

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-411

Judge:

Complainant:

ORDER

May 8, 2024

The Complainant alleged a justice of the peace made improper rulings and had a conflict of interest in a small claims 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).

Copies of this order were distributed to all appropriate persons on May 8, 2024.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2023-411

COMPLAINT AGAINST A JUDGE

Name: Judge's Name:

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

I believe that Judge _____ was deficient in carrying out his judicial responsibilities by failing to issue a fair and impartial judgment in my small claims court case _____ This failure in his judicial responsibilities led him to error in his original judgment, and he was unwilling to remedy that error when I presented additional corroborating evidence through a further analysis of the irreparable condition of my improperly repaired tire. I undertook this further analysis as a follow-up to his instruction in the original judgment, but it was implicitly ignored in his subsequent judgment, and reworded in his final judgment. My complaint focuses on three errors committed by Judge _____

1. He disregarded extensive hard evidence I submitted at the first court appearance that clearly provided two professional assessments that my damaged tire had been improperly repaired with a patch only instead of the NTSB standard of using a patch and plug for safe and proper repairs. Evidence of the improper repair included the fact that the tire continued to leak air, and two professional tire shop statements that the tire was now no longer reparable. I also provided a sample of the correct repair items that should have been used for the tire repair, and he seemed to disregard those.
2. The judge awarded me \$ _____ in the first judgment to cover my cost for " _____ " In spite of this additional " _____ " evidence I subsequently submitted to the court that affirmed the non-serviceability and irreparable condition of the still leaking tire, the judge again denied my claim that I be compensated for the replacement cost of the tire. In light of the judge's personal relationship with the defendant (_____), it makes me believe that he was not impartial nor just in his judgment as he seemed not to consider adequately the professional evidence I submitted on two occasions that definitively supported the fact that the damaged tire was improperly repaired and was now unfit to be properly repaired, thus requiring the purchase of a new OEM tire. It appears that the judge took the verbal assurance of the defendant that the tire repair was properly done, even though it still leaked, and failed to consider adequately and fairly the professional opinions to the contrary that I provided the court. All such document copies are attached.
3. In his third and final judgment against my claim, the judge walked back his clear initial instruction that I was awarded " _____ " In that final judgment, the judge changed the wording of his original judgment to read that the \$ _____ award was " _____ "

Again, it appears that the judge disregarded clear and convincing evidence presented that the repaired tire continued to leak. It was not a " _____ " but an actual, proven leak. And the first judgment made no mention of the \$ _____ being a compensation for previous work, but clearly stated that it was for " _____ " of the tire's serviceability.

Please confirm receipt

Minute Entry

VS

Plaintiff,

CASE NO.

Defendant,

On this date the court concluded consideration of the evidence and testimony presented at hearing the previous day.

The Plaintiff filed claim for \$ _____ the cost of replacing a tire and rim previously brought to _____ for repair. The tire had been damaged when Plaintiff inadvertently ran over several nails on the roadway. When Plaintiff returned to the business upon seeing (scratched) damage to the rim and an issue with the tire not maintaining air pressure, the parties ultimately became frustrated with each other, and the issues were not resolved. Witness _____ testified that although he wasn't aware of the rim being damaged until Plaintiff returned with the rim to the shop, he had said he told Plaintiff he would take responsibility for the damage.

The question before the Court then is if Plaintiff met the burden of proof and if the claim is reasonable. The Court was convinced it was more likely than not that the scratches occurred during the repair of the tire. Witness _____ testified that repairing the damage would have likely cost about \$ _____ or more. The rim was damaged cosmetically but was otherwise in new, if not pristine but serviceable condition.

Plaintiff argued and provided internet-sourced documentation the only proper method of repairing a tire such as was damaged in this case would be to repair using a combination plug patch. Other than online-based references to the NTSB and other sources, the Court was not able to determine if a simple glued tire patch repair is unreasonable under the circumstances or if the tire was truly deemed unfit for further repair as it apparently was not holding air sufficiently.

Based on consideration of those facts, the Court reaches a verdict on behalf of Plaintiff in part. Damages will be awarded in the amount of \$ _____ to repair the rim, deemed reasonable by the Court to cover the costs of restoring the rim to its original condition. Regarding the tire, it was unclear to the court what the source was of the leak, but Plaintiff's testimony was compelling that the tire was in fact not able to maintain sufficient pressure after the repair. It was also unclear to the Court if the tire was ruined beyond repair to be brought back into service, but nevertheless the Court will award Plaintiff \$ _____ for the costs of further analysis to evaluate the potential serviceability of the tire.

The total, \$ _____ plus court costs of \$ _____ for a total of \$ _____ will accrue at an interest rate of _____ per annum until paid in full.

Dated this _____ day of _____

Judge

Copies of the Foregoing to:

What Does this Point Mean?

Read p+9, Highlights

Minute Entry

VS

Plaintiff,

Defendant,

CASE NO.

On _____ the Court received further correspondence from the Plaintiff, requesting additional financial relief in reference to the tire in question being unserviceable and/or unrepairable.

It would be outside of the Court's authority to increase the amount of judgement post-verdict, unless perhaps the Court had erred in the original judgment. Had the Court been convinced at trial that the tire had been rendered unserviceable or unrepairable, the judgment may have included the replacement cost of the tire.

Because of these facts, no further action will be taken by the Court at this time.

EVIDENCE WAS GIVEN YOUR FAVOR
The BIGGS Bullets (P-#9)

~~Dated this~~ _____ ~~day of~~ _____

Judge _____

Copies of the Foregoing to:

**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.**