

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-246

Judge:

Complainant

ORDER

September 28, 2022

The Complainant alleged a superior court judge improperly granted attorney fees to the opposing party in a civil dispute.

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 Louis Frank Dominguez & Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 28, 2022.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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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.

See Attached

CJC COMPLANT:

Ruling and Judgment

On _____ issued a Ruling Denying Defendants' _____
Motion For Reconsideration and Objection to the Proposed Form of Order and Judge _____ issued a Judgment
in the amount of _____ in Attorneys' fee to Plaintiff _____ (see attached)
Judge _____ Denied Defendants' _____, Motion for Reconsideration (see attached).
Per Pages _____ of the Motion:

***OBJECTION TO PLAINTIFF'S FRAUDULENT APPLICATION FOR
ATTORNEYS' FEES AND COST***

Application for Attorneys' Fees is Fraudulent

Plaintiff's _____ Application for Attorneys' Fees and Costs stated,
“the Affidavit of _____ (attached hereto as **Exhibit A**), and a detailed
itemization of the hours and costs expended by this firm on the above-captioned matter
(attached as **Exhibits 1, 2, and 3** to the Affidavit of _____). This Application
is only for this matter and does not include fees and costs for the bankruptcy matter, the
appeal, and case _____ currently before Judge _____.” This is a fraudulent
statement. (see Exhibit 1)

The Affidavit claims that the entire amount of _____ in Attorneys' Fees are
against the Defendants/Judgment Debtors, _____ only. This is a
fraudulent statement.

Plaintiff's Affidavit of _____ does, in fact, contain Attorneys' fees for
Collection against Defendant, _____, _____ filing on
is the amount of _____

Plaintiff's Affidavit of _____ *does contain Attorneys' fees against*
Defendant, _____ *after filing* _____ *Court Case* _____ *in*
the amount of _____ .

Plaintiff's Affidavit of _____ *does contain Attorneys' fees for*
Attorneys' fees in _____ *currently before Judge* _____ *in the amount of* _____ .

Plaintiff's Affidavit of _____ *actually only shows* _____ *for*
Attorneys' Fees against the "trespass/tort claim" defendants
which could not be awarded under _____ *which is for contract claims only.*

We presented clear evidence within Plaintiff's Attorney _____ own _____ ,
Affidavit, that _____ worth of Attorneys Fees was for Collection efforts against Defendant,
ONLY, including but not limited to: garnishments of _____ bank account; use of
building as a "Bond"; Lis Pendens filed against _____ building; and the Writ of Execution to
sell _____ building at a Sheriff's Sale. These Attorneys' Fees were NOT against Defendants,

We presented clear evidence within Plaintiff's Attorney _____ own _____
Affidavit, that _____ worth of Attorneys Fees was for Collection efforts against Defendant,
ONLY, after _____ filed Bankruptcy on _____ within BK Case
including but not limited to: Attorneys' Fees in relation to _____ , the Bankruptcy attorney
for _____ ONLY; work on the Bankruptcy Section _____ against _____ ONLY
within Bankruptcy Court; work on the Bankruptcy Court Hearings of _____ and
; and Fees in relation to _____ , another Bankruptcy attorney for _____ ONLY. These
Attorneys' Fee were NOT against Defendants, _____ .

Judge _____ Denied Defendants' _____ , Objection to Proposed Form of Order.

The Plaintiff's _____ , Notice of Lodging Proposed Form of Judgment, stated, "*Pursuant to the*
Court's Ruling filed _____ , *Plaintiff,* _____ , *by and through undersigned counsel, hereby gives*
notice that he has lodged with the Court this date and attached hereto as Exhibit 1, a Proposed Form of
*Judgment against Defendants, **Defendants,*** _____ (see attached)

However, the Final Judgment dated _____ awarded ALL Attorneys' Fees against Defendants,

ONLY.

Judge _____ violated the Rules of Judicial Conduct by awarding Attorneys' Fees in the amount of _____

against Defendants, _____ ONLY, when the evidence was clear and convincing

that those Attorneys' Fees were against Defendant, _____

Judge _____ violated the

Bankruptcy Court Protection by awarding Attorneys' Fees in the amount of _____

when the evidence was

clear and convincing that those Attorneys' Fees were against Defendant, _____

and that

is in Bankruptcy Case _____

Judge _____

circumvented the automatic Stay of

Bankruptcy Court by attributing Attorneys' Fees against _____

to the _____

ONLY. This was a

violation of the automatic STAY under § 362 of the Bankruptcy Code, 11, U.S.C. 362. Judge _____

violated

the spirit of the law. **Judge _____**

violated RJC 1.1 Compliance with the Law, RJC 1.2 Promoting

Confidence in the Judiciary, and violated RJC 2.2 Impartiality and Fairness.

Suits in other Courts and other actions taken in violation of the automatic Bankruptcy Stay are generally void.

Judge _____ awarded _____ Attorneys' Fees directly related to Case _____

before Judge _____

at the _____

County _____

Court. **Judge _____**

violated RJC 1.1 Compliance with the Law, RJC

1.2 Promoting Confidence in the Judiciary, and violated RJC 2.2 Impartiality and Fairness.

Please let me know if there are any other documents I can provide.

CASE NO.

DATE:

Counter Plaintiff/Plaintiff(s)

VS.

Counter Defendant/Defendant(s)

R U L I N G

IN CHAMBERS UNDER ADVISEMENT

At issue in this Under Advisement Ruling is Plaintiff's Request for Attorneys' Fees and Costs filed on _____ and the Supplement Request for Attorneys' Fees and Costs filed on _____.

Plaintiff's initial application asks for an award of attorney's fees in the amount of _____ and costs in the amount of _____ for a total of _____ for the time period between _____ and _____. Plaintiff's supplemental application asks for an award of _____ in attorney's fees in attending a supplemental debtors' examination on _____ which the Defendants did not attend, despite having had notice of same. Plaintiff also seeks costs in the supplemental application in the amount of _____, for a total of _____.

The court has reviewed the motion, response and reply, and considered the arguments of the parties, and finds and rules as follows.

ATTORNEYS' FEES

Arizona Revised Statutes 12-341.01 provides:

"A. In any contested action arising out of a contract, express or implied, the court may award the successful party reasonable attorney fees. If a written settlement offer is rejected and the judgment finally obtained is equal to or more favorable to the offeror than an offer made in writing to settle any contested action arising out of a contract, the offeror is deemed to be the successful party from the date of the offer and the court may award the successful party reasonable attorney fees. This section shall not be construed as altering, prohibiting or restricting present or future contracts or statutes that may provide for attorney fees.

Ariz. Rev. Stat. Ann. § 12-341.01.

**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.**