

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-280

Judge:

Complainant:

ORDER

February 24, 2022

The Complainant alleged that a superior court judge had poor judicial demeanor, including humiliating and intimidating a litigant.

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 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 member Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 24, 2022.

2021-280

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.

I appeared before Judge _____ on _____ for a Temporary Orders Hearing in the above-referenced case. My staff and I did not understand that the Court was requiring an in-person appearance. The Court did permit my client and I to appear virtually once the Court determined that we were not physically present; however, in open court, Judge _____ asked why my client and I had not appeared in person. I explained that: 1) I did not understand the Court's Minute Entry (setting the matter) required an in-person appearance; 2) I had not appeared in-person since last _____ for any matter, and I just did not understand that her Court was requiring in-person; and 3) When we appeared for the Resolution Management Conference (on _____) via Court Connect, I recalled that the Court advised us to appear virtually (so that she could see our faces), and not by phone, at the next hearing. I thereafter apologized for my misunderstanding. The Court "questioned the sincerity" of my apology. This set the tone for the entire Hearing.

During the course of the one-hour hearing, Judge _____ continued to be short-tempered, terse, and dismissive. The Court was irritated at my questions and/or suggestions for expediency, given that the opposing party was unrepresented and had not provided any financial materials (or exhibits) with which I could question him on child support matters. Throughout the course of the Hearing, both my client and I became more anxious and intimidated.

At the end of the Hearing, while Judge _____ issued her Ruling (which was favorable to my client), my client was in distress and stated to me that she needed to immediately use the bathroom. When I attempted to interrupt the Court to ask for a brief recess, Judge _____ became angry, chastised me for interrupting her, and refused to let me speak. My client, thereafter, urinated on herself (and the chair and the floor) in my office. My client had, however, used the restroom minutes before the commencement of the Hearing. My client was, as I said, in distress.

I have practiced law for over _____ I would never violate a court order or intentionally upset any judge. Nor have I ever filed a complaint about a judge's conduct during the course of my career. However, upon discussing these events with other family law attorneys, I learned of numerous other instances when Judge _____ has humiliated attorneys and litigants in her courtroom. Under the circumstances, I am moved to draft this Complaint.

As it relates to Judge _____ requirement that we personally appear for the hearing, since _____ of _____ family law attorneys have, in the vast majority of circumstances, appeared for hearings virtually - emergency hearings, evidentiary hearings, trials - all matters. In my experience, when a court has considered an in-person appearance, the judge will ask counsel their positions prior (usually at the parties' Resolution Management Conference). In my experience over the past year and a half, we have always chosen to appear virtually. In the instant case, a Minute Entry was issued by a Commissioner on _____ requiring a personal appearance for a Child Support Conference/Hearing: when my staff called the Court to clarify, we were told that the Minute Entry was in error and we would be appearing virtually. As such, there is enough confusion concerning in-person appearances that Judge _____ may have chosen to demonstrated grace. She did not. Clearly, there has been enough confusion among

CONFIDENTIAL

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individuals appearing before her that, today, she was moved to send the attached email to the attorneys appearing before her in order to rectify the confusion surrounding her requirement for in-person appearances. Judge _____ does have the authority to demand in-person appearances - I do not dispute that fact; however, when she is, most likely, the only Family Court judge requiring in-person appearances without giving litigants and/or counsel the opportunity to weigh-in, she must understand the confusion many of us will experience. Again, she was moved to send an email to over 100 Family Law attorneys to clarify the confusion - see attached. Knowing there has been confusion, it is unreasonable for her to chastise counsel in open court.

Further, Judge _____ displayed inexcusable insensitivity toward my client, contributing to her severe anxiety that caused her to urinate during the Hearing. My client has solely raised the _____ minor children in this case for nearly _____ Father, by his own admission, has had little involvement due to his anger concerning the marital dissolution (in _____); he testified to this at the Hearing. My client alleged that she was the victim of domestic violence - as set forth in their _____ Default Decree of Dissolution - and Father admitted his anger issues during the Temporary Orders Hearing (although denying he physically abused my client). Judge _____ however, chastised my client for not sufficiently involving Father in the children's lives, actually "finding" that she had not done so, despite Father's testimony that he had never asked for information related to the children's medical and academic status, made no effort to appear at the children's schools (failing to do so after promising to do so), and - again - chose to largely stay away because of his anger surrounding the divorce. There was not one shred of consideration or encouragement given to my client, or recognition of the hard work she has put into raising _____ young children in Father's absence. Judge _____ treated my client as if she has been the wrongdoer - and gave significant consideration to Father - insisting that my client had a responsibility to communicate all matters related to the children to Father despite the history of domestic violence, Father's minimal involvement, and the current sole legal decision-making designation. Judge _____ assessment of my client and the anxiety provoked triggered her desperate need to use the facilities.

I have been practicing law for _____ I would never interrupt a judge while she is rendering a ruling but for an emergency. I was utterly shot down while I attempted to bring relief to my client. My client - a _____ mother of _____ young children, a hard worker, and a woman who I have come to greatly respect during my representation - was required to urinate in a chair in a lawyer's office because she had no other recourse. Judge _____ had created such an intimidating, fearful environment for my client that she had no choice. Can you imagine this? My beautiful, proud client has to face my staff and I under these circumstances! She was forced to clean her urine from my carpet!

Judge _____ treated me as a combatant as, I now understand, she has done to many experienced attorneys before. I was properly prepared for the hearing, and timely submitted a Pretrial Statement and exhibits. I was as thorough as I could be given the limited time. The pressure and intimidation suffered by both my client and I was unwarranted and uncalled for. My client's humiliation was tragic. There is no excuse for the conduct Judge _____ displayed during our Hearing, and my client is utterly traumatized.

From:
Sent:
To:

Subject:

on behalf of The Honorable

Hello Family Law Attorneys,

I'm writing today to enlist your help. We have all dealt with crazy times over the last 1.5 years while COVID-19 has forever altered the way we practice law and conduct our court hearings in Arizona. I'm very proud of the Family Law Bar and how you all have adapted along with us as a Court and had patience in dealing with changes as we try to provide the best in services possible under the circumstances. As you all very

likely know, each judicial officer has their own way of doing things in their courtroom except when we have mandates given to us from the Governor, Supreme Court or our own Presiding Judge (such as the mask mandate and court building closures).

Once vaccines became widely available, vaccinated populations went up, and incidents of COVID-19 went down, the court buildings opened back up. It also means that each judicial officer has the discretion to allow in-person contested hearings where he/she finds it to be appropriate. Many of you have already experienced this. Each of us have a different opinion about what is best for our divisions, staff, litigants and attorneys so this requires all of you to be especially mindful of who you are appearing in front of and what that particular judicial officer has ordered.

Here is where your help is needed. I have been holding in-person trials and evidentiary hearings in my division since [redacted]. I have also informed the parties/attorneys when the hearings are set (often several months prior) that they are in-person subject to change depending on what happens with COVID-19. Additionally, our minute entries/orders always clearly differentiate between an in-person hearing (with the specific address given) versus a virtual hearing (with Court Connect link information given). Despite this, and despite each litigant's and attorney's obligation to actually read the orders and minute entries that are issued by the Court, people are failing to appear in-person for contested hearings. What is worse, there have been numerous occasions where an attorney(s) has blamed the court or others for his/her failure to read the minute entry/order setting the hearing. We all make mistakes - there is no shame in that particularly where we are all adjusting to an ever-changing normal. But, if you or someone you know falls into that category of persons who are not reading the minute entry/order setting the hearing well in advance of your contested hearing, I request of you that you try to do better and elevate your practice of law.

Please read your minute entries/orders setting hearings very carefully as soon as you get them and note in your calendars and/or case files whether your hearings are virtual or in-person. If you've done that and then again double-checked the minute entry/order setting your hearing and still have questions, reach out to my Judicial Assistant [redacted] to get the clarification you need. Please also keep in mind, if my minute entry/order clearly shows an address for the court building under your hearing date/time, then the answer is "Yes" your hearing is in-person and you should act accordingly. We are here if you have questions, and you should not hesitate to contact us if you have diligently tried to resolve your issue first. And, if you do happen to make a mistake, please don't blame others. Please gracefully accept that we are all human and sometimes make mistakes and just need to simply apologize. I know I make mistakes from time to time and also rely on your mercy and understanding under those circumstances.

One last thing to aide you while you all get used to in-person trials again - if you chose to utilize the electronic exhibit submission process with the Clerk's Office, we (the Division and the Clerk's Office) do not provide paper versions of your exhibits. You are expected to have clean, accurate copies of those exhibits for your witnesses to reference as necessary during your in-person hearing. I have access to them electronically. You do not need a copy for me. Also, I do not require a bench book ever so please save yourself, your staff and your clients money and time and forego prepping one.

It has been a pleasure thus far getting to know each of you in court and watching you work. I have no doubt that if we each do our part, we can sail through the rest of this COVID-19 pandemonium and come out better lawyers and judges.

If we have inadvertently left off a colleague or two, please forward this email to any whom you believe could benefit from this email.

Thank you for your diligence and service to the families of [redacted] County.

inherent in the rule of law...