

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-023

Complainant: No. 1434310757A

Judge: No. 1434310757B

ORDER

The complainant alleged that a hearing officer failed to give his case the time and attention it deserved and awarded a judgment that was insufficient.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the hearing officer 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 information provided by the complainant, along with electronic court records, the commission found no evidence of ethical misconduct and concluded that the hearing officer did not violate the Code in this case. The commission does not have jurisdiction to investigate the legal sufficiency of the hearing officer's ruling. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: March 15, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on March 15, 2012.

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

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

1/19/2012

re:CC2011

Sir/Madam,

Ignorant of legal procedures (which is not an excuse) and unable to afford an attorney, I chose to take my grievance to the Small Claims, East Mesa Justice Court., following the court hand out precedures "Small Claims (Summons & Complaint), but was completely bewildered with the final outcome. My purpose was to recover the maximum amount possible for my unjust dismissal at my job, causing loss of earnings in addition to unpaid and underpaid fees owed to me.

At 73 years of age, in September 2010, I took on a job as an independent vendor, driving injured patients to and from hospital or therapy clinics, for a Florida based company, Stops Inc., during research, understanding it to be a foreign LLC. I used my own car, had several regular clients and was paid per mile two weeks in arrears, being contracted per job, and having earned \$6063.10 to July 2011.

On 7/25/2011, my 129th job, with a faultless record of service, and without any previous complaints or incidents, en route to pick up _____ at her home

my GPS warned me of a 2 mile traffic delay, 8 miles ahead. As protocol required, with traffic practically at a standstill, I pulled over and 'phoned Stops at 8.21am, who conference called the client, estimating that I would be about 10 minutes late for pickup. I arrived at Ms. _____ home at 8.40am, transporting her to therapy, a short distance away at arriving at 8.50am for the 9am appointment. I then called Stops at 8.54am confirming our timely arrival.

At 1.46pm that afternoon, I received a call from Stops' _____ falsely claiming that I had been late delivering Ms. _____ to 9am therapy, Ms. _____ sounding as though she was on a mission to accomplish my dismissal, denying me the benefit of a conference call or Ms. _____ telephone number, to disprove her allegations. I realized then, that the call was a fabrication by the company, seeking an excuse for my dismissal because of my justified criticism of their worsening pay practices and errors in the client pickup information (purchase orders) they provided.

Previously, I had experienced non-payment or underpayment issues, finally contacting a Stops manager who, on this occasion, corrected the situation, but weeks later, the practice resumed. Stops frequently falsely claimed non receipt of my email attached purchase order invoices, sent after completing the run the day of the job, then weeks later asking me to resend, thereby delaying payment. I finally resolved this myself by including another recipient on the email, a Stops department employee, his reply "Thanks", confirming my submission. Still the non-receipt claims continued. Additionally, the job sheet frequently contained incomplete client information, for example, a street address, the errors or omission not known until arriving at a complex without a gate code, block number, or apartment number. Also, other incorrect information and avoidable conditions not beneficial to the injured clients, which caused me to comment in writing, suggesting helpful alternatives, but were obviously not appreciated..

I filed the summons at the court on 8/11/2011, served on defendant 8/15 2011, having to return to the court again when his answer period expired 9/4/2011 time period confirmed in "Filing an answer" Page SC 8150-313.02 R: 7/9/10 court handout. As court office suggested, I filed an application for entry of default on 9/8/2011, later learning that the defendant also filed an answer coincidentally on 9/8/2011,

which, despite wording to the contrary in the court handout, was allowed, the court appearance being set for 11/23/2011. However, the defendant filed a continuance on 10/24/2011, and the court dated was amended to 12/23/2011. For some unknown reason the hearing was then amended again to 12/28/2011.

When I appeared at court on 12/28/2011, the hearing was delayed for 15 minutes as the defendant failed to appear, so the hearing was held without Stops. The judge appeared to be confused and in a great hurry, suggesting that I had appeared in court previously for this hearing, and I had to convince him otherwise. He later said he had been reading the wrong documents.

I thought I was fully prepared to prove my case, bringing with me a folder containing:

- 1) Separate letters signed by both _____ and the therapy clinic, confirming my claim that Ms. _____ had arrived at the clinic for her 9am appointment ten minutes early and not late as was claimed.
- 2) Verizon Wireless cellphone records confirming the times calls were made from my cellphone on 7/25/2011 to Stops, including the call from Stops, falsely accusing me of delivering the client late to her appointment. .
- 3) Copy of an email written by a Stops employee which was very complimentary of my conduct and exchanges with Stops regarding my issues.
- 4) Various emails written by myself and Stops regarding our exchanges and my concerns, including an email from me protesting again about monies owed, which was received by Stops just prior to the call from Ms. _____. This, I suspect, was the crowning reason they wanted to get rid of me.
- 5) A complete list of all purchase orders and invoices confirming my unpaid and partly paid invoices, including two purchase orders (job instructions) for imminent jobs, which I was contracted for, but never paid.

I might add, that Stops also recorded all 'phone conversations, which would have supported their claim had their accusations been genuine.

To my surprise, when presenting my large file of evidence, the judge was totally dismissive of the contents, not even glancing at my documents, but merely requested my bills, which included two contracted jobs for a total of \$260 which I also felt I was entitled, but had been unjustly canceled with my dismissal.. These he discarded along with the main reason for my complaint, my dismissal and loss of future earnings..

I was further incensed by the defendant's delay tactics, after I had spent weeks preparing the evidence, traveling 4 x 60 miles each time visiting the court, plus 2 x 60 miles to obtain statements from Ms. _____ and the therapy clinic. In conclusion, the defendant was not even penalized or present at the hearing, expended little or no money, and obviously had no intention of appearing, while I was "awarded" in name only, part of the money to which I was entitled, left without a job and the prospect of still having to waste more money pursuing this Florida corporation and it's attorneys to obtain some form of restitution. I wonder whether the judge may have drawn a different conclusion had he taken the trouble to listen to the facts or the information my file contained.

You call this justice? Absolutely pathetic and disgusting!

Sincerely,