

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-343

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Judges:

Complainant:

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**ORDER**

February 12, 2020

The Complainant alleged four judicial officers made improper rulings related to a small claims matter in justice court.

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.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Colleen E. Concannon and George H. Foster, Jr. did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 12, 2020.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2019-343**

**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.

On \_\_\_\_\_, Judge was not diligent and made a mistake in looking at receipts and adding them up properly for filing and service costs. She was \_\_\_\_\_ short which is the filing fee plaintiff paid and should be awarded since case was in plaintiff's favor.

Secondly, on \_\_\_\_\_, she denied a motion to amend the judgment for the \_\_\_\_\_.

Commission on Judicial Conduct  
1501 W Washington St, Ste 229  
Phoenix, AZ 85007

RE: Case No. 19-343

Additional improper conduct in relation to this case.

### First, a little history on this case.

EX 1. When I first went to file this case against \_\_\_\_\_, it was in \_\_\_\_\_ Court. My complaint was captioned with \_\_\_\_\_ and it's address, case \_\_\_\_\_. The service on \_\_\_\_\_ to the company's Registered Agents address listed with the \_\_\_\_\_ was \_\_\_\_\_. \_\_\_\_\_ refused to accept service at this address, and said it needed to go to their \_\_\_\_\_ location, which is not the Registered Agents address on record. This service shows \_\_\_\_\_ as the Court. The second service on \_\_\_\_\_ to the \_\_\_\_\_ address shows \_\_\_\_\_ Court and a service fee of \_\_\_\_\_. The receipt for filing dated \_\_\_\_\_ shows \_\_\_\_\_. Note – The Court on the filing fee receipt is \_\_\_\_\_ yet it references the number \_\_\_\_\_ which is \_\_\_\_\_ !

When I went to file case \_\_\_\_\_ at the \_\_\_\_\_ window, the clerk took my complaint and my credit card and said, go have a seat and we will call you when we are done processing this. I waited \_\_\_\_\_. I went back to the \_\_\_\_\_ window, signed the credit card slip, put my receipts in the file and left.

When I went to court for the hearing on \_\_\_\_\_ and during that hearing, I realized the Court had us in the wrong Court and brought that up. The Judge vacated the case and said I needed to refile in the correct Court even though it was the Courts mistake.

The Court let me use my filing fee so I didn't have to pay again. This \_\_\_\_\_ fee is for a case against \_\_\_\_\_ in \_\_\_\_\_ County.

EX 2. When I had the hearing for the new and in proper court case \_\_\_\_\_ and was the prevailing party on \_\_\_\_\_, I was awarded costs per ARS 12-341 except the judge erred and forgot to add the filing fee of: \_\_\_\_\_ to the costs section.

EX 3. I then filed a motion to amend the judgment and add the \_\_\_\_\_ to the costs section. It was improperly denied by Judge \_\_\_\_\_, saying the fee was not in

this Court. Which makes no sense. It was paid to \_\_\_\_\_ County \_\_\_\_\_ Courts for a case against \_\_\_\_\_ and was allowed to be used from the first filing to the second, which was not a mistake by me, but by the Court.

EX 4. Judge \_\_\_\_\_ erred further by deducting from the costs one of the service fee's of \_\_\_\_\_ which was the one for the service of corrected case

#### 12-341. Recovery of costs

The successful party to a civil action shall recover from his adversary all costs expended or incurred therein unless otherwise provided by law.

I then filed a motion for a refund of the \_\_\_\_\_ filing fee in \_\_\_\_\_ Court. If the fee is not in \_\_\_\_\_ where the case was tried and won, and originally filed, and cannot be awarded to plaintiff per ARS 12-341, then it resides in \_\_\_\_\_ ? If so, it is due to the Court error and should be refunded. But this to was improperly denied by Judge \_\_\_\_\_

### Current Issue:

\_\_\_\_\_ was ignoring my attempts to collect the judgment. I filed for a debtors exam (Supplemental Proceedings)

#### 12-1631. Order for appearance of debtor; limitation

A. When a judgment has been entered and docketed, the judgment creditor, at any time may:

1. Have an order from the court requiring the judgment debtor to appear and answer concerning his property before the court or a referee, at a time and place specified in the order.

2. Have a subpoena issued compelling the judgment debtor to appear for deposition upon oral examination and answer concerning his property at a time and place specified in the subpoena.

B. No judgment debtor shall be required to attend out of the county in which he resides.

#### 12-1632. Disclosure of property; execution

A. After issuing an execution and upon proof by affidavit or otherwise, if it appears to the court that a judgment debtor has property which he unjustly refuses to apply toward satisfaction of the judgment, the court may order the judgment debtor to appear at a

specified time and place before the court or a referee, to answer concerning the failure to apply such property to satisfy the judgment.

B. Such proceedings may thereupon be had for application of the property of the judgment debtor toward satisfaction of the judgment as are provided upon return of an execution.

#### Rule 147. Enforcement of a Judgment or Order

##### Currentness

**a. Writs of execution or garnishment.** The process to enforce a judgment for the payment of money will be a writ of execution or a writ of garnishment, unless the court directs otherwise. The procedures for these writs will be as provided by law. **[ARCP 69]**

**b. Supplemental proceedings to enforce a judgment ("judgment debtor exams").** To enforce the judgment or a writ upon the judgment, the judgment creditor or a successor in interest when a successor has been shown to the satisfaction of the court, may obtain discovery from any person, including the judgment debtor, concerning the debtor's income, expenses, and assets, as provided by law. **[ARCP 69]**

**c. Enforcement of an order concerning non-parties.** Orders in favor of a person not a party to a lawsuit, or requiring obedience by a person not a party to a lawsuit, may be enforced by the same manner as orders concerning a party. **[ARCP 71]**

**d. Service of an order to show cause.** An order to show cause must be served by the party requesting the order in the manner required by Rule 113, unless it will be served on a party who has already appeared in the lawsuit, in which case the party requesting the order must serve it as required by Rule 120. **[ARCP 6(d)]**

#### **Credits**

Adopted effective  
17B A. R. S. Justice Court Civ. Proc. Rules, Rule 147, AZ ST J CT RCP Rule 147  
Current with amendments received through

#### **EX 5. Debtors Exam filing for hearing on**

When at the Debtors Exam, the person served to appear did not show up. So, pursuant to the ARS and JCRCP above, I asked the clerk to issue a warrant for the persons arrest. The manager of the Court, refused to perform this. Plus she took my form for asking this and did not file it or process it properly.

While in the meeting room with a person named that appeared for , but this is not proper per ARS and the Court should of followed proper procedure came in and said that it's ok for a person other than the person served to appear because has a letter saying it's ok for her to appear. I said, this is ok for a court hearing for the complaint, but not for a Debtors Exam. The ARS is very specific on having Date of Birth and Physical Description on the affidavit of service for exactly this purpose. She ignored me. She also took my paperwork (EX 5) and didn't return it.

and I then went to see a Judge, and not a real Judge, but a Pro Tem one named would not follow the law and issue the arrest warrant, saying he would not do it for . This was the approximate balance on the judgment as paid just prior to the Debtors Exam, but did not pay

collection costs and interest. The dollar amount of the remaining amount on the judgment is not an issue in administering the law. And making such a statement that isn't enough to apply the law is corruption at it's finest. Who is to say how much is enough? Maybe is still not enough. Maybe it has to be the whole judgment amount?

Judge hen said he was going to make the case where the debtor doesn't owe anything more. In other words, Satisfied. This to violates the law. Collection costs are all recoverable on a judgment and a Judge cannot say they are not.

Three violations here:

1. The Judge failed to issue the arrest warrant for
2. The Judge made opinion on what is a dollar amount level he will apply the law.
3. The Judge went outside the law to say a judgment is satisfied when it is not.
4. The Judge said that Collection costs are not recoverable before the judgment is satisfied.

The Court Clerk Manger violations:

1. Gave legal advise by telling both the representative from and I that she would not process the form for the arrest warrant.
2. Gave legal advise by saying it's ok for a person named in a letter that it's ok for them to appear in lieu of the person named in the debtor exam affidavit of service and filing.
3. Gave legal advise by telling us what is and what isn't allowed in a Debtor's exam.

Deputy also refused to file the arrest warrant. She also would not file my Motion for Oral Argument to discuss the fees and the whole fiasco with this case. It was stamped by a male clerk but took it and I don't know where it is at this time.

This will be filed with at also.

**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.**