

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-249

Judge:	No. 1089514773A
Complainant:	No. 1089514773B

ORDER

The complainant alleged a justice court hearing officer improperly dismissed his small claims case, without allowing him a full opportunity to present his case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the hearing officer 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 found no evidence of ethical misconduct and concluded that the hearing officer did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: December 11, 2013.

FOR THE COMMISSION

/s/ George Reimer

George A. Reimer
Executive Director

Copies of this order were mailed to the Complainant and the hearing officer on December 11, 2013.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2013-249

COMPLAINT AGAINST A JUDGE

Name. _____ Judge's Name. _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

Or _____ at _____ AM the _____ had a Small Claims hearing for case number _____ against _____ for unpaid association dues. A copy of video of the hearing has been provided for reference throughout this complaint. The hearing began at 10:37 AM in which I _____ requested that the property manager, _____ provide _____ with the information pertaining to our Association's claim. _____ appeared to be quick to cut off _____ when giving his opening statement. When the defendant _____ was provided an opportunity to speak, _____ asked and provided an opportunity to the defendant to elaborate her side even more at 10:44:___ AM. At _____ stated that there will be no other discussion after her decision was made. I believe this is a violation of ACJC Rule 2.6 - (Part A) judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law. At _____ AM _____ states that the defendant is no longer responsible for "anything" in reference to the debt. This is ghastly incorrect as per Bankruptcy Code in Section 523(a) and states – A discharge under section 727, 1141, 1228(a), 1228(b) or 1328(b) of this title does not discharge an individual debtor from any debt – "(16) for a fee or assessment that becomes due and payable after the order for relief to a membership association with respect to the debtor's interest in a unit that has a _____ in a share of a cooperative corporation, or a lot in an homeowners association, for as long as the debtor or the trustee has a legal, equitable or possessory ownership interest in such unit, such corporation or such lot, but nothing in this paragraph shall except from discharge the debt of a debtor for a membership association fee or assessment for a period arising before entry of the order for relief in a pending or subsequent bankruptcy case violated ACJC Rule 3.10: A judge shall not practice law, in stating that the homeowner is no longer responsible for the dues, even though the defendant is clearly the owner of the property. Without a transfer "act" such as acceptance by the lender of a Deed in Lieu of Foreclosure or the completion of a trustee's sale, all of which usually has to be approved by the _____ either by approving the Deed in Lieu or by granting a lift stay order to the lender, title remains with the homeowner. At _____ AM _____ states that the bank is responsible. Again, a violation of ACJC Rule 3.10. _____ AM _____ does not allow _____ to explain why she is/was incorrect, violation of ACJC Rule 2.2 & 2.6.

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She allowed the defendant _____ any and every opportunity to speak but did not allow the plaintiffs defend their case. _____ did not exercise fairness and impartiality during the hearing to BOTH parties. At _____ AM _____ again, states "the bank hasn't gotten up to snuff and given the paperwork" to the association. 1. It does not matter what the bank has or has not done. The homeowner was and still is the owner of the property. 2. There is no paperwork to be given. Until the property is sold at _____ is still the rightful owner. This again was a violation of ACJC Rule 3.10. At _____ AM, _____ states to the court room that the defendant does not owe any money, which is legally incorrect, and is again _____ providing legal advise to the homeowner which is a violation of ACJC Rule 3.10. At _____ AM _____ attempts to argue the case and _____ does not allow him the opportunity to speak. At _____ AM _____ states that "according to the bankruptcy courts and anything around" the homeowner is not responsible for the dues. Again, per Bankruptcy Code in Section 523(a), the homeowner IS responsible until the trustee's sale occurs or if the property is deeded back to the bank. Neither of these scenarios have yet to occur. _____ is again providing incorrect legal advise/information to the homeowner, a violation of ACJC Rule 2.6. As you will see in the video, _____ was not fair and impartial to both parties throughout the hearing and on several occasions, provided incorrect legal information and advise to the homeowner. The case was dismissed with prejudice based off of incorrect information and contrary to the Bankruptcy Code. The Association can only pray that _____ is not allowed the opportunity to negate the ACJC rules and procedures and/or properly trained so that a faulty dismissal does not occur in the future as the Association is now ou _____ that was a valid claim and debt owed. Exhibits have been attached reflecting _____ current ownership of the property, her bankruptcy filings, as well as printout of the recorder's and assessor's web site that prove she still owns the property, nor is a Trustee's Sale noticed for the property.