

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-108

Complainant: No. 1417610895A

Judge: No. 1417610895B

ORDER

The complainant alleged that a justice court hearing officer mishandled his small claims case and issued her ruling on an improper basis.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the all of the information provided by the complainant, the judge's response, and listening to the recording of the hearing, the commission decided to dismiss this matter with a private warning letter to the judge. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: October 21, 2011.

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on October 21, 2011.

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

2011-108
APR 11 2011

April 7, 2011

Commission on Judicial Conduct
1501 W Washington, Suite 229
Phoenix AZ 85007

RE: Judicial Misconduct

Dear Sir or Madam,

I do hope you will be kind enough to read the following letter I originally sent to the Honorable Judge Michael Reagan and was then forwarded on. I thank you for your time and consideration on this matter and look forward to hearing from you.

Sincerely,

FROM: Judge Tolby – Dated April 6,2011

Mr. --Judge Reagan of the McDowell Mountain Justice Court referred your concern to me. I will look into this matter and will get back to you in a few days.

I do need to inform you that if your concern is ethical or misconduct by a judicial officer you should contact the Commission on Judicial Conduct, at 1501 W Washington, Suite 229, Phoenix AZ 85007. Phone 602 452 3200.

If your concern is about procedure, rules of the court, motions or other options, I will be happy to discuss these with you.

*Judge Quentin Tolby, Administrative Pro Tem
(602)372-1560 (office) (623)606-7505 (cell)*

222N Central Ave Suite 210Phoenix AZ 85004

Sent on March 7, 2011

To: Hon. Judge Michael Reagan, McDowell Mountain Justice Court
Maricopa County Justice Court
18380 N. 40th st.
Phoenix, AZ 85032

RE: CASE #CC2010

Judge Reagan,

I would like to share with you what happened on March 1, 2011 at my hearing on a matter involving gross fraud on the servicing of my vehicle by Aamco Transmissions, the defendant. I realize there are no appeals here; however, I would like to go on record by proclaiming that the

individual, Hearing Officer, that adjudicated this case acted in a very self-serving, self-righteous, arrogant manor and nowhere near qualified to be in the position she holds.

I invite you to please listen to the taping of the proceeds (which runs about twenty-five minutes or at least the final ten minutes of the discourse). What you will hear will shock you! You will hear her say to the defendant that "red flags would go up in her mind had she asked for the old parts to be returned to her and they were not." You will also hear her say to the defendant representing Aamco Transmissions, that he only has hearsay evidence since he was NOT a party to this situation. Also, you will hear her opine that since I was present and under oath and he too under oath that he could only provide hearsay evidence and therefore unable to either substantiate or refute my claim. You will hear her question me as to "why did it take you so long; six months, (it was actually four months) to file the claim and chastise me by asking "Why didn't I do it the very next day!" These questions were wholly irrelevant and irresponsible and further show Ms incompetence.

I did state that by law I have three years to file this kind of claim. I stated that the very next week the transmission was leaking fluid. I felt I should have waited before I file for two reasons:
1. The possibility that some of the other work might have been done in a substandard manner and since I had a one-year guarantee on this service, I felt there was no need to be hasty and 2. I was going to be out of town and the country for most of October and November to which you will hear her respond to me by saying -"that's your problem."

At this point she dismissed the suit because she felt it is within her discretionary power to determine when I should have filed the claim based on her personal opinion and no other form of lawful consideration. I realize this individual is not required to have a law degree or other legal credentials; however common sense would seem to have been a prerequisite here. Common sense would have dictated that the timing of this suit was NOT the issue here and should have certainly not been the determining factor in this case. The decision she made seemed to be based on her personal feelings and nothing else.

At the beginning of this case you will hear that the Aamco Corporation office called me and asked me if I would consider settling the case for \$550. I said I would call the following day. I called and left a message indicating that I would settle however, the call was not returned. I called Aamco a second time and again the call was never returned. She heard this evidence and still proceeded to dismiss this case. While I am not a legal practitioner, it does appear that the dispensation of my matter was handled very inappropriately and unprofessionally. I do feel this matter warrants a review by the judicial authority that would handle a matter of this nature.

My question is: How can a taxpaying citizen who chooses to use the small claims system to settle a claim ever receive any semblance of a fair hearing with this type of incompetence shown by Hearing Officer

The most important aspect of law is justice. There was no justice in this verdict. I would only hope you would agree. Thank you for your indulgence. I am very interested in your feelings and remarks on this matter.

Respectively submitted,