

Commission on Judicial Conduct
Complaint Against a Judge

On February 19, 2009, I appeared before the _____ County Justice Court for a hearing I requested in response to a petition for an Injunction Against Harassment. Two of three premises contained in the plaintiff's written petition were ruled inadmissible by Judge _____, who presided at the hearing. An additional affidavit submitted by the plaintiff was also ruled inadmissible. With the affidavit, the plaintiff attempted to connect me with an incident, unknown to me, that occurred in 2006. Although the affidavit was ruled inadmissible, several references to the affidavit were made by the plaintiff during the hearing. Following the final mention of it, I wished to remind Judge _____ that I was not a resident of Arizona in 2006. His retort was unwarranted and unprofessional. He said, "You're done. You're done. Don't interrupt me again. Remember that this is my courtroom." The retort occurs about 16 minutes into the enclosed CD recording.

The recorded transcript of the hearing clearly indicates that an ample time span elapsed between Judge _____'s last remark and mine. The recording clearly indicates that I did not interrupt him, as there was a definite pause in dialogue when I interjected my remark.

Extensive portions of the plaintiff's testimony were distorted and falsified. Due to Judge _____'s retort, I had reasonable cause to fear that any objections I would make to the plaintiff's misrepresentations would incur a charge of contempt from Judge _____. As a result, I was not allowed to adequately defend myself during the latter portion of the hearing, nor was I allowed to object to the false misrepresentations the plaintiff submitted in oral testimony. Due to the fear of incurring Judge _____'s wrath, I was forced to stand down as the plaintiff repeatedly falsified events and words spoken.

Following Judge _____'s unwarranted retort, the plaintiff addressed the Court. In her testimony, the plaintiff proceeded to willfully mislead the Court, misrepresent facts and events, and falsify previous dialogue between her and me. The plaintiff's account of events and words exchanged at the Governor's Rural Development Conference in September were grossly distorted and inaccurate. These events were not included in the plaintiff's petition to obtain an injunction; and due to the benign nature of the dialogue exchanged by the plaintiff and myself, these remarks could not be deemed as harassing, threatening, or alarming, as required by ARS 12-2921 § A, ARS 12-2921 § E, or ARS 12-1809 § R.

The plaintiff's testimony then referred to the letter I intended to hand deliver to her at her office, but in her absence, instead dropped it under her office door. The contents of the letter were a legitimate attempt to communicate with the plaintiff. Nothing in the content of the letter could be deemed as harassing, threatening, or alarming, as required by ARS 12-2921 § A, ARS 12-2921 § E, or ARS 12-1809 § R. Further, the statutory requirement of intent to harass, threaten or alarm was not fulfilled. Therefore, the Court should not have considered the letter's delivery or content an action intended to harass or alarm.

The letter was followed by a mutually amicable visit I made to the plaintiff's workplace one week later. This event was not included in the plaintiff's petition to obtain an injunction; and due to the benign nature of the dialogue exchanged by the plaintiff and myself, these remarks could not be deemed as harassing, threatening, or alarming, as required by ARS 12-2921 § A, ARS 12-2921 § E, or ARS 12-1809 § R. Only at the end of the visitation was the previously delivered letter mentioned. At that time, the plaintiff stated that she was not interested in a relationship and was not interested in having lunch. This October 2008 visitation occurred four months before the February 2009 hearing. The October visit was the last time I have had any direct contact with the plaintiff.

Further, at no time did the plaintiff ever, not once, inform me that she did not want contact with me, either during the October exchange of dialogue or during any previous exchange of dialogue. The plaintiff's testimony that she stated, "under no circumstances did [she] want a relationship or contact with [me]" is blatantly false and intended to mislead the Court. The plaintiff's statement that she was not interested in a relationship may have implied she may not have wanted contact with me; however, she never, at any time, informed me she did not want contact with me.

During the February 19 hearing, Judge [redacted] initially stated that the visit to the plaintiff's workplace would not have constituted harassment, as the visit was a follow-up to the letter, and the plaintiff had not contacted me about the letter. Judge [redacted]'s statement indicated that if the plaintiff had contacted me before the letter was delivered, that may have constituted harassment. Until the visitation to her workplace, I was not aware that the plaintiff was not interested in a relationship. Nor was there any prior statement or indication that the plaintiff wanted no contact with me. However, without any prior statement or indication by the plaintiff, made either before or during the visitation, Judge [redacted] continued the Injunction Against Harassment.

Except for one remark made by the plaintiff at the Governor's Conference, the dialogue at the Conference, in the letter and during the visitation was entirely benign, amenable, and congenial. Nowhere in the three modes of communication is there any remark that could indicate intent to harass, alarm or annoy, as required under statutory parameters. At no time did my actions indicate any willful intention to cause the plaintiff to be alarmed or annoyed. However, without factual evidence presented by the plaintiff that indicated any willful intention in my actions to purposely harass or alarm the plaintiff, Judge [redacted] continued the Injunction Against Harassment.

Judge [redacted] never inquired about the nature of these interactions. Without adequate knowledge of the factual events and precise words used during the interactions, Judge [redacted] made several grossly prejudicial assumptions. Without adequate information, his attempt to connect the dialogue from the Conference to an indirect remark in the letter – the "Last Friday" reference in the letter's fifth paragraph – was based on his own preconception of what may have occurred. The benign nature of either event could not be deemed as harassing, threatening, or alarming, as required by ARS 12-2921 § A, ARS 12-2921 § E, or ARS 12-1809 § R, and therefore, would not have constituted harassment.

Judge [redacted] wrongly assumed the letter, “had something to do with a dating relationship.” The plaintiff and I had lunch one time and dinner one time. The May 2008 lunch was of a business nature, though the plaintiff called it, “our first date.” The September 2008 dinner was of a social nature. One social engagement does not constitute a “dating relationship.” Judge [redacted]’s assumption was unfounded, erroneous and it strongly indicates he entered his judgment with preconceptions. His preconceptions injected an unfairly biased prejudice into his decision to continue the injunction.

Judge [redacted] wrongly assumed the dialogue at the Governor’s Conference, the letter and visitation alarmed the plaintiff. The plaintiff never, not once, indicated that the letter placed under her door caused her to experience alarm or feel harassed. The plaintiff never, not once, indicated that the subsequent discussion with her one week later caused her to experience any alarm or feel harassed. During the dialogue at the Governor’s Conference and the visitation to her workplace, the plaintiff never, not once, indicated any degree of alarm, either in her words, tone of voice, or nonverbal language. Any indication from the plaintiff that she was alarmed by either event was not evident, and any statement by the plaintiff that either event caused her to be alarmed is fabricated.

Once the plaintiff filed her petition for an injunction, she willfully manipulated benign events and fabricated misleading dialogue for self-serving purposes. The plaintiff’s testimony that I repeatedly asked her, “When are you going to go out with me?” is blatantly false and intended to mislead the Court. At the Governor’s Conference, I did ask the plaintiff if she had plans for the upcoming weekend. She told me she did have plans. She then told me, “You should really find someone your own age.”

In conclusion, Judge [redacted]’s accusation of my interrupting him is baseless. The recorded transcript of the February 19 hearing clearly indicates a definite pause in dialogue. Judge [redacted]’s unprofessional retort toward me was unnecessary and unjustified.

As a direct result, my inability to object to the duplicity in the plaintiff’s testimony caused Judge [redacted] to erroneously connect the letter with dialogue at the Governor’s Conference. The letter was drafted after the Conference, and dialogue between the plaintiff and me from the Conference is not contained in the letter, save an indirect reference. The letter has little relation to the Conference, and any inference that the two may be directly linked is unfounded. Furthermore, the plaintiff’s version of dialogue exchanged by her and me at the Conference is grossly distorted and is intended to mislead the Court.

Falsifications in the plaintiff’s testimony presented the Court with a distorted version of the facts, as they actually occurred. The reasonable fear I held that Judge [redacted] would cite me for contempt if I were to object to the plaintiff’s distorted testimony further served to enhance the Judge’s prejudice, as the Court did not hear a complete and factual account of events and dialogue. Due to Judge [redacted]’s conduct from the bench, I was barred from presenting a factual rebuttal to the plaintiff’s misleading testimony.

The testimony presented by the plaintiff on February 19 was duplicitous and sensationalized for dramatic purposes. The benign dialogue exchanged between myself and the plaintiff at the Governor's Conference, during a visitation at her place of work, and in the content of a letter delivered to her office all fail to meet the statutory requirements for actions intended to harass, threaten, annoy or alarm an individual.

Therefore, the statutory requirements for establishing that the plaintiff was harassed cannot be determined. A sufficient and objective preponderance cannot be established. Furthermore, Judge _____'s unfounded preconceptions, presumably based on the plaintiff's misleading testimony, injected an unfairly biased prejudice into his decision to continue the injunction. He made little effort to clarify his obscurity during the hearing.

Two of three premises in the plaintiff's petition requesting the injunction were ruled inadmissible; however, Judge _____ allowed the plaintiff to continue oral testimony, wherein she distorted events and fabricated words in dialogue between us. Meanwhile, I was barred from objecting to falsifications in the plaintiff's statements, due to Judge _____'s conduct and the reasonable fear of being cited for contempt. As a direct result, I was forced to stand down and deprived of opportunities to adequately defend myself.

Therefore, the Injunction Against Harassment was continued under false pretenses.

Under penalty of perjury, I affirm that the foregoing information is true.

Dated March 28, 2009

Enclosures:

1. Copy of Injunction Against Harassment, February 6, 2009
2. Copy of Plaintiff's Petition for Injunction, February 6, 2009
3. Copy of Judge's Hearing Order, February 19, 2009
4. Copy of Defendant's Prepared Remarks, Submitted into the Record at Hearing, February 19, 2009
5. Copy of Defendant's Letter to the Plaintiff, October, 2008
6. Copy of Hearing Transcript, Recorded on Compact Disc