State of Arizona

COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-168

Complainant: No. 1445610520A

Judge: No. 1445610520B

ORDER

The complainant alleged that he was treated unfairly by a justice of the peace in the adjudication of a debt collection action.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant and the electronic court records, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the judge's ruling. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: August 6, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on August 6, 2012.

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

Complaint against Maricopa Justice Court, **June 15, 2012**

I will start this complaint by stating that my charges and accusations are as much an indictment against the Maricopa Justice Court as they are against Justice as a Judge. However, there is so much wrong with this case on so many levels that it does not seem realistic or even fair to believe that all of this can be laid on the shoulders of just one person. I do not know Justice In fact, I was never in his courtroom, nor did I ever have a single conversation with Justice throughout this entire proceeding. This fact alone could call into question if I was properly and fairly afforded "my right to be heard". But, this is just one issue I have with how the totality of my case was viewed and handled.

As it would be regardless, it is the Judicial Committee's charge to determine the deficiencies of this case and where fault and impropriety are evident. My basic disputes are with how my case was adjudicated within the context of how the Justice Court is charged to function and serve the public. The court seems oblivious as to how conducive and accommodating it is to being manipulated by a plaintiff and his attorney who rely on it as a profit center. And also, as to how it is being used as a taxpayer-subsidized extension of a private business whose practices and methodologies are at the very least extremely predatory and abusive.

My case was "tried" and decided entirely through the exchange of paper. And, due to the fact that I was a Defendant Pro Per or Pro Se, this process held me at a distinct disadvantage from the start. I had never written a brief, a legal motion of any kind, or filed an affidavit until this event. I am sure I did not do these things as well, or the way a real lawyer would. However, I tried very diligently to obtain a good understanding of proper procedure over these last six months. But, in view of the end result and how it came to this result, the fact that I was simply a Defendant Pro Per seems to have been an obstacle that I was not able to overcome. And, however well I may have come to understand and apply proper procedure as this case progressed, acquiring and efficiently using this knowledge may not have been enough for me to successfully adjudicate our position in the case merely because I possessed Defendant Pro Per status.

Furthermore, as this case moved toward its close, I began to wonder if my filings and Motions were being considered with the same degree of sincererity and diligence as I was applying to them in their formulation and writing. In one specific and important instance, I believe there is sufficient cause to question whether one of my last "Responses to a Motion" was ever reviewed or read at all.

It is one thing to be "guilty until proven innocent". It is another thing when the steps taken to demonstrate "innocence" are given little or no credence as being credible offers of the defendant's exculpatory status as it pertains to the plaintiff's claims. I know my voice was not heard, and if my written word not read, what chance did I have in this situation?

I believe that professional plaintiffs and lawyers like the ones who were our opposition have caused and perpetuate a myth in this judicial system that their positions in legal contests are very nearly

always correct. And therefore, their arguments are above reproach. So, they are justifiably and predictably due what they claim. They win more often than they lose because they have acquired an advantage... not due to the quality or merits of their quests, but due to the quantity of the cases they file.

The plaintiff in my lawsuit, owned by has on my observations, at all times, had 250 cases in the Maricopa Justice Court database. I suspect there is a limit to the number of cases listed or stored for any one client in the court's database. So, there is high probability that Mr. has run hundreds more cases through the Court. Attorney seems to represent in the majority of its cases. This team constitutes a "lawsuit factory" that relies heavily, perhaps solely, on the Justice Court to act as its collection agent... an intimidating enforcer with absolute powers. This is a business model that many people would likely view as one which affords its participants the opportunity to grow rich on the taxpayers' dime.

I will cite a few examples to support my belief that my case was unfairly and questionably dealt with by this Court. But first, it is probably most helpful that I provide some background to the case.

Mr. is a junk debt buyer, popularly known as a JDB, who actively seeks to purchase debt instruments at a substantial discount. He sues total strangers for a living. My case involves a lawsuit he brought against my wife and I regarding a loan that was extended to us to facilitate the purchase of a used Buick nearly five years ago at in Scottsdale. Mr. claimed that he was a legal assignee to the original creditor (BMW Financial, Inc,) and therefore was entitled to collect monies that he claimed we owed to BMW Financial upon the termination of our relationship with them.

Due to the fact the purchase transaction occured nearly five years ago, I can only offer details and my recollection of pertinent events on a best effort basis. Due to the satisfactory manner in which our relationship ended with BMW Financial, and as time passed, I had no reason to suspect that we would need to store and preserve documents relative to this transaction.

As buyers, we were trapped in a very unfavorable sales agreement by through a sales process that actually lasted several days in early September of 2007. While the process started satisfactorily (we were actually told the deal was complete after my first visit), we were contacted several times over several days afterward and told that we needed to make additional cash contributions to our downpayment amount to obtain favorable financing. We obliged each time without realizing that our first signed sales contract was being modified through this process, and evolved into a new contract that was very different from the first agreement. The monthly payment that the new or final agreement required was $150 per month more than what we initially agreed. This was very unaffordable to us. I told the dealer we could not sustain this and would have to cancel. The dealership refused to cancel the deal; to accept return of the vehicle; to refund our downpayment; or to return to our possession the car that we traded-in.

For relief, we had no options available to us that would not have cost us money we did not have. So, we tried to the best of our ability to honor an agreement which we detested and one which caused undue burden and financial hardship. We kept the car for what might have been 11 to 14 months. We made payments on the car online through a website operated by Alphera Financial Services.

Sometime in the Spring of 2009, I was contacted by a collection representative from BMW Financial. This would be the first and next-to-last conversation I had with anyone from BMW Financial. It was a back-and-forth phone exchange which at times was very "testy". For the sake of brevity, I will say that after hearing my full experience with the dealership and purchase, BMW seemed to be concerned they may have been party to an unethical transaction. In exchange for ceasing collection activity and not holding us liable for any further funds of any kind for any reason, I agreed to return the car to them. I can not emphasize enough that this was not a typical voluntary repossession. It was mutually agreed to and seemed mutually beneficial as well.

Through the remainder of 2009, all of 2010 and all of 2011, I was not contacted by anyone representing any company or concern in any way, shape or form regarding this car. Then, out-of-the-blue, in January 2012, Mr. had my wife served with a summons and complaint at her workplace stating that we owed him more than $14,000. At first, I thought we were being set up as targets of a scam.

I contacted the Court and it verfied the lawsuit was real. I proceeded to research how to respond to the serving of a summons and complaint. I believed that if I did a decent job of providing an answer to the complaint, the Plaintiff, perhaps counting on a "slam dunk" case, would simply drop his suit. I also believed the Court would view the case as frivolous and dismiss it. I still find it hard to believe that it was not.

Since neither one of those expectations prevailed, the lawsuit evolved into a case where I had no choice but to represent myself, and do the best I could to keep up with the plaintiff's attorney.

Here now are the unfair practices, inequalities and episodes that comprise my complaint:

1. The plaintiff was able to secure the legal assistance he needed to press his case and win for $350.00. Why as a defendant could I not locate a lawyer who would "open a file" for my side of the case for less than $2,000, and not charge me (on average) $195.00 per hour for case work? I could not afford the only financial arrangement available to me, so I had no option but to assume the lowly status as Defendant Pro Per. How is this playing field level and fair? The first of three lawyers I consulted with warned me that I should expect to spend upwards of $10,000 before the case was over. The Plaintiff seems to be in the position where he does not have to worry about funding his cases. He has a lawyer with whom he has some sort of agreement that facilitates his ability to present frivolous and dubious cases at little or no financial risk. If this is not illegal (champerty, barratry), it should be. Surely, the Court and its Judges must know their case loads are heavier because this practice is seemingly tolerated. These heavier case loads cultivate the propensity for Judges to more

easily dismiss the likelihood that a Defendant Pro Per has the sophistication to intelligently present his case. So why extend to that defendant the same courtesy and leeway that might be extended to the plaintiff or his attorney. Afterall, it is not likely the defendant can do what he needs to do to prove his case. It might be assumed the Judge certainly must be aware there is genuine inequity in what it takes for the plaintiff to try his case versus what is required for the defendant. But, in all fairness, the Judge and Court do not compensate for this inequity, and instead, assume a bias toward the defendant.

In my lawsuit, I would interpret this bias as being expressed in the following ways:
A. My attempts to follow procedure were criticized by the plaintiff's attorney through more than one of his court-filed motions. I was attacked for not properly filing an affidavit and a disclosure statement. I believe it is roundly unfair to hold a Defendant Pro Per liable for a shortcoming that ultimately has no impact on the truth of the matter. Furthermore, is it ever fair to demean anyone for basically "not knowing... what they don't know". However, it is these types of charges that reinforce the Court's bias that the defendant lacks sophistication to make valid legal points. Points that are credible or strong enough to provide the Judge with a view to issuing a decision that is backed with the level of authority that is more or less expected in true judiciary form and context. Due to the fact I had no contact with the Judge, and my knowledge of his involvement and participation with the case is limited to seeing signatures, stamps and seals affixed to orders and filings, I can only surmise that the Judge may have leaned to the notion in an early phase of the proceeding that my approach to the case was and would be flawed throughout.

B. When the summary judgement was awarded to the plaintiff, I was not informed of this by the Court. A copy of the Judge's order was sent to me by the plaintiff. This is how I learned that I lost. I have never been provided a written order for the summary judgement awarded by the Court.

C. At one point in the process, our case was scheduled for mediation. While I am not generally eager to spend time in courtrooms, I looked forward to the opportunity to sit down and talk with someone about the issues surrounding this case. I viewed it as my chance to provide a fuller presentation of my case; rather than having to depend on written motions and responses. A few days after I received the mediation notice, the plaintiff filed a motion for a continuance of the meeting; stating that it had filed a dispositive motion that might make a hearing unnecessary. Additionally, the plaintiff's attorney remarked "avoiding a hearing may save attorney fees for the Parties". Therefore, the Court should vacate the mediation. The judgement was awarded to the plaintiff seven days before mediation would have taken place. Seven days would not have made a difference on my calendar. But, apparently it was too much to expect from this court's schedule. It is my understanding that if the mediation had taken place, I may have had to pay a mediation fee. While I am not certain of the amount, I would have been more than willing to pay the $75 to $125 fee to have had the opportunity to speak with a Mediator.

D. The plaintiff filed his motions to begin the garnishment process on May 2, 2012. I was not informed of this filing until May 17, 2012. By this time, the plaintiff had served the garnishee and

had the paperwork in hand to facilitate the garnishment. When I received the "Initial Garnishment Notice" 15 days later, and fearing that I had missed the 10-day deadline to respond, I immediately requested a hearing. As of this day, June 15th, this request has gone unanswered.

E. When I first discovered that the garnishment filings had been made, I assumed that I must have made a mistake that caused 15 days to pass without knowing that garnishment was in process. However, upon closer examination I discovered the reason why I received my notice on May 17th was because it had only been mailed to me on May16th (postmark). It was mailed to me the day after the garnishee complied with the Court's summons and earnings request demand. And, it was mailed to me... not by the plaintiff's attorney as all previous filings had been mailed... but by a party whose identity was not readily offered and who had no role in the proceedings until the garnishment process was begun. Based on my belief that I was improperly served with this notice so that I would miss the opportunity to oppose the garnishment, I filed a "Motion to Stay Garnishment" with the Court on May 31st. As of this date, June 15th, this motion has gone unanswered.

F. On May 1st, I filed a "Motion to Vacate Summary Judgement". On or about May 20th to May 23rd, I received the plaintiff's response to this Motion. On Friday, May 25th, feeling that I was being squeezed and running out of time on the decision between trying to continue my appeals, or filing bankruptcy to stop the garnishment that had already begun, I received a voice mail message from the Justice Court. A woman identifying herself as said that she was holding a motion that she had not yet taken back to the Judge. I do not know exactly what motion she was referring to, but she said she was giving me until June 1st... the following Friday, to provide my response to the plaintiff's response to my motion to vacate summary judgement. Now, at this point, I was not aware that I could even provide such a response in terms of it being appropriate or within the scope of proper procedure. But, I relished the opportunity to do so and was relieved that I had another week to continue my appeal. I viewed this as my last chance to really spell out in no uncertain terms my version of the facts. And, because I was never able to provide discovery materials for my side of the case, I used the plaintiff's own evidence to disprove his version of the facts. I used the numbers he provided. I did not rely on anything as vague or as questionable as a "he said, she said" scenario. My points were not subject to interpretation. They were hard and fast numbers and dates that if the Judge was going to accept on the plaintiff's behalf, he had no choice but to accept them for my purposes as well. This motion amounted to 14-pages. I filed it with the Court on May 30th. Less than 24-hours later on May 31st, the Judge signed an order denying my Motion.

How seriously could my Motion have been considered? More appropriately, was my Motion even reviewed or read? I find it very hard to believe that anyone who would have read this motion would not see that at the very, very least, I created far more than reasonable doubt that the plaintiff's claims were legitimate. Or even, that the amount of the award was credible and not in dispute. Among other issues, the documents submitted by the plaintiff were altered, modified and/or manufactured from scratch. I argued they were fraudulent and inadmissible as evidence.

G. It was on Thursday, June 7th, that I recieved notice and learned that the Judge had denied my Motion. On Friday, June 8th, I met with attorney to consult with him for his advice and potential assistance with filing Chapter 7 bankruptcy. After my experience with the Justice Court, I was very wary of representing myself any further in legal matters. He candidly told me that it made no sense that I should pay him $2,000 for his assistance, when he believed I could probably handle it myself. On Monday, June 11th, I filed a Chapter 7 petition. My 341 meeting is scheduled for July 19th.

It is too late for me to find any justice from the Justice Court. The damage has been done. However, I must now contend with the formalities and restrictions of the bankruptcy process. This is something I feel I should not have to do. But, I really have no choice as we truly can not afford to lose 25% of our monthly income. I worry about repercussions from this action which may not be evident now, but may surface in the future. I am sure my wife's employer now has a diminished opinion of her as a responsible and reliable person. First, her wages were garnished, and now she is in bankruptcy. If her employer finds herself in the position of having to reduce payroll, my guess would be that my wife might likely be viewed as the most expendable person and the least desirable to keep at this point.

It is mostly unbelievable to me that we had been penalized for more than $14,000 without ever having set foot in a courtroom or having the briefest of conversations with the Judge or a mediator. I am usually not an activist sort of person or the least bit confrontational. But, I feel something must be done. Because, as I previously stated there is too much wrong with this case on too many levels. I am filing a complaint with the Arizona Bar Association against It is my hope that at the very least my complaint will be the catalyst for an investigation of his financial arrangements with that consistently provide him with an unfair advantage when he commences a lawsuit.

Additionally, because correcting some of the shortfalls and current inadequacies in the judicial system that have been addressed in this complaint may rely on legislative action, I will be in contact with Arizona Senators and regarding these matters.

For 25 years, I worked in the field of advertising and public relations, I am seriously considering resurrecting some of my PR skills to publicize how the Justice Court is working these days to serve the public. I feel somewhat compelled to survey the court of public opinion for an indication of whether I, and others like me, are getting a "fair shake" in cases like this one. The investigative reporter or journalist who I feed this storyline to will have as many as 250 witnesses to interview. Furthermore, in this age of budget cutbacks, deficit spending, and tea party fervor, I think the public will find it very interesting how Court regulars like and and very possibly other professional plaintiffs and litigants, have virtual carte blanche access for using and abusing their tax dollars to further fatten their own bank accounts.

The table below represents information culled from the Justice Court website through its "Case History" tab. The pages reporting this information can be accessed by submitting a case number, a litigant's first and last name or the name of a business. These pages report up to 25 cases or case numbers per page. I performed a search on . The case numbers shown below are not selective in any way on my part. They are merely the first 20 case numbers that were returned in the search I performed on June 16, 2012. The plaintiff in all cases is who is represented in all cases by Attorney fees in these 20 cases ranged from $300 to $450. The court locales were widespread across the Justice court jurisdiction and as such, the Judges presiding over these cases represent a diverse group. I would urge the Court and perhaps the Judicial Committee to continue this audit.

Case No.	**Award**	**Recovered Litigation Costs**
CC2010-	9,194.82	446.00
CC2010-	1,835.68	485.20
CC2010-	1,739.75	508.40
CC2010-	No Judgement	
CC2010-	3,771.63	422.00
CC2010-	6,120.00	494.40
CC2010-	6,711.95	493.39
CC2010-	10,636.20	637.20
CC2010-	5,463.34	446.80
CC2010-	2,753.14	580.00
CC2010-	2,356.05	588.39
CC2010-	7,069.77	635.40
CC2010-	4,446.16	481.22
CC2010-	1,911.69	446.80
CC2010-	No Judgement	
CC2010-	4,040.51	442.00
CC2010-	2,909.08	621.00
CC2010-	9,002.20	461.20
CC2010-	3,147.37	669.00
CC2010-	3,177.51	625.80
Total	$ 86,286.85	

The judicial branch of our government is tasked with ensuring there is equal justice under law. Equal justice is highly elusive when it becomes permissible to litigate purely for profit on an ongoing basis. I believe plaintiffs like Mr. should be barred from filing cases; strictly due to the fact they are enlisting the remedial assistance of the Court on a perjurious basis from the outset. The notion they have been damaged by the persons they choose to sue is absurd, highly preposterous and fully

outlandish. There simply is no truth to this excuse for victimizing people with whom they have had no previous relationship. Whatever "damage" they claim to have suffered is absolutely, positively 100% self- inflicted. It is equally preposterous that any Court would sustain this ridiculous claim, and then enable persons of this mindset and intention to exploit the Court's resources and powers.

Unfortunately, this seems to be exactly what is being perpetuated in the Justice Courts.