

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-092

Complainant: No. 1360200221A

Judge: No. 1360200221B

ORDER

The commission reviewed the complaint filed in this matter and determined that the judge did not violate the Code of Judicial Conduct; however, based on his response to the allegations, his behavior toward the complainant in court appeared to be discourteous. The commission dismissed the complaint with a private comment to the judge pursuant to Rules 16(a) and 23.

Dated: October 8, 2009.

FOR THE COMMISSION

\s\ J. William Brammer, Jr.

Commission Chair

Copies of this order were mailed to the complainant and the judge on October 8, 2009.

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

In July 2008, _____ was awarded a judgment regarding a small claims court case: _____ The defendant never replied during the initial proceedings nor contested the small claims case. _____ was awarded judgment.

After we were awarded judgment, we were told by the Court that we now had to garnish monies from the defendant's banks to procure our monies owed. We were given a packet to fill out and fees to pay, and were instructed we would be able to have all of our fees paid back to us in our Judgment. We proceeded as directed and filled out all the necessary paper work and filing fees. We also then had to pay processing fees to an independent company to do a search; bank fees to the three banks; and actual fees to the court asset searches, garnishment fees. (this amounted to several hundreds of dollars..which we would not have ever incurred had we not been awarded judgment and assured we would be able to get our monies back from the defendant).

We NEVER received notification that there was a problem until we were given another court date. We thought it was a garnishment meeting. We appeared as directed. When we went to court on April 6, 2009, Judge _____ told us up front that we had not shown up for a garnishment court hearing in February and as a result the initial judgment ruling in our behalf had been thrown out completely and we had to start all over. Two of us, _____ and myself, _____ testified that we NEVER received any notification whatsoever that we were to appear in February. Nothing. If we had been told that we would NEVER have gone ahead and paid large sums of monies for processor fees and etc. We tried to explain that to the Judge and he was extremely rude, and commented that the Court can't be responsible for the delivery of court documents.

The hearing was one of the most demeaning and unfair proceedings I have ever sat through. The defendant lied about incidents. We had letters from two witnesses which the judge would not even look at. I tried to give them to him and he told me flat out, I will not read them. I don't want them. Several times when we tried to say something, he stopped us and said, "I don't want you to say another thing...don't say another word." We tried to ask why the judgment was thrown out and if we had known about a garnishment hearing why would we have not been there? He would not listen to us. He had no empathy or did not give any concern to the additional hundreds of dollars we had spent in the garnishment processing because we HAD BEEN TOLD we had won judgment. _____ actually held up the official court document stating we had been awarded judgment to show him and he responded by saying he didn't want to see it. That was over. How can a judge rebuke a court decreed judgment?

At the end of hearing, he asked what tax was on a figure. We told him it was in the final amount and he again asked the exact figure. _____ had a calculator and gave him the tax amount. He said, "I had a public school education and I can even tell that is wrong!" So _____ calculated it again, and told him the EXACT figure again (which was correct). Again he made a rude and demeaning remark about _____ inability to calculate a simple

tax procedure. He was incredibly demeaning and insinuated we could not even calculate. He was wrong. We had the right figure every time.

We were treated disrespectfully. At the conclusion of the hearing when he reminded us more than once that this decision could not be changed or revoked in a small claim's case, I asked him who I could go to and talk to because this hearing was not right and the court system must have a check and balance system in place and I wanted to talk to someone above him. He told me nothing could change the ruling. I said I understood but he would not give me the name of a person who I could contact to explain what had happened.

On more than one occasion, he stopped either or myself when we were trying to explain something and told us to not say another word. When I was able to speak, I asked him why he was believing the defendant when she was not telling the truth, but he would not believe us and we had two letters from witnesses. He said we should have brought our witnesses with us if we wanted to challenge what she said.

When the hearing started, he made it clear that judgment was disregarded and we had to start from scratch. How could we have known that????? We did not know we were starting all over again, and if we had been given that information, we could have brought in witnesses. How does a Judge have the right to throw out a judgment when one of the parties was not notified? How can the same case go to trial after the initial judgment has been made?

In accordance to the Canon listed on the website for judicial misconduct I am submitting the following information:

Canon 1: Judge did not show high standards of integrity nor did he act in fairness. He was rude when we tried to ask questions and he stopped us. He made belittling comments about an attorney we had approached to get legal advice and direction. We tried to submit our written evidence and testimony and when we attempted to submit it, he would not look at it and said it was not admissible. When we questioned the defendants answers as not being factual, he said we had no proof that they were not true, but when we submitted information he would not accept it. On several occasions during the proceedings, when we were asking questions, he stopped us and said, "I don't want to hear another word from you."

Canon 2: He did not act impartial or diligent in ruling. He did not act in a manner that provided confidence and integrity. He would not even touch or take our letters from two witnesses that refuted what the defending was charging. He was very partial. He would not address our real concerns of not being notified and not given information about this hearing and what it was. Please note throughout the entire experience, not ONCE did the defendant respond to the Court when she had letters delivered to her that she had to sign for. We never received a letter that we had to sign for. It was a travesty of justice.

Canon 3: He was not patient, not dignified and particularly not courteous. He stopped us and would not allow us to be heard. He would not address the biggest problem we faced: We had already been given a judgment, so why were we starting over when we never received notification of a new hearing? He did not treat us fairly or deal with the problem. We should never have had to go to court TWICE for the same problem when we had already been given judgment by the Court. He belittled _____ for not calculating a tax figure.