

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-252

Complainant: No. 1413910717A

Judge: No. 1413910717B

ORDER

The complainants alleged a pro tem superior court judge was biased against them because of his improper relationship with opposing counsel and lied to them about various issues during the course of their two cases.

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 information provided by the complainants and available electronic court records, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: November 29, 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 November 29, 2012.

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

SEP 20 2012

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

COMPLAINT AGAINST A JUDGE

Instructions: You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

To the Judicial Committee,

This complaint concerns the _____ County Superior Court and the shamefully prejudiced and lawless behavior of Judge _____ where my wife and I were pro se defendants and that Judge _____ presided over.

Case _____ began on May 2011 with a Forcible Entry and Detainer Complaint being filed against us by Plaintiff, Chase Home Finance LLC. Their attorney of record is clearly stated as being Shapiro, Van Ess, and Sherman LLP. The hearing was on May 13, 2011 and Judge _____ did not comply with court rules and showed prejudice against us when the Plaintiff's legal counsel, _____ had failed to file the necessary paperwork/Motion to appear telephonically. However, Judge _____ let Ms. _____ negligence slide which was a clear display of partiality by Judge _____ in favor of the Plaintiff while at the same time, Judge _____ allowed our rights to be violated by ignoring our right to be properly informed of the opposing party's intentions and completely interfered with our defense since we were expecting the Plaintiff's counsel to appear in person. Judge _____ ruled in favor of the Plaintiff and we will come back to case _____ shortly.

Case _____ On April 30-May 1, 2012, the same Plaintiff, using different attorneys (McCarthy, Holthus, and Levine), filed another Forcible Entry and Detainer Complaint against me and my wife for the exact same property (which unbeknownst to us, turned out to be illegal). However, this time, the Plaintiff was clearly asking for monetary damages as was stated in their Complaint that was filed by Lakshmi Jagannath Esq. The hearing was scheduled for May 11, 2012.

On May 7, 2012, my wife and I filed our answer and counterclaim with a demand for a jury trial which was our right as the 7th Amendment clearly states that " In suits of common law, where the value in controversy shall exceed twenty dollars, the right of a trial by jury shall be preserved ..."

On May 11, 2012, my wife and I appeared in person before Judge _____ while the Plaintiff's attorney, Lakshmi Jagannath appeared telephonically (even though we never received a copy of her Motion to appear in such a manner). My wife and I were expecting to learn of our trial by jury date but instead Judge _____ ignored our rights and went ahead and tried the matter right then and there. Judge _____ looked at us with contempt as he lied and said that no counterclaims were

allowed (when they are). Then, Judge [redacted] lied to us again by stating that we were not entitled to a trial by jury since the Plaintiff was not asking for any monetary damages when the documents that Lakshmi Jagannath had filed with the court on April 30-May 1, 2012 very clearly stated otherwise. When we pointed his error out, both he and Lakshmi Jagannath continued to lie through their teeth by insisting that the Plaintiff wasn't asking for monetary damages when they very clearly were wanting money from us. When we again stated that the Plaintiff wanted monetary damages, Judge [redacted] ignored us. Judge [redacted] treatment of my wife and I was condescending, clearly biased in favor of the Plaintiff/Ms. Jagannath, and irrational. Judge [redacted] ruled in favor of the Plaintiff. During this matter Judge [redacted] behavior gave reason to believe that some type of improper/illegal relationship between him and Ms. Jagannath was occurring.

On May 14, 2012, my wife and I had filed a Motion to Vacate Judgment for Fraud Upon the Court and to Dismiss with Prejudice the Plaintiff's Complaint. However, Judge [redacted] still completely ignored our Motion to Vacate Judgment for Fraud Upon the Court and to Dismiss with Prejudice the Plaintiff's Complaint for a month, which by rule and by law, he is not allowed to do which proves Judge [redacted] has a clear prejudice against us as pro se litigants. Judge [redacted] not only ignored our rights, he was disrespectful toward us, and he ignored the law and the judicial code of conduct by showing clear partiality in favor of the Plaintiff/Ms. Jagannath, by lying to my wife and I in court, ruling in favor of a Plaintiff/Ms. Jagannath who was clearly lying in court, ignoring crucial evidence that called his judgment into question, by not ruling in a timely manner, allowing the abusive treatment, intimidation, harassment, and invasion of privacy of my wife and I since Judge [redacted] allowed a completely void writ of restitution to be granted to the Plaintiff, and by conspiring/colluding with the Plaintiff's legal counsel, Lakshmi Jagannath to commit fraud against my wife and I and to commit fraud upon the court.

Judge [redacted] did not take action on our Motion to Vacate Judgment for Fraud Upon the Court and to Dismiss with Prejudice the Plaintiff's Complaint before recusing himself on June 14, 2012. Ms. Jagannath then applied for and activated an illegal and void Writ of Restitution almost immediately afterward. A Writ of Restitution cannot be applied for nor activated while a matter is still pending and our filing of the Motion to Vacate for Fraud Upon the Court and to Dismiss with Prejudice made the matter to still be in pending status. Ms. Jagannath also responded to our May 14, 2012 Motion on May 24, 2012 but she deliberately sent her response to the wrong address so we would not be able to receive it in a timely matter. My wife and I responded to the Plaintiff's response on June 4, 2012 and Ms. Jagannath did not respond after that, until July 24, 2012.

Getting back to case By this time and going by Judge [redacted] irrational conduct toward us, it was clear that a reasonable person would conclude that Judge [redacted] had an obvious prejudice against us/pro se litigants, therefore, by law, we did not receive the fair and impartial tribunal that we were supposed to receive.

On July 30, 2012, my wife and I filed a Motion to Vacate Judgment for Fraud Upon the Court and to Dismiss the Plaintiff's Complaint with Prejudice. Pursuant 17B A.R.S Rules of Evict Act Rule 15©, Judge [redacted] was supposed to treat our Motion as an emergency matter since fraud upon the court absolutely affects the ruling and possession of the property. But Judge [redacted] yet again showed prejudice against my wife and I by waiting until August 14, 2012 to respond by claiming in his notice/order that our Motion was untimely when there is no statute of limitations for fraud upon the court. *Kenner v C.I.R* 387 F 3d 789 (1968); Moore's Federal Practice, 2d ed, p 512 60.23 agrees.

The attorney of record in this case was clearly Shapiro, Van Ess, and Sherman LLP but on Judge

August 14, 2012 notice/order, he has Lakshmi Jagannath and McCarthy, Holthus, and Levine as the attorney of record when they are not. Judge failed to inform the actual attorney of record of his August 14, 2012 notice/order and instead unlawfully emailed/informed people whom are supposed to be of no relevance to this case.

However, after we had filed our July 30, 2012 Motion, another void Writ of Restitution which was unlawful and untimely was applied for and activated on August 8, 2012 for a 14+ month old judgment by using a vague and outright lie for an explanation since the matter had not been put on hold by Chase for 14+ months. Judge partiality in this case is fraud upon the court and automatically makes his May 13, 2011 judgment void as would be all orders/writs issued by him pertaining to this matter. This is also in violation of 17B A.R.S Rules of Evict Act Rule 14(b)(1)(2) since a Writ of Restitution must be applied for within 45 days of judgment. If applied for after that time period, there must be an explanation and after 14+ months, there is no reasonable explanation since the time limit to apply would have long since expired. An application after that duration of time would be inappropriate as well as unlawful since the Plaintiff clearly failed to file in a timely or lawful manner. No exceptions should be made since that shows a definite partiality in favor of a Plaintiff who was purely negligent in filing in a timely manner since the Plaintiff was fully aware for months that we were at the property and failed to do anything about it. We have reason to suspect that Judge had something to do with the acquiring and activation of this second void/illegal writ which was called off at the last minute by the Plaintiff, and not by Judge nor Lakshmi Jagannath.

On August 16, 2012, my wife and I filed with the court a Motion to Reconsider our July 30, 2012 Motion and on August 17, 2012, we filed a Stay of Writ with the court.

On August 23, 2012, Judge Denied our Stay of Writ and gave no reason for doing so even though he knew the writ was void since it was not only untimely but that his May 13, 2011 judgment against us was already void. Not only did Judge fail to rule in a timely manner, which is 3 court days on either our August 16-17 Motions as per 17B A.R.S Rules of Evict Act Rule 15©, Judge also unlawfully emailed Lakshmi Jagannath, whom is not the attorney of record in this case, his August 23, 2012 notice/order instead of contacting the real attorney of record which is Shapiro, Van Ess, and Sherman LLP which is clear and convincing evidence of an improper/unlawful relationship of conspiracy in existence between Judge and Lakshmi Jagannath.

On August 23, 2012, my wife and I filed an Amended Motion to Vacate Judgment for Fraud Upon the Court and to Dismiss with Prejudice the Plaintiff's Complaint.

During all of this time, the actual attorney of record in this matter Shapiro, Van Ess, and Sherman LLP did not respond.

On September 7, 2012, Lakshmi Jagannath suddenly submits two documents to the court: an Answer and a substitution of counsel that does not comply with court rules since the actual attorney of record, Shapiro, Van Ess, and Sherman LLP, must file papers with the court indicating their withdrawal, which they did not do. The evidence is clear and convincing to a reasonable person that Ms. Jagannath and Judge have an improper alliance going on between them. As per the Arizona Rules of Professional Conduct and by the Judicial Code of Conduct, their inappropriate relationship automatically makes her ineligible to ever become the attorney of record in this matter since her very presence instantly creates a conflict of interest. Judge repeated, wilful, unethical, and overreaching treatment of Jagannath as the attorney

of record in this case when she clearly was not is what led to her inappropriate and very legally flawed attempt to insinuate herself into this case on September 7, 2012.

On September 11, 2012, my wife and I filed our response which clearly pointed out the improper alliance and conflict of interest in Jagannath's very legally flawed attempt to become the attorney of record in this matter. As of this writing, Judge [redacted] has yet to respond. Neither has Ms. Jagannath nor Shapiro, Van Ess, and Sherman LLP.

Judge [redacted] partiality in favor of the Plaintiff and especially to Ms. Jagannath not only indicates an inappropriate relationship but is reason enough to suspect a bribe has occurred so that Judge Soos will ignore the law. Judge [redacted] has repeatedly shown prejudice against my wife and I even though we have presented sound legal arguments such as fraud upon the court, lack of standing, and the Doctrine of Unclean Hands which bars the Plaintiff from receiving relief or help from the courts since they have repeatedly acted unethically in both case [redacted] and in case [redacted] by unlawfully foreclosing on my wife and I, pretending to the courts that they had standing when they had none, lying to the court, submitting forged and fraudulent documents to the Arizona Attorney Generals' Office, deliberately filing two forcible entry and detainer complaints against my wife and I when the Plaintiff knew it was illegal, manipulating and wasting the valuable time of the courts as well as the Pinal County Sheriffs Department by filing what the Plaintiff knew to be two unlawful/void writs of restitution within less than two months of each other, (one of which was on a 14+ month old void judgment) in order to intimidate, abuse, humiliate, harass, attempt to extort money from us, and to steal property that is clearly not theirs. All the while Judge [redacted] ignored the clear and convincing evidence that my wife and I have repeatedly shown and refuses to follow the law and the rules of law while showing an obvious partiality in favor of the Plaintiff/Ms. Jagannath. Judge [redacted] conduct is in violation of Judicial Canons Rule 1.1: Compliance with the Law, Rule 1.2: Promoting Confidence in the Judiciary, Rule 2.2: Impartiality and Fairness, Rule 2.3: Bias, Prejudice, and Harassment (A),(B), Rule 2.5 Competence, Diligence, and Cooperation (A), Rule 2.8 Decorum, Demeanor, and Communication with Jurors (B), Rule 2.9 Ex Parte Communication (A), Rule 2.11 Disqualification (A)(1) &(2)(B),(C), and Rule 2.15 Responding to Judicial and Lawyer Misconduct (B)&(D)..

My wife and I have proven our defense time and time again with valid legal arguments yet we still do not have relief from these tyrannical bullies. Due to Judge [redacted] actions and judges like him, such as Judge [redacted] whom look the other way by allowing bullies such as the Plaintiff and their legal counsel to get away with despicable deeds. Judge [redacted] (and those like him) are ignoring the laws that they have sworn to uphold by showing partiality in favor of the unethical and by being prejudiced against pro se litigants such as my wife and I. This sort of shameful conduct undermines the very core of the legal system as long as you allow them to get away with it.

Respectfully,