

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-050

Judge:	No. 1463010059A
Complainant:	No. 1463010059B

ORDER

The complainant alleged a justice of the peace violated his due process rights.

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.

The commission reviewed the allegations and found during its investigation that a pro tem judge heard the case, not the judge named by the complainant. After listening to the recording of the hearing, the commission found no evidence of ethical misconduct and concluded that the pro tem judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the pro tem judge's ruling. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: April 19, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judges on April 19, 2013.

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

Complaint of Judicial Misconduct against Judge**Case Number:**

I am filing a complaint against Judge _____ because his conduct in the above case violated my Due Process right granted by the Constitution of the United States.

Brief Facts: After I paid the defendant \$536.85 for bed room furniture items, he delivered used mattress and box, a headboard, without sideboards, and footboard. A pro bono attorney,

_____ located in Phoenix, spent enormous efforts and time to get the defendant to resolve the matter, but the defendant rebuffed all his efforts. Thereafter, Mr. _____ advised me to take the matter to the Small Claims Court.

At the hearing held on February 22, 2013, I told the Judge that the defendant first of all had no legal authority to operate a furniture store in the State of Arizona because his business was not registered, or licensed to operate in Phoenix according to AZ Corporation Commission. See attached. Surprisingly, the Judge rebuffed my comment, and did not even want to see my evidence of the defendant's noncompliance with the state of Arizona's requirement for business registration. I also testified that the defendant was misleading the court because he knowingly delivered the used mattress and box even though I paid for new items. I told the court that if the defendant sold the mattress and box as used, he would have indicated on the invoice, sold "as is" or "used items" as he indicated against a bar stool, the only item I bought used. I drew the court's attention to the facts but the judge ignored my evidence.

In addition, I did not sign any invoice to indicate acceptance of the used mattress and box upon delivery. However, when I first got to the defendant's store on 9/21/12, he asked if I had account with his business. I told him no. He offered me a blank invoice form to complete. He asked me to complete the address portion only, that he would complete the rest. In good faith, I did so. However, the defendant fraudulently copied itemized prices from the payment receipt/invoice (pink color) onto the blank form. The blank invoice form was meant for a future business transaction in case I wanted to open a business account with his company. See attached.

The blank invoice form I completed for him had my signature on it. With that signature, he fabricated the sales invoice to give the court impression that I signed for the used mattress/box. I told the court that the signature was forged, and fabricated by the defendant, but the judge made no effort to verify the fact.

The defendant, in fact obtained my signature by deception which is a violation of the AZ Statute 13-2005. The defendant broke the state law by engaging in a business without meeting the filing requirement stipulated by the ARS 10-120. He also used illegal and fictitious name to operate a business in the state where he collected sales tax, a violation of AZS 10-401. I made these laws available to the judge weeks before the hearing of the case. Yet, he dismissed my case without

application of the operational statutes to the facts. Judges must adhere to the law otherwise; a decision that violates the law also invalidates the overall proceedings.

During the proceeding, defendant whispered something to the judge, and showed him some document, but the judge did not invite me to see what the defendant showed him, or tell me what defendant whispered to him. However, he called me to take a look at another document the defendant showed him bearing a signature. I told him that was not my signature, and that I never signed to accept delivery of used items. The judge made no attempts whatsoever to question the defendant. It was as if the defendant were his friend, or acquaintance. The defendant testified that when I brought the used mattress and box to his store, I was belligerent as a result he called the police. This was a false statement because I had called the police before I ever left my apartment to his store. However, when I got to his store, I had to wait for the police to arrive. I told the judge I had a phone number to reach the two police officers I called so that he would be able to corroborate my testimony. Again, the judge refused to contact the officers.

Throughout the proceeding, he leaned to the defendant's side. Even when I provided evidence (red tag indicating the mattress and box were used, as well as picture of air mattress) I bought at Super Target. He deliberately ignored all my evidence, but made a decision in violation of my right to impartial judicial proceeding. Based on his reasoning, the court is now saying that it is lawful for the defendant to operate a business in Arizona without a license even if the state statute requires registration/license. Again, according to his decision, the court is now saying that it is lawful for the defendant to obtain a signature by deception even if the state statute prohibits such act. Conversely, defendant's invoice and other documents which he claimed I signed were a product of fabrication and obvious forgery which, a reasonable and detached judicial officer, acting without bias and partiality, would have detected instantly by the help of logic, and common sense.

However, it is statutorily settled that a judge is a state or federal judicial officer paid to conduct hearing, and act impartially and lawfully. A judge is not above the law. A judge has a legal duty to respect everyone in the court while performing judicial duty. A judge is not the court. People v. Zajic, 88 Ill. App. 3d 477, 410 N.E.2d 626 (1980).

Clearly, this judge did not like me. His resentful attitude was obvious; he stared down on me consistently. As a judge, expected to know the law, he should have recused himself from the case if he knew that he had trouble with people of other ethnic group. Federal law requires immediate disqualification of all judges in certain circumstances "if an objective observer would entertain reasonable questions about the judge's impartiality." Liteky v. U.S., 114 S. Ct. 1147, 1162 (1994). He knew as a judge that decision in a Small Claims court is arbitrary, and without the benefit of jury deliberations; thus, a judge should be meticulously conscientious, and willing to probe all facts before reaching a decision to avoid infliction of injustice which could ruin the losing party's financial well-being. But this judge was not interested in a fair and judicial due process. The Supreme Court has ruled that "justice must satisfy the appearance of justice."

Levine v. United States, 362 U.S. 610, 80 S. Ct. 1038 (1960). Judge had no discretion not to disqualify himself in the case. It was obvious he wanted to rule for the defendant who was a Caucasian person. He was bound to follow the law, but he failed to do so. I have the right to a hearing free from bias and prejudice.

His action was a violation of my right under the Due Process Clause of the United States Constitution. United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996). I no longer have confidence in the impartiality of the judicial process of the court. His conduct against me was tantamount to "fraud upon the court" his decision must be stricken, because such appearance vitiates the entire proceeding as a matter of law. However, because the statutes of this state as cited in my claim were in light favorable to me, the judge should have ordered the defendant to refund \$170 cost of the used mattress, and \$160 (a portion of the cost of a dresser and bed set because he did not deliver footboard, and sideboards which would have completed a bed set.) Had the judge done the right thing, I should have recovered \$330. If this matter is not resolved to my satisfaction, I would be forced to file a claim against the state for violating my right protected by the Judicial Due Process of the Constitution of the United States.

I had to sleep on the floor for more than a month until I went to Super Target in November, 2012 to buy Air Mattress to sleep on, while the defendant was using my money to make profit for his business. He continues to do so in 2013; yet the judge saw nothing wrong with the defendant's act. See the attached.

In conclusion, it is important that I introduce myself to the Commission. I am a former resident of the District of Columbia who relocated to Phoenix, Arizona to attend Phoenix School of Law in the Fall of 2012. I am a graduate of Howard University in Washington, DC. I am a certified paralegal; trained at The George Washington University, Department of Professional Development. I have a Master's Degree in Criminal Justice from Boston University. I am a former volunteer Criminal Justice Act Investigator trained at the Public Defender Service for the District of Columbia. I am a former Private Detective licensed by the Metropolitan Police Department, Washington, DC. identification number 3209. I voluntarily returned my credential when I relocated to Phoenix. I have lived in Washington, DC for more than thirty years without a criminal record. Accordingly, all my credentials were issued after background checks and clearance by the Police Department and the FBI. I was not in the court for any other reason than to seek justice but I was denied justice for reasons I now ask the Commission to explain, as well as resolve statutorily, because Arizona State Legislation is bigger than any judicial officer working for this state.

Respectfully Submitted,