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### Court of Appeals

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WILMINGTON TRUST NATIONAL ASSOCIATION,	)	Court of Appeals
	)	Division One
	)	No. 1 CA-CV 19-0717
Plaintiff/Appellee,	)	
	)	Maricopa County
v.	)	Superior Court
	)	No. CV2018-013457
CHRISTOPHER STOLLER, et al.,	)	
	)	
Defendants/Appellants.	)	

## AMENDED MOTION FOR JUDICIAL NOTICE<sup>1</sup> AND SUMMARY AFFIRMANCE AND STATUS REPORT

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<sup>1</sup> Defendant/Appellant has made every attempt to contact opposing counsel before filing this motion. Opposing counsel did not return his phone calls. All Appendixs from the Appellant’s Motion for Judicial Notice are incorporated herein by reference as if fully copied and attached.

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*Baker v. Carr*  
369 U.S. 186, 204, 82 S. Ct. 691, 703, 7 L. Ed. 2d 663, 678 (1962).

NOW COMES Appellant in support of its Motion for Judicial Notice and in Support of Appellant's Summary Affirmance of the Appeal of all of Judge David Garbarino's orders including his erroneous *ex parte* Default Eviction Order dated September 5, 2020 (**Appendix 1**) erroneously granting possession of Defendants/Appellants' property known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, to Plaintiff. Washington Trust Corporation, not in its individual capacity, but as Trustee for the *non jural* defunct (**Appendix 2**) entity ALRP Securitization Trust, Series 2014-2 ("ALRP") that had no standing to maintain a civil action (**Appendix 3**) within the State of Arizona on October 30, 2018. In direct violation of 18 U.S. Code § 1341-Frauds and Swindles. Plaintiff/Appellee Plaintiff. Washington Trust Corporation, not in its individual capacity, but as Trustee for the *non jural* defunct entity ALRP Securitization Trust, Series 2014-2 ("ALRP") unlawfully sold the Defendant/Appellants' property known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262 to Arizona Attorney Beth Mulcahy, 11383 Greythorn Drive, Scottsdale, AZ 85262, under the purview of this Court (**Appendix 5**) for Five Hundred Forty Three Thousand Five Hundred Dollars (\$543,500.00).

### **BACKGROUND**

This case started with an eviction action (**Appendix 3**) filed by Appellee/Plaintiff Washington Trust Corporation, not in its individual capacity, but as Trustee for the *non jural* defunct entity ALRP Securitization Trust, Series 2014-2 ("ALRP") who standing to sue was predicated on the fact that the Appellee/Plaintiff had a sufficient interest in the Defendant/Appellant's Property (**Appendix 4**) known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, which is the subject property of this action. Appellee/Plaintiff asked the Arizona Superior Court to grant it possession (**Appendix 1**) and that the Appellee has thus standing to sue, on the grounds, that the Appellee had "irreducible constitutional minimum" necessary to

make a justiciable “case” or “controversy” under Article III, §2. *Lujan v. Defenders of Wildlife*, 504 U. S. 555, 560.

Secondly, the Appellee/Defendant thus met the three requirements: injury in fact to the Appellee/Plaintiff, that if the Appellee/Plaintiff were not awarded possession of Stoller’s property/home (**Appendix 4**) there was an “injury in fact to the Appellee/Plaintiff’s, that the Defendants were the causation of that injury by the defendant’s complained of conduct, and a likelihood that the requested relief, the possession of the subject property, known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, would redress that injury. *E.g., ibid.* <sup>2</sup>

On September 5, 2019, Arizona Superior Court Judge David Garbarino granted the Plaintiff/Appellant an *ex parte* Default Judgment (**Appendix 1**) without any prior notice to the Illinois residents who are the Defendants/Appellees. This Appeal followed.

On June 4, 2020, Plaintiff/Appellee unlawfully sold the Defendant/Appellant’s subject property to Arizona Attorney Beth Mulcahy for \$543,500.00 in direct violation of 18 U.S. Code § 1341.

On June 4, 2020, the Plaintiff/Appellee Washington Trust Corporation, not in its individual capacity, but as Trustee for the *non jural* defunct (**Appendix 2**) entity ALRP Securitization Trust, Series 2014-2 (“ALRP”) unlawfully sold the Defendant/Appellant’s home (**Appendix 5**) to Arizona Attorney Beth Mulcahy, 11383 E. Greythorn Drive, Scottsdale, AZ

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<sup>2</sup> *STEEL CO. v. CITIZENS FOR BETTER ENVIRONMENT*, 90 F. 3d 1237, vacated and remanded.

85262 (Home Title Fraud)<sup>3</sup> 18 U.S. Code § 1341.

As a direct result of the Plaintiff/Appellee unlawful sale (**Appendix 5**) of the Defendant/Appellant's property (**Appendix 4**) the Plaintiff/Appellee no longer has standing to maintain this appeal or to maintain a civil eviction action in Arizona because the Appellee/Defendant no longer can claim that they meet the three requirements: injury in fact to the Appellee/Plaintiff, that if the Appellee/Plaintiff were not awarded possession of the Stoller home (**Appendix 4**) there would be an "injury in fact to the Appellee/Plaintiff's, that the Defendants/Appellant can no longer be claimed to be the causation of any injury by the defendant's complained-of conduct in the Eviction Lawsuit (**Appendix 3**) and a likelihood that the requested relief, the possession of the subject property known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, would redress that injury. *E.g.*, *ibid.* on the grounds that the subject property was sold to Beth Mulcahy for \$543,500<sup>4</sup>. (What the FBI characterize as Home Title Fraud see Appendix 9 for which the court is asked to take Judicial Notice.)

The Plaintiff/Appellee ARLP also has no standing to unlawfully sell the Appellant's home, to engage in what the FBI have classified as, 18 U.S. Code § 1341. "Home Title Fraud". (**Appendix 4**) ARLP unlawfully sold the Defendants' property 28437 N. 112<sup>th</sup> Way, Scottsdale,

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<sup>3</sup> 18 U.S. Code § 1341. Frauds and swindles Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, or to sell, dispose of, loan, exchange, alter, give away, distribute, supply, or furnish or procure for unlawful use any counterfeit or spurious coin, obligation, security, or other article, or anything represented to be or intimated or held out to be such counterfeit or spurious article, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail or such carrier according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined under this title or imprisoned not more than 20 years, or both. If the violation occurs in relation to, or involving any benefit authorized, transported, transmitted, transferred, disbursed, or paid in connection with, a presidentially declared major disaster or emergency (as those terms are defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122)), or affects a financial institution, such person shall be fined not more than \$1,000,000 or imprisoned not more than 30 years, or both.

<sup>4</sup>(What the FBI characterize as Home Title Fraud right before the eyes of this court, during this appeal. see (**Appendix 9**) for which the court is asked to take Judicial Notice.)

Arizona 85262 (Subject property) to Arizona attorney Beth Mulcahy, 11383 E. Greythorn Drive, Scottsdale AZ 85262 on June 4, 2020, (**Appendix 5**) notwithstanding that the Appellant held superior rights to the said property and held a warrantee deed to the subject property.

As a direct result of the ARLP selling the Defendant/Appellant's home to Beth Mulcahy (**Appendix 5**) on June 4, 2019<sup>5</sup> they violated 18 U.S. Code § 1341. Furthermore, it is clear that Plaintiff/Appellee Wilmington Trust, National Association, no longer have any standing in this eviction action, now having unlawfully sold Defendant/Appellants' property (**Appendix 4**) to Arizona Attorney Beth Mulcahy, 113 E. Greythorn Drive, Scottsdale, AZ 23462 on June 4, 2020, see (**Appendix 5**) a true and correct copy of a Special Warranty Deed recorded in the Maricopa County Recorder's Office 2020 0494450 on June 8, 2020. The Plaintiff/Appellee can no longer claim any legal or equitable interest in The Defendant/Appellant's property.

Appellee's have no legal Right to object to the Court Granting this Motion for Judicial Notice and for granting Summary Affirmance in favor of the Appellants and against the Appellee on the grounds that the Appellee has no standing before this court and/or before the Superior court on its underling Eviction Judgment (**Appendix 1**) or in this Appeal.

#### **Summary of Arizona's Prudential Standing Requirement**

As a matter of sound judicial policy, the Arizona Supreme Court has "long required that persons seeking redress in Arizona courts must first establish standing to sue." *Bennett v. Brownlow*, 211 Ariz. 193, 195 ¶ 14, 119 P.3d 460, 462 (2005); see also *Sears*, 192 Ariz. at 71 ¶ 24, 961 P.2d at 1019 (citing *Amory Park Neighborhood Ass'n v. Episcopal Cmty. Services In Arizona*, 148 Ariz. 1, 6, 712 P.2d 914, 919 (1985), for the principle that Arizona courts consistently have required as a matter of judicial restraint that a party possess standing to

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<sup>5</sup>The Defendant/Appellant's had three pending lis pendens marked as Group Appendix 6, which the court is asked to take judicial notice of.

maintain an action.). This standing requirement is “rigorous.” See *Fernandez v. Takata Seat Belts, Inc.*, 210 Ariz. 138, 140 ¶ 6, 108 P.3d 917, 919 (2005). “To gain standing to bring an action, a plaintiff must allege a distinct and palpable injury.” *Sears*, 192 Ariz. at 69 ¶ 16, 961 P.2d at 1017. There must be “an injury in fact, economic or otherwise, caused by the complained-of conduct, and 7 resulting in a distinct and palpable injury” *Strawberry Water Co. v. Paulsen*, 220 Ariz. 401, 406 ¶ 8, 207 P.3d 654, 659 (App. 2008). An injury sufficient to confer standing must be “particularized” and to the plaintiffs “themselves.” *Arizona Ass’n of Providers for Persons with Disabilities v. State*, 223 Ariz. 6, 13 ¶ 17, 219 P.3d 216, 223 (App. 2009).

Plaintiff Wilmington Trust, National Association, not in its individual capacity but as Trustee of the, ARLP Securitization Trust, Series 2014-2 having unlawfully sold the Defendant/Appellants property (**Appendix 4**), see a true and correct copy of a Warrantee deed (**Appendix 4**) for the property known as 28437 N. 112<sup>th</sup> Way, Scottsdale AZ 85262, to Arizona Attorney Beth Mulcahy on June 4, 2020, See a true and correct copy of a Special Warranty Deed marked as (**Appendix 5**) during the pendency of this Appeal, in plain sight of the court.

Plaintiff Wilmington Trust, National Association, not in its individual capacity but as Trustee of the, ARLP Securitization Trust, Series 2014-2, can no longer claim an injury sufficient to confer standing in this case ..” *Arizona Ass’n of Providers for Persons with Disabilities v. State*, 223 Ariz. 6, 13 ¶ 17, 219 P.3d 216, 223 (App. 2009).

Joseph Triello, Kim R. Quam’s client, Plaintiff/Appellee Wilmington Trust Corporation a well-known criminal enterprise <sup>6</sup>, not in its individual capacity but as Trustee for the *non jural* defunct entity ALRP Securitization Trust, Series 2014-2 (“ALRP”) a defunct trust, is engaged in

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<sup>6</sup> The court is asked to take judicial notice of the attached criminal indictment *District Court of Delaware U.S. v. William B. North and Kevyn N. Baroski* Criminal Action 15-cv-00023 (Appendix 17 incorporated herein by reference from the Defendant/Appellant’s first Motion for Judicial Notice filed before this court)

“fraud<sup>7</sup>”, a malicious criminal conspiracy to unlawfully acquire the Defendants’ real property (**Appendix 4**) commonly known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, in order to sell it to Arizona Attorney Beth Mulcahy on June 4, 2020 for \$543,500.00, a Class 1 Arizona Felony and violation of 18 U.S. Code § 1341.

### **WILMINGTON TRUST CORPORATION SCHEME**

The Court is asked to take Judicial Notice just what the Plaintiff/Appellee had done to accomplish this unlawful and criminal act, the well-known felonious enterprise Wilmington Trust Corporation, employed a scheme to defraud the Defendants/Appellants, by using a “shell” entity, a *non jural* “shell” entity, a defunct entity, (**Appendix 2**) known as ALRP Securitization Trust, Series 2014-2 (“ARLP”) which has no standing to maintain a civil action in the State of Arizona or to own any real property. Wilmington Trust Corporation then hires the law firm of Zieve Brodnax & Steel, LLP, a well-known, Phoenix foreclosure and eviction mill, and their expert attorneys, Joseph Triello, Kim R. Quam to carry out their nefarious scheme, (criminal contempt)<sup>8</sup> and to represent Washington Trust Corporation, not in its individual capacity, but as Trustee for the *non jural* defunct (**Appendix 1**) entity ALRP Securitization Trust, Series 2014-2 (“ALRP”) to file, not a quiet title action, but a fraudulent eviction complaint on October 30, 2018, fraudulently naming not the true owners of the property Christopher Stoller nor Michael Stoller (**Appendix 3**) nor any occupant that was occupying the said property Christopher Stoller nor Michael Stoller the owners of the subject property, but attorneys Joseph Triello, Kim R. Quam originally name defendant, Philip Stone, who the Appellees’ and their

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<sup>7</sup> Under Section 13-702, a Class 2 felony is punishable by 3 to 12.5 years for a first offense and by a maximum fine of \$150,000. ... When someone is facing fraud charges in Arizona, the state may decide that it's a federal matter, which means the defendant can be prosecuted in federal court under 18 U.S. Code § 1341.

<sup>8</sup> A person, who willfully disobeys a lawful writ, process, order or judgment of a superior court by doing an act or thing therein or thereby forbidden, if the act or thing done also constitutes a criminal offense, shall be proceeded against for contempt as provided in sections 12-862 and 12-863.

counsel , Joseph Triello and Kim R. Quam knew was not a resident of the subject property 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262 and was not even a resident of Maricopa County. Notwithstanding that fact, attorney Joseph Triello falsely swore under oath, in the fraudulent eviction complaint (**Appendix 2**) that Philip Stone was in fact a Maricopa County resident and that Philip Stone was a resident of the subject property on October 30, 2018, 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262. Defendant/Appellant Christopher Stoller and Michael Stoller later joined in the eviction lawsuit.

To prepare and record with the Maricopa County Recorder's Office separate groundless documents to unlawfully encumber the Defendants' property, the court is asked to take judicial notice of the following document fraudulently recorded by the buyer Beth Mulcahy with the Maricopa County Recorder's Office under oath. (**Appendix 5**) in direct violation of. Section 33-420(A) and 18 U.S. Code § 1341. Frauds and swindles.

Section 33-420(A), in pertinent part, provides that "[a] person purporting to claim an interest in, or a lien or encumbrance against, real property, who causes a document asserting such claim to be recorded in the office of the county recorder, knowing or having reason to know that the document is forged, groundless, contains a material misstatement or false claim or is otherwise invalid is liable to the owner or beneficial title holder of the real property for the sum of not less than five thousand dollars, or for treble the actual damages caused by the recording, whichever is greater, and reasonable attorney fees and costs of the action." Defendant/Appellant has made every attempt to contact opposing counsel before filing this motion. Opposing counsel did not return his phone calls.

### **STANDARD OF REVIEW**

The Arizona Appellate Court has a duty and responsibility to control and supervise the

conduct of the attorneys practicing before it, namely, Les Zieve, Kim Quam, Joseph Triello, Jennifer Vigneri 24821 (Appendix 5), Beth Mulcahy; *Erickson v. Newmar Corp.*, 87 F.3d 298, 303 (9th Cir. 1996).

As the Ninth Circuit Court of Appeals has noted: whenever an allegation is made that an attorney, as in this case against at bar, Les Zieve, Kim Quam, Joseph Triello, Jennifer Vigneri 24821 (**Appendix 5**), Beth Mulcahy, have violated their moral and ethical responsibility, an important question of professional ethics is raised. It is the duty of this court to examine the charge, since it is, that court which is authorized to supervise the conduct of the members of its bar, Les Zieve, Kim Quam, Joseph Triello, Jennifer Vigneri and Beth Mulcahy.

This court, as well as the bar, have a responsibility to maintain public confidence in the legal profession.<sup>9</sup> Thus this court is duty bound to refer Les Zieve, Kim Quam, Joseph Triello, Jennifer Vigneri, and Beth Mulcahy to the Arizona Bar for a disciplinary investigation associated with their professional misconduct in this proceeding and before the Arizona Superior Court, in the underlying Case. Failure to do so would be a clear violation of the Arizona Code of Judicial Conduct.

### **COURT IS REQUESTED TO TAKE JUDICIAL NOTICE**

Defendant/Appellant respectfully requests, pursuant to Arizona State Rule of Evidence (“Rule”) 201, that the Court take judicial notice of the public records described in this brief and Appendix 1 thru 11 which are attached hereto and made a part hereof.

Appellant makes this Request in support of its claim that the Plaintiff/Appellee Wilmington Trust Corporation a well-known criminal enterprise, not in its individual capacity but as Trustee for the *non jural* defunct entity (**Appendix 1**) ALRP Securitization Trust, Series

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<sup>9</sup> *Gas-A-Tron of Ariz. v. Union Oil Co.*, 534 F.2d 1322, 1324 (9th Cir. 1976) (quoting *Richardson v. Hamilton International Corp.*, 469 F.2d 1382 (3d Cir. 1972)).

2014-2 (“ALRP) attorneys have engaged in numerous violations of Professional and criminal conduct knowingly and willfully violating , they have unclean hands and the Plaintiff/Appellee was not entitled to the relief it was given by incorrectly Judge David W. Garbarino. On September 5, 2019 Judge David Garbarino erroneously granted the *non jural* defunct entity (**Appendix 2**) ARLP possession of the Defendant/Appellant’s home in an *ex parte* default judgment, without prior Notice to the Chicago Defendants, due process was not accorded as to notice and opportunity to be heard. Attorneys Joseph Triello, Kim R. Quam obtained their September 5, 2019, *ex parte* default judgment by “intrinsic fraud”<sup>10</sup>. It was all part of their scheme to acquire the Defendant/Appellants subject property and to unlawfully sell it for \$543,500.00 to Arizona Attorney Beth Mulchy on June 4, 2020.

The Chicago Defendant/Appellants’ Christopher Stoller and Michael Stoller then filed a Motion on September 9, 2019 (RA025) to set aside the *ex parte* default judgment (**Appendix 1**). On September 13, 2019, (**Appendix 22**<sup>11</sup>) Judge David W. Garbarino erroneously denied the defendants’ Motion to Vacate the September 5, 2019, *ex parte* default judgment (**Appendix 1**) see a true and correct reproduction of Judge David W. Garbarino’s decision below:

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<sup>10</sup> “Extrinsic fraud is conduct which prevents a party from presenting his claim in court.” *Wood v. McEwen*, 644 F.2d 797, 801 (9th Cir.1981). Under California law, extrinsic fraud is a basis for setting aside an earlier judgment. See *Zamora v. Clayborn Contracting Group, Inc.*, 28 Cal.4th 249, 121 Cal.Rptr.2d 187, 47 P.3d 1056, 1063 (2002).

<sup>11</sup> Appellant requests that Appendix 22 from the Appellants previously filed Motion for Judicial Notice be incorporated herein by reference.

MINUTE ENTRY

The Court received and reviewed the Motion to Vacate Ex Parte Orders filed by Defendants Christopher and Michael Stoller claiming that neither received the minute entry order continuing the initial eviction return hearing to September 5, 2019 until September 7<sup>th</sup>. The initial eviction return hearing was actually set for and held on August 29<sup>th</sup>. Defendants did not appear for that hearing. Out of an abundance of caution, the Court continued the hearing to September 5<sup>th</sup> and asked that the minute entry be endorsed to the address identified on Defendants last court-filing, which was done. Defendants failed to appear for the September 5<sup>th</sup> hearing claiming that they live in Chicago and that they did not timely receive the Court's minute entry. Finally, Defendants have cited no other facts or legal authority that would permit the Court to set aside the Judgment entered on September 5<sup>th</sup>. Accordingly,

IT IS ORDERED denying the Motion to Vacate Ex Parte Orders filed by Defendants Christopher and Michael Stoller.

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The Arizona Appellate Court concluded<sup>12</sup> in *Harper v. Canyon Land Development, LLC* that, because default judgments are not favored, the same liberality that governs the application of the rules to a particular case should govern the interpretation of the rules, resolving any doubts in favor of the interpretation that facilitates deciding cases on their merits. See *Richas v. Superior Court*, 133 Ariz. 512, 514, 652 P.2d 1035, 1037 (1982) (observing that all doubts as to whether a default should be set aside should be resolved in favor of the moving party); *Cota v. S. Ariz. Bank & Trust, Co.*, 17 Ariz. App. 326, 327, 497 P.2d 833, 834 (1972) (“Because it prevents a trial on the merits, a default judgment is not favored by the courts.”).

Judge David W. Garbarino’s *ex parte* default judgment decision September 5, 2019, (**Appendix 1**) is likewise not favored under any circumstances and should be set aside on numerous grounds including intrinsic fraud. In *arguendo*, even if the Appellee did not engage in obtaining an *ex parte* default judgment (**Appendix 1**) without employing intrinsic fraud, the Defendants/Appellants would still be entitled to have this court reverse Judge David W.

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<sup>12</sup> *HARPER v. CANYON LAND DEVELOPMENT LLC* Court of Appeals of Arizona, Division 1, Department C.No. 1 CA-CV 07-0887. Decided: December 23, 2008

Garbarino' *ex parte* default judgment September 5, 2020. Appellant requests that the court set aside Judge David W. Garbarino' *ex parte* default judgment. This issue needs no further briefing.<sup>13</sup>

### Judicial Notice

This Judicial Notice has been filed in the Arizona Appeals Court Division 1, irrefutable evidence that the Plaintiff/Appellee ARLP Securitization Trust, Series 2014-2, is defunct, not a legal entity within the State of Arizona (**Appendix 2**). ARLP does not have any standing, legal right to sue or to maintain a civil action within the State of Arizona and is unable to own any property in Arizona as a defunct entity.

The Court is asked to take judicial notice that the *non jural* Appellee ARLP does not have standing to maintain a lawsuit (**Appendix 3**) within the State of Arizona. To have standing, a plaintiff must have suffered "injury in fact, economic or otherwise." *Id.* at 152, 90 S. Ct. at 829. In addition, the injury must be "distinct and palpable," *Sears v. Hull*, 192 Ariz. 65 (/opinion/1161052/sears-v-hull/), ¶ 16, 961 P.2d 1013<sup>14</sup>.

The Plaintiff ARLP is a *non jural* defunct entity (**Appendix 2**) that is unable to establish standing to maintain a civil action within the State of Arizona as well known to attorneys Kim R. Quam and Joseph Triello.

The court is asked to take judicial notice that the Plaintiff ARLP and Kim R. Quam and

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<sup>13</sup> The Defendant/Appellant on the issue as to whether Judge David W. Garbarino committed clear and reversible by Judge David W. Garbarino failure to vacated his *ex parte* default judgment Sept 5, 2020, on September 13, 2019, was such a clear error establishing that the merits of Appellant/Defendants' case are so clear that expedited action is justified. This court must conclude that no benefit will be gained from further briefing and argument of the issues presented. Summary disposition is appropriate in this case on behalf of the Appellants/Defendants. The position of the Appellant/Defendant is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists. Defendant/Appellant requests that the court issue an order setting aside Judge David W. Garbarino *ex parte* default judgment Sept 5, 2020 with prejudice.

<sup>14</sup>Such that the plaintiff has a personal stake in the outcome of the controversy. *Warth v. Seldin*, 422 U.S. 490, 498, 95 S. Ct. 2197, 2205, 45 L. Ed. 2d 343, 354 (1975), quoting *Baker v. Carr*, 369 U.S. 186, 204, 82 S. Ct. 691, 703, 7 L. Ed. 2d 663, 678 (1962).

Joseph Triello (Respondents) have engaged in fraud on the court within the State of Arizona in their Complaint<sup>15</sup> by unlawfully suing New Mexico resident, Defendant Philip Stone,

Plaintiff ARLP and their attorneys Kim R. Quam and Joseph Triello falsely claimed that defendant Philip Stone was a resident of Maricopa County, when in fact the Appellee/Plaintiff knew that ARLP knew was a resident of New Mexico, in direct violation of Arizona Rules of Professional Conduct 20, E.R. 3.1, ER3.3(a), ER 8.4(b),(c) & (d). ARLP failed to comply with applicable laws. The court is asked to take judicial notice of the fraudulent eviction law suit unlawfully filed in the underlying case by Joseph Triello enforced and ratified by Kim R. Quam and the unlawful *ex parte* default eviction judgment entered on Sept. 5, 2019 (RA023 &RA024 ) are void *ab initio*.

Plaintiff ARLP and their attorneys Kim R. Quam and Joseph Triello fraudulently sold the Defendant/Appellant's property (**Appendix 5**) to Arizona Attorney Beth Mulcahy in clear violation of 18 U.S. Code § 1341-Frauds and Swindles.

The court is asked to take judicial notice that the Plaintiff's Attorney Joseph Triello committed perjury<sup>16</sup> when he signed the attached fraudulent eviction lawsuit stating that Defendant Philip Stone, Defendant, was a resident of Maricopa County Arizona, when Plaintiff's counsel Joseph Triello knew that Philip Stone was not a resident of Maricopa County Arizona and that Attorney Joseph Triello knew that Philip Stone was not a resident of the subject

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<sup>15</sup> Plaintiffs ARLP was a non jural defunct entity (Appendix 2) not registered in the State of Arizona that lack standing. The fraudulent allegations contained in the complaints (Appendix 6) were insufficient on their face to invoke jurisdiction. See *Cullen*, 218 Ariz. at 419 ¶ 7; cf. *Spokeo, Inc. v. Robins*, 136 S. Ct. 1540, 1547 (2016) (in complaint, the non jural defunct ARLP plaintiff could not as a matter of law allege any facts demonstrating each element of standing.).2F

<sup>16</sup> 18 U.S. Code § 1621.Perjury (2) whoever in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States.

property at the time that Joseph Triello filed the said eviction law suit.

The court is asked to take judicial notice that the Plaintiff ARLP, was a defunct entity at the time the eviction lawsuit was filed on October 28, 2018, and Plaintiff/Appellee ARLP could not legally own property in the State of Arizona. Notwithstanding, Judge David W. Garbarino committed clear error and reversible error by awarding the *non jural* defunct entity ARLP possession of the Appellant's home 28437 N. 112<sup>th</sup> Way, Scottsdale, AZ 85262-4725 in an *ex parte* default judgment.

The Plaintiff ARLP is a *non jural*, defunct entity, legally dissolved, is disallowed from having any rights to Possession of the Appellants' real property.

A corporation that has been automatically dissolved for failure to pay its franchise taxes lacks capacity to maintain a lawsuit seeking evict a party or to regain title to real estate, according to a recent New York court decision. *Fan-Dorf Properties, Inc. v. Classic Brownstones Unlimited, LLC*, Index No. 113094/2010 (Sup. Ct. N.Y. Co. Mar. 13, 2015 & Aug. 4, 2015).

The court is asked to take judicial notice that the Plaintiff ARLP, was a defunct entity at the time October 28, 2018, the eviction lawsuit that was filed and Plaintiff/Appellee ARLP could not legally own property in the State of Arizona or have standing to maintain a civil action, an eviction action within the State of Arizona.

The court is asked to take judicial notice of the Warrantee Deed of Michael Stoller, who is the current owner of the subject property NOT the Plaintiffs/Appellee ARLP, as well known to Joseph Triello and Kim R. Quam. Notwithstanding, Joseph Triello and Kim R. Quam filed a fraudulent eviction action. Then under the color of law fraudulently induced Judge David W. Garbarino to enter without any prior notice to the Illinois Defendants Christopher Stoller and

Michael Stoller that Judge Garbarino was conducting a hearing on September 5, 2019. Judge David W. Garbarino then entered an *ex parte* default judgment erroneously granting possession of the Appellant's home to the Plaintiff, the *non jural* defunct entity ARLP Trust.

The court is asked to take judicial notice that Realtor David Corbridge, STIX REALTY SIX retained by the ARLP who unlawfully listed and sold the Appellant's property, aided and abetted by Joseph Triello and Kim R. Quam in clear violation of 18 U.S. Code § 1341-Frauds and Swindles.

The Defendants/Appellants real property that it has owned for 11 years, affected by the action is described as follows: pursuant to, *inter alia*, A.R.S. § 12-1191, the unlawful legal action of the Appellee has been filed affecting title of the Defendants' real property, located in Scottsdale, Arizona, and specifically described as follows (the "subject property"):

**LOT 3 PINNACLE FOOTHILLS, ACCORDING TO BOOK 398 OF MAPS, PAGE 50, AND AFFIDAVIT OF CORRECTION RECORDED IN DOCUMENT NO. 96 0145582, RECORDS OF MARICOPA COUNTY, ARIZONA.  
PURPORTED STREET ADDRESS: 28437 N. 112<sup>th</sup> Way, Scottsdale, AZ 85262-4725  
Tax Parcel Number: 216-74-044-9**

## **DISCUSSION**

The material to be noticed Appendix 1-11 and its relevance to this appeal and the Appellants' criminal charges for Home Title Fraud 18 U.S. Code § 1341-Frauds and Swindles that Joseph Triello and Kim Quam and their law firm Zieve Brodnax & Steele, LLP are now charged with.

### **Legal Authority for taking Judicial Notice of this Material**

Because "[t]he court may take judicial notice at any stage of the proceeding," it may be taken for the first time on appeal. Fed. R. Evid. 201(d); see *Bryant v. Carleson*, 444 F.2d 353,

357 (9th Cir. 1971). Paragraph (b)(2) of Rule 201 states in part that “[t]he court may judicially notice a fact that is not subject to reasonable dispute because it can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.”

Appellee seeks judicial notice of facts, all of which were presented previously, before to Superior Court Judge David W. Garbarino. The legal grounds for a Defendant/Appellant claims that Appellee ARLP is a *non jural* defunct entity with no standing before the trial court nor before this court to maintain a civil action (**Appendix 3**) within the State of Arizona or to own any real property that can be readily determined whose accuracy cannot be reasonably questioned.

The Court may take judicial notice of facts that are “not subject to reasonable dispute” that “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Rule 201(b). Where judicial notice is requested and the Court receives sufficient information, judicial notice is mandatory. Rule 201(c)(2) as is the case here.

The Appellant request for judicial notice of Appendixes 1—11 should be granted. The “[the] court may take judicial notice of ‘matters of public record [.]’” *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001).

These documents are relevant because they support Appellants’ position that the Appellee/Plaintiff is a *non jural* defunct entity (**Appendix 2**) with no standing to maintain civil litigation in Arizona, no standing to bring a frivolous eviction lawsuit (**Appendix 3**), that the Appellee has no standing to own real estate as well known to Joseph Triello and Kim R. Quam.

The Appellee and their attorneys Joseph Triello and Kim R. Quam are engage in a malicious conspiracy and have defrauded the Defendant/Appellants under the color of law during this proceeding right before this court’s own eyes.

The court is asked to take judicial notice that Defendant Philip Stone was fraudulently joined to the Arizona State Court Eviction Lawsuit (**Appendix 3**) in Order to Defeat Federal Diversity.

The court is asked to take judicial notice of the eviction lawsuit, which contains the irrefutable evidence that ARLP counsel, Joseph Triello Jr., for Appellee Wilmington Trust, committed perjury, when he signed the Forcible Entry and Detainer lawsuit on 30<sup>th</sup> day of October, 2018.

The court is asked to take judicial notice of the first paragraph of the Appellee/Plaintiff's underlying eviction law suit wherein it falsely states that "Defendants are residents of Maricopa County, Arizona. Attorney Joseph Triello Jr., knew that this was a false statement, a perjurious statement.

Attorney Quam also knew that this was a false statement made under oath. Defendant Philip Stone is a resident of New Mexico and has not occupied the subject property in 10 years<sup>17</sup>.

The court is asked to take judicial notice of Philip Stone identified a Statement of Financial Affairs filed on April 10, 2010, in the Federal Court in the District of Mexico in Bankruptcy Case No. 10 BK 11558-j7, Doc 11, Page 7 of 9 a true and correct reproduction of ¶ 15 Prior address of debtor (Philip Stone) is reproduced below:

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<sup>17</sup>Christopher Stoller informed Joseph Triello giving him actual notice that Philip Stone had moved out of the said property, 11 years earlier. Mr. Triello was informed that Michael Stoller was the owner. Christopher Stoller informed Mr. Triello that if he intends to sue to put the names of Christopher Stoller and Michael Stoller into the complaint. Mr. Triello intentionally placed Philip Stone, a nonparty, as defendant in his Forcible Detainer lawsuit in order to avoid diversity and to prevent the correct parties Defendants from being named in the suit in clear violation of the THE FRAUDULENT JOINER PREVENTION ACT OF 2016 (FJPA). Mr. Triello fraud was willfully and deliberate fraud. Philip Stone had no interest in the title of the subject property after he had quit claimed his entire interest to the Christopher Stoller Pension and Profit Sharing Plan See( Appendix 11) on September 19, 2008.

UNITED STATES BANKRUPTCY COURT  
District of New Mexico

In Re Philip B. Stone & Charlotte A. StoneCase No. 10-11558-7  
(if known)

**STATEMENT OF FINANCIAL AFFAIRS**

**15. Prior address of debtor**

None

If the debtor has moved within the three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
28437 N. 112th Way Scottsdale, AZ 85262		11/02 - 10/08
96 Avenida Aldea Santa Fe, NM 87507		11/08 - 1/12/09

The Appellee's counsel Joseph Triello was advised who the true names of the owners of the subject property prior to filing the perjurious eviction lawsuit. The court is asked to take judicial notice of email communications between Mr. Triello and Christopher Stoller (**Appendix 8**<sup>18</sup>).

The court is asked to take judicial notice as to email communications (**Appendix 6**) between Christopher Stoller and Joseph Triello prior to Mr. Triello filing suit on October 30, 2018. See below true and correct copies of Paragraph 1 of the fraudulent forcible entry and detainer. See also a true and correct copy of the signature of attorney Joseph Triello under penalty of perjury on page 4 of the Forcible Entry Complaint.

<sup>18</sup> Appendix 8 from the Appellant's previously filed Judicial Notice are incorporated herein by reference.

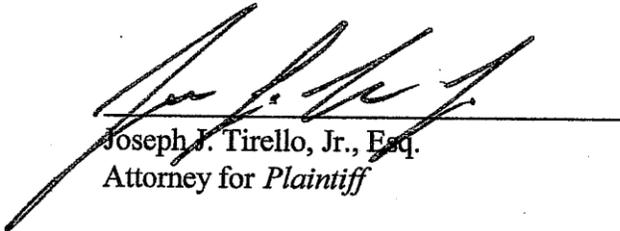
19 **YOU ARE BEING SUED TO BE EVICTED FROM THE RESIDENCE.**  
20 **PLEASE READ CAREFULLY.**

21 Wilmington Trust, National Association, not in its individual capacity but as Trustee  
22 of ARLP Securitization Trust Series 2014-2, as Plaintiff in this action for its Complaint  
23 alleges as follows:

24 1. Plaintiff is authorized to bring this action in Arizona. The Defendants are all  
25 residents of Maricopa County, Arizona. The real property (the "Property") that is the subject

2 H. For such other and further relief as the Court deems just and equitable.  
3 I declare under penalty of perjury that the foregoing is true and correct.  
4 DATED this 30<sup>th</sup> day of October 2018.

5  
6 **ZIEVE, BRODNAX & STEELE, LLP**

7  
8   
9 Joseph J. Tirello, Jr., Esq.  
10 Attorney for Plaintiff

Appellant/Defendant asks the court to take judicial notice of the Official Transcript of the first Forcible Detainer Hearing in the underling case CV 2018-013457 held on November 15, 2018, (**Appendix 20**<sup>19</sup>) and the critical admissions contained on the record, in that Official Transcript. Appellant provides a true and correct reproduction of Page 4, Lines 13 thru 25 and Page 5, Lines 1 thru 4 below:

<sup>19</sup> Appellant incorporates Appendix 20 from his previously filed Judicial Notice incorporated herein by reference.

13 THE COURT: -- appearances for the record?  
14 MR. STOLLER: Yeah.  
15 MR. TIRELLO: Yes, Your Honor. Joseph Tirello  
16 appearing on behalf of Wilmington Trust National Association.  
17 THE COURT: All right. Welcome, Mr. Tirello.  
18 MR. STOLLER: Good morning, Judge. For the record,  
19 Christopher Stoller. Judge, I tendered -- I'm an assignee on  
20 behalf of Philip Stone. I tendered to salve my appearance,  
21 Judge. I have a courtesy copy if you don't have one presently.  
22 I have an assignment of claims and cause of action. I'm also  
23 the current owner of the property on a warranty deed, Judge.  
24 I -- with the Court's permission, I can tender you --  
25 if you don't have a copy of my appearance, I have one here.

Within the first minute of the initial court hearing on November 18, 2018, Christopher Stoller established that the Appellant, not the Appellee was the owner of the subject property, by presenting Judge David Garbarino with a true and copy of the warrantee deed for the subject property (Appendix 4). On Page 5, Lines 1-4 are reproduced below from the official transcript (**Appendix 20**<sup>20</sup>):

1 THE COURT: Okay. I'll take what you've got. And  
2 you're the owner of the property?  
3 THE COURT: That's correct, Judge. I hold a -- I  
4 hold the warranty deed to the property.

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<sup>20</sup>Appellant incorporates Appendix 20 from his previously filed Judicial Notice herein by reference.

On Page 6, Line 1, Judge David Garbarino asks the Defendant Christopher Stoller “...your’re the owner of the property?”

Christopher Stoller responds at Lines 3-4 “That’s correct, Judge, I hold a –I hold the

The court should judicial notice that no ware on the record does the Appellee’s Counsel Joseph Triello Object to the inclusion of the Defendant’s Warrantee, for the subject property, entered into the record, nor does Joseph Triello object and claim that his client the Appellee/Plaintiff ARLP Trust is the owner of the subject property.

Secondly, Christopher Stoller tendered to Judge David Garbarino a copy of his Appearance at Lines 24-25 on Page 4 of the official transcript, in the presence of the Appellee/Plaintiff’ counsel Joseph Triello.

The court should take judicial notice that the Appellee/Plaintiff did not sue Christopher Stoller or Michael Stoller in the Original Complaint (**Appendix 3**). The Appellee/Plaintiff only fraudulently named Philip Stone, prior owner of the subject property, that the Plaintiff/Appellee’s new was not living in the Subject property on October 30, 2018, the date the Plaintiff filed their fraudulent eviction action (**Appendix 3**). However, it is important for the court to take Judicial Notice that Philip Stone, who had sold the subject property to Christopher Stoller nine years earlier, had also given Christopher Stoller an Assignment of Claims and Causes of Action, which the court should take judicial notice of (**Appendix 12**<sup>21</sup>).

On Page 5, Lines 11-14, the Appellee/Plaintiff makes no objection to Christopher Stoller appearing in this action; see a true and correct reproduction of Lines 11-14 from the Official Transcript (**Appendix 20**<sup>22</sup>).

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<sup>21</sup> Appellant incorporates Appendix 12 from its previously filed Motion for Judicial Notice by reference.

<sup>22</sup> Appellant incorporates Appendix 20 from its previously filed Motion for Judicial Notice by reference.

11 THE COURT: All right. Is there -- Mr. Tirello, is  
12 there any objection to Mr. Stoller appearing here today?

13 MR. TIRELLO: No, Your Honor. I have no objection to  
14 Mr. Stoller appearing in this action.

15 THE COURT: Okay.

The court is also asked to take judicial notice that Judge David W. Garbarino was advised in open court on November 14, 2018, that the named Defendant in the underlying eviction action Philip Stone “no longer owned the property, filed bankruptcy, has not occupied the property”; see a true and correct reproduction of Page 8, Lines 11 thru 24 (**Appendix 20**<sup>23</sup>) below:

11 THE COURT: Okay. Mr. Stoller?

12 MR. STOLLER: That's correct, Judge.

13 Judge, there's an issue I just want to bring it to  
14 the Court, which I think the Court will find interesting,  
15 Judge. There's a new law that came down called the Federal  
16 Joiner Act of 2016. And when a party files a fraudulent  
17 lawsuit, like counsel did here, and they added Mr. Stone, who  
18 no longer owns the party (sic), filed bankruptcy, has not  
19 occupied the property, and they filed a lawsuit for diversity  
20 purposes.

21 So they put Mr. Stone into the case to prevent  
22 diversity, that's a violation of the 2006 Federal Joiner  
23 Prevention Act, that why they put Mr. Stone in. They knew Mr.  
24 Stone filed bankruptcy --

25 THE COURT: Okay. Sir, how is this material to

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<sup>23</sup> The Appellant incorporates Appendix 20 from its previously filed Judicial Notice by reference.

The court should take judicial notice that as of November 15, 2018, on the official court record Judge David W. Garbarino, in the presence of Appellee/Defendant's counsel Joseph Triello, that the underlying eviction action was (1) fraudulent filing and (2) the named defendant Philip Stone did not own the subject property, filed bankruptcy, and has not occupied the subject property.

The Appellee/Plaintiff's counsel did not deny in open court that Defendant Philip Stone did not own the subject property, filed bankruptcy and was not occupying the subject property at the time that Joseph Triello filed the eviction lawsuit on October 30, 2018.

The court should take judicial notice that Appellee/Plaintiff's counsel Joseph Triello swore under oath when he filed the said eviction lawsuit on October 30, 2018, naming Philip Stone as the sole defendant, asserting that Philip Stone was residing in the subject property and was a resident of Maricopa County, that Mr. Joseph Triello committed perjury. That through these proceedings that his law partner Kim R. Quam ratified and approved Mr. Joseph Triello's perjury and that the Appellee/Plaintiff ARLP had no right under the law to "action possession" of the Defendants' home under any theory of law.

Summary of the November 15, 2018, first hearing (**Appendix 20**<sup>24</sup>) before Judge David W. Garbarino

1. The court should take judicial notice that the court record of the first hearing contained unrefuted evidence, a Warrantee Deed, that the Appellant/Defendant owned the subject property.

2. The court should take judicial notice of the undisputed fact presented before Judge David W. Garbarino was that the named Defendant, Philip Stone was not residing in the

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<sup>24</sup> Defendant/Appellant incorporates it Appendix 20 filed in its initial Motion for Judicial Notice before this court herein by reference.

subject property at the time the eviction lawsuit was filed on October 30, 2019. That the eviction lawsuit was a fraudulent filing by the Appellee/Defendant's attorney(s) Joseph Triello and Pam R. Quam, notorious foreclosure and eviction lawyers.

3. The court should take judicial notice that the Defendant Christopher Stoller filed his appearance in this case.

4. The court should take judicial notice that the Defendant Christopher Stoller presented unrefuted evidence, a Warrantee Deed to Judge David W. Garbarino that it was the Defendants/Appellants that owned the subject property.

5. The erroneous eviction judgment, which was obtained by Joseph Triello based upon "intrinsic fraud"<sup>25</sup>.

On September 5, 2019, Judge David W. Garbarino erroneously entered the *ex parte* default judgment, which is reversible error. Appellants requests that the court vacate the September 5, 2019 judgment.

The court should take judicial notice that the record does NOT reflect that Judge David W. Garbarino considered the relevant fact that it was the Defendant/Appellants that owned the subject property. That Judge David W. Garbarino did not properly interpret and applied the law, and reached a reasoned determination<sup>26</sup> when he erroneously entered the *ex parte* default eviction judgment on September 5, 2019, which is the subject of this appeal.

The court of appeals will find from the examination of the *ex parte* hearing that took place before the trial court on September 5, 2019, that Judge David W. Garbarino discretion has

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<sup>25</sup> "Extrinsic fraud is conduct which prevents a party from presenting his claim in court." *Wood v. McEwen*, 644 F.2d 797, 801 (9th Cir.1981). Under California law, extrinsic fraud is a basis for setting aside an earlier judgment. See *Zamora v. Clayborn Contracting Group, Inc.*, 28 Cal.4th 249, 121 Cal.Rptr.2d 187, 47 P.3d 1056, 1063 (2002)

<sup>26</sup> *Ness*, 227 Wis.2d at 600.

been exercised erroneously, the trial court fails to exercise its discretion, the facts contained in the September 5, 2019 hearing, do not support the court's decision, the court applies the wrong legal standard<sup>27</sup>.

The record here clearly establishes that Joseph Triello and his partner Kim R. Quam, violated the Arizona Rules of Professional Conduct<sup>28</sup>. ER<sup>29</sup> 3.1, ER 3.3(a)<sup>30</sup>, ER 8.4(b),(c) & (d)<sup>31</sup> and committed perjury. Joseph Triello's perjury was endorsed and ratified by his partner

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<sup>27</sup> *J.L. Phillips & Associates, Inc. v. E & H Plastic Corp.*, 217 Wis.2d 348, 364-365, 577 N.W.2d 13 (1998).

<sup>28</sup> Appellant Christopher Stoller 72 is a nationally known expert under Rule 702. Testimony by Expert Witnesses, on attorney ethics since 1974, who is the Executive Director of the Americans for the Enforcement of Attorney Ethics (AEAE) a Chicago based Attorney Ethics watch dog group that advocates the strict enforcement of attorney ethics since 1974 see. (Appendix 16 from the Appellants previously filed Judicial Notice before this court which is incorporated herein by reference.) Attached to the Appellants' Judicial Notice incorporated herein by reference. [www.rentamark.net](http://www.rentamark.net).

<sup>29</sup> Unless otherwise stated, all references to "Ethical Rules" and citations to "ER" refer to the Arizona Rules of Professional Conduct, as codified at Rule 42, Rules of the Arizona Supreme Court. See 17A A.R.S., Sup.Ct. Rules, Rules of Professional Conduct, Rule 42.

<sup>30</sup> ER 3.1 states that "A lawyer shall not bring or defend a proceeding or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous." The Appellee's eviction lawsuit based upon the evidence is frivolous ER 3.3(a) states that a lawyer shall not knowingly make a false statement of law or fact to a tribunal. Kim Quam and Joseph Triello violated ER 3.3(a) when they filed eviction lawsuit and all subsequent pleadings in this matter.

<sup>31</sup> ER 8.4(b) states that "It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects." Joseph Triello violated ER 8.4(b) when he unlawfully filed the eviction lawsuit and committed perjury. Kim Quam violated ER 8.4(b) by ratifying and enforcing the perjuriously Eviction lawsuit ER 8.4(c) states that "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Joseph Triello violated ER 8.4(c) when he failed to inform the court that ARLP was a defunct entity which had no standing to maintain a civil lawsuit within the State of Arizona and no legal standing to own any real property. When Triello filed the frivolous eviction lawsuit naming Philip Stone as a defendant, in a fraudulent eviction lawsuit, when Attorney Joseph Triello knew that Philip Stone was not an occupant of the said property and was not a resident of Maricopa County. Attorney Kim Quam violated ER 8.4(c) by endorsing and ratifying her partner Joseph Triello conduct. ER 8.4(d) states that "It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice." Joseph Triello violated ER 8.4(d) by writing and filing a perjuriously , fraudulent eviction complaint, Kim R. Quam violated ER 8.4(d) by endorsing and ratifying her partner Joseph Triello writing and filing a perjurious , fraudulent eviction complaint.

Kim R. Quam before the Arizona Appellate Court in her pleadings filed before the Arizona Appellate Court, in this case, in direct criminal contempt<sup>32</sup>.

Lawyer Kim R. Quam having direct supervisory authority over Mr. Joseph Triello failed to make reasonable efforts to ensure that Joseph Triello conforms to the Arizona Rules of Professional Conduct. Instead Kim R. Quam has attempted to use Joseph Triello, as a shield, to protect herself from charges violating ER 3.1, ER 3.3(a), ER 8.4(b),(c) & (d) of the Arizona Rules of Professional misconduct, associated with this case by directing Attorney Joseph Triello to file the frivolous Eviction Lawsuit and to commit perjury and to make misrepresentations of material fact ER 3.3(a) and law before Judge David W. Garbarino on August 29, 2019, in the Official Transcript of the Court hearing at Page 10, Lines 3-16.

The Appellant/Defendants request that the Court take judicial Notice of prima facie and irrefutable evidence that Joseph Triello, who was under the direct supervision of Kim R. Quam, the managing partner of Zieve Brodnax & Steele LLP., committed perjury when he filed the eviction law suit on October 30, 2018, stating under oath that Philip Stone was a defendant, a resident of Maricopa and a resident of 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, when Joseph Triello latter admitted in open court on August 29, 2019, at Page 9, Lines 9-25 and Pages 10, Lines 1-16 (**Appendix 23**<sup>33</sup>).

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<sup>32</sup> 2014 Arizona Revised Statutes Title 12 - Courts and Civil Proceedings § 12-861 Criminal contempt defined Universal Citation: AZ Rev Stat § 12-861 (2014) 12-861. Criminal contempt defined A person who willfully disobeys a lawful writ, process, order or judgment of a superior court by doing an act or thing therein or thereby forbidden, if the act or thing done also constitutes a criminal offense, shall be proceeded against for contempt as provided in sections 12-862 and 12-863.

<sup>33</sup> Appendix 23 Incorporated herein by reference from the Appellants' previously filed Judicial Notice incorporated herein by reference.

10 THE COURT: Okay. So, who's in possession right now?  
11 You say it's some renters?

12 MR. TIRELLO: Yes, Your Honor. I was contacted by a  
13 renter back in November of 2018. In addition to that our  
14 certificate of service just has that a Caucasian male,  
15 approximately 40 to 50 years old, which if I understand the  
16 pleadings made by Mr. Stoller, he's a 70-year-old man and he's  
17 a resident of Illinois. This, it looks like this person was a  
18 resident or in the property out here in Arizona. So, we would  
19 like to get a default judgment against somebody who's never  
20 made an appearance in this case who's in possession of the  
21 property.

22 THE COURT: But we don't know who that person is?

23 MR. TIRELLO: That's correct, Your Honor. That's why  
24 I, I am perfectly okay with limiting the order and I can  
25 logical order that specifies to any parties in possession other

1 than the, the, Mr. Stoller, who's made an appearance in this  
2 case by filing the notice of limited appearance.

3 THE COURT: Did Mr. Stoller ever file an appearance  
4 in the case?

5 MR. TIRELLO: No, Your Honor.

6 THE COURT: Who was here that day though?

7 MR. TIRELLO: Mr. Stoller. So, the, as my  
8 understanding, Mr. Stoller has informed through his pleadings  
9 that Mr. Stone doesn't reside in the property, thought I don't  
10 know who the, who the individual is because they refuse to  
11 identify themselves. It could very well be Mr. Stone. But  
12 the, the pleadings in this case, from Mr. Stoller, indicate  
13 that Mr. Stone is not on the property, hasn't resided on the  
14 property for a number of years. So, at this time I don't know  
15 who that party is, but I do know that somebody who appears to  
16 be different from Mr. Stoller is in possession of the property.

Attorney Joseph Triello's makes the damning admission at Line 14 above. "So, at this time I don't know who that party is (the person that occupied 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262)." However, when Mr. Joseph Triello, under the direction of Kim R. Qum, filed the fraudulent eviction on October 30, 2018, Mr. Joseph Triello signed under oath the complaint, that Philip Stone was a resident of Maricopa County Arizona and a resident of 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, when Mr. Joseph Triello knew that statement was false.

Kim R. Qum is directly responsible for Attorney Joseph Triello's perjury and unlawful sale of the Appellant's Property to Beth Mulcahy on June 4, 2020, and ongoing violations of the Arizona Rules of Professional Conduct ER Rule 3.3(a) and ER8.4(c) & (d) before this court and before Judge David Garbarino in the underlying case because of Kim R. Qum:

(1) Kim R. Qum ordered Joseph Triello, with knowledge of the specific conduct, ratifies the conduct involved; and

(2) Kim R. Qum is a partner in the law firm Zieve Brodnax & Steele LLP., managerial authority in the law firm in which Joseph Triello practices, and has direct supervisory authority over her "bag man" Joseph Triello and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action by endorsing and redefying the perjury and professional misconduct conduct before this court and before Judge David W. Garbarino in filing a fraudulent Eviction Action on October 30, 2019, and fraudulent sale of the Appellant's property (**Appendix 4**) to Beth Mulcahy on June 4, 2020, for \$543,500.00 (**Appendix 5**).

Kim R. Qum, a senior partner of Zieve Brodnax & Steele LLP is liable under the Arizona Rules of Professional Conduct ER Rule 5.1 for the Criminal Conduct "Home Title Fraud" and the Professional Misconduct charged against her associate Joseph Triello.

Now the court can see Zieve Brodnax & Stelle, LLP's felonious scheme to defraud the defendants/Appellants of their property playing out right in from of the courts eyes. Appellant charges the Appellees and their attorneys with, "criminal Home Title Fraud 18 U.S. Code § 1341.Frauds and swindles. This court cannot turn a blind eye to the Charge of Home Title Fraud 18 U.S. Code § 1341. Take judicial notice of the FBI articles on Home title Fraud.

Plaintiff/Appellee Wilmington Trust Corporation a well-known criminal enterprise (**Appendix 17**)<sup>34</sup>, not in its individual capacity but as Trustee for the *non jural* defunct entity (**Appendix 1**) ALRP Securitization Trust, Series 2014-2 ("ALRP") a defunct trust, is engaged in a malicious criminal conspiracy to unlawfully acquired the Defendants' real property (Appendix 4) Commonly known as: 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262 and then fraudulently sold the Appellant's property to Arizona Attorney Beth Mulcahy on June 4<sup>th</sup>, 2020 for \$543,500 a Class 1 Felony and/or 18 U.S. Code § 1341.

To accomplish this unlawful and criminal purpose, 18 U.S. Code § 1341.Frauds and swindles, the well-known felonious enterprise (**Appendix 17**)<sup>35</sup>. Wilmington Trust Corporation, employs a scheme to defraud the Defendants/Appellants, by using a "shell" entity, a *non jural* "shell" entity, a defunct entity, (**Appendix 2**) known as ALRP Securitization Trust, Series 2014-2 ("ARLP") which has no standing to maintain a civil action in the State of Arizona or to own any real property. Wilmington Trust Corporation then, hires the law firm of Zieve Brodnax & Steel LLP, a well-known, Phoenix foreclosure and eviction mill, and their expert attorneys, Joseph Triello, Kim R. Quam to carry out their nefarious scheme, and to represent Washington Trust Corporation, not in its individual capacity, but as Trustee for the *non jural* defunct entity

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<sup>34</sup>The court is asked to take judicial notice of the attached criminal indictment *District Court of Delaware U.S. v. William B. North and Kevyn N. Baroski* Criminal Action 15-cv-00023 (Appendix 17 from the Appellant's earlier filed Judicial Notice is re incorporated herein by reference.

<sup>35</sup>Appendix 17 is incorporated herein by reference as if fully copied and attached from the Appellant's earlier filed Motion for Judicial Notice.

ALRP Securitization Trust, Series 2014-2 (“ALRP”) to file, not a quiet title action, but a fraudulent eviction complaint on Oct. 30, 2018, fraudulently naming not the true owners of the property Christopher Stoller nor Michael Stoller nor any occupant that was occupying the said property Christopher Stoller nor Michael Stoller the owners of the subject property, but attorneys Joseph Triello, Kim R. Quam originally named defendant, Philip Stone, who the Appellees and their counsel, Joseph Triello and Kim R. Quam knew was not a resident of the subject property 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262 and was not even a resident of Maricopa County. Notwithstanding, that fact, attorney Joseph Triello falsely swore under oath, in the fraudulent eviction complaint that Philip Stone was in fact a Maricopa County resident and that Philip Stone was a resident of the subject property on October 30, 2018, 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262. Defendant/Appellant Christopher Stoller and Michael Stoller latter joined in the eviction lawsuit.

On September 5, 2019, attorney Joseph Triello, without any prior notice to the Chicago Defendants’, Triello lies to Judge David Garbarino to secure a fraudulent *ex parte* default eviction judgment. Then the Plaintiff/Appellee’s quickly list the Appellant’s said property with an unscrupulous, Real Estate Broker, David Corbidge, see a true and correct photo of Mr. Dave Corbidge who is unlawfully so sold the Defendants’ home 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262, during the pendency of this litigation to Arizona Attorney Beth Mulcahy, 11383 E. Greythorn Drive, Scottsdale, AZ 85262 on June 4, 2020, for \$543,500.00.

# Dave Corbidge

**charged**



The Appellee ARLP Trust is a defunct entity and has insulated themselves from any possible damages because, the Appellee Wilmington Trust National Association, a well-known criminal enterprise as part of their criminal racketeering scheme 18 U.S. Code § 1962, have defrauded the Defendant/Appellant with a defunct entity, ARLP Trust, which has no assets and is not recoverable. Thus the urgency for this court to resolve this matter in the Defendant/Appellant's favor now that the Appellees have sold the Appellant's family home right in front of this court's eyes.

The court is asked to take judicial notice of the exact reproduction of the complaint lines 19 through 25 which establish a prima facie and irrefutable evidence of Mr. Triello's perjury before this court. Mr. Joseph Triello stated that all of the "Defendants (i.e. Philip Stone) were residents of Maricopa County Arizona". That this was a false statement given under oath as well known to Appellee counsel Kim R. Quam and Joseph Triello. First of all, Mr. Triello knew that Philip Stone was not a resident of Maricopa County Arizona, and the subject property. Philip

Stone moved to New Mexico at least as early as September 19, 2009 (**Appendix 7**<sup>36</sup>) and was a long time resident of New Mexico. Secondly, Mr. Joseph Triello knew that Philip Stone was not a resident of Maricopa County, Arizona at the subject property when he filed the fraudulent eviction lawsuit on October 28, 2018, (**Appendix 2**) as well known to Appellee counsel Kim R. Quam, who have engaged in witness tampering<sup>37</sup> and obstruction of justice.

The Court is asked to take judicial notice of the Arizona Eviction Lawsuit below which provides clear judicial evidence for the perjury of Joseph Triello. When he falsely states under oath in the eviction law suit complaint that “Defendants are all residents of Maricopa County Arizona.” The defendants were NOT all residents of Maricopa County Arizona. Philip Stone was a resident of New Mexico since 2009. Joseph Triello committed Perjury. Attorney Kim R. Quam endorsed, ratified Joseph Triello’s perjury before this court<sup>38</sup>. On September 05, 2019, Kim R. Quam is charged with subornation<sup>39</sup> of perjury.

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<sup>36</sup> Appellants incorporate Appendix 7 from the Appellant’s earlier filed Motion for Judicial Notice before this court by reference.

<sup>37</sup> Kim R. Quam who is not Joseph Triello’s counsel, but she is a co-conspirator with Joseph Triello, and advised Triello.

<sup>38</sup> Kim R. Quam is charged with subornation

<sup>39</sup> **1752. SUBORNATION OF PERJURY**

Kim R. Quam procured the Joseph Triello perjury corruptly, knowing, believing or having reason to believe it to be false testimony; and that Kim R. Quam knew, believed or had reason to believe that the Joseph Triello the perjurer had knowledge of the falsity of his false swearing in the eviction lawsuit that Joseph Triello filed for all of the reasons stated herein. To secure a conviction for subornation of perjury, the perjury sought must actually have been committed. *United States v. Hairston*, 46 F.3d 361, 376 (4th Cir.), cert. denied, 116 S.Ct. 124 (1995). The underlying perjury must be proved under the standards required by the applicable perjury statute. Thus, if section 1621 applies to the underlying perjury, the two witness rule must be met, but not if section 1623 applies to the underlying perjury. *United States v. Gross*, 511 F.2d 910, 915 (3d Cir.), cert. denied, 423 U.S. 924 (1975). Physical coercion need not be proven in prosecutions for subornation of perjury. *United States v. Heater*, 63 F.3d 311, 320 (4th Cir. 1995), cert. denied, 116 S.Ct. 796 (1996). Conspiracy to suborn perjury may be prosecuted irrespective of whether perjury has been committed. The two witness rule does not apply in conspiracy prosecutions. Solicitation of perjured testimony also may be prosecuted as obstruction of justice irrespective of whether the perjured testimony took place. *United States v. Silverman*, 745 F.2d 1386, 1395 (11th Cir. 1984). Kim Quam caused a false document, the eviction lawsuit to be filed, a witness can be held liable as a principal under 18 U.S.C. § 2(b). *United States v. Walser*, 3 F.3d 380, 388 (11th Cir. 1993).

The Defendant/Appellant requests that the court take Judicial Notice of Joseph Triello's direct violation of the Arizona Rules of Professional Conduct. Plaintiff/Appellee's Eviction lawsuit is a nullity. The *ex parte* default judgment entered by Judge David W. Garbarino which is based upon the Defendant/Appellee's fraudulent Eviction Lawsuit is also a nullity. This court is called upon to vacate it with prejudice, because the said Plaintiffs have *unclean hands* and were not entitled to equity; *Long*, 196 Ill. App. 3d at 219, 142 Ill. Dec. 925, 553 N. E. 2d 439.

The Plaintiff/Appellee Wilmington Trust Corporation a well-known criminal enterprise (**Appendix 17**)<sup>40</sup>, not in its individual capacity but as Trustee for the *non jural* defunct entity (**Appendix 2**) ALRP Securitization Trust, Series 2014-2 ("ALRP") and their attorneys Kim R. Quam, Joseph Triello, lawyer Les Zieve founding partner of the law firm of Zieve Brodnax & Steel LTD, knowingly acted with malice, fraud gross negligence, oppressiveness, abuse of process, which was not a result of mistake of fact, or law, honest error, judgment, overzealousness, mere negligence, or other human failing, but that the Plaintiff/Appellee and their attorneys have acted and through a continuing course of conduct acted with willful and wanton misconduct, fraud and intrinsic fraud.

The Plaintiff/Appellee and their attorneys are liable for the tort of abuse of process, they have "unclean hands" with the filing of the Eviction lawsuit, Eviction Fraud and Home Title Fraud 18 U.S. Code § 1341. Frauds and swindles and all of their pleadings filed in this case were and are clearly fraudulent, knowing that the Plaintiff has no legal or equitable right to the Defendants' home they unlawfully before the eyes of this court, sold the Defendant's home for an under market price of \$543,500.00 to a coconspirator, Arizona attorney Beth Mulcahy, the buyer, acting with malice, fraud, gross negligence, oppressiveness, abuse of process, violated the

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<sup>40</sup> The court is asked to take judicial notice of the criminal indictment *District Court of Delaware U.S. v. William B. North and Kevyn N. Baroski* Criminal Action 15-cv-00023 which was attached to the Appellants' previously filed Motion for Judicial Notice which is incorporated herein by reference.

Arizona Rules of Professional Conduct 3.3(a) and 8.4(c) & (d) to thwart the administration of justice, which was not the result of mistake of fact or law, honest error or judgment, over zealousness, mere negligence or other human failing, at all-time Arizona attorney Beth Mulcahy have acted with willful and wanton professional and criminal misconduct Rule 8.4. Purchasing the Defendants/Appellants property (**Appendix 4**) when Arizona Attorney Beth Mulcahy, knew or should have known, that the said property was the subject of ongoing litigation (**Appendix 6**) and causing the Defendants/Appellants, a willful and wanton injury, that was intentional, and/or was committed under circumstances, exhibiting a reckless disregard for the law, for the property rights of the Defendant/Appellants.

Arizona Attorney Beth Mulcahy failed to exercise ordinary due diligence, when it could have been discovered, by the exercise of ordinary care, that the subject property was encumbered in litigation (**Appendix 6**) and belonged to the Defendant/Appellant (**Appendix 4**); *Henslee v. Provena Hosps.*, 369 F. Supp. 2d 970, 977-978 (N.D. Ill. 2005)]<sup>41</sup>

The Doctrine of Unclean Hands is an equitable doctrine that bars the Plaintiff/Appellee from relief, because the said Plaintiff/Appellees and their attorneys Kim R. Quam, Joseph Triello, lawyer Les Zieve et al., seeking relief are guilty of criminal conduct connection with the subject matter of this litigation. The Plaintiffs/Appellee are precluded from taking advantage of their own wrong; *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 60 (2009).

Plaintiff/Appellee Wilmington Trust Corporation, not in its individual capacity but as Trustee of the *non jural* defunct ALRP Securitization Trust, Series 2014-2 (“ALRP”) a defunct

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<sup>41</sup> *Henslee v. Provena Hosps.*, 369 F. Supp. 2d 970, 977-978 (N.D. Ill. 2005)

trust. The court is asked to take judicial notice of a true and correct copy of a Certificate of Revocation (**Appendix 2**).

**KENTUCKY SECRETARY OF STATE  
P.O. BOX 718  
FRANKFORT, KY 40602**



First Class Mail  
US Postage Paid  
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Permit No. 888

**Certificate of Revocation**

I, Alison Lundergan Grimes, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

**IMPORTANT NOTICE**

**ARLP SECURITIZATION TRUST,  
SERIES 2014-2**

did not file its 2016 annual report within sixty days after it was due. Accordingly, the Secretary of State revoked the Business Trust's authority to transact business in Kentucky on October 1, 2016.

**ARLP SECURITIZATION TRUST, SERIES  
2014-2  
C/O ALTISOURCE ASSET MANAGEMENT  
CORPORATION  
402 STRAND ST.  
FREDERIKSTED VI 00840-3531**



*Alison Lundergan Grimes*  
Alison Lundergan Grimes  
Secretary of State

The court is asked to take judicial notice of a true and accurate photograph of attorney Joseph J. Triello who the Appellant/Defendant charges with perjury.



The court is asked to take judicial notice that Appellee Wilmington Trust Corporation attorney and filed a false declaration in the lawsuit signed by Attorney Joseph J. Triello Jr., which contained perjured statements as well known to Attorneys Kim R. Quam, who ratified and approved it. The court is asked to take judicial notice of a true and accurate reproduction of the perjured declaration of Joseph J. Triello. (**Appendix A**<sup>42</sup>).

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<sup>42</sup> Appellant requests that Appendix A from its early filed Motion for Judicial Notice be incorporated herein by reference.

**DECLARATION OF JOSEPH J. TIRELLO, JR.**

I, Joseph Tirello, Jr., hereby declare as follows:

1. I am an attorney licensed to practice in the State of Arizona. I am a member of the firm Zieve, Brodnax & Steele, LLP. This declaration is based on my personal knowledge as the attorney of record for Wilmington Trust National Association, Not In Its Individual Capacity, But as Trustee of ALRP Securitization Trust, Series 2014-2. If called and sworn as a witness, I could and would testify competently thereto.
2. I am counsel of record for Wilmington in an eviction case filed in Maricopa County, Arizona pending under case number CV2018-013457.
3. The eviction case relates to property that is located in Maricopa County, commonly known as 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona (the "Property"). Wilmington is the holder of a note secured by a deed of trust that was recorded against the Property.
4. The note went into the default and a non-judicial foreclosure proceeded in accordance with Arizona law.
5. The eviction action was filed on October 30, 2018.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 11<sup>th</sup> day of July 2019.

  
\_\_\_\_\_  
Joseph J. Tirello, Jr.

The court should take judicial notice of Paragraph 3: “Wilmington<sup>43</sup> is the holder of a Note secured by a deed of trust that was recorded against the property.” The court should take judicial notice this is a perjured statement. Wilmington<sup>44</sup> is not the holder of any valid Note that was recorded against the property.” No Note was attached to the eviction lawsuit. Wilmington did not have any valid Assignment of any original Note signed by an Officer of Countrywide Bank to Wilmington Trust.

The court should take judicial notice that Paragraph 4: “The note went into default and a non-judicial foreclosure proceeded.” This is a false and perjurious. Wilmington Trust never had an original assignment of the Note from Country Wide Bank. The judicial foreclosure was a fraud, Christopher Stoller, as Sole Trustee, conducted a prior Trustee Sale which foreclosed Wilmington Trust’s (ARLP) interest in the property as well known to Wilmington Trust, Joseph J. Triello Jr., Kim Quam. On the contrary, Wilmington Trust (ARLP) were foreclosed out in a Trustee Sale (Appendix 8) which the court is asked to take judicial Notice of.

Wilmington Trust (ARLP) had no further interest in the subject property. If Wilmington Trust (ARLP) believed there was a defense to the Christopher Stoller trustee sale (**Appendix 8**) or if Wilmington Trust (ARLP) had an objection to the Christopher Stoller trustee sale (**Appendix 8**), the court should take Judicial notice, that Wilmington Trust (ARLP) must have

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<sup>43</sup>The actual Plaintiff in the underlying Eviction Lawsuit Wilmington Trust Corporation, (“Wilmington”) not in its individual capacity but only as Trustee, of the ARLP Securitization Trust, Series 2014-2 (“ALRP”) . Wilmington Trust Corporation was NOT a Plaintiff it the underlying lawsuit. Wilmington Trust Corporation was acting NOT in its individual capacity but only as a Trustee of the defunct, *non jural* Trust, the ALRP Securitization Trust, Series 2014-2 (“ALRP”). Therefore Attorney Joseph Triello sworn declaration (Appendix 9 incorporated by reference from the Appellants earlier filed Judicial Notice), statement that “Wilmington is the holder of a note secured by a deed of trust that was recorded against the property” is outright perjury. Wilmington Trust Corporation did not bring an eviction lawsuit against the Defendants/Appellants, the *non jural* defunct trust ARLP Securitization Trust, Series 2014-2 did. Wilmington Trust Corporation was NOT acting in its individual capacity in the said eviction lawsuit (RA 0001)(Appendix 3) attached to the Defendant/Appellants Motion for Judicial Notice, which is incorporated herein by reference as if fully copied and attached. As a result the ex parte eviction order from the Appellant’s first Judicial Notice filed in this case incorporated herein, is void ab initio.

<sup>44</sup> Furthermore, Wilmington Trust Corporation is not the plaintiff in the underlying eviction lawsuit in Arguendo even if Wilmington Trust Corporation was the holder of a valid note they were not the party that filed the eviction lawsuit or who unlawfully sold the subject property for \$543,500.00 to Arizona Attorney Beth Mulcahy.

filed an action and obtained a court order pursuant to Arizona Rule 65, stopping the sale no later than 5:00 p.m. Mountain Standard time of the last business day before the scheduled date of the sale. The Court is asked to take judicial notice of the Recorded Notice of Trustee Sale. Wilmington Trust (ARLP) waived any defenses or objections to the sale. Wilmington Trust (ARLP) failed to obtain an order, the sale was final. Wilmington Trust (ARLP) has no legal or equitable interest in the subject property, in *arguendo*, in the event that ARLP were a legal a legal entity, which it is not, it still would not be entitled to any legal or equitable interest in the Defendants home, notwithstanding, the Plaintiff/Appellee unlawfully sold the Defendant/Appellants' home to Arizona Attorney Beth Mulcahy for \$543,500.00.

The court is asked to take judicial notice that the ARLP/Wilmington Trust Eviction Lawsuit represented a complete "fraud on the Court."<sup>45</sup>

The court is also asked to take judicial notice of the Special Warranty Deed (**Appendix 5**) which represents a complete "fraud on this court", "Home Title Fraud"(**Appendix 7**) a Class 1 Arizona Felony committed by the Plaintiff/Appellee right in the perview of this court.

Plaintiff/Appellant Christopher Stoller, purchased property known as 28437 N. 112<sup>th</sup> Way, Scottsdale, AZ, from Philip Stone at a real estate closing. The court is asked to take judicial notice of Philip Stone Quit Claimed his interest to Christopher Stoller Pension and Profit Sharing Plan Limited (CPPSP) on September 19, 2008. (**Appendix 11**). The court is asked to take judicial notice that this was recorded in the Maricopa County Recorder's Office on September 22, 2008, under 2008-0815422.

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<sup>45</sup> Fraud upon the court" has been defined by the 7th Circuit Court of Appeals to "embrace that species of fraud which does, or attempts to, defile the court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication." *Kenner v. C.I.R.*, 387 F.3d 689 (1968); 7 Moore's Federal Practice, 2d ed., p. 512, ¶ 60.23. The 7th Circuit further stated "a decision produced by fraud upon the court is not in essence a decision at all, and never becomes final."

## **THE PLAINTIFF/APPELLEE HAS UNCLEAN HANDS<sup>46</sup>**

The court should take judicial notice that for all the reasons in this judicial notice and the documentary evidence that is part of the record, that the Plaintiff/Appellee has unclean hands and is not entitled to the relief that they are seeking.

Philip Stone Assignment of Claims and Causes of Action to Christopher Stoller and Leo Stoller.

The court is asked to take judicial notice of the Assignment of Claims and causes of Action by Philip Stone to Christopher Stoller and/or Leo Stoller. On September 19, 2008, Philip Stone transferred and conveyed to CSPPS, a Bahamas Corporation and/or Christopher Stoller and Leo Stoller (collectively Assignees) under the Law of Assignments of Causes of Action (**Appendix 10**) insofar as permitted by law, forever, any and all causes of action, remedies or claims now or in the future, that Assignor CSPPSP have against any party, not limited to financial institutions, contractors, builders and their employees, affiliates, successors and assigns, et al., as well as the right to prosecute such causes of action in the name of the Assignor or Assignees or any of them and the right to settle or otherwise resolve such causes of action as Assignees sees fit, regarding the following real property in Maricopa County, State of Arizona:

**Lot 3, Pinnacle Foothills, according to Book 398 of Maps, Page 50, and Affidavit of Correction recorded in Document No: 96-0145582, records of Maricopa County, Arizona. Assessor's Parcel Number: 216-74-044.**

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<sup>46</sup> An action to quiet title sounds in equity, and the maxim that he who comes into equity must come with clean hands applies. *Belfer v. Lewis*, 79 Ariz. 13, 281 P.2d 794 (1955); *Mason v. Ellison*, 63 Ariz. 196, 160 P.2d 326 (1945). This Court laid down the principle in *MacRae v. MacRae*, 37 Ariz. 307, 294 P. 280 (1930), that in determining the applicability of the clean hands doctrine it is the moral intent of the party seeking relief, and not the actual injury done, that is controlling. The Court indicated that it was "intentionally soiled hands" which could not invoke the jurisdiction \*43 of a court of equity. The misconduct which will deprive a party of equitable relief must be willful. *Surgical Supply Service, Inc. v. Adler*, 206 F. Supp. 564 (E.D.Pa. 1962); *Barr v. Petzhold*, 77 Ariz. 399, 273 P.2d 161 (1954); *Ferrick v. Barry*, 320 Mass. 217, 68 N.E.2d 690 (1946); *Frazier v. Mansfield*, 305 Pa. 359, 157 A. 798 (1931).

**Commonly known as: 28437 N. 112<sup>th</sup> Way, Scottsdale,  
Arizona 85262.**

Notice(s) of Lis Pendens were filed by Christopher Stoller on the subject real estate on December 29, 2008, under No: 2008-1090943 with the Maricopa County Recorder's Office and another Lis Pendens filed on December 2, 2013, under No: 20131025435.

The court should take judicial notice that the Defendants/Appellees Christopher Stoller and Michael Stoller do not owe any delinquency payments on the subject property, nor did Philip Stone owe any unpaid principle balances on said property. All of Philip Stone's debts were discharged in his Bankruptcy (**Appendix 7**<sup>47</sup>).

The court should take judicial notice that this fact is well known to the Appellee/Plaintiffs and their counsel Joseph Triello of and Kim R. Quam. Despite the fact that Plaintiff/Appellee's Counsel Joseph Triello filed a fraudulent eviction lawsuit on October 28, 2018, which was fully enforced and ratified by Plaintiff/Appellee counsel Kim R. Quam and their lawyers Zieve, Brodnax & Steel LLP. Notwithstanding, they were still attempting to unlawfully collect on debts which were never owed to them and which violates the Federal Debt Collection Act and the Arizona Consumer Fraud Act. Wilmington Trust (ARLP) was foreclosed out of any interest in the subject property on July 13, 2015, (**Appendix 8**) at a Trustee Sale which Wilmington Trust (ARLP) never objected to pursuant to AZ Rule 65. Injunctions and Restraining Orders.

Christopher Stoller filed a full release and full re-conveyance of said Deed of Trust and all other debts in connection with same including the Adjustable Rate Note secured by the Deed of Trust was filed with the Maricopa County Recorder's Office on August 1, 2014, under no:

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<sup>47</sup> Appellant incorporates Appendix 7 from the Appellants' earlier filed Motion for Judicial Notice by reference herein.

2014-0512240 the court is asked to take judicial notice of (**Appendix 13**<sup>48</sup>).

The evidence is clear and convincing that the Arizona eviction law suit filed on October 30, 2018, represented a fraud on the court and contained the perjured statement of Attorney Joseph J. Triello Jr., when he falsely stated under oath that all of the defendants were residents of Maricopa County.

Defendant/Appellant requests that the court take Judicial Notice of Appellants'/Defendant's Memorandum (**Appendix14**<sup>49</sup>) and Memorandum in support of its Motion for Referral to the Justice Department for Criminal Investigation" (**Appendix 15**)<sup>50</sup> a pleading filed by the Defendant/Appellants in a related Northern District of Illinois Case, No. 18-cv-01821 Wilmington Trust, National Association Not in its individual capacity but as Trustee of ARLP Securitization Trust, Series 2014-2 v. Philip B. Stone, Occupants and Parties in Possession, Christopher Stoller, Assignee, Michael Stoller, parties in possession, Disabled Parsons et al. Defendant/Appellants submit this (**Appendix 14**) for the proposition that the Defendant/Appellants' have presented this court with evidence of criminal conduct engaged by the Appellee and in conjunction with their attorneys Joseph J. Triello Jr., Kim R. Quam<sup>51</sup> their lawyers Zieve, Brodnax & Steel LLP.

There is probably cause to believe that Appellees and their lawyers have committed crimes associated with the filing of the underlying eviction lawsuit and with the Appellee's filing(s) before this court. This court has an Obligation to report to appropriate prosecuting authority criminal conduct disclosed in this Motion for Judicial Notice. The Defendant/Appellant

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<sup>48</sup> Appellant incorporates Appendix 13 from Appellants' first filed Judicial Notice which is incorporated herein by reference.

<sup>49</sup> Appellant incorporates his Appendix 14 from the Appellant's initial filed Judicial Notice by reference.

<sup>50</sup> Appellant incorporates his Appendix 15 from the Appellant's initial filed Judicial Notice by reference

<sup>51</sup>

is going on record to request that this court has an obligation under the Arizona Code of Judicial Conduct refer the Defendants and their Attorneys Joseph Triello, Kim R. Quam, their lawyers Zieve, Brodnax & Steel, LLP, to the U.S. Justice Department for a perjury investigation and Home Deed Fraud.

Because “[t]he court may take judicial notice at any stage of the proceeding,” it may be taken for the first time on appeal. Fed. R. Evid. 201(d); see *Bryant v. Carleson*, 444 F.2d 353, 357 (9th Cir. 1971). Paragraph (b)(2) of Rule 201 states in part that “[t]he court may judicially notice a fact that is not subject to reasonable dispute because it can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.”

Appellants/Defendants seeks judicial notice of facts, the legal grounds for establishing that the Appellee/Plaintiff ARLP is a defunct entity without standing to bring an eviction lawsuit within the state of Arizona the legal basis for Appellants/Defendants claims can be readily determined from the exhibits judicially noticed herein, whose accuracy cannot be reasonably questioned.

Appellants/Defendants seeks judicial notice of facts, the legal grounds for establishing that the Appellee/Plaintiff ARLP is a defunct entity without standing to own real property on the date October 28, 2018, that ARLP filed its fraudulent eviction lawsuit the legal basis for Appellants/Defendants claims can be readily determined from the exhibits judicially noticed herein, whose accuracy cannot be reasonably questioned.

Appellants/Defendants seeks judicial notice of facts, the legal grounds for establishing that the Appellee/Plaintiff ARLP attorney Joseph Triello committed perjury when he filed the eviction lawsuit and that Attorney Kim Quam endorsed and ratified the Perjury<sup>52</sup> of Joseph Triello, the legal basis for Appellants/Defendants claims can be readily determined from the

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<sup>52</sup> Subornation of perjury

exhibits judicially noticed herein, whose accuracy cannot be reasonably questioned.

Appellant/Defendant seeks the disqualification of Kim R. Quam and Joseph Triello on the grounds that a reasonable person looking at the record would come to the conclusion that Kim Quam and Joseph Triello, violated the Arizona Rules of Professional Conduct<sup>53</sup>. ER 3.1, ER 3.3(a)<sup>54</sup>, ER 8.4(b),(c) & (d)<sup>55</sup>.

The district court has a duty and responsibility to control and supervise the conduct of the attorneys practicing before it; *Erickson v. Newmar Corp.*, 87 F.3d 298, 303 (9th Cir. 1996). As the Ninth Circuit Court of Appeals has noted:

“Whenever an allegation is made that an attorney has violated his moral and ethical responsibility, an important question of professional ethics is raised. It is the duty of the district court to examine the charge, since it is that court which is authorized to supervise the conduct of the members of its bar. The courts, as well as the bar, have

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<sup>53</sup> Appellant Christopher Stoller 73 is a nationally known expert under Rule 702. Testimony by Expert Witnesses, on attorney ethics since 1974, who is the Executive Director of the Americans for the Enforcement of Attorney Ethics (AEAE) a Chicago based Attorney Ethics watch dog group that advocates the strict enforcement of attorney ethics since 1974 see. [www.rentamark.net](http://www.rentamark.net).

<sup>54</sup> ER 3.1 states that “A lawyer shall not bring or defend a proceeding or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous.” The Appellee’s eviction lawsuit RA0001)(Appendix 3) based upon the evidence is frivolous ER 3.3(a) states that a lawyer shall not knowingly make a false statement of law or fact to a tribunal. Kim Quam and Joseph Triello violated ER 3.3(a) when they filed eviction lawsuit and all subsequent pleadings in this matter.

<sup>55</sup> ER 8.4(b) states that “It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.” Joseph Triello violated ER 8.4(b) when he unlawfully filed the eviction lawsuit and committed perjury. Kim Quam violated ER 8.4(b) by ratifying and enforcing the perjurious Eviction lawsuit. ER 8.4(c) states that “It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.” Joseph Triello violated ER 8.4(c) when he failed to inform the court that ARLP was a defunct entity which had no standing to maintain a civil lawsuit within the State of Arizona and no legal standing to own any real property. When Triello filed the frivolous eviction lawsuit naming Philip Stone as a defendant, in a fraudulent eviction lawsuit, when Attorney Joseph Triello knew that Philip Stone was not an occupant of the said property and was not a resident of Maricopa County. Attorney Kim Quam violated ER 8.4(c) by endorsing and radiating her partner Joseph Triello conduct. ER 8.4(d) states that “It is professional misconduct for a lawyer to engage in conduct that is prejudicial to the administration of justice.” Joseph Triello violated ER 8.4(d) by writing and filing a perjurious, fraudulent eviction complaint Kim Quam violated ER 8.4(d) by endorsing and ratifying her partner Joseph Triello writing and filing a perjurious, fraudulent eviction complaint.

a responsibility to maintain public confidence in the legal profession.<sup>56</sup>”

The Appellants/Defendants moving for disqualification have satisfied “the high standard of proof.” *Id.* at 791; *Sauer v. Xerox Corp.*, 85 F.Supp.2d 198, 199 (W.D.N.Y. 2000); *Certain Underwriters at Lloyd's, London v. Argonaut Ins. Co.*, 264 F.Supp.2d 914, 918 (N.D.Cal. 2003) “the paramount concern must be the preservation of public trust both in the scrupulous administration of justice and in the integrity of the bar”) (citation omitted). Even though a “high standard of proof” is imposed, however, “any doubts as to the existence of an asserted conflict of interest must be resolved in favor of disqualification.” *LaSalle Nat'l Bank v. County of Lake*, 703 F.2d 252, 257 (7th Cir. 1983).

Attorneys are bound by the local rules of the court in which they appear. The Arizona Appellate Court has adopted the Arizona Rules of Professional Conduct, which consist of the Model Rules of Professional Conduct of the American Bar Association with some modifications (the “Rules of Professional Conduct”). See LRCiv 83.2(d); *Research Corp. Techs., Inc. v. Hewlett-Packard Co.*, 936 F.Supp. 697, 700 (D.Ariz. 1996). When applying the Rules of Professional Conduct in the context of motions to disqualify opposing counsel, the Arizona Supreme Court has counseled that “[o]nly in extreme circumstances should a party to a lawsuit be allowed to interfere with the attorney-client relationship of his opponent” as in the case at bar. *Alexander v. Superior Court In and For Maricopa County*, 685 P.2d 1309, 1313 (Ariz. 1984).

This Court regularly takes judicial notice of facts from court documents Defendant Christopher Stoller’s Memorandum (Doc 27) Northern Illinois District Court Case NO.19-cv-

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<sup>56</sup> *Jamieson v. V. Slater United States District Court*, No. CIV 06-1524-PHX-SMM, No. CIV 06-2261-PHX-SMM (D. Ariz. Aug. 1, 2008) citing *Gas-A-Tron of Ariz. v. Union Oil Co.*, 534 F.2d 1322, 1324 (9th Cir. 1976) (quoting *Richardson v. Hamilton International Corp.*, 469 F.2d 1382 (3d Cir. 1972)).

01821 Wilmington Trust National Association, not in its individual capacity but as Trustee for the *non jural* defunct entity ARLP Securitization Trust, Series 2014-2. V. Philip B. Stone, Christopher Stoller, Michael Stoller.

This Court regularly takes judicial notice of facts from court documents Appellant/Defendant Christopher Stoller's Memorandum (Doc 28) IN Support of its Motion for Referral to the Justice Department for Criminal Investigation, Northern Illinois District Court Case NO.19-cv-01821 Wilmington Trust National Association, not in its individual capacity but as Trustee for the *non jural* defunct entity ARLP Securitization Trust, Series 2014-2. V. Philip B. Stone, Christopher Stoller, Michael Stoller.

"[T]he most frequent use of judicial notice of ascertainable facts is in noticing the content of court records." *Colonial Penn Ins. Co. v. Coil*, 887 F.2d 1236, 1239 (4th Cir. 1989). Accordingly, this Court has held that it "may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue." *U.S. ex rel. Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992); cf. Fed. R. App. P. 32.1(b) (instructing parties to submit a copy of an "opinion, order, judgment, or disposition" unavailable on publicly accessible electronic databases). Records subject to judicial notice on appeal include "the records of an inferior Case: 14-15139 04/04/2014 ID: 9045616 Dkt Entry: 23-1 Page: 5 of 8 (5 of 59) 5 808614 court in other cases." *United States v. Wilson*, 631 F.2d 118, 119 (9th Cir. 1980). MLB seeks judicial notice of documents from proceedings that are directly relevant to the matters before this Court.

The Code of Conduct for the Arizona Appellate Court, known as the judicial canons of ethics, as requiring this court, based on the reasonable bases, for this court believing that the criminal act of perjury has occurred, is required to refer the matter to the United States

Attorney's Office for handling by that representative of the Administrative Branch of the United States Government. As to criminal acts, the correct constitutionally mandated process, is the proper response to the perjury, committed by the Joseph J. Triello and subornation of perjury by Kim R. Quam.

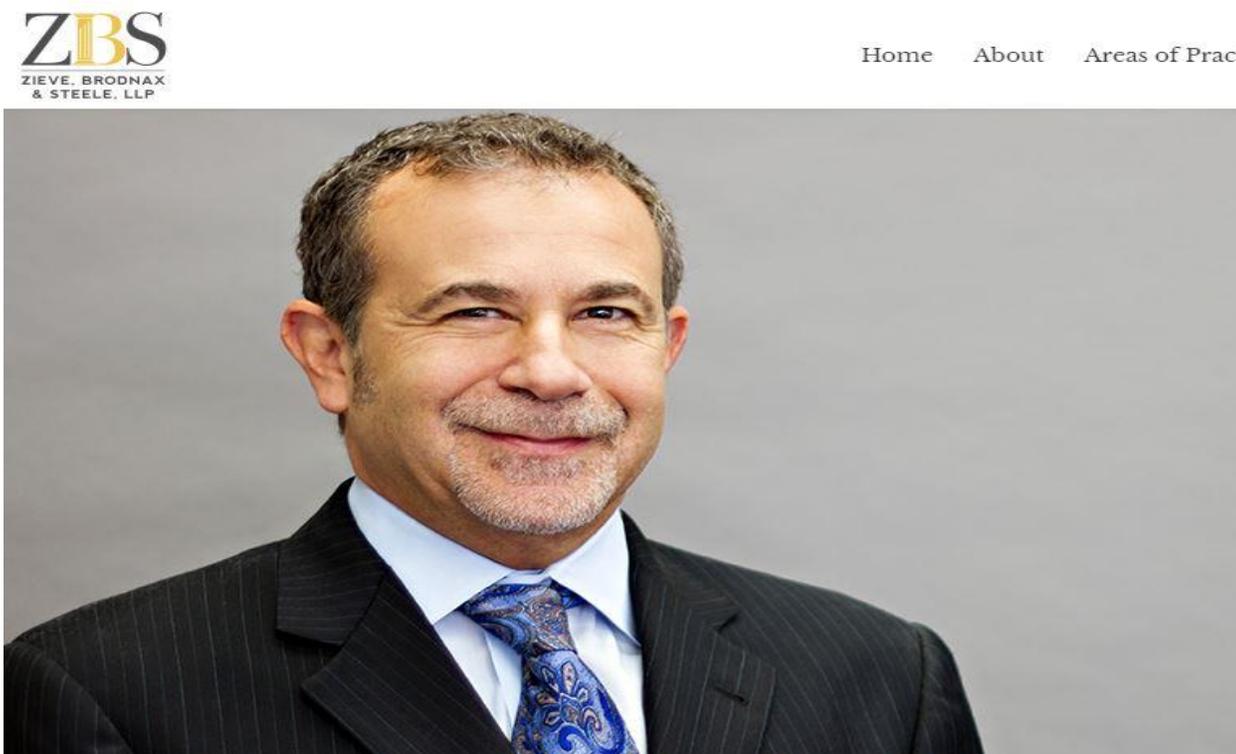
Appellant/Defendants requests that the court take judicial notice that the Appellee's Eviction lawsuit (**Appendix 4**) is a nullity. The default judgment (RA023& RA0243) is void *ab initio*. The Court vacate it on its face, with prejudice because the said Appellee have unclean hands and are not entitled to equity; *Long*, 196 Ill. App. 3d at 219, 142 Ill. Dec. 925, 553 N. E. 2d 439.

The Court is asked to take Judicial Notice that the Plaintiff/Appellee and their attorneys Kim Quam and Joseph Triello, knowingly acted with malice, fraud gross negligence, oppressiveness, abuse of process, which was not a result of mistake of fact, or law, honest error, judgment, overzealousness, mere negligence, or other human failing, but that the Appellee/Plaintiff and their attorneys Kim Quam and Joseph Triello, have acted and through a continuing course of conduct acted with willful and wanton misconduct. The Appellee/Plaintiff and their attorneys Kim Quam and Joseph Triello, are liable for the tort of abuse of process, they have "unclean hands" with the filing of the fraudulent Philip Stone was not a resident of the said property, known that Philip Stone was not even a resident of Maricopa County, knowing that their ARLP was a defunct entity and had no standing to maintain a civil lawsuit in the State of Arizona, knowing that ARLP has no legal or equitable interest, and attempting to unlawfully sell the Defendants' property for over \$500,000.

The Doctrine of Unclean Hands is an equitable doctrine that bars the Plaintiff from relief, because the said Plaintiffs and their attorneys Kim Quam and Joseph Triello, seeking relief are

guilty of misconduct in connection with the subject matter of this litigation. The Plaintiffs are precluded from taking advantage of their own wrong; *Gambino v. Boulevard Mortgage Corp.*, 398 Ill. App. 3d 21, 60 (2009). As the following cases relate, the Plaintiff/Appellee has attempted to take advantage of their own wrong and are guilty of “unclean hands” and criminal wrong doing.

The court is asked to take judicial notice of a true and accurate photograph of Les Zieve founding partner of the law firm of Zieve Brodnax & Steel LTD a well-known eviction and foreclosure mill run out of an office in Phoenix. Les Zieve having direct supervisory authority ER Rule 5.1 over Kim Quam and Joseph Triello see below:



Lawyer Les Zieve founding partner of the law firm of Zieve Brodnax & Steel LTD a well-known eviction and foreclosure mill run out of an office in Phoenix. Les Zieve having direct supervisory authority ER Rule 5.1 over Kim Quam and Joseph Triello, failed to make reasonable efforts to ensure that Kim Quam and Joseph Triello conforms to the Rules of

Professional Conduct. Instead Les Zieve has used Kim Quam and Joseph Triello, as a shields, to protect himself from charges of professional misconduct, associated with this case by directing Kim Quam and Joseph Triello to file their Appearances in the underlying eviction action and in the appeal before this court.

The defendant/Appellant has met his heavy burden of establishing that the merits of his case are so clear that expedited action is justified. This court has more than sufficient evidence to conclude that no benefit will be gained from further briefing and argument of the issues presented on account of the fact the position of Defendant/Appellant is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists.

The Plaintiff/Appellee seized control of the Defendants property on December 1, 2019. In a hearing before Judge David Garbarino he established that the fair market value of rent for the Appellant's home was \$3,000.00 per month. The Appellant/Defendant has a prior tenant in his home with whom the Appellee/Plaintiff tortuously interfered with the rental contract that the Appellant/Defendant had with his prior tenant. The Appellant/Defendants were forced to turn over possession of their home on December 1, 2019. Appellant/Defendants are requesting that the court vacate the fraudulent eviction judgment dated September 5, 2019 with prejudice. The Appellant/Defendants are requesting that this court enter judgment against Wilmington Trust National Association, order them to pay the Defendant/Appellants \$3,000 per month since December 1, 2019, with interest.

In the Alternative if the court does not grant the relief requested below, states that the Superior Court has made no decisions on any of the Appellant's motions which the Appellee has failed to respond to and that the Court should grant the Appellant an additional 90 days from August 24, 2020, the date that the Appellant's appeal is due to at least November 24, 2020, on

the grounds that the Appellant has to order the record from the Superior Court Transferred to the Arizona Appellate Court. Then have the Arizona Appellate Court send the record on a CD to the Appellant, all of which takes time.

### **CONCLUSION**

This court must conclude that no benefit will be gained from further briefing and argument of the issues presented. Summary disposition is appropriate in this case on behalf of the Appellants/Defendants. The position of the Appellant/Defendant is so clearly correct as a matter of law that no substantial question regarding the outcome of the appeal exists. Defendant/Appellant requests that the court issue an order setting aside Judge David W. Garbarino *ex party* default judgment September 5, 2020 with prejudice.

Issue an Order Setting Aside the Plaintiff/Appellee unlawful sale of the Defendants' property to Beth Mulcahy on June 4, 2020.

WHEREFORE, the Appellants request the Court take Judicial Notice of Appendix 1-9 in support of the Appellant's Appeal. To vacate the September 5, 2019, final judgment with prejudice and all of the Order entered by Judge David Garbarino. Order the Plaintiff Appellants to pay the Defendant/Appellants \$3,000.00 per month since December 1, 2019, plus the maximum amount of interest, for the lost rent incurred.

Appellant requests that the court enter the proposed form of order submitted with this request disqualifying Kim R. Quam, Joseph Triello and the law firm of Zieve Brodnax & Steel LTD from representing the Appellee/Plaintiffs. Issue an order vacating the September 5, 2019, final judgment with prejudice and vacate the Special Warranty Deed. Order the Appellee/Defendants to return possession of the subject property 28437 N. 112<sup>th</sup> Way, Scottsdale, Arizona 85262 to Appellants/Defendants. Issue an injunction against the

Appellee/Defendant from every claiming ownership to the subject property. Issue an order disgorging all fees paid by the Plaintiff/Appellee to the law firm of Zieve Brodnax & Steel LTD.

The Court has an obligation to refer attorneys Kim R. Quam and Joseph Triello to the U.S. Justice Department for an investigation regarding “Home Deed Fraud” and the Arizona Bar Association for an investigation of professional misconduct associated with this matter which has been presented.

/s/Christopher Stoller

/s/ Michael Stoller

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I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief. That the attached Appendix 1 through 11 contain true and correct copies of the Original documents.

/s/Christopher Stoller

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