

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-203

Complainant:	No. 1399110669A
Judge:	No. 1399110669B

ORDER

The complainant alleged that a justice of the peace engaged in a pattern of legal error regarding the requirement of personal service to establish personal jurisdiction. After reviewing a response from the judge and the recording of the hearing, the commission decided to issue a private warning reminding the judge of his obligations under Rules 1.2 2.2 of the Code of Judicial Conduct to comply with the law and ensure impartiality and fairness to all parties.

The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: December 20 , 2010

FOR THE COMMISSION

J. William Brammer, Jr.
Commission Chair

Copies of this order were mailed to the complainant and the judge on December 20, 2010.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2010-203

COMPLAINT AGAINST A JUDGE

Your name: _____ **Judge's name:** _____ **Date:** 8/7/2010

Instructions: You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

I was representing two defendants in separate Civil Traffic matters (Photo Enforcement), Steven _____ in Case # CT2010- _____ as well as Daniel _____ in Case # CT2010- _____ both in the West McDowell Justice Court. My complaint is regarding the conduct of _____ during the hearings on June 29, 2010, scheduled to start at 10:00 am, but not started until about 11:00 am.

At the time of the events here recounted, I believe only one court staffer and the representative from Redflex were present. The hearing was video recorded, but I have not requested or reviewed the recordings.

In each of these cases, _____ made rulings in direct conflict with existing laws, rules, and prior decisions. Specifically, _____ held that the filing by counsel of pleadings, though specifically denying personal jurisdiction, along with legal argument as to why personal jurisdiction had not been conferred on the Court, would suffice as a substitute for service or a waiver of service.

This issue giving rise to this complaint was identical in each matter. _____ held that counsel's pleadings established that service had been accomplished, despite argument that there had been no service, despite _____ noting that no proof of service was in the record, and despite the pleadings setting forth the applicable law. Attached are the first 2 pages of each of the pleadings, filed 4/26/2010 for Aron, and 5/2/2010 for Yammer.

I believe that _____ conduct, as briefly outlined above, violated the Code of Judicial Conduct (and not only in the matters for which I was appearing, but also in other matters on other occasions when he has held that personal jurisdiction may be established by pleadings challenging jurisdiction).

In particular, I believe that _____ violated a number of the Rules, and that his conduct is such that likely brings the judiciary into disrepute, and that his conduct here shows a pattern of ignoring well established law. I will briefly review the violations of the relevant rules which I perceived, below.

RULE 1.2. Promoting Confidence in the Judiciary

_____ assertion that defendants filing pleadings challenging personal jurisdiction thereby establish personal jurisdiction is plainly mistaken, absurd, and one that must shake the public's confidence in the judiciary. I was shocked by _____ unconditioned and unqualified assertion that my pleadings challenging personal jurisdiction were the evidence supporting his finding of personal jurisdiction.

RULE 2.2. Impartiality and Fairness. A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

_____ holding that defendants filing pleadings challenging personal jurisdiction thereby establish personal jurisdiction appears a gross misstatement and misapplication of the law, as well as creating at least the appearance of unfairness and an absence of impartiality.

Please communicate with me regarding any action upon my complaint.