

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-204

Judge:

Complainant:

ORDER

December 26, 2023

The Complainant alleged improper legal rulings and failure to report professional misconduct 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 member Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on December 26, 2023.

entered into a contract with _____ to represent in a Medical Malpractice case _____ in _____ of _____. In _____, _____ discovered that _____ mishandled the expert witness deposition in _____. _____ Defense attorney filed a Motion for Summary Judgment _____ for the contradiction in expert witness deposition threatened _____ that he would withdrawal if she did not accept Defenses offer. _____ terminated _____ with cause for refusing to provide accounting details and negligence/mishandling of expert witness affidavit. Per _____ and Fee Agreement: 1. In the event of no recovery, Client shall owe the Attorney nothing for legal fees for his services. 2. The attorney is not entitled to quantum meruit or any fee for his services; the only thing he is entitled to is reimbursement for costs and expenses incurred for your case.

My _____ Case was dismissed in _____ due to the fact of negligence. Both the _____ Court and the _____ ruled the dismissal because of _____ failure to timely file the affidavit in response to Defense Motion of summary judgment. Both the Medical Malpractice and Medical Battery were dismissed in _____ due to contradiction of expert witness affidavit and untimely filing of the supplemental affidavit.

'More than _____ months after his deposition, and after _____ filed a motion for summary judgment, _____ provided a supplemental affidavit in which he "'

Because _____ supplemental affidavit contradicted his own prior deposition testimony and was executed only after _____ motion for summary judgment was filed, the _____ court properly disregarded the supplemental affidavit.' P7 paragraph 18 and 19 of Arizona _____.

sued _____ to collect the costs incurred in the failed personal injury litigation, and the claim went to arbitration resulting in an award of _____, which was appealed.

The case went to _____ Court with Judge _____ Judge _____ in _____, enter court order arbitration with Pro Tempore. _____ advised Pro Tempore, _____ from _____ that _____ was granted a _____ award from the judge. _____ has never seen any _____ award document either from the court or _____ is unsure how _____ verify _____ claims of a court ordered _____.

Instead _____ agreed will _____ to a _____ settlement that her payment of _____, in _____ monthly installments, by _____ claims several of the early installments were untimely, thus entitling him to a _____ Final Judgment. However, the Judgment Creditor continued to accept the Judgment Debtors electronic payments towards the _____ settlement amount.

The Judgment Credit's acceptance of the subsequent monthly installments could be interpreted as the Judgment Creditors assent to any modified installment See generally Restatement (Second) of Contracts, § 19(2) (1981); see Contempo Constr. Co. v. Mountain States Tel. & Tel. Co., 153 Ariz. 279, 281 (App. 1987) ("acceptance is a manifestation of assent to the terms made by the offeree). the Final Judgment, as filed and recorded, is defective. The interest provision of the Final Judgment is defective because A.R.S. § 44-1201(B) requires the judgment include the applicable interest rate when the judgment is entered. The Final Judgment does not include a savings clause as to the other provisions.

filed a Motion of Satisfaction of Judgement, as failed to do not voluntarily file a Satisfaction of Judgement or Acknowledgement of Satisfaction of Judgment. must file satisfaction of judgment within business days of receiving last payment, which was .

also discovered that Judge never granted a award back in . There is nothing filed/recorded by the Clerk of Court. has never been able to produce this alleged award.

Per our Settlement Agreement stipulations. Stipulated Judgment in the amount of that shall be filed with the court, but not be recorded in any county, or executed upon unless any payments from Paragraph 1 are not timely paid. Stipulation for entry of judgment will indicate no execution shall occur unless there is a failure to timely make payments under Paragraph 1. to file a Motion to continue case on inactive/dismissal calendar for days to allow for payments to be made. to draft and file stipulation for dismissal with prejudice of all claims once all payments are made in full consistent with Paragraph 1. will set up his Zelle account on his firm's end to receive payments. attorney, filed and recorded the Judgement in before any payments were to start in . There was a revision to the payment schedule that was not amended to the original Settlement agreement, only a email confirming the revised payment schedule to start , instead of .

filed Motion to Vacate Judgement on the grounds of misrepresenting the award **(1)** mistake, inadvertence, surprise, or excusable neglect;**(2)** newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b)(1);**(3)** fraud (whether previously called intrinsic or extrinsic), misrepresentation, or other misconduct of an opposing party;**(4)** the judgment is void;**(5)** the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or**(6)** any other reason justifying relief. Judge completed ignored misconduct and dismissed my motion on .

Judge also dismissed my Motion for Satisfaction of Judgment and claimed that I was late on payments. Judge failed to read the details of the Settlement agreement clearly and/or did not understand the terms.

The Settlement Agreement was outlined that the payments had to be entered "no later than Arizona Time. This meant that the payment had to have a date stamp of being entered on the due date by . The first payment was timely in sent by , via Zelle. Defendant received Bank Confirmation that payment was sent timely on , date stamp by Arizona time. The plaintiff had to have set up his account in order to have received the funds. I received confirmation on that Plaintiff. Defendant provided screenshots of Zelle confirmation, which stated

“... via Zelle electronic transfer, with a courier with tracking information, or electronic confirmation, and be made payable to “

” Payments shall be directed to:

had breached his contract even before the payments were to commence on . Plaintiff’s attorney filed and recorded the stipulated judgement , before any payments were ever made. There was a modification to our payment schedule and the 1st payment was set for . Settlement stipulated that it was to be filed with the court but not be recorded in any county or executed upon.... The Final Judgment was recorded .

Stipulated Judgment in the amount of that shall be filed with the court, but not be recorded in any county, or executed upon unless any payments from Paragraph 1 are not timely paid. Stipulation for entry of judgment will indicate no execution shall occur unless there is a failure to timely make payments under Paragraph 1

Plaintiff never filed a Motion to continue case on inactive/dismissal calendar for days to allow for payments to be made.

to file a Motion to continue case on inactive/dismissal calendar for days to allow for payments to be made. to draft and file stipulation for dismissal with prejudice of all claims once all payments are made in full consistent with Paragraph 1

Misconduct by the Plaintiff for misrepresenting to Defendant and/or Pro Tempore that there was a court order award of during court ordered settlement conference. Defendant discovered after the fact that Judge never granted any award to This was how Plaintiff introduced the into the Settlement Agreement. Plaintiff would need to provide the original award document that claims he received from Judge Defendant has never been given a copy. Plaintiff has violated Rule 8 Maintaining the Integrity of the Profession.

ER 8.4. Misconduct

It is professional misconduct for a lawyer to:

(a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist, or induce another to do so, or do so through the acts of another.

(c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation

Pursuant to ER 1.5, and Ethics Opinions 86-09 and 94-10, claim against settlement is limited to the outstanding amount of costs owed. Pursuant to his Contingency Fee Agreement, is entitled to costs incurred. Arguably, costs were what he proved at arbitration-- —of which has paid .

lawsuit does not override the Rules of Professional Conduct. Plus, agreement with to accept as satisfaction of the cost lien extinguished any claim could make against the settlement.

filed Motion for Reconsideration on . Also filed on , Motion for New Trial, and Relief of Judgement on grounds of Rule 59 and 60.

questions the misconduct of Judge [redacted] because he has ignored all the violations of attorney professional conduct. [redacted] filed fraudulent claims and given false testimony and engaged in conduct intended to harass his former client, delay Settlement disbursement proceedings, and abuse the legal process for his own gain. [redacted] knew what he is doing to be unjust or illegal abuses of process. [redacted] was employing untruthful means in further his causes for claiming money that he is not legally entitled to. [redacted] sought out to mislead the judge or judicial officer, [redacted] attorney, [redacted] Defense Attorney by artifice or false statements of fact. [redacted] is committing acts involving moral turpitude or dishonesty, failing to perform legal services competently, and refusing to properly account to clients his charges for attorney fees.

[redacted] is also concerned that Judge [redacted] is completely disregarding the unprofessional conduct of [redacted] and awarding him any money for a failed personal injury case that [redacted] was only able to prove [redacted]. Both [redacted] and [redacted] Court dismissed [redacted] case [redacted]. It is very hard not to question the ethics of Judge [redacted] in this matter. [redacted] brought all this information to Judge [redacted] and he ignored it. [redacted] would also be concerned of any vindictiveness from Judge [redacted] might have on my case due to the filing of this complaint.

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Plaintiff

IN THE COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF

LAW OFFICE OF

Plaintiff,

vs.

Defendant.

) Case No.:
)
) **DEF MOTION TO QUASH WRIT OF**
) **GARNISHMENT**
)
) (Assigned to Hon.)
)
)
)
)
) **EXPEDITED**
)
)
)

Notice is hereby given that the above-named Defendant moves the Court to squash the Writ of Garnishment from the judgment entered in this action on the day of granting Defendants et al.'s Motion for Final Judgment and entering a final judgment against Defendant.

Defendant has filed a Motion for Reconsideration on . And now the Motion to Squash the Writ of Garnishment. Plaintiff would not be able to execute Writ of Garnishment with pending Motions of Reconsideration and New Trial, Altering or Amending a Judgment

**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.**