

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 08-001

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Complainant: No. 1325310650A

Judge: No. 1325310650B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge.

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

Dated: March 27, 2008.

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on March 27, 2008.

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

December 23, 2007

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

To Whom It May Concern:

The intent of this letter is to advise the Commission of Judicial Conduct of the possible incompetence of one of its Commissioners. \_\_\_\_\_ showed a blatant disregard for the law and the Judicial System, with regards to a Set Aside Hearing that took place on

\_\_\_\_\_ recklessly ruled in favor of a Motion to Set Aside by accepting the "word" of the Defendants \_\_\_\_\_ claiming they were never served by a process server, rather than requesting proof that the service had not occurred. I produced **Substantial Evidence**, (Exhibit A), which included a signed affidavit served to \_\_\_\_\_ by a Registered Process Server, \_\_\_\_\_, an Officer of the Court since 1989. This affidavit was filed with the court on \_\_\_\_\_. There were also various other documents presented and filed throughout this case that are referred to later in this letter as Exhibits.

\_\_\_\_\_ overturned a default judgment she granted me on \_\_\_\_\_, which included a Quiet Title Motion for parcel \_\_\_\_\_. She overturned the entire award of that original default judgment, including a lien (the foundation for the original complaint) that had been removed from the property in question during the \_\_\_\_\_ default hearing.

\_\_\_\_\_ reasoning for granting the Set Aside, as communicated in her minutes, was that she based her decision on evidence obtained from the defendant, their demeanor and credibility. Please note; the defendants did not supply the court with **any documentation, nor any burden of proof** that they had not been served, other than their "word" (**This Is Not Substantial Evidence, see Sax infra Exhibit I**).

I was unaware the court makes decisions based off of demeanor, and not **Substantial Evidence (Exhibit A)**. Substantial Evidence would consist of the \_\_\_\_\_ showing up to the hearing with pictures of them at \_\_\_\_\_ on vacation with receipts of hotel,

food, and airfare. This is **Substantial Evidence**, not claiming "I wasn't served". The did not provide one piece of documentation, no witness affidavits, etc... Just their "word"!! is claiming an Officer of the Court purged himself with her ruling based on someone's "word".

This decision clearly makes a mockery of the Judicial System. In addition, the have had three attorneys since this case began (Exhibit G and H). Not one filed any motion or document pertaining to any of the allegations (like lack of service) set forth in their Motion to Set Aside. It is highly unlikely that the went through three attorneys and it's amazing not one filed any motion of lack of proper service or notice. Did it slip their mind? Also, the defendants participated in garnishment hearing pleadings filed by which doesn't address they weren't served, but that the amount of the judgment was "inappropriate and unjustified". The address the used for disputing the garnishment amazingly enough is the same address **all documents** for this case have been sent to by my attorney and the court. had two attorneys retained at the time this was going on (see Exhibit G). Is it possible the missed the attorney's certificate of efforts to give notice and bond (mailed on , application for temp restraining order (mailed on ), the court minute entry denying motion (mailed by court ), application for entry of default (mailed certified to which they refused to sign for and is the same address they used for the garnishment hearing), notice of default hearing (mailed certified and signed for on , default hearing minutes (mailed on by the court), and default judgment (mailed by the court on )?? **These are just a few of the documents mailed to the exact address the put on their motion for garnishment hearing (see Exhibit J), and they claim ignorance that they received no documentation for this lawsuit.** The commissioner should have caught this and seen the truth it's impossible for the not to have known they were being sued.

The also claim in their affidavit they did not receive Notice or Application for Default Proceedings. This is a lie. The lied on their sworn testimony affidavits they filed with the court. They received the Notice of Default Hearing sent by certified mail (see Exhibit E) and was signed for by . This alone disproves their lack of notice, along with their credibility. Wouldn't a normal prudent person contact the court or their attorney at the time of certified mailing? The same time of receiving the notice of default hearing (signed for by certified mail) the were involved in another lawsuit (Exhibit H), for which he retained an attorney to litigate for him. This is the same attorney the used when the settlement agreements were signed releasing the lien. is no stranger to this case and knows that the lien was null in void (Exhibit B and C). The both claim on their affidavits they knew nothing of the lawsuit, but his wife signed for the notice of default hearing (Exhibit F). **Over a year had gone by**, from the time of the default judgment to the filing the Motion to Set Aside and is not "excusable neglect" for time lapsed to file a set aside. The commissioner should have questioned the length of time it took for them to respond with the Request for the Motion to Set Aside, along with the

signing for certified mail of default hearing (claiming they new nothing about it). This clearly discredits the and should have been addressed by the commissioner.

The basis for this lawsuit stems from a breach of contract by fraudulently placed a lien on my 2.45 acres (breaking the settlement agreement see Exhibit B and C). My land has always been "clean and clear with no balance" (Exhibit B and C). The lien in question dated , was signed to protect the initial investment. The bought the land before I came into the picture, and sold me half of it (which I paid for in full upfront). I was unaware the fact the were self- financed by the original owner and had a balloon payment due.

After attempts to refinance the land were unsuccessful due to a previous BK, came clean and told me "if you can't refinance the land we will lose it to a Trustee Sale". Because the land wasn't split yet I had to protect my interest and obtain financing to save the whole 5 acres. At closing I was presented with a lien document from the stating I owed them This lien, I was told, protected the money they previously put down on the land. Due to their previous BK, the loan had to solely be in my name. was never owed to have always owed me money, and have been on a payment plan since the first agreement signed (see Exhibit B and C). The commissioner overturned the judgment due to someone's "word" keeps the land I sold to unable to sell or develop due to the fraudulent lien the put on it. This result is playing financial hardship and marital stress on both and I. The commissioner should have reviewed this case to see the importance of an honest and just ruling. Her lack of judgment affected multiple parties, and has enabled this situation to escalate continue to disrupt the lives of three families.

Included are:

Exhibit A – Affidavit of Service dated . Signed by , an Officer of the Court since 1989.

Exhibit B – Agreement, dated drafted by the and signed by me, showing I have an unencumbered right to the Southern 2.45 acres, "clean and clear with no balance". All parties signed this Agreement. (Pertinent information is highlighted)

Exhibit C – Mutual Settlement Agreement, dated . Agreement drafted by attorneys representing both parties. This document clearly outlines the elimination of the lien in question to Also, outlines money amount owed and payment schedule to me. All parties signed this agreement. (Pertinent information is highlighted)

Exhibit D – Addendum to Mutual Release and Settlement Agreement, dated Agreement outlining terms and conditions regarding financing I provided to the They were unable to make the necessary payments on their land, which was in direct default of the original Mutual Settlement Agreement and resulted in the land being placed for Trustee sale (for the second time). The 5-acre parcel had not been split,

therefore the entire 5-acres was in jeopardy. In order to get my 2.45-acres out of Trustee sale, the original loan had to be paid in full (which I paid for them, so the land could be split, and I could have a unencumbered right to my 2.45-acres). Please note, the had already been paid in full for my 2.45-acre parcel. Once again owed me a large sum of money and placed on a payment plan with me. (Pertinent information is highlighted)

Exhibit E – Certified Mail Receipt, dated \_\_\_\_\_ – Contents: Notice of Default Hearing, received and signed for by \_\_\_\_\_ This is one of the documents in their affidavit for motion to set aside they claim they never received!!

Exhibit F – \_\_\_\_\_ Affidavits, Affidavits the \_\_\_\_\_ turned in with their motion to set aside.

Exhibit G – Affidavit from \_\_\_\_\_ I retained this Collection Law Firm after obtaining the default judgment to collect from \_\_\_\_\_ . They had several contacts with \_\_\_\_\_ and his attorney. They admitted to \_\_\_\_\_ that their aware of the default against them.

Exhibit H – \_\_\_\_\_ lawsuit Case # \_\_\_\_\_ The \_\_\_\_\_ had an attorney when they received and signed the certified mailing of Notice of Default.

\_\_\_\_\_ recklessly overturned the judgment she had previously awarded without regards to the details of the actual case. She accepted “the word” of the Defendants that they were not served, nor did they receive any notification from the court, my attorney, or me with regards to this case, over concrete proof that they had been contacted on several occasions. Correspondence had been sent to both addresses the use, their residence and their business post office box.

I thought the law is supposed to protect honest people like me...

I plead with the Commission to review the details of this case and the poor judgment by \_\_\_\_\_ I do understand mistakes can be made by commissioners, which is why Commissions such as yours exist. A Motion to Reconsider has been filed and is in \_\_\_\_\_ possession as of now. I apologize for the attitude in this letter, but I’ve spent so much money trying to protect something that was paid for from the beginning. I have talked to many people in the legal field and all are shocked at \_\_\_\_\_ ruling.

Thank you for your time and understanding.