

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-167

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Judge: Jay Yellowhorse  
Complainants: Alex D. Ivan  
Patrice M. Horstman

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**ORDER**

The complainants alleged a justice of the peace failed to disqualify himself from a case involving family members, engaged in ex parte communication with a party's representative, and made public statements about a pending matter.

Rule 1.2 of the Code of Judicial Conduct states that "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." Rule 1.3 states "a judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so." Rule 2.10(A) states "a judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing." Finally, Rule 2.11 states, in pertinent part:

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

. . .

- (2) The judge knows that the judge, the judge's spouse or domestic partner, or a person within the third degree of relationship to either of them, or the spouse or domestic partner of such a person is:
  - (a) a party to the proceeding . . .
- (3) The judge knows that he or she, individual or as a fiduciary, or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household, has

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

an economic interest, as defined by this code or Arizona law, in the subject matter in controversy or in a party to the proceeding.

...

A civil case brought by members of Judge Yellowhorse's immediate family was filed in the Puerco Justice Court on April 4, 2016, against the Sanders Unified School District. Judge Yellowhorse signed the summons, but then recused himself. On the evening of April 4, 2016, Judge Yellowhorse appeared at a meeting of the Sanders Unified School Board. Judge Yellowhorse claimed his family and the school board requested that he appear as a "neutral third party," and he read a document entitled "Points of Interest," which appeared to advocate on behalf of his family's position. In his response to the commission, Judge Yellowhorse unequivocally stated that he "NEVER"<sup>1</sup> spoke to or attended the school board meeting while the case was pending.

A judge's impartiality would reasonably be questioned in a case involving his immediate family members. Therefore, disqualification was required on several grounds under Rule 2.11. While the commission recognizes that signing a summons is a somewhat ministerial task, Judge Yellowhorse's actions in this regard gave an appearance of impropriety in violation of Rule 1.2. Additionally, while the commission is mindful of the unique cultural and geographic circumstances surrounding this case, Judge Yellowhorse is subject to all provisions of the Code of Judicial Conduct at all times. While Judge Yellowhorse may have recused himself from the case prior to speaking at the school board meeting that night, he made a public statement on a pending matter that would reasonably be expected to affect the outcome in violation of Rule 2.10(A). While the parties may have requested Judge Yellowhorse to speak at the meeting, that fact does not negate Judge Yellowhorse's obligations under the Code. Reading the "Points of Interest" document which advocated his family's position was an abuse of the prestige of judicial office in violation of Rule 1.3. The commission was also concerned by Judge Yellowhorse's unequivocal denials of attending and speaking at the school board meeting while the case was pending when the records obtained from the school district clearly show otherwise, and the commission cautions Judge Yellowhorse to be forthcoming in any future responses to the commission.

Accordingly, Jay Yellowhorse, Justice of the Peace, is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule

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<sup>1</sup> All caps used in the original response.

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17(a). The commission further directs Judge Yellowhorse to attend the judicial ethics sessions at the Limited Jurisdiction New Judge Orientation in January 2017. The record in this case, consisting of the complaint, the judge's response, and this order shall be made public as required by Rule 9(a).

Commission members Anna Mary Glaab and Art Hinshaw did not participate in the consideration of this matter.

Dated: November 14, 2016

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed to the complainants and the judge on November 14, 2016.

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



HUFFORD, HORSTMAN, MONGINI, PARNELL & TUCKER PC

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Via First Class Mail

May 24, 2016

Ethics Department  
State Bar of Arizona  
4201 N. 24th Street, Suite 100  
Phoenix, AZ 85016-6266

**Re: Report of Possible Violations of the Arizona Judicial Code of Conduct**

To Whom It May Concern:

In an abundance of caution and pursuant to our professional obligation under ER 8.3 (Reporting Professional Misconduct), we hereby bring to the attention of the State Bar of Arizona Ethics Department the following possible violations of the Arizona Judicial Code of Conduct.

While representing a client, we have come to learn the following:

- John and Barbara Yellowhorse (“Plaintiffs”) filed a case (Case No. CV2016-31) against the Sanders Unified School District No. 18 (“Defendant”) in the Puerco (Sanders) Justice Court in Sanders, Arizona.
- The case was assigned to the Honorable Judge Jay Yellowhorse (“Judge”).
- The Judge is the Plaintiffs’ adult son, and he is the older brother of \_\_\_\_\_, a minor child who was the subject of the Plaintiffs’ suit against the Defendant.
- At no point after the Complaint was filed did the Judge recuse himself or transfer the case to another court.
- While the matter was pending, the Judge met individually on at least one occasion with the District’s Superintendent to discuss the case.
- In addition, the Judge attended a public District Governing Board meeting, and he distributed to the Board, the Superintendent, and the members of the public in attendance a flyer entitled “Points of Interest” with a summary of information pertaining to the

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pending case. This flyer substantially mirrored the Plaintiffs' Complaint, but also included additional information and opinions related to the matter.

The parties have recently settled this matter in order to restore peace and harmony to the small, close-knit community of Sanders. Nevertheless, we file this report only as a precautionary measure to fulfill our professional responsibilities under the Ethical Code. In so doing, we are not requesting that the Ethics Department undertake action.

Thank you very much for your consideration.

Respectfully Submitted,

Patrice M. Horstman

Alex D. Ivan

PMH/ADI:tl

Resp Judge Yellowhorse

AUG 01 2016

2016-167



# Jay Yellowhorse

Puerco Justice Court  
Post Office Box 610  
US Hwy 191 within 1 mile of I40 Exit 339  
Sanders, Arizona 86512  
Phone: (928) 688-2954 • Fax: (928) 688-2244



The Honorable Members of the  
Commission on Judicial Conduct  
1501 W Washington Street, Suite 229  
Phoenix, Arizona 85007

July 18, 2016

Re: Complaint (Case No. 16-167)

Dear Honorable Members

The Complaint that was filed was misleading, yes John & Barbara Yellowhorse are my parents and is my younger brother, but the events that were listed are inaccurate. I NEVER spoke with Defendant or Plaintiff about Case CV2016-31 while case was pending. I NEVER spoke or attended the Sanders Unified School Districts Board meeting while case was pending.

### **November 2015**

My younger brother had an incident at Sanders High School which caused him to require unnecessary medical expenses.

### **December 2015**

John & Barbara Yellowhorse filed an insurance claim through the Sanders School with the help of School Superintendent Dan Hute.

### **February 2016**

Insurance Claim was denied and John & Barbara Yellowhorse got into an altercation with Superintendent Dan Hute.

### **March 2016**

Superintendent Dan Hute visited with me at the Puerco Justice Court, to leave a message for my parents, express his concern about the argument he had with John & Barbara and also to invite me to the Sanders School Board meeting.

Before the school board meeting in March John & Barbara had written a document that was titled "Points of Interest" and had asked if I could read it to the School Board, due to the fact that they were still upset with the superintendent. With both parties coming to me about the School Board meeting, it was a cry for help. I agreed to read the document to keep the peace and formality at the Sanders School Board meeting. (There was no case pending at the Puerco Justice Court at this time and I had no knowledge of any future cases)

**April 04, 2016**

John & Barbara Yellowhorse filed a Civil Complaint (CV2016-31) at the Puerco Justice Court. The Week of April 4<sup>th</sup> all JP Judges in Apache County were at a conference including Superior Court Judge Mike Latham. After a few calls were made to other Judges, it was decided that I would sign off on the summons and recuse myself from CV2016-31 and have a new Judge appointed from another County.

**April 04, 2016**

After Signing the Summons I recused myself from the case (CV2016-31). (On the minute entry the date that was listed was stated August 4, 2016 that was an error, Should have stated April 4, 2016. But at the bottom of the page by the Signature has the correct date)

While case was pending I did not speak with nor visit Plaintiffs or Defendants. Also Sanders Unified School District is in the jurisdiction of the Puerco Justice Court, John & Barbara Yellowhorse reside in the jurisdiction of the Puerco Justice Court, the incident at the School took place in the jurisdiction of the Puerco Justice Court, and no motions were filed for a change of venue

**Conclusion**

When Case CV2016-31 was filed in the Puerco Justice Court, I did everything I could to make sure the Court was being fair and impartial to all parties.

Recusing myself the same day the case was filed and by reaching out to other Judges before signing the summons, and not visiting nor speaking with any party while case was pending ensured everyone that a fair and impartial hearing could be held.

Also all parties were sent a copy of all documents including recusal, except for Patrice Horstman & Alex Ivan due to the fact that NO Notice of Appearance was ever filed by either attorney,

Thank you for your time

Judge Jay Yellowhorse

Puerco Justice Court

Sanders, Arizona