

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-344

Complainant: No. 1458010878A

Judge: No. 1458010878B

ORDER

The complainant alleged a superior court judge demonstrated bias against her by making inconsistent decisions and making inappropriate statements in court.

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 complainant and the 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. 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: January 25, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on January 25, 2013.

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

December 10, 2012

To Whom it May Concern:

The week before our court date, Judge _____ released Husband's first attorney from the case -- Loritano and Bain. Judge _____ was a new Judge assigned to our case--FN _____ out of the East Mesa Court. His main concern was our adult children, our daughter, who is 24 and married and our 20 year old son who was stationed at Fort Lee. Of course, I was truly concerned about our children as well, however, they are both adults and not living at home. I was a little confused as to his "main" concern being about the children and not about my welfare as I had been a stay-at-home mother almost the entire 29 years of marriage and had not held a current job in years.

Upon review of the agreed documents there have been discrepancies that I respectfully ask you to review with regards to the divorce proceeding. The first is page five of the Decree. Husband agreed to go into DROP (retirement) to take all necessary steps by June 1, 2012. This still has not happened as of December 10, 2012. The second is the marital residence. The Judge gave Husband sole and separate use of the property being responsible for all maintenance and utilities. The Realtor, Bobby Lieb, mentioned to me that the price Husband wants will be hard to obtain due to the shape of the property, i.e., disrepair and the considerable mess inside and out.

Pg. 6 first line: the Court finds that neither party is requesting attorney fees and costs. **It was ordered, "that each party is to bear their own respective fees and costs."** On Pg.18, line 21 it goes on to state that neither party would receive any attorney's fees. My attorney now informs me that Judge _____ has ordered that I pay "some" of husband's attorney fees—but did not mention a percentage. Husband had an acquaintance who is a licensed attorney who offered to help "pro bono" (Londa Rivera). Ms. Rivera made this statement to my counsel and it was acknowledged that there were no fees she would be billing. A "Notice of Appearance " was not filed until over four months with the court, however her billing statement miraculously appeared and was filed with the Court and sent to my attorney. Interestingly, her billing started calculating months before her "Notice of Appearance" was ever filed. Judge _____ also ruled on attorney's fees within 4 days **AFTER** Husband's 20 day time period he received to file for attorney's fees without giving wife's counsel any time to respond under the local Rules. He also allowed Husband to amend application for attorney's fees again without any response from Wife's counsel. I am so baffled how this would seem fair and shows blatant bias towards Wife. I would hope this is not due to Husband's occupation as a Police Officer.

I have a hard copy of the court reporter's transcription of the proceedings and on page five, Ms. Riveria states she has not prepared a notice of appearance and she can file one the afternoon of April 3, 2012. The Judge states that she doesn't need to file one and that he recognizes her and was glad she is there.

On pg.9-10, we were given conflicting information from Ms. Rivera who wanted to give a heads up that upon husband's death, Ms. _____ will receive nothing. This makes no sense to Ms. Rivera or myself, and Wife's counsel is looking in to same. Judge _____ then stated that Husband needed to make

elections so wife would continue to draw benefits after husband is deceased. If Husband can't effectuate that, we would need to try and resolve with life insurance.

Judge [redacted] highly recommended going through the Clearinghouse as a way of receiving payments. However, how will I receive the appropriate amount, if they are taking 26 paydays a year, which Russ (from Clearinghouse) told me they do so I should receive \$1384.61 each pay period. The first payment was October 24th 2012 for \$1324.77 the remaining was made up in a check for \$ 175.23. My next payment was \$1187.45 on November 7 2012. I can't guess what I will receive and still pay my bills each month. So in order for me to have the agreed amount of \$3000.00 a month my net payment on the 21st of November will have to be \$1812.55. The City can only take a percent of each paycheck so I will always end up at a loss if this continues. Can this be resolved through the Clearinghouse, or would it need to go back to court? Since Judge [redacted] suggested this, I am hopeful that I could receive the full \$3,000 a month in the beginning of the month so as not to short-change me and cause me great distress.

It states on pg 11 line 22-24 – Our intention is for wife to receive approximately \$37,000.00 a year for the rest of her life, either in spousal maintenance payments which would really be \$36,000.00, then Under Advisement Ruling pg 2 last paragraph Judge [redacted] states he reviewed the transcript of the April 3rd 2012 hearing and the court is convinced that wife would receive 50% of Husbands retirement benefits, whatever they might be, and that Husband never agreed to provide until death or age 83 as wife now alleges. Judge shows pg 6, 20-22.

Our court hearing August 27, 2012 began with wife's attorney going first and then husband rebutting then wife then husband. Wife's attorney was about to finish when Judge [redacted] shushed her and held his palm up and told her to sit down. She never got her chance to finish the rebuttal.

We had agreed on all things except the pension. The pension was earned during the entire marriage. Because of the way it was written, my attorney wanted me to have income if husband predeceased me.

At the end, Judge [redacted] told us that if we did not get along our adult children would quit inviting us to holidays, birthdays, grandchildren's school plays, etc. He was quite personal and it truly hurt me to the core considering my world had already fallen apart without having to hear this type of rhetoric. Judge [redacted] doesn't know me or my children or how I raised them. I shook my head in disbelief. He looked at me and said, "you don't believe me it can happen. I have a case where 90 year old dad is living with daughter 70 year old something mother is trying to get son to live with her. They have 6 children and they are all feuding and taking out loans to pay for court fees and no body is talking to each other." This is a shortened version of the story but, I hope I never have to set foot in a court of law again as I felt nothing but pure intimidation from Judge [redacted] and extreme bias which I feel stems again from Husband's occupation.

I believe Judge [redacted] even showed biased on our Decree wherein he referred to Mr. [redacted] as "Police Officer husband", and myself as "wife" complained when wife's attorney stated that her client would like the settlement since it had not been paid. I have wondered how that could have come across as a complaint when Mr. [redacted] was ordered to pay a settlement to wife?

In addition to the intimidation and disbelief of how unfair the judicial process was that I just experienced, I feel Judge was extremely biased towards myself as I hope I have proven with the discrepancies I have mentioned above.

I respectfully request that a review of the divorce proceedings and Judge conduct be looked into and would request that I am granted a new Divorce decree with the correct information and the discrepancies clarified in a new Decree. Thank you in advance for your consideration.

Sincerely,