

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-468

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Judge:

Complainant:

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**ORDER**

May 24, 2024

The Complainant alleged improper legal rulings by a justice of the peace hearing civil 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).

Commission members Barbara Brown and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 24, 2024.

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Arizona Commission on Judicial Conduct  
1501 W. Washington St. Ste. 229  
Phoenix, AZ 85007-3227  
(602) 452-3200

**FOR OFFICE USE ONLY**

2023 - 468

**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.

Pursuant to Rule 5(a)(1)(2)(3)(4), Rules of Procedure for the Judicial Review Process, Justice of the Peace, \_\_\_\_\_ (hereinafter " \_\_\_\_\_ ") of the \_\_\_\_\_ Court has demonstrated unsatisfactory judicial performance as he has failed to:

- (1) take command of relevant substantive law and procedural rules;
- (2) is unable to demonstrate impartiality;
- (3) has failed to provide clarity on his oral and written communications; and
- (4) lacks judicial temperament and professionalism upholding public confidence in the legal system and demonstrating appropriate respect for everyone.

This complaint against \_\_\_\_\_ stems from ( ) separate cases involving the same litigants and same cause of action that have been intertwined. The original case number, \_\_\_\_\_, was adjudicated on \_\_\_\_\_, through the \_\_\_\_\_ Court (under J.P. \_\_\_\_\_), and then appealed by the Complainant, \_\_\_\_\_ (hereinafter "Complainant"). The appellate case number is \_\_\_\_\_, where the Complainant was the Appellant and Plaintiff, \_\_\_\_\_ (hereinafter "Plaintiff") was the Appellee.

The current and pending case, \_\_\_\_\_, s in the \_\_\_\_\_ Court was filed by Plaintiff's counsel, \_\_\_\_\_ . In both cases, \_\_\_\_\_ is the Plaintiff (hereinafter "Plaintiff"), and Complainant, \_\_\_\_\_ (hereinafter "Complainant") is the Defendant.

**PROCEDURAL HISTORY:**

Complainant filed his *Notice of Appeal* with the \_\_\_\_\_ Court on or about \_\_\_\_\_

Complainant filed his *Appellant Memoranda* on \_\_\_\_\_ and again on \_\_\_\_\_

An *Amenda Appellant Memoranda* was filed on \_\_\_\_\_

Plaintiff never filed a *Responsive Memoranda*.

The judgment as originally issued by the Trial Court, \_\_\_\_\_ Court, on \_\_\_\_\_

, in case number \_\_\_\_\_, was reversed and vacated by the Appellate Court (under Honorable Judge \_\_\_\_\_) on \_\_\_\_\_, under case number, \_\_\_\_\_

The Appellate Court dismissed Plaintiff's case without prejudice. However, in Footnote 4, Page 3, of its *Minute Entry Order*, the Appellate Court listed a stipulation to the dismissal without prejudice that Plaintiff is to follow should it proceed with collection of the alleged debt as discussed against Complainant.

On \_\_\_\_\_ the Appellate Court remanded the case back to the \_\_\_\_\_

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Court with instructions to dismiss without prejudice.

Further, the Appellate Court explained its very detailed ruling stating Plaintiff is not a national banking association but instead. it is a \_\_\_\_\_ that offers credit card loans and " \_\_\_\_\_ ' That:

- (1) There is nothing in the record on appeal that suggests Plaintiff is authorized to do business in Arizona pursuant to A.R.S. §6-201, A.R.S. §6-217 or A.R.S. §6-322(A);
- (2) The records of the \_\_\_\_\_ fail to show Plaintiff has had a banking permit at any time relevant to " \_\_\_\_\_ " ( \_\_\_\_\_ ); and
- (3) Plaintiff's Complaint does not allege any facts suggesting that the Bank is authorized to engage in the business of banking to include a bank seeking to collect a debt owed to the bank by a bank customer.

The Appellate Court determined the Trial Court never acquired jurisdiction to hear the original case, and dismissed the original case and did so without prejudice for the reason as stated above. Accordingly, Plaintiff had to file a *Release of Judgment Lien* on \_\_\_\_\_ to release Complainant of the judgment it recorded as a *Judgment Lien* with the \_\_\_\_\_ County \_\_\_\_\_ on \_\_\_\_\_ under recording \_\_\_\_\_ in the Recorder's Judgment Docket Book.

Furthermore, Complainant states Plaintiff never motioned the Appellate Court for a rehearing to challenge the Appellate Court's ruling pursuant to Rule 14(a), Superior Court Rules of Appellate Procedures (SCRAP) for Civil Matters within fourteen (14) days of the Appellate Court issuing its ruling, nor has Plaintiff cured its fault by obtaining the required banking permit/licensing as stipulated by the Appellate Court in order to pursue its claim against Complainant (See *Minute Entry Order*: Page 3, Footnote 4).

Plaintiff instead refiled its claim against Complainant in the \_\_\_\_\_ Court, presided by \_\_\_\_\_, on \_\_\_\_\_ citing A.R.S. §10-1501(B) as its authority, but mentioned nothing of the Appellate Court's ruling, and its dismissal of Plaintiff's previous suit nor provided proof that it had obtained the required banking permit as stipulated by the Appellate Court to cure its fault.

Complainant filed two (2) *Motion to Dismiss* to dismiss (hereinafter "MTD") with the \_\_\_\_\_ Court. The first *MTD* was filed on \_\_\_\_\_ where Complainant referred to \_\_\_\_\_ and attached the Appellate Court's ruling from \_\_\_\_\_ as Exhibit "C" as well as cited this matter to be in violation of the *doctrines of res judicata* and *collateral estoppel*, and the Court still lacking jurisdiction. Complainant also cited case law in support stating that if a judgment on the merits is unchallenged, it shall remain and does not depend on whether the judgment was in error.

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Plaintiff filed its response around \_\_\_\_\_, citing the inapplicability of both doctrines and addressed nothing else.

Complainant filed his reply in support of his motion on \_\_\_\_\_. However, the Court (under \_\_\_\_\_) denied Complainant's *MTD* without providing an explanation in support of its ruling (violating Rule 5(a)(3): Failure to provide clarity on his oral and written communication) that same day and did so without considering Complainant's reply.

Complainant filed his second *MTD* on \_\_\_\_\_, which also referenced and had the Appellate Courts ruling attached as Exhibit "C", reiterating the citations of *doctrines of res judicata* and *collateral estoppel* with the addition of the citation of *doctrine of collateral attack*. Complainant also emphasized that the proceeding stems from Plaintiff's illicit banking activity as the credit card account as discussed in the matter was issued illegally as Plaintiff is operating as an unlicensed business in the Arizona violating *ex turpi causa non oritur actio* and *ex turpi causa non oritur actio*.

Plaintiff filed its response on \_\_\_\_\_ citing the inapplicability of *res judicata* and *collateral estoppel*, but did not address the *collateral attack* claim, nor did it address its illegal activity operating as an unlicensed business in the state of Arizona.

Complainant did not file a reply, and the Court (under \_\_\_\_\_) denied the second *MTD* providing no explanation in support of his denial on \_\_\_\_\_ which violates Rule 5(a)(3): Failure to provide clarity on his oral and written communications.

On \_\_\_\_\_ a Status Conference was held in front of the Honorable Judge \_\_\_\_\_ (hereinafter "\_\_\_\_\_") during which the Appellate Court's ruling and Complainant's second *MTD* were discussed in great detail. At first, the Court (under \_\_\_\_\_) seemed to want to dismiss the matter because the matter had already been adjudicated by the Appellate Court but felt it would be "\_\_\_\_\_ ' if it did. Yet, the Court (under \_\_\_\_\_) inquired why Plaintiff did not plead everything it pled in its response to Complainant's second *MTD* to the Appellate Court for the appellate judge to consider (Status Conference DVD @11:42:07-11:42:29). Counsel for Plaintiff stated that its client (Plaintiff) felt the Appellate Court had misapplied the law, and Plaintiff just chose to refile, citing its authority as A.R.S. §10-1501(B)(8) (Authority to transact business by securing or collecting debts or enforcing mortgages and security interests in property securing the same) as an attempt to comply with the Appellate Court's ruling. Counsel for the Plaintiff also lied to the Court by stating its client is "\_\_\_\_\_ " (Status Conference DVD @11:44:12-11:44:40). This is contrary to the information contained on Plaintiff's own website, radio and television commercials, and contrary to what had already been determined by the Appellate Court

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in case \_\_\_\_\_ and stated in its ruling *Minute Entry Order* issued (filed \_\_\_\_\_).

Additionally, Plaintiff's Counsel failed to address Complainant's assertion that the credit card as discussed in this matter was issued illegally being its client is operating as unlicensed business in the state of Arizona as indicated by the Appellate Court. That not only the account as discussed in this matter but every banking product offered by Plaintiff as advertised on Plaintiff's website, \_\_\_\_\_, and issued to Arizona residents are being issued illegally due to the lacking banking license/permit as required under Arizona law, and accordingly, any debt collection lawsuits Plaintiff files and pursues against and any judgment awards to the Plaintiff relating to such lawsuits are also illegal as each stem from the Plaintiff's illegal banking activity because Plaintiff is operating as an unlicensed bank (business). That the awards are the "fruit of a poisonous tree."

The Court (under \_\_\_\_\_) was then faced with an issue with whether it should bring the matter to trial for fear of an appeal and being chastised by the Appellate Court for doing so when he should have dismissed the matter with prejudice. As it was put by the Court (under \_\_\_\_\_) during the Status Conference, "

\_\_\_\_\_ (Status Conference DVD @11:50:17-11:50:51.) The Court (under \_\_\_\_\_) again referenced an appeal by stating, "

\_\_\_\_\_ (Status Conference DVD @11:53:29-11:53:51).

As the Status Conference proceeded, the Court (under \_\_\_\_\_) recognized the Court (under \_\_\_\_\_) lacks jurisdiction, and the matter is proceeding as a circumvention of an Appellate Court ruling by the Court (under \_\_\_\_\_) and Plaintiff, along with the violations of the aforestated *doctrines*, and the law, etc. That even though the Court (under \_\_\_\_\_) stated that it would not making a ruling that day, it did inquire with the Plaintiff how it gets around the Appellate Court's decision. (Status Conference DVD @11:55:16-11:55:20). Plaintiff responded with, "

\_\_\_\_\_ (Status Conference DVD @11:55:20-11:55:30) The Court (under \_\_\_\_\_) chastised Plaintiff's Counsel for its response referring back to rules of procedure (Status Conference DVD @11:55:32-11:55:44). Plaintiff's Counsel went on to further explain its answer stating the Appellate Court dismissed without prejudice allowing Plaintiff to " \_\_\_\_\_ " but skipping the Appellate Court's definition for

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" ' as " " (Status Conference DVD @11:55:44-11:57:19 and Minute Entry Order, Page 3; Footnote 4, ).

The Court (under ) proceeded to state, " " (Status Conference DVD 11:57:24-11:57:30). Plaintiff stated the Appellate Court brought up things it did not verify, yet Complainant states Plaintiffs claim to be a falsehood and unsubstantiated when the Appellate Court's ruling is four (4) pages in length with references to outside sources, which include but not limited to the annual 10-K Report filed with the Plaintiff files as well as references to research conducted through the Inasmuch, Plaintiff's Counsel perjured itself to state that its client's, " " when the Appellate Court had already made its determination that Plaintiff is not a national banking association, but a " " (Status Conference DVD 12:01:28-12:02:07 and Minute Entry Order, ).

As the Status Conference came to a close, the Court (under ) ordered Complainant to file a motion to reconsider (hereinafter "MTR") by by close of business and vacated the trial set for that same date. The Court (under further stated Plaintiff would be allotted the appropriate time under the rules of procedure to file its response, and the same for Complainant to file his reply, and after an inquisition by Plaintiff, the Court (under further stated Complainant's MTR, Plaintiff's response, and Complainant's reply would be " ( ) " because the Court (under stated that he has " " before denying the Complainant's MTR and bring the matter back to trial. (Status Conference DVD @12:06:23-12:08:46).

Complainant filed his MTR on , restating everything as discussed in the MTD filed on , along with relevant details from the Status Conference such as the Plaintiff operating as an unlicensed business within Arizona as well as it's violation of A.R.S. §6-391 for using the word ' ' in its corporate name because it does not have its home office, nor a

**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.**