

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-131

Complainant: No. 1335410695A

Judge: No. 1335410695B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. This complaint is dismissed pursuant to Rule 16(a).

Dated: June 11, 2008.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 11, 2008.

This order may not be used as a basis for disqualification of a judge.

a Status Conference was conducted by The Honorable
for the Plaintiffs and the Defendant
an Arizona Non Profit Corporation.

failed to appear at the hearing. As a result of the Judge's order, the Plaintiffs
submitted legal memoranda that were required of them in a timely manner.
Subsequently, the trial date was set.

Plaintiffs appeared and the
Defendant was represented is the Property Manager
for as well as several other homeowner associations (HOAs) in the
area. The law firm of is retained as
legal counsel for acting on behalf of the HOAs that he manages. Judge
inquired as to his position in connection with and it became clear that
did not possess a resolution from the Board of Directors to represent them
and, in fact, his status was that of an independent contractor, not an employee of
recited to the Judge the Arizona Revised Statutes (ARS) Section 22-512,
Subsections A, B which stated that only a full-time officer or authorized employee shall
represent a corporation. At that point, requested Judge to enter a
default judgment for the Plaintiffs, which the Judge refused to grant, but should have
issued. Instead the Judge reprimanded and set another trial date with
instructions that be allowed to represent with a resolution from their
Board of Directors. In this case, Judge did not comply or follow the Arizona Law
as stated in ARS Section 22-512, Subsections A, B.

The Arizona Code of Judicial Conduct (1993), Arizona Supreme Court Rule 81, Rules of
the Supreme Court, As Amended June 8, 2004, sets forth the following:
Canon 2, A Judge shall avoid impropriety and the appearance of impropriety in all of the
Judge's Activities.

(A) A Judge shall respect and comply with the law and shall act at all times in a
manner that promotes public confidence in the integrity and impartiality of the
judiciary.

a second trial was held by Judge At this trial, was
represented by its President. did not present any legal
arguments in their defense and, in fact, the Judge asked him immediately prior to the
decision if there was a contract between the HOA and the Plaintiffs to which he
responded negatively. In my opinion, the question was completely irrelevant in that
contract law was not the issue in this case, but rather the issue revolved about equity and
fairness.

Notwithstanding, Judge ruled in favor of the Defendant. Obviously, the Judge
ignored the Plaintiff's Memorandum of Points and Authority as well as their presentation.
In this case the issue was the same in 2003 as it was in 2006, in that it was not different,
but identical.