

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 09-097

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Complainant: No. 1360610795A

Judge: No. 1360610795B

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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.

Dated: June 26, 2009.

FOR THE COMMISSION

    /s\ Keith Stott      
Executive Director

Copies of this order were mailed to the complainant and the judge on June 26, 2009.

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

CONFIDENTIAL

April 9, 2009

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

Dear Sir,

Before the hearing started, Judge \_\_\_\_\_ did not conduct the required mandate court rule and law of oaths or affirmation which states "Section 4 or Oaths Act, 1969 makes it mandatory that oaths or affirmation shall be made by all witnesses or persons who may lawfully be examined by or given, or be required to give, evidence by or before any court."

As the hearing proceeded, he told us or encouraged us to talk while he read the written documents. I doubt anybody can multitask like that. I certainly can not.

Toward the end of the hearing, we were interrupted by someone saying that we talked too loud. I apologized for it. English is my second language; I am 74 years old going 75 next month. I have hearing and other health problems. I have a tendency to talk loud. No offense was intended but it seemed this incident worked against me. I did not have a fair opportunity to present my case.

When the defendant presented the cost of two replaced "control modules" I was surprised by its cost for I was never told before doing so. I reacted (thinking) that this is price gouging (price of the modules is only about \$100 each, for it has been done before by another shop) by saying that it is like giving him a "blank check". But Judge \_\_\_\_\_ took my remarks as offensive, blinded by the defendant's counterclaim that I was asking for "free" service (Contract fact: I already paid \$600 toward fixing the car in running condition). A prejudiced decision was made. Judge \_\_\_\_\_ terminated the hearing right away without asking whether the car is fixed or not, or whether the written contract has been breached or not. The replacements did not result in fixing the car in running condition, as required by the contract.

The monetary amount of this case matters a lot to me, for I am retired with limited income. To be fair, I am humbly requesting that a hearing be re-scheduled since, as stated earlier, I did not have a fair opportunity to present my case, and because the swearing-in rule was violated.

Respectfully,

**Brief Summary of court case**

Mr.            and Mr.            entered into a contract dated 11/2/2006. That contract involved two cars, the purchase of a Saturn from Mr.            for \$6800, and \$150 +\$450 (overpaid) =\$600 toward the repair of Mr.            '94 Oldsmobile to put it running order. That was a valid contract, signed by both parties, with Mr.            paying \$5,000 cash up front plus credit card charges.

Mr.            filed a claim in small claims court saying that Mr.            refused to honor the contract because his '94 Oldsmobile had not been repaired to running order. Mr.            answered the claim saying there was no agreement to repair the car for free, and filed a counterclaim against Mr.            . It is true that there is nothing in the contract saying the car would be repaired for free; therefore his claim was pointless. The contract is attached.

Mr.            went to court on 10/14/2008 because the '94 Olds had not been repaired, and a judgment for \$500 was made for Mr.            and a counterclaim for \$2,027.12 was made by Mr.            for parts to repair the Olds that didn't result in its repair. A judgment for the difference, \$1,517.12, was awarded to Mr.            (Note: Mr.            replaced the "control modules" but it did not fix the problem, so he replaced it with another which did not fix the problem either. He claims they cost about \$1,000 + a piece. Mr.            believed he should have asked him before replacing such an expensive part, but Mr.            did not. Mr.            had one replaced previously for about \$100, so Mr.            counterclaim for \$2,017.12 is not justified.)

Mr.            claims that this judgment is not valid because the part of the contract to fix the '94 Olds was breached and therefore he should not be required to pay anything because that contract was never fulfilled.

Mr.            has suffered grievously for the loss of use of that car for more than two years now. He contends that Judge            erred in accepting Mr.            counterclaim.