

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-242

Judge:

Complainant:

ORDER

The Complainant alleged a pro tem justice of the peace took on the role of an advocate, exhibited hostility and animus toward him, and based his rulings on his personal experiences rather than the evidence presented.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

After review, the Commission found that the judicial officer's line of questioning of a witness appeared to advocate for one side and his comments about his knowledge of treating termites gave the impression he was judging the case based on his personal experience. While this was improper under Rules 1.2 and 2.2 of the Code of Judicial Conduct, the Scope Section of the Code provides that not every transgression will result in the imposition of discipline. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Commission Rules 16(b) and 23(a), but to issue a warning letter to the judicial officer to be mindful that his comments may give the impression he is advocating for one party and improperly basing his decision on facts outside of the record.

Commission members Gus Aragón, Roger D. Barton and Christopher P. Staring did not participate in the consideration of this matter.

Dated: January 29, 2020

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on January 29, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

19-242

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.

This suit, for wrongful withholding \$ _____ of Security Deposit due to tenant negligence, was brought against both _____ and _____, the legal owner of the home. We represented ourselves. I, _____, am a _____ partner in _____. We motioned to have _____ removed as Defendant since all my actions were done as an agent of _____. Judge Pro-Tem _____ unexplicably refused to sever _____ from the lawsuit. As such, I am personally responsible for a judgement that should be solely against the property owner, _____.

While I was on the stand being questioned by the Plaintiff's Attorney, Judge _____, rather than acting as an impartial overseer of the proceedings, started questioning me as if he were Plaintiff's Council. His ire and aggressive attitude was obvious, and it comes through quite clearly on the video. I truly felt as if I were being treated as a Hostile Witness by the Judge. Instead of asking clarifying questions, Judge Pro-Tem _____ actually took over for the Plaintiff's Attorney. He spent more time cross-examined me than the Plaintiff's Attorney did.

Judge _____ then proceeded to testify as if he were an Expert Witness or a licensed exterminator, incorrectly telling me... and stating on the record... that there is ONLY ONE WAY to treat Subterranean Termites and ONLY ONE CHEMICAL to use. He was wrong on both points - there are multiple methods and chemicals that trained professionals use to combat subterranean termites. The Judge presented himself as an expert on the subject, when in actuality _____.

Perhaps I should have called the Judge to the witness stand to flesh-out his credentials on treating termites.

During trial, the Plaintiff's Attorney repeatedly misquoted the court filings, saying I told her client to "_____. I repeatedly corrected her, quoting the evidenciary emails, in which I said to "_____. The two answers are quite different. Active termite colonies rebuild the tubes in days... not 6 months later. Judge _____, in his chastising me and testifying, repeated the Plaintiff's version of the inaccurate statement, stating that I said to "_____. This shows an obvious alignment with the Plaintiff, rather than the acknowledging the evidence presented.

In addition to pictures of the damage done by the termites, I brought a piece of damaged cabinet to present as evidence. The Judge would not let me present it.

Plaintiff's Attorney filed incorrect paperwork multiple times and on multiple forms: misquoting the court's decision, submitting incorrect dollar amounts, and an assortment of other errors. Each and every time we filed objections due to the errors, the Judge allowed the Plaintiff's Attorney to correct their paperwork. If you recall, we represented ourselves. How many times should a Licensed Attorney be allowed to file erroneous paperwork... or how many bites at the apple should a professional get? This goes, again, towards the Judge's animas towards me.

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It is my position that, rather than acting as an impartial party, Judge Pro-Tem _____ actively joined the Plaintiff's Attorney in this lawsuit through his extended cross-examination of me, presenting himself as an expert witness for the Plaintiff _____, mimicking the Plaintiff's Attorney's incorrect statements, allowing multiple re-submission of Plaintiff's erroneous forms, and not allowing me the opportunity to present physical evidence. Quite obviously Judge Pro-Tem _____ was NOT acting as an impartial overseer of the proceedings... the end result of which was my being denied Due Process and having a judgment levied against me for \$ _____.

After having an \$ _____ issue become a \$ _____ judgment by a Judge who showed obvious bias, I was extremely afraid to appeal and risk appearing before Judge _____ again. I understand this commission does not have the authority to re-visit the court's decision, but it is not right that I bear the expense of Judge Pro-Tem _____ learning curve, and that he may not yet have the demeanor to objectively oversee cases. I do hereby request that the proceedings be evaluated and if Judge _____ actions are, as I believe, inappropriate, then the decision and award should be vacated.

Thank you for your time and consideration,.