

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-187

Complainant: No. 1290800092A

Judge: No. 1290800092B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The judge acted within the scope of his authority in granting the summary judgment.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: November 15, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 15, 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

FOR OFFICE USE ONLY

CJC-06-187

COMPLAINT AGAINST A JUDGE

Your name Judge's name Date: 7/12/06

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.

WE OWN PROPERTY IN SUBDIVISION.
THERE IS AN ANNUAL ASSESSMENT DUE IN JANUARY FOR PURPOSES
OF ROAD MAINTENANCE. THE ASSESSMENT DUE FOR 2005 WAS \$152.
WE WERE IN THE PROCESS OF MOVING WHEN THE 2005 ASSESSMENT
BECAME DUE. AND WE OVERLOOKED MAKING THE PAYMENT. WE
DID PLACE A CHANGE OF ADDRESS WITH THE POSTAL SERVICE AND
WE CONTINUED TO RECEIVE THE HOA NEWSLETTERS, BUT NEVER
RECEIVED A NOTICE ADVISING US THAT WE MISSED THE PAYMENT.

WE BECAME AWARE OF THIS WHEN WE FAILED TO RECEIVE
THE INVOICE FOR THE 2006 ASSESSMENT. WE CONTACTED THE
ASSOCIATION AND RECEIVED A RATHER DISTURBING RESPONSE. WE
WERE TOLD THEY HAD THEIR ATTORNEY START FORECLOSURE
PROCEEDINGS AGAINST OUR PROPERTY. WHEN ASKED WHY THEY
DID NOT NOTIFY US THAT WE MISSED THE PAYMENT, THE RESPONSE
WAS "IT IS NOT THE RESPONSIBILITY OF THE HOA TO ATTEMPT TO
NOTIFY EVERYONE WHO DOES NOT BOTHER TO PAY".

THE HOA PROVIDED US A BALANCE BREAKDOWN OF \$152 DUE,
\$110 LATE FEES, \$30 LIEN COSTS FOR A TOTAL OF \$292 FOR 2005 AND
AN INVOICE FOR \$161 FOR THE 2006 ASSESSMENT. WE PAID THIS
IMMEDIATELY AND SHORTLY AFTER, RECEIVED AN INVOICE FROM
THE HOA'S ATTORNEY ALONG WITH A LETTER STATING HE WOULD
REDUCE HIS FEE BY HALF IF PAID WITHIN 30 DAYS.

I PHONED THE ATTORNEY CONFIRMING THE
AMOUNT HE WAS WILLING TO ACCEPT. THIS AMOUNT WAS THEN
SENT TO THE ATTORNEY WITHIN THE SPECIFIED TIME PERIOD, BUT
WAS RETURNED TO US ALONG WITH A LETTER SAYING HE
CONFIRMED THE AMOUNT HE WOULD ACCEPT, BUT MUST HAVE THE
FULL AMOUNT INDICATED IN HIS STATEMENT.

(Attach additional sheets as needed)

WE THEN WROTE A LETTER TO THE JUDGE EXPLAINING THAT WE PAID THE ATTORNEY AND HE REFUSED THE PAYMENT AND REFUSED TO RELEASE THE LIEN AGAINST OUR PROPERTY. WE RECEIVED NOTIFICATION THAT THE COURT WOULD TAKE NO ACTION UNTIL WE FILED AN ANSWER AND PAY THE \$151 FILING FEE.

WE FILED AN ANSWER AND THE ATTORNEY THEN FILED A MOTION FOR SUMMARY JUDGMENT FOR HIS FEES, WHICH WERE NOW, INCREASED BY MORE THAN \$1,000. WE WAITED FOR THE JUDGE TO MAKE HIS RULING, BUT NOTHING HAPPENED. WE HAVE ATTACHED A COPY OF THE CASE DETAIL SHOWING THE EVENTS THAT FOLLOWED.

THE JUDGE DID GRANT THE MOTION FOR SUMMARY JUDGMENT SAYING THAT OUR PLEADINGS WERE NOT TIMELY FILED. WE BELIEVE THAT IF THE JUDGE HAD REVIEWED OUR ORIGINAL ANSWER AND THE DOCUMENTS WE PROVIDED SHOWING THAT THE ATTORNEY AGREED TO \$750 AND THEN REFUSED THE PAYMENT, THAT HE WOULD HAVE BEEN FAIR IN HIS RULING.

WE OVERLOOKED A PAYMENT OF \$152 AND ULTIMATELY PAID \$2,926.90 AS PUNISHMENT. THIS IS NOT THE KIND OF JUSTICE THAT ONE THINKS OF WHEN REFLECTING ON THIS GREAT COUNTRY OF OPPORTUNITY AND EQUAL RIGHTS TO ALL. EVEN THE PHONE COMPANY OR ELECTRIC COMPANY GIVES CUSTOMERS THE OPPORTUNITY TO MAKE THEIR ACCOUNT CURRENT BEFORE DISCONTINUING SERVICE.

WE THANK YOU FOR YOUR CONSIDERATION AND INVESTIGATION INTO THE PROCEEDINGS AND OUTCOME OF THIS CASE.

SHOULD YOU REQUIRE ANYTHING FURTHER FROM US, PLEASE DON'T HESITATE TO CONTACT US AT