

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-147

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace vacated a judgment and dismissed a case without providing him notice and an opportunity to be heard.

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 review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission approved sending the judge a warning letter reminding him of his obligations under Rule 2.6(A) to afford litigants the right to be heard according to law. The commission also urged the judge to review Rules 2.9(A)(3) and 2.16. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Commission members Christopher W. Ames, Roger D. Barton, and George H. Foster did not participate in the consideration of this matter.

Dated: September 22, 2016

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on September 22, 2016.

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

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: _____

Date: _____

INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

see enclosed 2 page statement

Statement Regarding Complaint Against
 Judge
 Case Number

2016-147

This case was filed by myself as plaintiff on _____ with both _____ and their _____ named as defendants. The substance of the case is that _____ put a roof on my house in _____ that included a leak somewhere that has caused water to accumulate behind my kitchen drywall and on my kitchen counter every time it rains. The source of the leak has never been identified and when it rains the roof still leaks .

_____ did not respond to the complaint and a judgment in the amount of _____ was issued against them by _____ on _____ . Simultaneously, _____ filed for and was _____ in _____. Therefore, I was unable to recover anything from the judgment. The claim against _____ remained open pending resolution of a claim I submitted to the _____ .

The _____ finally issued a _____ payment but that amount is insufficient for a licensed contractor to replace enough _____ of the roof to issue a no leak warranty, insufficient to cover my actual damages. _____ did not participate in the _____ process in any way.

After receiving this determination from the _____ I filed an Application for Entry of Default against the second defendant in this case, _____ on _____ to get the litigation process against the _____ moving again. The attorney representing _____ filed a response to this motion and _____ status conference and trial dates were scheduled for the case, _____ and _____ respectively.

During the interim, before the scheduled status conference and trial, I filed motions requesting the court to order a payment from the _____ equal to this courts judgment amount against _____ or at least hear the case to make a determination of actual damages. All of these motions were responded to by motions from lawyers at the _____ office saying I shouldn't get a hearing at _____ because I already had a hearing at _____ certainly a much lower court, if it can be considered a court at all. All of my motions were denied with a simple check mark in the box labeled denied. Not a word of explanation. I even requested an opportunity for an oral argument on this matter which was also denied with a simple check of a box. I invite you to take a look at these motions which I have included in this submittal. My perception and granted it is only a perception, is that there was some level of intimidation getting motions from the _____ and a presumption by this _____ court judge that whatever they say must be correct.

Note that all of the motions related to [redacted] and requesting an order for payment from the [redacted] had no bearing on the claim against [redacted] because all of the motions for a payment from [redacted] were denied.

Now to the crux of what I consider to be judicial misconduct. On [redacted] before the status conference for my claim against [redacted] I received a phone call from [redacted] saying that both the status conference and trial had been vacated and my claim against [redacted] dismissed. Neither the plaintiff or the defendant made a motion for dismissal. The judge just arbitrarily dismissed the case without allowing me a hearing of any kind, seemingly because he didn't understand the case and didn't want to be bothered with it.

In conclusion, there were [redacted] in this case, [redacted]. A judgment was rendered against [redacted] but I was unable to recover on the judgment because of [redacted]. I was never [redacted] the other [redacted] even given an opportunity to present my case against [redacted]. This is what I consider to be judicial misconduct.