

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

---

Disposition of Complaint 09-304

---

Complainant:	Joshua Carzoli	No.
Judge:	Denise Gaumont	No.

---

**ORDER**

After reviewing the complaint, the recording of the hearing, and the judge's response, the commission finds that the judge's conduct in this case violated the Code of Judicial Conduct.

Rule 2.8 requires a judge to be patient, dignified, and courteous to litigants. In this case, the complainant alleged the judge was biased, rude, and arrogant in presiding over a child custody dispute. In fact, the recordings of the hearings and trial revealed that the judge made numerous sarcastic and improper remarks throughout the case. The conduct was unacceptable and inconsistent with the canons.

Accordingly, the judge is hereby reprimanded for her conduct pursuant to Rule 17(a), and the record in this case, consisting of the complaint, the judge's response and this order, shall be made public as required by Rule 9(a).

Dated: April 12, 2010.

FOR THE COMMISSION

\s\ William Brammer

\_\_\_\_\_  
J. William Brammer, Jr.  
Commission Chair

Copies of this order were mailed to the complainant and the judge on April 12, 2010.

Joshua &amp; Lisa Carzoli

November 3, 2009

To Whom It May Concern:

I am writing this letter to express my outrage and disgust at the deplorable, rude and egotistical behavior of Judge Denise Gaumont of Yuma, Arizona. I had the misfortune of appearing before Judge Gaumont regarding a child dispute custody matter and was shocked at the boorishness of her behavior. Prior to this hearing I was under the impression that there was some type of uniform judicial standards of conduct that judges adhered too. However through the course of this hearing and now after the fact I am shocked at the level of misconduct and rudeness that is possible. I will outline and explain the rationale for my thoughts below.

I originally 'appeared' in the Yuma courtroom telephonically on December 2, 2008. Judge Gaumont monopolized nearly the entire hearing to inform everyone involved that she was the boss and that only her rules applied. She mentioned that it didn't matter what my attorney had experienced in other courtrooms, hers was different and her rule was all that mattered. She mentioned that her courtroom was not like other courtrooms, this was Yuma and she made the rules. The size of her ego was only eclipsed by the depth of her rudeness. One issue that I found surprising through this hearing, and subsequent hearings, was the fact that she greatly over-inflated her own opinion and worth to the court system. This case was not about making or deciding an issue of law, she was there to mediate a dispute that could not be resolved between two parties. Perhaps Judge Gaumont needs a reminder that she is involved in public service, that is she is there to serve the public. Ultimately in the December 2, 2008 telephonic hearing she decided to send both parties to mediation to see if a resolution could be found, which was not.

A court date was then set for May 18<sup>th</sup>, 2009. I will provide part of my logic for asking for a change of custody to you now, I am aware that the judicial committee is not able to overturn a judge's decision however I want to 'set the scene' so that sequence of events may be understood. The minor child involved in this dispute, Diego, was 6 years old and weighed 106 pounds at the time of trial. Although Diego is tall for his age, his height and weight measurements place him above the 99<sup>th</sup> percentile rating, which is classified as childhood obesity. He has since gained additional weight. Childhood obesity is a global epidemic that contains a myriad of health and psychological issues and various sequelae. I had originally taken Diego to see a Tucson pediatrician, Dr. Jessica Schultz, for his recurrent bouts with impetigo and during that visit the pediatrician informed me that she was concerned about Diego's weight; that he was classified as obese according to the Centers for Disease Control (CDC), the American Board of Pediatrics, and The American Heart Association. After that visit I dedicated nearly 100 hours to examine Dr. Schultz's diagnosis and to educate myself on the dangers that Diego would now be facing. I was motivated by my concern for his health and also moved by Diego's family history, both maternal and paternal. My mother passed away of a massive

heart attack at a very young age (52) due to her weight issues and Diego is also partially Hispanic which places him at a higher risk for diseases such as type 2 diabetes. His maternal grandmother is already a type 2 diabetic and has hypertension as well. Part of my logic in asking for a change of custody was Diego's mother's refusal to recognize this health issue. Dr. Schultz was very honest and forthright and agreed to testify to the court the national guidelines that she followed in determining that Diego was obese. Diego had seen a new pediatrician in Yuma, Dr. Crawford, who agreed that he was overweight but did not agree that he was obese. I visited with Dr. Crawford (who, at that time of trial only had one office visit with Diego) after his diagnosis and explained to him my concern and showed him the national guidelines. Even after questioning him as to why he wasn't following the national pediatric guidelines, his only comment to me was that this "applied to 40% of his patients and if he told them this the "S\*\*t would hit the fan". When I asked him why he would practice medicine contrary to national guidelines he was more concerned with losing patient base and potential income rather than the health of the children whose care he is entrusted with. Dr. Crawford did not want to change his diagnosis, but he refused to testify in court. It is important to point out then that classifying Diego as obese is not at the discretion of the doctor but rather he is so according to national guidelines whether or not Dr. Crawford wrote a letter with an incorrect diagnosis.

After arguing filing issues for what seemed like an eternity Judge Gaumont then declared that she didn't believe that Diego's weight was an issue because she saw pictures of him and that he looked fine to her and according to her "he'll grow out of the weight issue" and that she didn't believe that Dr. Shultz's expert testimony would be necessary. I was appalled at the disregard for the word of an expert and shocked that Judge Gaumont placed her own 'medical' opinion higher than a licensed physician, again overwhelmed by her ego. My current wife, Lisa, was sitting behind me in the gallery of the courtroom and lightly shook her head in disbelief at the idiocy of refusing to hear an expert opinion. At that moment Judge Gaumont began to insult and bully Lisa. Although I don't remember the exact wording, she said something along the lines "I am not sure who you are.....*the New Wife?* (she even put her fingers up in quotations while saying it) You may not agree with me, but let me remind you this is my courtroom and I can take your visitation away!" I could not believe my ears! The lack of respect for another individual simply because they disagree with a position of thought is absurd and childish! I was, and still am, appalled by the rudeness of this behavior and floored by the threat to take away visitation time and shocked that this judge would be so childish because someone had the audacity to disagree with her. Judge Gaumont is not a medical expert, she refused to hear the testimony of a medical expert who has seen Diego on multiple occasions and elevated her own, ignorant opinion over national guidelines and the word of a licensed physician. When my wife disagreed with her assessment she immediately snapped and behaved as a child and her rude and immature behavior worsened as the day wore on.

Shortly thereafter my attorney, Susan, continued to plead to the court the necessity of having the testimony of a medical expert. During this time Judge Gaumont continued to admonish my attorney because the courts copies were not conformed. Although the papers had had been filed Judge Gaumont refused to recognize their validity. I do not understand the logic behind this. My attorney attempted to explain that the courts that she had been involved with did not place such weight on the conformed

copy which I believe upset Judge Gaumont further, because as she said, her courtroom abides solely by her rules and no others. Susan then continued to attempt to explain that Dr. Shultz had seen Diego on multiple occasions, to which Judge Gaumont expressed surprise at that revelation. This confirmed my opinion that the day was spiraling downward as we had filed two letters that Dr. Schultz had written on Diego's behalf to the court that should have already been read. After a short period of time Judge Gaumont remarked that she was tired of hearing about the health issues. She then proclaimed to my attorney that she thought Susan and she were the fattest people in the courtroom. She didn't understand what the deal was. My attorney said nothing, but I nearly spoke out then at her complete disregard for common decency. Calling another person fat, in open court no less, is quite possibly the rudest, most unprofessional instance that I have ever happened upon. She did attempt a weak apology after a short recess, however her actions were despicable. Since Judge Gaumont mentioned it, I will remark that she does appear to be obese and that she may be related too or know a child that looks like Diego and she may not want to confront her own weight issues or the weight issues of the child she knows, however that is solely my opinion. To call my attorney fat is completely uncalled for and totally unprofessional to behave in the egregious manner that she did. I also had mentioned in court that I considered it odd that Diego had 10 cavities at the age of 6 and had not been to see a dentist in 2 years. I had brought this issue up in my pre-court filings and in that time Diego was taken to a local dentist who felt further evaluation was necessary, the dentist recommended Diego be seen by an orthodontist to correct his anterior open bite caused by his tongue thrusting and thumb sucking. I believe this further demonstrated lack of care for Diego. The dentist mentioned that pro-active care could possibly be used to avoid later problems. The referral for the dentist then was for a consultation and not a mandate for braces. I attempted to communicate this in court and Judge Gaumont ignored the referral of a dentist and sided with Diego's mother that pro-active care was not necessary and would be painful. I never claimed that Diego needed braces; I mentioned that the local dentist recommended that further attention was warranted and that he should see a child orthodontist, which to date has still not been taken care of. To recap then Judge Gaumont had now gone from a self realized medical expert to a dental health expert. To rudely proclaim that these issues are minor and not necessary is absolute lunacy.

When I had the opportunity to testify to the court I attempted to explain my concern for Diego. Although I am not a physician I had prepared and submitted several articles and facts written by the New England Journal of Medicine and other publications to highlight what I felt was important. During the course of that time I expressed my concern and also related the story of my mother's passing and how I felt it best to be proactive in Diego's health rather than reactive. I spent many hours preparing a rebuttal packet for the courts consideration. The opposing attorney, in her filings, took several e-mails out of context and even entire situations that she attempted to misplace. In that packet I provided copies of emails and telephone transcripts that identified the lies that Diego's mother and her attorney were attempting to perpetrate. After my testimony, and the testimony of Diego's mother Judge Gaumont immediately decided that she was going to rule without reviewing any data. Diego's mother then was able to lie in court without any consequences for those lies, those lies were accepted and the evidence disregarded. Judge Gaumont stated that she felt that I had serious psychological issues and that I obviously needed counseling to deal with the issues of my mother's death. At this point I

was no longer shocked at these rude proclamations but appalled that Judge Gaumont fancied herself as a mental health expert. To highlight then, she had gone from a medical expert on the matters of child obesity, to a dental expert and now a psychological expert on the matters of mental health. As she further attempted to 'correct' my inadequacies as a father and point out what she thought I should do in raising Diego, she then asked me if I was from Scottsdale. She then remarked that Scottsdale was the place "Where they like to suck fat out of people" and that must be where I am from. My concern then became the obvious, I had mentioned several times in my testimony that I was from Tucson, all of the filings from my attorney list that she is from Tucson, the visitation schedule discussed involved Tucson. My concern was never about Diego's appearance, it was about his future health. I even mentioned in court that his mother and I should attempt to confront this issue jointly to help Diego. It is obvious to me then that Judge Gaumont paid no attention to anything that I said or to anything that my attorney filed – she had already decided on her course of action and the trial was nothing more than a formality to get out of the way. She may have decided this because she was threatened by an attorney from another city, which is why she so often mentioned that 'this is Yuma, and this is my courtroom, we do things my way'. Perhaps she made her decision when her ego was wounded because my wife Lisa dared to disagree with her. In either case it is obvious to me that Judge Gaumont was more concerned with being rude and making her point than she was in deciding the merits of the case. I was completely insulted that Judge Gaumont would insinuate that I have psychological issues because I mentioned the passing of my mother at a young age, this is rude and would be grounds for termination at most places of employment. I was also insulted that Judge Gaumont would reference that I have a mindset that wishes too 'suck fat out of people'. Her actions and words are appalling behavior. I wish to be proactive in the health of Diego and help him, I would never attempt to 'suck fat' out of anyone, much less a child. This behavior is wrong, unethical and Judge Gaumont had no right to even comment or voice her ignorant opinion on something she knows nothing about.

I was also quite surprised at the issues we had in the filing of my paperwork. It may be coincidental however I find it very odd that Judge Gaumonts clerk would chat with Diego's mother and Grandfather between the court breaks. I happened to overhear them discussing a barbeque and laughing as they conversed, appearing as if they were friends. Now this may be superstitious on my part but it is interesting that they are friends and I had repeated issues with my court paperwork.

Judge Gaumont has since written the final order for that court date (over 4 months later) and her writing is obviously biased and slanted for Diego's mother. She actually said in her finally order page 2 line 4-5 "Factors of A.R.S. 25-403 A (1) (9), clearly weigh heavily in favor of the Mother's sole custody." That particular statute is somewhat broad however I believe she is attempting to insinuate that I am a danger to Diego, or pose harm to him, which is so far from the truth it borders on insanity. I have never encountered such idiocy, rudeness, and unprofessional behavior in any circumstance. I am writing this letter in the hope that Judge Gaumonts terrible behavior will be recognized and that she will be formally reprimanded. I also hope that I never again have the misfortune of being involved in any court matter in Yuma, but if I am forced in to that position I do not desire to have Judge Gaumont preside over that hearing or any hearing. I am aware that she will be given notice of my complaint and it is my belief that her ego

would prohibit her from giving a fair hearing. Therefore Judge Gaumont should recuse herself from any legal matter that I am personally involved in, both now and in the future. I also believe, which I know is outside the confines of this complaint, that Judge Gaumont should personally pay the attorney fees so that I may file for an appeal. I have spent over \$20,000 in legal fees to so that I could attempt to secure and broaden my role as a father only to be met by the idiocy of Judge Gaumont. At this point I am unable to file an appeal due to the financial burden that these legal fees have presented and I believe that Judge Gaumont should bear the responsibilities of that burden due to her ineptness. However, I also recognize that Yuma is a small town and the likelihood of receiving a fair trial there is nil as people talk and this complaint letter is sure to eventually be common fodder.

I personally question how a person such as Judge Gaumont could be involved in our court system. I have heard the term 'justice is blind' and although I could accept blind justice, what I cannot accept is ignorant, rude, boorish and over inflated ego justice that blatantly violate judicial standards and common decency. There are standards that must be adhered too and she clearly failed those standards. One that bullies, over estimates their own opinion (medical, dental and mental health) and is generally rude is one that should consider a career outside of public service. Judge Gaumont should be formally reprimanded, and I believe an apology to Susan and my wife and I is warranted. I also believe Judge Gaumont should personally finance an appeal with the hopes that a judge more interested in decency, a true interest in the health and well being of a minor child and open-mindedness could be found. It is my opinion that this is not the first time that Judge Gaumont has violated and abused others with the power of office that she possesses. I sincerely appreciate the time and diligence you give to this matter.

Sincerely,

Joshua Carzoli

# SUPERIOR COURT State of Arizona

Denise D. Gaumont  
Superior Court Judge Pro Tem  
Commissioner Two

Yuma County  
Yuma, Arizona

G. Patricia Negrete  
Judicial Assistant

February 10, 2010

**FEB 16 2010**

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

Re: Case No. 09-304

Dear Members of the Commission:

I have received your letter of January 8, 2010 and have carefully reviewed all recordings of the hearings and the file in its entirety. Please note the hearings in question occurred as follows:

1. The telephonic hearing was held on November 18, 2008; not on December 2, 2008 as Mr. Carzoli has stated.
2. The trial was held on May 21, 2009; not on May 18, 2009, as stated in the complaint.
3. There was another hearing held on March 5, 2009 and that recording is also provided.

I have reviewed the above in light of the allegations in the complaint and believe they are unfounded. Mr. Carzoli simply did not like my ruling. His legal remedy was to appeal this decision and he did not do that and instead wrote to you.

I issued my final ruling in court at the end of the trial, even going past 5:00 p.m. I ordered the mother's attorney, Ms. Florez, to prepare the FORM of Order. The confusion came about when Mr. Carzoli's attorney, Ms. Ames-Light, lodged her FORM of Order before the mother's attorney lodged her FORM of Order.

I have attached the recordings of the hearings, the minute entries and formal orders for your review. I regret Mr. Carzoli interpreted my ruling as he described; but upon review, I do not believe his comments are accurate. Please also note, the trial was held on May 21, 2009 and on May 27, 2009, I unexpectedly broke my right hip, requiring surgery and was on leave for approximately 6 weeks. This undoubtedly delayed many of my case reviews and it may have inadvertently delayed my preparation of my formal order in this case. Unexpectedly, again in December of 2009, I needed my left hip replaced due to hip disease, requiring another period out of the office.

Thank you, for the extension given, to allow me time to carefully review the matters involved in this case before submitting this response.

Should you need any additional information, I'll be happy to provide that to you.

Sincerely,

Denise D. Gaumont

DDG/pn  
Enclosures

- CD A
- CD B
- Order dated September 25, 2009
- Petitioner's Objection to Entry of Judgment, filed July 30, 2009
- Respondent's Entry of Judgment, filed July 27, 2009
- Petitioner's Notice of Lodging Final Orders, filed July 23, 2009
- Clerk's Certificate of Mailing Order of Assignment, filed May 27, 2009
- Parent's Child Support Guideline Worksheet, filed May 21, 2009
- Minute entry of Trial hearing, May 21, 2009
- Minute entry of Petition to Modify Custody Orders, November 18, 2008
- Minute entry of Petition to Modify Child Custody, March 5, 2009