

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 08-211

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Complainant: No. 1321410414A

Judge: No. 1321410414B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the part-time, pro-tem judge. The issues raised are appellate in nature.

The commission is not a court and cannot interfere in a case; therefore the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: September 24, 2008.

FOR THE COMMISSION

\s\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on September 24, 2008.

*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 - 08 - 211

COMPLAINT AGAINST A JUDGE

Date: 8/13/08

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.

I am the Plaintiff in a personal injury action against the driver who rear ended me, I sent the defendant a certified letter at her residence to advise her that this action would commence. I mailed the complaint by certified mail and she refused to accept the first delivery and it was eventually returned unclaimed. In the meantime, I mailed a second copy of the complaint via Priority mail with delivery confirmation. I petitioned the court for the entry of Default for failure to answer or to defend, and was granted a default hearing. This judge file an answer for the defendant asking that the court dismiss the action. Upon notice that this judge would act as the attorney in this case, I mailed her notice of the filing of the application and affidavit for default and the notice of hearing. This judge filed a Motion to Set Aside Default and Opposition to Application for Entry of Default Judgment. I was prejudiced by the filing of the "Answer" and "Motion" because this judge had no personal knowledge of the method of service. The judge gathered information that was part of the court record and was public record to contest that service was improper. There was no statement made by judge as told by the defendant, regarding the delivery of the complaint by priority mail with delivery confirmation or that the defendant had refused delivery of the complaint by certified mail. On the day of the hearing, this judge as the attorney of record did not appear. The defendant did not appear, thus the defendant did not defend this action as required by law.

(Attach additional sheets as needed)

the court commissioner was lenient to this judge and remanded my case back to court administration for further proceedings. However, when I asked the representative substituting for this judge, to accept the service of the complaint that was refused by the defendant, he waived service.

this judge drafted and filed "Defendant's Controverting Certificate of Compulsory Arbitration" which included nothing more than inflammatory and prejudicial statements to conceal the fact that she could not provide the court with a certificate of agreement or contract to arbitrate my case.

there was a telephonic conference to discuss compulsory arbitration. On this date, this judge and the defendant did not appear to testify at the hearing. This judge sent a representative not on record with the court to testify. the court took the matter under advisement.

the court transferred my case to arbitration. The court's minute entry did not specify the date by which an answer to defend my case needed to be filed. Therefore, this judge ignored the duty to file an answer in my case.

Upon appointment of the arbitrator, this judge began to wage a discovery war without providing me any discovery herself. She failed to file a disclosure statement within forty days of the filing of the complaint in order to give me an opportunity to draft interrogatories. She failed to allow me to ask questions of the defendant, and thwarted all my contact with the defendant.

this judge filed a "Motion for Sanctions, Motion to Continue Arbitration Hearing, and to Extend Arbitration Deadline." Within this motion, this judge included private matter for publication to the court and to the arbitrator that were offensive and humiliating. This judge invaded the financial information provided the court for the payment of court fees, and made a defamatory statement regarding the status of my payment schedule. I believe that the disclosure of this private matter was the determining factor of whether or not I would be allowed to be heard in arbitration.

Though this judge obtained medical and other records from the unlawful HIPAA requests she accused me of interjecting a major factor for delay in the arbitration proceedings. The medical and other records that this judge received were essentially the same information already in her custody. I attached medical and other records to the complaint, and the insurer for the defendant gave this judge their entire claim file which included medical and other records. The contention by this judge, that there were not enough discoveries to present to the arbitrator at the hearing was never discussed. It was clear from the very start of my case that this judge did not want to work with me, and would do whatever it would take to get the case dismissed. I was repeatedly referred to as "frivolous" and one who did not "make legal sense."

just days before the arbitration hearing was to be held, this judge drafted and forwarded "Defendant's Motion for Summary Judgment" directly to the arbitrator, and a copy to me. The motion was so defective that I was compelled to file a "Motion to Strike Affidavit" I had filed my motion for summary judgment on and fully expected the issues to be discussed in the arbitration hearing on

However, the arbitrator signed a judgment awarding attorneys fees to the defendant, and for the entry of summary judgment. The arbitration hearing was vacated. I never received a "notice of award" from the arbitrator so that I could exercise my right to appeal.

the court addressed some of the errors committed in arbitration upon my written objection. On this date, the court delivered its opinion that the defendant had admitted negligence (per se) in my case.

I filed my motion for summary judgment on the issue of negligence (per se). This judge on the filing of my motion for summary judgment forwarded "Defendant's Request for Clarification of Court's Minute Entry

on This judge essentially asked the court to re-write the minute entry to read the way she wanted it read. The court obliged her request without requiring that this judge file a proper motion. To date, my motion for summary judgment is still pending before the court. This judge did not respond to the motion nor file a Controverting motion.

I have experienced what no litigant whether represented or unrepresented should ever have to witness. I always believed that the court was bias and prejudiced against me, but was uncertain where the hostility derived. Now I am certain that the hostility that has been waged against me is due to the misconduct of this judge. I have witnessed misconduct in the court before, but never to this extent. It would shock any reasonable and prudent person.

Throughout these proceedings, I have had to defend against discrimination on the basis of race, economic status, and freedom of speech. This judge has taken complete advantage of the court's leniency. She has repeatedly ignored the duty to present statements of fact or present any competent witness testimony.

This judge because of her position with the judiciary has enjoyed an accommodation to misconduct that I would never be allowed to commit in court. Because of her position and her power, she has delayed these proceedings unnecessarily, and burdened me unnecessarily with excessive costs for filing documents in defense of my civil rights in addition to my complaint. She has enjoyed the freedom to ignore her duty to respect the court without any threat of consequence. I have been held to an unreasonably high standard which is not only prejudicial, but outright discriminatory.

But for the position of this judge on the judiciary, and the influence that she enjoys among the judiciary, my case would have gone to trial. Though the court is not required to hold evidentiary hearing, in my case, I was subjected to unfair and unequal treatment because they were completely absent in my case. The judge in this case did not want hearing, and the court and arbitrator obliged her.

There can be no greater injustice that the denial of the right to be heard. This judge is a clear and present threat to the administration of justice. Though appearing as an attorney in this case, this judge is required to abide by the Code of Judicial Conduct when dealing in court matters. It is inconceivable that this type of misconduct should ever cross the mind of any legal professional. The win at any cost attitude of this judge is unethical and a violation of the Code of Professional Responsibility.

I beg this committee to act now to protect the litigants of the Arizona Court System. It is apparent from my experience and the fact that I must file this complaint that the goal of just courts can not be achieved if a "professional" such as this is allowed to take the bench. This judge should treat all persons with respect and with regard to the purposes of public service.

This judge in my case took advantage of an opportunity to tell the court how to administer justice. My case assignment was rotated to the superior court from the northeast justice court. While that should not make a difference in hearing cases, I believe that it was a major factor in providing an opportunity for this judge to prejudice my case on her terms. She basically was telling the court what to do because she could. I petitioned three times for a change of judge, however, with her power and influence, the court would not grant me any requests. The court favored this judge, and it shows upon the face of the record.

This judge knows that the testimony, statements, and affidavits submitted by counsel in my case were not to be taken as fact. She had no personal knowledge of the events and details according to the named defendant, She loosely asserted the term "defendant" in my case, and concealed the fact that she was not authorized by the defendant to proceed in this case. This judge was defending the insurer under the false pretenses. The named defendant ignored service of the complaint, and ignored the proceedings in my case as well. This judge is a proponent rather than a counsel to This judge repeatedly insinuated that discovery of all parties, and of all issues was not essential to handling a personal injury matter before court.

I have great admiration of our legal system in this country, and the men and women who dedicate their lives to the pursuit of justice. I believe that the law should be upheld by each individual. I believe that justice should not be distributed on the basis of any arbitrary or discriminatory factor.

Thank you for your time and consideration in my complaint. I have attached copies of the documents to which I have referred in my complaint.

Sincerely,