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COURT OF APPEALS

STATE OF ARIZONA, DIVISION ONE

Shirley D. Stone and John W. Stone

Appellants/Plaintiffs,

vs.

Kent and Christina Harding, Law Offices of  
Scott M. Clark, Scott M. Clark and Paul A.  
Henderson

Appellees/Defendants

Court of Appeals Division One –  
Case No. 1 CA-CV 07-0770

Maricopa County Superior Court  
Case No. CV2006-050748

**APPELLANTS’ MOTION  
REQUESTING COURT TO  
TAKE JUDICIAL NOTICE OF  
ADJUDICATED FACTS, THIS  
COURT’S RECORD, AND SUPREME  
COURT OF AZ RULES OF  
PROFESSIONAL CONDUCT  
RELEVANT TO SUPPORT  
APPELLANTS’ MOTION  
FOR SANCTIONS AND  
MOTION FOR CONTEMPT  
PURSUANT TO ARIZONA RULES OF  
EVIDENCE, RULE 201**

Comes Now Appellants’, with “Appellants’ motion requesting court to take judicial notice of adjudicated facts, and the Supreme Court of AZ Rules of Professional Conduct, relevant to support Appellants’ motion for sanctions and motion for contempt pursuant to Arizona Rules of Evidence, Rule 201.

This Judicial Notice is germane to the Court because it provides relevant pertinent facts evidenced in the record that assists the Court in making a fair adjudication of the issues and by protecting itself from becoming an accomplice to the very fraud that is being waged against it.

The Appellants’ motions for sanctions and contempt are based on the federal court orders evidenced in the court’s record and herein, providing that the orders were rendered subsequent

1 to and well after the issuance of the core and dispositive issue. The core and dispositive issue is  
2 the August 4, 2005 forcible detainer (FED) hearing, which resulted in the rendering of the  
3 August 10, 2005, (FED) judgment of Restitution, which has been subsequently vacated as void  
4 for lack of jurisdiction, pursuant to 11 U.S.C.A. § 362.

5 The opinions of the judges in the federal orders have been presented in the court record  
6 by the Appellees as their defense and by the Appellants to disprove their defense; however, the  
7 final orders have not been presented, giving rise to this judicial notice.

8 The adjudicated facts are as follows:

9  
10 1. On December 1, 2005, Phoenix Federal Judge Stephen McNamee rendered his  
11 opinion followed by his order(s) stating on page 7, line 11-22, and continuing to page 8 lines 1-  
12 4, “Therefore, It is hereby Ordered” giving five specific and direct orders; however, there is no  
13 order indicating an adjudication of the forcible detainer (FED) action. See Exhibit A herein.

14 2. On December 20, 2005, Tucson Federal District Court Judge David Bury rendered his  
15 opinion followed by his order(s) stating on pages 21-23, “Accordingly it is ordered” giving 14  
16 specific direct orders; however, again, there is no order indicating an adjudication of the forcible  
17 detainer (FED) action. See Exhibit B herein.

18  
19 3. On February 3, 2006, Judge Bury rendered his opinion followed by his order(s) stating  
20 on pages 3, and 4, “Accordingly it is ordered” stating six separate and direct orders. Again, no  
21 order was given indicating a judgment on the validity of the forcible detainer FED action. **See**  
22 **Exhibit D herein.**

23 4. On September 29, 2008, Phoenix Federal District Court Judge Mary H. Murguia  
24 rendered her opinion on the same core issue presented in Appellants’ civil rights violation claim  
25

1 and other torts that was based on violations of due process rights and other violations because  
2 the forcible detainer FED action that proceeded against the Appellants in violation of the  
3 bankruptcy automatic stay, was without jurisdiction of court, and without a complaint and  
4 proper service for the September 8, 2005 eviction.

5 In federal Judge Murguia's order on pages 15 and 16, she states, "Accordingly it is  
6 ordered" giving 10 specific direct orders, stating on page 15 lines 9 and 10 that, "The Court finds  
7 that each claim raised by Plaintiffs", the Stones, "in their amended complaint is barred on the  
8 grounds of res judicata or collateral estoppel". **See Exhibit C.**

9  
10 5. In Judge Murguia's order, she sets-forth how she came to deciding that the doctrine of  
11 res judicata and collateral estoppel apply in her opinion on page 7 lines 5-28 specifically stating  
12 on lines 6 and 7 that, "Stephen McNamee ruled on the merits of the Stones' claims regarding the  
13 forcible detainer".

14 6. Judge Murguia sets-forth in her order on page 15 lines 11 and 12 that, "It is furthered  
15 ordered granting defendants Clark, Henderson, Harding, Boyle's motion to reaffirm the  
16 vexatious litigant order of Judge Bury. (Dkt.# 28).

17  
18 7. As the orders evidences, neither Judges McNamee, nor Bury made any "it is ordered"  
19 command indicating an "adjudication" on the validity of the Forcible Entry Detainer Judgment  
20 of Restitution issued against the Stones and favor of the Hardings by former Peoria Justice Lex  
21 Anderson on August 10, 2005, nor is there an order labeling the Stones "vexatious litigants".

22 8. The Supreme Court of Arizona Rules of Professional Conduct provides that no judge  
23 or attorney can conceal state crimes and obstruct the administration of justice.

24 See,  
25

- 1 1. ER 3.3 - Professional ethics. CANDOR TOWARD THE TRIBUNAL
- 2 2. ER 3.4 - FAIRNESS TO OPPOSING PARTY AND COUNSEL
- 3 3. ER 3.5 - IMPARTIALITY AND DECORUM OF THE TRIBUNAL
- 4 4. ER 8.3 REPORTING PROFESSIONAL MISCONDUCT
- 5 5. ER 8.4 - MISCONDUCT

6 **WHEREFORE**, for the foregoing reasons, the appellants/plaintiffs request the court to  
7 take judicial notice of the above stated adjudicated facts for the determination of the Appellants  
8 motion for sanctions and motion for contempt..

9  
10 Respectfully submitted this day of 9<sup>th</sup> day of October 2008.

11  
12 By: John W. Stone

13  
14 **CERTIFICATE OF SERVICE**

15 The original and 4 copies of the foregoing filed this 9<sup>th</sup> day of October 2008 with:  
16 Clerk of the Court of Appeals and a copy mailed to:

17  
18 Joseph M. Boyle  
19 7243 N. 16<sup>th</sup> Street  
20 Phoenix, AZ 85020  
Attorney for defendants Harding, Clark, and Henderson

21 Judge Margaret Murguia  
22 Clerk of the Court  
23 United States Federal District Court  
24 Sandra Day O'Connor Courthouse  
25 401 West Washington Street  
Phoenix, AZ 85003-2158