

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-055

Complainant: No. 1330210108A

Judge: No. 1330210108B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. When an attorney appears on a small claims matter, the judge is required to transfer the case to the regular justice court, even if one of the parties disagrees. The other issues raised by the complainant are legal questions outside the commission's jurisdiction, and the more appropriate remedy would have been to file an appeal.

The commission is not a court and cannot change a judge's decisions; therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: July 14, 2008.

FOR THE COMMISSION

 /s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on July 14, 2008.

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

2/25/08

CJC-08-055

FEB 27 2008

Commission of Judicial Conduct
1501 W. Washington St. #229
Phoenix, Az 85007
1-602-452-3200

On Monday Plaintiff filed an Application For Entry
and Default against in small claims court
(Document #1). Small claims court is an *allegedly* a less formal setting according
to Justice Courts web site but chambers appear
to present an exception to this statement.

On Monday the case went to the judge's chambers.

On Wednesday , the defendant, through its now unauthorized
representatives file for a motion to move to conciliation court. (Document #2) The
Plaintiff filed a motion and brought the case back to small claims court where the
judge has done nothing in regards to ruling on the default or otherwise for 8
months on this matter.

In addition, I have had to file a complaint with the Arizona Bar against the firm of
for threats, intimidation and harassment concerning this case. I
have enclosed a copy as part of this complaint and ask the commission to read
this first before continuing (Document #3).

This case has been in small claims court almost a year. Honorable
will not rule on the default. The Plaintiff views judge unexplained lack of
action as impeded *due process*. This Plaintiff has been damaged by
unwillingness to comment on the default. In fact, never even sent Plaintiff
any kind of correspondence concerning the default. Plaintiff has made at least a
dozen visits to Justice court always to find out the *case was in the judge's*
chambers. The Plaintiff *now* believes this case is held in a deceptive manor, and
under manipulative circumstance, and that this is an abuse of power by judge

Later, a court clerk told me my case had been misplaced in error because the judge put a little yellow sticky saying "no action taken." No reason was given for the misplaced file, or an explanation for why the judge will not rule on the default. This non-action further impeded due process for the Plaintiff. This lack of due process by did further damage to the Plaintiff because Honorable refuses to address the fact that the defendant did indeed enter default by two (2) days. In essence, Judge is continuously circumventing the default law.

A little history on this case that should be in small claims court records. Initially, the Plaintiff filed incorrectly on all multiple parties involved with this dispute. Judge ruled, "no more pleadings will be considered with this case number." decision vacated any legal rights to that case. That case was also filed without prejudice (Document #4&5). This allowed the Plaintiff to re-file. By filing a new case, the Plaintiff has eliminated any legal claim by Judge

ruling meant all parties connected with It was ruling, which forced this plaintiff to file a completely new complaint. have continuously tried to use this old case # as an avenue of entrance into small claims court. All though I had communication with concerning the first case never alerted their attorney in a timely manner with the new filing as I pointed out in the E-mail (Document # 3 page #2). In addition I filed separate complaints against the merchant involved

Because I did not physically have the letter from the local merchant declaring the merchandise as defective with me at the time of hearing, I was not granted a judgment. However, that letter is in both the old and new file.

Why was I not allowed to confront in small claims court, as I was allowed to confront the defendant In the second filings, the three complaints were all filed the same. Like , the other two were serviced correctly according to judicial preceding. The only answer could be that showed favoritism to the established money of the United States. In the sake of brevity, I will construct my questions later in this complaint.

The plaintiff believes it was unnecessary to file a second motion for default again on the same case . The Plaintiff did so at the suggestion of the

court clerk in hopes of resolving this matter. The Plaintiff believes [redacted] did not contact its attorney because my file had been erroneously left in [redacted] collections Department. Every week the [redacted] collections department contacted the Plaintiff by phone. The Plaintiff explained several times to they should contact their attorney. (Document #5a). Because of the waver, Justice Court handled all contact with defendant for the Plaintiff.

When this case was initially assigned to Judge [redacted] in a phone conversation, told me they [redacted] had requested [redacted]. It was not what he said but how [redacted] said it is why I mention this. I *believe* now why [redacted] never really seemed to interested in paying attention to this case. They had an inside man working the bench for them. There must be some paperwork somewhere showing this request by [redacted] ?

Every time this Plaintiff acquired documentation it was hand delivered to [redacted]. This action by the plaintiff has already been documented and is in the file. This was showing a willingness to cooperate by this Plaintiff. By showing good faith through cooperation, the plaintiff *mitigated* the possibility of Attorneys fees had we gone to court that the defendant now asked for in the *illegal* summary judgment. However, the judge had no problem awarding the *maximum attorney fees* allowed in this case. The summary judgment is *illegal* because Judge [redacted] never addressed the default prior to granting the summary judgment. The defendants are still in default. Does this illegal award by [redacted] for maximum attorney fees *also* show favoritism to the defendant's unauthorized representatives? This plaintiff has since filed a motion to vacate summary judgment.

Under Case [redacted] Plaintiff went before Judge [redacted] to modify the problem in order to proceed. *In regards to [redacted] ruling [redacted] said,* "Well this *is not* how I would have handled it." Judge [redacted] made no changes in that case. This meeting with Judge [redacted] and her reasoning should be in that old case file.

In addition, [redacted] Plaintiff filed a motion for 15-minute oral argument under the above case file. (Document # 5). Judge [redacted] denied that motion as well. I believe I have established a pattern on the judge's part to NOT deal with this case. What did [redacted] see that [redacted] wouldn't? Why would not [redacted] grant me the 15- minute oral argument to explain his non-response? The reason is the judge is biased and has favored established money since the initial filing of complaints against the *now* in default defendant.

On Thursday [redacted] at the suggestion of a court clerk, I again filed a second motion to grant judgment in this case number because Judge [redacted] had not responded to me since [redacted]

One day later, Friday Judge put a yellow sticky with the comment "No Action" on top of my case. This is a very fast response for a judge who has not taken any action from filing on the *first* motion to grant the Plaintiffs default filed on Monday, on the same case. Never was the Plaintiff notified of Honorable Judge decision. has demonstrated an inability to make a decision in almost a whole year. The Plaintiff finds this super fast response peculiar, because it states the word ***responsive*** in bold ink on JP 49 of the 10-day deadline. Judge failed to responsibly recognize the 10-day clause for almost a year. The operative word here is "***Respond.***"

The plaintiff believes Honorable Judge views the Plaintiff's default as somewhat like being a little bit pregnant. The Plaintiff believes Honorable Judge will see Plaintiffs case in a different light. If not, Judge will at least rule on the status of Plaintiffs default case. Ruling on the Plaintiffs default case will bring an end to emotional suffering and damage caused by Judge to this Bi-polar plaintiff.

On this Plaintiff filed a motion to remove Judge and change to Judge Judge has damaged the Plaintiff further, because has not shown good will to resolving this matter.

On Thursday, the Plaintiff had returned to Justice Court to find a motion for dismissing Plaintiff's complaint, and awarding to the defendant a summary judgment. The Plaintiff was never notified or made aware of any litigation until Plaintiff inquired at justice court. The court clerk would not release to the Plaintiff copies of the summary judgment. The clerk was made aware of the "FEE VAIVER" stamped on it. (Document #6).

The Plaintiff was allowed to view the summary judgment ONLY from the visitor's side of the window that the Plaintiff learned and was only allowed to view Judge yellow comment, not the physical case itself. This Plaintiff believes, despite the waver in plain view if this is not some more of shenanigans?

This Plaintiff views the award of summary judgment to parties not legally entitled to enter Chambers or small claims court ***prior*** to ruling on the default as illegal. These actions again show the *appearance* of favoritism is biased in action.

This is the second time Plaintiff had to file both a motion to grant the default and to retrieve the case from conciliation court.

Honorable will not get the opportunity to do further harm again to this Plaintiff. Like a discarded old bone, has once again tossed the Plaintiffs' case out of his chambers. Honorable has committed an improper act commonly called *impropriety*, repeatedly this plaintiff might add.

of all people should know better than to toss a case that is in default to these alleged dogs. By allowing the defaulted defendants' unauthorized *alleged* trained animals another illegal opportunity to jump over the fence into small claims court and back into chambers to lick his feet or sit on his lap. These acts of consideration have the appearance of impropriety and further impropriety in all the judge's activities involving both cases i.e.

because the Plaintiff believes there is a "Third degree of relationship."

Honorable repeated acts are a pattern of improper procedures with a conflict of his small claims judicial obligations.

This Plaintiff now believes Judge is incapable of ruling on this case. The status of the default case has never been determined, but is in default. It must be ruled on prior to any other actions.

The Plaintiff is asking the commission to inquire on the following additional questions:

After being charged with knowledge that the defendant did indeed default with the 10-day mandatory deadline, why did Judge not grant Plaintiffs default as stated in bold print on JP49?

Why has it took almost a whole year and the judge still has *not* ruled on this case? Why did it take a second motion by me to try and get the judge to rule on this case that should have been ruled on ?

Have the Plaintiffs rights been *repeatedly* violated by lack of action by Judge failure to rule on the default after given two separate chances?

Will the commission rule on just how much damage has the miss handling of this case by Judge damaged the Plaintiff? Is there willful and persistent failure by to perform judicial duties?

Since the case has been in small claims court waiting decision, why is now allowing attorneys to enter small claims court where they have no legal right? Is this the honorable thing for a judge to do in small claims court, or just chambers?

The Plaintiff believes moving of the case *twice* into consolidated court is an admission of incompetence and ineptness.

The defendants are in default category depicted in JP49. Their representatives cannot assist them no longer in this matter. Any attorney's presence in small claims court is a violation of the rules of small claims court! Can this Commission rule on this violation by the written form to this plaintiff involving the defendant's

unauthorized representative in, and the judge biased actions of favoritism as well for the plaintiff?

If the judge is in violation of not acting properly, is this judicial misconduct?

Should Judge [redacted] prior to illegally letting this case *TWICE* into conciliation court have ruled on the default in small claims on [redacted] ? Lack of participation by Judge [redacted] is the motivating factor as to the reason the plaintiff was forced to ask again on [redacted] ! Nothing has changed between the two dates. Judge Simon created new risk for the plaintiff's default that should have been awarded after Feb. 5, 2007. By not properly notifying the plaintiff as to why he will not rule on default prior to awarding a summary judgment to the defendant's unauthorized representatives, Simon has demonstrated the appearance of favoritism. Instead, Judge [redacted] has *TWICE* allowed the defendant's attorneys into the small claims court before ruling on the default in this case.

In addition to traveling expenses [redacted] as a result of Judge [redacted] breach of public office and this plaintiff's confidence, this plaintiff has been emotionally damaged because he has lost trust in [redacted] and the judicial system. This loss of trust has resulted in a great deal of hours to prepare/ orchestrate these complaints prior to responding to these illegal and bogus complaints and motions. The defendants unauthorized representatives [redacted] filings are numerous, illegal, and most certainly unnecessary.

Concerning the status of the default, why did Justice Court *TWICE* never rule on default and/or notify the Plaintiff?

According to the laws that govern small claims court, does the defendant's attorneys have any right to participate in small claims court after the defendant did not respond in a timely manor by [redacted] ?

The Plaintiff believes Judge [redacted] is now illegally directing traffic in small claims court by allowing the entrance of the defendant's attorneys into this less than *alleged* formal setting according to [redacted] own web site. The Plaintiff believes Judge [redacted] knows he has a "hot potato" in his chambers. This is why [redacted] sez "come and help me [redacted] because after one-year I still do not know what to do. What Honorable [redacted] should have done was to rule on the status of the default with first motion by this Plaintiff. WHY WAS IT NECESSARY FOR THE PLAINTIFF TO FILE A SECOND MOTION AFTER ALMOST ONE YEAR?

While the Plaintiff was waiting for an answer to the first default explanation this case in small claims court, did [redacted] by allowing attorneys to take this case twice out Small Claims Court prior to ruling on default multiply violate this Plaintiff's rights? Is this a violation of the Plaintiffs rights? Has Judge [redacted]

demonstrated favoritism to the defendant because money? is established

If the judge, by not ruling on the default acted improperly does actions have the appearance of showing biased. is this grounds for dismissal of all motions by defendant

The Plaintiff believes Judge still has issues with the default, because knows the default is good. Would the Commission rule that the honorable and correct thing to do in position would to have dismissed him self from this case?

Has Judge in any manner shown discrimination against the Plaintiff and prejudiced himself in this matter by not ruling on default in small claims court prior to allowing the attorneys for the defendant to represent defendant?

Has Judge violated the law by knowingly allowing attorneys into small claims court, and if so what was his reasoning for breaking the law?

Lastly, did demonstrate conduct unbecoming of an attorney by contacting Plaintiff on with threats and intimidation because the case now in default as of in small claims court?

The Plaintiff believes may have been in fear of loosing his job and this fear is what produced the threats. The Plaintiff also believes that later realized that his client dropped the ball by not contacting him after being served by Justice Court on (Document #7). In the complaint to the Arizona Bar the E-mail that accompanied that complaint (document #2) between Plaintiff and the plaintiff commented/reminded that in an earlier phone conversation with the attorney had stated he had not had the time to look at as of yet.

Prior to the default, if the plaintiff was asked not to contact the defendant as states in the above (Document #2), does not the Plaintiff have the same protection from after the case entered Default status on ? The defendant repeatedly continued to contact this Plaintiff against wishes (Document #5a)!!! Why did the defendant not honor/comply with their attorney's wishes, as did this Plaintiff?

Including FCC violations, does actions violate any code of legal ethics with his threats and intimidation in the phone call that has been confirmed in the E-mail (Document #2) which accompanied the complaint to the Arizona Bar?

This Plaintiff believes he has shown there is favoritism being given to the defendant's unauthorized representatives in this case by the judge. This Plaintiff

wants to know what happen to the fairness of justice in this nations court system. The fairness that is symbolic of this great countries belief system associated with the images of freedom, mother, and apple pie? *If* the Judge does not have a satisfactory explanation to this commission for his unexplained behavior regarding his inability to rule on the default, I have some additional comments.

This Plaintiff has given great thought to the Judges questionable and unknown motive regarding behavior. I have worked, as a volunteer, in the field substance abuse and am a current member of a 12-step program for 15 years. Could the Judge be impaired through some form of abuse other than drugs and alcohol? I say this because I have learned, while in recovery, there are only *two things* that have ever motivated men and women. The average human has a corrupt belief system ... that is why we are not saints! Those two motivating things are money and sex and the power derived from both.

This Plaintiff believes *it is possible* the judge, like the rest of America, *may* be in financial trouble. Had the Judge been successful in his deceit, by lending a helping hand to the firm of could the Judge one day have hopefully positioned himself for future employment with this firm in a few months? Could the judge be trying to curry favor with this prestigious law firm?

A case like this comes along once in a judge's lifetime. This case contains a fortune 500 company that has defaulted in small in small claims court. An *alleged* very prestigious law firm that has threatened this plaintiff. And a judge that *may* favor the defendant's unauthorized representatives by allowing them to enter illegally into small claims court. This kind of case makes and breaks its players. Does the Judge have any *alleged* history of using his position in any *appearance* for personal gain?

Does Simon know from other areas outside the judicial system? School, previous cases, employment, ... etc. Is there a "Third Degree of Relationship" between the judge and the unauthorized representatives for the defaulted defendant?

If there is not a third degree of relationship, there *is some* reason that will not demonstrate blind justice according to the guidelines of Small Claims Court that has *allegedly* sworn to up hold! So, what does hope to gain by circumventing the law *if* he has discriminated against this bi-polar plaintiff?

Because of my age, for years I have lived without need of psychotropic medication. On Thursday this stress created by the firm of forced me to visit my doctor. My doctor told this plaintiff that he was in a very accelerated manic episode. The doctor wanted to start me on medication to calm me down. I chose to finish and file this complaint first. My inflamed condition is the direct result of the vicious attacks by the defendant's

unauthorized representatives and their presence being allowed into small claims court by Judge

If Judge and attorneys have behaved in an unethical manner, as a suggestion only, could the Commission recommend that both Judge and these two attorneys be mandated to attend ethics classes that are closely monitored by the Metropolitan Attorneys Professional Society i.e. MAP? This may help restore some blind Justice to Justice Court?

Will the commission, in fairness to this plaintiff, review all motions and responses in Judge possession at least as far back as

I feel I have been subjected to unfair treatment by Justice Court. Judge lack of action in ruling on the default, followed by his manipulating the small claims court with his self-will is what prompted this complaint!

CONCLUSION:

This case is being held is a deceptive and manipulative circumstance. This is abuse of power. Judge, for some reason, has demonstrated poor enforcement of judicial rules.

Thank you for your time.

Sincerely,