

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-064

Complainant:	No. 1437410398A
Judge:	No. 1437410598B

ORDER

The complainant alleged that a superior court judge failed to exercise proper judicial authority over a justice court and demeaned another judge. He further alleged a justice of the peace improperly arranged weddings during court hours, and also favored an unqualified minority candidate for a court position over a qualified majority candidate.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judges 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, including the supplemental information he submitted, the commission found no evidence of ethical misconduct and concluded that the judges did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: May 23, 2012.

FOR THE COMMISSION

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on May 23, 2012.

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

Item:

1	Date	05/2007	Issue	<i>Promoting contempt for Justice Court among Court and County Departments</i>
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SUPERIOR COURT PRESIDING JUDGE TARGETED THE PRESIDING JUSTICE OF THE PEACE FOR INSULTS AND RIDICULE

1. AT MANAGEMENT TEAM MEETINGS JUDGE WOULD INSULT AND BELITTLE THE PRESIDING JUSTICE OF THE PEACE ().
2. ELECTED OFFICIALS AND APPOINTED AGENCY / DEPARTMENT HEADS (INCLUDES SUPERIOR COURT MANAGEMENT) ATTENDING WERE NOT SUBJECTED TO THE DISRESPECT FOCUSED AT JUDGE AND BY EXTENSION OUR JP COURTS.
3. THE PRACTICE CONTINUED THROUGHOUT JUDGE TERM AS PRESIDING JUDGE.

2	Date	08/2007	Issue	<i>Lack of oversight, procedures, and accountability</i>
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TRAFFIC CLERK CHARGED WITH 3 COUNTS FRAUDULENT SCHEMES AND 3 COUNTS TAMPER PUBLIC RECORDS.

1. THE COURT ADMINISTRATIVE OFFICE MANAGER AND CHIEF TRAFFIC CLERK KNEW OF AND MAINTAINED PHYSICAL POSSESSION OF THE ADMINISTRATIVE OFFICE OF THE COURTS CIVIL TRAFFIC MANUAL (CONTAINING THE TRAFFIC CITATION LOG RECOMMENDATION), BUT FAILED TO IMPLEMENT AND/OR REQUIRE STAFF/LEO ADHERENCE.
2. THE FORMER JUSTICE COURT ADMINISTRATOR / JUDGE PRO TEMPORE PROVIDED THE COURT ADMINISTRATIVE OFFICE MANAGER WITH A COPY OF THE LIMITED JURISDICTION SELF EVALUATION TOOL VIA E-MAIL
3. OF THREE PRECINCTS ONLY THE JUSTICE COURT REQUIRED LAW ENFORCEMENT SUBMIT A CITATION LOG AND COURT VERIFICATION PRIOR TO THE CONCERN ABOVE.
4. PLED GUILTY TO MISDEMEANOR.

3	Date	02/2008	Issue	<i>Absence of leadership, accountability, and organizational structure/integrity</i>
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COURT MARSHAL FUNCTIONED WITH NO GUIDANCE OR ACCOUNTABILITY WITHIN THE COURT ENVIRONMENT

1. COURT MANAGEMENT ELEMENT DEMONSTRATED AN INABILITY AND OR UNWILLINGNESS TO SUPERVISE OR REQUIRE ANY SORT OF ACCOUNTABILITY FOR / FROM EMPLOYEE.
2. A E-MAIL FROM JUSTICE OF THE PEACE PRO TEMPORE TO COURT ADMINISTRATIVE OFFICE MANAGER EXPRESSING A LACK OF KNOWLEDGE AS TO WHAT THE EMPLOYEE ACTUALLY DID FOR WORK
3. COURT MARSHALL ALLEGEDLY COMMUNICATED THREAT RELATING THE INTENT, DESIRE, AND ABILITY TO KICK THE JUSTICE COURT ADMINISTRATOR'S EXPLETIVE AND THROW HIM OUT THE EXPLETIVE WINDOW.
4. INVOLVED IN A HEATED PUBLIC DISPUTE WITH JUSTICE CENTER SECURITY STAFF.
5. CONDUCT MERITED A MEETING WITH SUPERIOR COURT LEADERSHIP AND JUSTICE COURT 1 JUSTICES AND COURT ADMINISTRATOR WHICH PROMPTED THE MAY 12TH 2008 E-MAIL (PROPOSED NEW DUTIES) FROM JUSTICE COURT ADMINISTRATOR TO COUNTY JP'S.
6. AFTERWARDS OPERATED UNDER QUASI-SUPERVISION OF PRECINCT ONE CONSTABLE DURING "PILOT PROGRAM" WHICH DUPLICATED FUNCTION AND RESPONSIBILITIES OF COURT MARSHAL BUT RESULTED IN NO MAINTENANCE OF EFFORT REPORTING OR QUANTIFICATION OF ANY KIND.

4	Date	03/2008	Issue	<i>Damage to court integrity, independence, and appearance of cronyism.</i>
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COURT MISPLACES CIVIL CITATION ISSUED TO COUNTY SUPERVISOR

1. SUPERVISOR REQUESTED AND GRANTED 30 DAY EXTENSION.
2. CITATION MISFILED, AND OR LOST. COURT DID NOT FOLLOW-UP.
3. COURT SENT LETTER IN 05/2009, ONE YEAR AFTER REQUIRED ACTION DATE.
4. DID NOT DEFAULT OR ASSESS \$40.00 DEFAULT FEE

5	Date(s)	05/2008	Issue	
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COURT ADMINISTRATOR COUNSELED ON PERFORMANCE AND WORKING RELATIONSHIPS BY JUSTICE COURT JUDGES

1. JUDGES ISSUED LETTER OF UNDERSTANDING DATED: 5/16/2008 CONCERNING PERFORMANCE ISSUES TO INCLUDE:
 1. INABILITY TO COMPLETE AND OR FOLLOW-THRU WITH PROJECTS ASSIGNED.
 2. LACK OF SKILL IN LEADERSHIP, TEAM BUILDING AND CONSENSUS BUILDING.
 3. POOR PROFESSIONAL RAPPORT WITH JUDGES, ATTORNEYS, LAW ENFORCEMENT AGENCIES, AND OTHER AGENCIES.
 4. SPECIFIC COMMENTS INDICATE THAT COURT ADMINISTRATOR'S LACK OF COMMUNICATION SKILLS RESULTED IN SOME COURT EMPLOYEES NEGATIVE RESPONSE TO ANY INTERACTION WITH SAID ADMINISTRATOR
 - a. COURT ADMINISTRATOR WROTE TWO LETTERS OF APOLOGY AS A RESULT OF THIS MEETING
 - i. -PRECINCT ONE ADMINISTRATIVE OFFICE MANAGER
 - ii. -SUPERIOR COURT BUDGET MANAGER

6	Date(s)	04/2009	Issue	<i>Questions of court integrity, public trust and confidence</i>
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COURT CLERK RECEIVED SEVERAL CITATIONS RELATED TO INVALID VEHICLE REGISTRATION.

1. CLERK FAILED TO REPORT AND RESOLVE ACCORDING TO RULES SET FORTH.
2. ATTEMPTED SEVERAL EX-PARTE COMMUNICATIONS WITH COURT MANAGEMENT AND JUDICIAL OFFICERS WHERE CITATIONS WERE FILED.
3. USED POSITION IN ATTEMPT TO EVADE RESPONSIBILITY FOR ACTION/INACTION
4. CLERK DISCHARGED FROM EMPLOYMENT

7	Date(s)	08/2009	Issue	<i>Damage to court integrity, public trust and confidence</i>
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COURT MANAGER CHARGED WITH 3 COUNTS FRAUD SCHEMES AND 3 COUNTS TAMPER PUBLIC RECORDS.

1. THE CITATION REFERENCED IN ISSUED 4 WAS BROUGHT TO LIGHT IN MAY 2009 (WHEN MANAGER WAS PUT ON ADMINISTRATIVE LEAVE PENDING OUTCOME OF INVESTIGATION)
2. MANAGER PLED GUILTY TO MISDEMEANOR.
3. THE INDIVIDUAL WAS A RECIPIENT OF ONE OF TWO APOLOGY LETTERS REFERENCED IN ISSUE 5 ABOVE

8	Date(s)	01/2010	Issue	<i>Public access to court, ethics, public trust and confidence, etc</i>
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JUDGE ISSUES WEDDING CEREMONY MEMO TO ALL JP JUDGES AND COURT ADMINISTRATOR

1. BOS APPOINTS TO FULFILL THE REMAINDER OF JUDGE TERM.
2. TWENTY DAYS AFTER THE APPOINTMENT, JUDGE ISSUES THE WEDDING MEMO TO ALL JP JUDGES.
3. AFTER SPEAKING WITH JUDGE AND INFORMING HIM THAT JUDGE MEMO RAN CONTRARY TO JUDICIAL ETHICS OPINIONS AND WAS ONE ELEMENT THAT BROUGHT ABOUT THE TAKEOVER OF MARICOPA COUNTY JUSTICE COURTS IN 2002, I FORWARDED 06-04 TO JUDGE FOR REFERENCE
4. THE JUSTICE COURT ADMINISTRATOR RESPONDED VIA A EMAIL DETAILING SEVERAL CONCERNS TO THE JP JUDGES
5. JUDGE RESPONDED VIA E-MAIL EXPRESSING A BELIEF THAT I WAS "OUT OF LINE" AND SHOULD BE WORKING ON THE COURT WEBPAGE WHICH WAS TWO WEEKS OVERDUE. (SEE ITEM 14)

9	Date(s)	01/2010	Issue	<i>Disregard for GAAP and Minimum Accounting Standards</i>
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SUPERIOR COURT BUDGET MANAGER PROVIDES BUDGET NUMBERS INCONSISTENT WITH COURT FINANCE REPORTS

1. JUSTICE COURT LINE ITEM REPORTS USED FOR FUNDING AUTHORITY BUDGETS ARE GENERATED BY
2. ACTUAL AMOUNT REPORTED FOR 2010 BUDGET LINE ITEM REQUEST FOR LINE ITEM **00100.11.1100.35115** (JUSTICE COURT #1 FINES) WAS **\$573,384.00**
3. USING QTR COURT FINANCE REPORTS SUBMITTED TO THE AOC AND ENCOMPASSING GENERAL FUND FINES, CIVIL, DEFENSIVE DRIVING, AND WARRANT /DEFAULT FEES, THE ACTUAL AMOUNT IS **\$854,960.93**
4. THE DISCREPANCY AMOUNTS TO SHORTAGE OF **\$281,576.93** OR **33%** OF COLLECTED REVENUE.
5. THE COURT ADMINISTRATOR INFORMED JUDGES THAT THIS WAS MOST IMPROPER AND THAT THE COURT IS SEEN AS A "GIANT QUEEN TERMITE " BY THE SUPERIOR COURT MEANING HELPLESS, DEPENDANT, AND EXPLOITABLE
6. PERFORM DUE DILIGENCE BUT UNDERSTOOD THE HAZARDS INVOLVED (SEE ITEM #5 AND #15 (2)(b)(i))
7. THIS REPORTING METHOD WAS REPEATED IN 2011 AND 2012
8. THIS INDIVIDUAL WAS RECIPIENT OF APOLOGY LETTER REFERENCED IN ITEM # 5(4)(a)(ii)

10	Date(s)	11/2010	Issue	<i>Damage to court integrity, public trust and confidence</i>
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RECOMMENDED JUDGE STEWART REQUEST A OPERATIONAL REVIEW FOR JP1.

1. SUGGESTED SINCE THE ELECTORATE PROVIDED 4 YEARS OF AUTHORITY A OPERATIONAL REVIEW WAS PRUDENT
2. SUGGESTED IT WOULD BE PROMOTED AS A "CHANGE OF COMMAND SEE HOW THE SHIP WORKS" TOOL TO IDENTIFY ANY AREAS NEEDING IMPROVEMENT.
3. REMINDED JUDGE STEWART THAT EARLIER IN 2010 THE CA FOCUSED JUDICIAL ATTENTION ON THOUSANDS OF CITATIONS DATING BACK TO 1999 THAT WERE NEVER ENTERED INTO THE AZTEC CASE MANAGEMENT SYSTEM,

11	Date(s)	12/2010	Issue	<i>Arbitrary and capricious use of Judicial Authority</i>
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PRESIDING JUDGE _____ FAILED TO EXERCISE JUDICIAL AUTHORITY UNDER 2005-32 FOR ITEMS 1-6, 8

1. COURT CLERK CONVICTION FOR MISCONDUCT
2. ORGANIZATIONAL MISRULE AND EMPLOYEE MISCONDUCT
3. COURT MANAGER CONVICTION FOR MISCONDUCT
4. PRESIDING JUSTICE OF THE PEACE DETAINMENT AT CHARGERS FOOTBALL GAME FOR SUSPICION OF INEBRIATION
5. JUDGE _____ ISSUES WEDDING MEMO
6. COURT DESIGNED, CONSTRUCTED AND OPENED IN _____ ARIZONA WITH NO SECURITY (PHYSICAL CONSIDERATION OF AND DENIAL BY FUNDING AUTHORITY DURING CONSOLIDATED COURT BUDGET PRESENTATION FOR COURT SECURITY PERSONNEL)
7. **ISSUES 2010-16 INVOKING 2005-32 TRANSFERRING GENERAL FUND BUDGET AUTHORITY FROM JP COURTS TO SUPERIOR COURT.**
8. COUNTY ADMINISTRATION SHIFTS **\$300.000** FROM PRECINCT THREE JUSTICE COURT ENHANCEMENT FUND TO SUPPLEMENT THE CONSTRUCTION OF A NEW COURTHOUSE IN EAST COUNTY WITHOUT SECURITY (PHYSICAL OR STAFFING).

12	Date(s)	04/2011	Issue	<i>Separation of powers , Judicial Independence and Integrity,</i>
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PRECINCT ONE CONSTABLE REQUESTED MEETING CONCERNING COURT ADMINISTRATOR'S ONGOING OBJECTION TO THE COURT ASSESSING A WRIT FEE AT ISSUANCE .

1. START OF MEETING CONSISTED OF JUDGE _____ CONSTABLE _____ AND COURT ADMINISTRATOR IN PERSON, JUDGE _____ WAS DELAYED BUT PHONED IN.
2. CONSTABLE _____ DISPLAYED IRRITATION AT THE FAILURE OF JUSTICE COURT TO IMMEDIATELY IMPLEMENT THE FEE INCREASE AS PASSED BY _____ COUNTY BOARD OF SUPERVISORS.

3. I EXPLAINED THAT THE COURT OPERATIONS DIVISION REQUESTED WE DELAY UNTIL ALL DATABASES INCLUDING COUNTY WERE UPDATED WITH NEW LEGISLATION (07/20/2011).
4. I EXPLAINED THAT THIS IS WHY ANY COUNTY BOS ORDINANCE WHICH AFFECTS THE COURT SHOULD HAVE A SIGN-OFF OR ROUTING THROUGH THE COURT FOR REVIEW.
5. CONSTABLE EXPRESSED HIS OPINION BASED ON HIS EXPERIENCES THAT ALL PARTIES INVOLVED IN WRIT SERVICE WERE: "SCUMBAGS" AND AS SUCH THIS EXTRA FEE WAS NOT UNWARRANTED.
6. THE CA EXPLAINED THAT EXTRAPOLATED REPORTS INDICATED THAT OVER 69% OF WRITS SERVED IN PRECINCT ONE WERE SERVED VIA PRIVATE PROCESS SERVER AND A WRIT FEE WOULD NOT BE MAINTENANCE OF EFFORT AND WOULD BE BURDENSOME.
7. AFTER CONSTABLE OFFERED THAT THE COURT COULD ALWAYS REFUND THE 69%, I ASKED IF HE WAS SUGGESTING THAT THE COURT PROCESS 7 OUT 10 WRITS WITH AN EXTRA STEP OF REFUND IN THE AMOUNT OF \$2.50.
8. JUDGE CALLED IN AND AFTER HEARING FROM THE CONSTABLE, APOLOGIZED ON BEHALF OF THE JUSTICE COURT FOR THE CA'S INDEPENDENT, UNCOORDINATED, AND UNSANCTIONED (BY ANY JUDICIAL AUTHORITY) EFFORT IN OPPOSITION OF THE WRIT FEE.
9. AFTER MEETING TERMINATED JUDGE COMMENDED CA ON HIS SHOWING OF RESTRAINT IN NOT RESPONDING TO JUDGE COMMENTS AS HE KNEW THE CA HAD SOUGHT OUT HIS COUNSEL AND UPON HIS RECOMMENDATION SOUGHT THE COUNSEL OF THE PRESIDING JUDGE OF THE SUPERIOR COURT PRIOR TO TAKING THE ACTIONS WHICH PREDICATING THIS MEETING.

13	Date(s)	05/2011	Issue	Damage to court integrity, public trust and confidence
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FUNDING AUTHORITY DENIES ALL JP BUDGET REQUESTS EXCEPT SPECIAL REVENUE .20 COURT IT TECH FOR SUPERIOR COURT.

1. COURT ADMINISTRATOR WORKED ON ALL BUDGET REQUESTS FOR JUSTICE COURT AND THE COURT DID NOT REQUEST THE SPECIAL REVENUE TECH POSITION.
2. AT THE CONCLUSION OF BUDGET MEETING COURT ADMINISTRATOR SPOKE TO MS. AND INFORMED HER THAT HER ACTIONS INDICATED THAT JUSTICE COURT DID NOT HAVE A BUDGET MANGER AND WHILE SHE ADMINISTERED ALL COURT FUNDS, HER INTERESTS WERE WITH THE SUPERIOR COURT.
3. THE CA FURTHER QUESTIONED WHY THE JUSTICE COURT HAD 5.71 EMPLOYEES FUNDED BY SPECIAL REVENUE WHICH REPRESENTS A RATE OF 18% WHILE THE SUPERIOR COURT'S RATE OF EXPOSURE WAS 11%
4. THE CA FURTHER STATED THAT ALL OF THE COURT IT STAFFING FALLS SQUARELY UNDER 98-01 AND SHOULD HAVE BEEN FUNDED OUT OF COURT ENHANCEMENT REVENUES AND THAT THE TRANSFER IN EFFECT MOVED "PROTECTED" GENERAL FUND BASE SALARY MONEY IN THE AMOUNT OF \$42,788.52.
5. THE CONVERSATION TOOK PLACE IN THE BOS AUDITORIUM IMMEDIATELY AFTER PUBLIC BUDGET SESSION WITH TWENTY OR MORE PEOPLE WITHIN EARSHOT (SEE ITEMS 5(4)(A)(ii) AND 15(2)(b)(i)
6. THE CA CALLED THE DEPUTY COUNTY ADMINISTRATOR AND ASKED WHAT HAPPENED. HE APOLOGIZED AND SAID THAT HE THOUGHT WE WERE IN THE LOOP. E-MAILED THE SUPERIOR COURT BUDGET REQUEST FOR THE COURT IT TECH WITH THE JUSTICE COURT'S PERCENTAGE
7. JUDGE SAID THAT AFTER HIS ELECTION IN NOVEMBER AND BEFORE HE 1. TOOK HIS OATH OR 2. ATTENDED LJ ORIENTATION AND TRAINING, JUDGE SCHEDULED A MEETING (MEET AND GREET) AND ASKED FOR THE HELP FUNDING THE POSITION AT THAT TIME.

14	Date(s)	6/2011	Issue	Appearance of race bias in hiring, public trust and confidence
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JUSTICE COURT PRESIDING JUDGE DEMONSTRATED ACTIONS CONSISTENT WITH RACIAL BIAS IN HIRING DECISION.

1. PER COUNTY EMPLOYMENT POLICY, HUMAN RESOURCES PROVIDED 5 CANDIDATES MEETING QUALIFICATIONS FOR IA MASTER POSTING
2. JUDGE SERVED AS THE JUSTICE COURT HIRING COMMITTEE REPRESENTATIVE AND I INTERVIEWED ALL CANDIDATES INDEPENDENT OF OTHER JUSTICE COURT JUDGES OR STAFF.
3. REQUIRED THE CA TO CONTACT HUMAN RESOURCES TO OBTAIN A SUBMITTED PACKAGE FOR A CANDIDATE THAT DID NOT MEET MINIMUM CRITERIA.
4. ON 06/28/2011 JUDICIAL MANAGEMENT TEAM MEETING JUDGE BRIEFED TEAM ON RESULTS AND PROCESS USED. STATED THAT HE DIDN'T CALL ONE CANDIDATE FOR A INTERVIEW DUE TO THE FACT THAT HER BACHELOR'S DEGREE CAME FROM ARGOSY UNIVERSITY AND IT DIDN'T SOUND LIKE A REAL UNIVERSITY.

5. THE TROUBLING COMPONENT WAS NOT THE INTERVIEW OF TWO WELL QUALIFIED CANDIDATES, BUT THE PASSING OVER A QUALIFIED CANDIDATE (NON-HISPANIC) FOR A NON-QUALIFIED CANDIDATE (HISPANIC) WHICH APPEARS TO REVEAL A RACIAL BIAS.
6. JUDGE DID NOT INFORM THE CURRENT JUSTICE OF THE PEACE PRO TEM OF THE DECISION TO NOT RENEW HIS CONTRACT OR THE OPPORTUNITY TO SUBMIT A PACKAGE FOR CONSIDERATION (MR. IS AFRICAN AMERICAN)
7. IMMEDIATELY AFTER THE HIRING OF IA MASTER JUDGE BECAME THE POINT OF CONTACT FOR ANY AND ALL OF HER TRAINING, MENTORING, AND ALTERED THE WEEKEND REPORT SUBMISSION PROCESS

15	Date(s)	08/2011	Issue	
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JUSTICE COURT ADMINISTRATOR ISSUED FINAL WARNING LETTER BY JUDGE

1. JUDGE E-MAILED COURT ADMINISTRATOR TO MEET AND DISCUSS ANNUAL EVALUATION
2. JUDGE REQUIRED THE PRESENCE OF COUNTY EMPLOYEE RELATIONS ANALYST AS THE MEETING WAS TO ENUMERATE/ MEMORIALIZE MY OFFENSES AND THE APPROPRIATE DISCIPLINE. MY OFFENSES INCLUDE
 - a. FAILURE TO PERFORM ASSIGNED TASKS
 - i. TIMELY EXECUTION OF A RFP FOR AND RECRUITMENT OF MULTIPLE IA MASTERS TO COVER WEEKEND AND HOLIDAY IN CUSTODY HEARINGS.
 - ii. FAILURE TO PROVIDE JUDGE WITH A POWERPOINT PRESENTATION OUTLINING JUSTICE COURT REQUESTS.
 - iii. PERSONAL FILE MISSING ANNUAL EVALUATION FOR 2010
 - iv. UNACCEPTABLE DELAY IN LAUNCHING JUSTICE COURT WEBSITE
 - b. UNPROFESSIONAL CONDUCT WITH OTHER COUNTY STAFF
 - i. BUDGET MANAGER FOR THE COUNTY COURTS: MS. VERBALLY COMPLAINED THAT MY CONDUCT WAS BULLISH, UNCOOUTH, AND UNPROFESSIONAL TOWARDS HER. THE PROBLEM IS CONTINUOUS AND DATING BACK TO 05/2008.
 - ii. PRECINCT ONE CONSTABLE MR. UPSET CA OPPOSING CONSTABLE WRIT FEES BY JUSTICE COURTS AS ESTABLISHED BY NEW LEGISLATION AND DELAYING THE IMPLEMENTATION OF THIS NEW LAW

16	Date(s)	8/24/2011	Issue	
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COURT ADMINISTRATOR GOES ON FMLA .

1. COURT ADMINISTRATOR RESIGNS 12/9/2011