plaintiffs had no prior knowledge of so many problems and unprofessional conduct amongst the attorneys for the defense, prior to the conference call). Plaintiff (I) was expressly told by Judge [] not to attend the meeting that abruptly changed to a hearing without prior warning. Judge [] never notified Plaintiffs of the significant change of plans and of

Plaintiffs' required active participation. Plaintiffs' rights to be fairly heard in the meeting and in the hearing were usurped, as Judge [] appeared to have already made up his mind. Plaintiffs should have been allowed to prepare before granting such an egregious biased "ruling" that has precluded Plaintiffs the legal right and opportunity to a fair jury trial. Furthermore, as of today, we have not been able to obtain the tapes of those proceedings and I have not been able to retain another attorney, as I predicted.

9. In addition, he granted the defense all attorneys' fees, etc. for the duration of the case without ever asking how much they were up to that point. Would you not be moved by concern or even curiosity to find out how much money these attorneys are claiming is owed, when he has had to admonish their demeanor? Again, this denotes a total lack of judicial or human interest for justice.
10. Judge [] allowed me to represent my children and myself "Pro. Per" because of my expressed concern of his granting the last minute withdrawal and not being able to hire another attorney to pick up after [] permitted abandonment of the case. I want to make sure this is not another "right" that will vanish along with the fact that Judge [] clearly said all deadlines would be waived. All parties present agreed. Yet, attorney [] for the defense said he does not recall the Judge granting this. He thought this was not legally permissible. Did Judge [] make a mistake granting this?
11. Though, all deadlines were waived by Judge [] and these delays have exceeded the norm according to him, I am concerned that, when my oldest son turns eighteen in a month, he will be forced to have separate legal representation. Given that, I have not been able to hire an attorney for the family, there is even less chance for the one member who has suffered the most to find help. Is this a clever manipulation of "time" to their advantage again? Changing law firms, having the case dismissed and anything else that will cause further delays to exhaust the Plaintiffs' resources even further after four years of waiting. Could this be a possible goal?
12. Tapes did and should exist. I am attaching affidavits of other people who have witnessed some of this egregiously dishonorable conduct.

I firmly believe, there has been no justice served by this judge's unethical judicial conduct perhaps procedural irregularities.

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