

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-108

Complainant:	No. 1440800234A
Judge:	No. 1440800234B

ORDER

The complainant alleged that a justice of the peace failed to rule promptly on his request for a continuance, resulting in the improper dismissal of the underlying case.

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 review, the commission decided to dismiss this matter with a private advisory regarding the need to ensure the right to be heard. The case is dismissed pursuant to Rules 16(b) and 23(a).

Dated: December 4, 2012.

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on December 4, 2012.

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

Judge failed to promptly, competently and diligently handle the scheduling of a civil default judgment hearing. I filed an application for entry of default and attached a packet and detailed request as evidence in support of the claim for the Judge's review on DATE. I called the court several times to follow up to see if the court had ruled on my request for civil default. Finally, on April 10, 2012, I received a notice from the court setting my request to a civil default hearing on April 25, 2012 at 10:30 am. I had a work-related conflict during that time that could not be rescheduled. I filed a request to continue the hearing on April 13, 2012. I did not receive a response from the court until the day before the hearing. A representative from the court, Matt, called at 10:24 am on April 24, 2012 to notify me that the court had denied my request for a continuance. This puzzled me, because the defendant has never shown any interest in this case at all, so there was no reason that I could see as to why the court would not allow me a chance to be present at the hearing. The hearing was set only sixteen days out, and I had already scheduled the work meeting when I received the hearing date in the mail. I am a business owner, and I am the only one from my company who could have attended this meeting with a new customer. If it was something that I could have rescheduled, I certainly would have because I have so much invested in my case.

Upon receiving the call from the court on April 24th, I faxed a request to the court to appear telephonically. My work meeting was scheduled for noon in Mesa. While I could not have appeared in the court in person, I certainly could have appeared telephonically. To date, I have never received a response from the court to my request. I contacted the court the next day, on April 25th, the morning of the hearing, to see if the court granted my request to appear telephonically. The clerk told me the judge had not ruled on it. At that time, I faxed a motion to reconsider the court's denial of my request to continue the hearing. Again, I never received a phone call from the court or any notice of how the court ruled on my requests. I contacted the court myself on April 26, 2012, and the clerk notified me that the court dismissed my case.

I feel very frustrated by the lack of communication, delay in ruling on motions and the lack of willingness to accommodate in this case. I have already lost almost \$2,500 as a result of the defendant's actions. I have put significant time and money into the filing of this case. Now, my remedy is to re-file the case, which will cost me even more time and money. I believe the denial of my request to continue is simply an attempt to obtain additional court fees. I feel the judge abused his discretion by denying my first and only request to continue the hearing, and by failing to rule promptly, or at all, on my requests.