

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-040

Judge:

Complainant:

ORDER

September 1, 2023

The complainant alleged improper legal rulings by a hearing officer presiding over a small claims hearing.

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 member Roger D. Barton did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 1, 2023.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2023 - 040

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 would like to bring to your attention the complete farce of a hearing I had on _____ in _____ Court (small claims) with _____ presiding. The entire hearing was completely biased in favor of the Plaintiff. Also during the hearing, it seemed to me that the judge had very little understanding of liability law. So basically I am financially damaged by a person with no checks on her (as there is no appeal in small claims). So she can rule based on emotion and bias with no basis in law or fact and I am forced to pay with no recourse.

First off, the Plaintiff's complaint was entirely insufficient as a legal claim. I had made mention of the fact that it was very difficult as a Defendant to write an answer to a 1 paragraph claim stating damage and negligence with no details as far as dates, how the Plaintiff came to the determination of negligence, description of her damage or how she came to the _____ amount she was requesting. It's definitely a problem when the Defendant has to guess at the Plaintiff's claim to write an answer. Then when I received Plaintiff's exhibits, they were mostly irrelevant and there was no way to know what Plaintiff would be exhibiting since her complaint had no detail. My answer was very thorough and referenced all the exhibits I would be showing. Despite my protest about the insufficient complaint, the judge just ignored it.

Another example of complete bias, is that during the Plaintiff's testimony she made a claim (which was hearsay) that some worker I knew named _____ had told her I used plumbers from _____ who didn't know what they were doing and caused her damage (previous to the damage she was suing for). She also had texts from him as an exhibit (see Plaintiff's attached Exhibit B). She contacted him at the eleventh hour in desperation for something for her case. When I was rebutting, I wanted to give background on _____ as he turned out to be a professional con artist who stole money from me and I had to sue him and we settled out of court (see Case# _____). This shows that everything he says should be discounted as he's a professional liar, completely biased and has motive to embarrass me. The judge interrupted me twice when discussing it saying it's irrelevant when it's totally relevant as it was a key point of Plaintiff's case.

Also Plaintiff made speculative claims that had no basis in fact or evidence and when I brought up that fact, the judge told me not to interrupt and she would let Plaintiff continue to spew fantasy. For example, it was determined that the laundry drain in the wall that had an issue may have been due to a previous repair not done correctly. Plaintiff immediately starting making claims that "_____ must have fixed it incorrectly" when that is entirely false. The units are over _____ years old and I owned the unit for _____ years. That repair could have been decades ago (and it was not disclosed to me by seller). Also, the Plaintiff would bring up completely irrelevant complaints to the case. She was suing for water damage and then would mention things such as having debris on her patio from my workers who didn't clean it. That is totally irrelevant to the case and the judge did not bother interrupting her saying that she was being irrelevant. She would only interrupt me when I was talking about things actually relevant.

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The most outrageous element of this hearing, is despite all the bias I endured, the judge stated that I did prove that there was no negligence on my part and I was not personally responsible for Plaintiff's damage. That should result in a dismissal as that was exactly the Plaintiff's claim and I successfully proved it as invalid. Yet the judge still ruled in favor for the Plaintiff for the full amount which is unbelievable. Her rationale was that it was because the source of the water was my unit. However, I do not believe that is legally sufficient to determine liability just based on the fact that water came from above Plaintiff's unit. The damage was caused by old pipes in the walls. The condos are over 20 years old and the build quality is suspect. So as a laundry drain separated in the living room wall, once discovered we quickly fixed the issue. There was no way to predict this ahead of time and I was prudent and went above and beyond to resolve the issue quickly. The Plaintiff made insurance claims for her previous water issues which were similar to this and which she thought I was liable for. One was a supply line in my living room wall had a pinhole leak that flooded her apartment. Her insurance never issued a liability claim to my insurance for that or for another issue she had, for which she was also trying to attribute blame to me. Insurance companies are experts on liability determination and also have to follow law so it's amazing how I was not found liable in similar situations by insurance yet I was found liable in court for a similar issue. I raised this point about not receiving liability determination by insurance, and the judge ignored it.

Another issue of this ruling is that the Plaintiff was suing solely because she didn't want to make another claim on her insurance (as stated in her Complaint). So she paid out of pocket and then sued me to try to pay for her damage. This ruling sets a precedent now that any time the Plaintiff has another issue, even if it's not clearly my liability, she would probably sue me versus making a claim on her insurance. So I have essentially become her personal insurance.

In conclusion, I never dealt with such an unprofessional judge in a hearing before. I didn't realize small claims would be such a lawless process (especially with [redacted] presiding). I spent a lot of time and effort to gather documentation and respond to the allegations to show the Plaintiff had no valid case and proved it and it was still for nothing. If I am served a small claims suit in the future, I will definitely motion to civil court where I will have a judge who actually rules based on the rule of law and fact.

Exhibit B pt 4

Messages from

(

hired contractor)

