

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 17-143

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court commissioner was biased against her, displayed a hostile demeanor, made arguments in favor of the opposing party, did not allow her to be heard, and engaged in ex parte communication.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner 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 review, the commission found the commissioner engaged in improper demeanor which gave the appearance he was biased against a pro per litigant. While this was improper under Rules 1.2, 2.2, and 2.8(B), the Scope Section of the Code of Judicial Conduct provides that it is not intended that every transgression will result in the imposition of discipline. The commission decided, after considering all the facts and circumstances, to dismiss the complaint pursuant to Rules 16(b) and 23(a), but to issue a warning letter to the commissioner to monitor his tone and demeanor, particularly when dealing with pro per litigants.

Commission members Gus Aragón and Peter J. Eckerstrom did not participate in the consideration of this matter.

Dated: March 21, 2018

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were distributed to all appropriate persons on March 21, 2018.

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

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**FOR OFFICIAL USE ONLY**

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

Comp

Complainant name;  
Mailing address;

2017-143

Cell phone;

Per instructions on your website, I have included all required information from the complaint form.

This is a formal complaint against **Judge** who is a **Judge** for the  
in and for the County of located at

**Judge** is currently presiding over my divorce case;  
**Case number**

I filed for divorce on This case is still pending and currently scheduled for trial on  
I am currently a e. The Respondent, is  
currently being represented by

At the onset of this case, I was being represented by  
located at the Respondent, was  
being represented by, located at  
were our respective attorneys until  
; filed for bankruptcy on . The bankruptcy automatic stay interrupted this case,  
however after the bankruptcy case was settled around , this divorce case resumed.

I do understand that the Commission cannot reverse court orders or assign a new judge to the  
aforementioned divorce case.

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the  
attached complaint are true.

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

**2017-143**

**COMPLAINT AGAINST A JUDGE**

Complainant Name;

Complaint against Judge

I am the Plaintiff in the divorce case, \_\_\_\_\_, case number \_\_\_\_\_, that Judge \_\_\_\_\_ has presided over since I filed on \_\_\_\_\_.

When the Respondent, \_\_\_\_\_, was being represented by \_\_\_\_\_ and I was being represented by \_\_\_\_\_, \_\_\_\_\_ presided over the case in a more professional manner. Judge \_\_\_\_\_ ordered that I receive interim Spousal Support in the amount of \_\_\_\_\_ per month, even though I was already bringing in an average income of approximately \_\_\_\_\_ per month and I did not have to pay any rent because I was allowed to continue to reside in our familial home in \_\_\_\_\_ until I was evicted ( \_\_\_\_\_ ) as a result of \_\_\_\_\_ Judge \_\_\_\_\_ also ordered that my attorney's fees be paid by the Respondent. Neither the Spousal Support or the attorney's fees were ever paid by the Respondent, who claimed that he was too sick and/or injured to work.

\_\_\_\_\_ filed a fraudulent bankruptcy case on \_\_\_\_\_ in order to avoid facing Contempt of Court charges – an evidentiary hearing on the matter was scheduled for \_\_\_\_\_ Both myself and \_\_\_\_\_ were Creditors in \_\_\_\_\_ bankruptcy case.

After the divorce case resumed in \_\_\_\_\_ I could not afford representation by an attorney. Respondent hired \_\_\_\_\_ to represent him, and since then, Judge \_\_\_\_\_ general demeanor toward me has often times been *aggressively intimidating and disrespectful*. At one of the first hearings, Judge \_\_\_\_\_ told me that I would have an opportunity to tell my side of the story, while on the stand, every time I tried to explain my position on a given issue, Judge \_\_\_\_\_ limited my answers to yes or no – I was never given an opportunity to say what I wanted, which gave \_\_\_\_\_ a clear advantage at that hearing. I suspect this change in attitude toward me is because I am a \_\_\_\_\_ and the judge probably feels that there is nothing I can do about it. Per CANON 1, rule 1.2 (A), I realize now that his occasional outbursts of *hostility toward me* was an impropriety.

Because my complaint involves \_\_\_\_\_ about the outcome of the \_\_\_\_\_ fraudulent bankruptcy case, I offer the following brief synopsis of the events leading up to the filing of the bankruptcy, as well as the settlement agreement \_\_\_\_\_, so that Judge \_\_\_\_\_ hostile and inappropriate comments are put into context.

In \_\_\_\_\_ (when \_\_\_\_\_ was court ordered to begin paying the Spousal Support payments), he put \$ \_\_\_\_\_ down on a home in \_\_\_\_\_ (he shares with his girlfriend, \_\_\_\_\_) to where he began moving our community marital business assets, valued at \_\_\_\_\_ had \_\_\_\_\_ for the business that still had several years left before expiration. Per records retrieved by the trustee's 2004 Rule examination of the landlord, \_\_\_\_\_ had not paid rent on the \_\_\_\_\_ and was already in arrears at that time. When \_\_\_\_\_ discovered that \_\_\_\_\_ was in the process of moving \_\_\_\_\_, he seized the remaining \_\_\_\_\_ assets with a landlord lien. \_\_\_\_\_ negotiated the lien down from approximately \_\_\_\_\_ and then arranged for \_\_\_\_\_ to pay the debt via a company

she and [redacted] created for that purpose, [redacted] (without my knowledge or consent). The landlord lien was lifted and the [redacted] was vacated by [redacted] when [redacted] filed for bankruptcy, just before he was ordered to appear for a contempt of court hearing for failing to pay the court ordered interim Spousal Support or [redacted] attorney's fees.

[redacted] filed bankruptcy statements and schedules and copies of [redacted] tax returns (the same tax returns [redacted] filed in [redacted] as part of his financial statement for this divorce case) claiming that his net income for [redacted], but I supplied the panel trustee with the Debtor's [redacted] statements for [redacted], that I retrieved from [redacted] when the bankruptcy case was filed, that showed that from [redacted] through [redacted] the Debtor's income for that time period was \$ [redacted] and that he made cash withdrawals in the amount of \$ [redacted] more than \$ [redacted] of which remains unaccounted for. As a result, the trustee and the U.S. Trustee began their fraud investigations. Following the U.S. Trustee's 2004 Rule examination of [redacted], both the trustee and the U.S. Trustee filed adversarial complaints against [redacted] charging him with bankruptcy fraud. The panel trustee's complaint included [redacted] as a defendant, charging her and [redacted] with conspiracy to commit fraud. In lieu of trying the case, [redacted] bankruptcy attorney, [redacted] negotiated a settlement agreement with the trustee and the U.S. Trustee such that in exchange for a \$ [redacted] payoff, the trustees would not litigate their adversarial complaints. As collateral for the \$ [redacted] the trustees first *avoided the alleged sale of the business assets* (per 11 U.S. Code § 544) [redacted] moved to [redacted], so that they could then encumber those "perfected" assets until the \$ [redacted] was paid. Per the agreement, the Debtor/Defendant [redacted] was allowed to maintain ownership and control of those "perfected" community marital business assets after the \$ [redacted] was paid. [redacted] continues to make knives using those same assets, which is how he is able to afford [redacted] legal fees.

### PATTERN OF ABUSE OF JUDICIAL POWER

The divorce case resumed in [redacted], and at one of the early hearings, in response to [redacted] claims that [redacted] still owned all of the community marital business assets, I stated to the court that that was not true. [redacted] had submitted the trustee's settlement agreement as an exhibit, which Judge [redacted] held in his hand, to which I referred to the fact that the alleged sale of the business assets was *avoided*, and then I referred to the section that stated that the defendant/debtor was allowed to keep ownership and control of all of the assets listed therein. Therefore, I argued that all of the community marital business assets that were moved to [redacted] were still community marital assets in [redacted] possession and/or control, and therefore needed to be included in our divorce settlement.

Judge [redacted] became noticeably enraged and began aggressively attacking my argument in favor of [redacted] argument that those assets belonged to [redacted] and could not be part of the divorce settlement – *the judge was actually arguing for the defense, which I felt was inappropriate*. When I argued that the trustees could not encumber property that did not belong to the debtor to settle the debtor's bankruptcy case, ergo the avoidance of the alleged sale, Judge [redacted] actually suggested that maybe that meant that the ownership of those assets reverted back to the landlord! I was shocked and appalled that the judge would offer such a ludicrous suggestion, particularly when he could see for himself that the landlord was not listed as a defendant in the bankruptcy case. I told the judge that that was impossible because the landlord's lien had been satisfied, so that ended his involvement. I pointed out to Judge [redacted] that [redacted] had signed off on the avoidance of the alleged sale, so she had agreed to “ [redacted] ” her alleged interest in those assets in favor of not being prosecuted on the conspiracy to commit fraud charges.

Clearly, Judge [redacted] aforementioned unprofessional and hostile reaction to my insistence that the community marital business assets that [redacted] moved to [redacted] must be included in our divorce settlement agreement, demonstrated his bias and was in violation of CANON 2 rule 2.3 (A)(B),

*"A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice."*

*"A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice..."*

On [redacted] Judge [redacted] entered the following Order;

“

The navment amount was set at \$ [redacted] per [redacted] beginning [redacted] The Respondent paid the judgment payments, but refused to pay after that, with the exception of a [redacted] continuing to cite that he is too disabled to work and earn an income [redacted] paid in allegedly due to a [redacted]

I filed a Motion to Enforce the Court Ordered Spousal Support on [redacted] A hearing was Ordered for [redacted] and an *Order to Appear* was signed by Judge [redacted] On [redacted]

I waited to enter the courtroom because the door was locked at the time the hearing was scheduled to begin. After the court clerk checked to see why the door was locked, the courtroom door was unlocked and I was allowed in. [redacted] was already in the courtroom but the Respondent was not in attendance per the Order to Appear. The Hearing began around [redacted] and instead of the Judge asking why the Respondent did not appear in person as ordered, he asked if the Respondent was on the phone.

*The order was never changed and I was never advised of any change to the Order to Appear, so the avoidance of this order was done without my knowledge or consent.*

If the judge had recognized that my Enforcement motion was in error and should have been for Enforcement of a Judgment, he would not have ordered the hearing in the first place, so obviously he was convinced by [redacted] during an *ex parte meeting prior to the hearing*, that the Enforcement hearing should have been for Enforcement of a Judgment and not Spousal Support, making the point of the hearing mute, therefore his client should not have to comply with the Order to Appear. This ex parte meeting was a direct violation of CANON 2, Rule 2.9 (A)(1)(b);

*"A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter, except as follows:"*

*"the judge makes provision to promptly notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond."*

Judge [redacted] was also in violation of CANON 2, Rule 2.9 (A)(4);

*"A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge."*

Judge [redacted] was also in violation of CANON 2, Rule 2.9 (B)(C);

*"If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision to promptly notify the*

*parties of the substance of the communication and provide the parties with an opportunity to respond."*

*"Except as otherwise provided by law, a judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed."*

I could tell by Judge \_\_\_\_\_ demeanor, that he had already made up his mind on the matter. My arguments at the Enforcement hearing were treated as merely an inconvenient formality.

My financial and personal circumstances were diminishing at an exponential rate due to the fact that my primary source of income, mostly \_\_\_\_\_ is pretty much making the court ordered spousal support judgment payments my expected primary source income through the \_\_\_\_\_. My trailer had no insulation of any kind (to turn the electric on, the county required that I pull off all the walls to expose the existing wiring for final inspection) and my only source of heat was an electric blanket. Temperatures hovered at subfreezing temperatures inside the trailer all winter. I could not afford to finish the electric or buy replacement insulation. I could not afford proper storage of the community marital assets in my possession that I had to move to \_\_\_\_\_ with much of the more valuable items stolen by \_\_\_\_\_ who helped me move. When I discovered the theft, I filed charges. and in response, the \_\_\_\_\_ threatened my life – he was found guilty of this at a trial in \_\_\_\_\_ when I was subpoenaed to witness for the state. I lived in fear for my life. Meanwhile, the remaining assets stored outside under tarps were water damaged beyond saving as the tarps disintegrated, so the \_\_\_\_\_ issued a notice of violation for outside storage, so I was forced to clear all of the items stored outside or I would be fined. The \_\_\_\_\_ supplied a 40 cubic foot dumpster into which everything was dumped. I could no longer afford car insurance, necessary car repairs, or other necessities. I was, and continue to be, in desperate need of financial help.

Judge \_\_\_\_\_ was made aware of all of the above conditions when the Respondent again requested that I allow him to sell his truck (a community marital asset). An agreement was reached that the truck would be sold and all of the proceeds of the sale would be given to me, with Respondent's half of those proceeds paid against the unpaid and overdue Spousal Support Judgment payments. The Respondent claimed that the truck no longer worked and was therefore not worth much, but given all of the fraud he had committed, I requested to be able to evaluate the truck and determine its actual value, which the judge granted and arrangements were made. The Respondent and \_\_\_\_\_ did everything in their power to ensure that the truck could not be mechanically evaluated by moving it to \_\_\_\_\_ with a dead battery, so the sale arrangements I had made fell through. My request for an expedited hearing on the matter was responded to by \_\_\_\_\_ and I submitted my reply, but Judge \_\_\_\_\_ refused to grant the hearing and the truck \_\_\_\_\_ Given my dire circumstances, the judge's refusal to grant a hearing on the matter clearly favored the Respondent, further demonstrating his bias against me, and ensuring that I continued to be financially unable to properly prepare for the upcoming trial. I believe this is evidence that Judge \_\_\_\_\_ was in violation of CANON 2, Rule 2.6(A) and Rule 2.7;

*"A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law."*

*"A judge shall hear and decide matters assigned to the judge..."*

The only reason that the Respondent has given for not paying the court ordered judgment payments is that he is too disabled to work and therefore is unable to generate an income. On

I was contacted by a person very close to the \_\_\_\_\_ (who remains in possession of the aforementioned community marital business assets previously encumbered as part of the Respondent's/Debtor's settlement agreement). That person provided me with recorded phone calls and dated pictures along with descriptions taken from \_\_\_\_\_ going back to showing the Respondent

all proving that the Respondent is not disabled as he has claimed since

**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.**