

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-343

Judge:

Complainant:

ORDER

June 8, 2023

The Complainant alleged bias, poor demeanor, and improper rulings by a small claims hearing officer.

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

Copies of this order were distributed to all appropriate persons on June 8, 2023.

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

FOR OFFICE USE ONLY

2022-343

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.

This was a civil case regarding vehicular damage to our family's _____ The damage occurred overnight in an apartment parking lot where there is assigned parking. We saw our paint on the car next to us and left a note asking for insurance information because it was clear that they hit us. They refused to cooperate so we found out which apartment they lived in, what their information was, and took them to _____ Court in a _____ case so that we could either get our car fixed by their insurance or get the money to fix it. This was all around _____, just before the _____ We had a court date set, with no notice given to us. I happened to receive a phone call from a clerk at the court who verbally informed me of my court date. I don't believe this to be standard practice/protocol, but that is only the first strange thing that happened around this case.

The courts had all been _____ prior to our hearing, but we had not been notified of any rescheduling, also strange for the time when all the courts were _____

So, with no other notification indicating otherwise, we showed up 15 minutes earlier than we were supposed to for the hearing. We spoke to the security guard at the entrance to the courthouse and he seemed utterly shocked that we had a court date that day. He said no one had had an actual _____ and it seemed strange that we were there. The defendants had already arrived and were speaking with the judge, who we saw joking with and winking at them before he went to his quarters prior to starting the session. My wife told me she had a bad feeling after seeing that, and I tried to assure her otherwise. Unfortunately she was correct in her assumptions.

The session began, and the Judge was visibly agitated from the beginning. He said that our original court date was set to be heard by Judge _____ however _____ and all the other cases being rescheduled he was the only judge available as Pro Tempore. He did not seem happy to have to come to _____ from his home in _____ to hear a single case he thought was frivolous, and he let that be known, saying this was his only case today. He offered us a chance, even encouraged us, to speak with the defendants prior to starting the session to see if we could settle it out of court and save him time. We declined, as they had been harassing us and leaving messages on our car prior to the court date after they had been served with the summons, and we felt we were deserved some form of actual justice.

Statements were read, and the special treatment the defendant was given became evident. Throughout the defendant's statement, the Judge was silent and attentive. Throughout my statement, I was interrupted a lot, told my argument was invalid, and that my evidence was useless. My evidence consisted of GPS records showing we did not drive the car the day it was hit, police records documenting the damage and the officer's conversations with the defendant which established a pattern of dishonesty regarding the damage on her car, and timestamped photos of the damage to both cars showing that after they were served they attempted to remove the damage on their car. The defendant's evidence consisted of printed _____ photos with random dates sharpied on them as a "timestamp" and nothing else.

While I was presenting the evidence I collected to the Judge, he made it known that without any video or eyewitness account of her hitting my vehicle, I could not meet the burden of proof. I disagree with this assessment, and I believe it was clear from my evidence and even the defendant's that there was more than a 50% chance that they hit my vehicle. Requiring an eyewitness or video account is more like the standard used in criminal cases for burden of proof beyond a reasonable doubt.

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I believe that Judge _____ was too bothered with the inconvenience of hearing our single case in the middle of _____ that he did not take it seriously, and he did not apply the " _____ ' standard to evidence analysis in _____ cases, instead adhering to the " _____ " evidentiary standard normally applied in criminal cases. The evidence was absolutely more than 50% in our favor, and because Judge _____ did not apply the proper standard of evidence analysis for this type of case, we had a judgement rendered against us when it should have been against the other party, the defendant.

Also, I do not have enough evidence to claim this, but I think it is worth noting: Due to his inappropriate attitude toward the defendant prior to his starting the session, it may even be possible that this verdict was planned and predetermined prior to our arrival, due to some familial connection perhaps, and that this court date was retained _____ in an attempt to render a default judgement against us for not showing up. This would also explain why I did not get a letter from the court regarding my court date and a clerk had to call me personally. There are just too many strange incidents and coincidences around this case, including likely administrative _____ particularities, that I believe it may be worth looking into possible misconduct.

Thank you for taking the time to read this statement and consider my complaint against Judge _____