

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-294

Complainant: No. 1349310510A

Judge: No. 1349310510B

ORDER

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judge named in the complaint. The judges are acquaintances, not close friends, and did not exchange any information about the complainant's case.

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

Dated: March 6, 2009.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on March 6, 2009.

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

CJC - 08 - 294

Summary of unethical actions:

- Harassing phone calls on more than one occasion (14 in one night)
- Breaking into personal computer and stealing private e-mails
- Locking me out of office that held my personal and professional belongings
- Inappropriate and possibly illegal transfer of jewelry and threats to have it returned
- Had affair with my ex-husband while he and I were still married
- Had bank account with my ex-husband while he and I were still married
- Sent damning personal e-mail from superior court server
- Knowingly allowed case to be heard in when she stood to gain financially from judgment
- Forwarded court e-mail

I rented space from [redacted] at her residence, [redacted]. We had met when my daughter began dating her son, [redacted]. I had a separately keyed office on her property. As I was separated from my husband, I also slept at her house. Though I asked repeatedly for an official agreement that would allow me to pay rent in a normal manner, so that I could deduct rent as a business expense on my self-employment taxes, [redacted] refused to allow me to do so, saying that she did not want to have to report the income on her taxes. My 'rent' was paid in repairs to the home, pest control, paying for house cleaning, and the purchase of a piece of furniture. (Example receipt enclosed.)

On [redacted] I was in [redacted] on business. I was also meeting up with my college boyfriend, [redacted] who I had not seen in 30 years. I had been in contact with [redacted] since [redacted] and my ex-husband, [redacted] and my mother all knew about the contact. [redacted] spoke with [redacted] on several occasions, and even invited him to come visit us and stay at her home [redacted].

Inexplicably, on the night of [redacted] and early morning of [redacted] [redacted] called my cell phone repeatedly. (Verizon has said they will release records of proof of this and forthcoming phone calls with a subpoena from the court.) She told me the 'angels' had told her to call. She accused me of having [redacted] in my hotel room with me. She called repeatedly for the rest of that night, making the same accusations. This was really alarming behavior.

On Saturday and Sunday, I was in
 I received several calls from accusing me, once
 again of having my male college friend in my hotel with me. She knew, as did my
 mother and brother, that had driven me from to On
 Sunday she made fourteen calls to me, screaming messages on my cell phone. She also
 spoke with me directly. She again told me that "the angels" had told her to go into my
 office, to look at my private e-mails. And so she took the spare key to my office, went
 inside and accessed the private e-mails on my computer. She accused me of "being her
 ex-husband," She accused me of having a lurid affair (I'd been
 separated for four years at that point.) She read and interpreted very private e-mails
 pertaining to a thirty year past relationship to imply current actions. She had no
 permission whatsoever to access my e-mail.

She continued to call, hysterically issuing accusations. She also called my mother, who
 was visiting my brother at that time, telling her that I was having an affair.
 (Verizon phone records will verify that these calls were made.) She then called my
 daughter,
 and my ex-husband (to whom I was still legally married at the time) and had them come
 to my office on her property to read the e-mails on my computer. She told them both that
 I was having a lurid affair and used the e-mails and her interpretation of them as proof to
 that effect. A packet of e-mails was printed and passed around.

I returned to Arizona on Tuesday, to find that I had been locked out of
 my office. Keys had been removed from my key ring. The packet of e-mails was
 presented to me with different passages highlighted. I faced angry accusations for things
 I had not done, but had done her prosecuting well and I was only partially
 believed. Of course, she had no right to interfere in my personal relationships, nor to
 judge me in any way.

I left on Wednesday, for another business trip in
 During my stay there I received many hysterical calls
 from both At one point my cell phone service was
 disconnected, but later had it turned back on long enough for me to get the service
 put in my name. told me that my daughter, was a great comfort to
 her. That they'd spent many hours together on the couch, with offering
 her condolences, which has never made any sense to me. My daughter, with
 whom I was very close, has not spoken to me since. I am still trying to figure out just
 how and why so inappropriately insinuated herself into my personal,
 private relationships.

When I returned on Sunday, I could not access either
 residence or the residence that I owned, where my belongings were,
 where my then husband, was living. He
 and had had the locks changed. had a key to the
 home. She had access to my marital home and I was locked out. She had no ownership

interest in my home, and her participation in keeping me locked out is beyond disturbing, as is the behavior exhibited by a judge who presides over family court matters.

On Sunday [redacted] and I talked. He told me that he and [redacted] had gone to a movie together the weekend I was in [redacted]. My mother had overheard them making plans to do so. [redacted] had also told me in a phone conversation that they had done so.

Early in the morning of [redacted] purchased a plane ticket for me to go to [redacted] to stay with my college friend for three weeks. He said if I had any feeling for him at all, I would go. He said I could not stay at my home and I was not welcome at [redacted] residence. He bought the ticket before I could even make plans for someplace to stay. He said that we would all take a breather and talk about things when I returned. He said that he would take no action until I returned.

[redacted] Though it seems impossible to believe in looking back, at the time I was emotionally vulnerable and was easily manipulated by [redacted] as well as [redacted]

On Monday night, [redacted], I called from [redacted] and asked [redacted] if my husband was there. [redacted] initially lied and said my husband was not there. Several moments later, my husband in fact picked up the phone to advise me that he and [redacted] were in bed together.

Though he assured me he would wait for my return [redacted] to discuss the status of our marital relationship, instead [redacted] filed for divorce during the three week span I was in [redacted]. At least as of [redacted] (though I believe it began earlier), [redacted] was now romantically involved with my husband. They are still romantically linked and as shown below, are also financially linked since [redacted]

[redacted] transferred from criminal court to family court in [redacted]

[redacted] I was given two days to come into the [redacted] residence, pack my belongings, and have a moving company remove them. [redacted] stood watching and intimidating me the entire time, during this process. He had messages from [redacted] about things she wanted, most particularly a ring she had given to me four years previously. The ring, [redacted], was given to me so that she did not have to turn it over to [redacted] as a condition of their divorce.

[redacted] had told me that it was not illegal for her to give away the jewelry before the date she was to physically turn it over to [redacted]. She just had to tell the court she no longer had it. She said she would rather I have it than that [redacted] have it as it had sentimental value to her. I later found out that what she'd told me about the legalities of the situation were not quite true. [redacted] demanded that I give him the ring to give to [redacted]. I told him that was between me and [redacted]

after a morning visit to my attorney, at her office, I went by the street house, as previously arranged with to pick up a bin of things that I had left under the bed. With the bin, was a note telling me to return the ring. (That note is attached to this complaint). Unbeknownst to me, had stayed home from work to catch me when I arrived to pick up the bin. He missed me and when he saw the bin gone. I received several threatening calls from him. He said that I did not know who I was messing with. He named deputies that had contact with in her work and told me that if I did not return the ring by the next day I would be in jail. I returned the ring.

within one month of the filing for the divorce, and during transfer to the family court division, opened a joint bank account with still my legal husband. The account was opened at with joint rights of survivorship. Documentation of this account is attached to this Complaint. I did not learn of this account until Wednesday, the morning I had my trial All of the issues pending before the family court involved money, a large amount of which and, therefore stood to gain.

when I returned to Arizona to attend my daughter's graduation and her mother and her mother's live in male friend sat with in the center section. had ordered the cake for the after graduation celebration. After the graduation stayed right by my daughter, making certain I could not have a moment alone with my daughter. I stepped up to with my hands at my sides, in front of a group of people and told her that ' is MY daughter. Don't ever forget that.' There was no other communication between us at the or later at the graduation dinner where, again, sat at a table alone with her mother, her mother's live in male friend and In a later e-mail to me Judge using her court e-mail again, accused me of having an angry tirade with her. The reality was that I spoke eight words to her. Period. And walked away.

During the divorce repeatedly threatened me that if I did not cooperate fully he would attach to my book royalties, calling them an asset when in reality they are my income, and to the cabin that has been in my family for 80 years. He told me that if I did cooperate he would ensure that my daughter spoke to me again. From I found an attorney on the internet, In our first conversation I told her about involvement in my case and asked if she thought she could represent me fairly. She said she'd heard nothing good about Judge that she was not doing a good job and she would be glad to help me. I paid her retainer and proceeded, with her help, to draft a response to filing for divorce.

At no time did take care of me, or advise me of Arizona laws or of my rights. She knew that was intimidating me and, in fact, after a conversation with him, told me that I had to buy my way out of the relationship to get rid of him. I found out much later that there was much she could have and should have done to protect me

under the decree. I also found out months later that [redacted] never put herself down on record as my attorney and never filed the response that she and I drafted.

I heard from [redacted] not from my attorney, that the divorce had been granted. I wrote to [redacted] immediately, wondering if he had inside information. Her opinion was in the affirmative and that response is attached.

There is a marital residence that has \$125,000.00 negative equity due to a refinance loan that [redacted] obtained. He did all of the work on this loan and arrived at my office, with another man he called a loan officer, with the paperwork, stood over me as I signed it, telling me he'd read it all and it was all good. There was no time for me to read it as it was almost seven o'clock in the evening and he had to get it turned back into the loan officer. Judge [redacted] was at home at the time and knew I was out in my office on Judge [redacted] property with [redacted] signing a loan that [redacted] had obtained.

According to the decree, finalized in [redacted] the marital residence, in which [redacted] was still living, had to be listed for sale within 45 days. I called a realtor and found out that without a key, and without [redacted] agreement since he was living in the home, I could not list the home. I e-mailed [redacted] and was told that she'd contact [redacted] attorney. To my knowledge that never happened.

I received an e-mail from [redacted] sent through her [redacted] court e-mail account. (A copy of that e-mail is attached). The e-mail was filled with carefully aimed cruel barbs. My mother was in Arizona grieving my absence – [redacted] – and [redacted] told me her main reason for writing the letter was to let me know that no one was grieving my absence. My mother will testify to Judge [redacted] inappropriate behavior. If nothing else, this e-mail is certainly not an ethical use of the government funded and issued e-mail server. I never responded to this e-mail and have not been personally in contact with [redacted] in any way since its arrival.

I forwarded [redacted] e-mail to [redacted] as she was very aware of my fear of not getting fair treatment due to the relationship between [redacted] I wanted something done. Her response, "Nice e-mail from 'da judge.'" is attached.

I repeatedly contacted my attorney [redacted] to get the home listed. The decree stated that neither party had to be out of pocket, including realtor fees, for the sale of the home. Each time I contacted [redacted] she agreed to contact [redacted] attorney. I am only aware of one such contact. [redacted] attorney responded with a letter stating that I had to put money in escrow to cover the negative equity in the home. This was a preposterous claim, and something that the Court could not legally order.

I received a tax bill from [redacted] accountant for the [redacted] taxes for \$11,000.00. My new husband, [redacted] wrote a check to the IRS for that amount.

I was going broke, was struggling to pay my own bills, and still had not listed the house. Nor would he give me a key. Again, I contacted She sent me an e-mail just before Christmas, telling me that she'd send him a strongly worded letter just after the holidays. (E-mail enclosed.) As far as I am aware, and according to she never did so.

I went on the internet, in search of a different attorney to represent me. I chose an attorney, who claimed 30 years experience, and experience as a pro-tem family court judge.

I had a lengthy phone conversation with her in which I told her the entire sordid mess and asked if she had a problem taking on the case, in light of Judge involvement. She assured me that she would not have concern taking my case and in fact, is the one who told me that never filed a response for me or put herself down as my attorney on record.

She told me that when she called denied that I'd been her client, and then later recanted and admitted that I'd been her client but that my records had been destroyed. told me I had evidence for a bar complaint and offered to help me file it. She also said we had a complaint against Judge and that we would pursue that after taking care of the house and tax situation. She said that Judge was a "lousy judge." apparently had a case in front of that was taken under advisement and had languished. The case had to do with a child.

I asked about the possibility of moving the case. For reasons still completely unclear to me, she made no attempt to do so.

After paying her retainer of \$3500.00 I sent a lengthy e-mail detailing what I wanted her to do – a list of things we needed to accomplish. (That e-mail is attached). Not one thing on that list was ever done. put herself down as my attorney on record and immediately received correspondence from demanding monies for tax penalties for having filed taxes so late. I had already called the IRS and at their instruction had written to the IRS asking for forgiveness for the penalties as I had no say in when the taxes were filed. asked for a key to the marital residence. For three months nothing happened. When I'd question she told me that she told me that she was working on things. Or she was waiting for responses. I continued to ask when she was going to file a contempt charge against for not listing the house. She told me she was getting ready to do so. She said she was trying to figure out the best way to handle everything.

I arrived in office to meet with her to discuss how we were going to handle my case. Instead, handed me a very lengthy petition that had filed against me. She told me that most of the things were ludicrous. I agreed. I was being alleged to have been in contempt for bills I'd never seen, for payments I did not believe I was supposed to be making, for taxes that I had paid, and for not putting

money in escrow to sell the home, a non-existent requirement. I'd since spoken with several realtors who said that putting money in escrow was not a requirement of listing a house with negative equity. I asked again about moving the case out of County. told me that she didn't think we needed to do that. She said we had a good judge. never filed a response to the allegations of contempt against me.

I recognize this committee does not address complaints against lawyers and I will deal with those issues separately. I just feel it necessary for the commission to have some additional detail, because of the treatment and rulings I received in a case from a court I never should have been in front of. Moreover, Judge had an obligation to report her involvement with the respondent in this matter especially in light of their joint bank account. I have read about judicial ethics and read parts of the judicial code of conduct and I cannot think of a much worse breach of judicial ethics than this; and I am baffled as to why she nor any of the attorneys involved did not disclose this. I am a lay person, and I believed that the system would protect me. Apparently, I was wrong and so I am addressing it now.

there was a pre-trial hearing on this matter. told me it was not necessary that I attend. She told me she'd put in to have the date moved. The case was heard without my knowledge. A court date was set. A key to the marital residence arrived in office.

I was out of town on business. My mother, who lives in was also out of town. On the day of her return, she picked up the key to the marital residence from The next day, I had the home listed for the purchase amount. At this time, the home is still listed with my original realtor.

The morning of our trial, I met with in her office in Arizona. She showed me a bank statement from for an account that was in names jointly. The account had been open since and was still current. She told me the information had just arrived in her office that morning. I wanted to use it in court. She told me that we couldn't as it had arrived too late and there was nothing we could do with it.

It did not seem right to me that a case in which an associate of the judge, another judge, potentially stood to benefit with material gain (if I lost everything, the judgment should have been just over \$80,000.00) as any monies awarded to would feasibly be put in the bank account with her name on it as well as it was the only bank account that was presented to us with his name.

Again, I wanted to move the case out of County. Again assured me that we had a good judge. The judge assigned to our case was I have since learned that judge was employed at the from was employed at the from They worked in the same office, it would seem, for years. Common

sense would indicate that both serving on same division of the bench, having been colleagues prior to that for a decade and a half, some disclosure and action should have been taken by both of these judges. I cannot establish Judge knowledge directly of Judge connection to my case, but I find it impossible to believe she was unaware of this conflict. At a minimum, however, I cannot stress enough that Judge had a clear, black-and-white obligation to come forward and advise of her financial interest in the outcome of my proceedings.

When this abominable behavior is coupled with the fact that decisions made by Judge requiring the placing of \$60,000.00 in an escrow account to cover the "negative equity" in my marital home, *prior to any sale of the home*, the picture is outrageous. Please understand that I recognize that Judge rulings cannot be the subject for this commission as a substantive decision; the nature of what occurred in this matter in light of both the appearance of and actual impropriety, however, do make her rulings relevant in that context. Short and simple: I was ruled against in a forum festering with impropriety and multiple violations of the Code of Judicial Conduct.

At the beginning of the trial Judge told us that she had to leave early to get her son's driver's license. Her son was almost 18 and still didn't have his driver's license because his father, to whom she was not married, had refused to sign for the license. He'd agreed to meet with them that afternoon so she was going to have to leave early because her son would never forgive her if she missed this appointment. (later told me that this was the reason that we ran out of time and we did not get to fully present my side of the case). Judge detail regarding the controversy surrounding the issuance of her son's driver's license, was eerily familiar. Ms. had claimed years prior to this that she had the same sort of situation with her son's driver's license with her ex-husband had called to resolve the issue but it was never resolved.

I received my first correspondence from office since trial. In the envelope was a letter from office warning that I had gone against the judge's order. Also in the envelope was the order itself - dated a full thirty days prior - my 30 day window to file an appeal. I had been ordered to put \$60,000 in escrow by And to pay a further \$33,000.00 plus ten percent interest. This was I was already two weeks in contempt of the order.

I called office, she apologized but said it didn't really matter since I didn't have the money anyway. I asked her to call office immediately and tell them that I had not received the order. She said she would do so. And that she would file a stay. She later said I didn't want a stay, that I wanted a continuance. She said she'd call on the following Monday and let her know what we were doing. On Monday, when I called, told me that she told that I didn't have the money. I told her that I had not given her the authority to do so.

I didn't know what I was going to do about the judgment. I hadn't had time to do anything as of yet. I told her to call _____ back and let her know that I had just received the judgment. And I asked her to file the stay. She told me she couldn't file anything because her computers were down. On Tuesday, she told me the same thing. Her computers were still down. I have not heard from _____ since.

I am currently out more than \$51,000.00 on this matter and just received a judgment against me for another \$93,000.00, including an order to put \$60,000 in escrow – an order that has no basis in the decree at all, and, in fact, goes against the decree's statement that neither party has to be out of pocket for the sale of the home. The judgment is attached to this complaint.

I am not asking the committee to do anything about the judgment. I hope to still be able to pursue that through the courts in spite of the fact that my thirty day window for filing an appeal had passed before I received the order; and in spite of the fact that I have no faith I will be treated fairly in _____ County, because of Judge _____. She has made her highly-connected status in the legal community very clear to me in the past; claiming, among other connections, a friendship with _____ with whom she worked _____ as well as with people from every division of the Arizona court system.

Judge _____ insinuated herself improperly in the break-up of my marriage to _____ and in the loss of my relationship with my daughter. Her entering my office without permission, accessing my computer without permission, accessing my e-mails without permission and sharing them with _____ was clearly unethical and alarming behavior from a judge in superior court. (It was up to me to share the intimacies of my life, or lack thereof, with my family in my way, not up to her to do so.)

The numerous phone calls to me while I was working and to my husband (the college man from thirty years ago who I have been happily married to for over a year now), were in violation of my right to not be harassed and complete disregard of my privacy. Her alarming behavior certainly is not up to the high standard of ethics required of a judge in her daily life.

Her bending of the law in giving me a ring to keep it from _____ who had been awarded all of the jewelry in their divorce, and then having _____ threaten me to get it back for her is highly inappropriate, if not illegal. Not only did she have an affair with my ex-husband while he and I were still married, but she lied to me about it when I confronted her for the truth. The fact that she knowingly entered into a shared bank account with _____ while he and I were still married, and then did nothing to properly disclose this information so that the matter would have been transferred out of _____ County, is unquestionably unethical.

Judge _____ knew Judge _____ for many years, and that Judge _____ was hearing this case. Judge _____ did not speak up and make certain that the case be moved to a

county where there could have been a chance for a fair hearing. Moreover, I believe a thorough investigation may reveal improper contact between these two judges in regards to Judge _____ relationship to my proceedings.

I am asking the committee to please investigate these allegations. Appropriate sanctions should be imposed against Judge _____. Though I do not profess to know what those may be, I would hope that the seriousness of the violations of the Code of Judicial Conduct committed by Judge _____ will be considered strongly by the Commission. The committee should also determine if there is reason to believe that Judge _____ failed to recuse herself from this case and if she had any information that Judge _____ was intimately involved and financially connected to a matter being litigated on the very bench where she currently sits and has sat since the beginning of my matter.