

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 12-264

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Complainant: No. 1452410937A

Judge: No. 1452410937B

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**ORDER**

The complainant alleged a superior court judge demonstrated extreme bias and unfairness to the point of harassing her as a woman.

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 all of the information provided by the complainant, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: November 2, 2012.

FOR THE COMMISSION

/s/ George Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed  
to the complainant and the judge  
on November 2, 2012.

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

I am compelled to bring to your attention my ongoing case in front of the Honorable \_\_\_\_\_ case FC 2004-\_\_\_\_\_. Since taking over the bench on this case Judge \_\_\_\_\_ has shown to be extremely biased, lacking in impartiality and fairness and could be viewed as harassing me as a woman, all contrary to the tenants of Cannon 2 of the Arizona Code of Judicial Conduct.

Although Judge \_\_\_\_\_ frequently speaks about being fully aware of the length and contentiousness of the case, he completely disregards the precedent of the previous four judges; he consistently paints me, as the perpetrator and the father as the hapless victim. He comes to this perceived conclusion in spite of existing evidence and concerns voiced by the previous courts in response to petitioner/father's actions. For example, the Honorable \_\_\_\_\_ found Father to be attempting to control mother's actions on 2/22/06 and on 3/29/07 granted sole custody to mother due to father leaving daughter in vehicle; in this same ruling Judge \_\_\_\_\_ stated "there is no question the Petitioner/Father has been provided frequent and meaningful contact with the minor child, as Respondent/Mother has not interfered with his parenting time". The Honorable \_\_\_\_\_ found father "willfully disobeying the order of the Court...and he is willing to face the consequences" and that father "placed the child's health at risk" through his actions in ruling of 8/28/08; he also assigned a Parenting Coordinator to the case with father responsible for 100% of fees. The Honorable \_\_\_\_\_ found the father in contempt for refusing to disclose the whereabouts of our minor child and had him placed in custody on 1/30/09. The Honorable \_\_\_\_\_ found father's actions have "demonstrated volatility and an unwillingness to follow Court orders" on 4/14/09.

I respectfully request the Honorable \_\_\_\_\_ be sanctioned and removed from case FC 2004-\_\_\_\_\_. Judge \_\_\_\_\_ has greatly subverted my faith and trust in our judicial system, and I am convinced that I (and thus our minor child) have not and will not receive a fair hearing from Judge \_\_\_\_\_.

The components of my complaint have built up over the two plus years Judge \_\_\_\_\_ has been on the this case; this hit a crescendo on 5/30/11 and continued with the most recent ruling of the 4/30/12 hearing in which Judge \_\_\_\_\_ willfully ignored the Father's own evidence and testimony that contradicted his child support worksheet, yet adopted that worksheet solely to determine child support.

The Child Support Hearing was scheduled during the 1/25/12 hearing and allotted 90 minutes as both parties agreed there were other subjects besides just child support that needed to be addressed, including the over \$5000 father was credited against child support for payment to Parenting Coordinator, an amount which was actually not paid out to the PC and should have been owed to mother for child support. Although these items were addressed in court, Judge [redacted] looked past them as "largely irrelevant" in his ruling and based his ruling on child support based solely and completely off father's child support worksheet, and even used direct quotes and statements from his pre-hearing statement (a Pre-Hearing statement that was very obviously done after his council received my Pre-Hearing statement as it directly answers mine line by line) as fact in his ruling like "Petitioner's income is sporadic and not entirely set"; this even though father on the witness stand admitted his income on the worksheet was not accurate, and his paystubs which he provided shows he makes \$1000 more per month than disclosed. Father's paystubs reflect an income of \$7,728.36 through 3/30/12, which translates into a monthly income of \$2,576.12. Mother is a stay at home mom and has been since July 2011; Using the Petitioner's worksheet the Court attributed income for mother from 2010 of \$32,048, even though the 2011 W-2 showed income would have been significantly less even if she had worked the full year. Mother was also under doctor care and unable to work in her profession due to thumb injury and had the doctor's note in evidence and also addressed it in court. Father also showed similar income of \$27,000 to \$30,000 in the years 2008-2010 and even admitted on the stand to making \$38,000 in 2009, but the court did not apply the same discretion on his income. Judge [redacted] used my husband's income (who is not part of this trial but is mentioned twice in ruling as having a "Six Figure income") to justify inflating my income and as an obvious factor to denigrate me and my decision that looks after the best interest of all my children (Ruling makes reference again to decision of mother for her "whole family" and frames it as mutually exclusive to that of the subject minor child).

Also used from Father's child care support statement was father's claim for child care expenses even though, like his income figures, father's own statements in court show this figure to be false. Judge [redacted] overruled objection to use of letter "from" babysitter as evidence as we questioned the validity of letter as sitter's name is misspelled and it was late being presented so we had no chance to confirm its accuracy. For \$400 per month figure to be used as the court accepted, father would have to use baby sitter before and after school Monday – Friday, but father's testimony shows our daughter is in Girl Scouts and soccer two days a week directly after school and his work schedule is Monday- Thursday so baby sitter not used on Fridays and Father admitted from stand he did not use babysitter

these times. Also babysitter is only used for the school year not year round. Judge [redacted] had to ignore the facts in front of the Court, including the Petitioner admitting to knowingly supplying a false affidavit of Financial Information, to make a ruling to financially favor father.

On 1/25/12 Judge [redacted] allowed a Contempt hearing against Mother in reference to order on 11/15/11 that states "Mother and/or Step Father shall fly to Arizona to pick up the minor child and fly back with her to Colorado for the Thanksgiving holiday. Mother and/or Stepfather shall pick up the minor child on Wednesday at the end of school..." There were no provisions given for return other than date. Minor child flew back to Arizona with oldest sister who was age 21 at the time, a fact that the Court was aware of on 12/15/11 hearing when Judge [redacted] scheduled Contempt hearing. Contempt was vacated during 1/25/12 hearing with Court stating, "The intent of the Court was in ensure adult supervision of the minor child while traveling by airplane. In the end, that was accomplished." Mother once again was forced to bear the burden of the presumption of guilt from Judge [redacted] even though I followed the order and intent. Having to go to court for this to be addressed caused undue expense for me as well, and could have easily been handled at the 12/15/11 hearing.

Also in this ruling Judge [redacted] chastises Mother for not putting Father on Minor Child's ticket. Father can only be placed on ticket if the minor child were to fly as an unaccompanied minor, which is FAA and the airline's rules (copies of these rules were put into evidence for the court) and therefore mother had NO ability to follow this order of the court. Judge [redacted] further castigate Mother for arranging a family friend (who our daughter was looking forward to seeing) to pick up the minor child at the airport and drive her to the 39<sup>th</sup> and Cactus Phoenix Police Station, which was the court ordered place for ALL parenting exchanges at that time. Once again Judge [redacted] completely ignores the facts to condemn mother's actions and exonerate father's actions for being at the airport in violation of the court orders for parent exchange location. Father further would have been in violation of OOP had mother accompanied minor child. The order for Father to pick up minor child was made after my counsel presented to the court Father was in violation of the existing court order by being at airport and mother was correct to arrange transportation to Police Station; this was the court ordered place for parent exchange by previous Courts since 8/26/08 and re-affirmed by Judge [redacted] on 9/26/11.

On 10/20/11 Judge [redacted] held a phone hearing that should have been unnecessary, and was an undue expense, to grant mother time with minor child so

she could attend funeral services for her Maternal Grandmother. The court had previously stated it was inclined to grant this time back on 9/6/11, but Judge [redacted] insisted on holding another hearing, knowing it would be a time of distress for me given my mother's passing. Father used this hearing to claim CPS had substantiated a claim of child abuse against mother and therefore try to block our child from going to the Grandmother's funeral with Mother and her family. This claim was proven to be a fabrication of the truth and false during discussion. Although Judge [redacted] did show sympathy to me and granted the requested time, he only ordered me to not discuss circumstances regarding the "incident", and that I could apologize to minor child (assuming I had reason to apologize to her). This even though it was very obvious from the hearing the only person discussing the "incident" was father.

On 9/26/11 there was a telephonic hearing to discuss Mother's telephonic contact with minor child, which up to this time the court had not provided or addressed even though minor child had been with Father for majority of time dating back to mid June. In the previous hearing on 7/14/11 the Court did see fit to grant Father phone time with minor child while she was in CO for only two weeks for parenting time with mother at the end of July and beginning of August. Judge [redacted] ordered Mother to initiate call due to OOP against Father, although he failed to order Father to give phone number to Mother during that hearing. During hearing on 9/26/11 discussion was held on Father's direct and willful disobedience of the court order and existing OOP (and taunting mother by telling her to call police) from 7/14/11 by calling mothers phone directly. Father accused mother of calling father's work at some point in the past, which resulted in Father being terminated (no date or job location was provided for accusation). They further accused mother of calling babysitter and harassing sitter, so sitter was threatening to no longer babysit minor child, once again with no evidence or details. The minor child's babysitter and her husband are friends of the mother, due to relationship of subject minor child and their daughter, predating time of them babysitting. Mother introduced Father to babysitter by giving them the Father's home phone number (Prior to him discontinuing phone) so minor child would have contact with at least one of her friends while with Father in June and these facts were presented to court in response to these unfounded accusations of Father. Judge [redacted] ignored Father breaking of Court Order and OOP, and simply excused his actions and ordered amendment to OOP to allow Father to call Mother. Judge [redacted] further showed his biasness and lack of impartiality by once again assuming mother's guilt to Father's unsupported accusations and ordering Mother to not contact Father's employer (even though Judge [redacted] allowed father to not disclose employer during hearing on 3/31/11) and the babysitters, despite their friendship. Judge [redacted]

also allowed Father to continue to not disclose his phone number to Mother, which is against Court Rules.

Judge granted Temporary Sole Custody to Father, without Custody hearing, on 7/14/11, and also extended Father's parenting time an additional week thus reducing parenting time for Mother to 2 weeks for the summer. In the ruling Judge grants Father telephone contact 3 times a week with minor child for this 2 week period, although continuing to refuse to grant the same phone time for mother during the extra week granted to father or upon the minor child's return to Arizona after time with Mother. This cannot be looked at in any other manner than a direct bias in favor of Father and a refusal to act in a fair, impartial and just manner by Judge

In the ruling of 5/30/11, which also incorporated hearings held on 3/31/11 and 5/12/11, Judge freely bashes Mother and praises Father openly with a complete absence of any impartiality, fairness or any sense of equality. To help try to excuse Father's past actions Judge states "Father is like a sane person placed in a mental institution who is told he must confess his mental illness before being released" and continues with writing Father has shown "drive and determination" with actions that the previous Courts have seen as troubling and alarming. He also notes Minor Child is Father's only child, while Mother has a total of five children, implying, as Father has stated before the judge, Father is a better parent to Minor Child (Judge also uses this reasoning again in ruling on 6/26/12). He also notes that 4 of the Mother's children have father's who live in Arizona, giving the strong innuendo that Mother is attempting to move children away from both fathers, but fails to mention father of the 3 oldest children (one being over age 18) agreed with the move being in the best interest of the children and therefore not contesting move, even though this information was known to the Court.

In the process of framing Father's actions as a simply reaction, or over reaction, to court decisions as opposed to the court actually reacting and ruling as a result of father's actions, Judge gave no quarter in denigrating mother. Mother is called arrogant, has quotations credited to her that were either misstated or ones that she did not say; Mother is also accused of "Trial by Ambush" for disclosing move, to take place around June to Denver, CO, in January, which is six months in advance. Judge also states Mother gave no indication as to where the move was going to be to, even though that was known to Father and was formally disclosed in the January Request for Relocation and copy of Lease was provided to father with exact location of home once a lease was signed in early May.

Also in this ruling Judge \_\_\_\_\_ grants Father 6 weeks continuous parenting time for summer, but gives NO provisions for phone time for mother, which as discussed previously Judge \_\_\_\_\_ freely granted to Father in a subsequent hearing while Minor Child is with Mother.

On 12/3/10 I went to court to re-new my OOP against Father, and went to the proper department on the first floor of Court Building to fill out the request and informed them that Judge \_\_\_\_\_ had ordered on 9/24/10 that all items where to go in front of him. I was sent to Judge \_\_\_\_\_ Courtroom after the ladies on the first floor called his office. Once inside Judge \_\_\_\_\_ Courtroom I handed the OOP request and Judge \_\_\_\_\_ immediately started berating and yelling at me about not following his orders and trying to slip something by him. I tried to compose myself and handed him the transcript from 9/24/10 to show him his order and that I was doing as he said in Court. Judge \_\_\_\_\_ did apologize at that point and said he did not have the ability to issue OOP from his Court and sent me to Commissioner Patricia Arnold who issued the OOP. Judge \_\_\_\_\_ reaction was very unnerving to me, along with unprofessional and not becoming of someone in the position of an Honorable Judge. I have come to see in subsequent court hearings and rulings it was an indication of Judge \_\_\_\_\_ bent to jump to negative conclusions in regards to me.

Most recently Judge \_\_\_\_\_ has far exceeded the 60 days allotted in court rules for making a decision on a petition in front of the Court. On 3/14/12 the court was petitioned for a Best Interest Attorney and to this date there has been no ruling or response from the Court.

In summary, I believe that by his actions, Judge \_\_\_\_\_ has violated several of the rules of Judicial Conduct, including: Rule 1.2 – “A judge shall act in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety”; Rule 2.2 – “A judge shall uphold and apply the law, and shall preform all duties of judicial office fairly and impartially”; Rule 2.3 (A) – “A judge shall perform all duties of judicial office... without bias or prejudice; Rule 2.3 (B) “A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment...”; Rule 2.5 – “A judge shall perform judicial duties competently, diligently, and promptly; and Rule 2.8 – “A judge shall be patient, dignified, and courteous to litigants...”

I respectfully request and pray for a full investigation into these events and complaints regarding the Honorable \_\_\_\_\_ miss-management of

FC 2004- Judge actions are a discredit to the Superior Court and its many great and Honorable Judges and history. More personally Judge has brought undue stress and heartache to my family and myself and in particular my 9-year daughter. She still does not understand or comprehend why she is forced to live apart from her sisters and brother.