

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-187

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge did not afford her an opportunity to be heard and made inconsistent and 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(a).

Commission member Anna Mary Glaab did not participate in the consideration of this matter.

Dated: August 24, 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 August 24, 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.

Please see next page.

I would like to submit a complaint against

- 1) entered orders on presumptive decision-making for education when both my ex-husband and myself previously agreed to joint decision-making and limited her decision to final say for a school
- 2) made decisions based on actions that were pre-petition both with respect to decision-making as well as attorney's fees;
- 3) She made decisions based solely on my ex-husband's testimony, with no supporting evidence, even though his testimony contradicts hard evidence that I submitted.
- 4) failed to allow the filing of briefs that she ordered to be filed prior to entering her final ruling and subsequently never issued a minute entry regarding the submission of the briefs
- 5) utterly confused financial facts and made multiple errors in calculating community property to be divided ()
- 6) failed to exercise due diligence in understanding testing, or reviewing her file, which ultimately led to an increase in my fees and frustration.
- 7) has now issued minute entries that either are similar to or contradict one another:
 - separate, yet different minute entries issued on
 - ; and
 - separate and ENTIRELY different minute entries on the issue of attorney's fees –
 - , an award a subsequent minute entry ordering
 - and seemingly indicating that she did not recall the award! (Which both were ordered within a :imeframe)
- 8) The pleadings and minute entries in this matter reflect an ongoing failure by to review the pleadings before issuing a minute entry.

Her negligence when dealing with my case has tremendously increased attorney fees and time to resolve matters. I truly believe that failed to review a majority/most of the documents submitted to the court, starting with the pretrial statements. has failed to even remember her own orders during this trial as evidenced by contradicting or repeating minute entries.

Before I get into the detail of the complaint, I would like to start off by stating I do not believe that took the appropriate time to review the Pretrial Statements that both myself and my ex-husband timely submitted on (). As per a majority of rulings were solely based on my ex-husband's testimony with no evidence. Reviewing the pretrial statements alone, mine consist of facts and supporting evidence of each item, and my ex-husband's is a story, that may cause a reader to be very sympathetic but he does not provide evidence to prove his story in the pre-trial statement or at the time of trial. I would ask that you read both pretrial statements before moving forward.

School Choice

By an agreement made with my ex-husband and myself, the decision left to the Court was school choice for the school year only.

Complaint

1. The Court decided to give sole decision making for my son's entire education to my ex-husband. The Court had no authority/jurisdiction to make this decision of education because we had an Agreement that the Court would only be making a decision as to which parent had final say for the school year and we had previously agreed to joint legal decision making. The only issue was that we could not agree on what school our son should attend.
2. The Court based its decision heavily on the fact that I had unilaterally chosen a school without informing my Husband during our marriage and before I was even aware he was filing for divorce. I always made these decisions during our marriage and testimony was given about how I had historically selected the best schools, even if they weren't the closest in proximity. I was punished for something that occurred during our marriage. I obviously became aware that me making decisions would change after we were divorced but to fault me for something done during the marriage seems unfair in a "no fault" state.

It should also be noted that our son was neither enrolled in a school at any other school, nor had he begun attending a school at any other school when I made this decision.

Even worse is the fact that the Court penalized me for pre-petition actions, but failed to even mention my ex-husband's post-petition, unilateral action of enrolling our son in a different school without notifying me and without my consent or permission. This action was taken after we agreed to joint legal decision-making at the time of the divorce. My Ex-Husband admitted on the stand that

3. The Court gave final educational decision-making to my ex-husband. My ex-husband provided NO evidence that proves he has ever been involved in decision-making for our son's education or that he has been actively involved in our son's education. I provided ample evidence that proves that the school choice should have been given to me because I have and am 100% vested in my son's education and I have always been the decision-maker for these decisions during the marriage.

Judge's Decision

Judge decided that Father would be granted sole decision making for child's education. Outside of penalizing me for my decision, it is unclear as to why the Court made that finding. The Court solely made its decision on my ex-husband's testimony and did not take into consideration any of my evidence. The Court solely stated the following findings:

- 1.
- 2.
- 3.

The Court did not have authorization/jurisdiction to grant sole education decision making for child. Per the Minute Entries, my ex-husband and I entered into an agreement for joint legal decision-making. (See) The item that was left to the court was very clearly stated within both pretrial statements and the parenting plan submitted to the Court. If you were to read my pre-trial statement, you would discover that each and every statement I made was backed by evidence, including the fact that I was researching schools for our son before my Ex-Husband filed his

Issue Submitted to the Court

The sole issue submitted to the Court for a decision

My Ex-Husband and I stipulated to that specifically. Neither of us asked the Court to award

Recall also that we had previously agreed on

Directly from my pretrial statement (which quotes directly from the)

"

"

Directly from my ex-husband's pretrial statement

"

the focused on a decision that I made in selecting a school and enrolling our son into for the school year.

Yes, I did make a decision to enroll our son into but I was unaware that my ex-husband was planning on filing for divorce. I was doing what I normally do in our family, making these decisions was the role I have played throughout our entire marriage. I testified that I selected before knowing that my ex-husband was going to file for divorce. i. When asked by his attorney,

) Also, when asked from my attorney, if he read

he testified "

" (testified that

During the trial, I testified that

My ex-husband never disputed this statement during his testimony in Court.

Husband's

Decisions After Entering into Joint Decision Making Agreement

The Judge failed to acknowledge the fact that my ex-husband made decisions post-petition and after entering into agreement of joint legal decision making on Notated

() My ex-husband also testified that ()

My ex-husband testified that.

1.

()

()

2. More importantly, enrolling our son in a new school, for the school year, without my knowledge. When asked by my attorney,

he testified, “

”, and “

” {

} He lied on the stand,

(

It is extremely important to note,

()

As my ex-husband testified

() He failed to mention any of these actions to me.

()

The judge also stated . The evidence is contrary to this assertion. I submitted evidence and testimony

Additionally, all the evidence and the testimony submitted in court proved that my ex-husband did not attempt a compromise and I was open to other schools. I sent my first email on stating that I was open to a and tried to help my ex-husband by giving him the criteria I used in my research when I selected () I never received a response. My ex-husband testified

() Although he did testify

From my ex-husband never suggested or communicated any school choices to me.

Over after that email, we attended mediation where I was advised by the mediator that my ex-husband was recommending I requested from the mediator any research my ex-husband had on I was not provided with anything. Directly after mediation, I emailed my ex-husband and requested information as to why was the one school that he is recommending and any research he has done in regards to or any other schools. He sent me a list of schools and the But no information as to why s the best fit for our son. He basically said

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**