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July 11, 2012

**Chair & Public Members**

State of Arizona  
Commission on Judicial Conduct  
1501 W. Washington Street, ste 229  
Phoenix, AZ 85007

**RE: COMMISSION RESPONSE TO  
COMPLAINT OF JUDICIAL MISCONDUCT  
Judge Robert Carter Olson, Pinal County  
*DC Lot Owners v. Maxwell & Morgan*, CV 2010-004684  
CJC Case No. 12-148**

Dear Sirs:

As Public Members of the Commission I am calling to your attention this protectionist attitude by the Staff Attorney in response to my simple and straight-forward complaint against Judge Olson (Exhibit A). The tone of the letter gives the impression of another angry person filing wild and unsupported accusations against a judge. It is condescending, insulting and attacks the messenger without any reference to conducting a duty bound investigation into the easily verifiable facts -- the court records themselves.

The information that I provided is more than sufficient for a bona fide investigation of the facts by the Staff Attorney. Just 10- 20 minutes on the Internet Pinal County case public information web page, followed by a call to the Pinal County Superior Court Clerk, as I undertook, would quickly and independently verify the complaint (Exhibit B) that the court records were sealed in violation of Rule 123(d) – public access has been denied and denied without notice.

It appears that the Staff Attorney is more interested in uncovering an alleged whistleblower, the person who let the cat out of the bag. Her questions reflect knowledge of the content of the complaint and Section I, The Public Right to Know and Judicial Conduct, of the Motion to Unseal (Exhibit C), and a rejection of the signed affidavit of truth of the complaint. The case was assigned to Judge Olsen who is

the only person to cause the records to be hidden from the public (Exhibit D). A dismissal could only occur as a result of a settlement, which admits to all or some restitution by the defendants, the former HOA attorneys.

Her response is disparaging on the public in general and a personal insult. I find this response indicative harmful to the appearance of justice and integrity of the Arizona judicial system. It is not in accord with The Arizona Rules of Judicial Conduct, Rule 81, which emphasizes that “an independent, fair, and impartial judiciary is indispensable to our system of justice” and that the judiciary is to preserve the “principles of justice and the rule of law.” Judges “should aspire at all times to conduct that ensures the greatest possible public confidence.”

If the Commission as the watchdog of the Arizona judiciary fails in its duties, then the judicial system as watchdog over the government of Arizona also fails in its duties to uphold the Constitution.

This case has broad impact on the HOA industry and on the people living within HOAs, an estimated 23% of Arizona residents who have the right to know. In keeping with the tenets of Rule 81, I am asking the Commission to conduct a fair investigation of the court’s own records to determine if any justifiable reason existed under Rule 123 to what amounts to a cover up of the case.

Respectfully submitted,

George K. Staropoli  
President  
Citizens for Constitutional Local Government

PS. As of this writing, the records of the DC Lot case are still not available on the Pinal County’s public info web page.

## **EXHIBIT A. Staff Attorney Reply**

Louis Frank Dominguez  
Judicial Member  
Chair  
Lawrence F. Winthrop  
Judicial Member  
Vice Chair  
Colleen E. Concannon  
Public Member  
Secretary  
Roger D. Barton  
Public Member  
Peter J. Eckerstrom  
Judicial Member  
George H. Foster, Jr.  
Judicial Member



### **COMMISSION ON JUDICIAL CONDUCT**

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Sherry L. Geisler  
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Catherine M. Stewart  
Attorney Member  
J. Tyrrell Taber  
Attorney Member

George A. Riemer  
Executive Director

July 6, 2012

### **CONFIDENTIAL**

George Staropoli  
5419 E. Piping Rock Road  
Scottsdale, AZ 85254

**Re: Case No. 12-148**

Dear Mr. Staropoli:

I am conducting an initial, confidential investigation of your complaint and I need some more information from you to clarify your allegations. Please answer the following questions at your earliest convenience:

1. What is your relationship to Case CV 2010-004684?
2. If you are not a party to the matter, how did you receive information about the case being filed, sealed and dismissed? In other words, what is the basis for your allegation that this case was improperly sealed?
3. If you believed the matter was improperly sealed, why did you prepare but choose not to file your Motion to Unseal Court Records?
4. Is there any other specific information or evidence you can provide that would substantiate your allegations that Judge Carter Olson improperly sealed this case?

Thank you for your cooperation and assistance. In order to assist my investigation, I will need to receive your response on or before July 23, 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Perkins".

Jennifer Perkins  
Staff Attorney

## **Exhibit B. Filed Complaint Letter**

State of Arizona  
Commission on Judicial Conduct  
1501 W. Washington Street, ste 109  
Phoenix, AZ 85007

May 30, 2012

George K. Staropoli, third-party member of the public  
5419 e. Piping Rock Rd  
Scottsdale, AZ 85254  
602-228-2891 (D/E)

### **COMPLAINT OF JUDICIAL MISCONDUCT**

#### **Against**

Robert Carter Olsen (presumably as he was the assigned judge)  
Pinal County Superior Court

#### **Concerning**

The sealing of this civil case records in violation of the Arizona Rules of the Supreme Court, Rule 123(d) that requires a statement to be made giving the reasons for the sealing of case records. There is no record of this case on the Pinal County Superior Court official public website, not even an entry that the case was sealed, and not even an entry that the case was dismissed. Like a Star Chamber secrecy procedure, the public's right to know has been trampled on. See the enclosed Motion to Unseal, which was denied by the court clerk. Serious charges against these attorneys were made by a court appointed receiver, and the public has a constitutional right to know.

**DC Lot Owners v. Maxwell & Morgan, CV 2010-004684**  
Dismissed in January 2011(?)

#### **Attorneys (to the best of my knowledge)**

Cheiftez Iannetelli & Marcolini, for the Plaintiff  
Maxwell & Morgan, Defendants  
Mariscal Weeks, McIntyre & Friedlander, for the insurance company  
Lewis Brosbois Bisgard & Smith  
Thomas Schern Richardson  
Marc R. Lieberman

**I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the attached complaint are true.**

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May 31, 2012

## **EXHIBIT C. Excerpt from rejected Motion to Unseal Records**

### **I. Public Right to know and judicial conduct**

A. Rule 123(c), Public Access to the Judicial Records of the State of Arizona, of the Arizona Rules of the Supreme Court pertaining to Judicial Conduct, states that all court records are presumed to be open to the public, except for confidentiality, privacy or if in the best interests of the state. Rule 123(d) requires the court to show cause for sealing “some court records,” including the legal basis for such action. This sub-rule lists several broad categories of exceptions, such as certain juvenile records, criminal records, and judicial work products and drafts, none of which have any bearing on this civil case. None of the records are available to the public on it Pinal County Superior Court official webpage. George K. Staropoli [“Staropoli”] asks that these court records be immediately made public to avoid any appearance of impropriety. “Impropriety” is defined as conduct that “undermines a judge’s independence, integrity, or impartiality.”

B. The Arizona Rules of Judicial Conduct, Rule 81, emphasizes that “an independent, fair, and impartial judiciary is indispensable to our system of justice” and that the judiciary is to preserve the “principles of justice and the rule of law.” Judges “should aspire at all times to conduct that ensures the greatest possible public confidence.” It is inconceivable as to what state interests exist that would overwhelmingly override these precepts, and not to inform the public accordingly.

**EXHIBIT D. Cover page of sealed DC Lot Owners v. Maxwell & Morgan**

FILED PINAL COUNTY  
SUPERIOR COURT  
KRISTI YOUTSEY RUIZ

NOV 19 2010

1 John J. Smalanskas (016027)  
2 jjs@cimlaw.com  
3 Shaleen D. Brewer (021440)  
4 sdb@cimlaw.com  
5 CHEIFETZ LANNITELLI MARCOLINI, P.C.  
6 111 West Monroe Street, 17<sup>th</sup> Floor  
7 Phoenix, Arizona 85003  
8 (602) 952-6000

9 Attorneys for Plaintiff

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
11 **IN AND FOR THE COUNTY OF PINAL**

12 DC LOT OWNERS ASSOCIATION, an  
13 Arizona non-profit corporation, by and through  
14 its Receiver, Robert J. Itkin,  
15 Plaintiff,

16 v.

17 MAXWELL & MORGAN, P.C., an Arizona  
18 professional corporation; CHARLES E.  
19 MAXWELL and LISA MAXWELL, husband  
20 and wife;

21 Defendants.

Case No. CV201004684

**COMPLAINT**

(Breach of Ethical Duties; Disgorgement;  
Aiding and Abetting; Professional  
Negligence; Breach of Contract; Breach of  
Fiduciary Duty)

**ROBERT CARTER OLSON**  
**DIV 9**

**THE PARTIES, JURISDICTION AND VENUE**

1. Plaintiff, DC Lot Owners Association (the "Association"), is an Arizona non-profit corporation with its principal place of business in Pinal County, Arizona. The Association is the homeowners association established to manage and maintain the Desert Carmel Community (the "Community") located in Casa Grande, Arizona. The Association is currently under receivership, with Robert J. Itkin ("Receiver") currently acting as the court appointed Receiver for the Association. The Association brings this action pursuant to the authority vested in the Receiver by the Honorable Robert Carter Olson of the Pinal County Superior Court.

2. Defendant, Maxwell & Morgan, P.C. (the "Maxwell Firm"), is an Arizona professional corporation with its principal place of business in Maricopa County, Arizona.