

Forcible Detainer

Statement of Facts, Arguments and Procedural History

The following is a statement of facts demonstrating, how Judge _____ is violating the simplest court rules and the law, acting without common sense , to deprive a home owner from her property.

_____ hired the Law Firm _____ to represent them in an action for Forcible Detainer after a Trustee Sale. They filed a court action seeking a judgment for forcible detainer on seeking possession of the property at _____ In spite of Defendant's various notices to Plaintiffs of her residency in _____ served an affidavit of service addressed to Defendant on _____ Arizona. They then filed this false affidavit of service with the court, knowing that it was false. _____ and Associates, forced the Defendant's tenant unlawfully out of the premises on _____ without due process of law. They spoke with the tenant repeatedly since they put the Notice for Demand for possession at her door They had repeatedly told her, the sheriff will evict her, and that she had to leave immediately. The Defendant missed two court hearings _____ because she was not notified of these court dates. Plaintiffs have failed to submit the legal description of the property to the court and failed to submit the required certified copies of the Deeds until _____. This was the reason, the case was delayed. Judge _____ made a final judgment in favor of Plaintiffs _____. The nexus of the Defendants defense was that because of a missing Deed of Trust, Plaintiffs could not conduct this court action pursuant to A.R.S. 33-1173.01 B, because there was no

Trustee Sale under a Deed of Trust, as required by statute. Plaintiffs filed only a doctored Trustee Deed, made to conform to the Defendant's property at the recorder office, indicating, they had foreclosed under a Deed of Trust dated [redacted] But this Deed of Trust is the wrong Deed, since it has been conveyed as security against a different real property, which the Defendant already sold. She also paid off [redacted] and the facts as displayed create a material 'defect'. There is in fact no Deed of Trust at all secured against the property in question. By law, Plaintiffs cannot foreclose a property without a Deed of Trust conveyed. If there would be an unsecured mortgage, they could only pursue collection of the mortgage, but cannot take someone's property without a lien; therefore Plaintiffs have no standing to request a forcible detainer. [redacted] and Associates have repeatedly made false statements to the court and acted in bad faith. In spite of all the evidence presented to the court, the court denied not a few, but all of the Defendant's motions and even her requests for a waiver of fees twice

The Defendant filed a notice of appeal [redacted] to the court of appeals. The Defendant feels, the court should have allowed Defendant to permit to address the subject of fact of title, should have not allowed Plaintiffs to be negligent and dishonest under oath and towards all parties, and should have not denied all of her motions, because they served legitimate purposes. The Defendant has been representing herself.

The Defendant feels, she held credible testimony on her arguments [redacted]. It appears throughout this case, as if this judge is representing rather Plaintiffs and acting as their personal attorney rather than seeking justice in this matter. He failed repeatedly to follow the statute and did not evaluate this case impartially and fairly. It seems, he rather tried to prevent the Defendant from exercising her legal rights, appeared bias and unfair throughout this case. He also made several inaccurate statements.

Legal arguments of the case

1) Insufficiency of service.

It is undisputed, that the Defendant [redacted] was due proper notice prior to the hearing dates pursuant to A.R.S 12-1175 et seq. , and the Arizona Rules of Civil Procedure. Rule 4.1 and 4.2 et.seq. The Defendant has informed [redacted] and Associates of her residency in [redacted] prior to the court action (exhibits "1-10"). In fact, Plaintiffs themselves have reported her address to the Tax Assessor's office [redacted] (exhibit "10"). Also the tenant of the property, [redacted] has repeatedly contacted [redacted] and Associates. They then forced her out of the premises [redacted] (exhibit "11") and they knew, it was only her, and not [redacted] living at the property address. It is undisputed, that [redacted] and Associates knew, that the premises had been rented out, and they were obligated to inform her about the court action at her address in [redacted] pursuant to Arizona Rule of serving summons 4.2. [redacted] and Associates argued in their answer to Defendant's motion for sanctions filed [redacted] that 'the process server believed the person served to be [redacted] (exhibit "12"). Apparently, upon information and belief, it was [redacted] tenant'. But the process server is an agent of Plaintiffs, and she should have received the information from [redacted] that service for [redacted] is at the address in [redacted] an impossibility. (exhibit [redacted])

'13). The judge in his final order (exhibit "14"), claimed, that the 'Defendants claim they had not been property served, but admitting that their tenant had been served'. The statute requires, when the property owner is out of state, to serve the Defendant by mail, and if the summons are not served, to dismiss the case. Based on insufficiency of service, this case should have been dismissed. Judge assumption, it would be sufficient to serve someone else but , does not seem to be supported by statute pursuant to Rule 4.1, 4.2.

- 2) The Defendant argued in her motion for sanctions (exhibit " 15") and in her motion to strike/addendum (exhibit "16), why the case should be dismissed. It is undisputed, that the Deed of Trust must exist between the parties pursuant to the Statute for forcible detainer, to proof sufficient evidence of a superior right of immediate possession. This action can be filed only after a Trustee Sale under a Deed of Trust pursuant to A.R.S. 12-1173.01 S. A.2, but not by simply recording a false Trustee Deed at the recorder office. In fact, there is no such relationship or situation, that would allow Plaintiffs to enter or sale this property in question, since there is no contract secured against the property, in fact there is no default of mortgage conveyed as security at all under a Deed of Trust against the property. This creates a fundamental 'conflict' and a material 'defect' in this case. The judge did not permit the Defendant to address the fact of title. The Defendant pointed out to the judge in the hearing, that the Trustee Deed alone is not a sufficient evidence of ownership. The judge simply listened to Plaintiffs arguments only using a 'legal trick' that the Defendant could not bring up this evidence of 'the sale' (merit), while the Defendant simply addressed the fact of title, and that is not the sale, but the fact of title. The Defendant had explained this issue in her testimony as well as in her documents filed. 1

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United Effort Plan Trust v. Holm, Court of appeals in Arizona: " The merits of title may not be addressed, although the fact of title may be admitted." The Defendant pointed out this and more court cases regarding this issue, also see " Arizona Land Group vs. Sunrise" at Court of appeals in Arizona. There seems to be no same issue regarding a missing/wrong Deed of Trust ever brought to Arizona courts.

3. Since the Deed of Trust on which Plaintiffs base their claim on, (is signed and conveyed against a different property than the property in question, it is an obvious fact, that the Trustee Deed filed with the court must be a false document. There has been very clear and convincing evidence presented to Judge based on common sense, that the Trustee Deed, in fact is a false document. Simply put the Deed of Trust did not match the Trustee Deed that was used for foreclosure. Pursuant to A.R.S. 33-420 D, a document purporting to create an interest in, or lien, not authorized by statute, is groundless and invalid. Plaintiffs simply applied an old Deed of Trust that is conveyed as security against a different property, and foreclosed Defendant's home that rightfully belongs to her, free and clear of a secured mortgage. The Defendant pointed out to the court, the issue of Fraud.

would not have enough time before the court date filing a reply or respond accordingly. He should have never granted Plaintiffs answer pursuant to the facts and the rules of Civil Procedure.

- 3) It is obvious, that not notifying Defendant deprives the Defendant from exercising her legal rights, and it is a perfect example how to win a judgment by ambush.
- 4) The minute entry dated _____ (exhibit "19") indicated, that _____, Counsel for Plaintiffs, indicated, the legal description was faxed to the court. But the Defendant has reviewed the court file, spoke with court clerks and the judge's secretary _____ and there is no evidence, that this legal description had ever been faxed.
- 5) In _____ answer dated _____ (exhibit "12"), he indicated, that he had submitted to the court a complete copy of the Trustee Deed, including the legal description on _____ (exhibit "19"). He further claimed, he satisfied the judge's concern. He then claims that the Defendant did not send him a copy of the motion for sanctions, and that would be the reason why his answer is over two months delayed. The Defendant pointed out evidence that she indeed has mailed the copy of her motion for sanctions, submitting copies of certified receipts, certified by the US Postal service (exhibit "16"). The evidence shows, that _____ received the copy on _____. Then he claims, that on _____, he submitted a certified copy of the Deeds to the court. (There is nothing in the file filed on _____ and nothing is in the file at all indicating he submitted anything) All of these statements made by _____ as displayed are false, dishonest statements, as demonstrated as facts and evidence and as submitted to Judge _____ in the documents and testimony presented. It is again a blatant falsehood, what he is saying, a total misrepresentation of the truth. _____ did not take any action until _____ and was 'hiding' the legal description of the trustee deed, being intellectually dishonest. Of course to say, it was a copy error, is simply a 'cheap trick' or excuse, to cover up his act. If it was a copy error, he would have immediately submitted the required documents when the judge and the Defendant pointed it out in _____ calls himself an expert in the foreclosure field, and therefore, he simply knew what he was doing.
- 6) Plaintiffs attempted cover-up is evident by their statements and their filing.
- 7) The Defendant further submitted to Judge _____ copies of her complaint to the Arizona State Bar. She specifically found a letter (exhibit "18") pointing out some of _____ false statements on the left side of the court file.

Judge conduct

Judge disregarded all of the Defendant's arguments, and granted all of Plaintiffs' wishes, inspite of their unlawful conduct as set forth.

Judge returned all the Defendant's exhibits (original exhibits "1-4", as exhibit "A") in trial on at the end of trial. She started providing Judge with exhibits 5-8, which was a settlement statement, proofing to the court, that have been paid of and the property the Deed of Trust is conveyed to, is sold. He then looked at it, and returned everything. The exhibits present evidence, that the Defendant has sold the property as displayed in the Deed of Trust, and that has been paid off in One exhibit the Defendant provided judge indicated that the copy of the Trustee Deed filed with the court, does not match the certified copy, certified by the Recorder office. But under oath, indicates in his complaint, it is an accurate copy. As soon as Defendant provided Exhibit 5-8, he returned them all. Judge did not allow the Defendant to address all of her arguments. For instance, she wanted to testify more arguments she never had a chance to bring up before. For instance the fact, that the summons filed violate the required format and does not disclose important information.

In his final order dated (exhibit "14") the judge claims, he found her already 'guilty' on , and that the Defendant asked Judge to reconsider his guilty finding. The Defendant is very distressed over these statements. She in fact never asked the court to reconsider its guilty finding, because she has never seen any evidence in the minute entry (exhibit "19") or any other document, that he ever found her 'guilty of forcible detainer' on and therefore why would she asked him something that is simply nonsense to her. The minute entry dated indicates, he will sign a judgment, after receiving a certified copy of the trustee deed. The Defendant submitted to him certified copies of the trustee deed and deed of trust on in her motion for sanctions. It was unclear if he will sign a judgment, depending what the trustee deed would contain and depending if Plaintiffs would ever submit it. She in fact did not believe, until after the court date on that the judge in any way has made up his mind. If the judge would have made up his mind, like he claimed, he should have made a judgment/writ within 45 days pursuant to the court rules. But the Defendant sees no evidence, that judge ever found her 'guilty' before, merely, it appears, he looks for an argument, why he is pointing out what said in the beginning of the case, but does not address the Defendant's crucial arguments thereafter. There is nothing in the file that would indicate that he found the Defendant 'guilty' on , and therefore the Defendant could have not even have had this idea, that he did found her 'guilty', since she was deprived from attending the court hearings before and all she had was the court documents she reviewed and studied for months. Therefore, it is impossible and would be nonsense, that she would ask the judge on to reconsider his 'guilty' finding, because there is no 'guilty finding'.

Judge Bluff never addressed the Motion to Quash/Quash the summons. He does not address the question of Plaintiff's credibility and allows their false statements. He further claims in his final order, the Defendant did not send Plaintiffs a copy of a motion. It is a fact, that the Defendant always sent Plaintiffs all documents. She did not make a verification in the beginning, in her first couple of documents, but always thereafter, and did submit in her first couple of documents copies of certified mailing receipts attached to the court documents (exhibit "1-9"). She repeatedly faxed, emailed and mailed letters and all court documents. The Defendant is in possession of all receipts certified by the US Postal service for all of the court documents she sent to Plaintiffs and has supplied the court with copies and/or verifications. In fact, the evidence submitted shows, that received the court documents on (exhibit "7").

Judge further indicates, the Defendant held testimony on all motions. This again is not the fact. The judge did not allow the Defendant to hold testimony on all motions, and even returned her exhibits. He allowed only half an hour for the court hearing on she had to wait for months. He did not seem to listen to her, no matter what valid arguments she brought up pursuant to the statute. All the Defendant focused on in her testimony on is the statute. No one else in the court room did point out the statute like her. No matter what motions, waivers, documents the Defendant filed to protect her rights of appeal, Judge denied and denies everything, even though he was wrong as a matter of law.

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has presented himself to be a licensed attorney and expert in foreclosure procedures. The end-result is, that he took advantage of people facing foreclosure, and the Defendant regrets, that he made himself part of this case in the beginning. The Defendant informed the judge about his conducts and has been helping other victims in similar situations. The Defendant dismissed

The conduct as displayed should shock the conscience of the Supreme Court. First have been filing false documents with the court, conducting a series of false statements under oath, acting in bad faith. Then judge is simply backing them up, denying all of the Defendant's motions. He allowed their answer to be more than two months late, disregarding the Arizona Rules of Civil Procedure. The Defendant argues, there if further a pattern trying to deprive the Defendant from exercising her legal rights by not allowing her waiver of fees and not allowing a supersedeas bond. It is like an extension of pattern of trying to deprive the Defendant from exercising her legal rights by refusing to notify her or respond to her as a matter of law and pursuant to the rules and the statute. She was never served, and even that does not raise concern for Judge

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Pursuant to Superior Court Rules of procedure of eviction actions, title 33, Rule 15 (c), 17 (3) and A.R.S 12-1179, the presiding judge must preserve Defendant's right to stay a writ of restitution/eviction procedures and permitting Defendant to file the requisite supersedeas bond. In order to stay the effects of the adverse ruling as to the Constitution of the United States requires that the parties cannot have their property taken away without due process of law (Fourteenth Amendment).

Judge _____ denied her motion filed on _____ for no reason (exhibit "20"). That is when attorneys she consulted urged her to file this complaint and she finally filed a motion for reconsideration. Lack of a supersedeas bond would allow the sheriff to evict the Defendant, while violating her legal rights under the statutes mentioned above during the appeal. The Defendant has been very disturbed over the conduct as displayed. It would be detrimental to have the sheriff evict innocent people out of their own homes without due process of law, as in this case. It is simply a matter of law, to allow the supersedeas bond pursuant to the statute and the rules mentioned above.

Plaintiffs have no standing to even request a forcible detainer, yet, found a judge who is siding with them, is silent about all the unlawful conduct, no matter how much they violate the statute and the Arizona Rules of Civil Procedure during the process and no matter what legal arguments the Defendant brings up and legal documents she files. It is as if the Defendant would not say and do anything at all.

Plaintiffs have been grossly negligent, that must shock the conscience of every court. At the end of the hearing on _____ Judge _____ indicated, that he wanted to speak to Plaintiff in his chambers. Defendant was left out of the process. The Judge asked _____ into his chamber, indicating, he wants to see the judgment he wants. But _____ had already a judgment written up sitting on the desk, and there was no reason, to ask him into his chamber, except to having simply a private conversation towards the end, but during trial. This made it appear he privileged Plaintiffs again and deprived the Defendant from having the same rights as this law firm. The Defendant did not feel, that _____ at trial was doing anything wrong, she felt, he was an honest person himself, being caught up in the middle with _____ false statements, he may have not have anything to do with and with a judge that favors him, as it appears, because he represents mortgage corporation giant _____. The Defendant can only imagine what private conversation they held.

The Defendant is legitimately concerned because the only reason why Judge _____ would conduct these actions must be because he is bias and has prejudice. He seems to have his own personal agenda, why he is siding with Plaintiffs, no matter how much they violate the law. Further, it appears that he has a pattern to disregard the statutes and the rules as dictated.

The conduct as displayed is shocking, there is no common sense used in the above entitled action as required, laws and rules are violated as if they would not exist. It is detrimental, because it damages the integrity of the judicial system.

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I hope the information submitted clarifies the conduct by Judge as it has shocked every attorney I consulted.

Sincerely,