

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-388

Judge: Concepcion Bracamonte

Complainant: Mark L. Williams

ORDER

The Complainant alleged a pro tem justice of the peace improperly granted a continuance in a matter in which she had a conflict of interest.

Mark L. Williams represented Luis Herrera in a protective order proceeding (*Juan Pavone v. Luis Herrera*, Santa Cruz County Justice Court Case No. PO2019-00095). Mr. Herrera had requested a hearing on the protective order which was set for November 21, 2019. On November 19, 2019, attorney Matthew Davidson entered a notice of appearance on behalf of Juan Pavone and simultaneously filed a motion to continue the November 21, 2019 hearing. Mr. Davidson's motion to continue cited a trial conflict, but he failed to provide specific information about the conflicting case, as required by rule. Judge Bracamonte signed an order granting the request for a continuance on November 19, 2019, before Mr. Williams could be heard in opposition. When Mr. Williams filed his opposition (titled "Notice to Court"), he stated that he learned Mr. Davidson was representing Judge Bracamonte on a speeding ticket in another court and the traffic hearing was the conflicting matter for which he had sought the continuance of the protective order proceeding.

Judge Bracamonte submitted a very brief response to the complaint in which she acknowledged signing the order, however, she claimed she was the only judge available to sign the order and she had "forgotten" the date of her traffic hearing. Her response failed to provide any specific details about whether she had even attempted to locate another judge to rule on Mr. Davidson's motion. Her response also failed to fully address the conflict of interest issue and any appearance of impropriety issue.

The Commission found that Judge Bracamonte's conduct violated the following provisions of the Code of Judicial Conduct:

- Rule 1.2 which states, “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 which 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 2.2 which states, “A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.”
- Rule 2.6(A) which states, “A judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.”
- Rule 2.11(A) which states, “A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned . . .”

Comment 3 to Rule 2.11 states:

The rule of necessity may override the rule of disqualification. For example, a judge might be required to participate in judicial review of a judicial salary statute or might be the only judge available in a matter requiring immediate judicial action, such as a hearing on probable cause or a temporary restraining order. In matters that require immediate action, the judge must disclose on the record the basis for possible disqualification and make reasonable efforts to transfer the matter to another judge as soon as practicable.

While Judge Bracamonte alluded to the rule of necessity in her response, she failed to provide any evidence to support that she was the only judge available to sign the motion and failed to document any efforts undertaken to find another judge to rule on the motion. She also failed to disclose on the record the basis for her possible disqualification. The Commission was concerned by the brevity of Judge Bracamonte’s response, finding it failed to substantively address the applicable ethical violations and demonstrated insufficient candor.

Accordingly, Pro Tem Judge Concepcion Bracamonte is hereby publicly reprimanded for her conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judicial officer’s response, and this order shall be made public as required by Commission Rule 9(a).

Commission members Michael J. Brown and Louis Frank Dominguez did not participate in the consideration of this matter.

Dated: May 19, 2020

FOR THE COMMISSION

/s/ Christopher P. Staring
Hon. Christopher P. Staring
Commission Vice-chair

Copies of this order were distributed to all appropriate persons on May 19, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2019-388

COMPLAINT AGAINST A JUDGE

Name: Mark Williams Judge's Name: Concepcion Bracamonte

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 and read the attached Notice to the Court, which I filed in the Santa Cruz County Justice Court, 2160 N. Congress Drive, Nogales, AZ 85621 on Monday, December 2, 2019 and served that same day, for a detailed description of the misconduct.

Concepcion Bracamonte conducts traffic hearings and acts as a judge pro tem in Santa Cruz County, Arizona. I am fearful of retaliation by her and her supporters for making this complaint and as a result of the attached Notice to the Court that I filed and served.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

COMPLAINT AGAINST A JUDGE

Name: Mark Williams Judge's Name: Concepcion Bracamonte

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.

1 Mark L. Williams, Esq. SBN 022096
2 LAW OFFICE OF MARK L. WILLIAMS
3 969 N. Grand Ave. #1
4 Nogales, AZ 85621
5 Tel: (520) 287-4500
6 Fax: (520) 287-4501
7 Email: markwilliamsesq@yahoo.com

8 Attorney for Defendant
9 LUIS HEREDIA

10 IN THE JUSTICE COURT

11 COUNTY OF SANTA CRUZ, STATE OF ARIZONA

12 JUAN PAVONE,

13 Plaintiff,

14 vs.

15 LUIS HERRERA,

16 Defendant.

17 Case No.: PO-2019-000095

18 NOTICE TO THE COURT

19 COMES NOW the Defendant, by and through his undersigned counsel, and hereby
20 respectfully submits the following notice to the Court.

21 The Defendant on November 12, 2019 through his undersigned counsel requested a
22 hearing to dismiss the injunction against harassment against him in this case.

23 On November 12, 2019 a hearing was set for November 21, 2018 at 11:00a.m. A true
24 and correct copy of the hearing notice is attached hereto as Exhibit "A" Page 1.

25 On November 19, 2019 attorney Matthew Davidson entered his appearance for the
26 Plaintiff in this action and filed and caused to be served his notice of appearance and a motion to
27 continue stating in pertinent part that he "has a scheduling conflict, and is in trial." True and
28

1 correct copies of the notice of appearance and motion to continue are attached hereto as Exhibit
2 B Pages 2-4.

3
4 On November 20, 2019 Defendant's undersigned counsel filed and served his response to
5 the Plaintiff's motion to continue objecting to the requested continuance on various grounds
6 including, but not limited to, the Defendant wanting to have a hearing as fast as possible to
7 dismiss the injunction against harassment, Plaintiff's counsel Mr. Davidson must have known he
8 had trial on November 21, 2019 prior to accepting representation in this case, and *pointing out*
9 *that the motion to continue failed to identify the case, court, and case number for which Mr.*
10 *Davidson had trial.* A true and correct copy of the Response is attached hereto as Exhibit "C"
11 Pages 5-8.

12
13 On November 20, 2019 the Santa Cruz County Justice Court faxed to undersigned
14 counsel's office a copy of Mr. Davidson's motion to continue and an Order prepared by attorney
15 Matthew Davidson signed by *Concepcion Bracamonte* "Pro Temp Judge of the Justice Court"
16 granting Matthew Davidson's motion to continue the November 21, 2019 11:00a.m. hearing to
17 December 5, 2019 at 9:45a.m. A true and correct copy of the motion to continue and the order
18 are attached hereto as Exhibit "D" Pages 9-11.

19
20 Nobody notified undersigned counsel that *Concepcion Bracamonte* was involved in this
21 case prior to her granting Mr. Davidson's motion to continue the November 21, 2019 11:00a.m.
22 hearing. The November 21, 2019 11:00a.m. hearing was displayed to undersigned counsel and
23 the public on the court calendar of the Hon. Emilio G. Velasquez, Santa Cruz County Justice of
24 the Peace. A true and correct copy of the calendar is attached hereto as Exhibit "E" Page 12.

25
26
27 Prior to receiving the order signed by *Connie Bracamonte* granting Matthew Davidson's
28 motion to continue, undersigned counsel looked at the court calendars for Santa Cruz County and

1 discovered that attorney Matthew Davidson was representing *Connie Bracamonte* in the
2 Nogales City Court, Case #CT19-864 for a traffic ticket for a violation of A.R.S. §28-701A
3 failure to control speed to avoid collision and had a civil traffic hearing set for November 21,
4 2019 at 10:00a.m. A true and correct copy of the Nogales City Court calendar for *Connie*
5 *Bracamonte's* November 21, 2019 10:00a.m. civil traffic hearing is attached hereto as Exhibit
6 "F" Page 13.

7
8 Attorney Matthew Davidson filed his notice of appearance and request for trial for
9 *Concepcion Bracamonte* in the Nogales City Court on July 12, 2019. A true and correct copy of
10 his notice of appearance and request for trial is attached hereto as Exhibit "G" Page 14.

11
12 The Nogales City Court by minute entry dated September 20, 2019 set *Concepcion*
13 *Bracamonte's* civil traffic hearing bench trial for Thursday, November 21, 2019 at 10:00a.m.
14 and notified the parties. A true and correct copy of the minute entry is attached hereto as Exhibit
15 "H" Page 15.

16
17 On November 21, 2019 at 10:00a.m. *Concepcion Bracamonte* appeared with her
18 attorney Matthew Davidson at the Nogales City Court, the officer failed to appear, the ticket was
19 dismissed, and *Concepcion Bracamonte* signed the minute entry. A true and correct copy of the
20 minute entry is attached hereto as Exhibit "I" Page 16.

21
22 If Plaintiff's attorney Matthew Davidson's reference in his November 19, 2019 motion to
23 continue the November 21, 2019 11:00a.m. hearing in this matter that he "has a scheduling
24 conflict, and is in trial" (Exhibit "B" Page 3) is a reference to *Concepcion Bracamonte's*
25 *November 21, 2019 10:00a.m.* civil traffic hearing then, *Concepcion Bracamonte* in granting
26 Matthew Davidson's motion to continue the November 21, 2019 11:00a.m. hearing in the case at
27

1 hand, was in effect assisting her own attorney to be present to defend her in the Nogales City
2 Court.

3
4 Undersigned counsel checked the court calendars in Santa Cruz County for November
5 21, 2019 and attorney Matthew Davidson was not identified as having any other hearing and/or
6 trial scheduled at 11:00a.m., only *Concepcion Bracamonte's November 21, 2019 10:00a.m.*
7 civil traffic hearing. The next hearing in the Nogales City Court on November 21, 2019 after
8 *Concepcion Bracamonte's 10:00a.m.* civil traffic hearing was an arraignment at 11:00a.m.
9 scheduled for a defendant named Irwin Cruz Case #TR2019000192. Exhibit "H" Page 15.
10

11 It is difficult to understand how Plaintiff's attorney's November 19, 2019 statement in the
12 motion to continue the November 21, 2019 11:00a.m. hearing in this matter that he "has a
13 scheduling conflict, and is in trial" (Exhibit "B" Page 3) is accurate given that he was
14 representing *Concepcion Bracamonte* at 10:00a.m., the next hearing was scheduled to start at
15 11:00a.m., and there were no other scheduled hearings and/or trials on the Santa Cruz County
16 court online calendar identifying him as attorney for a matter at 11:00a.m.
17

18 The Defendant in the case at hand, Luis Heredia, has been denied his right to have his
19 requested hearing within 10 court business days, the final day being November 26, 2019.
20

21 Rule 38(b)(2), Arizona Rules of Protective Order Procedure states:

22 "(b) **Scheduling the Hearing.** A judicial officer *must* hold the hearing at the earliest
possible time....

23 (2) For all other protective orders, a judicial officer must hold a hearing within 10 court
24 business days of the request unless the judicial officer finds good cause to continue the
hearing for a longer period of time." [Emphasis added]

25 Good cause did not exist to continue the November 21, 2019 11:00a.m. hearing in this
26 matter and the Defendant Luis Heredia has been denied his right to Due Process as a result.
27

28 /// ///

1 When *Concepcion Bracamonte* signed the proposed order of her attorney Matthew
2 Davidson continuing the November 21, 2019 11:00a.m. hearing in this matter it appears she
3 violated various and numerous Canons and Rules of the Arizona Code of Judicial Conduct, Rule
4 81, Arizona Rules of Supreme Court including, but not limited to, Canon 1, Rules 1.1, 1.2, and
5 1.3 and Canon 2, Rules 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8, and 2.11.
6

7 Canon 2 is entitled "A Judge Shall Perform the Duties of Judicial Office Impartially,
8 Competently, and Diligently" and Rule 2.15 states in pertinent part:
9

10 "RULE 2.15. Responding to Judicial and Lawyer Misconduct

11 (A) A judge having knowledge that another judge has committed a violation of this code
12 that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness
13 as a judge in other respects shall inform the appropriate authority.

14 (B) A judge having knowledge that a lawyer has committed a violation of the Rules of
15 Professional Conduct that raises a substantial question regarding the lawyer's honesty,
16 trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate
17 authority.

18 (C) A judge who receives information indicating a substantial likelihood that another
19 judge has committed a violation of this code shall take appropriate action. (D) A judge
20 who receives information indicating a substantial likelihood that a lawyer has committed
21 a violation of the Rules of Professional Conduct shall take appropriate action."

22 The Defendant Luis Heredia has read this notice, authorized it, and requests the Hon.
23 Emilio G. Velasquez, Santa Cruz County Justice of the Peace and the Hon. Thomas Fink,
24 Presiding Judge Santa Cruz County Superior Court, Division I take appropriate action pursuant
25 to Canon 2, Rule 2.15.
26

27 Dated: December 2, 2019

LAW OFFICE OF MARK L. WILLIAMS

28 Mark L. Williams, Esq.
Attorney for Defendant

COPY of the foregoing HAND-DELIVERED this 2nd day of December, 2019 to:

Law Offices of MATTHEW C. DAVIDSON, LTD.
Matthew Davidson, Esq.
1859 N. Grand Ave. Suite 1
Nogales, AZ 85621

1 COPY of the foregoing HAND-DELIVERED this 2nd day of December, 2019 to:

2 Judicial assistant/clerk for delivery to:
3 Hon. Thomas Fink, Presiding Judge
4 Santa Cruz County Superior Court, Division I
5 2160 N. Congress Drive
6 Nogales, AZ 85621

7 Judicial assistant/clerk for delivery to:
8 Hon. Emilio G. Velasquez, Santa Cruz County Justice of the Peace
9 2160 N. Congress Drive
10 Nogales, AZ 85621

JUSTICE OF THE PEACE, PRECINCT NO. 1, COUNTY OF SANTA CRUZ
2160 N. CONGRESS, STE. 2100, NOGALES, AZ. 85621 (520)375-7762

<u>Juan Pardo</u>		<u>PO2019-00095</u>	NOTICE OF HEARING
Plaintiff	Birth Date: _____	Case No.	
Vs.			<input checked="" type="checkbox"/> Order of Protection <input checked="" type="checkbox"/> Injunction Against Harassment <input checked="" type="checkbox"/> Injunction Against Workplace Harassment
<u>Luis Herrera</u>			Issued Date: ___/___/___ (mm/dd/ccyy)
Defendant			

Upon request of a party or the Court, this matter is set for hearing on 11/12/2019 at 11:00 a.m. in Location/Courtroom 2160 N. Congress, Ste. 2100, Nogales, AZ

The parties are to present testimony and evidence as to whether the Court should continue, revoke, or modify the protective order listed above.

11-12-19
Date

AA
Clerk

CERTIFICATE OF TRANSMITTAL

Notice mailed [] provided personally to Plaintiff on 11/12/19 by AA ^{also notified via telephone.}

Notice mailed [] provided personally to Defendant on 11/12/19 by AA ^{Notified window by 2020}

1 Law Offices of
MATTHEW C. DAVIDSON, LTD.
2 1859 N. Grand Ave. Suite 1
Nogales, AZ, 85621
3 (520) 281-0433
Matthew C. Davidson, SBN 015021
4 Attorney for Plaintiff

5
6 IN THE JUSTICE COURT, PRECINCT ONE
7
8 COUNTY OF SANTA CRUZ

8 JUAN PAVONE,) NO. DO2015-113
9)
10 Plaintiff,) NOTICE OF APPEARANCE
11 vs.)
12)
13 LUIS HERRERA,)
Defendant.)

14
15 The Law Offices of MATTHEW C. DAVIDSON, LTD., by and through
16 counsel undersigned, hereby enters its appearance for the Plaintiff in
17 the above-entitled cause. Plaintiff requests attorney's fees and
18 costs per ARS 12-1809 and Rule 39 ARPOP.

19 DATED this 19 day of Nov, 2019.

21 Matthew C. Davidson
22 Attorney for
Plaintiff

23 Copy of the foregoing
24 Del. this 19 day of
Nov, 2019:

25 Mark Williams, Esq.
969 N. Grand Ave. #1
Nogales, Arizona 85621

1 Law Offices of
MATTHEW C. DAVIDSON, LTD.
2 1859 N. Grand Ave. Suite 1
Nogales, AZ, 85621
3 (520) 281-0433
Matthew C. Davidson, SBN 015021
4 Attorney for Plaintiff

5
6 IN THE JUSTICE COURT, PRECINCT ONE
7
8 COUNTY OF SANTA CRUZ

9 JUAN PAVONE,) NO. DO2015-113
10 Plaintiff,)
11 vs.) MOTION TO CONTINUE
12 LUIS HERRERA,)
13 Defendant.)

14 Plaintiff, by and through counsel undersigned, motions this Court
15 to continue the hearing on the injunction set for November 21, 2019
16 for a date after the Thanksgiving holiday. This continuance is
17 requested for the reason that Counsel has just been retained and
18 additional time is needed for preparation and possible subpoenas. In
19 addition, Counsel has a scheduling conflict, and is in trial. This
20 motion and other pleading filed will be emailed to Mr. Williams to
21 expedite notice.

22
23 DATED this 19th day of November, 2019.

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Matthew C. Davidson,
Attorney for
Respondent

Copy of the foregoing
Emailed this 14th day of
Nov, 2019 to;
Mark Williams, Esq. *m*

1 Mark L. Williams, Esq. SBN 022096
2 LAW OFFICE OF MARK L. WILLIAMS
3 969 N. Grand Ave. #1
4 Nogales, AZ 85621
5 Tel: (520) 287-4500
6 Fax: (520) 287-4501
7 Email: markwilliamsesq@yahoo.com

8 Attorney for Defendant
9 LUIS HEREDIA

10 IN THE JUSTICE COURT

11 COUNTY OF SANTA CRUZ, STATE OF ARIZONA

12 JUAN PAVONE,

13 Plaintiff,

14 vs.

15 LUIS HERRERA,

16 Defendant.

17 Case No.: PO-2019-000095

18 RESPONSE TO MOTION TO CONTINUE

19 COMES NOW the Defendant, by and through his undersigned counsel, and hereby
20 respectfully submits his response to the Plaintiff's motion to continue incorrectly filed under case
21 #DO2015-113

22 Defendant objects to Plaintiff's motion to continue the November 21, 2019 hearing at
23 11:00a.m.

24 Defendant Luis Heredia is a Safety Inspector for the U.S. Department of Transportation,
25 has negatively been impacted by the issuance of the injunction against harassment (IAH), and
26 wants to exercise his right to have a hearing to dismiss the IAH as soon as possible.

27 Defendant Luis Heredia is the neighbor of Plaintiff and has been victimized by Plaintiff.
28

1 Exhibit "C" Page 5

FILED NOV 20 19 10:22

1 The IAH orders Defendant to stay 100 feet away from Plaintiff and protected persons.
2 Since Plaintiff lives right next door to Defendant the IAH arguably prevents Defendant from
3 going to his own home to live.

4 The court presumably notified Plaintiff of the 11/21/19 11:00a.m. hearing on November
5 12, 2019, the same day Defendant requested a hearing to have the injunction against harassment
6 dismissed.

7 Plaintiff's motion to continue fails to cite any authority.

8 Plaintiff's motion claims Plaintiff just retained his counsel who filed a notice of
9 appearance under the incorrect case # "DO2015-113" on November 19, 2019 just 2 days before
10 the scheduled hearing. It is Plaintiff's fault for delaying in retaining an attorney earlier.

11 Plaintiff's motion claims his counsel Mr. Davidson is in trial. If that is true then
12 Plaintiff's counsel Mr. Davidson presumably knew he had trial on November 21, 2019 at
13 11:00a.m. and should not have agreed to represent the Plaintiff for a hearing to be held on
14 11/21/19 at 11:00a.m.

15 ER 1.16 is entitled "Declining or "Terminating Representation" and states in pertinent
16 part:

17 "(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where
18 representation has commenced, shall withdraw from the representation of a client if:
19 (1) the representation will result in violation of the Rules of Professional Conduct or
20 other law"

21 Comment [1] to ER 1.16 states:

22 "[1] A lawyer should not accept representation in a matter unless it can be performed
23 competently, promptly, without improper conflict of interest and to completion."

24 ER 3.2 is entitled "Expediting Litigation" and Comment [1] states in pertinent part:

25 "[1] Dilatory practices bring the administration of justice into disrepute. Delay should not
26 be indulged merely for the convenience of the advocates, or for the purpose of frustrating
27

1 an opposing party's attempt to obtain rightful redress or repose. It is not a justification
2 that similar conduct is often tolerated by the bench and bar.... Realizing financial or other
3 benefit from otherwise improper delay in litigation is not a legitimate interest of the
4 client."

5 Presumably Plaintiff hired and paid Mr. Davidson to represent him. It is not a valid
6 reason to grant a motion to continue the November 21, 2019 11:00a.m. hearing in order to assist
7 Mr. Davidson in making money from the Plaintiff.

8 Plaintiff's motion fails to state the case, court, and case # for which his attorney has a
9 trial. This is an important omission because if the information was revealed, as it should have
10 been, then the judge in this case and undersigned counsel could verify that Plaintiff's counsel
11 Mr. Davidson was previously advised of the date for trial of his other case and when he was
12 advised.

13
14 The Arizona Rules of Protective Order Procedure govern this injunction against
15 harassment proceeding. Rules Protect. Ord. Proc., Rule 1

16 Defendant Luis Heredia is entitled by law to request a hearing in writing to have the
17 injunction against harassment dismissed and he did so on November 12, 2019. Rules Protect.
18 Ord. Proc.. Rule 38(a).

19
20 The judge is required to hold the hearing at the earliest possible time and in this case it is
21 within 10 business days of Mr. Heredia's request for a hearing filed on November 12, 2019.

22 **"(b) Scheduling the Hearing.** A judicial officer must hold the hearing at the earliest
23 possible time....

24 (2) For all other protective orders, a judicial officer must hold a hearing within 10 court
25 business days of the request unless the judicial officer finds good cause to continue the
26 hearing for a longer period of time." Rules Protect. Ord. Proc., Rule 38.

27 Ten (10) court business days from Mr. Heredia's date of filing his request for hearing on
28 November 12, 2019 is November 26, 2019.

The court should deny the motion to continue the 11/21/19 11:00a.m. hearing.

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Defendant requests an award of attorney fees in this matter pursuant to A.R.S. §12-1809O and Rule 39 of the Arizona Rules of Protective Order Procedure.

Dated: November 20, 2019

LAW OFFICE OF MARK L. WILLIAMS

Mark L. Williams, Esq.
Attorney for Defendant

COPY of the foregoing emailed to: mdavidsonlaw@gmail.com & HAND-DELIVERED this 20th day of November, 2019 to:

Law Offices of MATTHEW C. DAVIDSON, LTD.
1859 N. Grand Ave. Suite 1
Nogales, AZ 85621

Exhibit "C" Page 8

JP 1201 NOV 19 19 1427

1 Law Offices of
 2 MATTHEW C. DAVIDSON, LTD.
 3 1859 N. Grand Ave. Suite 1
 4 Nogales, AZ, 85621
 5 (520) 281-0433
 6 Matthew C. Davidson, SBN 015021
 7 Attorney for Plaintiff

8 IN THE JUSTICE COURT, PRECINCT ONE
 9 COUNTY OF SANTA CRUZ

10 JUAN PAVONE,

11 Plaintiff,

12 vs.

13 LUIS HERRERA,

14 Defendant.

PO 2019-000095

) NO. ~~902015-113~~

) MOTION TO CONTINUE

15 Plaintiff, by and through counsel undersigned, motions this Court
 16 to continue the hearing on the injunction set for November 21, 2019
 17 for a date after the Thanksgiving holiday. This continuance is
 18 requested for the reason that Counsel has just been retained and
 19 additional time is needed for preparation and possible subpoenas. In
 20 addition, Counsel has a scheduling conflict, and is in trial. This
 21 motion and other pleading filed will be emailed to Mr. Williams to
 22 expedite notice.

23 DATED this 19th day of November, 2019.

Exhibit "D" Page 9

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Matthew C. Davidson,
 Attorney for
 Respondent

Copy of the foregoing
 Emailed this 19th day of
Nov, 2019 to,
 Mark Williams, Esq. *mw*

Exhibit "D" Page 10

JP 1201 NOV 19 19 1426

1 Law Offices of
2 MATTHEW C. DAVIDSON, LTD.
3 1859 N. Grand Ave. Suite 1
4 Nogales, AZ, 85621
5 (520) 281-0433
6 Matthew C. Davidson, SBN 015021
7 Attorney for Plaintiff

8 IN THE JUSTICE COURT, PRECINCT ONE
9 COUNTY OF SANTA CRUZ

10 JUAN PAVONE,) NO. ~~202015-113~~ ^{P02019-000095}
11 Plaintiff,) ORDER
12 vs.)
13 LUIS HERRERA,)
14 Defendant.)

15 UPON MOTION, good cause appearing, Respondent's Motion to
16 Continue Hearing on the Injunction against Harassment is hereby
17 GRANTED. The hearing shall be continued and reset for the 5th day
18 of December, 2019 at 9:45 a.m./p.m.

19 DONE IN OPEN COURT this 19 day of November 2019.

20 [Signature]
21 JUDGE OF THE ~~PRECINCT~~ JUSTICE COURT

22 Copy of the following was
23 Mailed this 21st day of November
24 2019 to:
25 Matthew Davidson, Esq.
Mark Williams, Esq.

Exhibit "D" Page 11



Start Time : 11/18/2019
 End Time: 11/22/2019

2160 N. Congress Drive Ste. 2100, Nogales Arizona 85621

LAW & MOTION CALENDAR
 PRESIDING HONORABLE JUDGE
EMILIO G. VELASQUEZ

Report Generated on: 11/15/2019 9:22:21 AM

Page 1 of 1

Time	Case No.	Case Name	Court Room	Event	Notes	Staff
09:00 AM	CV2019001027	YINIA PODESTA VS JOE MENDIVIL	COURT ROOM 3	SMALL CLAIMS HEARING	SMALL CLAIM INTERPRETER NEEDED	
09:45 AM	CV2019000981	MIGUEL H BETANCOURT VS KARLA MAYTORENA ET AL.	COURT ROOM 3	SMALL CLAIMS HEARING	SMALL CLAIM / COUNTER CLAIM INTERPRETER NEEDED	SPANI SH
10:40 AM	CV2019001110	GRANT PROPERTIES VS RAMSES MARTINEZ ET AL.	COURT ROOM 3	EVICTON ACTION HEARING		
10:45 AM	CV2019001111	GRANT PROPERTIES VS CANDI LARIO ADAME ET AL.	COURT ROOM 3	EVICTON ACTION HEARING		
10:50 AM	CV2019001109	GRANT PROPERTIES VS ROBERTO HEREDIA ET AL.	COURT ROOM 3	EVICTON ACTION HEARING		
10:55 AM	CV2019001113	GRANT PROPERTIES VS CRYSTAL BARRIO ET AL.	COURT ROOM 3	EVICTON ACTION HEARING		
11:00 AM	PO2019000095	J DOE VS J DOE	COURT ROOM 3	HEARING	IND HEARING - SA	MARK WILLIAMS
	PO2019000096	J DOE VS J DOE	COURT ROOM 3	PROTECTIVE ORDER - PRE ISSUANCE	S.A	
	PO2019000098	J DOE VS J DOE	COURT ROOM 3	PROTECTIVE ORDER - PRE ISSUANCE	S.A. PRE- ISSUANCE	MARK WILLIAMS
02:00 PM	CV2019001117	LUIS BORBON VS JESUS CELAYA ET AL.	COURT ROOM 3	EVICTON ACTION HEARING		

Exhibit "E" Page 12

Internal Calendar Report

NOGALES MUNICIPAL

Court Room	Date	Case Number	Appearance	Party	Defendant	Prosecutor	Judge Name	App. Violent	Reschedule
COURT ROOM	11/20/2019 02:00 PM	M1241CR201700196	PRETRIAL CONFERENCE	DEFENDANT	CARRILLO LEVI		JUDGE TEMPORARY	N	N
		M1241LC2019000002	HEARING	DEFENDANT	CHACON, FELICIANO		JUDGE TEMPORARY	N	N
		M1241CM2019000269	PRETRIAL CONFERENCE	DEFENDANT	ESPINOZA, OSCAR	RESCHEDULED	JUDGE TEMPORARY	N	N
		M1241TR2019000129	PRETRIAL CONFERENCE	DEFENDANT	HERNANDEZ, PAUL		JUDGE TEMPORARY	N	Y
		M1241CM2019000223	PRETRIAL CONFERENCE	DEFENDANT	MARTINEZ, JUAN CARLOS		JUDGE TEMPORARY	N	N
		M1241TR2019000182	PRETRIAL CONFERENCE	DEFENDANT	RAYGOZA, FRANCISCO JAVIER	RESCHEDULED	JUDGE TEMPORARY	N	N
		M1241CM2019000245	PRETRIAL CONFERENCE	DEFENDANT	GOMEZ, JUAN CARLOS AYALA		JUDGE TEMPORARY	N	N
		M1241CM2019000257	PRETRIAL CONFERENCE	DEFENDANT	RANGEL, SAMANTHA NOHEMI		JUDGE TEMPORARY	N	N
		M1241CM2019000264	PRETRIAL CONFERENCE	DEFENDANT	SOSA, ARTURO		JUDGE TEMPORARY	N	N
		M1241TR2019000175	PRETRIAL CONFERENCE	DEFENDANT	WEATHERBIE, ADAM DAIN		JUDGE TEMPORARY	N	N
11/20/2019 03:00 PM	M1241TR2019000081	PRETRIAL CONFERENCE	DEFENDANT	PAPP, DRAIK JULIUS		JUDGE TEMPORARY	N	N	
	M1241CT2019000884	CIVIL TRAFFIC HEARING	DEFENDANT	BRACAMONTE, CONCEPCION MATTHEW DAVIDSON		JUDGE TEMPORARY	N	N	
11/21/2019 10:00 AM	M1241TR2019000192	ARRAIGNMENT	DEFENDANT	CRUZ, IRVIN	RESCHEDULED	CARTWRIGHT, VANESSA	N	N	

THIS REPORT IS FOR INTERNAL USE ONLY. DO NOT DISTRIBUTE OR SHARE!

Exhibit "F" Page 13

1 Law Offices of
2 MATTHEW C. DAVIDSON, LTD
3 1859 N. Grand Ave. Suite 2
4 Nogales, AZ, 85621
5 (520) 281-0433
6 Matthew C. Davidson, SBN 015021
7 Attorney for Defendant

8
9
10 IN THE NOGALES MUNICIPAL COURT
11
12 COUNTY OF SANTA CRUZ, STATE OF ARIZONA
13

14 THE STATE OF ARIZONA,) CASE No.: CT-19-864
15)
16 Plaintiff,)
17) NOTICE OF APPEARANCE AND REQUEST
18 Vs.) FOR TRIAL
19)
20 CONCEPCION BRACAMONTE,)
21)
22 Defendant.)
23)

24 The Law Offices of Matthew C. Davidson, LTD., by and through
25 counsel undersigned hereby enters its appearance for the Defendant in
the above-entitled cause and enters a plea of not responsible.
Defendant request a trial in September, 2019.

DATED this 12th day of July, 2019.

Matthew C. Davidson
Attorney for
Defendant

Copy of the foregoing
delivered this 12th day
of July, 2019 to:
Office of the City Attorney's

JUL 12 '19 4:24

IN THE NOGALES MUNICIPAL COURT
IN AND FOR THE CITY OF NOGALES, ARIZONA

HON. Kendrick Wilson

CASE NO. CT-19-864

DATE: September 20, 2019

STATE OF ARIZONA

vs.

CONCEPCION BRACAMONTE,
Defendant

MINUTE ENTRY

The case is set for a civil traffic bench trial on Thursday, November 21, 2019 at 10:00 a.m. All parties are on notice that failure to appear may result in a default judgment.

HON. Kendrick Wilson

cc: Hon. Kendrick Wilson
Diane Culin, Court Administrator
Officer Francisco Salcido, Nogales Police Department
Matthew Davidson, Esq.
CONCEPCION BRACAMONTE

2019 SEP 20 10:00 AM

NOGALES CITY COURT

777 N. GRAND AVENUE NOGALES, AZ 85621 (520) 287-6571

www.nogalescitycourtpayments.com or 1-855-741-7787

SENTENCING MINUTE ENTRY

State of Arizona vs <u>CONCEPCION BRACAMONTE</u> Defendant			Docket Number CT2019000864	<input type="checkbox"/> Plea <input checked="" type="checkbox"/> Civil TR/PK Hearing <input type="checkbox"/> Bench Trial <input type="checkbox"/> Misdemeanor Compromise	<input type="checkbox"/> Sentencing <input type="checkbox"/> Jury			
DOCKET NO.	CV	CR	OFFENSE	PLEA/JUDGMENT	DISM	WP	W.O.P	DISPO
CT2019000864	X		ARS 28-701A FAILURE TO AVOID SPEED TO AVOID COLLISION \$180.00	Dismissed				

ORDERED:

___ ATTORNEY'S FEE	\$	<u>0</u>
___ FINE	\$	_____
___ DEFAULTED FINES	\$	_____
___ RESTITUTION	\$	_____
___ JAIL FEES #_days @ \$65/day	\$	_____
___ WARRANT FEES	\$	_____
___ TIME PAYMENT FEES	\$	_____
___ DV CONFIDENTIAL ADD	\$	_____
___ DV SERVICE FUND	\$	_____
TOTAL	\$	<u>0</u>

JAIL ___ days Credit for Time Served ___ days

___ days suspended on completion of following:

EVALUATION/SCREENING and Treatment for:

Alcohol/Drug MADD Anger Manager

Proof of SCREENING due:
COMPLETE MADD BY: _____

Attend DDS Proof by: _____

Community Service:
Proof of Community Service Hours due: _____

BOND

Forfeit Refund Convert to Fine

(Signature of Bond Poster): _____

PROBATION:
___ Months Supervised Unsupervised

Review/Restitution Hearing: _

- In full by:
- PAYMENTS of \$ ___ Per month.
Commencing:
- PROOF(S) SHOWN**
- DL Veh Reg Ins (6 mos PAID) Repair
- Non-Owner Dog Lic 39-month MVR
- QUASH WARRANT(S)**

CONDITIONS:

- | | |
|--|--|
| <p>DEFENDANT TO:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Have no contact with: <input type="checkbox"/> Do not return to: <input type="checkbox"/> Violate no State, Local or Federal Laws <input type="checkbox"/> Do not drive without a valid license <input type="checkbox"/> Sufficient evidence has been presented to the Court, Defendant is unlawfully in U.S. | <ul style="list-style-type: none"> <input type="checkbox"/> NOTIFY Court w/i 5 days of change of mailing address <input type="checkbox"/> Vacate _____ <input type="checkbox"/> Interpreter Present: <input type="checkbox"/> Victim(s) Right Notification <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Other: |
|--|--|

I AGREE TO THE ABOVE CONDITIONS.

Defendant

Date

Judge

Date

Address:

City: State: Zip:

Phone:

DISTRIBUTION: File Defendant Prosecutor Def's Attorney

Exhibit I Page 16

CONCEPCION BRACAMONTE
Patagonia Municipal Court
P. O. Box 825
Patagonia, Az. 85624

Resp
2019-388
MAR 09 2020

March 5, 2020

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

Attn: April P. Elliott. Staff Attorney

Re: Response (Case No. 19-388)

Dear Honorable Members of the Commission on Judicial Conduct:

This is in response to the complaint filed against me by Mr. Mark Williams concerning my conduct in Case No. PO2019000095 (Juan Pavone vs Luis Herrera). It is true that I signed the Order for a Motion to Continue filed by Mr. Matt Davidson, Plaintiff attorney, from November 21, 2019 to December 5, 2019, but it was not my intention to create a conflict. I signed the order that day as I was covering Judge Velazquez in Nogales Justice Court as a pro-temp because he was sick with bronchitis. When I work as pro-temp for Justice Court I cover, all the hearings for that day and also I sign all pending expedited motions for the court. .

On November 20, 2019 I signed a motion to continue filed by Mr. Matt Davidson, Plaintiffs. Attorney because he had just been retained a few days before the hearing and needed time to prepare the case also he had a Civil Traffic Hearing on the same day. I was the only judge available at the time and did not notice that it was the same day that I was going to have a Civil Traffic Hearing in Nogales City Court and Mr. Davidson was my defense attorney. I had completely forgotten the date for my hearing. I did this without any malicious intent in anyway, it was a mistake on my part and I assure you that it will not happen. I have been a pro-temp for 20 yrs and have never had an incident like this during my tenure as judge.

For your information a hearing was conducted on December 5, 2019 for Case No PO2019-000095 by Judge Velazquez and after the hearing the case was dismissed.

If you have any questions or concerns please let me know.

Respectfully,

Concepcion Bracamonte
Judge

Louis Frank Dominguez
Judicial Member
Chair

Diane M. Johnsen
Judicial Member
Vice-chair

Colleen E. Concannon
Public Member
Secretary

Denise K. Aguilar
Attorney Member

Christopher W. Ames
Public Member

Gus Aragón
Judicial Member



COMMISSION ON JUDICIAL
CONDUCT

1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

Telephone: (602) 452-3200
www.azcourts.gov/azcjc

Roger D. Barton
Public Member

Barbara Brown
Judicial Member

George H. Foster, Jr.
Judicial Member

Christopher P. Staring
Judicial Member

J. Tyrrell Taber
Attorney Member

Margaret H. Downie
Executive Director

February 19, 2020

CONFIDENTIAL

Hon. Concepcion Bracamonte
Patagonia Municipal Court
P.O. Box 825
Patagonia, AZ 85624

Re: Notice of Complaint and Opportunity to Respond (Case No. 19-388)

Dear Judge Bracamonte:

The enclosed complaint was filed against you by Mark L. Williams, Esq., concerning your conduct in Case No. PO2019-000095 (*Juan Pavone vs. Luis Herrera*). The complainant alleges, in part, that you ruled on a contested motion to continue the injunction against harassment hearing when you were being represented by one of the attorneys (Matthew Davidson) in a civil traffic matter.

To help us resolve this matter, we invite you to review the allegations and file a written response and explanation of what happened in this case. Your letter should be addressed to the members of the Commission and sent to this office on or before **Wednesday, March 11, 2020**. In preparing your response, keep in mind that the Commission's initial assessment of your conduct will rest primarily on the complaint and your response, which should include all relevant arguments and documentation and a copy of any relevant hearing recordings. You do not need to send multiple copies of your response. Also, please only send your response via one method, i.e., do not send via email and regular mail.

To the extent the Commission determines that judicial misconduct actually occurred, it looks to the factors set forth in the Scope Section of the Arizona Code of Judicial Conduct to decide whether a disciplinary sanction should be imposed:

The black letter of the rules is binding and enforceable. It is not intended, however, that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the rules and should depend upon

Hon. Concepcion Bracamonte
February 19, 2020
Page 2

factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

The Commission also considers the mitigating and aggravating factors set forth in Commission Rule 19 (available at www.azcourts.gov/azcjc).

In responding, you should discuss all of the factors you believe to be applicable.

In order to explain the Commission's decision in this case, we may give all or part of your response to the complainant. Therefore, a list of suggestions for preparing a response is enclosed. Please call me if you have any questions or need more time to respond.

Sincerely,

April P. Elliott
Staff Attorney

APE / kw

Encls. – Response Suggestions / Complaint / Comp Supp 1

ARIZONA SUPERIOR COURT
SANTA CRUZ COUNTY

2160 N. CONGRESS DRIVE, SUITE 3046, NOGALES, AZ 85621 (520)-375-7730 FAX (520) 375-8067

Thomas Fink
Presiding Judge



Diane L. Culin
Court Administrator

February 5, 2020

Electronically Delivered

Honorable Concepcion Bracamonte
Justice of the Peace *Pro Tem*

Dear Judge Bracamonte:

I have reviewed your letter responding to my correspondence directing you to provide a response relating to the Notice to the Court provided by attorney Mark Williams. I have consulted with Justice of the Peace Emilio Velasquez and we have decided that no further action is warranted at this time.

Respectfully,

Thomas Fink
Presiding Judge

copy: Hon. E. Velasquez, Justice of the Peace

January 21, 2020

To: Tom Fink, Presiding Superior Court Judge
Emilio Velasquez, Justice of the Peace

From: Concepcion Bracamonte, Pro-Temp Judge 

Re: Notice to the Court

This letter is in response to the "Notice to the Court" filed by attorney Mark Williams. As a Pro-Temp Judge for Justice Court, I cover the Justice of the Peace, Emilio G. Velasquez when he is not available for court. Not only do I cover his hearings, but also sign pending expedited motions for the court. On November the 20, 2019, I was covering for Judge Velasquez when I was given a motion by the clerk to continue an Injunction of Harassment hearing filed by Matt Davidson. The opposing party was being represented by Mark Williams. During a busy morning and with no other Judge available, I signed the motion to continue November 21, 2019 rescheduling to December 5, 2019 not realizing that there was a conflict with my scheduled hearing on November 21, 2019 at City Court whereas I was being represented by Matt Davison on a traffic violation. It was never my intent to sign a continuance that would have created such a conflict. It was an oversight on my part and assure you that it will not happen again. I have been a Pro-Temp for 20 years and have never had an incident like this occur in my tenure as a Judge.

ARIZONA SUPERIOR COURT
SANTA CRUZ COUNTY

2160 N. CONGRESS DRIVE, SUITE 3046, NOGALES, AZ 85621 (520)-375-7730 FAX (520) 375-8067

Thomas Fink
Presiding Judge



Diane L. Culin
Court Administrator

December 26, 2019

Via E-Mail to:

Honorable Concepcion Bracamonte
Justice of the Peace *Pro Tem*

Dear Judge Bracamonte:

On December 19, 2019 I gave you a letter from me with attachments and directed you to provide a written response to the allegations made in the attachments within 30 days of my letter. Upon review, I have noted that I failed to attach the complete set of documents we had received. A full set of those documents are now attached to this letter.

Again, pursuant to our responsibilities under the Arizona Code of Judicial Conduct, and my responsibilities as Presiding Judge of Santa Cruz County, I am directing you to provide a written response to the allegations in the pleading, addressed to myself and to Judge Velasquez, with a new deadline of within thirty (30) days of today's date. Please be as thorough as possible in your response, including a statement of all information pertinent to this matter.

Respectfully,

Thomas Fink
Presiding Judge

copy: Hon. E. Velasquez, Justice of the Peace

CONCEPCION BRACAMONTE
Patagonia Municipal Court
P. O. Box 825
Patagonia, Az. 85624

March 5, 2020

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

Attn: April P. Elliott. Staff Attorney

Re: Response (Case No. 19-388

Dear Honorable Members of the Commission on Judicial Conduct:

This is in response to the complaint filed against me by Mr. Mark Williams concerning my conduct in Case No. PO2019000095 (Juan Pavone vs Luis Herrera). It is true that I signed the Order for a Motion to Continue filed by Mr. Matt Davidson, Plaintiff attorney, from November 21, 2019 to December 5, 2019, but it was not my intention to create a conflict. I signed the order that day as I was covering Judge Velazquez in Nogales Justice Court as a pro-temp because he was sick with bronchitis. When I work as pro-temp for Justice Court I cover, all the hearings for that day and also I sign all pending expedited motions for the court. .

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For your information a hearing was conducted on December 5, 2019 for Case No PO2019-000095 by Judge Velazquez and after the hearing the case was dismissed.

If you have any questions or concerns please let me know.

Respectfully,

Concepcion Bracamonte
Judge

ARIZONA SUPERIOR COURT
SANTA CRUZ COUNTY

2160 N. CONGRESS DRIVE, SUITE 3046, NOGALES, AZ 85621 (520)-375-7730 FAX (520) 375-8067

Thomas Fink
Presiding Judge



Diane L. Culin
Court Administrator

February 5, 2020

Electronically Delivered

Honorable Concepcion Bracamonte
Justice of the Peace *Pro Tem*

Dear Judge Bracamonte:

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Respectfully,

Thomas Fink
Presiding Judge

copy: Hon. E. Velasquez, Justice of the Peace

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To: Tom Fink, Presiding Superior Court Judge
Emilio Velasquez, Justice of the Peace

From: Concepcion Bracamonte, Pro-Temp Judge 

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**ARIZONA SUPERIOR COURT
SANTA CRUZ COUNTY**

2160 N. CONGRESS DRIVE, SUITE 3046, NOGALES, AZ 85621 (520)-375-7730 FAX (520) 375-8067

Thomas Fink
Presiding Judge



Diane L. Culin
Court Administrator

December 26, 2019

Via E-Mail to:

Honorable Concepcion Bracamonte
Justice of the Peace *Pro Tem*

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Respectfully,

Thomas Fink
Presiding Judge

copy: Hon. E. Velasquez, Justice of the Peace

Comp Supp 1
2019-388

DEC 17 2019

Mark L. Williams, Esq.
LAW OFFICE OF MARK L. WILLIAMS
969 N. Grand Ave. #1
Nogales, AZ 85621
Tel: (520) 287-4500
Fax: (520) 287-4501
Email: markwilliamsesq@yahoo.com

December 16, 2019

VIA U.S. MAIL TO:

Commission on Judicial Conduct
Attn: Margaret H. Downie, Executive Director
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

Re: Case No. 19-388

Dear Ms. Downie,

I received your letter dated December 6, 2019 (a copy of which is enclosed) and wanted to provide you with an update regarding this matter.

After I mailed your office on December 3, 2019 my Complaint Against a Judge with the enclosed "Notice to the Court" which detailed the Complaint against Judge Concepcion Bracamonte on December 4, 2019 attorney Matthew C. Davidson, Judge Concepcion Bracamonte's attorney in her civil traffic case, filed and served a pleading entitled, "Plaintiff's Position Re: Notice to the Court" (hereinafter "Plaintiff's Position") Santa Cruz County Justice Court Case #PO-2019-000095, a copy of which is enclosed.

The significance of Plaintiff's Position is that it confirms that Judge Concepcion Bracamonte was charged with a civil traffic offense in Nogales City Court Case #CT19-864, she had her bench trial set on November 21, 2019 at 10:00a.m., her own attorney thought her civil traffic bench trial commencing at 10:00a.m. "could certainly run over an hour" (which would create a conflict for him because he was representing the Plaintiff in the Injunction Against Harassment hearing in Santa Cruz County Case #PO-2019-000095 set to commence on November 21, 2019 at 11:00a.m.), and Judge Concepcion Bracamonte signed the proposed Order of her attorney Matthew C. Davidson granting his motion to continue the Injunction Against Harassment hearing in Santa Cruz County Case #PO-2019-000095 to December 5, 2019 at 9:45a.m. over the objection of the Defendant.

Mr. Davidson's Plaintiff's Position attempts to cover for and justify his client's (Judge Concepcion Bracamonte's) conduct as nothing more than "granting a ministerial continuance" and attached a motion to continue and order that was granted in Santa Cruz County Justice Court Case # PO2019-000078. What Mr. Davidson did not attach was his

very own “Objection to Continuance of Injunction Hearing” that he filed in that case (PO2019-000078) a true and correct copy of which is enclosed herein.

Granting or denying a motion to continue an Injunction Against Harassment Hearing that is being opposed is not a “ministerial” act and attorney Matthew C. Davidson knows that or should know that. Why would Mr. Davidson file a detailed objection to a requested continuance in Santa Cruz County Justice Court Case # PO2019-000078 if he truly thought any requested continuance is automatically granted?

I do not have the statistics to show in the Santa Cruz County Justice Court how many motions to continue Injunction Against Harassment/Protective Order hearings are granted versus how many are denied.

It seems to me that an Injunction Against Harassment Hearing (where a defendant has a right to have a speedy hearing within 10 court business days; see Rule 38(b)(2), Arizona Rules of Protective Order Procedure) would take priority over a civil traffic hearing in the city court where there is no right to a speedy hearing. Why didn't Mr. Davidson seek a continuance of Judge Concepcion Bracamonte's November 21, 2019 10:00a.m. civil traffic hearing if he really thought he had a conflict?

Rule 2, Arizona Rules of Protective Order Procedure is entitled, “Applicability of Other Rules” and states in pertinent part, “the *Arizona Rules of Civil Procedure* apply when not inconsistent with these rules.”

Rule 38.1, Arizona Rules of Civil Procedure is entitled in part, “Setting Civil Actions for Trial; Postponements; Scheduling Conflicts” and states in pertinent part:

“(a) Trial Setting. Civil actions are set for trial under Rule 16 or 77. Preference is given to short causes and actions that are entitled to priority by statute, rule, or court order....

(b) Postponements.

(1) *Generally.* If a court has set an action for trial on a specified date, it may not postpone the trial unless: (A) good cause exists to do so, supported by affidavit or other evidence; (B) the parties consent; or (C) postponement is required by operation of law. Trial also may be postponed as authorized or required by local rule.

(2) *Motion and Certification.* A party seeking postponement of a trial must file a motion setting forth the basis for the request and any supporting evidence. The party must attach a separate statement certifying that the requested postponement is not being sought solely for the purpose of delay and will serve the interests of justice....

(c) Scheduling Conflicts Between Courts.

(1) *Notice to Courts and Counsel.* Upon learning of a scheduling conflict between a trial in superior court and another trial or hearing in state or federal court, counsel must promptly notify the affected judges and counsel.

- (2) *Resolving a Conflict*. Upon being notified of a scheduling conflict, the respective judges should confer with each other and counsel to resolve the conflict. Neither federal nor state court actions have priority in scheduling. A court may consider the following factors in resolving the conflict:
- (A) whether the other action is a criminal matter, and, if so, whether postponement of that matter will deprive a defendant of a speedy trial;
 - (B) each action's relative length, urgency, or importance;
 - (C) whether either action involves out-of-town witnesses, parties, or counsel;
 - (D) the actions' respective filing dates;
 - (E) which action was first set for trial;
 - (F) any priority granted by rule or statute; and
 - (G) any other pertinent factor.
- (3) *Inter-division Conflicts*. Conflicts in scheduling between divisions of the same court may be governed by local rule or general order.”

On information and belief, Judge Concepcion Bracamonte’s attorney Matthew C. Davidson did not file a notice of conflict in in Nogales City Court Case #CT19-864 stating he had a conflict because he was scheduled to represent the Plaintiff in Santa Cruz County Case #PO-2019-000095 on November 21, 2019 at 11:00a.m.

I believe Judge Concepcion Bracamonte did not follow the procedure stated in Rule 38.1(c)(2) [“Resolving a Conflict”], Arizona Rules of Civil Procedure, which required her to confer with the assigned judge in the Nogales City Court for her case, Judge Kendrick Wilson and which required her to confer with counsel, Mr. Davidson and myself.

Luis Heredia, my client and the Defendant in Santa Cruz County Case #PO-2019-000095, had the right to have a neutral and detached judge make the decision as to whether or not to grant or deny the Plaintiff’s motion to continue the Injunction Against Harassment Santa Cruz County Case #PO-2019-000095 set to commence on November 21, 2019 at 11:00a.m.

Instead, by granting her attorney Matthew C. Davidson’s motion to continue he filed in Santa Cruz County Justice Court Case #PO-2019-000095, Judge Concepcion Bracamonte helped her own attorney Matthew C. Davidson (resolving his alleged conflict), helped Mr. Davidson’s client the Plaintiff in that case (by maintaining the Injunction Against Harassment), and helped herself, by making sure her own attorney Matthew C. Davidson would have enough time to represent her in her civil traffic hearing in the Nogales City Court on November 21, 2019 from 10:00a.m.to 11:00a.m. plus.

Very truly yours,
LAW OFFICE OF MARK L. WILLIAMS

Mark L. Williams, Esq.

MW
Enclosures

Louis Frank Dominguez
Judicial Member
Chair

Diane M. Johnsen
Judicial Member
Vice-chair

Colleen E. Concannon
Public Member
Secretary

Denise K. Aguilar
Attorney Member

Christopher W. Ames
Public Member

Gus Aragón
Judicial Member



COMMISSION ON JUDICIAL
CONDUCT

1501 W. Washington Street, Suite 229
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Roger D. Barton
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Barbara Brown
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George H. Foster, Jr.
Judicial Member

Christopher P. Staring
Judicial Member

J. Tyrrell Taber
Attorney Member

Margaret H. Downie
Executive Director

December 6, 2019

Mark L. Williams, Esq.
Law Office of Mark L. Williams
969 N. Grand Ave., #1
Nogales, AZ 85621

Re: Case No. 19-388

Dear Mr. Williams:

We received your complaint against Pro Tem Judge Concepcion Bracamonte and will process it in the order received. When contacting our office about your complaint, please refer to the case number above.

Any subsequent material you provide in connection with your complaint should be addressed to the Commission on Judicial Conduct. If you change your contact information, let us know. After the Commission completes its investigation of your complaint, you will be notified in writing.

Sincerely,

/s/ Margaret H. Downie

Margaret H. Downie
Executive Director

/ nc

1 Law Offices of
MATTHEW C. DAVIDSON, LTD.
2 1859 N. Grand Ave. Suite 1
Nogales, AZ, 85621
3 (520) 281-0433
Matthew C. Davidson, SBN 015021
4 Attorney for Plaintiff

5
6 IN THE JUSTICE COURT, PRECINCT ONE
7 COUNTY OF SANTA CRUZ

8 JUAN PAVONE,) NO. PO-2019-000095
9)
10 Plaintiff,) PLAINTIFF'S POSITION RE: NOTICE TO
THE COURT
11 vs.)
12)
LUIS HERRERA,)
13 Defendant.)

14
15 Plaintiff, by and through counsel undersigned, hereby sets forth
16 his position in reference to Defendant's pleading captioned notice to
17 the court.

18 Counsel was retained by Plaintiff two days prior to the original
19 hearing set. Counsel filed his Notice of Appearance, Motion to
20 Continue and Motion to Amend. Obviously, Counsel knew of his trial
21 date in City Court that is why a motion was filed. The form of the
22 motion complied with the rule. A continuance was requested as is
23 routine. Objections were filed by Defendant.

24 The Justice Court granted the continuance. Apparently that day,
25 upon information from undersigned's secretary, the Justice of the
Peace was ill with bronchitis. The motion to continue was apparently

1 under review by Judge Vohland. Ultimately, the motion was granted.
2 The order was signed by Judge Bracamonte. Counsel has no other
3 information factually in reference to that matter. Counsel did not
4 direct or discuss the matter with Judge Bracamonte, and was unaware as
5 to who had signed the order until he received it.

6 Nonetheless, there was good cause for a continuance as counsel
7 was in trial. The traffic trial (speeding) was set before an out of
8 county judge from Tucson who had not always been on time for previous
9 telephonic hearings, and had not been to Nogales. Counsel had
10 prepared for the examination of four witnesses to include two
11 officers, another driver and his client. Under those circumstances,
12 counsel believed that the trial could certainly run over an hour. In
13 fact, the default wasn't entered until about 9:30 a.m. or so.
14 Counsel's request for an extension was reasonable, normal and
15 customary. Good cause for an extension was warranted. Obviously,
16 there are procedural mechanisms at Defendant's disposal to address any
17 continuance issuances. Those were not undertaken, and presumably,
18 would have been denied.

19 As this court knows, a week before, in a similar factual
20 scenario, in the injunction case of *Wash v. De La Ossa, DO-2019-*
21 *000078*, a notice of appearance and continuance was filed by new
22 counsel George Damon, Esq. at 3:26 p.m. before a 10:00 a.m. hearing
23 the next day. Mr. Damon requested a continuance because he was out of
24 town for vacation in New York for one week. The motion was granted.
25 Good cause was found. See, for example, Exhibit "1," which is
attached hereto and incorporated herein by reference.

1 These issues are routine. They are not ethical in nature.
2 Counsel assumes that Mr. William's has accepted many cases where
3 continuances are necessary. This court can take judicial notice based
4 upon its own experiences.

5 As for Judge Bracamonte, Counsel believes that she has done
6 nothing wrong in granting a ministerial continuance in this type of
7 proceeding. If defendant wants to complain about her conduct, that is
8 his right. There is a definite procedure for that. A notice to this
9 Court is not that procedure.

10 This matter should proceed on the merits. Plaintiff requests
11 attorney's fees and costs per ARS 12-1809 and Rule 39 ARPOP.

12 DATED this 4th day of December, 2019.
13

14 Matthew C. Davidson
15 Attorney for
Plaintiff

16 Copy of the foregoing
17 Del. this 4th day of
Dec, 2019:

18 Mark Williams, Esq. ✓ hi
19 969 N. Grand Ave. #1
Nogales, Arizona 85621

20
21
22
23
24
25

EXHIBIT

“1”

1 **LAW OFFICES OF**
 2 **GEORGE P. DAMON, P.C**
 3 270 West View Point Drive
 4 Nogales, AZ, 85621
 5 Tel. (520) 281-1239
 Fax (520) 281-1209
 E-mail gdamonlawfirm@hotmail.com
 George P. Damon, Esq. SBN 015691
 Attorney for Plaintiff

6 **IN THE JUSTICE COURT, PRECINCT NUMBER ONE**
 7 **COUNTY OF SANTA CRUZ, STATE OF ARIZONA**

8 **ANDREW J. WASH,**
 9 **Plaintiff,**
 10 **vs.**
 11 **ALAN DE LA OSSA,**
 12 **Defendant.**

) **Case No. DO2019-000078**
) **MOTION TO CONTINUE AND ORDER**
) **Before the Honorable Judge Emilio G.**
) **Velasquez**

13
 14 **COMES NOW** the Plaintiff, by and through counsel undersigned, hereby motions this Court to
 15 continue the Hearing set for **November 7, 2019 at 10:00 A.M.** For the reason, counsel for the Plaintiff will
 16 be out of the state from November 7, 2019 to November 13, 2019. Counsel for the Plaintiff was recently
 17 retained and needs additional time to prepare for this hearing.

18 Attorney for Defendant, Matthew Davidson, previously filed an objection to a continuance.

19 DATED this 6th day of November, 2019.

20
 21 _____
 22 **George P. Damon, Attorney for Plaintiff**

23 Copy of the foregoing
 24 Delivered/Mailed/Faxed this 6th day of
 November, 2019 to;

25 Matthew Davidson
 1869 N. Grand Avenue, Suite #2
 Nogales, Arizona 85621

1 **LAW OFFICES OF**
 2 **GEORGE P. DAMON, P.C.**
 3 270 West View Point Drive
 4 Nogales, AZ, 85621
 5 Tel. (520) 281-1239
 Fax (520) 281-1209
 E-Mail gdamonlawfirm@hotmail.com
 George P. Damon, Esq, SBN 015691
 Attorney for Plaintiff

6 **IN THE JUSTICE COURT, PRECINCT NUMBER ONE**
 7 **COUNTY OF SANTA CRUZ, STATE OF ARIZONA**

8 **ANDREW J. WASH,**
 9 **Plaintiff,**

10 **vs.**

11 **ALAN DE LA OSSA,**
 12 **Defendant.**

) **Case No. DO2019-000078**

) **ORDER RE: MOTION TO CONTINUE**

13 **UPON MOTION**, good cause appearing, Plaintiff's Motion to Continue Hearing is **GRANTED**. The
 14 current hearing shall be continued and reset for the 10th day of December, 2019 at

15 3:00 a.m./p.m.

16 **DONE IN OPEN COURT** this 6th day of Nov 2019.

17
 18
 19 JUSTICE OF THE PEACE

20
 21 **Copies to:**

22 **George P. Damon, Esq.**
Attorney for Plaintiff

23 **Matthew Davidson, Esq.**
Attorney for Defendant

1 Law Offices of
MATTHEW C. DAVIDSON, LTD.
2 1859 N. Grand Ave. Suite 2
Nogales, AZ, 85621
3 (520) 281-0433
Matthew C. Davidson, SBN 015021
4 Attorney for Defendant

5
6 IN THE JUSTICE COURT, PRECINCT ONE

COUNTY OF SANTA CRUZ

7 ANDREW J. WALSH,) Case NO. PO-19-000078
8)
9 Plaintiff,) OBJECTION TO CONTINUANCE OF
vs.) INJUNCTION HEARING
10)
11 ALAN DE LA OSSA,)
12 Defendant.)

13 Defendant, by and through counsel undersigned, objects to any
14 further continuance of the injunction hearing in this matter. This
15 injunction was obtained on an ex-parte basis. There is no showing or
16 an insufficient showing of attempts to notify the defendant by the
17 plaintiff of this injunction. In addition, whether there is a record
18 of specific facts supporting why notice need not be given to the
19 defendant is not known in review of the documents obtained. See Rules
20 of Procedure for Issuing Protective Orders, subsection E(4).

21 In addition, Defendant has the right to have a hearing within ten
22 days. Defendant requested a hearing on October 14, 2019. On October
23 16, 2019, Counsel entered his appearance and was ready to proceed.
24 Counsel was notified by the Justice Court that it had to file a
25 continuance of the October 23, 2019, because only 15 minutes were

1 allocated for the hearing. Counsel complied, albeit reluctantly. The
2 matter was discussed to be reset on October 31, 2019, but defendant,
3 who works out of State, could not attend. The hearing was then set
4 for November 7, 2019.

5 Counsel has set aside the morning for the hearing. Time has been
6 allocated. Defendant has returned from out of state to be present.
7 The fact that Plaintiffs are now seeking counsel has no relevance. No
8 counsel has filed an appearance. The statutory time of ten days for
9 the hearing should have never originally been extended.

10 Ex-parte orders are obtained on an ex-parte basis for
11 emergencies. This is not that case. These matters should not be
12 continued because of time allocation or because someone says that they
13 will hire a lawyer. There is no authority for such type of
14 continuance under these circumstances. Nonetheless, the proposed
15 lawyer is in NYC for a week. He has not been retained upon
16 information and belief. This potential ruling sets a very precarious
17 standard for these types of orders and the rights of the litigants.

18 The continuance should be denied.

19 DATED this 5 day of Nov, 2019

20
21 MATTHEW C. DAVIDSON
22 Attorney for Defendant

23 Copy of the following
24 was mailed this 2 day of
25 Nov, 2019 to:

Matthew C. Davidson, Esq.

Andy Wash by JPI Clerk