

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-265

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge improperly refused to pay his expert witness fees.

The responsibility of the Commission on Judicial Conduct is to impartially determine if a judicial 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 judicial officer 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 Roger D. Barton did not participate in the consideration of this matter.

Dated: January 29, 2019

Copies of this order were distributed to all appropriate persons on January 29, 2019.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2018-265

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 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.

Please see attached account of the issue in question...

DETAILS OF THE COMPLAINT AGAINST JUDGE

The Complaint that I am trying to resolve against Judge _____ is that he is refusing to authorize payment of my reasonable and appropriate Invoice for the expert witness services that I provided in the matter of the

On _____ I was retained as an expert witness by Arizona Attorney _____ who was defending _____ in the above referenced case, which had occurred on _____. I had been retained as an expert witness by Attorney _____ based upon the fact that I have _____ of experience as a fully _____ and I am internationally recognized as an expert in _____ with expertise in several areas, including, but not limited to [] elements

On _____ I sent, via U.S. Mail, a signed Fee Agreement to _____ office at _____. Although my Fee Agreement was never signed and returned to me by Attorney _____ subsequent to being informed that I had been retained, _____ contacted the defendant's _____ who paid my \$ _____ retainer on _____ as required by my Fee Agreement. (See attachment #2: *Signed Fee Agreement*).

On _____ I submitted an initial draft of my Report to Attorney _____. I submitted another draft of my Report to Attorney _____ based upon the fact that an additional _____ pages of additional Discovery had just been disclosed to me. On _____ I corrected _____ minor typographical errors in the Report, and sent the final Report to Attorney _____ (See attachment #3: *Expert Witness Report*).

The total amount of Discovery that I had been provided by Attorney _____ amounted to in excess of _____ pages of data. Additional expert witness services that I also

provided, were itemized in my Invoice, dated (See attachment #4: *Invoice*).

It should be noted that my Invoice indicates that on my Invoice was forwarded to the Honorable by Attorney had informed me that he had contacted Judge, who had agreed to pay my invoice. Between and I received several text messages that were sent to me from a spokesperson, who was speaking for Judge I have copied the text of these messages in which the spokesperson (*unidentified*) apologizes for the period of time that it has taken to resolve the non-payment of my invoice. In the sent to me on the spokesperson wrote. “

.” (See attachment #5:)

I did not respond to this suggested settlement, which I view as preposterous. To pay me only \$ of my \$ Invoice constitutes paying me for only of the work I performed. And to proclaim that under their “,” the most they would pay is “,” is totally absurd.

To pay me only \$ of my \$ Invoice constitutes paying me for only of the services that I provided. A question that looms unanswered, is how many of Judge staff and co-workers, including Judge would agree to provide the services they render, if their wages were reduced by or by ? No rational individual would see these proposals regarding payment for work performed as reasonable, and I view these identical recommendations by Judge as completely unacceptable.

My fees for expert witness services are well established and have never been challenged. For confirmation of this, I have attached numerous retention documents illustrating my fee schedule, and my retentions from the (See attachment #6: *Retention Documents from*).

The involvement of the Arizona Commission on Judicial Conduct in attempting to equitably resolve this debacle are deeply appreciated.

Respectfully Submitted,