

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-422

Judge:

Complainant:

ORDER

July 10, 2023

The complainant alleged improper rulings and biased treatment by a superior court judge hearing a civil case.

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 Scott C. Silva did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 10, 2023.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2022-422

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.

The first case was _____, Case No _____, a simple eviction action for non-payment of rent.

Judge _____ started by asking me my name, and made inquiries into ethnicity. He said he'd seen someone that resembled me before near his neighborhood...and his comments regarding my country of origin left me feeling uncomfortable.

In this case, the Defendant had not paid rent since _____. We came to trial in _____.

Judge _____ demonstrated alarming bias by allowing opposing counsel to move forward on a motion to preclude evidence, filed late at night the evening before trial. My attorney informed Judge _____ that the motion was discovered only a few minutes prior to trial and that he had not read it or had the opportunity to review it. Judge _____ required oral argument on the motion just the same.

Opposing counsel made oral representations of dismissal of two prior evictions by the justice court. Opposing counsel claimed they were with prejudice. No documents supporting the ruling were provided to the court or opposing counsel. Later when the documents referred to were reviewed, they did not include any language from the justice court stating that either case was dismissed with prejudice. The entire premise of the motion was based upon a misrepresentation of the lower court's rulings and unsupported by any written finding.

Notwithstanding, without reviewing any of the motion attachments on the record, Judge _____, granted the motion to preclude my claims for rent from _____ to _____ even though there were no judgments or orders or documents from the justice court precluding such, (as falsely claimed by opposing counsel)

When I filed a motion to dismiss without prejudice so we could regroup. He awarded the other party over _____ in attorney fees for " _____ '... "

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In the second case, _____ Case No _____ when I purchased the property I received a lease drafted by the Defendant which stated in two places that despite its term, it could be terminated by either party by _____-day notice. I also received a sworn statement from the seller informing me their lease with Defendant of the property I was purchasing was month-to-month lease because the Defendant was _____ months past due on rent at the time of purchase.

Judge _____ again entertained a motion filed on the eve of trial by the Defendant. Rather than focus on the evidence and the clear language of the contract or hold the ambiguity against the drafter (the Defendant) he accepted an argument focusing on the contortions of English grammar. In a decision that was clear as mud, he ruled that I could not terminate the Defendant's lease with a _____-day notice, despite the language of the lease to the contrary and the statements of the sellers.

Judge _____ permitted the opposing party to again apply for attorney fees and did not balk or blush at the claim of counsel that he raised his hourly rate by _____ since his last application or that he spent hours reviewing his financial records in preparing the fee application. (The hearing lasted less than an hour...) He awarded them over _____ in attorney fees.

Both of these decisions are on appeal based upon his abuse of discretion.

Setting his abuse of discretion aside, Judge _____ treatment of me in both cases demonstrated shocking bias.