

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-008

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge did not afford her an opportunity to be heard, was prejudiced against her, and made improper rulings in a family law matter.

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 does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, 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: February 10, 2016

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on February 10, 2016.

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

Commission on Judicial Conduct
1501 West Washington, Suite 229
Phoenix, AZ 85007

RE: Expedited Request to Address Violation of Judicial Code of Conduct Canons by Superior Court Judge

Commission:

My name is _____). I beg for your immediate and expedited attention and assistance in averting what I can only describe as financial rape that _____; has ordered to take place on _____. This is _____ case; and _____ case. Please note that I am Pro Per (self-litigant). The Arizona State Bar suggested I review the judicial code of conduct canons to advise you as to exactly how _____ has violated them. Please stop this judge from cruelly harming me and causing me to suffer needlessly.

In the shaded areas below, I show the Canon and Rule that _____ does not adhere to in this matter, and I provide background and examples of how he violates the Canon or Rule in our civil matter.

CANON 1: A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1. Compliance with the Law

A judge shall comply with the law, including the Code of Judicial Conduct.

Background: Ours is a divorce case without children. A Rule 69 Agreement was entered into in _____. I filed an appeal to amend Section 11 of the Rule 69 Agreement, which was denied by the _____. The Appellate Court remanded recalculation of the global settlement to the Superior Court. Simply put, all parties involved in this matter must comply with the Rule 69 Agreement.

How _____ violated Canon 1 in this case: _____ did not enforce the Rule 69 Agreement. Instead, _____ did not comply with the law or the Code of Judicial Conduct, Canon 1 and Rule 1.1 when he:

1. Ignored the Rule 69 Agreement;
2. Incorrectly used an accounting report as the global settlement figure, **resulting in gross miscalculation of the settlement and a six figure financial loss for me;**
3. Imposed harsh fines on me that even husband did not request and that the Rule 69 Agreement and agreement with the _____, prohibit;
4. Most cruel and disturbing of all --- ordered the wrongly derived settlement amount to be removed from my only remaining financial safety net, my retirement investment, without my authorization.

RULE 1.2. Promoting Confidence in the Judiciary

A judge shall act at all times 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.

Background: _____ was newly appointed to this case in _____. He is the sixth judge assigned to our case. On _____ he held a brief conference, which I attended alone as Pro Per and I expected would be a meeting to ascertain the final global settlement amount. With a spirit of good faith, and to bring this newest judge up to speed quickly and ensure proper calculation of the global settlement, I asked _____, to attend the conference. _____ would not let _____ speak.

How _____ violates Canon 1, Rule 1.2 in this case: _____ acted in a manner that not only erodes my confidence in fair judiciary proceedings, but also shakes my faith that humanity, caring and kindness exist in the

. Below are all the ways that eroded my confidence in the independence, integrity, and impartiality of the judiciary:

1. He did not enforce the law, the Appellate Court's ruling or the Rule 69 Agreement, which not only creates the appearance of impropriety, it is improper.
2. He did not proceed with a spirit of impartiality and fair resolution when he had the parties together on and had the golden opportunity to finalize this case. Instead he refused to allow to speak. There was no discussion of taking care to calculate the global settlement correctly. The only discussion was between and opposing counsel as to attorney's fees. cut the meeting short, stating that he needed to familiarize himself with our case. He assured us that he would review the matter and would consider another conference. However, less than a week later, ordered what I can only describe as my financial rape (see violation of Rule 1.1, items 1 through 4 above).
3. He made several mathematical, grammatical and legal errors in the Under Advisement Rulings and Minute Entries he entered, which has caused me to lose confidence in his ability to make proper, fair and impartial decisions and unjustly inhibits the lawful division of community assets in this divorce settlement.

CANON 2: A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY

RULE 2.2. Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

RULE 2.5. Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties competently, diligently, and promptly.

Background: When I received Minute Entry (regarding the proposed financial rape), I immediately prepared and submitted a series of motions to communicate to the judge that his math is in error. I submitted motions to remedy the errors. I even did the math for the judge and supplied bank statements to "connect the dots" to the Rule 69 Agreement. With every filing, I requested a conference. With every filing I expressed how harmful, harsh and unwarranted his punishment of me is. I begged for him to correct the math error and comply with the Rule 69 Agreement. In his subsequent Minute Entries, made even more errors, said no to my repeated requests for a conference; did not address or respond to the salient points in this case, and never held husband accountable for his asset division obligations. All of this causes me to be wary of competence, diligence and cooperation in our legal matter.

How ; violated Canon 2 and Rule 2.5 in this case: causes me to be wary of his competence or ability to be impartial because of how he handled the following situations:

1. In his 1 Minute Entry, referred to us as
The narrative in the Minute Entry appeared to be a cut and paste from a child custody dispute. I immediately filed a Motion to Correct the Minute Entry and the errors were corrected. However, it became clear to me that the judge is not fully competent or is very careless in handling this matter that is of utmost importance to me, my ex-husband, our reputations and our financial viability.
2. In his Minute Entry, referred to my use of the word "emend" as sic (a spelling error). Again, reveals his incompetence and apparent inability to be fair and impartial because he cannot seem to grasp basic legal pleadings. According to Webster's Dictionary, emend (verb) means to improve by scholarly editing or to edit. I used the word correctly. It is harmful and unfair to me to be punished by when he is not even able to comprehend a simple request and he adds insult to injury by correcting me when he is the one who is incorrect.
3. In his Minute Entry, inappropriately assumed I meant to use the word "amend" rather than emend and replied to my request as though I was asking for an amendment by telling me I can file an appeal. I already appealed this case and this is not a spelling contest. We all just need to honor and enforce the Rule 69 Agreement, which he seems unable or unwilling to perform.

How ; violated Canon 2, Rule 2.2 in this case: did not ensure impartiality, objectivity and fairness to the parties in this case. Below are the ways that violated Canon 2, Rule 2.2:

1. He was not open-minded, for he was not even open to meeting with all parties to collaboratively settle this matter.
2. He displayed a pattern of intentional disregard of the law when he did not make an effort of any kind to correct an error that he made when it was graciously pointed out to him and even corrected for him.
3. He displayed partiality and bias when he wrote in his Minute Entry that he would uphold a previous judge's Under Advisement Ruling as a professional courtesy to that judge – when that judge made mathematical errors in that Under Advisement Ruling. When I pleaded with to consider his duty to treat me fairly and impartially over professional courtesy – especially given that this particular professional courtesy results in my severe and unwarranted financial demise – he denied my pleas and ordered the financial rape.
4. He did not give me, a self-represented litigant, the opportunity to have my matter fairly heard.
5. He did not give me, a self-represented litigant, the opportunity to work out a settlement payment arrangement. In a family court is treating me as though I am a convicted criminal upon whom he must impose punishment. He proposes to shoot a mouse with a shotgun. It is most disturbing and unfair how has ordered the removal of my money without my authority - for a debt that only exists because he didn't do the math correctly - as a first resolution rather than as a last resort.

CANON 2, RULE 2.3. Bias, Prejudice, and Harassment

How violates Canon 2, Rule 2.3 in this case: Based on rulings and disregard of my pleas to comply with the law and Rule 69 Agreement, he failed to perform the duties of judicial office, including administrative duties, without bias or prejudice. I believe is biased in my case for the following compelling reasons:

1. I am the only female in this case, and I believe sexism may be a bias at play in this matter.
2. I am the only self-represented litigant in this case. I believe that ' comments about the word "emend" and his unwillingness to hold a one hour conference to settle this matter (as I requested multiple times) show his bias against persons who are self-represented litigants.
3. I am the only party who has upheld the Rule 69 Agreement, yet I am the only party that is being punished as though I have not upheld it. The essence of Arizona's community property law in divorce asset division is a stop-loss measure. It is designed to ensure that both parties are held equally accountable for disclosing and dividing assets. Judge does not seem to grasp or agree with this concept of fairness.
4. Husband has not complied with or carried out any portion of the Rule 69 Agreement (except for signing a lien waiver on the marital home). Husband is a wealthy businessman whose earnings come directly from the Arizona and Nebraska state governments. Husband contributes money to state legislators and is well-lawyered, which is all the more reason for to take care to ensure he is not influenced – and does not appear influenced – by a wealthy husband with ties to Arizona state government officials. But given that has never so much as reminded the husband that he must comply with the Rule 69 Agreement while he won't meet with the parties and imposes harsh penalties on the financially strapped wife, shows Judge extreme bias in favor of wealthy husband and in detriment to the only female and self-litigant in this case - me.

CANON 2, RULE 2.6. Ensuring the Right to Be Heard

How ; violates Canon 2, Rule 2.6 in this case: denied every request I made for a meeting. He refused to let , the , explain his involvement in our matter and why his report should not be used to determine the settlement amount. By refusing our requests to be heard, violated Canon 2, Rule 2.6 as follows:

1. He did not accord every party who has a legal interest in the proceedings the right to be heard according to law.
2. He did not encourage the parties to proceed in settling the matters still in dispute, and coerced a settlement that is not lawful or in compliance with the Rule 69 Agreement, which both the Superior and Appellate Courts upheld.
3. He undermined the reaching of a fair settlement by not allowing me or to be heard.
4. He did not take into consideration, when deciding on an appropriate settlement, the items outlined below:
 - a. That I requested to be involved and participate in settlement discussions

- b. That I have never been in court, have never been divorced, and am a self-litigant
- c. He seemed to forget that the case was decided on appeal because he told me to file an appeal. I already appealed. We all just expected [redacted] to obey the law and apply the Rule 69 agreement.
- d. That this is a civil matter in a family court, yet he is punishing me as though I am a criminal.

Commission, please exercise your duty to protect the public and the common good of people like me by contacting [redacted] and addressing my concerns with him immediately. I have suffered severely from this judge's actions and don't deserve to be punished by him or the courts in this way. ***I ask for your expeditious involvement because the execution date is looming.*** Please require [redacted] to recall his order to forcefully remove money from my savings. Please require him to comply with the Rule 69 Agreement. I am a law-abiding, tax-paying, honest and kind person. I have not done anything wrong or illegal in this matter. As a victim of spousal abuse, I went to the court for protection. While I have come to realize my husband means to harm me, I could never have imagined that the [redacted] would join forces with him and harm me even more. Please, please do the right thing and hold [redacted] accountable for abiding by the law and holding all persons in their court equally accountable for complying with the law – and above all to protect the vulnerable citizens in their court rather than harm them.

Thank you for your prompt attention to this matter.

Hand delivered