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AMY M. WOOD
CLERK OF THE COURT

Court of Appeals
STATE OF ARIZONA
DIVISION ONE
STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007

Phone: (602) 452-6700
Fax: (602) 452-3226

WILMINGTON TRUST NATIONAL)
ASSOCIATION,)
)
Plaintiff/Appellee,)
)
v.)
)
CHRISTOPHER STOLLER, et al.,)
)
Defendants/Appellants.)

NOTICE OF FILING A MOTION TO DISQUALIFY ATTORNEYS

TO: Joseph J. Tirello Jr Esq
jtirello@zbslaw.com
Zieve, Brodnax & Steel LLP
3550 North Central Avenue,
Phoenix, AZ 85012

Clerk of the Appeals Court
Arizona Court of Appeals
Division One
1501 West Washington Ste 20 Phoenix Az 85004
Phoenix Arizona 850007

Michael Bailey
U.S. Attorney
40 N. Central Ave

PLEASE TAKE NOTICE that Illinois Appellants file with the Clerk of the Court, a Motion to Disqualify Attorney's **Joseph Triello and Kim R. Quam** and their law firm **Zieve Brodnax & Steel LLP**. And Request to Vacate the September 5, 2019 *ex parte* eviction judgment (AR023 & AR024)(**Appendix 19**)

Respectfully Submitted

/S/ **Christopher Stoller** E.D. pro per

/s/ **M Stoller**

PROOF OF SERVICE

I caused the foregoing to be served on the party listed via U.S mail first class, from Chicago Illinois, prepaid by mailing a copy to the parties identified on the service list and/or by email jtirello@zbslaw.com, AZEviction@zbslaw.com on 4-20-20.

/s/**Christopher Stoller**

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

Motion¹ to Disqualify Joseph Triello and Kim R. Quam and their law firm Zieve Brodnax & Steel LLP

Appellee/Defendants move to disqualify **Joseph Triello** and **Kim R. Quam** and their law firm **Zieve Brodnax & Steel LLP** from Representing Plaintiff/Appellee

¹ All Appendix's (Exhibits) referred to in this Motion to Disqualify are attached to the Appellant's attached Motion for Judicial notice are incorporated herein by reference, as well as the Appellant's Motion for Judicial Notice, is also incorporated herein by reference as if fully copied and attached.

Wilmington Trust Corporation a well known criminal enterprise (**Appendix 17**)², 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 “fraud³”, a malicious criminal conspiracy to unlawfully acquire (AR023 & AR024)(**Appendix 19**) the Appellant/ Defendants’ real property (**Appendix 3**) Commonly known as: 28437 N. 112th Way, Scottsdale, Arizona 85262 and are now attempting to sell it for over **\$500,000.00** (**Appendix 27**).

To accomplish this unlawful and criminal purpose, the well known felonious enterprise (**Appendix 17**) **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 1**) known as **ALRP Securitization Trust, Series 2014-2** (“ALRP”) 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**)⁴ and to represent **Washington Trust Corporation**, not in its individual capacity, but as

² 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**)

³ 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

⁴ 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.

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 Oct. 30, 2018 (Appendix 2)(RA0001)**, 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 counsel , Joseph Triello and Kim R. Quam knew was not a resident of the subject property 28437 N. 112th 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)(RA0001)** that **Philip Stone** was in fact a Maricopa County resident and that **Philip Stone** was a resident of the subject property on **Oct 30, 2018**, 28437 N. 112th Way, Scottsdale, Arizona 85262. Defendant/Appellant Christopher Stoller and Michael Stoller latter joined in the eviction lawsuit (**Appendix 2)(RA0001)****

Joseph Triello and Kim R. Quam representation of Appellee/Plaintiff in this appeal violates several Arizona Rules of Professional Conduct Ethical Rule 1.7, ER 3.1, ER 3.3(a), ER 8.4(b),(c) & (d)

Appellants brings this Motion promptly at the early stages of this Appeal in that the Appellant has not yet even filed an opening brief. Disqualification would not work a substantial hardship on the Appellee. Appellant is filing this motion at the early stage of this appeal., permitting ample time for Appellee to retain new counsel. Appellant would agree to an extension of time to accomplish this purpose.

No other attorney at the law firm of **Zieve Brodnax & Steel LLP**, should be permitted to represent the Appellee for the reasons stated in this brief and in the attached Judicial Notice.

Background

The court should be advised that the underlying eviction judgment)(RA0023)(RA0024) (**Appendix 19**) which is the subject of this appeal, is no “ garden variety” appeal of a lawful eviction *ex parte* default judgment dated **Sept. 5, 2019** (RA023& RA024)(**Appendix 19**), unlawfully awarded to the Plaintiff/appellee **ARLP** Trust, an entity that had NO ownership interest in the subject property Commonly known as: 28437 N. 112th Way, Scottsdale, Arizona 85262. Appellant/Defendants’ are the owners of the subject property and hold a warranty deed to the said property (**Appendix 3**).

The Appellee/Plaintiff secured a fraudulent *ex parte* fraudulent eviction judgment⁵ on **September 5, 2019**)(RA0023)(RA0024) (**Appendix 19**), was a defunct entity (**Appendix 1**)⁶, with no standing to maintain a civil action within the State of Arizona.

The **September 5, 2019** *ex parte* default Judgment (RA0023)(RA0024) (**Appendix 19**) that the Illinois Appellants are appealing, the record will show by irrefutable evidence, was procured by **fraud on the trial court**⁷. The Appellants are

⁵ Which is the subject of this appeal

⁶ The Appellants’ reference(s) to Appendixs in this brief, the original documents are all attached to the Appellant’s Motion for Judicial Notice, incorporated herein by reference as if fully copied and attached.

⁷ Attorney **Joseph Triello** and **Kim R. Quam**, officers of the court committed **fraud** during this proceeding in before Judge **David W. Garbarino**. Attorney **Joseph Triello** and **Kim R. Quam**

presenting prima facie and irrefutable judicial evidence⁸ that Appellee's Attorneys **Joseph Triello and Kim R. Quam** and their law firm, a well known "eviction and foreclosure mill," operating out of a Phoenix office, **Zieve, Brodnax & Steel LLP**, who are responsible for filing the Original fraudulent eviction action (RA0001)(Appendix 2), on **October 30, 2018**, under the color of law, for the Appellee. Then without any notice from the Appellee, Appellee moved in for the ill shot, by fraudulently inducing Judge **David W. Garbarino** to grant them an *ex parte* default judgment (RA023& RA024)(Appendix 19) on Sept 5, 2020 by **intrinsic fraud**⁹

are engaged in "**fraud upon the court**". In **Bulloch v. United States**, 763 F.2d 1115, 1121 (10th Cir. 1985), the court stated "Fraud upon Judge **David W. Garbarino** is fraud which is directed to the judicial machinery itself and is not fraud between the parties or fraudulent documents, false statements or perjury. ... It is where the court or a member is corrupted or influenced or influence is attempted or where the Judge **David Garbarino** has not performed his judicial function --- thus where the impartial functions of Judge **David Garbarino** been directly corrupted" as in the case at bar. "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 (**Joseph Triello and Kim R. Quam**) so that the judicial machinery **can not** 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 (**September 5, 2019 (Appendix 19)(RA0023)(RA0024)**) produced by fraud upon the court is **not** in essence a decision at all, and never becomes final." The decision that was produced by the Appellee and their lawyers **Joseph Triello and Kim R. Quam** was the **Sept. 5, 2019 Judgment (Appendix 19)(RA0023)(RA0024)**⁸ See attached **Motion for Judicial Notice** which is incorporated herein in support of the Appellants' Motion to Disqualify **Joseph Triello and Kim R. Quam and their law firm Zieve, Brodnax & Steel LLP**.

9 "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). Under 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).

Appellee's counsel **Joseph Triello** the record here will show, that Mr. Triello committed fraud on the court¹⁰ and the attorney Joseph Triello committed **perjury**, when he signed the Original complaint (**RA0001**)(**Appendix 2**) under oath.

The record before this court will evidence show¹¹ that Appellee's counsel, Attorney **Joseph Triello's perjury**, was **endorsed** and **ratified** by his partner Attorney **Kim R. Quam** and their Law firm of **Zieve, Brodnax & Steel LLP**.

What is playing out now in front of the eyes of this court this court and the lower court is direct criminal contempt a fraudulent eviction (**Appendix 19**)(**RA0023**)(**RA0024**) proceeding with the Appellee's and their attorneys attempting to unlawfully sell the home (**Appendix 27**) the court is requested to take judicial notice of the Appellee's fraud¹², unlawfully trying to sell the Appellants' real estate listing (**Appendix 27**) of the Appellants home (**Appendix 3**).

Joseph Triello a necessary fact witness, his participation as counsel violates E.R. 3.7.

Attorneys **Joseph Triello** and **Kim R. Quam** are necessary fact witnesses, there participation as counsel violates **E.R. 3.7**. may be required testify as witnesses. Attorneys **Joseph Triello** and **Kim R. Quam** clearly are critical witnesses in this case who will likely be examined by both sides.

The Record will show that Appellee's Attorneys **Joseph Triello** and **Kim R. Quam** both individually and together violated the **Arizona Rules of Professional**

¹⁰ 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 can not 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 (RA023& RA024) produced by fraud upon the court, is not in essence a decision at all, and never becomes final." This court is requested to vacate the trial court's **Sept 5, 2019** Order (**Appendix 19**) .which is the subject of this appeal with prejudice

¹¹ See also Appellant's Motion for Judicial Notice filed along with Appellants' Motion to Disqualify incorporated herein by reference, as if fully copied and attached.

¹² 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

Conduct committed a fraud on the court in the underling eviction and directly before this court with its filings made before the Arizona Appellate court.

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 **Joseph Triello** and **Kim R. Quam**, officers of the court so that the judicial machinery can not 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 *ex parte* default judgment (RA023 & RA024)(**Appendix 19**) this court is requested to set it aside with prejudice.

.

What is playing out now in front of this court and the lower court is a fraudulent eviction, a fraud on the court (**Appendix 19**)(RA0023)(RA0024).

The record here clearly establishes that Joseph Triello, violated he Arizona Rules of Professional Conduct¹³. **ER¹⁴ 3.1, ER 3.3(a)¹⁵, ER 8.4(b),(c) & (d)¹⁶** and

¹³ Appellant Christopher Stoller 71 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**) attached to the Appellants' Judicial Notice incorporated herein by reference. www.rentamark.net.

¹⁴ 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.

¹⁵ 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 2**) 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.

committed **perjury**. **Joseph Triello's** Perjury was endorsed and ratified by his partner **Pam R. Quam** before the Arizona Appellate Court in her pleadings filed before the Arizona Appellate Court, in this case, in direct criminal contempt¹⁷.

STANDARD OF REVIEW

The 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

¹⁶ 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 RA0001(**Appendix 2**) and committed perjury. **Kim Quan** violated ER 8.4(b) by ratifying and endorsing the perjurious Eviction lawsuit (RA0001)(**Appendix 2**)

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 Tirello filed the frivolous eviction lawsuit (RA0001)(**Appendix 2**) 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 **perjurious , fraudulent eviction complaint** (RA0001)(**Appendix 2**) **Kim R. Quam** violated ER 8.4(d) by endorsing and ratifying her partner Joseph Triello writing and filing a perjurious , fraudulent eviction complaint (RA0001)(**Appendix 2**)

¹⁷ 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.

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 a responsibility to maintain public confidence in the legal profession.¹⁸”

Attorneys **Kim Quam** and **Joseph Triello** and their law firm **Zieve, Brodnax & Steel LLP** 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, such as the case at bar, should a party to a lawsuit be allowed to interfere with the attorney-client relationship of his opponent." *Alexander v. Superior Court In and For Maricopa County*, [685 P.2d 1309, 1313](#) (Ariz. 1984).

Relying on Ethical Rule 1.7, ER 3.1, ER 3.3(a), ER 8.4(b),(c) & (d)

Appellant argues that **Kim Quam** and **Joseph Triello** should be disqualified from representing Plaintiff Marchant and Jagelski in the present case because **Kim Quam** and **Joseph Triello** violated ER 3.3(a) when they filed eviction lawsuit and all subsequent pleadings in this matter.

Appellants/defendants argues that **Kim Quam** and **Joseph Triello** should be disqualified under Ethical Rule **ER 3.1, ER 3.3(a), ER 8.4(b),(c) & (d)** 3.7 a

¹⁸*Jamieson v. Slater* United States District Court, D. Arizona Nov 27, 2006

No. CV 06-1524-PHX-SMM (D. Ariz. Nov. 27, 2006). *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))

outline in detail here and in the Defendant/Appellants' Motion for Judicial Notice incorporated herein by reference as if fully copied and attached.

The Appellants/Defendants moving for disqualification have satisfied "the high standard of proof"¹⁹. " *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).

A. Appellants Defendants have Standing

Appellants/Defendant have standing to raise the ethical issues supporting the disqualification of Plaintiffs' counsel. See *Dr. Jamieson v. Slater*, 2006 WL 3421788, *5 (D. Ariz. 2006).

Appellant/Defendant Christopher Stoller, the Executive Director of the Americans' for the Enforcement of Attorney Ethics (AEAE) (**Appendix 16**) has the exact same obligation to report ethical violations to the Arizona Appellate Court. See *Jamieson*, 2006 WL at *5.

Appellant/Defendant Motion to Disqualify has **not** been filed for tactical reasons. *Id.* Appellant/Defendant legitimate reasons for seeking disqualification are clearly set forth in the Motion for Disqualification and in the accompanying Motion for Judicial Notice, making misstatements of material fact or law to **Judge David W.**

¹⁹ See Appellant/Defendant's Motion for Judicial Notice which is incorporated herein by reference.

Garbarino fraud on the court, direct criminal contempt, perjury and subornation of perjury .

Moreover, the Appellant minimized any disruption to *non jural* Appellee/ Plaintiff by filing this Motion near the commencement of this Appeal, and the Appellant/Defendants will accommodate any extensions necessary for *non jural* defunct entity Appellee/Plaintiffs to obtain new counsel in the event that the court does not grant the Appellant the relief that it is also seeking the .

Plaintiffs' suggestion that their interests are "aligned" with those of their counsel is of no moment. This case involves numerous claims based on numerous factual allegations of purported wrongful conduct by multiple defendants. The proprietary interests of Plaintiffs' counsel are limited to their own copyrights and reputational interests. During the course of this lawsuit, Plaintiffs' counsel will likely be faced with numerous decisions that will benefit certain litigation goals at the expense of others. A final judgment conceivably could be rendered that favors certain of Plaintiffs' interests but not those of Plaintiffs' counsel, and vice versa.

For each of the reasons set forth in the QED Parties' Motion and this reply, Plaintiffs' counsel should be disqualified from representing Plaintiffs in this case

Although the Arizona Rules of Professional Conduct and Arizona case law govern motions to disqualify,

Federal law dictates the question of standing. See Fiedler v. Clark, [714 F.2d 77, 80](#) (9th Cir. 1983) (state law cannot alter federal standing requirements). The requirements for Article III standing, which apply to anyone seeking relief from a court, are that a party must have personally suffered an "injury in fact," which is causally related to the conduct at issue and redressable by a favorable decision of the court. See Lujan v. Defenders of Wildlife, [504 U.S. 555, 560-61](#) (1992)..

The Appellant has non-client standing where as her "ethical violation(s)" are "manifest and glaring" or "open and obvious," confronting the court with a "plain duty to act." Yarn Processing, [530 F.2d at 89](#).

A non-client litigant may bring a motion to disqualify opposing counsel. See Colyer, 50 F.Supp.2d at 970-71. Relying on the well-recognized power of courts to control the conduct of attorneys practicing before them, courts embracing the minority view "locate in the ethical standards and reporting duties imposed on attorneys by the Model Code of Professional Responsibility and the Model Rules of Professional Conduct a source of 'rules-based' standing in attorneys seeking to disqualify opposing counsel for ethical violations." Id. at 970. For example, in Kevlik v. Goldstein, 724 F.2d 844 (1st Cir. 1984), the First Circuit Court of Appeals rejected the view that only an aggrieved client could move to disqualify a disloyal current or former attorney, and held that the non-client plaintiffs' attorney had standing to bring a motion to disqualify opposing counsel. Id. at 847-48. The Kevlik Court relied on the Model Code of Professional Responsibility's requirement that attorneys with knowledge of ethical violations report those violations to "a tribunal or other authority empowered to investigate or act upon such violation." Id. at 847. Because the plaintiffs' attorney in Kevlik was empowered, and indeed obligated, to report the conflicted status of opposing counsel, he could properly do so by filing a motion to disqualify. Id.; see also Melamed v. ITT Continental Baking Co., 592 F.2d 290, 294 (6th Cir. 1979) ("[defense] counsel . . . had a right and arguably a duty to call the attention of the t Judge to the possible conflict of interest in this case"), disapproved on other grounds, Firestone Tire Rubber Co. v. Risjord, 449 U.S. 368, 379 n. 15 (1981).

The Appellant/Defendant has established a personal stake in it's Motion to Disqualify that provides it with standing to request that **Kim Quam** and **Joseph Triello** and their law firm **Zieve, Brodnax & Steel LLP** be disqualified from representing Marchant and Jagelski.

First, Plaintiff has demonstrated that an ethical breach of conduct by Slater in representing Marchant and Jagelski would likely have a negative impact on her interest in obtaining a just and lawful determination of the claims at issue. As a result, the prudential barrier to litigating the rights and claims of third parties is overcome by the Court's inherent obligation to manage the conduct of attorneys who appear before it and to ensure the fair administration of justice. See Chambers v. NASCO, Inc., 501 U.S. 32, 43-44 (1991); see also Gas-A-Tron of Ariz., 534 F.2d at 1324 (whenever an allegation is made that an attorney has violated his

moral and ethical responsibility "[i]t is the duty of the district court to examine the charge"); Yarn Processing, [530 F.2d at 89](#) (where an "ethical violation" is "manifest and glaring" or "open and obvious," confronting the court with a "plain duty to act," a non-client litigant's motion to disqualify should be addressed).

Second, permitting Plaintiff — a non-client litigant — to raise the issue of disqualification is particularly appropriate in the District of Arizona and in the Arizona Appellate Court because the Arizona Rules of Professional Conduct require attorneys to report ethical violations comparable to the ethical rules in the Model Code of Professional Responsibility relied on by the Kevlik Court and others. See Ethical Rule 8.3(a) (A party who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority. . . ."). Because Ethical Rule 8.3(a) authorizes and requires Appellant/Defendant's to report the misconduct, fraud and criminal acts of conflicted status of **Kim Quam** and **Joseph Triello** and their law firm **Zieve, Brodnax & Steel** LLP he could properly do so by filing the instant Motion to Disqualify .

Third, the Court by carefully scrutinizing the record in the present case, reveals that there is no evidence that Appellant/Defendant's Motion to Disqualify has been filed for tactical reasons. Appellant/Defendant promptly moved for disqualification, before filing it opening Appeal brief.

Fourth, the Court is asked to disqualify **Kim Quam** and **Joseph Triello** and their law firm **Zieve, Brodnax & Steel** LLP .

1. Appellant/Defendants have presented irrefutable evidence, that was presented to the trial court and ignored, which makes it rep for this court to consider it which establishes that the Appellee's Eviction lawsuit (RA0001)(**Appendix 2**) is a nullity. The *ex party* default judgment (RA023& RA0243) is void *ab initio*. **The Court is requested to 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 **Kim Quam** and **Joseph Triello** and their law firm **Zieve, Brodnax & Steel LLP** knowingly acted with malice, fraud, intrinsic 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 non jural defunct entity ARLP and their attorneys **Kim Quam** and **Joseph Triello** and their law firm **Zieve, Brodnax & Steel LLP** have acted and through a continuing course of conduct acted, with willful and wanton misconduct. The 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, eviction lawsuit, naming **Philip Stone** defendant, who **Kim Quam** and **Joseph Triello** knew was **not** a resident of Maricopia County, not a resident of the said property, **Kim Quam** and **Joseph Triello** knew 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**.

2. The Doctrine of Unclean Hands is an equitable doctrine that bars the Appellee/Plaintiff from relief, because the said Plaintiffs and their attorneys **Kim Quam** and **Joseph Triello**, the evidence clearly show that they are guilty of misconduct in connection with the subject matter of this litigation. See also the Appellant’s Judicial Notice, incorporated herein by reference. The Appellee/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 doing, and are guilty of “unclean hands” and criminal wrong doing see Appellant’s Motion for Judicial Notice.



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3. (b) A lawyer **Les Zieve, the ring leader**, 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 commit fraud on the court and *intrinsic* fraud, by procuring the *ex parte* **Sept. 5, 2019** default judgment (RA023 & RA024)(**Appendix 19**) 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 Motion to Disqualify **Kim Quam** and **Joseph Triello and their law firm of Zieve Brodnax & Steel LTD** are so clear that expedited action is justified .

In addition 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 that 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.

WHEREFORE, the Appellants request 1. The Court to disqualify **Kim Quam** and **Joseph Triello and their law firm of Zieve Brodnax & Steel LTD**. 2. To vacate with prejudice, the trial court's Order dated September 5th 2019 (RA023& RA024)(**Appendix 19**) 3. To enter an order disgorging all legal fees paid to the **law firm of Zieve Brodnax & Steel LTD** by the Defendants. 4. Enter the proposed form of order submitted with this Request.

5.. The Court has an obligation to Refer Attorneys **Kim R. Quam** and **Joseph Triello to the U.S. Justice Department for a perjury investigation and the Arizona Bar Association for an investigation of professional misconduct associated with this matter which has been presented.**

6. To issue a permanent injunction against the Plaintiff from claiming any ownership interest to the Defendants real property identified as

/s/ Christopher Stoller

/s/ Michael Stoller

Christopher Stoller, E.D Pro Per
P.O. Box 60645
Chicago, Illinois 60660
(773) 746-3163
cns40@hotmail.com

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 Appendix1 thru 18 contain true and correct copies of the Original documents.
Signed on the 22th day of April, 2020.

/s/ Christopher Stoller

Christopher Stoller, Pro Per
P.O. Box 60645
Chicago, Illinois 60660
(773) 746-3163
cns40@hotmail.com



Court of Appeals

STATE OF ARIZONA
DIVISION ONE
STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007

AMY M. WOOD
CLERK OF THE COURT

Phone: (602) 452-6700
Fax: (602) 452-3226

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.)	

Order

This matter comes to be heard on the Appellants Motion for Judicial Notice and Motion to Disqualify Attorneys , Kim R. Quam Joseph Triello and the law firm of Zieve Brodnax & Steel LTD and to vacate ex parte default eviction judgment dated September 5, 2019 the court being fully advised in the premises.

IT IS HEREBY ORDERED:

The court grants **the Appellant/defendants Motion for Judicial Notice of 28 attached Exhibits.**

The court grants the Appellant/Defendants Motion to Disqualify **Kim R. Quam Joseph Triello** and the law firm of **Zieve Brodnax & Steel LTD** from **representing** Wilmington Trust National Association, not in its individual capacity but as Trustee for the non jural defunct entity ARLP Securitization Trust, Series 2014-2.

The court issued a declaration that the entity ARLP Securitization Trust, Series 2014-2. Is a non jural defunct entity with no standing to maintain a civil action in the State of Arizona.

The court vacates the **final September 5th, 2019 final eviction judgment (RA023 & RA024)(Appendix 19) with prejudice.**

The Court orders the Wilmington Trust National Association to pay the Defendant/Appellants \$3,000.00 per month since Dec 1, 2019 plus the maximum amount of interest.

The Appellee/Defendants are ordered immediately to return possession of the subject property 28437 N. 112th Way, Scottsdale, Arizona 85262 to Appellants/Defendants within 24 hours of the date of this order.

The court issues a permanent injunction on behalf of the Appellant/Defendants to enjoin the Wilmington Trust National Association and the ARLP Trust from every claiming any ownership to the subject property 28437 N. 112th Way, Scottsdale, Arizona .

The court issues an order disgorging all fees paid by the Plaintiff/Appellee to the law firm of **Zieve Brodnax & Steel LTD those funds are to be repaid to the Clerk of the Court within seven days of the date of this order.**

.The Court issues an order Referring Attorneys **Kim R. Quam** and **Joseph Triello to the U.S. Justice Department for a perjury investigation** and the Arizona Bar Association for an investigation of professional misconduct associated with this matter which has been presented.

ENTERED



Court of Appeals

AMY M. WOOD
CLERK OF THE COURT

STATE OF ARIZONA
DIVISION ONE
STATE COURTS BUILDING
1501 WEST WASHINGTON STREET
PHOENIX, ARIZONA 85007

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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.)	

ORDER OF REFERRAL TO UNITED STATES ATTORNEY AND TO THE ARIZONA BAR ASSOICATION

This case is referred to the United States Attorney for investigation of the possible perjury of **Joseph J. Tirello** and possible subornation of perjury of **Kim Quam** . Said evidentiary record is described in detail in the attached Judicial Notice and the court’s order, also issued today, on Christopher Stoller’s Request for Referral to the Justice Department and the Arizona Bar Association. The Court takes no position on whether a prosecution is or is not warranted, a decision entirely up to the Unites States Attorney and the Arizona Bar Association. The Clerk shall please send a copy of this order to the Unites States Attorney and to the Arizona Bar Association for a Professional Misconduct Investigation..

IT IS SO ORDERED.

