

SUPREME COURT OF ARIZONA

In the Matter of: ) Arizona Supreme Court  
 ) No. JC-11-0004  
HONORABLE PHILLIP WOOLBRIGHT )  
Arrowhead Justice Court, ) Commission on Judicial  
Maricopa County, ) Conduct  
State of Arizona, ) No. 11-111  
 )  
Respondent. )  
 )  
\_\_\_\_\_ ) **FILED 07/23/2012**

**O R D E R**

The Court has considered Respondent Woolbright's "Petition to Reject Commission Recommendation of Removal from Office and Apply Alternative Sanction," the Disciplinary Commission's response to the petition, and record of the formal proceedings.

**IT IS ORDERED** denying the "Petition to Reject Commission Recommendation of Removal from Office and Apply Alternative Sanction."

**IT IS FURTHER ORDERED** adopting the findings and conclusions of the Commission on Judicial Conduct and affirming the recommended sanction.

**IT IS FURTHER ORDERED** that Respondent Phillip Woolbright is removed from judicial office effective the date of this order.

**IT IS FURTHER ORDERED** that Respondent Phillip Woolbright shall not hold judicial office or perform judicial functions in any Arizona court for a minimum of five years.

**IT IS FURTHER ORDERED** that Respondent Phillip Woolbright shall

pay the costs and attorneys fees incurred by the Commission in preparing and conducting the formal hearing in this matter.

**IT IS FURTHER ORDERED** denying respondent's request for oral argument and "Motion to Supplement Record on Petition to the Supreme Court."

DATED this \_\_\_\_\_ day of July, 2012.

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REBECCA WHITE BERCH  
Chief Justice

TO:  
Larry J Cohen  
Jennifer M Perkins  
George A Riemer  
Barbara Wanlass  
Gerald A Williams  
Mary Pieper  
Netz Tuvera  
Lexis Nexis

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 11-111
<b>PHILLIP WOOLBRIGHT</b>	)	
Arrowhead Justice Court	)	
Maricopa County	)	<b>NOTICE OF INSTITUTION OF</b>
State of Arizona	)	<b>FORMAL PROCEEDINGS</b>
	)	
Respondent.	)	

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**TO JUDGE PHILLIP WOOLBRIGHT:**

You are hereby notified that the Commission on Judicial Conduct has instituted formal proceedings against you in accordance with Rule 24 of the Rules of the Commission on Judicial Conduct (“Rule”) to inquire into the charges specified in the attached Statement of Charges. You are also notified that a hearing will be held before the Commission to determine whether or not these charges constitute grounds for your censure, suspension, removal from office as a judge, or other appropriate discipline as provided in Article 6.1 § 4 of the Arizona Constitution.

You are further notified that:

1. Jennifer Perkins, Attorney at Law, will act as disciplinary counsel for the Commission in this matter, to gather and present evidence before the Commission on the charges.

2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal service of this notice upon you or within 20 days of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

3. Upon receipt of your response, or upon expiration of the time in which a response may be filed, the Commission will open and maintain a public file containing the Notice of Institution of Formal Proceedings, the Statement of Charges, and all subsequent pleadings filed with the Commission. This file and the formal hearing in this case shall be open to the public in accordance with Rule 9(a).

4. You have the right to be represented by counsel, to examine and cross-examine witnesses and to require the issuance of subpoenas for the attendance of witnesses or for the production of any evidentiary matters necessary for your defense.

5. During the pendency of these proceedings, you or the Commission may refer to or use prior cases, if any, pertaining to previous complaints or discipline for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration.

Dated this 16th day of August 2011.

**COMMISSION ON JUDICIAL CONDUCT**

---

George A. Riemer  
Executive Director

Copy of this pleading hand-delivered  
on August 16, 2011, to:

Phillip Woolbright  
Arrowhead Justice Court  
P.O. Box 8763  
Surprise, AZ 85374

Jennifer Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct

By: \_\_\_\_\_

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**SEP 21 2011**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 11-111
<b>PHILLIP WOOLBRIGHT</b>	)	
Arrowhead Justice Court	)	
Maricopa County	)	<b>RECORD OF APPOINTMENT</b>
State of Arizona	)	<b>OF HEARING PANEL</b>
Respondent	)	
	)	

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Acting pursuant to Rules 3(f) and 27(a) of the Rules of the Commission, Judge Louis Frank Dominguez, Chair of the Commission, appointed Judge Lawrence Winthrop to serve as the presiding member of the hearing panel in the above-entitled proceeding and designated the following as members of the panel: Colleen Concannon, Louis Dominguez, Peter Eckerstrom, Sherry Geisler, Michael Miller, and Catherine Stewart.

**DATED** this 21st day of September 2011.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
George A. Riemer  
Executive Director

Copies delivered by mail, e-mail, or in person  
on September 21, 2011, to:

Larry J. Cohen  
Counsel for the Respondent

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct

by:  \_\_\_\_\_  
Clerk of the Commission

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**SEP 22 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **MOTION REQUESTING LEAVE TO**  
State of Arizona ) **AMEND STATEMENT OF CHARGES**  
Respondent. )

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Undersigned Disciplinary Counsel (Counsel) hereby requests leave to amend the Statement of Charges in this matter pursuant to Commission Rule 24(C), which allows for the amendment to a Statement of Charges “for good cause.” Counsel filed the Statement of Charges in this matter on August 16, 2011, to which Respondent filed an Answer on September 1. Counsel believed that a portion of Respondent’s Answer constituted a material misrepresentation to the Commission on Judicial Conduct (Commission), and thus alerted counsel for Respondent to this concern. The parties began discussions related to this issue and to whether the case could be resolved through stipulation.

On Friday, September 16, Counsel learned that Respondent engaged in multiple conversations with his court manager, a potential witness in this case. During those conversations, Respondent’s statements intimidated the court manager and led her to believe his purpose was to convince her to alter her potential testimony to be consistent with the statements Respondent made in his Answer. On

Monday, September 19, Counsel received additional information from a separate source regarding Respondent's conversations. The court manager corroborated the information.

Counsel believes Respondent's actions, all of which occurred after the filing of the initial Statement of Charges, constitute additional judicial misconduct. Counsel therefore requests that the Presiding Member of the Hearing Panel find good cause exists to grant this motion requesting leave to amend the Statement of Charges. A copy of the proposed Amended Statement of Charges is attached hereto, and the additional facts have been included in a new section titled "Supplemental Facts." Should this motion be granted, Counsel requests that the Amended Statement of Charges be filed immediately and Respondent be afforded an additional 15 days within which to submit an amended or supplemental response to the charges.

Dated this 22nd day of September 2011.

**COMMISSION ON JUDICIAL CONDUCT**



Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading delivered  
by first-class mail on September 22, 2011, to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
[ljc@ljcohen.com](mailto:ljc@ljcohen.com)

*Counsel for Respondent*

By: \_\_\_\_\_

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>AMENDED STATEMENT OF</b>
State of Arizona	)	<b>CHARGES</b>
Respondent.	)	

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An investigative panel of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against Judge Phillip Woolbright (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a justice of the peace in Maricopa County since January 2011, and was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is and has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

### **FACTUAL BACKGROUND**

5. On February 18, 2011, Respondent and his wife (Wife) engaged in a physical altercation that Maricopa County Superior Court Commissioner Richard Albrecht subsequently determined to be an act of domestic violence by Respondent, for the purposes of assessing an order of protection.

6. On March 23, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts. Both orders issued, although Respondent did not ever serve the order he obtained. On the same date, Wife separately filed for dissolution of marriage. Also on March 23, a private process server, William Tash, attempted to serve Wife's OOP on Respondent by waiting outside his residence from 6 p.m. – 11:30 p.m.

7. On March 24, Mr. Tash again unsuccessfully attempted service at Respondent's residence at 7:18 a.m. He later proceeded to the Northwest Regional Court Facility, the location of Respondent's court. At approximately 10:30 a.m., Respondent's van was in the public parking area and Mr. Tash was waiting by the vehicle when a female court staff member moved the van from the public parking area to the private judges' parking area.

8. The staff member was Jane Miller, Respondent's court manager, and she moved Respondent's van at his request specifically because he wanted to avoid accepting service of process at his court facility.

9. Mr. Tash then entered the court facility and spoke with Ms. Miller. She provided him with contact information for Respondent's attorney and suggested Mr. Tash simply serve the paperwork on the attorney. Mr. Tash then explained that he could not serve an OOP on the attorney, but rather was required by law to personally serve the Respondent. Ms. Miller then explained Respondent had left the court in the intervening time and reiterated, per Respondent's instruction, that Mr. Tash should serve the attorney.

10. At approximately 3:15 p.m. and 5:30 p.m. Mr. Tash attempted to serve Respondent at his residence based on calls he received that Respondent was at the home. At both times, no one answered the door. At 6 p.m., Wife called the Peoria Police Department requesting assistance in serving the OOP based on her belief that Respondent was hiding in his residence. The police took a report but informed Wife they did not have the authority to enter the home and could not, therefore, force Respondent to accept service if he was hiding within the home.

11. On March 27 at 8:30 a.m., Mr. Tash again unsuccessfully attempted service at Respondent's residence.

12. On March 28 at 7:15 a.m., Mr. Tash waited outside the entrance to the court's private judicial parking area to serve Respondent. At 8 a.m., court security approached Mr. Tash to determine his purpose, and thereafter he entered the courthouse to find out if Respondent was expected at the court that day. He learned Respondent was not expected until the afternoon.

13. At approximately 9:00 a.m. on March 28, Mr. Tash called Respondent to explain his need to personally serve the OOP and Respondent indicated he was unaware of the personal service requirement. Respondent agreed to meet Mr. Tash at his attorney's office for

the purpose of accepting service, but explained he was currently lost looking for the office. Mr. Tash agreed to drive toward the area of the attorney's office and expect a call from Respondent in the meantime with directions.

14. Respondent never called Mr. Tash back, and did not answer or respond to two subsequent calls from the process server in his attempts to locate Respondent and the attorney's office.

15. That same afternoon, March 28, Mr. Tash returned to the court facility and spoke with Ms. Miller, who informed him that Respondent would not be in to the court that afternoon or for the remainder of the week because he was leaving town.

16. On April 2 at approximately 4:30 p.m., Respondent called Mr. Tash and explained he had gone to Lake Havasu City, Arizona. Respondent stated he was not attempting to avoid service of process and would be willing to meet Mr. Tash the following afternoon. Respondent stated he would call Mr. Tash the following day to arrange a meeting.

17. On April 3 at approximately 7:30 a.m., Mr. Tash received a phone call from Wife's mother indicating that a vehicle was in the driveway of Respondent's residence, and it appeared to be the one belonging to Respondent's sister, who lives in Lake Havasu City. When Mr. Tash arrived on the street the vehicle was leaving and Respondent appeared to be driving. Mr. Tash was unable to catch up and proceeded to Respondent's church based on Wife's belief that is where Respondent was likely going. Respondent's sister's vehicle was not at the church, but was subsequently sighted back at the residence.

18. Mr. Tash returned to the residence and personally served Respondent eleven days after the issuance of the OOP against him and ten days after Respondent was first made aware

of the pending OOP. The OOP prohibited Respondent from having any contact with Wife or his four children, and listed three protected addresses including the marital residence, church, and a family recreational center.

19. Later the same day, April 3, Respondent called the Peoria Police Department to report that Wife and the children had “disappeared” and he believed they were “missing” since March 22, 2011. The officer who took Respondent’s statement reported that Respondent accused Wife of “kidnapping” the children. The officer explained that he was aware of the OOP, which had been issued March 23 and which Respondent failed to mention, and that it prevented Respondent from having contact with his children. Thus, the officer explained it was not unlawful for Wife to keep the children from seeing Respondent.

20. During his report to the police on April 3, Respondent made a comment suggesting that he would be happy to authorize a search warrant so that the police officers could enter Wife’s residence and retrieve the children. The officer believed he may have been joking, but was nonetheless uncomfortable with the suggestion. Respondent then asked the officers to “ping” Wife’s mobile phone in order to determine her location, which they declined to do. The April 3 police report did not result in any action beyond verifying that Wife was safe with the children and that they had never been missing.

21. On March 29, Respondent called the Commission to voluntarily report his conduct at the court facility on March 24 and subsequently provided a written self-report on April 13, which he supplemented on April 15.

22. On May 18, Commissioner Albrecht presided over an evidentiary hearing, which resulted in subsequent amendments to the OOP on May 26 and June 2. The amendments

removed three of the four children from the OOP, allowing for Respondent to have contact with them, and also removed the marital residence as a protected address.

23. On June 17, Maricopa County Superior Court Judge Michael Gordon entered a minute entry order providing Respondent with supervised visitation of his children, stating:

If, at any time during supervision, Father violates *any* part of these orders, the supervisor shall immediately remove the children from Father's care and immediately return them to Mother. . . . If the children are removed, Father's supervised parenting time shall be suspended until further order of the court.

24. At Respondent's first subsequent supervised visitation, some type of altercation occurred causing the children to be upset and the supervisor to ask Respondent to leave. Respondent claimed in court proceedings that he only left because it was essentially the end of his time in any event, and that he had merely attempted to reprimand his son for behaving disrespectfully. Wife believed that Respondent had improperly disciplined and upset the son, and that the supervisor had effectively removed the children from Father's visitation within the meaning of Judge Gordon's order. Wife subsequently alerted Respondent that she had suspended visitation pursuant to the order.

25. On June 24 the investigative panel sought more information from Respondent, in particular asking whether he had voluntarily ceased hearing protective order matters in his court given his ongoing personal situation involving an OOP. In response, Respondent confirmed his ongoing belief that the OOP against him is unwarranted and further stated

Yes, I have presided over protective order petitions and hearings since March 23, 2011 without disclosing in any of the cases that there was an order in place against me. I found that the wisdom obtained from this experience has not affected my impartiality at all.

26. On July 9, 12, 14, 16, 17, and 19, Respondent contacted the Peoria Police Department to report Wife for custodial interference because of her action in suspending visitation, which he believed was contrary to the court's order.

27. On July 21, Respondent again sought visitation and arrived to pick up the children with his sister and four Phoenix police officers accompanying him because he anticipated difficulty. Wife showed the police officers the original OOP and the officers arrested Respondent at that time for violating the OOP. Respondent attempted to show the officers subsequent court orders allowing for his visitation with the children, but he did not have an amended OOP to show them demonstrating he was not in violation.

28. Respondent was charged with interference with a judicial proceeding and arraigned at approximately 11:00 p.m. on July 21, and thereafter released on his own recognizance. He appeared for his duties on the bench on July 22, initially intending to continue his duties in full. After consultation with the Staff Director for the Arizona Supreme Court Judicial Ethics Advisory Committee (JEAC), it is the Commission's understanding that Respondent voluntarily ceased hearing any matter related to protective orders for the time being.

29. On July 22, Respondent voluntarily reported his arrest to the Commission.

30. On at least two occasions, Respondent's ongoing marital situation and related court proceedings have been the subject of local news broadcasts. Respondent appeared in one of those broadcasts.

31. Members of the Peoria Police Department regularly appear in Respondent's court.

32. On August 10, Aldon Terpstra, the contract public defender assigned to Respondent's regional court facility, filed a request for a change of judge for cause pursuant to Rule 10.1 of the Arizona Rules of Criminal Procedure. The basis for the motion was:

Defendant cannot receive a fair and impartial hearing before the currently assigned judge, Phillip Woolbright, because of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted by the Maricopa County Attorney's Office in CR2011-006610-001, while also presiding over a criminal matter with the Maricopa County Attorney's Office being a party.

33. Respondent's initial appearance occurred on August 15. The prosecutor moved to dismiss the charge at that time and no charge remains pending.

#### **SUPPLEMENTAL FACTS**

34. The Commission filed the original Statement of Charges against Respondent on August 16, 2011, and Respondent filed his Answer on September 1. In his Answer, Respondent stated that "he did not know at the time he asked Ms. Miller to move his van that the person reportedly waiting by his van was attempting to serve him with legal process." Answer at 3, ¶ 8.

35. This statement specifically contradicts Respondent's statement to Ms. Miller at the time he asked her to move the van, at which time he told her there was a man waiting to serve him papers. Respondent also explained to Ms. Miller at that time that his son sent him a text message to alert Respondent that a process server was waiting in the parking lot to serve him.

36. While Ms. Miller was moving his van, Respondent spoke with then-pro tem Judge John Keegan. Respondent specifically told Judge Keegan that Ms. Miller was moving his van because of his desire to avoid contact with a process server who intended to serve him with

papers. Judge Keegan advised Respondent that his actions were improper and would appear improper to court staff and the commission. Judge Keegan further advised Respondent that it is futile and improper to attempt to avoid service of process.

37. The same day that he spoke with Respondent, Judge Keegan prepared an email statement recording his fresh memory of that conversation, in part because of his concern that Respondent did not appear to listen to his advice.

38. On Tuesday, September 6, Respondent sent his court manager a text message at home asking that she call him. During a nearly ten minute phone call, Respondent repeatedly and forcefully questioned Ms. Miller's memory that Respondent knew the man waiting for him in the parking lot was a process server.

39. On Monday, September 12, Respondent approached Ms. Miller in the clerical area of the courthouse and asked whether she had reviewed an article that appeared in a local Peoria newspaper over the previous weekend. Ms. Miller indicated she had not seen the article and Respondent informed her that the front page article featured information about her actions in moving his van. Ms. Miller was uncomfortable with this conversation because it appeared to be a further attempt by Respondent to discuss or question her potential testimony.

40. On or about Tuesday, September 13, Respondent spoke with Ms. Miller about his family court case. He informed her that a doctor testified in an evidentiary hearing on September 12 that Respondent is capable of violence and of physically harming his wife and children. Ms. Miller felt uncomfortable and intimidated by this information, particularly since she knew Respondent was unhappy with her potential testimony, as described above.

## ALLEGATIONS OF MISCONDUCT

41. As described above, Respondent engaged in a course of conduct since February 18, 2011, involving both his personal and professional behavior that constitutes ethical misconduct. His actions have been improper and have created the appearance of impropriety on multiple occasions, in addition to eroding public confidence in the judiciary and in his impartiality. Further, Respondent's actions demonstrate he has abused the prestige of his office, and permitted his personal, family circumstances to influence his judicial conduct. His misconduct violates Rules 1.2, 1.3, 2.4, 2.11, 2.12, 2.16(A), and 3.1 of the Arizona Code of Judicial Conduct as well as the Arizona Constitution, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Article 6.1, § 4.

## REQUESTED RELIEF

WHEREFORE, Disciplinary Counsel hereby requests that the members of the Hearing Panel recommend to the Supreme Court that Respondent be suspended or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as it deems appropriate.

Dated this 22nd day of September, 2011.

COMMISSION ON JUDICIAL CONDUCT



---

Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading sent via  
first-class mail on September 22, 2011, to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
[ljc@ljcohen.com](mailto:ljc@ljcohen.com)

*Counsel for Respondent*

By: \_\_\_\_\_

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**SEP 28 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent. )

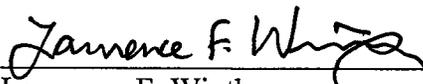
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Disciplinary Counsel filed a Motion Requesting Leave to Amend Statement of Charges on September 22, 2011, to which Respondent's counsel has not filed an objection. Based upon the request and good cause appearing,

**IT IS ORDERED** granting the Motion Requesting Leave to Amend Statement of Charges. Respondent shall have an additional 15 days to submit an amended or supplemental response to the charges.

**DATED** this 28th day of September 2011.

**FOR THE HEARING PANEL**

  
Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies mailed, e-mailed, or hand-delivered  
on September 28, 2011, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

**FILED**

**SEP 28 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>AMENDED STATEMENT OF</b>
State of Arizona	)	<b>CHARGES</b>
Respondent.	)	

An investigative panel of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against Judge Phillip Woolbright (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a justice of the peace in Maricopa County since January 2011, and was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is and has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

### **FACTUAL BACKGROUND**

5. On February 18, 2011, Respondent and his wife (Wife) engaged in a physical altercation that Maricopa County Superior Court Commissioner Richard Albrecht subsequently determined to be an act of domestic violence by Respondent, for the purposes of assessing an order of protection.

6. On March 23, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts. Both orders issued, although Respondent did not ever serve the order he obtained. On the same date, Wife separately filed for dissolution of marriage. Also on March 23, a private process server, William Tash, attempted to serve Wife's OOP on Respondent by waiting outside his residence from 6 p.m. – 11:30 p.m.

7. On March 24, Mr. Tash again unsuccessfully attempted service at Respondent's residence at 7:18 a.m. He later proceeded to the Northwest Regional Court Facility, the location of Respondent's court. At approximately 10:30 a.m., Respondent's van was in the public parking area and Mr. Tash was waiting by the vehicle when a female court staff member moved the van from the public parking area to the private judges' parking area.

8. The staff member was Jane Miller, Respondent's court manager, and she moved Respondent's van at his request specifically because he wanted to avoid accepting service of process at his court facility.

9. Mr. Tash then entered the court facility and spoke with Ms. Miller. She provided him with contact information for Respondent's attorney and suggested Mr. Tash simply serve the paperwork on the attorney. Mr. Tash then explained that he could not serve an OOP on the attorney, but rather was required by law to personally serve the Respondent. Ms. Miller then explained Respondent had left the court in the intervening time and reiterated, per Respondent's instruction, that Mr. Tash should serve the attorney.

10. At approximately 3:15 p.m. and 5:30 p.m. Mr. Tash attempted to serve Respondent at his residence based on calls he received that Respondent was at the home. At both times, no one answered the door. At 6 p.m., Wife called the Peoria Police Department requesting assistance in serving the OOP based on her belief that Respondent was hiding in his residence. The police took a report but informed Wife they did not have the authority to enter the home and could not, therefore, force Respondent to accept service if he was hiding within the home.

11. On March 27 at 8:30 a.m., Mr. Tash again unsuccessfully attempted service at Respondent's residence.

12. On March 28 at 7:15 a.m., Mr. Tash waited outside the entrance to the court's private judicial parking area to serve Respondent. At 8 a.m., court security approached Mr. Tash to determine his purpose, and thereafter he entered the courthouse to find out if Respondent was expected at the court that day. He learned Respondent was not expected until the afternoon.

13. At approximately 9:00 a.m. on March 28, Mr. Tash called Respondent to explain his need to personally serve the OOP and Respondent indicated he was unaware of the personal service requirement. Respondent agreed to meet Mr. Tash at his attorney's office for

the purpose of accepting service, but explained he was currently lost looking for the office. Mr. Tash agreed to drive toward the area of the attorney's office and expect a call from Respondent in the meantime with directions.

14. Respondent never called Mr. Tash back, and did not answer or respond to two subsequent calls from the process server in his attempts to locate Respondent and the attorney's office.

15. That same afternoon, March 28, Mr. Tash returned to the court facility and spoke with Ms. Miller, who informed him that Respondent would not be in to the court that afternoon or for the remainder of the week because he was leaving town.

16. On April 2 at approximately 4:30 p.m., Respondent called Mr. Tash and explained he had gone to Lake Havasu City, Arizona. Respondent stated he was not attempting to avoid service of process and would be willing to meet Mr. Tash the following afternoon. Respondent stated he would call Mr. Tash the following day to arrange a meeting.

17. On April 3 at approximately 7:30 a.m., Mr. Tash received a phone call from Wife's mother indicating that a vehicle was in the driveway of Respondent's residence, and it appeared to be the one belonging to Respondent's sister, who lives in Lake Havasu City. When Mr. Tash arrived on the street the vehicle was leaving and Respondent appeared to be driving. Mr. Tash was unable to catch up and proceeded to Respondent's church based on Wife's belief that is where Respondent was likely going. Respondent's sister's vehicle was not at the church, but was subsequently sighted back at the residence.

18. Mr. Tash returned to the residence and personally served Respondent eleven days after the issuance of the OOP against him and ten days after Respondent was first made aware

of the pending OOP. The OOP prohibited Respondent from having any contact with Wife or his four children, and listed three protected addresses including the marital residence, church, and a family recreational center.

19. Later the same day, April 3, Respondent called the Peoria Police Department to report that Wife and the children had “disappeared” and he believed they were “missing” since March 22, 2011. The officer who took Respondent’s statement reported that Respondent accused Wife of “kidnapping” the children. The officer explained that he was aware of the OOP, which had been issued March 23 and which Respondent failed to mention, and that it prevented Respondent from having contact with his children. Thus, the officer explained it was not unlawful for Wife to keep the children from seeing Respondent.

20. During his report to the police on April 3, Respondent made a comment suggesting that he would be happy to authorize a search warrant so that the police officers could enter Wife’s residence and retrieve the children. The officer believed he may have been joking, but was nonetheless uncomfortable with the suggestion. Respondent then asked the officers to “ping” Wife’s mobile phone in order to determine her location, which they declined to do. The April 3 police report did not result in any action beyond verifying that Wife was safe with the children and that they had never been missing.

21. On March 29, Respondent called the Commission to voluntarily report his conduct at the court facility on March 24 and subsequently provided a written self-report on April 13, which he supplemented on April 15.

22. On May 18, Commissioner Albrecht presided over an evidentiary hearing, which resulted in subsequent amendments to the OOP on May 26 and June 2. The amendments

removed three of the four children from the OOP, allowing for Respondent to have contact with them, and also removed the marital residence as a protected address.

23. On June 17, Maricopa County Superior Court Judge Michael Gordon entered a minute entry order providing Respondent with supervised visitation of his children, stating:

If, at any time during supervision, Father violates *any* part of these orders, the supervisor shall immediately remove the children from Father's care and immediately return them to Mother. . . . If the children are removed, Father's supervised parenting time shall be suspended until further order of the court.

24. At Respondent's first subsequent supervised visitation, some type of altercation occurred causing the children to be upset and the supervisor to ask Respondent to leave. Respondent claimed in court proceedings that he only left because it was essentially the end of his time in any event, and that he had merely attempted to reprimand his son for behaving disrespectfully. Wife believed that Respondent had improperly disciplined and upset the son, and that the supervisor had effectively removed the children from Father's visitation within the meaning of Judge Gordon's order. Wife subsequently alerted Respondent that she had suspended visitation pursuant to the order.

25. On June 24 the investigative panel sought more information from Respondent, in particular asking whether he had voluntarily ceased hearing protective order matters in his court given his ongoing personal situation involving an OOP. In response, Respondent confirmed his ongoing belief that the OOP against him is unwarranted and further stated

Yes, I have presided over protective order petitions and hearings since March 23, 2011 without disclosing in any of the cases that there was an order in place against me. I found that the wisdom obtained from this experience has not affected my impartiality at all.

26. On July 9, 12, 14, 16, 17, and 19, Respondent contacted the Peoria Police Department to report Wife for custodial interference because of her action in suspending visitation, which he believed was contrary to the court's order.

27. On July 21, Respondent again sought visitation and arrived to pick up the children with his sister and four Phoenix police officers accompanying him because he anticipated difficulty. Wife showed the police officers the original OOP and the officers arrested Respondent at that time for violating the OOP. Respondent attempted to show the officers subsequent court orders allowing for his visitation with the children, but he did not have an amended OOP to show them demonstrating he was not in violation.

28. Respondent was charged with interference with a judicial proceeding and arraigned at approximately 11:00 p.m. on July 21, and thereafter released on his own recognizance. He appeared for his duties on the bench on July 22, initially intending to continue his duties in full. After consultation with the Staff Director for the Arizona Supreme Court Judicial Ethics Advisory Committee (JEAC), it is the Commission's understanding that Respondent voluntarily ceased hearing any matter related to protective orders for the time being.

29. On July 22, Respondent voluntarily reported his arrest to the Commission.

30. On at least two occasions, Respondent's ongoing marital situation and related court proceedings have been the subject of local news broadcasts. Respondent appeared in one of those broadcasts.

31. Members of the Peoria Police Department regularly appear in Respondent's court.

32. On August 10, Aldon Terpstra, the contract public defender assigned to Respondent's regional court facility, filed a request for a change of judge for cause pursuant to Rule 10.1 of the Arizona Rules of Criminal Procedure. The basis for the motion was:

Defendant cannot receive a fair and impartial hearing before the currently assigned judge, Phillip Woolbright, because of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted by the Maricopa County Attorney's Office in CR2011-006610-001, while also presiding over a criminal matter with the Maricopa County Attorney's Office being a party.

33. Respondent's initial appearance occurred on August 15. The prosecutor moved to dismiss the charge at that time and no charge remains pending.

#### **SUPPLEMENTAL FACTS**

34. The Commission filed the original Statement of Charges against Respondent on August 16, 2011, and Respondent filed his Answer on September 1. In his Answer, Respondent stated that "he did not know at the time he asked Ms. Miller to move his van that the person reportedly waiting by his van was attempting to serve him with legal process." Answer at 3, ¶ 8.

35. This statement specifically contradicts Respondent's statement to Ms. Miller at the time he asked her to move the van, at which time he told her there was a man waiting to serve him papers. Respondent also explained to Ms. Miller at that time that his son sent him a text message to alert Respondent that a process server was waiting in the parking lot to serve him.

36. While Ms. Miller was moving his van, Respondent spoke with then-pro tem Judge John Keegan. Respondent specifically told Judge Keegan that Ms. Miller was moving his van because of his desire to avoid contact with a process server who intended to serve him with

papers. Judge Keegan advised Respondent that his actions were improper and would appear improper to court staff and the commission. Judge Keegan further advised Respondent that it is futile and improper to attempt to avoid service of process.

37. The same day that he spoke with Respondent, Judge Keegan prepared an email statement recording his fresh memory of that conversation, in part because of his concern that Respondent did not appear to listen to his advice.

38. On Tuesday, September 6, Respondent sent his court manager a text message at home asking that she call him. During a nearly ten minute phone call, Respondent repeatedly and forcefully questioned Ms. Miller's memory that Respondent knew the man waiting for him in the parking lot was a process server.

39. On Monday, September 12, Respondent approached Ms. Miller in the clerical area of the courthouse and asked whether she had reviewed an article that appeared in a local Peoria newspaper over the previous weekend. Ms. Miller indicated she had not seen the article and Respondent informed her that the front page article featured information about her actions in moving his van. Ms. Miller was uncomfortable with this conversation because it appeared to be a further attempt by Respondent to discuss or question her potential testimony.

40. On or about Tuesday, September 13, Respondent spoke with Ms. Miller about his family court case. He informed her that a doctor testified in an evidentiary hearing on September 12 that Respondent is capable of violence and of physically harming his wife and children. Ms. Miller felt uncomfortable and intimidated by this information, particularly since she knew Respondent was unhappy with her potential testimony, as described above.

## ALLEGATIONS OF MISCONDUCT

41. As described above, Respondent engaged in a course of conduct since February 18, 2011, involving both his personal and professional behavior that constitutes ethical misconduct. His actions have been improper and have created the appearance of impropriety on multiple occasions, in addition to eroding public confidence in the judiciary and in his impartiality. Further, Respondent's actions demonstrate he has abused the prestige of his office, and permitted his personal, family circumstances to influence his judicial conduct. His misconduct violates Rules 1.2, 1.3, 2.4, 2.11, 2.12, 2.16(A), and 3.1 of the Arizona Code of Judicial Conduct as well as the Arizona Constitution, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Article 6.1, § 4.

## REQUESTED RELIEF

WHEREFORE, Disciplinary Counsel hereby requests that the members of the Hearing Panel recommend to the Supreme Court that Respondent be suspended or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as it deems appropriate.

Dated this 22nd day of September, 2011.

COMMISSION ON JUDICIAL CONDUCT



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Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading sent via  
first-class mail on September 22, 2011, to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
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*Counsel for Respondent*

By: \_\_\_\_\_

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8 lic@licohen.com

9 Attorney for Respondent

10 STATE OF ARIZONA  
11 COMMISSION ON JUDICIAL CONDUCT

12 Inquiry concerning

13 Case No.: 11-11

14 **Judge Phillip Woolbright**  
15 Arrowhead Justice Court  
16 Maricopa County  
17 State of Arizona

18 **ANSWER TO AMENDED STATEMENT**  
19 **OF CHARGES**

20 Judge Phillip Woolbright, through counsel, submits the  
21 following as his answer to the Statement of Charges filed by  
22 the Commission on Judicial Conduct on August 16, 2011.

23 Judge Woolbright denies each and every allegation in the  
24 Statement of Charges that he does not expressly admit in this  
25 Answer.

26 Judge Woolbright incorporates by this reference the  
27 Objection to Order of Reassignment Dated September 21, 2011  
28 that he filed on October 6, 2011.

29 **JURISDICTION**

- 30 1. Admit.
- 31 2. Admit.

**FILED**

**OCT 13 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

1 3. Admit.

2 4. Admit.

3 **FACTUAL BACKGROUND**

4 5. Respondent admits that on February 18, 2011, he became  
5 involved in a physical altercation with April Woolbright  
6 ("Wife") in the doorway of their bathroom; Respondent  
7 affirmatively alleges that he tried to move Wife away  
8 from him in such a way as would be described as a push,  
9 but denies any actual or implied intent to cause physical  
10 harm to his Wife; and further admits that Maricopa County  
11 Superior Court Commissioner Richard Albrecht determined  
12 that an act of domestic violence by Respondent had  
13 occurred for purposes of assessing an order of  
14 protection.

15 6. Respondent admits that on March 23, 2011, Respondent and  
16 Wife each applied for orders of protection (OOP) against  
17 each other in different Maricopa County courts; admits  
18 that both orders issued; admits that Respondent did not  
19 serve the OOP he secured; admits that Wife separately  
20 filed for dissolution of marriage on the same date.  
21 Respondent lacks personal knowledge about the activities  
22 of William Tash, a private process server, and therefore  
23 cannot admit or deny the allegations relating to him, but  
24 is aware of the affidavit completed and the statements  
25 Mr. Tash made therein.

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1 7. Respondent lacks personal knowledge about the activities  
2 of William Tash and therefore cannot admit or deny the  
3 allegations relating to him, but is aware of the  
4 affidavit completed by Mr. Tash and the statements Mr.  
5 Tash made therein; Respondent further admits that at  
6 about 10:30 a.m. a female court staff member moved  
7 Respondent's van from the public parking area to the  
8 judges' private parking area.

9 8. Admit. See further Respondent's Objection to Order of  
10 Reassignment Dated September 21, 2011 filed on October 6,  
11 2011 at page 3, ¶¶ 3-11.

12 9. Respondent lacks personal knowledge about the activities  
13 of William Tash and therefore cannot admit or deny the  
14 allegations relating to him, but is aware of the  
15 affidavit completed by Mr. Tash and the statements Mr.  
16 Tash made therein; Respondent admits Ms. Miller informed  
17 him that after Mr. Tash entered the court facility he  
18 spoke with Ms. Miller and that Ms. Miller told Mr. Tash  
19 to serve Respondent's attorney with the paperwork.

20 10. Respondent lacks personal knowledge about the activities  
21 of William Tash and therefore cannot admit or deny the  
22 allegations relating to him, but is aware of the  
23 affidavit completed by Mr. Tash and the statements Mr.  
24 Tash made therein; Respondent lacks personal knowledge  
25 about the activities of Wife and therefore cannot admit  
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1 or deny the allegations relating to her, but is aware  
2 that she has made the statements set forth in paragraph  
3 10 of the Statement of Charges.

4 11. Respondent lacks personal knowledge about the activities  
5 of William Tash and therefore cannot admit or deny the  
6 allegations relating to him, but is aware of the  
7 affidavit completed by Mr. Tash and the statements Mr.  
8 Tash made therein.

9 12. Respondent lacks personal knowledge about the activities  
10 of William Tash and therefore cannot admit or deny the  
11 allegations relating to him, but is aware of the  
12 affidavit completed by Mr. Tash and the statements Mr.  
13 Tash made therein.

14 13. Respondent admits he received a call at approximately  
15 9:00 am on March 28, 2010 from Mr. Tash, that he told Mr.  
16 Tash he was unaware of the personal service requirement,  
17 that he agreed to meet Mr. Tash at his attorney's office  
18 for the purpose of accepting service, and that he was  
19 lost looking for the office. Respondent denies that  
20 Respondent and Mr. Tash agreed that there would be a  
21 further conversation with Mr. Tash about directions.  
22 Respondent lacks personal knowledge about the activities  
23 of William Tash and therefore cannot admit or deny the  
24 remaining allegations by Mr. Tash relating to him, but is  
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aware of the affidavit completed by Mr. Tash and the statements Mr. Tash made therein.

14. Respondent admits that he did not call Mr. Tash back or respond to further calls from Mr. Tash. Without waiving the privileged relationship with Respondent's attorney, Respondent affirmatively alleges that in not returning Mr. Tash's calls Respondent was acting on advice of counsel; and beyond that, Respondent lacks personal knowledge about the activities of William Tash and therefore cannot admit or deny the allegations relating to him, but is aware of the affidavit completed by Mr. Tash and the statements Mr. Tash made therein;

15. Respondent lacks personal knowledge about the activities of William Tash and therefore cannot admit or deny the allegations relating to him, but is aware of the affidavit completed by Mr. Tash and the statements Mr. Tash made therein.

16. Admit.

17. Respondent lacks personal knowledge about the activities of William Tash and therefore cannot admit or deny the allegations relating to him, but is aware of the affidavit completed by Mr. Tash and the statements Mr. Tash made therein.

18. Admit.

- 1 19. Respondent admits the allegations of paragraph 19 except  
2 that Respondent denies that he failed to reference the  
3 OOP in his communication with the police officer.
- 4 20. Respondent admits stating to the police officer that  
5 Respondent could authorize a search through a search  
6 warrant, but denies that he made that statement in such a  
7 way as to convey any intent that he would do so,  
8 believing rather he made the statement in such a way that  
9 it would be understood not to be a statement conveying  
10 any such intent. Respondent admits the remaining  
11 allegations on Paragraph 21 of the Statement of charges.
- 12 21. Admit.
- 13 22. Admit.
- 14 23. Admit. Respondent affirmatively alleges that it was his  
15 understanding of Judge Gordon's order that the order had  
16 the effect of being a modification of the OOP.
- 17 24. Respondent admits to an event occurring during the  
18 referenced supervised visitation, the event consisting of  
19 Respondent disciplining his son in an age appropriate way  
20 to stop being disrespectful to adults, and Respondent  
21 further affirmatively alleges that he left the supervised  
22 visitation willingly in the genuine belief that the time  
23 duration for his supervised visitation had expired.  
24 Respondent is aware that Wife subsequently submitted a  
25 report to Judge Gordon and that Wife unilaterally

1 suspended visitation. Respondent affirmatively alleges  
2 that thereafter when Respondent had the opportunity to  
3 communication what had happened Judge Gordon reinstated  
4 supervised visitation.

5 25. Admit. Respondent affirmatively alleges that in light of  
6 the understanding he obtained from a voluntary  
7 consultation he initiated with the Judicial Ethics  
8 Advisory Committee (JEAC) about how members of the public  
9 might respond to information that he was hearing OOP  
10 cases at the same time he was himself the subject of an  
11 OOP he ceased immediately hearing OOP matters.

12 26. Admit.

13 27. Admit. Respondent affirmatively alleges that he was  
14 outside Wife's residence at the time of the events that  
15 are the subject of Paragraph 27 of the Statement of  
16 Charges because Wife had invited him to the house to pick  
17 up the children, and that Respondent genuinely believed  
18 at the time of these events that Judge Gordon's June 17,  
19 2011 minute entry order had so modified the OOP as to  
20 permit him to be where he was and doing what he was  
21 doing.

22 28. Admit. Respondent affirmatively alleges that he  
23 voluntarily initiated consultation with the JEAC  
24 concerning the matters that are the subject of Paragraph  
25 28 of the Statement of Charges voluntarily and that after  
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1 receiving the benefit of that consultation Respondent  
2 voluntarily ceased hearing OOP matters.

3 29. Admit.

4 30. Admit.

5 31. Admit.

6 32. Admit. Respondent affirmatively alleges that Respondent  
7 voluntarily recused himself from case no. CV2011-006610-  
8 001.

9 33. Admit.

10 **SUPPLEMENTAL FACTS**

11 34. Admit

12 35. Respondent admits his September 1, 2011 Answer to the  
13 Statement of Charges at ¶8 contradicts the statements  
14 attributed to Ms. Miller in the Supplemental Facts.  
15 Admit. See further Respondent's Objection to Order of  
16 Reassignment Dated September 21, 2011 filed on October 6,  
17 2011 at page 3, ¶¶ 3-12.

18 36. Respondent admits that while Ms. Miller was moving his  
19 van he spoke with then-pro tem Judge Keegan, and further  
20 admits he told then-pro tem Judge Keegan that Ms. Miller  
21 was moving his van. With respect to the remainder of the  
22 statements in ¶ 36 of the Supplemental Facts, (1)  
23 Respondent does not recall telling then-pro tem Judge  
24 Keegan that his desire was to avoid contact with a  
25 process server who intended to serve him with papers, but

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does recall that he showed then-pro tem Judge Keegan a text message he had received from his wife, (2) Respondent recalls that he told then-pro tem Judge Keegan that he wanted to avoid contact with whomever it was that was waiting outside in the public parking lot near his vehicle, (3) Respondent recalls then-pro tem Judge Keegan telling him that asking court staff to move his vehicle was not a good idea, (4) Respondent does not recall then-pro tem Judge Keegan advising him that his actions would appear improper to the Commission and (5) Respondent does not recall then-pro tem Judge Keegan further advising him that it is futile and improper to attempt to avoid service of process. See further Respondent's Objection to Order of Reassignment Dated September 21, 2011 filed on October 6, 2011, at page 6, footnote 4.

37. Respondent has no knowledge about the actions of Judge Keegan that are described in ¶ 38 of the Supplemental Facts.

38. Respondent admits that on September 6, 2011 he sent his court manager a text message at home asking that she call him. His recollection of the course of that conversation is set forth in Respondent's Objection to Order of Reassignment Dated September 21, 2011 filed on October 6, 2011 at page 6, ¶ 7. Respondent denies he repeatedly and forcefully questioned Ms. Miller's memory but

1 acknowledges Ms. Miller may recall experiencing the  
2 communication that way.

3 39. Respondent admits that on Monday, September 12, 2011 he  
4 approached Ms. Miller in the clerical area of the  
5 courthouse and asked whether she had reviewed an article  
6 that appeared in a local Peoria newspaper over the  
7 previous weekend, and further admits that Ms. Miller  
8 indicated she had not seen the article, and further  
9 admits that he informed her that the front page article  
10 featured information about her actions in moving the van.  
11 Respondent has no knowledge about Ms. Miller feeling  
12 uncomfortable with this conversation or about it  
13 appearing to her to be an attempt by Respondent to  
14 discuss or question her potential testimony but  
15 acknowledges Ms. Miller may recall experiencing the  
16 conversation as described in ¶ 39 of the Supplemental  
17 Facts. Respondent incorporates herein his Objection to  
18 Order of Reassignment Dated September 21, 2011 filed on  
19 October 6, 2011 at page 11, ¶ 20, including in particular  
20 but not limited to ¶ 20(A).

21 40. Respondent admits that on Tuesday, September 13, 2011 he  
22 spoke with Ms. Miller about his family court case, and  
23 further admits that he informed her that a doctor  
24 testified in an evidentiary hearing on September 12, 2011  
25 that Respondent is capable of violence and of physically  
26

1 harming his wife and children. Respondent has no  
2 knowledge about Ms. Miller feeling uncomfortable or  
3 intimidated by this information, and further no knowledge  
4 that Ms. Miller believed that Respondent was unhappy with  
5 her potential testimony, but acknowledges Ms. Miller may  
6 recall experiencing the conversation as described in ¶ 40  
7 of the Supplemental Facts. Respondent incorporates herein  
8 his Objection to Order of Reassignment Dated September  
9 21, 2011 filed on October 6, 2011 at page 11, ¶ 20,  
10 including in particular but not limited to ¶ 20(B).

11 **ALLEGATIONS OF MISCONDUCT**

12 41. Respondent admits engaging in acts inconsistent with  
13 certain of the Rules of the Arizona Code of Judicial  
14 Conduct and respectfully reserves the right to address as  
15 this case proceeds the applicable Rules of the Arizona  
16 Code of Judicial Conduct that apply to the matters that  
17 are the subject of the Statement of Charges. Respondent  
18 acknowledges that he should not engage in conduct that  
19 would be prejudicial to the administration of justice or  
20 that brings the judicial office in disrepute. Respondent  
21 is intent on acting consistently in ways that are not  
22 prejudicial to the administration of justice and that do  
23 not bring the judicial office in disrepute.

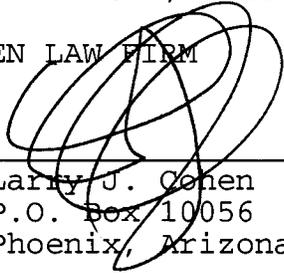
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**REQUESTED RELIEF**

Respondent acknowledges that action by the Commission is appropriate and warranted in light of the matters that are the subject of the Amended Statement of Charges but respectfully does not agree with the relief proposed in the Amended Statement of Charges. Respondent incorporates herein his Proposal for Resolution set forth at pages 12 to 13 of his Objection to Order of Reassignment Dated September 21, 2011 filed on October 6, 2011.

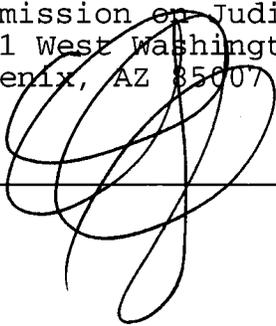
DATED this 13<sup>th</sup> day of October, 2011.

COHEN LAW FIRM

By:   
Larry J. Cohen  
P.O. Box 10056  
Phoenix, Arizona 85064

ORIGINAL of the foregoing  
filed this 13<sup>th</sup> day of  
October, 2011 with:

Commission on Judicial Conduct  
1501 West Washington, Suite 229  
Phoenix, AZ 85007

  
\_\_\_\_\_

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**OCT 20 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge,	)	
	)	
<b>Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>CASE MANAGEMENT ORDER</b>
State of Arizona,	)	
	)	
Respondent	)	
	)	

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The amended statement of formal charges in this case was filed on September 28, 2011, and the Respondent filed a timely response on October 13, 2011. In order to expedite the matters under consideration, this schedule is established pursuant to Commission Rule 27(b).

**IT IS NOW THEREFORE ORDERED,**

1. **Priority.** The parties shall treat this judicial disciplinary proceeding as a priority matter and are hereby put on notice that the deadlines and dates set in this order shall be continued, extended or otherwise delayed only upon a showing of good cause. No filing shall extend the deadlines set forth in this order without the prior approval of the presiding member.

2. **Applicable rules.** The Rules of the Commission on Judicial Conduct (“Rules”) shall govern these proceedings. All references to time in the rules or in this order shall be computed in accordance with Rule 6(a), Arizona Rules of Civil Procedure.

3. **Correspondence, filing and exchange of documents.** To save time, routine correspondence may be sent via mail, facsimile, or e-mail. All motions, pleadings or other legal documents required by this order may be transmitted in a similar manner, providing that originals shall be filed by mail or in person.

4. **Recording proceedings.** The public hearing in these proceedings shall be recorded by an official court reporter selected by the commission clerk. All other meetings or conferences, with the exception of any settlement conferences, shall be tape recorded unless an official court reporter is

requested by a party. The fees and expenses of a court reporter so requested shall be paid by the requesting party. A court reporter shall not be present during deliberations of the hearing panel.

5. **Discovery.** All discovery shall be completed in accordance with Rule 26 as follows:

a. **Witness lists.** The parties shall make initial disclosure and shall exchange lists of witnesses and exhibits as provided in Rule 26(a) not later than Wednesday, November 2, 2011.

b. **Completion of Discovery.** Pursuant to Rule 26(d), the duty to provide timely discovery is ongoing and both parties must supplement their initial discovery exchanges in a timely manner, and in any event shall complete all discovery no later than Friday, December 30, 2011.

c. **Objections.** Objections to witnesses and exhibits shall be filed no later Friday, December 30, 2011. The parties are reminded that any information that is not disclosed or provided in response to a discovery request as provided in this order on a timely basis may be precluded by the presiding member, as provided in Rule 26(f).

6. **Settlement Conference.** George Foster of the investigative panel in this case is hereby assigned to conduct a settlement conference pursuant to Rule 27(e) and is authorized to set the date, time, and location of said conference. The parties should be prepared at the settlement conference to discuss the factual and legal disputes in the case; possible alternative forms of discipline; discipline by consent; aggravating and mitigating circumstances; and the costs associated with a hearing.

7. **Motions.** All motions regarding discovery and any other prehearing motions, including motions *in limine*, shall be filed not later than Wednesday, January 4, 2012. To the extent possible, parties are directed to expedite this proceeding by delivering or faxing copies of all motions to the other party and the presiding member on the same day that the motions are filed, and to include in all mailing certificates a statement of compliance with this directive. Responses to motions shall be filed no later than three days after receipt of the motions, meaning receipt by delivery or fax in lieu of service by mail. No replies to responses are permitted unless requested and approved by the presiding member. If authorized, replies shall be filed within two days of the response.

8. **Joint prehearing statement.** Counsel for the parties shall meet personally before the prehearing conference to discuss and attempt to resolve in good faith, to the extent possible, all pending matters. Counsel for the parties shall prepare and file with the presiding member and the

hearing panel by 5:00 p.m. on Thursday, January 5, 2012, a joint prehearing memorandum setting forth the substance of all agreements that have been reached; each party's position regarding each issue in dispute; each party's position on any pending discovery disputes; a final list of witnesses that each party will call to testify at the hearing, together with a brief statement of each witnesses' expected testimony; a final list of exhibits that each party will offer at the hearing; and objection that either party has to the witnesses and exhibits to be called or offered by the other party; and any other issues that the parties deem appropriate.

9. **Pre-hearing Conference.** Notice is hereby given that a telephonic pre-hearing conference has been set for Monday, January 9, 2012, at 9:00 a .m. The clerk of the proceeding shall initiate the call. At that time, the parties shall advise the presiding member of the anticipated length of the hearing, the number of witnesses as listed in the pre-hearing statement that each party anticipates will be called, and the factual and legal issues to be resolved. The parties shall also be prepared to argue any unresolved motions and any pending discovery disputes. In addition, the parties shall notify the clerk of any such motions prior to the pre-hearing conference so that arrangements can be made for tape recording the proceeding. The presiding member may schedule additional pre-hearing conferences, as needed, to expedite the proceedings.

10. **Exhibits.** Exhibits that the parties intend to use at the hearing shall be delivered to the commission's office at least three business days prior to the hearing. All exhibits must be pre-numbered, clearly labeled in the bottom right-hand corner as "Petitioner's" or "Respondent's" exhibits and printed on three-hole paper for a standard three-ring binder. An original and nine copies are required. The exhibits shall be individually identified by either number or letter, as directed by the presiding member at the pre-hearing conference.

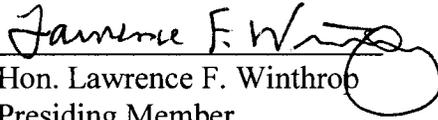
11. **Hearing.** Notice is also given that a hearing on the amended statement of charges in this matter has been set for Monday, January 30, 2012, at 9:00 a.m., in Room 230 at the State Courts Building, 1501 W. Washington Street, Phoenix, AZ 85003. This is a firm hearing date, and absent extraordinary cause, no continuance will be granted. The hearing panel has scheduled one day for the hearing. The parties should anticipate a roughly equal division of the allotted time for presentation of each party's case by direct or cross-examination, and any opening or closing remarks of counsel.

12. **Recommendations.** Hearing panel deliberations shall commence immediately after the hearing and may be conducted in person or telephonically in one or more conferences that are closed to the parties and the public. The panel's recommendations shall be filed pursuant to Rule 28(a).

13. If the parties wish to modify or amend the deadlines established in this order, they may seek such relief by filing an appropriate motion with the presiding member at the address shown above.

**DATED** this 20th day of October 2011.

**FOR THE HEARING PANEL**

  
Hon. Lawrence F. Winthrop  
Presiding Member

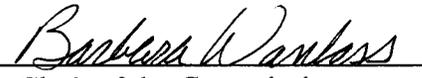
ORIGINAL of this pleading filed on  
October 20, 2011, with:

Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007

COPY of the foregoing sent via e-mail and  
regular mail on October 20, 2011, to:

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The Cohen Law Firm  
Counsel for the Respondent  
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Phoenix, AZ 85064

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, AZ 85007

by:   
Clerk of the Commission

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
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**FILED**  
**NOV 17 2011**  
ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>SECOND MOTION REQUESTING</b>
State of Arizona	)	<b>LEAVE TO AMEND STATEMENT OF</b>
Respondent.	)	<b>CHARGES</b>

---

Undersigned Disciplinary Counsel (Counsel) hereby requests leave to amend the Statement of Charges in this matter pursuant to Commission Rule 24(C), which allows for the amendment to a Statement of Charges “for good cause.” Counsel filed the Statement of Charges in this matter on August 16, 2011, to which Respondent filed an Answer on September 1. As explained in the first Motion Requesting Leave to Amend Statement of Charges, due to Respondent’s material misrepresentation in his initial Answer combined with his subsequent additional misconduct, Counsel asked to amend the charges. The presiding member of the hearing panel approved that request. Additional misconduct has since come to Counsel’s attention and a further amendment to the charges is unfortunately necessary.

On Wednesday, September 21, 2011, Respondent testified as a witness in an evidentiary hearing related to his dissolution and custody matter. His counsel requested that Judge Gordon seal the proceedings, which the judge denied. In an effort to convince Judge

Gordon to change his ruling, Respondent affirmatively and unequivocally testified that the staff at his court as well as “the entire judiciary” not only has access to review the video recordings of his family court matter, but that “they all watch it.” This testimony was false. There are no staff or judicial officers at the justice courts with access to review superior court proceedings – Respondent himself does not have and has never had this ability from his bench or chambers. His false testimony was provided merely to advance his own interest in having his family court proceedings sealed.

Disciplinary Counsel first learned of this testimony on October 26 when conducting a routine review of recent recordings from Respondent’s family court case. On November 1, 2011, Counsel confirmed that the information in Respondent’s testimony was false and that Respondent could not have reasonably believed it to be true based on his own experience. On November 4 (rescheduled from the original date of November 2) Counsel and Respondent with his attorney participated in a settlement conference, and Counsel alerted Respondent and his attorney to this information at that time. In particular, Counsel explained her intent to either amend the charges or require that this new information be included in any stipulation reached. As of today, November 17, 2011, the parties have been unable to reach an agreement to settle this case with a stipulated resolution.

Counsel believes Respondent’s false testimony, which did not come to Counsel’s attention until after the filing of first Amended Statement of Charges, constitutes additional judicial misconduct. Counsel therefore requests that the Presiding Member of the Hearing Panel find good cause exists to grant this second motion requesting leave to amend the Statement of Charges. A copy of the proposed Second Amended Statement of Charges is

attached hereto, and the additional facts have been included in a new section titled "Second Supplemental Facts." Should this motion be granted, Counsel requests that the Amended Statement of Charges be filed immediately and Respondent be afforded an additional 15 days within which to submit an amended or supplemental response to the charges. Importantly, Counsel urges that this amendment and supplemental Answer process should not in any way delay the hearing currently scheduled for January 30, 2012. Discovery does not conclude until December 30, and both parties have been aware of the relevant facts with access to related exhibits since November 4.

Dated this 17th day of November 2011.

**COMMISSION ON JUDICIAL CONDUCT**



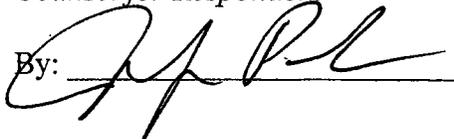
Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading delivered  
by first-class mail and email on November 17, 2011, to:

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*Counsel for Respondent*

By: \_\_\_\_\_



# **ATTACHMENT**

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**FILED**  
**NOV 17 2011**  
**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
 )  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **SECOND AMENDED**  
State of Arizona ) **STATEMENT OF CHARGES**  
Respondent. )

---

An investigative panel of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against Judge Phillip Woolbright (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a justice of the peace in Maricopa County since January 2011, and was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is and has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

### **FACTUAL BACKGROUND**

5. On February 18, 2011, Respondent and his wife (Wife) engaged in a physical altercation that Maricopa County Superior Court Commissioner Richard Albrecht subsequently determined to be an act of domestic violence by Respondent, for the purposes of assessing an order of protection.

6. On March 23, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts. Both orders issued, although Respondent did not ever serve the order he obtained. On the same date, Wife separately filed for dissolution of marriage. Also on March 23, a private process server, William Tash, attempted to serve Wife's OOP on Respondent by waiting outside his residence from 6 p.m. – 11:30 p.m.

7. On March 24, Mr. Tash again unsuccessfully attempted service at Respondent's residence at 7:18 a.m. He later proceeded to the Northwest Regional Court Facility, the location of Respondent's court. At approximately 10:30 a.m., Respondent's van was in the public parking area and Mr. Tash was waiting by the vehicle when a female court staff member moved the van from the public parking area to the private judges' parking area.

8. The staff member was Jane Miller, Respondent's court manager, and she moved Respondent's van at his request specifically because he wanted to avoid accepting service of process at his court facility.

9. Mr. Tash then entered the court facility and spoke with Ms. Miller. She provided him with contact information for Respondent's attorney and suggested Mr. Tash simply serve the paperwork on the attorney. Mr. Tash then explained that he could not serve an OOP on the attorney, but rather was required by law to personally serve the Respondent. Ms. Miller then explained Respondent had left the court in the intervening time and reiterated, per Respondent's instruction, that Mr. Tash should serve the attorney.

10. At approximately 3:15 p.m. and 5:30 p.m. Mr. Tash attempted to serve Respondent at his residence based on calls he received that Respondent was at the home. At both times, no one answered the door. At 6 p.m., Wife called the Peoria Police Department requesting assistance in serving the OOP based on her belief that Respondent was hiding in his residence. The police took a report but informed Wife they did not have the authority to enter the home and could not, therefore, force Respondent to accept service if he was hiding within the home.

11. On March 27 at 8:30 a.m., Mr. Tash again unsuccessfully attempted service at Respondent's residence.

12. On March 28 at 7:15 a.m., Mr. Tash waited outside the entrance to the court's private judicial parking area to serve Respondent. At 8 a.m., court security approached Mr. Tash to determine his purpose, and thereafter he entered the courthouse to find out if Respondent was expected at the court that day. He learned Respondent was not expected until the afternoon.

13. At approximately 9:00 a.m. on March 28, Mr. Tash called Respondent to explain his need to personally serve the OOP and Respondent indicated he was unaware of the personal service requirement. Respondent agreed to meet Mr. Tash at his attorney's office for

the purpose of accepting service, but explained he was currently lost looking for the office. Mr. Tash agreed to drive toward the area of the attorney's office and expect a call from Respondent in the meantime with directions.

14. Respondent never called Mr. Tash back, and did not answer or respond to two subsequent calls from the process server in his attempts to locate Respondent and the attorney's office.

15. That same afternoon, March 28, Mr. Tash returned to the court facility and spoke with Ms. Miller, who informed him that Respondent would not be in to the court that afternoon or for the remainder of the week because he was leaving town.

16. On April 2 at approximately 4:30 p.m., Respondent called Mr. Tash and explained he had gone to Lake Havasu City, Arizona. Respondent stated he was not attempting to avoid service of process and would be willing to meet Mr. Tash the following afternoon. Respondent stated he would call Mr. Tash the following day to arrange a meeting.

17. On April 3 at approximately 7:30 a.m., Mr. Tash received a phone call from Wife's mother indicating that a vehicle was in the driveway of Respondent's residence, and it appeared to be the one belonging to Respondent's sister, who lives in Lake Havasu City. When Mr. Tash arrived on the street the vehicle was leaving and Respondent appeared to be driving. Mr. Tash was unable to catch up and proceeded to Respondent's church based on Wife's belief that is where Respondent was likely going. Respondent's sister's vehicle was not at the church, but was subsequently sighted back at the residence.

18. Mr. Tash returned to the residence and personally served Respondent eleven days after the issuance of the OOP against him and ten days after Respondent was first made aware

of the pending OOP. The OOP prohibited Respondent from having any contact with Wife or his four children, and listed three protected addresses including the marital residence, church, and a family recreational center.

19. Later the same day, April 3, Respondent called the Peoria Police Department to report that Wife and the children had “disappeared” and he believed they were “missing” since March 22, 2011. The officer who took Respondent’s statement reported that Respondent accused Wife of “kidnapping” the children. The officer explained that he was aware of the OOP, which had been issued March 23 and which Respondent failed to mention, and that it prevented Respondent from having contact with his children. Thus, the officer explained it was not unlawful for Wife to keep the children from seeing Respondent.

20. During his report to the police on April 3, Respondent made a comment suggesting that he would be happy to authorize a search warrant so that the police officers could enter Wife’s residence and retrieve the children. The officer believed he may have been joking, but was nonetheless uncomfortable with the suggestion. Respondent then asked the officers to “ping” Wife’s mobile phone in order to determine her location, which they declined to do. The April 3 police report did not result in any action beyond verifying that Wife was safe with the children and that they had never been missing.

21. On March 29, Respondent called the Commission to voluntarily report his conduct at the court facility on March 24 and subsequently provided a written self-report on April 13, which he supplemented on April 15.

22. On May 18, Commissioner Albrecht presided over an evidentiary hearing, which resulted in subsequent amendments to the OOP on May 26 and June 2. The amendments

removed three of the four children from the OOP, allowing for Respondent to have contact with them, and also removed the marital residence as a protected address.

23. On June 17, Maricopa County Superior Court Judge Michael Gordon entered a minute entry order providing Respondent with supervised visitation of his children, stating:

If, at any time during supervision, Father violates *any* part of these orders, the supervisor shall immediately remove the children from Father's care and immediately return them to Mother. . . . If the children are removed, Father's supervised parenting time shall be suspended until further order of the court.

24. At Respondent's first subsequent supervised visitation, some type of altercation occurred causing the children to be upset and the supervisor to ask Respondent to leave. Respondent claimed in court proceedings that he only left because it was essentially the end of his time in any event, and that he had merely attempted to reprimand his son for behaving disrespectfully. Wife believed that Respondent had improperly disciplined and upset the son, and that the supervisor had effectively removed the children from Father's visitation within the meaning of Judge Gordon's order. Wife subsequently alerted Respondent that she had suspended visitation pursuant to the order.

25. On June 24 the investigative panel sought more information from Respondent, in particular asking whether he had voluntarily ceased hearing protective order matters in his court given his ongoing personal situation involving an OOP. In response, Respondent confirmed his ongoing belief that the OOP against him is unwarranted and further stated

Yes, I have presided over protective order petitions and hearings since March 23, 2011 without disclosing in any of the cases that there was an order in place against me. I found that the wisdom obtained from this experience has not affected my impartiality at all.

26. On July 9, 12, 14, 16, 17, and 19, Respondent contacted the Peoria Police Department to report Wife for custodial interference because of her action in suspending visitation, which he believed was contrary to the court's order.

27. On July 21, Respondent again sought visitation and arrived to pick up the children with his sister and four Phoenix police officers accompanying him because he anticipated difficulty. Wife showed the police officers the original OOP and the officers arrested Respondent at that time for violating the OOP. Respondent attempted to show the officers subsequent court orders allowing for his visitation with the children, but he did not have an amended OOP to show them demonstrating he was not in violation.

28. Respondent was charged with interference with a judicial proceeding and arraigned at approximately 11:00 p.m. on July 21, and thereafter released on his own recognizance. He appeared for his duties on the bench on July 22, initially intending to continue his duties in full. After consultation with the Staff Director for the Arizona Supreme Court Judicial Ethics Advisory Committee (JEAC), it is the Commission's understanding that Respondent voluntarily ceased hearing any matter related to protective orders for the time being.

29. On July 22, Respondent voluntarily reported his arrest to the Commission.

30. On at least two occasions, Respondent's ongoing marital situation and related court proceedings have been the subject of local news broadcasts. Respondent appeared in one of those broadcasts.

31. Members of the Peoria Police Department regularly appear in Respondent's court.

32. On August 10, Aldon Terpstra, the contract public defender assigned to Respondent's regional court facility, filed a request for a change of judge for cause pursuant to Rule 10.1 of the Arizona Rules of Criminal Procedure. The basis for the motion was:

Defendant cannot receive a fair and impartial hearing before the currently assigned judge, Phillip Woolbright, because of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted by the Maricopa County Attorney's Office in CR2011-006610-001, while also presiding over a criminal matter with the Maricopa County Attorney's Office being a party.

33. Respondent's initial appearance occurred on August 15. The prosecutor moved to dismiss the charge at that time and no charge remains pending.

#### **SUPPLEMENTAL FACTS**

34. The Commission filed the original Statement of Charges against Respondent on August 16, 2011, and Respondent filed his Answer on September 1. In his Answer, Respondent stated that "he did not know at the time he asked Ms. Miller to move his van that the person reportedly waiting by his van was attempting to serve him with legal process." Answer at 3, ¶ 8.

35. This statement specifically contradicts Respondent's statement to Ms. Miller at the time he asked her to move the van, at which time he told her there was a man waiting to serve him papers. Respondent also explained to Ms. Miller at that time that his son sent him a text message to alert Respondent that a process server was waiting in the parking lot to serve him.

36. While Ms. Miller was moving his van, Respondent spoke with then-pro tem Judge John Keegan. Respondent specifically told Judge Keegan that Ms. Miller was moving his van because of his desire to avoid contact with a process server who intended to serve him with

papers. Judge Keegan advised Respondent that his actions were improper and would appear improper to court staff and the commission. Judge Keegan further advised Respondent that it is futile and improper to attempt to avoid service of process.

37. The same day that he spoke with Respondent, Judge Keegan prepared an email statement recording his fresh memory of that conversation, in part because of his concern that Respondent did not appear to listen to his advice.

38. On Tuesday, September 6, Respondent sent his court manager a text message at home asking that she call him. During a nearly ten minute phone call, Respondent repeatedly and forcefully questioned Ms. Miller's memory that Respondent knew the man waiting for him in the parking lot was a process server.

39. On Monday, September 12, Respondent approached Ms. Miller in the clerical area of the courthouse and asked whether she had reviewed an article that appeared in a local Peoria newspaper over the previous weekend. Ms. Miller indicated she had not seen the article and Respondent informed her that the front page article featured information about her actions in moving his van. Ms. Miller was uncomfortable with this conversation because it appeared to be a further attempt by Respondent to discuss or question her potential testimony.

40. On or about Tuesday, September 13, Respondent spoke with Ms. Miller about his family court case. He informed her that a doctor testified in an evidentiary hearing on September 12 that Respondent is capable of violence and of physically harming his wife and children. Ms. Miller felt uncomfortable and intimidated by this information, particularly since she knew Respondent was unhappy with her potential testimony, as described above.

## **SECOND SUPPLEMENTAL FACTS**

41. On Wednesday, September 21, 2011, Respondent provided testimony under oath during an evidentiary hearing in his pending dissolution and custody case. His family court attorney requested that Judge Gordon seal the proceedings, and the judge stated he would deny this request. Respondent then indicated he had testimony he wanted the judge to consider related to the request. Respondent then testified:

Respondent: "This case is seen by my entire judicial staff. They all have FTR [For the Record], they can all call it up, they all watch it. The entire judiciary can see this, and ..."

Judge Gordon: "They have access to our FTR?"

Respondent: "Yes! Yes!"

Judge Gordon: "Well, I didn't know that."

42. Respondent's testimony was unprompted, unequivocal, and false. No justice court staff or judge has access to the superior court's FTR. Neither Respondent himself nor any member of his staff has such access nor have they ever had such access.

## **ALLEGATIONS OF MISCONDUCT**

41. As described above, Respondent engaged in a course of conduct since February 18, 2011, involving both his personal and professional behavior that constitutes ethical misconduct. His actions have been improper and have created the appearance of impropriety on multiple occasions, in addition to eroding public confidence in the judiciary and in his impartiality. Further, Respondent's actions demonstrate he has abused the prestige of his office, and permitted his personal, family circumstances to influence his judicial conduct. His misconduct violates Rules 1.2, 1.3, 2.4, 2.11, 2.12, 2.16(A), and 3.1 of the Arizona Code of Judicial Conduct as well as the Arizona Constitution, which forbids "conduct prejudicial to the

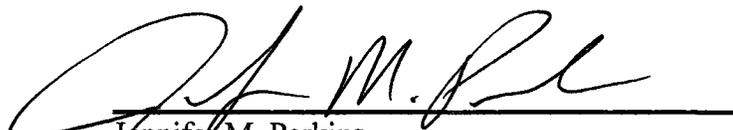
administration of justice that brings the judicial office into disrepute.” Article 6.1, § 4.

**REQUESTED RELIEF**

WHEREFORE, Disciplinary Counsel hereby requests that the members of the Hearing Panel recommend to the Supreme Court that Respondent be suspended or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as it deems appropriate.

Dated this 17th day of November, 2011.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading sent via first-class mail and email on November 17, 2011, to:

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Attorney for the Honorable Phillip Woolbright

**FILED**

**NOV 23 2011**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of:

HONORABLE PHILLIP  
WOOLBRIGHT  
Arrowhead Justice Court,  
Maricopa County, State of Arizona

Arizona Supreme Court  
No. JC-11-0003

Commission on Judicial Conduct  
No. 11-111

**OBJECTION TO MOTION  
REQUESTING LEAVE TO AMEND  
STATEMENT OF CHARGES**

**(oral argument requested)**

The Honorable Phillip Woolbright, through counsel, objects to and opposes Disciplinary Counsel's motion to amend the Statement of Charges on the ground that she has not shown "good cause" for the proposed amendment. Disciplinary Counsel's motion is based on her asserted belief that "no staff or judicial officers at the justice courts" have access to review superior court proceedings." That is a false statement. Judge Woolbright in fact had access from the computer in his chambers to FTR and reasonably believed from statements being made by others in his courthouse that other judges and members of the judicial staff had access as

well. Under these circumstances, the most that could be said of Judge Woolbright's statement to the Court is that he was mistaken in his belief. There is no evidence and there will not be any evidence that Judge Woolbright intended to mislead the Superior Court Judge in his family law case to advance his own purposes.

The conduct in issue took place during the September 21, 2011 hearing in the family law case, when Judge Woolbright addressed the Court about sealing the record to prevent others from seeing and hearing the testimony in that case. As this Court knows, the testimony from the hearings in that case has been widely disseminated, to the point of the popular media playing on local television testimony from a "expert" witness who opined that Judge Woolbright was at risk for killing his wife and children. By contrast, the later cross-examination of this same witness demonstrating the lack of foundation for her testimony was not played in the media. Neither was the Court October 7, 2011 factual finding that Father did not threaten any such risk:

The Court **does not** find that Father independently poses a risk to the children, but the Court does find that the children are estranged from Father and they are afraid of Father.

(October 7, 2011 minute entry order, Exhibit 1 page 1, emphasis added). The point is that Judge Woolbright had a good reason for wanting the Court record sealed, he wanted to avoid the continuing assassination of his character in the popular media.

Contrary to what Disciplinary Counsel represented in her Motion seeking leave to amend, Judge Woolbright did not testify falsely when he said that judicial officers and staff at the justice courts had access to Superior Court FTR ("FTR"). Indeed, Disciplinary Counsel's statements in her Motion bearing emphasizing because her statements are false:

There are no staff or judicial officers at the justice courts with access to review superior court proceedings – Respondent himself does not have and has never had this ability from his bench or chambers.

Judicial officers and staff in the justice courts absolutely have access to Superior Court recordings. Craig Gildersleeve, the Information Systems Architect, has confirmed that while justice court judges and staff do not have access to Superior Court recordings when using their own login credentials, they do have access from the courtroom or desktop computers when using the generic logins that are available to them. (November 21, 2011 email message from Craig Gildersleeve to Larry J. Cohen, Exhibit 2).

Mr. Gildersleeve makes the further observation that even if judges and staff in the justice courts did not have this ability to access Superior Court recordings from their courtroom and desktop computers, they could still access the Superior Court proceedings by requesting a copy of any proceedings on a CD. (Exhibit 2). If the family law case proceedings were sealed, as Judge Woolbright requested of the Court during the September 21, 2011 hearing, no one, including the justice

court judges and staff, would be able to request a copy of the proceedings on CD either.

Finally, even if Judge Woolbright was mistaken, and he was not mistaken, when he said that justice court judges and staff had access to FTR, there is no basis for the conclusion Disciplinary Counsel has reached that Judge Woolbright knowingly testified falsely when he asked the Judge on September 21, 2011 to seal the record. Drawing on his own experience being able to access the FTR from his office, observing others among the staff on FTR and having heard staff report everyone could see his family court proceedings, his request to the Court to seal the proceedings was based on his good faith belief that justice court judges and staff had access to FTR on their desktop computers. Theoretically, he could have been mistaken in his belief about whether they had such access when he raised the issue with the Superior Court Judge, though as we see from Mr. Gildersleeve he was not. However, even if he was mistaken, such a mistake would have been just that, a mistake. There is no evidence anywhere that he knowingly made a false statement, as Disciplinary Counsel asserts in her motion.

Rule 24(C) does not permit automatic amendment of the Statement of Charges. It requires a showing of "good cause." Disciplinary Counsel has not provided any good cause for the proposed amendment she is seeking here. There is no evidence Judge Woolbright made a false statement when he reported judges

and staff in the justice court had access to Superior Court proceedings, much less evidence that he intended to mislead the Court when he reported his belief that the judges and staff in the justice court had access. Judge Woolbright genuinely believed the truth of what he said. Disciplinary Counsel is alone at this point in making the factual assertion that he made a knowing false statement when he said that justice court judges and staff had access to Superior Court proceedings. In order to meet the good cause standard Disciplinary Counsel should be required to show evidence that Judge Woolbright made a knowing false statement. All she has for the present is her own speculation, grounded as we can see on a false factual premise, that Judge Woolbright knowingly testified falsely.

There will be considerable negative consequences for Judge Woolbright in granting Disciplinary Counsel's motion. Following both the Statement of Charges and the First Amended Statement of Charges the Commission issued a press release reporting the substance of the charges. The press releases received special attention in the popular media, over and above the attention they might otherwise receive from a judicial officer being subject to Commission proceedings, because of the highly contentious on-going family law proceeding. The result is that Judge Woolbright is being vilified in the popular media on the basis of charges, with no reasonable expectation that a favorable outcome of these Commission proceedings will be reported to by the popular media any more specifically or widely than was

the finding by the Superior Court Judge in the family law proceeding that he was not a danger to his children.

Moreover, the content of the Statements of Charges is being used against him in the family law proceedings, even though those charges have yet to be proven in these Commission proceedings.<sup>1</sup> In short there are substantive consequences to permitting the proposed amendment of the charges that should be considered as well when considering whether there is indeed “good cause” for the proposed amendment of the charges.

In closing, Disciplinary Counsel has not established good cause to support the proposed amendment of the charges. The factual foundation for the proposed additional charges is lacking in two respects: (1) justice court judges and staff have access at their desktops to superior court proceedings using the generic login that is available to them; and (2) there is no evidence that Judge Woolbright knowingly made a false statement to the Superior Court when he stated his genuine belief that justice court judges and staff had access to superior court proceedings.

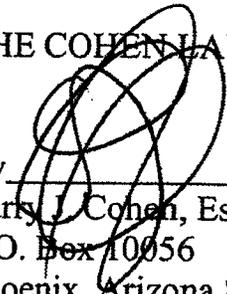
Accordingly, there is no good cause for amending the statement of charges and Disciplinary Counsel’s motion should be denied.

---

<sup>1</sup> Wife’s attorney cross-examined him during the November 16, 2011 proceeding about whether he tampered with witnesses in this case, allegations that Judge Woolbright has denied here, but were used nonetheless by wife’s attorney seeking to assassinate his character in furtherance of her own goals in that case.

RESPECTFULLY SUBMITTED this 23rd day of November, 2011.

THE COHEN LAW FIRM

By   
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Woolbright

Original filed this 23<sup>rd</sup> day of  
October, 2011 with the Commission  
on Judicial Conduct

and copy of the foregoing sent by email  
attachment this same date to:

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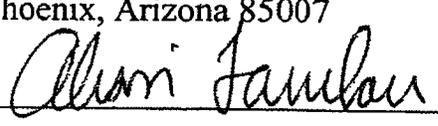
  
\_\_\_\_\_

Exhibit 1

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-070163

10/07/2011

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT  
M. MINKOW  
Deputy

IN RE THE MARRIAGE OF  
APRIL WOOLBRIGHT

CYNTHIA L BEST

AND

PHILLIP WOOLBRIGHT

ELIZABETH J MARTINEZ

CHRISTOPHER STAVRIS  
BARB KIFFMEYER  
P O BOX 10698  
TEMPE AZ 85284

**DAY 3 OF EVIDENTIARY HEARING AND RULING  
TELEPHONIC ORAL ARGUMENT SET**

4:05 p.m. Courtroom 108 NE. This is the time set for Evidentiary Hearing Re: Petitioner's Motion to Halt Parenting Time, continuing from September 21, 2011. Petitioner/Mother is present and represented by counsel, Cynthia Best. Respondent/Father is present and represented by counsel, Elizabeth Martinez. Alison Stavris is present on behalf of Best Interests Attorney, Christopher Stavris, from 4:05 p.m. to 4:25 p.m. Best Interests Attorney, Christopher, Stavris, is present on behalf of the minor children from 4:23 p.m. until the end of the hearing.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

LET THE RECORD REFLECT that the parties have no objection to Alison Stavris standing in for Best Interests Attorney, Christopher Stavris, until his arrival.

Phillip Woolbright, having previously been duly sworn, resumes the stand and testifies further.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

FC 2011-070163

10/07/2011

Dr. Jill Messing, having previously been duly sworn, resumes the stand and testifies further.

The witness is excused.

Best Interests Attorney, Christopher Stavris, presents his recommendations to the Court.

Closing arguments.

The Court does not find that Father independently poses a risk to the children, but the Court does find that the children are estranged from Father and they are afraid of Father. To suspend the temporary orders would significantly undermine the children's best interests. By separate minute entry, the Court will appoint a Therapeutic Interventionist to review the case, meet with the parties, and begin the process of therapeutic reunification. The goal of the therapeutic intervention is to provide Father with the maximum amount of parenting time that is in the children's best interests and is in Father's home and without supervision. The costs of the Therapeutic Interventionist will be paid by the parties in the proportions set forth in the most recent Child Support Worksheet.

Accordingly,

IT IS ORDERED granting in part and denying in part Petitioner's Motion to Halt Parenting Time, filed August 26, 2011.

IT IS FURTHER ORDERED that Respondent shall respond to Petitioner's Motion to Continue no later than 5:00 p.m. on October 18, 2011.

IT IS ORDERED setting Telephonic Oral Argument Re: Petitioner's Motion to Continue on **October 19, 2011, at 1:15 p.m., for 15 minutes**. Best Interests Attorney appearance is waived for the oral argument.

5:27 p.m. Matter concludes.

IT IS ORDERED releasing all exhibits not offered in evidence to the party causing them to be marked.

ISSUED: Exhibit Release Form (1)

FILED: Exhibit Worksheet



Exhibit 2

## Larry Cohen

---

**From:** Craig Gildersleeve - CTSX [gildersleevec@superiorcourt.maricopa.gov]  
**Sent:** Monday, November 21, 2011 8:58 AM  
**To:** Larry Cohen  
**Subject:** Access request you asked about

Larry,

I did some digging on who can access what. Following is what I found.

If the MCJC person logged onto the PC as themselves (with MCJC login credentials), they shouldn't be able to access the Superior Court recordings. However, the MCJC courtroom FTR PCs use a generic login that is also used by Superior Court. Those PCs, when using the generic login, CAN access Superior Court recordings.

Access to the recordings is based on who is logged into the PC when the FTR player is being used. MCJC folks currently do not have access to Superior Court recordings. However, because the generic login for the courtrooms is used by both Superior Court and Justice Court FTR PCs, that account can access Superior Court and Justice Court recordings.

I should mention that it probably is possible for a Justice Court individual (probably a court manager) to request a Superior Court hearing on CD after the hearing has been concluded.

Craig Gildersleeve

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**NOV 23 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>REPLY TO OBJECTION TO SECOND</b>
State of Arizona	)	<b>MOTION REQUESTING LEAVE TO</b>
Respondent.	)	<b>AMEND STATEMENT OF CHARGES</b>

---

On November 17, 2011, undersigned Disciplinary Counsel (Counsel) submitted a request for leave to amend the Statement of Charges in this matter for a second time pursuant to Commission Rule 24(C). Counsel for Respondent submitted his Objection to Motion Requesting Leave to Amend Statement of Charges on November 23. Counsel hereby respectfully re-urges the request to amend the charges and notes that Respondent's arguments indicate merely that there is a factual question raised that is best addressed through the hearing already scheduled in this matter.

As an initial matter, Counsel notes that Respondent's counsel is incorrect in suggesting that a press release was issued after the first amendment to the charges. The commission issued its only press release related to this matter on September 2, 2011, after Respondent filed his initial Answer. This is consistent with the commission's historical practice, and, in keeping with that practice, no new press release will issue if Counsel's motion is granted.

The basis for Counsel's request is evidence that suggested Respondent provided false testimony while under oath in his family court proceeding on Wednesday, September 21, 2011. Respondent has now, after the fact, been able to adduce some evidence that a portion of his testimony may have been truthful. Nonetheless, evidence and testimony that will be presented at the hearing in this matter will show that Respondent did not actually know or have a reasonable belief that his September 21 testimony was truthful at the time he gave it. Rather, he has now simply come up with a post-hoc rationalization for his conduct.

The evidence Respondent relies on is an email from Craig Gildersleeve noting that, consistent with Counsel's initial motion, justice court staff and judicial officers do not themselves have access to superior court FTR recordings. Gildersleeve explained that a generic login that "the MCJC courtroom FTR PCs use" allows access to superior court recordings. While counsel for Respondent suggests in his objection that staff and judicial officers have access to these recordings at their desktop PCs, this is both inconsistent with Gildersleeve's email (which refers only to the courtroom PC), and inconsistent with the anticipated testimony of witnesses at the Northwest Regional Court Facility.

Before filing the second motion to amend, Counsel sought input from Ken Crenshaw the Administrator of Electronic Records Services at Maricopa County Superior Courts. Crenshaw confirmed that justice court staff and judicial officers do not now have and have not ever had access to superior court FTR recordings. *See* Attachment 1 (November 1, 2011, email exchange). Counsel also investigated personally by interviewing justice court staff members and observing attempts to access superior court FTR records on the Arrowhead Justice Court

courtroom PC and the court manager's PC. Neither PC allowed access, and court staff was unaware of this "generic login" option.

At least one other judge was likewise unable to access superior court recordings on a chambers PC, which is consistent with Gildersleeve's email that the generic login access is in the courtroom and not in the judicial chambers. Indeed, Respondent's current assertion of "his own experience being able to access the FTR from his office" is inconsistent with Gildersleeve's email unless this "experience" refers only to his ability to review justice court proceedings in his office and thus does not support his superior court testimony – unless Respondent is now claiming that he has been aware, all along, of the generic login access and that, contrary to Gildersleeve's email, that access is available outside of the courtroom FTR PCs. Certainly this question should be explored through witness testimony.

Further, the only judicial staff member at the Arrowhead Justice Court that has access to the FTR program on her PC is the court manager, Jane Miller. No other staff members have the program, and thus they cannot access any FTR recordings, including those of justice court proceedings, without improperly using the court manager's PC, the judge's chambers PC, or the courtroom PC. As described above, only the latter offers this newly discovered opportunity to review superior court proceedings by using a generic login. Respondent failed to identify which "staff" that he "heard report everyone could see his family court proceedings" although to the extent he is referring to the ability of any member of the public to request and pay for copies of public records, that is not the type of viewing to which Respondent referred in the September 21 proceeding.

A primary theme in this case is Respondent's repeated deceptive conduct, failure to acknowledge that conduct, and instead ongoing efforts to provide post-hoc rationalizations or to blame his conduct on other people. At best, Respondent's objection fully demonstrates that there is a fact question as to whether Respondent engaged in additional misconduct that is directly related to the already pending formal charges against him. Counsel strongly urges that the issues raised in this latest motion to amend should be subject to a full airing at the evidentiary hearing rather than a summary dismissal at this stage through a denial of the motion to amend. Thus, good cause exists to allow this second amendment to the charges.

Dated this 23rd day of November 2011.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading delivered  
by first-class mail and email on November 23, 2011, to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
[ljc@ljcohen.com](mailto:ljc@ljcohen.com)

*Counsel for Respondent*

By: 

# **ATTACHMENT 1**

## Perkins, Jennifer

---

**From:** Ken Crenshaw - SUPCRTX [kcrensa@superiorcourt.maricopa.gov]  
**Sent:** Tuesday, November 01, 2011 12:36 PM  
**To:** Perkins, Jennifer  
**Subject:** RE: URGENT RE: FTR access question

Sorry, I didn't mean to imply that they have no access now but had access in the past. Justice court employees and judicial officers have never had access to superior court recordings.

---

**From:** Perkins, Jennifer [mailto:JePerkins@courts.az.gov]  
**Sent:** Tuesday, November 01, 2011 12:29 PM  
**To:** Ken Crenshaw - SUPCRTX  
**Subject:** RE: URGENT RE: FTR access question

Sorry, I just noticed you used the language "as of now" – is that because the situation was different at some time in the past?

---

**From:** Ken Crenshaw - SUPCRTX [mailto:kcrensa@superiorcourt.maricopa.gov]  
**Sent:** Tuesday, November 01, 2011 12:24 PM  
**To:** Perkins, Jennifer  
**Subject:** RE: URGENT RE: FTR access question

Jennifer,

I did get the email. I consulted with our technical people and they tell me that as of now no justice court employees or judicial officers have access to superior court recordings from their computers.

Ken Crenshaw  
Administrator - Electronic Records Services  
Phone: 602-506-3269  
BlackBerry: 602-527-6256

---

**From:** Perkins, Jennifer [mailto:JePerkins@courts.az.gov]  
**Sent:** Tuesday, November 01, 2011 11:40 AM  
**To:** Ken Crenshaw - SUPCRTX  
**Subject:** URGENT RE: FTR access question  
**Importance:** High

Ken – did you receive this email? I need to confirm an answer today for purposes of an appearance tomorrow. Thanks in advance for your assistance.

---

**From:** Perkins, Jennifer  
**Sent:** Friday, October 28, 2011 10:41 AM  
**To:** 'Ken Crenshaw - SUPCRTX'  
**Subject:** FTR access question  
**Importance:** High

To the best of your knowledge, do any justice court staff or judges have access from their own computer terminals (including the ones in courtrooms) to superior court recordings. In other words, is it possible for Maricopa County Justice Court employees to pull up a superior court recording from their own computer? Can a Justice of the Peace do so from his or her computer?

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

**FILED**

**NOV 23 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** )  
Arrowhead Justice Court ) Case No. 11-111  
Maricopa County )  
State of Arizona ) **JOINT NOTICE REGARDING REPLY**  
Respondent. )

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Undersigned parties hereby notify the Presiding Member of the Hearing Panel that they have a pending disagreement regarding Disciplinary Counsel's filing of a Reply in regard to her second request for an amendment to the charges in this matter.

Disciplinary Counsel filed her reply in this Rule 24 briefing process knowing that a reply is not specifically contemplated by Rule 24, but believing that a reply could be considered in the Presiding Member's discretion. Disciplinary Counsel believed that her second request for an amendment to the charges did not constitute a "prehearing motion" as contemplated by paragraph 7 of the Case Management Order. Disciplinary Counsel believed that the reply was both appropriate and necessary because she felt that Respondent's objection overstated or misstated of the nature of his evidence related to the facts underlying this entire request for another amendment to the Statement of Charges. Further, to the extent counsel for Respondent asserted that Disciplinary Counsel herself made false statements in her motion, it was appropriate to address those assertions with the anticipated evidence and testimony.

Counsel for Respondent relies on the provision in the Case Management Order that "No replies to responses are permitted unless requested and approved by the presiding member." See

Case Management Order at 2, ¶ 7. Because there has been no such request issued, Respondent believes the reply brief should be stricken from the record and should not be considered by the Presiding Member in assessing the request for an amendment to the Statement of Charges. The proper procedure would be for Disciplinary Counsel to request the opportunity to file a reply to which request Respondent could then address the reason given for that request. Respondent's position substantively in response to that request would be that the record as presented in the Respondent's Objection to the Motion to Amend was grounded in a good faith statement of the applicable facts and law; that Disciplinary Counsel had the opportunity to state in her motion the basis for requesting the Amendment and should be required to stand on the reasons given; that if Disciplinary Counsel is to have the opportunity to argue further the adequacy of "good cause" for amending the charges then Respondent should have the opportunity to respond to that further argument. It is for all of these reasons that Respondent thus respectfully requests the reply brief be stricken.

Dated this 23rd day of November 2011.

**COMMISSION ON JUDICIAL CONDUCT**

s/Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

**LARRY J. COHEN, ESQ.**

s/Larry J. Cohen  
Larry J. Cohen  
Counsel for Respondent

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**NOV 28 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent. )

---

Disciplinary Counsel filed Second Motion Requesting Leave to Amend Statement of Charges on November 17, 2011. On November 23, 2011, Respondent's counsel filed Objection to Motion Requesting Leave to Amend Statement of Charges and request for oral argument. On November 23, 2011, Disciplinary Counsel filed Reply to Objection to Second Motion Requesting Leave to Amend Statement of Charges to which both parties filed Joint Notice Regarding Reply.

**IT IS ORDERED** that Respondent's objection is noted and overruled. The undersigned does not believe oral argument would be helpful in resolving this issue; accordingly, Respondent's request for oral argument is denied. The motion for leave to file a second amendment to the charges is granted. Respondent has 15 days to file his response. All other deadlines for this matter are confirmed.

**DATED** this 28th day of November 2011.

**FOR THE HEARING PANEL**

  
Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies mailed, e-mailed or hand-delivered  
on November 28, 2011, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

By:   
Clerk of the Commission

Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**  
**NOV 30 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

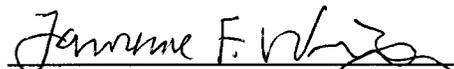
Inquiry concerning, )  
)  
**Judge Philip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **NOTICE OF HEARING**  
State of Arizona, )  
)  
Respondent )

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**PLEASE TAKE NOTICE** that the undersigned presiding member of the hearing panel in the above-entitled case has determined that the formal hearing in this matter will commence at 8:30 a.m. on Thursday, January 26, 2012, and continue through Friday, January 27, if necessary, in Phoenix at a time and place to be designated. Disciplinary counsel and counsel for the Respondent shall be prepared then to present testimony and evidence concerning the conduct of the Respondent. An official court reporter will be present to record the proceedings.

**DATED** this 30th day of November 2011.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Lawrence F. Winthrop.  
Presiding Hearing Panel Member

Copies e-mailed and/or delivered on November 30, 2011, to:

Larry J. Cohen  
Counsel for the Respondent

Jennifer M. Perkins  
Disciplinary Counsel

by:   
Clerk of the Commission

**FILED**

**DEC 08 2011**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

<p>Inquiry concerning:</p> <p><b>PHILLIP WOOLBRIGHT</b> Arrowhead Justice Court Maricopa County State of Arizona</p> <p>Respondent</p>	<p>Case No. 11-111</p> <p><b>STIPULATED AGREEMENT FOR DISCIPLINE BY CONSENT</b></p>
--	---

COME NOW Judge Phillip Woolbright, Respondent, through his attorney, Larry J. Cohen, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

**JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a justice of the peace in Maricopa County since January 2011 and was serving in this capacity at all times relevant to the allegations contained herein.
3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

**BACKGROUND**

4. After conferring with colleagues about what he should communicate, on April 13 and April 15, 2011, Respondent self-reported acts to the Commission that he believed raised issues pursuant to the Arizona Code of Judicial Conduct. On August 16, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. On September 28 and November 28, 2011, Disciplinary Counsel amended the charges with the consent of the Presiding Member of

the Hearing Panel. The Second Amended Statement of Charges is hereby incorporated into this stipulated resolution in its entirety.

5. On September 2, 2011, Respondent filed a Response to the original Statement of Charges and on October 13, 2011, Respondent filed an Answer to the Amended Charges. Respondent's October 13 Answer is hereby incorporated into this stipulated resolution in its entirety. The time for Respondent to answer the Second Amended Statement of Charges is still pending. The parties reached this stipulation and Respondent's answer to the additional charges is further set forth in the undisputed facts as described below.

6. On September 21, 2011, based on a request from Judge Gerald Williams, Presiding Justice of the Peace for the Northwest Regional Court Center, Disciplinary Counsel submitted a request for reassignment of Respondent, pursuant to Commission Rule 31 and a Petition for Order Prohibiting Retaliation, pursuant to Commission Rule 14. The Chief Justice of the Supreme Court granted both requests that same day and Respondent filed an Objection to the Order of Reassignment on October 6, 2011. Disciplinary Counsel filed a Response to the Objection on October 14, 2011. The Supreme Court denied Respondent's Objection on November 29, 2011. Each of these documents is also incorporated into this stipulation in their entirety.

**UNDISPUTED FACTS SUPPORTING COMMISSION ACTION**

7. Respondent admits that on March 24, 2011, he asked his court manager to move his van from its location in the public parking area to the private judge's parking area for the purpose of avoiding accepting service of process at his court facility.

8. Respondent admits that he, thereafter, failed to accept service of process until April 3, 2011, despite numerous attempts by the process server to set a meeting with him.

Respondent admits that he told the process server to serve the Order of Protection on his attorney based on advice of his counsel in his pending family law case and on Respondent's then belief that personal service of an Order of Protection was not required. Respondent now acknowledges that this belief was contrary to law and to the training he received as a new judge.

9. Respondent admits that he presided over hearings on protective orders during the time when he was himself the subject of a protective order based on his belief that his experience would aid him in handling such matters. He voluntarily ceased presiding over hearings on protective orders after consulting informally with the Judicial Ethics Advisory Committee.

10. Respondent admits that he made comments to police officers suggesting he would authorize a search warrant for the officers to enter his wife's residence and retrieve his children. While he admits making the comments, Respondent did not believe he made them in a manner that would convey actual intent to issue a search warrant, and believed the officers understood this. Respondent also admits requesting that the officers "ping" his wife's mobile phone to determine her location to satisfy himself that his children were still within the State.

11. Respondent admits that he contacted the police on six different occasions to report his wife for custodial interference when he knew that she had suspended his parenting time due to her belief that he had violated the parenting time order. Respondent believed her actions to be unwarranted and improper according to the court order, and in fact his parenting time was restored after the subsequent hearing.

12. On at least three occasions, Respondent's ongoing marital dissolution matter and related court proceedings have been the subject of local news broadcasts. Respondent appeared in one of those broadcasts for the purpose of ensuring accurate reporting about the marital dissolution matter.

13. Respondent's initial Answer to the Statement of Charges indicated that "he did not know at the time he asked [his court manager] to move his van that the person reportedly waiting by his van was attempting to serve him with legal process." Answer at 3, para. 8. This assertion contradicted the contemporaneous statements that then-pro tem Judge John Keegan said Respondent made to him during the time his van was being moved. Judge Keegan's statement prepared the same day indicates that Respondent told him that he asked his manager to move the van for the purpose of avoiding service of process. Judge Keegan advised Respondent that his actions were improper and would appear improper to court staff and the commission. Judge Keegan further advised Respondent that it is futile and improper to attempt to avoid service of process. Respondent, with the assistance of Judge Keegan, self reported this incident to the Commission on April 13, 2011. Respondent's amended answer to the Statement of Charges admitted the allegations in paragraph 8.

14. On Tuesday, September 6, 2011, Respondent sent his court manager a text message at home asking that she call him. During a nearly ten minute phone call, Respondent repeatedly questioned her memory that Respondent knew the man waiting for him in the parking lot was a process server. Following that conversation Respondent accepted her recollection over his own about his communications with her about moving the vehicle.

15. On Monday, September 12, 2011, Respondent approached his court manager in the clerical area of the courthouse and asked whether she had reviewed an article that appeared in a local Peoria newspaper over the previous weekend. She indicated she had not seen the article and Respondent informed her that the front page article featured information about her actions in moving his van. The court manager was uncomfortable with this conversation because it

appeared to her to be a further attempt by Respondent to discuss or question her potential testimony. The article in question did not actually mention the incident involving the van.

16. On or about Tuesday, September 13, 2011, Respondent spoke with his court manager about his family court case. He informed her that a doctor testified in an evidentiary hearing that Respondent is capable of violence and of physically harming his wife and children. His court manager felt uncomfortable and intimidated by this information, particularly since she believed Respondent was unhappy with her potential testimony, as described above.

17. Respondent did not actually intend to intimidate his court manager in any of these conversations, but acknowledges that is how she perceived his actions. He viewed his contact with her as part of the continuing communication on his family law case that he had engaged in with her previously. In light of the pending matter before the Commission, though, he admits that his contact with her as a potential witness in his case was improper.

18. On Wednesday, September 21, 2011, Respondent provided testimony under oath during an evidentiary hearing in his pending dissolution and custody case. His family court attorney requested that Judge Gordon seal the proceedings, and the judge stated he would deny this request. Respondent then indicated he had testimony he wanted the judge to consider related to the request. Respondent then testified:

Respondent: "This case is seen by my entire judicial staff. They all have FTR [For the Record], they can all call it up, they all watch it. The entire judiciary can see this, and ..."

Judge Gordon: "They have access to our FTR?"

Respondent: "Yes! Yes!"

Judge Gordon: "Well, I didn't know that."

19. Respondent's testimony was inaccurate because his judicial staff does not generally have access to superior court recordings, and none of the courtrooms for justice courts

in his regional facility are equipped to view superior court proceedings. It may be possible for a staff member to view a superior court recording if they improperly login to a computer outside the courtroom by using the generic login reserved for courtroom computers. According to representatives from superior court technical services, neither Respondent nor his court manager have ever used this generic login for the computers in their offices. Respondent admits he did not previously view superior court recordings at his computer or at the courtroom computer.

20. Respondent admits in light of this additional information from representatives of superior court technical services that his testimony on September 21 was inaccurate although he believed at the time that judicial officers and staff had the ability to view the superior court recordings.

#### **AGGRAVATING FACTORS**

21. Pursuant to Commission Rule 19, Disciplinary Counsel notes the following aggravating factors:

a. The nature of the misconduct at issue involves deception, abuse of judicial authority, failure to disqualify, and allowing personal and family circumstances to influence judicial conduct. Some of these acts of misconduct occurred over a period of months, on multiple occasions, and did not cease with the initial filing of formal charges.

b. The misconduct at issue has damaged respect for the judiciary and Respondent's court manager reports experiencing distress over her involvement in these matters to the extent that she has substantial concerns about working with Respondent in the future.

c. While Respondent self-reported certain of his acts he failed to recognize thereafter the wrongful nature of some of his acts of misconduct and while he expressed an intent

to change or reform some of his acts he did not at times manifest an effort to change or reform all of his acts.

d. Inconsistencies between the evidence of witnesses contacted by the Commission and Respondent's account of events suggests that Respondent did not cooperate fully and honestly at all times with the Commission in this proceeding.

### **MITIGATING FACTORS**

22. Pursuant to Commission Rule 19, Respondent notes the following mitigating factors:

a. Most of the conduct at issue occurred in Respondent's private life and not in his official capacity;

b. Through the course of these proceedings as problems with Respondent's conduct have been called to his attention he has acknowledged the wrongful nature of his conduct and expressed a willingness and desire to change or reform. Through this Stipulation he is acknowledging in its entirety the wrongful nature of his conduct and, as described in the conditions set forth below, manifests his willingness and desire to change or reform.

c. Respondent has no prior disciplinary actions and is a relatively new non law-trained judge with limited judicial experience.

d. At all relevant times, Respondent was suffering from severe personal and emotional problems and was dealing with a highly contentious divorce proceeding and custody dispute

e. It was never Respondent's intent to cause harm to any person or to compromise the image of the judiciary.

**MUTUAL CONSIDERATION**

23. As described above, Respondent admits that he engaged in misconduct and that his misconduct violates the Arizona Code of Judicial Conduct, specifically Rules 1.2, 1.3, 2.4, 2.11, 2.16(A), and 3.1.

24. The parties agree that resolving this matter by stipulation is in their mutual best interests and in the best interests of the judicial system.

**AGREED UPON SANCTION**

25. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a suspension without pay for a period of 60 days.

26. The parties also agree that, for a period of one year, the Commission will assign Respondent a mentor judge who is law-trained and familiar with the kinds of matters that are handled by his Court, taking into consideration any concerns by Respondent regarding the individual assigned. The mentor will provide general guidance as well as specific advice regarding Respondent's conduct in personal legal matters to ensure Respondent's compliance with the Code and to avoid negative impacts on his ability to serve as a judge. Respondent agrees to cooperate with the mentor. At the end of one year, the mentor will report to the Commission regarding Respondent's progress and whether additional education would be helpful. Respondent will be given the opportunity to provide the Commission with comments on the Report.

27. Respondent agrees that he will not preside over any matter involving a protective order as long as there is a protective order in place against him. Once the order of protection ceases to be effective, and assuming no subsequent order is issued, Respondent is free to resume his normal duties related to the handling of protective order cases.

28. Respondent agrees to attend 10 hours of judicial ethics training and a three-hour course on anger management during 2012. He will provide certification of completion of both to the Commission.

**OTHER TERMS AND CONDITIONS**

29. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.

30. Both parties waive their right to appeal or object to the hearing panel's recommendation related to this stipulation, including the procedures in Commission Rule 29.

31. Both parties agree not to make any statements to the press or in public that are contrary to or inconsistent with the terms of this agreement.

32. Both parties will pay their own costs and attorneys' fees associated with this case.

33. Respondent, together with his attorney, has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

34. This agreement constitutes the complete understanding between the parties.

**SUBMITTED** this 8th day of December, 2011.

s/Phillip Woolbright  
Phillip Woolbright, Justice of the Peace  
Respondent

12/8/11  
Date Signed

s/Jennifer Perkins  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

12/8/11  
Date Signed

Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007-3327  
602-452-3200

**FILED**

**DEC 23 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	Case No. 11-111
	)	
<b>PHILLIP WOOLBRIGHT</b>	)	
Arrowhead Justice Court	)	<b>ACCEPTANCE OF STIPULATED</b>
Maricopa County	)	<b>AGREEMENT FOR DISCIPLINE</b>
State of Arizona	)	<b>BY CONSENT AND</b>
	)	<b>ORDER VACATING HEARING</b>
Respondent	)	

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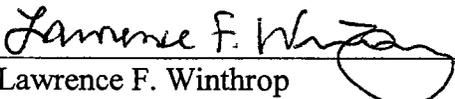
The duly appointed hearing panel of the Commission on Judicial Conduct in the above-entitled case hereby accepts the Stipulated Agreement for Discipline by Consent signed by the Respondent and Disciplinary Counsel, pursuant to Rule 30.

**IT IS ORDERED** that the hearing set for January 26 and 27, 2012, is vacated.

**IT IS FURTHER ORDERED** that the Clerk of the Commission shall promptly prepare and transmit the Commission's Recommendation, along with the official record of these proceedings, to the Supreme Court as required by Rule 29.

**DATED** this 23rd day of December 2011.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Lawrence F. Winthrop  
Presiding Member of the Hearing Panel

Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200

**FILED**

**DEC 23 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Supreme Court No. JC-11-003
<b>PHILLIP WOOLBRIGHT</b>	)	
Arrowhead Justice Court	)	Commission Case No. 11-111
Maricopa County	)	
State of Arizona	)	<b>RECOMMENDATION</b>
	)	
Respondent	)	

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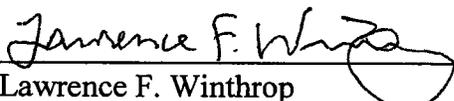
On August 16, 2011, the Commission on Judicial Conduct (“Commission”) filed a Statement of Charges against Justice of the Peace Phillip Woolbright (“Respondent”) following a finding of reasonable cause by a three-member investigative panel assigned to oversee the investigation in this case. Simultaneously, the Commission chairperson appointed a seven-member hearing panel to hear and take evidence in the case and designated the undersigned as the presiding member of the panel.

On December 8, 2011, Respondent and Disciplinary Counsel subsequently submitted a Stipulated Agreement for Discipline by Consent (“Agreement”) to the hearing panel containing an unconditional acceptance of a 60-day suspension under Rule 18(a), and a waiver of Respondent’s right to appeal and all other procedural rights set forth in Rule 29. On December 12, 2011, the hearing panel unanimously voted via e-mail to accept the Agreement.

In accordance with the terms and conditions of the Stipulation, the hearing panel recommends to the Court that Respondent be suspended for a period of 60 days without pay, that the parties pay their own costs and attorneys' fees, and that the parties comply with all other conditions set forth in the stipulated agreement.

**RESPECTFULLY SUBMITTED** this 23rd day of December 2011.

**FOR THE HEARING PANEL**

  
\_\_\_\_\_  
Lawrence F. Winthrop  
Presiding Member

Copies of this pleading were delivered and mailed this 23rd day of December 2011 to:

Larry J. Cohen, Respondent's Counsel  
COHEN LAW FIRM  
P.O. Box 10056  
Phoenix, AZ 85064

Jennifer Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

By:   
\_\_\_\_\_  
Clerk of the Commission

Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200

**FILED**

**DEC 23 2011**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Supreme Court No. JC-11-003
<b>PHILLIP WOOLBRIGHT</b>	)	
Arrowhead Justice Court	)	Commission Case No. 11-111
Maricopa County	)	
State of Arizona	)	<b>RECOMMENDATION</b>
	)	
Respondent	)	

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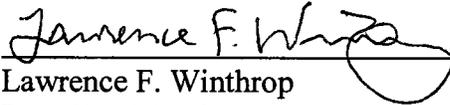
On August 16, 2011, the Commission on Judicial Conduct (“Commission”) filed a Statement of Charges against Justice of the Peace Phillip Woolbright (“Respondent”) following a finding of reasonable cause by a three-member investigative panel assigned to oversee the investigation in this case. Simultaneously, the Commission chairperson appointed a seven-member hearing panel to hear and take evidence in the case and designated the undersigned as the presiding member of the panel.

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In accordance with the terms and conditions of the Stipulation, the hearing panel recommends to the Court that Respondent be suspended for a period of 60 days without pay, that the parties pay their own costs and attorneys' fees, and that the parties comply with all other conditions set forth in the stipulated agreement.

**RESPECTFULLY SUBMITTED** this 23rd day of December 2011.

**FOR THE HEARING PANEL**

  
\_\_\_\_\_  
Lawrence F. Winthrop  
Presiding Member

Copies of this pleading were delivered and mailed this 23rd day of December 2011 to:

Larry J. Cohen, Respondent's Counsel  
COHEN LAW FIRM  
P.O. Box 10056  
Phoenix, AZ 85064

Jennifer Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

By:   
\_\_\_\_\_  
Clerk of the Commission

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, AZ 85007  
Telephone: 602-452-3200  
Email: [JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)

**SUPREME COURT OF ARIZONA**

<p>Inquiry concerning:</p> <p><b>PHILLIP WOOLBRIGHT</b> Arrowhead Justice Court Maricopa County State of Arizona</p> <p>Respondent</p>	<p>JC-11-0004</p> <p>CJC Case No. 11-111</p> <p><b>NOTICE OF CHANGED CIRCUMSTANCES</b></p>
--	--

COMES NOW Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby notifies the Court of changed circumstances in the above-captioned matter.

On December 23, 2011, the Commission filed its recommendation and the record in this matter with the Court. A piece of the record on which the Commission’s hearing panel relied in reaching its recommendation, and which has been presented to this Court, was the Second Amended Statement of Charges filed against Respondent on November 28, 2011.

Paragraphs 27 through 33 of the Second Amended Statement of Charges describe a circumstance resulting in Respondent’s arrest for interference with a judicial proceeding based on charges that he violated the terms of an order of protection. Paragraph 33 specifically noted that the prosecutor voluntarily moved to dismiss the pending charges against Respondent at the time of his initial appearance on August 15, 2011, and that “no charge remains pending.” Counsel for Respondent alerted Disciplinary Counsel that this statement is no longer factually accurate.

On January 11, 2012, the Maricopa County Attorney re-filed charges against Respondent through a Direct Complaint filed in Maricopa County Superior Court. The complaint charges Respondent again with interfering with judicial proceedings Attachment A. The Phoenix Police Department provided additional evidence relating to the underlying incident that led the County Attorney to re-file the charges. Counsel does not have copies of such evidence and notes that any additional facts contained in such evidence are beyond the record considered by the Commission's hearing panel in reaching a recommendation. Respondent's initial appearance in regarding the new charges is set for February 2, 2012, and no discovery has yet occurred in the criminal matter.

Disciplinary Counsel will seek to obtain copies of the apparently new evidence that justified the re-filing of charges against Respondent. Because any new facts thereby discovered be beyond the record before this Court, Disciplinary Counsel will address the need for any further action separately. In other words, Counsel does not anticipate seeking to expand the factual record before the Court on the basis of this new development.

**RESPECTFULLY SUBMITTED** this 23rd day of January, 2012.

s/ Jennifer Perkins  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

Copies of this pleading sent via  
First-class mail on January 23, 2012

Larry J. Cohen Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064

Counsel for Respondent

By: 

# **ATTACHMENT A**

WILLIAM G. MONTGOMERY  
MARICOPA COUNTY ATTORNEY

Krystal Garza  
Deputy County Attorney  
Bar ID #: 021784  
301 West Jefferson, 5th Floor  
Phoenix, AZ 85003  
Telephone: (602)506-5999  
mcaomjc2@mcao.maricopa.gov  
MCAO Firm #: 00032000  
Attorney for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA, RCC-Downtown

THE STATE OF ARIZONA	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	CR 2012 -005432-001
PHILLIP A WOOLBRIGHT	)	
	)	
Defendant.	)	DIRECT COMPLAINT
	)	SUMMONS
	)	

A Direct Complaint has been filed in this Court against you, PHILLIP A WOOLBRIGHT, charging that in Maricopa County, Arizona, COUNT(S) 1: on or about the 21st day of July, 2011, the crime(s) of COUNT 1: INTERFERING WITH JUDICIAL PROCEEDINGS, A CLASS 1 MISDEMEANOR AND A DOMESTIC VIOLENCE OFFENSE (DV), has/have been committed. You are

**HEREBY SUMMONED** to appear before this Court to answer the Direct Complaint at RCC-Downtown, 101 W. Jefferson, Courtroom 813, Phoenix, AZ 85003 on FEB - 8 2012. You are required to appear and check in at 10:30 am. You will either be directed to complete your paperwork for your hearing, provide proof of your fingerprints or meet with Pretrial Services (as necessary). You must then return at 1:30 p.m. for your hearing. Please recognize that public seating at the courthouse is limited. Be prepared because it may be necessary to stay at the court all day. Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by parties at least three judicial days in advance of a scheduled court proceeding and may be done by calling (602) 506-8575.

SUM

Failure to appear without good cause as summoned will place you in contempt of Court and a warrant will be issued for your arrest.

YOU ARE FURTHER ORDERED to appear to be photographed and fingerprinted by the Maricopa County Sheriff's Office, Records and Identification Division, West Court Building, 111 S. 3rd Ave., 4th Floor, Phoenix, AZ (you must enter at 201 West Jefferson and go through security then proceed to the West Court Building), telephone (602) 876-1047, any time between the hours of 7:30 am to 4:30 pm, Monday through Friday before the date of your court appearance.

TO BE PROCESSED YOU MUST BRING this summons, some form of identification (i.e., Arizona Drivers License, Arizona Social Services card, Arizona I.D. card, Resident Alien card, or Military I.D. card, AND If you are under eighteen (18) years of age, a copy of the minute entry remanding your case to adult court).

GIVEN UNDER MY HAND AND SEAL of the said Court on \_\_\_\_\_  
by order of the court.

Michael K. Jeanes  
Clerk of the Superior Court

By \_\_\_\_\_  
Deputy Clerk

Phillip A Woolbright  
8826 West Alice Avenue  
Peoria, Az 85345

**COPY**

**JAN 11 2012**



MICHAEL A. JEANES, CLERK  
T. SPELGATTI  
DEPUTY CLERK

**OFFICER'S RETURN**

I CERTIFY that

\_\_\_\_\_ This summons was served by certified mail, receipt attached

\_\_\_\_\_ I personally served this summons

\_\_\_\_\_ I personally attempted to serve this summons

on \_\_\_\_\_ at \_\_\_\_\_  
(Defendant) (Date/Time)

at \_\_\_\_\_ Arizona.

If not served, reason: \_\_\_\_\_

Officer Serving Summons: \_\_\_\_\_

**TO BE COMPLETED BY OFFICER TAKING FINGERPRINTS & PHOTOGRAPHS:**

Case No. \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Location: \_\_\_\_\_ Officer: \_\_\_\_\_

SUM



Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**

**MAR 07 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge,	)	
	)	
<b>Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	
State of Arizona,	)	<b>AMENDED</b>
	)	<b>CASE MANAGEMENT ORDER</b>
	)	
Respondent	)	
	)	

---

Counsel have conferred and submitted a “Joint Proposal Concerning Case Management Order” in this matter. Good cause appearing, the prior Case Management Order issued on October 2, 2011, is amended as follows:

**IT IS NOW THEREFORE ORDERED,**

1. **Recording proceedings.** The issue of recording format for the formal proceedings in this matter is deferred to allow Mr. Cohen to confirm that the FTR system in place and available is reliable and can provide recordings for the parties immediately following the recorded proceedings. Counsel are encouraged to timely complete such investigation no later than April 13, 2012. Any renewed objection to proceeding with FTR recording technology must be submitted with any additional pre-hearing motions by 5:00 p.m. that date.

2. **Witness lists.** Final witness lists will be updated no later than March 9, 2012.

3. **Discovery.** All discovery, including depositions, will be completed by April 6, 2012.

4. **Objections.** Any objections to proposed or anticipated evidence, and any pre-hearing motions must be submitted no later than April 13, 2012, to be hand-delivered or sent by e-mail attachment to the Presiding Member and opposing counsel no later than 5:00 p.m. that date. Responses will likewise be submitted by hand-delivery or e-mail attachment no later than 5:00 p.m. on the date such responses are due.

5. **Joint prehearing statement.** The joint pre-hearing statement is due before 5:00 p.m. on April 18, 2012.

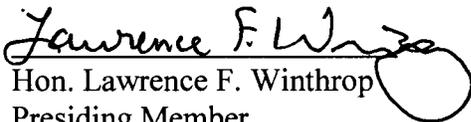
6. **Pre-hearing Conference.** A pre-hearing conference will be held on April 24, 2012, at 9:30 a.m. in the Presiding Member's court chambers at the State Courts Building, third floor. On arrival, counsel are directed to contact Cecilia Samarripas at 602-542-1430 for access through the third floor security doors.

7. **Hearing.** The formal hearing in this matter is set for 9:30 a.m. on April 25, 2012. The hearing will conclude that day unless, for good cause shown, additional time is warranted. In that event, the formal hearing will conclude no later than 12:00 p.m. on April 26, 2012.

8. In all other respects, the provisions of the October 2, 2011, Case Management Order are confirmed.

**DATED** this 7th day of March 2012.

**FOR THE HEARING PANEL**

  
Hon. Lawrence F. Winthrop  
Presiding Member

**ORIGINAL** of this pleading filed on  
March 7, 2012, with:

Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007

**COPY** of the foregoing sent via e-mail  
on October 20, 2011, to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
Counsel for the Respondent  
P.O. Box 10056  
Phoenix, AZ 85064

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, AZ 85007

by:   
Clerk of the Commission

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**FILED**  
**MAR 26 2012**  
**ARIZONA COMMISSION ON**  
**JUDICIAL CONDUCT**

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>THIRD MOTION REQUESTING</b>
State of Arizona	)	<b>LEAVE TO AMEND</b>
Respondent.	)	<b>STATEMENT OF CHARGES</b>

---

Undersigned Disciplinary Counsel (Counsel) hereby requests leave to amend the Statement of Charges in this matter pursuant to Commission Rule 24(C), which allows for the amendment of a Statement of Charges “for good cause.” A copy of the proposed amended charges is attached, with the amendments appearing in paragraphs 43-52. Counsel acknowledges that the charges in this matter have already been amended twice to reflect additional allegations of misconduct that occurred during the pendency of the matter. Unfortunately, while the matter has remained pending, Counsel has obtained additional factual information relevant to the charges and hereby seeks to include that additional factual information in the statement of charges upon which the upcoming hearing will be based. In summary, the additional facts include the following information:

1. The Maricopa County Attorney’s Office (MCAO) has re-filed criminal misdemeanor charges against Respondent, charges that had been previously

voluntarily dismissed in August 2011. Thus, the current statement of charges is factually incorrect when it notes that “no charge remains pending.” [Second Amended Statement of Charges at paragraph 33]. Respondent has been aware of this new information since the date of MCAO’s re-filing, January 9, 2012.

2. The MCAO re-filed the charges once the department received additional evidence from the City of Phoenix Police Department, including phone and text message records as well as completed police reports. The contents of those records provide additional supplemental facts relevant to Respondent’s case before the Commission. Counsel disclosed initial copies of these records to counsel for Respondent on February 28, 2012, and subsequently disclosed official copies on March 17, 2012.
3. On December 14, 2011, Judge Michael Gordon issued an order related to Respondent’s dissolution proceedings including specific findings that are relevant to the Commission’s assessment of the appropriate sanction in this matter. Respondent received this order in the course of his dissolution proceeding in December 2011.
4. In the interim since the previous statement of charges, several Maricopa County Justices of the Peace have raised concerns that are also relevant to the Commission’s assessment of the appropriate sanction in this matter. Counsel for Respondent received copies of these concerns in December 2011 and January 2012.

In conclusion, Counsel respectfully requests that good cause be found allowing amendment to the charges. Specifically, all new information came to Counsel’s attention after the filing of the previous charges, it is relevant to the Commission’s prosecution of Respondent for ethical misconduct as well as the Hearing Panel’s assessment of the appropriate sanction,

and Counsel previously disclosed all information to counsel for Respondent such that there is no prejudice to Respondent in terms of the timing of this amendment. Discovery remains ongoing in this matter. Finally, Disciplinary Counsel notes that there is no request to amend the actual charges of ethical misconduct in that no additional rule violations are included; rather, this amendment seeks only to ensure the facts upon which the charges are based are complete.

Counsel disclosed the draft amendments to counsel for Respondent on March 17, 2012. It is Counsel's understanding that Respondent intends to object to the amendment, and Counsel respectfully requests that if the Presiding Member denies the objection an accelerated time for submitting an amended answer to the charges be imposed to avoid further delay in the proceedings and given discovery in this matter is set to close April 6. Respondent will not be prejudiced given he has already had 9 days in which to review the proposed amendments.

Dated this 26th day of March, 2012.

**COMMISSION ON JUDICIAL CONDUCT**

s/Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading sent via email on March 26, 2012, to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
[ljc@ljcohen.com](mailto:ljc@ljcohen.com)

*Counsel for Respondent*

By: s/Jennifer M. Perkins

Larry J. Cohen, Esq. (010192)  
The Cohen Law Firm  
P. O. Box 10056  
Phoenix, Arizona 85064  
(602) 266-30809  
(602) 265-6866 (f)  
ljc@ljcohen.com

**FILED**  
**MAR 26 2012**  
ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	CJC Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>OBJECTION TO FILING</b>
State of Arizona	)	<b>THIRD AMENDED</b>
	)	<b>STATEMENT OF CHARGES</b>
Respondent.	)	
	)	

---

Respondent Judge Phillip Woolbright, through counsel, respectfully opposes the proposed filing of the Third Amended Statement of Charges.

Before stating his objections to the specific proposed amendments to the Statement of Charges Respondent notes that all of the proposed changes in the Third Amended Statement of Charges supplement the Factual Background. There are no proposed changes to the Allegations of Misconduct, now set forth in Paragraph 53 of the Third Amended Statement of Charges.

The purpose of a Statement of Charges is to give a judge “full and fair

notice of the allegations.” Rule 24(a), Rules of the Commission on Judicial Conduct (RCJC).” None of the proposed additions to the Factual Background have changed in any way the Allegations of Misconduct, now set forth in Rule 53 of the Statement of Charges.

Accordingly, if in offering these additions to the Factual Background Disciplinary Counsel acknowledges that she is limited at the forthcoming hearing to the factual statements set forth in the Statement of Charges then Respondent can understand the occasion for, even if he does not agree with, the proposed amendment to the Statement of Charges. However, if Disciplinary Counsel will not be limited in supporting the Allegations of Misconduct to the facts set forth in the Factual Background in the Statement of Charges then Respondent believes that the amendment is unnecessary and should not be permitted. Respondent is informed of the Allegations of Misconduct without these additions to the Factual Background.

If this case was a confidential proceeding then, frankly, it would not matter to Respondent what Disciplinary Counsel chose to put into the Factual Background of her Statement of Charges, so long as the factual statements were made in good faith. However, these proceedings are anything but confidential. Indeed, the fact and content of these proceedings have been the occasion for a

media trial, prosecuted by media institutions and private persons intent on assassinating Respondent Judge Woolbright's character and driving him from office. Each time the Commission releases an official document, like an amended Statement of Charges, it becomes an opportunity for further public media reporting and editorial comment, including editorial comment by, among others, one of Disciplinary Counsel's listed witnesses, Former Justice of the Peace John Keegan. Judge Woolbright has no opportunity or ability to comment on the media onslaught, taking seriously as he does the restriction on his comments provided for in Rule 2.10(A), Arizona Code of Judicial Conduct.

It is in this context that Respondent urges the Presiding Hearing Panel Member to deny the Motion to Amend the Statement of Charges if the Amendment does not serve directly the stated purpose of Rule 24(a), RCJC. If, however, the proposed amendments to the Factual Background are necessary because Disciplinary Counsel will be limited by them in the evidence she can present to the Commission at the hearing then Respondent acknowledges that he cannot object to the proposed amendment on this ground.

Second, the Arizona Supreme Court remanded this case because of a specific change in circumstances that was called to Disciplinary Counsel's attention by Respondent. On January 9, 2012, the Maricopa County Attorney's

Office filed a Direct Complaint in Maricopa County Superior Court reinstating the charge against Judge Woolbright for violating his order of protection. The Supreme Court was clear in stating that the matter was remanded “in light of these changed circumstances.” There was nothing in the Court’s remand order stating that these proceedings were to be expanded beyond those changed circumstances. Nonetheless, Disciplinary Counsel has taken this occasion to do so.

Respondent urges the Presiding Hearing Panel Member to limit the proposed amendment to this proceeding to the facts that were the reason for the remand. Proposed paragraphs 43 and 49 are consistent with the basis for the remand. Paragraphs 45 through 48 and 50 through 52 extend into other matters that are beyond the scope of the remand.

Respondent now turns to specific objections to the proposed Supplemental Facts. These objections are made subject to Respondent’s more general contention that no amendment of the Statement of Charges is needed at this time. The grounds for the objections are stated in the discussions about each of the respective paragraphs.

**A. Facts Relating to Misdemeanor Charges**

Paragraph 43: Respondent agrees that Paragraph 43 accurately states the

fact that the charge previously dismissed was reinstated.

No reason is given here, however, and apparently no reason has been given by the Maricopa County Attorney's Office why the charge was reinstated at the time it was, while the stipulation to resolve this matter was pending before the Arizona Supreme Court. This factual statement is incomplete, and unduly prejudicial in failing to provide a reason for the refiling at that point in time.

Paragraph 44: This paragraph is not a factual statement concerning the events that form the basis for the Allegations of Misconduct. Accordingly, it should be stricken insofar as it is offered as a factual statement.

Paragraph 45: The events that occurred on July 21, 2011 were addressed previously by Disciplinary Counsel at Paragraphs 27 and 28 of the Statement of Charges. The facts set forth in this proposed new paragraph were known to or within the scope of the investigation Disciplinary Counsel conducted previously. Disciplinary Counsel should not be permitted to add them at this time.

Paragraph 46: The events that occurred on July 21, 2011 were addressed previously by Disciplinary Counsel at Paragraphs 27 and 28 of the Statement of Charges. The facts set forth in this proposed new paragraph were known to or within the scope of the investigation Disciplinary Counsel conducted previously. Disciplinary Counsel should not be permitted to add them at this time.

Paragraph 47: The events that occurred on July 21, 2011 were addressed previously by Disciplinary Counsel at Paragraphs 27 and 28 of the Statement of Charges. The facts set forth in this proposed new paragraph were known to or within the scope of the investigation Disciplinary Counsel conducted previously. Disciplinary Counsel should not be permitted to add them at this time.

Paragraph 48: The facts set forth in this Paragraph were stated in Paragraph 27 and are redundant as presented here and so should not be permitted as cumulative. In any event, the events that occurred on July 21, 2011 were addressed previously by Disciplinary Counsel at Paragraphs 27 and 28 of the Statement of Charges. The facts set forth in this proposed new paragraph were known to or within the scope of the investigation Disciplinary Counsel conducted previously. Disciplinary Counsel should not be permitted to add them at this time.

Paragraph 49: Respondent agrees that Paragraph 49 accurately states the fact that the charge previously dismissed and later reinstated remains pending.

Once again, no reason is given here, and apparently no reason has been given by the Maricopa County Attorney's Office why the charge was reinstated at the time it was, while the stipulation to resolve this matter was pending before the Arizona Supreme Court. This factual statement, like that in Paragraph 43, is incomplete and unduly prejudicial in failing to provide a reason

for the refiling at that point in time.

**B. Facts Relating to Custody Proceedings**

Paragraph 50: Respondent agrees that Judge Gordon makes statements about him in the context of evidence Judge Gordon received in a marital dissolution proceeding where custody was in issue. The factual statements provided here are taken out of context and so are misleading to the extent they purport to be a complete statement about Respondent's mental state. In that regard Disciplinary Counsel has neglected to include the results of a recent mental health evaluation performed by a psychiatrist pursuant to Judge Gordon's Order. For these reasons, Paragraph 50 and its subparts should be excluded as irrelevant, misleading and unduly prejudicial.

**C. Character Statements of Others**

Paragraph 51: No factual basis is given for the hearsay concerns of other unnamed Justices of the Peace. Insofar as these statements are statements about Judge Woolbright's character they are not admissible in evidence in these proceedings. See Rule 3.3, ACJC. The Court Manager who was deposed on March 22, 2012 gave no factual basis for any fear of harm from Judge Woolbright. Insofar as she is expressing an statement about character, her statements are

inadmissible as well.

Paragraph 52: No factual basis is given for these reported hearsay concerns of other unnamed Justices of the Peace. Insofar as these statements are statements about Judge Woolbright's character they are not admissible in evidence in these proceedings. See Rule 3.3, ACJC. The Court Manager who was deposed on March 22, 2012 gave no factual basis for any fear of harm from Judge Woolbright. Insofar as she is expressing an statement about character, her statements are inadmissible as well.

For all of these reasons, Respondent respectfully requests that the Motion to Amended the Statement of Charges be denied.

DATED this 26<sup>th</sup> day of March, 2012

By: The Cohen Law Firm

/s/ Larry Cohen  
Larry J. Cohen, Esq.  
COHEN LAW FIRM  
P.O. Box 10056  
Phoenix, Arizona 85064  
Attorney for Judge Woolbright

**FILED**

**MAR 26 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>RESPONSE TO OBJECTION TO</b>
State of Arizona	)	<b>FILING THIRD AMENDED</b>
Respondent.	)	<b>STATEMENT OF CHARGES</b>

In Respondent’s Objection to Disciplinary Counsel’s (Counsel) request for leave to amend the Statement of Charges in this matter for the third time, he raises several objections, which are categorized and taken in order briefly below.

***1. The Amendments are Limited to the Factual Background***

Counsel agrees that the proposed amendments are limited to factual additions to the charges, but disagrees that allowing the Statement of Charges to accurately reflect the primary factual basis for the charges against Respondent is unnecessary. Counsel acknowledges that the facts as described in the Factual Background section are the primary facts upon which she relies, and thus is concerned that this factual statement be accurate and complete, as contemplated by Commission Rule 24(a).

To the extent that Respondent is concerned about the public nature of this case, it is

simply a fact that formal proceedings before the commission are public. The commission's general policy is to issue a press release at the time of the filing of formal charges, and once the time for an answer to the charges has expired. At that time, both the charges and answer are available to any member of the public who requests them. At no time since the initial press release has the Commission proactively sought media coverage or initiated the release of any information in the case. It is, however, the duty of commission staff to appropriately respond to public information requests, which has occurred multiple times in this case driven twice now by Respondent's own actions in committing additional acts that Counsel believes constitute ethical misconduct and thus needed to be included in the current proceedings.

***2. The Amendments are Not Appropriately Limited***

Respondent correctly notes that the Supreme Court cited the "changed circumstances" of re-filing of criminal charges by the Maricopa County Attorney's Office (MCAO) in remanding this matter for further proceedings. Nothing in the Court's order, however, purported to limit the proceedings on remand to that issue.

***3. Disciplinary Counsel Failed to Provide the Litigation Strategy of the Maricopa County Attorney's Office When it Re-Filed Misdemeanor Charges***

Respondent notes several times that Counsel did not provide the thought process of the MCAO in its decision to reinstate criminal charges. Counsel and MCAO do not coordinate on ethical cases involving criminal charges, and it would not be appropriate for Counsel to speculate in any detail about the MCAO's litigation strategy in voluntarily dismissing charges in August 2011, that it chose to reinstate in January 2012. That said, as noted in the motion, Counsel disclosed to Respondent the contents of MCAO's file obtained via subpoena and at

page 20 of that disclosure there is a “Memorandum for Refiling” document dated January 4, 2012. The document clearly states that the MCAO previously dismissed the charges for lack of phone call recording and text message evidence and that the refiling was based on MCAO obtaining that evidence.

Respondent repeatedly notes that the information was within the scope of Counsel’s previous investigations, but that is simply incorrect given the bulk of the evidence (phone recordings and text messages) were not released by the phone company during the previous investigative efforts. Counsel acknowledges that she had not been able to obtain police reports related to the incident by the time the MCAO voluntarily dismissed the charges in August 2011 and did not pursue the request after that point given the voluntary dismissal of charges.

***4. Additional Amendments in Paragraphs 50-52 Are Incomplete or Inadmissible***

In his objections to the facts noted in paragraphs 50-52, Respondent points in part to evidence that was not available to Counsel at the time she completed the draft amendments on March 17: the final report prepared by Dr. Potts (disclosed to Counsel on March 22) and the deposition of Jane Miller (taken on March 22). That discrepancy notwithstanding, Respondent’s concerns are not well taken.

First, Respondent appears to be suggesting that Counsel is required to demonstrate the admissibility of the evidence supporting the facts in a statement of charges. This is clearly wrong, and issues of admissibility will be determined by the Presiding Member at the time evidence is proffered. The Statement of Charges sets forth Counsel’s understanding of the facts based on the evidence in her possession and Respondent is free to refute those facts in his Answer (to the extent he appears to do so here by citing to recently obtained evidence, such

arguments are misplaced in an Objection and should be reserved for his Answer).

Second, Respondent incorrectly insinuates that the Rules of Evidence will strictly apply to the admissibility of the documents supporting the facts in paragraphs 50-52. The Rules of Evidence only apply “so far as practicable” in commission proceedings and the Presiding Member will have full discretion to determine what that means in the context of presented evidence. Further, and more importantly, the facts provided in paragraphs 50-52 address only aggravating factors on the issue of the appropriate sanction, and are intended to provide notice to Respondent and the Hearing Panel of those facts. It is well-established in the criminal context that out of court statements, including hearsay, are permitted in determining sentencing. *See* Rule 26.7, Arizona Rules of Criminal Procedure (At a pre-sentence hearing, “any party may introduce any reliable, relevant evidence, including hearsay, in order to show aggravating or mitigating circumstances[.]”). While the commission does not engage in a bifurcated procedure, the rationale for relaxation of the evidentiary rules when applied to mitigation and aggravation evidence certainly applies to commission proceedings. *See Williams v. New York*, 337 U.S. 241, (1949) (“A sentencing judge, however, is not confined to the narrow issue of guilt. His task within fixed statutory or constitutional limits is to determine the type and extent of punishment after the issue of guilt has been determined. Highly relevant-if not essential-to his selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant's life and characteristics. And modern concepts individualizing punishment have made it all the more necessary that a sentencing judge not be denied an opportunity to obtain pertinent information by a requirement of rigid adherence to restrictive rules of evidence properly applicable to the trial.”).

Counsel thus respectfully requests that the proposed amendments be permitted and Respondent be required to expedite the filing of his Answer.

Dated this 27th day of March, 2012.

**COMMISSION ON JUDICIAL CONDUCT**

s/Jennifer M. Perkins

Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading sent via  
email on March 27, 2012, to:

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*Counsel for Respondent*

By: s/Jennifer M. Perkins

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Telephone: (602) 452-3200

**FILED**

**APR 02 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent. )

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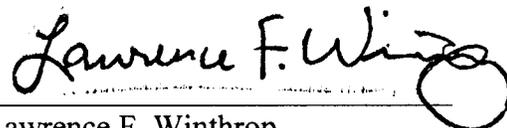
Disciplinary Counsel filed a Motion Requesting Leave to Amend Statement of Charges and a proposed Third Amended Statement of Charges on March 26, 2012, and on that date, Respondent's Counsel filed an Objection thereto. A telephonic hearing to consider this issue was held on April 2, 2012. Following arguments and good cause appearing,

**IT IS ORDERED** that the objection filed by Respondent's Counsel is overruled, and the motion requesting leave to file a third amended statement of charges is granted.

**IT IS FURTHER ORDERED** directing counsel for Respondent to submit a substantive Response to the Third Amended Statement of Charges by 5:00 p.m. on Wednesday, April 4, 2012, and the Third Amended Statement of Charges and Response shall be filed with the Commission simultaneously on that date.

**DATED** this 2nd day of April 2012.

**FOR THE HEARING PANEL**



Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies e-mailed or hand-delivered  
on April 2, 2012, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

By: *Barbara Worless*  
Clerk of the Commission

Jennifer M. Perkins  
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**FILED**

**APR 03 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **MOTION IN LIMINE**  
State of Arizona )  
Respondent. )

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Undersigned Disciplinary Counsel (Counsel) moves that the Presiding Member of the Hearing Panel in this case issue an *in limine* order confirming the admissibility of certain documents, as described below. Counsel respectfully requests that Respondent be directed to submit an expedited response to this motion because the outcome of this issue will directly impact the parties' ability to anticipate which witnesses Counsel will call at the hearing, objections to which are due no later than April 13, 2012.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. Documents at Issue Relating Solely to Assessment of Appropriate Sanctions**

As Respondent knows, Counsel intends to request and demonstrate that the only appropriate sanction in this matter is his removal from the bench. In support of that request, Counsel intends to offer the following documents into evidence, copies of which are attached:

1. October 12, 2011, Custody / Access Report by Dr. Daniel Christiano;
2. December 12, 2011, Letter from Constables to Commission Executive Director;
3. December 14, 2011, Objection to Stipulated Agreement and/or Amicus Comments

- for Consideration;
4. December 14, 2011, Order addressing custody and parenting time issues by Judge Michael Gordon;
  5. March 27, 2012, Letter from Judge Rachel Torres Carrillo;
  6. Relevant Media Reports:
    - a. April 5, 2011, "Valley Judge Responds to Allegations," KPHO CBS 5;
    - b. September 2, 2011, "Justice of the Peace faces charges, could lose job," KPHO;
    - c. September 23, 2011, "Valley judge accused of tampering with witness";
    - d. September 24, 2011, "Justice of peace Woolbright ordered not to retaliate vs. worker," Tucson Citizen;
    - e. September 26, 2011, "Public ill-served by Judge Phillip Woolbright," John C. Keegan, Arizona Republic;
    - f. September 27, 2011, "Embattled Arrowhead justice of peace reassigned to Buckeye: Ethics probe against Woolbright continues," Arizona Republic;
    - g. September 29 2011, "Woolbright should resign as Arrowhead Justice of the Peace," Peoria Times.

Each of these documents includes information relevant to the Hearing Panel's evaluation of aggravation and mitigation factors, consistent with Commission Rule 19. Counsel thus seeks to admit each document for consideration in the sanction phase of these proceedings, and will not reference or rely on them in establishing Respondent's misconduct by clear and convincing evidence.

## **II. Evidentiary Standards at Issue Support Finding the Documents Admissible**

The Arizona Rules of Evidence apply to hearings before the Commission on Judicial Conduct (Commission) only "as far a practicable" and neither the Commission nor the Arizona Supreme Court has ever defined with more specificity the application of evidentiary rules. The Commission's rules clearly indicate that it is appropriate to present evidence related to and argue for a particular sanction during a Commission formal hearing. *See* Rule 27(f)(7). Thus, the assessment of an appropriate sanction is not bifurcated from the substantive hearing, but it is an appropriate if not necessary aspect of that hearing.

Counsel respectfully requests that, with respect to evidence related solely to the question of sanction, the Presiding Member look to the evidentiary standards relied on in the criminal context for sentencing proceedings. Specifically, the parties should be permitted to “introduce any reliable, relevant evidence, including hearsay, in order to show aggravating and mitigating circumstances[.]” Rule 26.7, Arizona Rules of Criminal Procedure. The rationale for allowing such judicial discretion and relaxation of the evidentiary rules in the criminal context is long-established and well reasoned:

A sentencing judge, however, is not confined to the narrow issue of guilt. His task within fixed statutory or constitutional limits is to determine the type and extent of punishment after the issue of guilt has been determined. Highly relevant-if not essential-to his selection of an appropriate sentence is the possession of the fullest information possible concerning the defendant's life and characteristics. And modern concepts individualizing punishment have made it all the more necessary that a sentencing judge not be denied an opportunity to obtain pertinent information by a requirement of rigid adherence to restrictive rules of evidence properly applicable to the trial.

*Williams v. New York*, 337 U.S. 241, 247 (1949). The same rationale applies in Commission proceedings, given the purposes of judicial discipline:

Our goal is not to punish but, rather, to impose sanctions to protect the public and foster judicial integrity. Imposition of proper and proportionate sanctions serves dual purposes. It deters similar conduct by others and as a result, fosters public confidence in our self-policing system. Only in this way can we ensure judicial integrity and preserve judicial independence. We therefore must examine Respondent’s conduct in light of its harm to the public and its impact on the perceived integrity of the judicial system.

*In re Peck*, 177 Ariz. 283, 287, 867 P.2d 853, 857 (1994); *see also In re Haddad*, 128 Ariz. 490, 492, 627 P.2d 221, 223 (1981).

In order to properly fulfill its purpose in assessing the appropriate sanction given these standards, the Hearing Panel should have available all pertinent information, including the

information contained in the documents listed herein. The members of the panel will, of course, have the discretion to rely on or choose to ignore or grant lesser weight to particular documents as each member sees fit. But the panel members should not be deprived of relevant materials due to an unnecessarily strict application of the evidentiary rules. This is particularly the case in this administrative regulation context given Arizona's recognition of this principle in the more serious criminal context; certainly it would be illogical to apply a stricter standard in the administrative context.<sup>1</sup>

### **III. Timing Considerations Require Expedited Consideration of This Motion**

Should the Presiding Member determine that the documents listed herein must be subject to a strict application of the evidentiary rules, Counsel will be forced to call four witnesses who will be in a position to authenticate the documents and present in-court, contemporaneous testimony as to the matters covered in the documents at issue. For the moment, Counsel has conditionally disclosed these witnesses to counsel for Respondent. If this request is granted and the standards discussed above adopted such that these documents are deemed admissible for the discussed limited purpose, then Counsel will remove the four witnesses from her disclosure list.

With the limited time remaining before the hearing, time is of the essence in determining the final list of witnesses for both parties. Mindful of that time frame, Counsel attempted to confer with Respondent's counsel on this issue and hoped to reach a stipulation

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<sup>1</sup> Notably, in Arizona attorney discipline matters, this is exactly the analysis applied by the Presiding Disciplinary Judge. The rules of evidence generally apply in attorney discipline cases, *see* Supreme Court Rule 58(j)(3), and the Presiding Disciplinary Judge informally indicated that as a matter of practice he treats the sanction phase of such proceedings similar to the sentencing phase of criminal proceedings, applying a much lower standard akin to that in Rule 27(f) of the Arizona Rules of Criminal Procedure.

without reaching the need for a ruling from the Presiding Member. Unfortunately, counsel for Respondent's busy schedule precluded him from responding within a week to this attempt, and thus Counsel must respectfully seek guidance through this motion. Because Respondent's counsel was made aware of this issue and related arguments by email on Monday, March 26, he should not be prejudiced by an expedited schedule for responding to this motion.

### CONCLUSION

Counsel respectfully moves for an *in limine* order establishing that the documents listed above are admissible for use and reference during the sanction phase of these proceedings, the Rules of Evidence notwithstanding.

Dated this 3rd day of April 2012.

### COMMISSION ON JUDICIAL CONDUCT

s/ Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

Copy delivered on April 3, 2012,  
via electronic mail to:

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**FILED**  
**APR 05 2012**  
ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>THIRD AMENDED</b>
State of Arizona	)	<b>STATEMENT OF CHARGES</b>
Respondent.	)	

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An investigative panel of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against Judge Phillip Woolbright (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a justice of the peace in Maricopa County since January 2011, and was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is and has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

#### **FACTUAL BACKGROUND**

5. On February 18, 2011, Respondent and his wife (Wife) engaged in a physical altercation that Maricopa County Superior Court Commissioner Richard Albrecht subsequently determined to be an act of domestic violence by Respondent, for the purposes of assessing an order of protection.

6. On March 23, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts. Both orders issued, although Respondent did not ever serve the order he obtained. On the same date, Wife separately filed for dissolution of marriage. Also on March 23, a private process server, William Tash, attempted to serve Wife's OOP on Respondent by waiting outside his residence from 6 p.m. – 11:30 p.m.

7. On March 24, Mr. Tash again unsuccessfully attempted service at Respondent's residence at 7:18 a.m. He later proceeded to the Northwest Regional Court Facility, the location of Respondent's court. At approximately 10:30 a.m., Respondent's van was in the public parking area and Mr. Tash was waiting by the vehicle when a female court staff member moved the van from the public parking area to the private judges' parking area.

8. The staff member was Jane Miller, Respondent's court manager, and she moved Respondent's van at his request specifically because he wanted to avoid accepting service of process at his court facility.

9. Mr. Tash then entered the court facility and spoke with Ms. Miller. She provided

him with contact information for Respondent's attorney and suggested Mr. Tash simply serve the paperwork on the attorney. Mr. Tash then explained that he could not serve an OOP on the attorney, but rather was required by law to personally serve the Respondent. Ms. Miller then explained Respondent had left the court in the intervening time and reiterated, per Respondent's instruction, that Mr. Tash should serve the attorney.

10. At approximately 3:15 p.m. and 5:30 p.m. Mr. Tash attempted to serve Respondent at his residence based on calls he received that Respondent was at the home. At both times, no one answered the door. At 6 p.m., Wife called the Peoria Police Department requesting assistance in serving the OOP based on her belief that Respondent was hiding in his residence. The police took a report but informed Wife they did not have the authority to enter the home and could not, therefore, force Respondent to accept service if he was hiding within the home.

11. On March 27 at 8:30 a.m., Mr. Tash again unsuccessfully attempted service at Respondent's residence.

12. On March 28 at 7:15 a.m., Mr. Tash waited outside the entrance to the court's private judicial parking area to serve Respondent. At 8 a.m., court security approached Mr. Tash to determine his purpose, and thereafter he entered the courthouse to find out if Respondent was expected at the court that day. He learned Respondent was not expected until the afternoon.

13. At approximately 9:00 a.m. on March 28, Mr. Tash called Respondent to explain his need to personally serve the OOP and Respondent indicated he was unaware of the personal service requirement. Respondent agreed to meet Mr. Tash at his attorney's office for the purpose of accepting service, but explained he was currently lost looking for the office. Mr.

Tash agreed to drive toward the area of the attorney's office and expect a call from Respondent in the meantime with directions.

14. Respondent never called Mr. Tash back, and did not answer or respond to two subsequent calls from the process server in his attempts to locate Respondent and the attorney's office.

15. That same afternoon, March 28, Mr. Tash returned to the court facility and spoke with Ms. Miller, who informed him that Respondent would not be in to the court that afternoon or for the remainder of the week because he was leaving town.

16. On April 2 at approximately 4:30 p.m., Respondent called Mr. Tash and explained he had gone to Lake Havasu City, Arizona. Respondent stated he was not attempting to avoid service of process and would be willing to meet Mr. Tash the following afternoon. Respondent stated he would call Mr. Tash the following day to arrange a meeting.

17. On April 3 at approximately 7:30 a.m., Mr. Tash received a phone call from Wife's mother indicating that a vehicle was in the driveway of Respondent's residence, and it appeared to be the one belonging to Respondent's sister, who lives in Lake Havasu City. When Mr. Tash arrived on the street the vehicle was leaving and Respondent appeared to be driving. Mr. Tash was unable to catch up and proceeded to Respondent's church based on Wife's belief that is where Respondent was likely going. Respondent's sister's vehicle was not at the church, but was subsequently sighted back at the residence.

18. Mr. Tash returned to the residence and personally served Respondent eleven days after the issuance of the OOP against him and ten days after Respondent was first made aware of the pending OOP. The OOP prohibited Respondent from having any contact with Wife or

his four children, and listed three protected addresses including the marital residence, church, and a family recreational center.

19. Later the same day, April 3, Respondent called the Peoria Police Department to report that Wife and the children had “disappeared” and he believed they were “missing” since March 22, 2011. The officer who took Respondent’s statement reported that Respondent accused Wife of “kidnapping” the children. The officer explained that he was aware of the OOP, which had been issued March 23 and which Respondent failed to mention, and that it prevented Respondent from having contact with his children. Thus, the officer explained it was not unlawful for Wife to keep the children from seeing Respondent.

20. During his report to the police on April 3, Respondent made a comment suggesting that he would be happy to authorize a search warrant so that the police officers could enter Wife’s residence and retrieve the children. The officer believed he may have been joking, but was nonetheless uncomfortable with the suggestion. Respondent then asked the officers to “ping” Wife’s mobile phone in order to determine her location, which they declined to do. The April 3 police report did not result in any action beyond verifying that Wife was safe with the children and that they had never been missing.

21. On March 29, Respondent called the Commission to voluntarily report his conduct at the court facility on March 24 and subsequently provided a written self-report on April 13, which he supplemented on April 15.

22. On May 18, Commissioner Albrecht presided over an evidentiary hearing, which resulted in subsequent amendments to the OOP on May 26 and June 2. The amendments removed three of the four children from the OOP, allowing for Respondent to have contact

with them, and also removed the marital residence as a protected address.

23. On June 17, Maricopa County Superior Court Judge Michael Gordon entered a minute entry order providing Respondent with supervised visitation of his children, stating:

If, at any time during supervision, Father violates *any* part of these orders, the supervisor shall immediately remove the children from Father's care and immediately return them to Mother. . . . If the children are removed, Father's supervised parenting time shall be suspended until further order of the court.

24. At Respondent's first subsequent supervised visitation, some type of altercation occurred causing the children to be upset and the supervisor to ask Respondent to leave. Respondent claimed in court proceedings that he only left because it was essentially the end of his time in any event, and that he had merely attempted to reprimand his son for behaving disrespectfully. Wife believed that Respondent had improperly disciplined and upset the son, and that the supervisor had effectively removed the children from Father's visitation within the meaning of Judge Gordon's order. Wife subsequently alerted Respondent that she had suspended visitation pursuant to the order.

25. On June 24 the investigative panel sought more information from Respondent, in particular asking whether he had voluntarily ceased hearing protective order matters in his court given his ongoing personal situation involving an OOP. In response, Respondent confirmed his ongoing belief that the OOP against him is unwarranted and further stated

Yes, I have presided over protective order petitions and hearings since March 23, 2011 without disclosing in any of the cases that there was an order in place against me. I found that the wisdom obtained from this experience has not affected my impartiality at all.

26. On July 9, 12, 14, 16, 17, and 19, Respondent contacted the Peoria Police

Department to report Wife for custodial interference because of her action in suspending visitation, which he believed was contrary to the court's order.

27. On July 21, Respondent again sought visitation and arrived to pick up the children with his sister and four Phoenix police officers accompanying him because he anticipated difficulty. Wife showed the police officers the original OOP and the officers arrested Respondent at that time for violating the OOP. Respondent attempted to show the officers subsequent court orders allowing for his visitation with the children, but he did not have an amended OOP to show them demonstrating he was not in violation.

28. Respondent was charged with interference with a judicial proceeding and arraigned at approximately 11:00 p.m. on July 21, and thereafter released on his own recognizance. He appeared for his duties on the bench on July 22, initially intending to continue his duties in full. After consultation with the Staff Director for the Arizona Supreme Court Judicial Ethics Advisory Committee (JEAC), it is the Commission's understanding that Respondent voluntarily ceased hearing any matter related to protective orders for the time being.

29. On July 22, Respondent voluntarily reported his arrest to the Commission.

30. On at least two occasions, Respondent's ongoing marital situation and related court proceedings have been the subject of local news broadcasts. Respondent appeared in one of those broadcasts.

31. Members of the Peoria Police Department regularly appear in Respondent's court.

32. On August 10, Aldon Terpstra, the contract public defender assigned to Respondent's regional court facility, filed a request for a change of judge for cause pursuant to

Rule 10.1 of the Arizona Rules of Criminal Procedure. The basis for the motion was:

Defendant cannot receive a fair and impartial hearing before the currently assigned judge, Phillip Woolbright, because of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted by the Maricopa County Attorney's Office in CR2011-006610-001, while also presiding over a criminal matter with the Maricopa County Attorney's Office being a party.

33. Respondent's initial appearance occurred on August 15. The prosecutor moved to dismiss the charge at that time and no charge remains pending.

#### **SUPPLEMENTAL FACTS**

34. The Commission filed the original Statement of Charges against Respondent on August 16, 2011, and Respondent filed his Answer on September 1. In his Answer, Respondent stated that "he did not know at the time he asked Ms. Miller to move his van that the person reportedly waiting by his van was attempting to serve him with legal process." Answer at 3, ¶ 8.

35. This statement specifically contradicts Respondent's statement to Ms. Miller at the time he asked her to move the van, at which time he told her there was a man waiting to serve him papers. Respondent also explained to Ms. Miller at that time that his son sent him a text message to alert Respondent that a process server was waiting in the parking lot to serve him.

36. While Ms. Miller was moving his van, Respondent spoke with then-pro tem Judge John Keegan. Respondent specifically told Judge Keegan that Ms. Miller was moving his van because of his desire to avoid contact with a process server who intended to serve him with papers. Judge Keegan advised Respondent that his actions were improper and would appear improper to court staff and the commission. Judge Keegan further advised Respondent that it is

futile and improper to attempt to avoid service of process.

37. The same day that he spoke with Respondent, Judge Keegan prepared an email statement recording his fresh memory of that conversation, in part because of his concern that Respondent did not appear to listen to his advice.

38. On Tuesday, September 6, Respondent sent his court manager a text message at home asking that she call him. During a nearly ten minute phone call, Respondent repeatedly and forcefully questioned Ms. Miller's memory that Respondent knew the man waiting for him in the parking lot was a process server.

39. On Monday, September 12, Respondent approached Ms. Miller in the clerical area of the courthouse and asked whether she had reviewed an article that appeared in a local Peoria newspaper over the previous weekend. Ms. Miller indicated she had not seen the article and Respondent informed her that the front page article featured information about her actions in moving his van. Ms. Miller was uncomfortable with this conversation because it appeared to be a further attempt by Respondent to discuss or question her potential testimony.

40. On or about Tuesday, September 13, Respondent spoke with Ms. Miller about his family court case. He informed her that a doctor testified in an evidentiary hearing on September 12 that Respondent is capable of violence and of physically harming his wife and children. Ms. Miller felt uncomfortable and intimidated by this information, particularly since she knew Respondent was unhappy with her potential testimony, as described above.

#### **SECOND SUPPLEMENTAL FACTS**

41. On Wednesday, September 21, 2011, Respondent provided testimony under oath during an evidentiary hearing in his pending dissolution and custody case. His family court

attorney requested that Judge Gordon seal the proceedings, and the judge stated he would deny this request. Respondent then indicated he had testimony he wanted the judge to consider related to the request. Respondent then testified:

Respondent: "This case is seen by my entire judicial staff. They all have FTR [For the Record], they can all call it up, they all watch it. The entire judiciary can see this, and ..."

Judge Gordon: "They have access to our FTR?"

Respondent: "Yes! Yes!"

Judge Gordon: "Well, I didn't know that."

42. Respondent's testimony was unprompted, unequivocal, and false. No justice court staff or judge has access to the superior court's FTR. Neither Respondent himself nor any member of his staff has such access nor have they ever had such access.

### **THIRD SUPPLEMENTAL FACTS**

43. On January 9, 2012, the Maricopa County Attorney's Office (MCAO) filed a Direct Complaint in Maricopa County Superior Court charging Respondent with knowingly resisting or disobeying a lawful order. The charge relates to the circumstances described above in paragraphs 27-33. In other words, the MCAO decided to re-file the charges that it previously dismissed in August 2011.

44. As a result of the MCAO's re-filing of charges and the interim passage of time, Disciplinary Counsel became aware of additional facts that further demonstrate the same course of misconduct previously identified and described in earlier versions of this Statement of Charges.

#### *Supplemental Facts Related to Criminal Misdemeanor Charges Against Respondent*

45. Beginning at approximately 11:08 a.m. on July 21, 2011, Respondent text

messed his wife demanding visitation and claiming that he had possession of a new court order, issued that morning, allowing him visitation that day. Over the course of the four hours between his initial message and his arrival to pick up the children, Respondent sent additional messages in which he threatened his wife with jail time should she fail to comply with his visitation demands and berated her.

46. Just before 3:00 p.m., Respondent arrived at his wife's residence. When she declined to open the door without the presence of law enforcement, Respondent placed a call to the Crimestop hotline requesting police assistance. Respondent immediately identified himself to the operator as a judge despite the fact that he was calling in his personal capacity and the call did not relate to his official duties in any way.

47. Shortly thereafter, police officers from the City of Phoenix arrived at the home, and Respondent spoke with Officer Christopher Jones. He again identified himself to the officer as the Justice of the Peace for the Arrowhead Justice Court.

48. Respondent's wife subsequently showed the officers the protective order issued March 24, 2011, which prohibited Respondent from having any contact with the wife or from coming onto the residential property to which the officers responded. Respondent was unable to produce an amended order that would have allowed him to come onto the property, so the police officers arrested Respondent for interference with judicial proceedings.

49. Misdemeanor charges against Respondent for interference with judicial proceedings remain pending as of March 26, 2012.

*Additional Supplemental Facts*

50. On December 14, 2011, Judge Michael Gordon of the Maricopa County

Superior Court issued a formal order in Respondent's dissolution case dealing with custody and visitation issues. In that order, Judge Gordon made the following findings:

A. "The Court is very concerned about Father's apparent inability to understand the reality that his children are, in fact, estranged from him. The Court is also concerned about Father's inability to understand that there is no quick fix to the problem. Finally, the Court is concerned about Father's inability to understand how he is perceived by others, especially his children. Ultimately, Father must understand *and accept* that the estrangement largely arises from his own conduct—not Mother's conduct." (Gordon, December 14, 2011, order at 3).

B. "Father has significant mental health concerns as outlined in Dr. Christiano's report. Father underwent an MMPI in connection with the custody evaluation. Father is volatile and subject to angry outbursts. He frequently places blame on others for his own problems." (Gordon, December 14, 2011, order at 4).

C. "The Court finds that Father has engaged in at least one act of domestic violence. The Court affirms its earlier ruling that there has been no significant history of domestic abuse that would preclude Father from exercising custody in this case." (Gordon, December 14, 2011, order at 5).

51. Disciplinary Counsel has also learned that several Justices of the Peace who preside at the same regional court facility as Respondent have substantial safety concerns about Respondent returning to their facility at the conclusion of this matter. Their concerns are shared by Respondent's Court Manager who believes her personal health and safety will be threatened should Respondent return to the facility.

52. Additional Justices of the Peace in Maricopa County have identified previous difficulties in working with Respondent when he was a volunteer Hearing Officer in 2010, which they believe indicate that additional resources spent on training or mentoring Respondent would be fruitless. These judges believe Respondent has a demonstrated history of failing to heed input and advice.

### **ALLEGATIONS OF MISCONDUCT**

53. As described above, Respondent engaged in a course of conduct since February 18, 2011, involving both his personal and professional behavior that constitutes ethical misconduct. His actions have been improper and have created the appearance of impropriety on multiple occasions, in addition to eroding public confidence in the judiciary and in his impartiality. Further, Respondent's actions demonstrate he has abused the prestige of his office, and permitted his personal, family circumstances to influence his judicial conduct. His misconduct violates Rules 1.2, 1.3, 2.4, 2.11, 2.12, 2.16(A), and 3.1 of the Arizona Code of Judicial Conduct as well as the Arizona Constitution, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Article 6.1, § 4.

### **REQUESTED RELIEF**

WHEREFORE, Disciplinary Counsel hereby requests that the members of the Hearing Panel recommend to the Supreme Court that Respondent be suspended or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as it deems appropriate.

Dated this 4th day of April, 2012.

COMMISSION ON JUDICIAL CONDUCT

s/Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading sent via  
email on April 4, 2012, to:

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10 STATE OF ARIZONA

11 COMMISSION ON JUDICIAL CONDUCT

12 Inquiry concerning

13 Case No.: 11-11

14 **Judge Phillip Woolbright**  
15 Arrowhead Justice Court  
16 Maricopa County  
17 State of Arizona

18 **ANSWER TO THIRD AMENDED**  
19 **STATEMENT OF CHARGES**

20 Judge Phillip Woolbright, through counsel, submits the  
21 following as his answer to the Statement of Charges filed by  
22 the Commission on Judicial Conduct on August 16, 2011.

23 Judge Woolbright denies each and every allegation in the  
24 Statement of Charges that he does not expressly admit in this  
25 Answer.

26 Judge Woolbright incorporates by this reference the  
27 Objection to Order of Reassignment Dated September 21, 2011  
28 that he filed on October 6, 2011.

29 **JURISDICTION**

- 30 1. Admit.  
31 2. Admit.

**FILED**

**APR 05 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

1 3. Admit.

2 4. Admit.

3 **FACTUAL BACKGROUND**

4 5. Respondent admits that on February 18, 2011, he became  
5 involved in a physical altercation with April Woolbright  
6 ("Wife") in the doorway of their bathroom; Respondent  
7 affirmatively alleges that he tried to move Wife away  
8 from him in such a way as would be described as a push,  
9 but denies any actual or implied intent to cause physical  
10 harm to his Wife; and further admits that Maricopa County  
11 Superior Court Commissioner Richard Albrecht determined  
12 that an act of domestic violence by Respondent had  
13 occurred for purposes of assessing an order of  
14 protection.

15 6. Respondent admits that on March 23, 2011, Respondent and  
16 Wife each applied for orders of protection (OOP) against  
17 each other in different Maricopa County courts; admits  
18 that both orders issued; admits that Respondent did not  
19 serve the OOP he secured; admits that Wife separately  
20 filed for dissolution of marriage on the same date.  
21 Respondent lacks personal knowledge about the activities  
22 of William Tash, a private process server, and therefore  
23 cannot admit or deny the allegations relating to him, but  
24 is aware of the affidavit completed and the statements  
25 Mr. Tash made therein.

26

- 1 7. Respondent lacks personal knowledge about the activities  
2 of William Tash and therefore cannot admit or deny the  
3 allegations relating to him, but is aware of the  
4 affidavit completed by Mr. Tash and the statements Mr.  
5 Tash made therein; Respondent further admits that at  
6 about 10:30 a.m. a female court staff member moved  
7 Respondent's van from the public parking area to the  
8 judges' private parking area.
- 9 8. Admit. See further, however, Respondent's Objection to  
10 Order of Reassignment Dated September 21, 2011 filed on  
11 October 6, 2011 at page 3, ¶¶ 3-11 (attached hereto and  
12 incorporated by this reference).
- 13 9. Respondent lacks personal knowledge about the activities  
14 of William Tash and therefore cannot admit or deny the  
15 allegations relating to him, but is aware of the  
16 affidavit completed by Mr. Tash and the statements Mr.  
17 Tash made therein; Respondent admits Ms. Miller informed  
18 him that after Mr. Tash entered the court facility he  
19 spoke with Ms. Miller and that Ms. Miller told Mr. Tash  
20 to serve Respondent's attorney with the paperwork.  
21 Respondent affirmatively alleges that Mr. Tash reports in  
22 his affidavit and Ms. Miller has admitted that when Ms.  
23 Miller spoke with Mr. Tash on March 24, 2011, Ms. Miller  
24 told Mr. Tash that she did not know why Judge Woolbright  
25 asked her to move his vehicle.

26

- 1 10. Respondent lacks personal knowledge about the activities  
2 of William Tash and therefore cannot admit or deny the  
3 allegations relating to him, but is aware of the  
4 affidavit completed by Mr. Tash and the statements Mr.  
5 Tash made therein; Respondent lacks personal knowledge  
6 about the activities of Wife and therefore cannot admit  
7 or deny the allegations relating to her, but is aware  
8 that she has made the statements set forth in paragraph  
9 10 of the Statement of Charges.
- 10 11. Respondent lacks personal knowledge about the activities  
11 of William Tash and therefore cannot admit or deny the  
12 allegations relating to him, but is aware of the  
13 affidavit completed by Mr. Tash and the statements Mr.  
14 Tash made therein.
- 15 12. Respondent lacks personal knowledge about the activities  
16 of William Tash and therefore cannot admit or deny the  
17 allegations relating to him, but is aware of the  
18 affidavit completed by Mr. Tash and the statements Mr.  
19 Tash made therein.
- 20 13. Respondent admits he received a call at approximately  
21 9:00 am on March 28, 2010 from Mr. Tash, that he told Mr.  
22 Tash he was unaware of the personal service requirement,  
23 that he agreed to meet Mr. Tash at his attorney's office  
24 for the purpose of accepting service, and that he was  
25 lost looking for the office. Respondent denies that  
26

1 Respondent and Mr. Tash agreed that there would be a  
2 further conversation with Mr. Tash about directions.  
3 Respondent lacks personal knowledge about the activities  
4 of William Tash and therefore cannot admit or deny the  
5 remaining allegations by Mr. Tash relating to him, but is  
6 aware of the affidavit completed by Mr. Tash and the  
7 statements Mr. Tash made therein.

8 14. Respondent admits that he did not call Mr. Tash back or  
9 respond to further calls from Mr. Tash. Without waiving  
10 the privileged relationship with Respondent's attorney,  
11 Respondent affirmatively alleges that in not returning  
12 Mr. Tash's calls Respondent was acting on advice of his  
13 then counsel; and beyond that, Respondent lacks personal  
14 knowledge about the activities of William Tash and  
15 therefore cannot admit or deny the allegations relating  
16 to him, but is aware of the affidavit completed by Mr.  
17 Tash and the statements Mr. Tash made therein;.

18 15. Respondent lacks personal knowledge about the activities  
19 of William Tash and therefore cannot admit or deny the  
20 allegations relating to him, but is aware of the  
21 affidavit completed by Mr. Tash and the statements Mr.  
22 Tash made therein.

23 16. Admit.

24 17. Respondent lacks personal knowledge about the activities  
25 of William Tash and therefore cannot admit or deny the  
26

1           allegations relating to him, but is aware of the  
2           affidavit completed by Mr. Tash and the statements Mr.  
3           Tash made therein.

4   18.   Admit.

5   19.   Respondent admits the allegations of paragraph 19 except  
6           that Respondent denies that he failed to reference the  
7           OOP in his communication with the police officer.

8   20.   Respondent admits stating to the police officer that  
9           Respondent could authorize a search through a search  
10           warrant, but denies that he made that statement in such a  
11           way as to convey any intent that he would do so,  
12           believing rather he made the statement in such a way that  
13           it would be understood not to be a statement conveying  
14           any such intent. Respondent admits the remaining  
15           allegations on Paragraph 21 of the Statement of charges.

16   21.   Admit.

17   22.   Admit.

18   23.   Admit. Respondent affirmatively alleges that it was his  
19           understanding of Judge Gordon's order that the order had  
20           the effect of being a modification of the OOP.

21   24.   Respondent admits to an event occurring during the  
22           referenced supervised visitation, the event consisting of  
23           Respondent disciplining his son in an age appropriate way  
24           to stop being disrespectful to adults, and Respondent  
25           further affirmatively alleges that he left the supervised  
26

1           visitation willingly in the genuine belief that the time  
2           duration for his supervised visitation had expired.  
3           Respondent is aware that Wife subsequently submitted a  
4           report to Judge Gordon and that Wife unilaterally  
5           suspended visitation. Respondent affirmatively alleges  
6           that thereafter when Respondent had the opportunity to  
7           communication what had happened Judge Gordon reinstated  
8           supervised visitation.

9   25. Admit. Respondent affirmatively alleges that in light of  
10           the understanding he obtained from a voluntary  
11           consultation he initiated with the Judicial Ethics  
12           Advisory Committee (JEAC) about how members of the public  
13           might respond to information that he was hearing OOP  
14           cases at the same time he was himself the subject of an  
15           OOP he ceased immediately hearing OOP matters.

16   26. Admit.

17   27. Admit. Respondent affirmatively alleges that he was  
18           outside Wife's residence at the time of the events that  
19           are the subject of Paragraph 27 of the Statement of  
20           Charges because Wife had invited him to the house to pick  
21           up the children, and that Respondent genuinely believed  
22           at the time of these events that Judge Gordon's June 17,  
23           2011 minute entry order had so modified the OOP as to  
24           permit him to be where he was and doing what he was  
25           doing.

26

- 1 28. Admit. Respondent affirmatively alleges that he  
2 voluntarily initiated consultation with the JEAC  
3 concerning the matters that are the subject of Paragraph  
4 28 of the Statement of Charges voluntarily and that after  
5 receiving the benefit of that consultation Respondent  
6 voluntarily ceased hearing OOP matters.
- 7 29. Admit.
- 8 30. Admit.
- 9 31. Admit.
- 10 32. Admit. Respondent affirmatively alleges that Respondent  
11 voluntarily recused himself from case no. CV2011-006610-  
12 001.
- 13 33. Admit.

14 **SUPPLEMENTAL FACTS**

- 15 34. Admit
- 16 35. Respondent admits his September 1, 2011 Answer to the  
17 Statement of Charges at ¶8 contradicts the statements  
18 attributed to Ms. Miller in the Supplemental Facts.  
19 Admit. See further Respondent's Objection to Order of  
20 Reassignment Dated September 21, 2011 filed on October 6,  
21 2011 at page 3, ¶¶ 3-12, attached hereto and incorporated  
22 herein by this reference. Respondent affirmatively  
23 alleges that Mr. Tash reports in his affidavit and Ms.  
24 Miller has admitted that when Ms. Miller spoke with Mr.  
25 Tash on March 24, 2011, Ms. Miller told Mr. Tash that she

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did not know why Judge Woolbright asked her to move his vehicle.

36. Respondent admits that while Ms. Miller was moving his van he spoke with then-pro tem Judge Keegan, and further admits he told then-pro tem Judge Keegan that Ms. Miller was moving his van. With respect to the remainder of the statements in ¶ 36 of the Supplemental Facts, (1) Respondent does not recall telling then-pro tem Judge Keegan that his desire was to avoid contact with a process server who intended to serve him with papers, but does recall that he showed then-pro tem Judge Keegan a text message he had received from his wife, (2) Respondent recalls that he told then-pro tem Judge Keegan that he wanted to avoid contact with whomever it was that was waiting outside in the public parking lot near his vehicle, (3) Respondent recalls then-pro tem Judge Keegan telling him that asking court staff to move his vehicle was not a good idea, (4) Respondent does not recall then-pro tem Judge Keegan advising him that his actions would appear improper to the Commission and (5) Respondent does not recall then-pro tem Judge Keegan further advising him that it is futile and improper to attempt to avoid service of process. See further Respondent's Objection to Order of Reassignment Dated September 21, 2011 filed on October 6, 2011, at page 6, footnote 4.

1 37. Respondent has no knowledge about the actions of Judge  
2 Keegan that are described in ¶ 38 of the Supplemental  
3 Facts.

4 38. Respondent admits that on September 6, 2011 he sent his  
5 court manager a text message at home asking that she call  
6 him. His recollection of the course of that conversation  
7 is set forth in Respondent's Objection to Order of  
8 Reassignment Dated September 21, 2011 filed on October 6,  
9 2011 at page 6, ¶ 7. Respondent denies he repeatedly and  
10 forcefully questioned Ms. Miller's memory but  
11 acknowledges Ms. Miller may recall experiencing the  
12 communication that way. Ms. Miller has testified that by  
13 the time the approximately nine minute conversation was  
14 over Respondent agreed with Ms. Miller's recollection  
15 that the day she moved his van had been a very emotional  
16 day for him, wherein he was feeling upset and distraught,  
17 and further that Respondent told her he would accept her  
18 account of what happened when she moved the van over his  
19 account of what happened when he moved the van.

20 39. During her March 22 and April 4, 2012 depositions Ms.  
21 Miller testified that the conversation about the Peoria  
22 newspaper article most likely occurred on Monday,  
23 September 19, 2011. Ms. Miller further testified that  
24 this conversation was about an article reported in a  
25 Peoria newspaper about her actions in moving the van. Ms.  
26

1 Miller further testified that at the conclusion of that  
2 conversation she was not feeling intimidated upset or  
3 anything. Respondent admits that there was a date in  
4 September, 2011 when he approached Ms. Miller in the  
5 clerical area of the courthouse and asked whether she had  
6 reviewed an article that appeared in a local Peoria  
7 newspaper over the previous weekend, and further admits  
8 that Ms. Miller indicated she had not seen the article,  
9 and further admits that he informed her that the front  
10 page article featured information about her actions in  
11 moving the van. Respondent has no knowledge about Ms.  
12 Miller feeling uncomfortable with this conversation or  
13 about it appearing to her to be an attempt by Respondent  
14 to discuss or question her potential testimony.

15 Respondent incorporates herein his Objection to Order of  
16 Reassignment Dated September 21, 2011 filed on October 6,  
17 2011 at page 11, ¶ 20, including in particular but not  
18 limited to ¶ 20(A) (attached hereto and incorporated by  
19 this reference). Respondent affirmative alleges that he  
20 never said anything or intended anything he said to cause  
21 her to feel concerned about or intimidated by him.

22 Respondent further affirmatively alleges that Ms. Miller  
23 testified during her deposition on March 22, 2012 about a  
24 subsequent communication she had with Respondent in which  
25 Respondent told her that it was not his intention ever to  
26

1 cause her to be intimidated, threatened, coerced or  
2 worried and Ms. Miller believed him to be sincere when he  
3 made that statement.

4 40. During her March 22 and April 4, 2012 depositions Ms.  
5 Miller testified that the conversation about the  
6 testimony of the doctor at the custody hearing most  
7 likely occurred on Monday, September 12 or Tuesday  
8 September 13, 2011. Respondent admits that on a date in  
9 September, 2011 he spoke with Ms. Miller about his family  
10 court case, and further admits that he informed her that  
11 a doctor testified in an evidentiary hearing on September  
12 12, 2011 that Respondent is capable of violence and of  
13 physically harming his wife and children. Ms. Miller  
14 testified at her March 22, 2012 deposition that  
15 Respondent told her during that same conversation that he  
16 considered the witness' statements were ridiculous.  
17 Respondent has no knowledge about Ms. Miller feeling  
18 uncomfortable or intimidated by this information, and  
19 further no knowledge that Ms. Miller believed that  
20 Respondent was unhappy with her potential testimony, but  
21 acknowledges Ms. Miller may recall experiencing the  
22 conversation as described in ¶ 40 of the Supplemental  
23 Facts. Ms. Miller further testified at the March 22, 2012  
24 deposition that following this communication and the  
25 subsequent communication about the Peoria newspaper  
26

1 article that she continued to interact with Respondent at  
2 the courthouse, that Respondent's interactions with her  
3 were professional and appropriate, that Respondent never  
4 did anything to threaten her and that Respondent never  
5 did anything to intimidate her. Respondent incorporates  
6 herein his Objection to Order of Reassignment Dated  
7 September 21, 2011 filed on October 6, 2011 at page 11, ¶  
8 20, including in particular but not limited to ¶ 20(B).  
9 Respondent affirmative alleges that he never said  
10 anything or intended anything he said to cause her to  
11 feel concerned about or intimidated by him. Respondent  
12 further affirmatively alleges that Ms. Miller testified  
13 during her deposition on March 22, 2012 about a  
14 subsequent communication she had with Respondent in which  
15 Respondent told her that it was not his intention ever to  
16 cause her to be intimidated, threatened, coerced or  
17 worried and Ms. Miller believed him to be sincere when he  
18 made that statement.

- 19 41. Respondent admits making statements to the Court on  
20 September 21, 2012 about access of the Arrowhead Justice  
21 Court staff to the custody dispute proceedings.
- 22 42. Respondent was addressing the Court about sealing the  
23 proceedings to protect all parties involved in the  
24 proceedings from further public access to and comment  
25 about the proceedings. Respondent believed his statements  
26

1 to be true and was sincere about the content of his  
2 statements when he made them.

3 43. Respondent admits that the Maricopa County Attorney's  
4 Office filed a Direct Complaint against him for  
5 interference with judicial proceedings in connection with  
6 the order of protection his wife secured against him.  
7 This was a re-filing of charges that previously had been  
8 dismissed.

9 44. Respondent lacks personal knowledge about the statements  
10 made in this paragraph.

11 45. Respondent admits contacting his wife concerning  
12 visitation time with his children but disagrees with the  
13 characterization of the content of his communications.  
14 Respondent acknowledges that the written communications  
15 state what they state therein.

16 46. Respondent called Crimestop prior to arriving at his  
17 wife's residence asking for assistance, informing the  
18 operator who he was toward the end of minimizing any  
19 mistake or misunderstanding about his purpose in seeking  
20 to have custody visitation with his children. Respondent  
21 admits that he identified himself during this telephone  
22 conversation as a judge.

23 47. Respondent admits that police officers arrived at his  
24 wife's home and that he spoke with Officer Jones.  
25 Respondent's recollection is that Officer Jones asked  
26

1 him, among other things, where he worked and what he did  
2 for employment.

3 48. Admit. Respondent affirmatively alleges that he  
4 genuinely believed at the time that a subsequent court  
5 order had modified the order of protection to the extent  
6 of allowing him to pick up his children for custody  
7 visitation. Respondent further recalls that his wife had  
8 told him that he could pick up the children at his  
9 residence.

10 49. Respondent admits that the misdemeanor charges remain  
11 pending.

12 50. Respondent acknowledges that Judge Gordon's order makes  
13 the findings set forth in that order. Respondent  
14 affirmatively alleges that pursuant to Court order  
15 Respondent underwent a subsequent psychiatric evaluation  
16 that yielded conclusions contrary to those outlined in  
17 Dr. Christiano's report and supported Respondent's  
18 custody goals in his custody proceeding.

19 51. Respondent denies that he presents any safety concerns,  
20 and further denies that he presents any risk to the  
21 personal health and safety of the court manager.

22 52. Respondent denies that as a Justice of the Peace he  
23 presents any challenges or difficulties in applying in a  
24 professionally appropriate way information he obtains  
25 through formal training and informal guidance.

26

1 **ALLEGATIONS OF MISCONDUCT**

2 53. Respondent admits engaging in acts inconsistent with  
3 certain of the Rules of the Arizona Code of Judicial  
4 Conduct and respectfully reserves the right to address as  
5 this case proceeds the applicable Rules of the Arizona  
6 Code of Judicial Conduct that apply to the matters that  
7 are the subject of the Statement of Charges. Respondent  
8 acknowledges that he should not engage in conduct that  
9 would be prejudicial to the administration of justice or  
10 that brings the judicial office in disrepute. Respondent  
11 is intent on acting consistently in ways that are not  
12 prejudicial to the administration of justice and that do  
13 not bring the judicial office in disrepute.

14 **REQUESTED RELIEF**

15 Respondent acknowledges that action by the Commission is  
16 appropriate and warranted in light of some of the matters that  
17 are the subject of the Third Amended Statement of Charges but  
18 respectfully does not agree with the relief proposed in the  
19 Third Amended Statement of Charges.

20 DATED this 5<sup>th</sup> day of April, 2012.

21 COHEN LAW FIRM

22 By: \_\_\_\_\_

23 Larry J. Cohen  
24 P.O. Box 10056  
Phoenix, Arizona 85064

1 ORIGINAL of the foregoing  
2 filed this 5<sup>th</sup> day of  
3 April, 2012 with:

4 Commission on Judicial Conduct  
5 1501 West Washington, Suite 229  
6 Phoenix, AZ 85007

7 Jennifer Perkins  
8 Disciplinary Counsel  
9 Commission on Judicial Conduct  
10 1501 West Washington, Suite 229  
11 Phoenix, AZ 85007

12 Alton Lumban

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Exhibit 1

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Attorney for the Honorable Phillip Woolbright

**RECEIVED**  
OCT - 6 2011  
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IN THE SUPREME COURT  
STATE OF ARIZONA

In the Matter of:

HONORABLE PHILLIP  
WOOLBRIGHT  
Arrowhead Justice Court,  
Maricopa County, State of Arizona

Arizona Supreme Court  
No. JC-11-0003

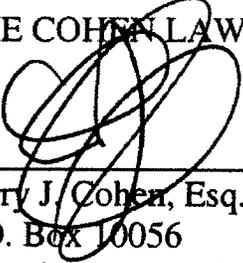
Commission on Judicial Conduct  
No. 11-111

**OBJECTION TO ORDER OF  
REASSIGNMENT DATED  
SEPTEMBER 21, 2011**

The Honorable Phillip Woolbright, through counsel, submits his Objection to the Order of Reassignment filed by this Court on September 21, 2011. This Objection incorporates by this reference the attached Objection to Order of Reassignment Dated September 21, 2011 and the exhibits attached thereto.

RESPECTFULLY SUBMITTED this 6th day of October, 2011.

THE COHEN LAW FIRM

By   
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602-266-3080  
Attorney for the Honorable Phillip  
Woolbright

Original and Seven Copies filed  
This 6<sup>th</sup> day of October, 2011 with  
the Clerk of the Court, Arizona  
Supreme Court

And copy of the foregoing mailed  
This 6<sup>th</sup> day of October, 2011 to:

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George Riemer  
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Phoenix, Arizona 85007

The Honorable Norman David  
Presiding Judge  
Maricopa County Superior Court  
125 West Washington  
Phoenix, Arizona 85003

Alison Faubus

**OBJECTION TO ORDER OF REASSIGNMENT**  
**DATED SEPTEMBER 21, 2011**

The September 21, 2011 letter submitted to the Arizona Supreme Court seeking interim reassignment of Justice of the Peace Phillip Woolbright pursuant to Commission Rule 31 did not provide the Court a complete account of Judge Woolbright's dealings with the Commission or interactions with the court manager. The additional information provided here will demonstrate (1) that the interim reassignment was not necessary and (2) that the Stipulated Agreement for Discipline by Consent that Judge Woolbright and Disciplinary Counsel was essentially completed and should now be presented to the Commission to conclude this matter.

**Objection**

It is in this context that Judge Woolbright submits his Objection to the September 21, 2011 interim reassignment Order for the following reasons:

1. Judge Woolbright had by September 8, 2011 reported to Disciplinary Counsel his complete acceptance of the reported testimony of the court manager, and so had no reason to try to intimidate or harass her to change her testimony, and in fact did not intimidate or harass her to try to change her testimony;
2. Even though there was independent evidence, known to the Commission, corroborating Judge Woolbright's recollection of his interactions with the court manager on March 24, 2011 concerning his request to her to move his van, Judge Woolbright still had fully and unqualifiedly accepted the court manager's account of those interactions before the September 12 and 13 alleged acts of intimidation and harassment took place;
2. Judge Woolbright self-reported acts of misconduct in April, 2011, cooperated fully with the Commission in its subsequent investigation to the best of his ability and recollections, and by September 8, 2011 had accepted the essential allegations and terms of the Statement of Charges to such an extent that by September 16, 2011 resolution of the matter by Stipulated Agreement between the Commission and Judge

Woolbright was nearing completion;

4. Judge Woolbright presented no risk of trying to intimidate and harass any other witness because by September 16, 2011 he had accepted the essential terms and allegations of the Statement of Charges and had agreed to the sanction and conditions the Commission proposed in the Stipulated Agreement.

In short, there was no reason for Judge Woolbright to intimidate and harass the court manager or to try to get her to change her testimony, and he denies that he did or would have done so. There was no reason for Judge Woolbright to try to intimidate and harass or to try to change the testimony of any other witness either and he denies that he would have done so.

**Judge Woolbright's Deliberate Consideration of the Interim Reassignment Order**

Judge Woolbright has taken a good deal of time since September 21, 2011, when he received the Chief Justice's letter granting the Commission's recommendation for Commission Rule 31 reassignment, deciding what course he should take. There is evidence referenced in the Commission's September 21, 2011 letter to the Arizona Supreme Court that he had never been provided. The Commission's September 21, 2011 letter and the accompanying September 20, 2011 letter from Judge Williams suggests other evidence that has not been revealed to him. Consequently, he still does not know all of the "evidence" to be presented against him.

He has already been taken to task by the Commission through its staff for not agreeing in his Answer with allegations and evidence that were not fully revealed to him. His quite reasonable concern, having been threatened with a charge of "material misrepresentation" after he filed that Answer, has been not to expose himself to further risk of alleged material misrepresentation despite speaking sincerely and truthfully when he responds to the Commission's September 21, 2011 letter and this Court's reassignment Order.

In the days that have followed receipt of the reassignment Order Judge Woolbright has carefully gone over the evidence he does have and the interactions he has had with the Commission. The Objection submitted here is grounded in the information that has been given him. It is not the full response he will make if

this case goes to hearing before the Commission. Still, this submission tries to be responsive to the reported reasons why the Commission staff withdrew from the nearly completed Stipulated Agreement and why this Court imposed the Rule 31 interim reassignment.

### Factual Bases for Objection

Judge Woolbright's Objection to the interim reassignment Order is based on the following facts, most of which either elaborate on or add to the facts submitted by the Commission to the Arizona Supreme Court:

1. On April 13, 2011 Judge Woolbright self-reported pursuant to Rule 19, Rules of the Commission on Judicial Conduct, events that had occurred on March 24, 2011 at the Arrowhead Justice Court. (Exhibit 1) As a new Justice of the Peace, having taken office on January 1, 2011, he had investigated how to address actions he understood were contrary to his obligations under the Canons of Judicial Conduct. He concluded the self-report was warranted and he was prepared to be held accountable for his actions.

2. On April 15, 2011, Judge Woolbright again self-reported pursuant to Rule 19, this time about an event that had occurred at his home on February 18, 2011. (Exhibit 2) In the course of learning about the scope of his self-reporting obligations he decided he should self-report these events in his personal life as well.

3. The Commission delivered to him on August 16, 2011 a Statement of Charges (Exhibit 3) and offered him an agreement in which he would acknowledge all of those charges and consent to censure and supervision of his judicial activities by a law-trained judge/mentor (Exhibit 4). Judge Woolbright was torn about how to respond to the proposed agreement. He agreed with many but genuinely questioned the accuracy of some of the facts he was being asked to accept. As for the proposed sanctions, while he welcomed the idea of guidance from a law-trained judge/mentor he was led by others to believe that a censure was an excessive penalty under the circumstances. With the deadline approaching to respond to the Statement of Charges he decided to submit an Answer so he would have more time to consider that proposed sanction. (Exhibit 5).

4. Paragraphs 7 and 8 of the Statement of Charges alleged as follows:

7. On March 24, Mr. Tash again unsuccessfully attempted service at Respondent's residence at 7:18 am. He later proceeded to the Northwest Regional Court Facility, the location of Respondent's court. At approximately 10:30 am, Respondent's van was in the public parking area and Mr. Tash was waiting by the vehicle when a female court staff member moved the van from the public parking area to the private judges' parking area.

8. The staff member was Jane Miller, Respondent's court manager, and she moved Respondent's van at his request **specifically because he wanted to avoid accepting service of process at his court facility.**

(Exhibit 3 at ¶¶ 7 and 8, emphasis added). Judge Woolbright had self-reported to the Commission on April 13, 2011 that the March 24, 2011 events involving his van in the parking lot had occurred. His self-report included his recollection of events and his state of mind on March 24, 2011:

I had completed my business with the family court and went to my chambers to visit with my pro tem prior to leaving. While in chambers I received a text from my wife, sent from my teenage son's cell phone, that read, "The server has found his van and is waiting for him to come out." I became frightened, shocked and confused. Under the circumstances I asked if my manager would go out to my van in the parking lot, **see who is there**, and drive my van to the secure judges parking area. I then got in my van and left the Northwest Regional Court Center.

(Exhibit 1, emphasis added).<sup>1</sup> The affidavit subsequently

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<sup>1</sup> Judge Woolbright expressly acknowledged on April 13, 2011 when he submitted his self-report that "I don't think that this was the best decision, even though I thought it was a good idea at the time to take the matter away from the courthouse, it may be viewed by others differently." (Exhibit 1 at paragraph a).

submitted by the process server notes that the manager did not know the reason Judge Woolbright asked her to move the van and could not have reported to Judge Woolbright on March 24, 2011 that the person waiting by his vehicle was a process server.<sup>2</sup> (Exhibit 6, See March 24, 2011 entry for "approximately 11:15 am."

5. It was in this context that Judge Woolbright gave the following response in his Answer to paragraph 8 of the Statement of Charges:

8. Respondent lacks personal knowledge about the activities of William Tash and therefore cannot admit or deny the allegations relating to him, but is aware of the affidavit completed by Mr. Tash and the statements Mr. Tash made therein; Respondent admits Jane Miller, Respondent's court manager, moved Respondent's van at Respondent's request; Respondent denies he asked Ms. Miller to move his van to avoid **accepting service of process because he did not know at the time he asked Ms. Miller to move his van that the person reportedly waiting by his van was attempting to serve with legal process.**

(Exhibit 5 at ¶8, emphasis added). It was and remains his memory of the events of March 24, 2011 that he knew someone was outside in the public parking lot near his van and thought the person could be connected with his wife, but was not certain if the man was there to serve process on him or for some other reason.

6. Shortly after he filed this Answer Disciplinary Counsel notified Judge Woolbright's counsel that she considered his Answer to Paragraph 8 of the Statement of Charges to be a material misrepresentation.<sup>3</sup> (Exhibit 7) Judge Woolbright's counsel explained that the Answer was an accurate statement of

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<sup>2</sup> Judge Woolbright expressly acknowledged on April 13, 2011 when he submitted his self-report he "should not have asked my manager to move the van." I believe it may have been more appropriate to have court security help me investigate any possible security issue or person by my vehicle."

<sup>3</sup> Respondent's counsel believes this conversation took place by telephone on September 6, 2011. Unfortunately, there is no writing documenting the time or content of this communication.

Judge Woolbright's memory. Disciplinary Counsel responded that the manager would testify that Judge Woolbright told her he was trying to avoid service of process and that another, unidentified witness would corroborate that allegation.<sup>4</sup> Disciplinary Counsel went on to state that if Judge Woolbright maintained his Answer to Paragraph 8 of the Statement of Charges she may have to amend the Statement of Charges to add misrepresentation in communicating with the Commission to the Statement of Charges and there would not be any possibility of stipulating to a censure as a resolution of the case. (Exhibit 7).

7. Surprised that the manager would say that he asked her to move the van to avoid service Judge Woolbright called the manager in the afternoon of September 6, 2011 to inquire about what she remembered. Judge Woolbright recalls from that interaction trying to fully understand her report of the events of March 24, 2011. He wanted to reconcile her recollection of the events that day with his own recollection. By the end of the conversation Judge Woolbright accepted that the manager had a clearer recollection of the events of that day than he did. Because of that and because he trusted the manager so completely he was willing to defer to her memory even though his memory was different.

8. That evening Judge Woolbright sent his counsel an email message about his discussion with the manager that confirms he fully accepted the manager's version of what happened.<sup>5</sup>

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<sup>4</sup> Judge Woolbright did not learn until he received the Commission's September 21, 2011 letter recommending reassignment that Judge Keegan was the unidentified corroborating witness. Judge Woolbright recalls speaking with Judge Keegan on March 24, 2011 and showing him the text message he received from his wife. Judge Woolbright does not recall telling Judge Keegan he was attempting to evade service, but accepts that Judge Keegan may have drawn that conclusion himself from the substance of their interaction.

<sup>5</sup> Judge Woolbright is waiving privilege to the extent of the following communication with his attorney so the Court can see with certainty that by the end of this September 6, 2011 meeting with the manager he fully accepted the manager's version of what she recalled on March 24, 2011.

Larry,

I spoke with Jane Miller my court manager that moved my van the 24<sup>th</sup> of March. She says that I took her into the jury room and told her that "a server with papers is out by my van and to move it to the judges parking area." I only remember telling Jane what my son had texted me... I don't even remember the jury room part of the story. I don't agree that I told her a "process server with papers was out by my van would you move it" but cannot.... not will I.... dispute what she remembers because I was in a frightful and confused state of mind. **That is the truth if Jane says it is the truth... I trust her and may have said that exact statement to her.**

(Exhibit 8, redacted, emphasis added).<sup>6</sup>

9. At the time Judge Woolbright conceded the "truth" of the manager's recollection the Commission had evidence from an independent third party that the manager's recollection was inaccurate. The process server's affidavit testimony reports that while he was on the phone with Judge Woolbright's wife on March 24, 2011,

a female came from the court and moved Mr. Woolbright's vehicle into the back secure parking lot. The female was wearing a court badge.

(Exhibit 6 at 3/24/2011 "Approximately 10:27 am"). There was no communication between the process server and the manager when she moved Judge Woolbright's vehicle.

About forty-five minutes later the process server entered the courthouse and had a brief conversation with the manager that shows Judge Woolbright did not tell her he wanted her to move the van to avoid service of process.

William verified that Mr. Woolbright's vehicle was still parked in the rear secure parking and then

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<sup>6</sup> Judge Woolbright's historical complete confidence in and support for the manager is reflected in the July, 2011 performance evaluation he submitted for the manager giving her the highest possible rating in all categories.

entered the court and asked for Mr. Woolbright at the clerks counter. The clerk told William that she was going to get her supervisor. Jane, whom identified herself as the Court Manager, came out to speak with William. William identified himself and his purpose. Jane told William that Mr. Woolbright was not here. **William asked Jane if she was the person who had just moved his vehicle and she replied that she was and stated that she didn't know why Mr. Woolbright had asked her to move the vehicle.**

(Exhibit 6 at 3/24/2011 "Approximately 11:15 am," emphasis added). This sworn testimony by the process server confirms Judge Woolbright's recollection that he never told the manager he wanted her to move the van to avoid service.<sup>7</sup>

10. The process server's sworn testimony supports Judge Woolbright's recollection of the events of March 24, 2011, and his initial Answer to the Statement of Charges. Nonetheless, Judge Woolbright accepted as "truth" the manager's recollection of these events and was willing to defer to his manager's statement to him on September 6, 2011 that Judge Woolbright told her he was trying to avoid service when he asked her to move his van.<sup>8</sup> (Exhibit 8).

11. Relying on Judge Woolbright's decision to accept unconditionally his manager's account of what happened Judge Woolbright directed his attorney to change his Answer to Paragraph 8 of the Statement of Charges to a simple admission. Judge Woolbright's counsel then called the Disciplinary Counsel on September 7 or 8, 2011, to report exactly what Judge

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<sup>7</sup> It bears emphasis that this conversation between the process server and the manager took place after Judge Woolbright had left the courthouse on March 24, 2011. See Exhibit 6 at 3/24/2011 "Approximately 11:15 am" where the process server reports being told by the manager that Judge Woolbright had left the courthouse.

<sup>8</sup> It bears emphasis that when Judge Woolbright accepted the manager's recollection of what occurred he did not know who the corroborating witness was, what that witness would say, or the foundation for what that witness would say. Judge Woolbright was proceeding solely on the basis of his belief that the manager would only report what she genuinely believed to be the truth.

Woolbright said in his email message, that while his memory of the events of March 24, 2011 was other than what the manager recalled he acknowledged he was in a "frightful and confused" state of mind on March 24, 2011 and so would accept her account of the events.<sup>9</sup> (Exhibit 8).

12. Disciplinary Counsel and Judge Woolbright's counsel agreed at that time and/or at a subsequent meeting on September 8, 2011 that they would work together on a Stipulated Agreement that would resolve the matter as originally proposed, to include a censure and supervision by a law-trained judge/mentor. (Exhibit 9). Toward that end Disciplinary Counsel sent Judge Woolbright's counsel on September 8, 2011 a working draft of the previously offered Stipulated Agreement in "Word Perfect" software for Judge Woolbright's counsel to use as a template in submitting a revised Stipulated Agreement. (Exhibit 10). Judge Woolbright's counsel acknowledged receipt of the working draft and expressed optimism that they could work together "positively and constructively to see if we can reach a stipulated consent agreement." (Exhibit 11).

13. Thereafter, Judge Woolbright's counsel and Disciplinary Counsel exchanged communications about the preparation of the Stipulated Agreement. (Exhibit 12). This exchange included Disciplinary Counsel providing a list of other cases where stipulated agreements had been accepted by hearing panels. Judge Woolbright's counsel studied those cases as he worked on a form of the Stipulated Agreement he thought would be mutually acceptable to the parties.

14. The first draft of the proposed stipulation that Judge Woolbright's counsel sent Disciplinary Counsel on September 15, 2011 included Judge Woolbright's unqualified admission of Paragraph 8 of the Statement of Charges. (Exhibit 13 at ¶5). It also included Judge Woolbright's unqualified admission that he asked the manager to move his van for the purpose of avoiding service. (Exhibit 13 at ¶6).

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<sup>9</sup> The only writing that supports the date of this conversation is an email message Judge Woolbright's counsel sent Disciplinary Counsel on September 8 acknowledging receipt of a form of stipulated agreement for Judge Woolbright's counsel to use in drafting the proposed joint stipulation. (Exhibit 9).

15. Disciplinary Counsel proposed slight changes in the next draft, but made no changes to Judge Woolbright's admission of Paragraph 8 or his admission that he asked the manager to move the van to avoid accepting service. (Exhibit 14).

16. Judge Woolbright accepted the essential terms of Disciplinary Counsel's proposed draft of the Stipulated Agreement. (Exhibit 15). The only thing he sought at that point was clarification of the reporting requirements relating to the law-trained judge/mentor who would mentor him in his judicial activities. (Exhibit 15).

17. On September 16, 2011 Disciplinary Counsel sent Judge Woolbright's counsel a final draft of the stipulation with the requested clarification of the reporting requirements for the law-trained judge/mentor. The stipulation was ready to be signed and submitted to the Commission:

If you forward to Judge Woolbright for signature, please ask him to print, sign and mail or deliver) the original signed copy to the Commission as soon as possible. Once we receive the signed document, I will also sign it and then file it, sending you an electronic copy of the filed, signed document.

(Exhibit 16).

18. Less than an hour later Disciplinary Counsel withdrew from participation in this Stipulated Agreement because of "additional information related to the matter involving Judge Woolbright...." (Exhibit 17). Judge Woolbright had no idea what was in issue until September 20, 2011 when Disciplinary Counsel reported the allegations of intimidation and harassment. (Exhibit 18).

19. The Commission's allegations of intimidation and harassment in the September 21, 2011 letter are inconsistent with the events that preceded the Commission's submission of that letter to the Arizona Supreme Court. The Commission alleged in the September 21, 2011 letter to the Court that Judge Woolbright was trying to intimidate the manager so she would change her testimony about why he wanted her to move the van.

The judge's subsequent actions in attempting to coerce a witness who is under his direct supervision to change her testimony compounded his earlier violations.

(Exhibit 19 at page 3). Yet by the time these alleged acts of intimidation had occurred on September 12 and 13, 2011, Judge Woolbright had already told Disciplinary Counsel on September 7 or 8, through his counsel, that he fully accepted the manager's account of what had happened and admitted that the manager's statements were true. In other words, by the time of the alleged acts of intimidation and harassment there was nothing about which to intimidate because there was no testimony to be challenged or changed.

20. Furthermore, neither of the alleged acts of intimidation and harassment referenced in the Commission's September 21, 2011 letter describe an overt act by Judge Woolbright to get the manager to change her testimony. In each instance the alleged "intimidation" was based on the manager inferring something from communications she had with Judge Woolbright.

A. Judge Woolbright certainly knew by the time the September 12, 2011 conversation with the manager took place that he had fully accepted her account of the March 24, 2011 events. He would not seek and was not seeking to change her testimony when he had that conversation with her. The manager, by contrast, not being privy to the course of the Commission proceedings, may not have known that Judge Woolbright had fully accepted her account of the March 24, 2011 events and so inferred something that simply was not the case.

B. Likewise with his September 13 conversation with the manager, if the manager knew that Judge Woolbright had already acknowledged and accepted her account of the March 24, 2011 events she would not have inferred that he was trying to change her testimony about those events.<sup>10</sup>

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<sup>10</sup> Judge Woolbright expects to call witnesses if this matter goes to hearing who will confirm his recollection that he talked with the manager virtually every day about the custody proceedings, with her initiating the conversation sometimes and him initiating the conversation other times.

It is unfortunate that when the manager was interviewed by a representative of the Commission on or about September 20, 2011 the Commission representative did not tell the manager that Judge Woolbright had, several days before these alleged acts of intimidation, fully accepted the truth of her account of what had happened. The manager could have been told as well that by September 16, 2011 Judge Woolbright had agreed to sign a Stipulated Agreement that fully admitted the manager's account of what happened on March 24, 2011. The manager would then have known that Judge Woolbright had not been trying to intimidate her to change her testimony and would not be trying to get her to change her testimony in the future.

21. Likewise with other witnesses, having agreed to sign the proposed Stipulated Agreement on September 16, 2011, Judge Woolbright had no reason going forward to try to intimidate or harass any potential witnesses in the matter.<sup>11</sup> Accordingly, the concern expressed in the September 21, 2011 letter to the Arizona Supreme Court about Judge Woolbright trying to intimidate or harass other witnesses is without foundation or basis in fact.

#### **Proposal for Resolution**

In light of all of these facts and considerations Judge Woolbright respectfully proposes the following actions:

1. Facilitate through the Presiding Justice of the Peace or the human relations department of the Justice of the Peace Courts a meeting between Judge Woolbright, the manager and any other appropriate persons, to address and resolve any misunderstandings, miscommunications or concerns about the relationship between Judge Woolbright, the manager and other persons at the Northwest Regional Court Center in Surprise, Arizona.

2. Present to the Commission for its consideration and decision the Stipulated Agreement for Discipline by Consent that Disciplinary Counsel and Judge Woolbright's counsel had completed but not yet executed on September 16, 2011. (Exhibit 13).

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<sup>11</sup> It bears noting that as of September 21, 2011 the only witnesses Judge Woolbright even knew about were the court manager and possibly Judge Williams.

3. Rescind the Court's September 21, 2011 Order reassigning Judge Woolbright.

4. Submit a press release reporting the resolution of the matter that has been pending before the Commission concerning Judge Woolbright.

# Exhibit 1

Phillip Woolbright  
PO BOX 8763  
Surprise Arizona 85374

April 13, 2011

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

RE: Self Reporting Judge of the Arrowhead Justice Court, Phillip Woolbright  
Attn: Commission, Keith Stott or to whom it may concern.

Dear Commission,

After reviewing rule 19, I would like to Self Report a situation that occurred at the Arrowhead Justice Court Northwest Regional Court Center on Thursday March 24<sup>th</sup> 2011. And the nature and extent of the matter is as follows.

- a) This event occurred one time. I had parked in the Northwest Regional Court Public Parking lot to visit the family court location at the Northwest Center. I had completed my business with the family court and went to my chambers to visit with my pro tem prior to leaving. While in chambers I received a text from my wife, sent from my teenage sons' cell phone that read. "The server has found his van and is waiting for him to come out." I became frightened, shocked and confused. Under the circumstances I asked if my manager would go out to my van in the parking lot, see who is there, and drive my van to the secure judges parking area. I then got in my van and left the Northwest Regional Court Center. I don't think that this was the best decision, even though I thought it was a good idea at the time to take the matter away from the courthouse, it may be viewed by others differently.
- b) I have been the Justice of the Peace three months, since January 1, 2011. My experience on the bench started in the beginning of 2009 as an appointed Hearing Officer.
- c) I believe that this event occurred in my official capacity.
- d) I believe that this event may have hurt the respect for the judiciary because it can be viewed as inappropriate behavior.
- e) I should not have asked my manager to move my van. I believe it may have been more appropriate to have court security help me investigate any possible security issue or person by my vehicle.
- f) I intend to take much more care in performing under these circumstances in the future.
- g) There has been no prior disciplinary action.
- h) n/a
- i) n/a
- j) In a short note regarding personal or emotional problems I would only like to offer the following: factually, my family is currently going through a divorce. One of my children has been hurt by an outsider and contracted a lifelong disease last year during an emotional election campaign. Our family is taking the appropriate measures to insure we cope with our issues appropriately and to stay healthy. The media has asked about an Order of Protection and Dissolution that was filed with allegations by my wife. I would not comment negatively about my wife or family to the media. And, asked for prayers from the community.

Kind Regards,

Phillip Woolbright



Phillip Woolbright  
PO BOX 8763  
Surprise Arizona 85374

Via fax 602 452 3201

April 15, 2011

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

RE: Self Reporting Judge of the Arrowhead Justice Court, Phillip Woolbright  
Attn: Commission, Keith Stott or to whom it may concern.

Dear Commission,

I would like to Self Report a situation that occurred at my home on February 18<sup>th</sup> 2011. And the nature and extent of the matter is as follows.

- a) This event occurred one time. My wife and I had been arguing over several topics. I knocked a picture off the dresser and a wax candle without breakage to either item. My wife was curling her hair in the bathroom and turned around, from the sink and mirror, to see what I had done and stepped into the doorway of the bathroom. While I entered the bathroom to discuss further issues, I pushed her approximately 2.5 – 3 feet back to the vanity, where she was standing previously, without injury.
- b) I have been the Justice of the Peace three months, since January 1, 2011.
- c) I believe that this event occurred in my private life.
- d) I believe that this event may have hurt the respect for the judiciary because my wife filed a Protective Order, with inaccurate information; she threatened to tell the public that I pushed her and can certainly be viewed as doing something wrong.
- e) I should not have pushed my wife or knocked anything off the dresser.
- f) I have never touched my wife before in this fashion, or done this before, ever, and intend to never do it again. It has brought me to a heightened state of awareness as a judge. I am usually a humble man, practicing humility in my daily life.
- g) There has been no prior disciplinary action.
- h) n/a
- i) n/a
- j) In a short note regarding personal or emotional problems I would only like to offer the following:  
My family is currently going through a divorce.

Kind Regards,

Phillip Woolbright

# Exhibit 3

**FILED**

**AUG 16 2011**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>STATEMENT OF CHARGES</b>
State of Arizona	)	
Respondent.	)	

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An investigative panel of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against Judge Phillip Woolbright (Respondent) for misconduct in office. This statement of charges sets forth the Commission's jurisdiction and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a justice of the peace in Maricopa County since January 2011, and was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent is and has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

#### **FACTUAL BACKGROUND**

5. On February 18, 2011, Respondent and his wife (Wife) engaged in a physical altercation that Maricopa County Superior Court Commissioner Richard Albrecht subsequently determined to be an act of domestic violence by Respondent, for the purposes of assessing an order of protection.

6. On March 23, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts. Both orders issued, although Respondent did not ever serve the order he obtained. On the same date, Wife separately filed for dissolution of marriage. Also on March 23, a private process server, William Tash, attempted to serve Wife's OOP on Respondent by waiting outside his residence from 6 p.m. – 11:30 p.m.

7. On March 24, Mr. Tash again unsuccessfully attempted service at Respondent's residence at 7:18 a.m. He later proceeded to the Northwest Regional Court Facility, the location of Respondent's court. At approximately 10:30 a.m., Respondent's van was in the public parking area and Mr. Tash was waiting by the vehicle when a female court staff member moved the van from the public parking area to the private judges' parking area.

8. The staff member was Jane Miller, Respondent's court manager, and she moved Respondent's van at his request specifically because he wanted to avoid accepting service of process at his court facility.

9. Mr. Tash then entered the court facility and spoke with Ms. Miller. She provided him with contact information for Respondent's attorney and suggested Mr. Tash simply serve the paperwork on the attorney. Mr. Tash then explained that he could not serve an OOP on the attorney, but rather was required by law to personally serve the Respondent. Ms. Miller then explained Respondent had left the court in the intervening time and reiterated, per Respondent's instruction, that Mr. Tash should serve the attorney.

10. At approximately 3:15 p.m. and 5:30 p.m. Mr. Tash attempted to serve Respondent at his residence based on calls he received that Respondent was at the home. At both times, no one answered the door. At 6 p.m., Wife called the Peoria Police Department requesting assistance in serving the OOP based on her belief that Respondent was hiding in his residence. The police took a report but informed Wife they did not have the authority to enter the home and could not, therefore, force Respondent to accept service if he was hiding within the home.

11. On March 27 at 8:30 a.m., Mr. Tash again unsuccessfully attempted service at Respondent's residence.

12. On March 28 at 7:15 a.m., Mr. Tash waited outside the entrance to the court's private judicial parking area to serve Respondent. At 8 a.m., court security approached Mr. Tash to determine his purpose, and thereafter he entered the courthouse to find out if Respondent was expected at the court that day. He learned Respondent was not expected until the afternoon.

13. At approximately 9:00 a.m. on March 28, Mr. Tash called Respondent to explain his need to personally serve the OOP and Respondent indicated he was unaware of the personal service requirement. Respondent agreed to meet Mr. Tash at his attorney's office for

the purpose of accepting service, but explained he was currently lost looking for the office. Mr. Tash agreed to drive toward the area of the attorney's office and expect a call from Respondent in the meantime with directions.

14. Respondent never called Mr. Tash back, and did not answer or respond to two subsequent calls from the process server in his attempts to locate Respondent and the attorney's office.

15. That same afternoon, March 28, Mr. Tash returned to the court facility and spoke with Ms. Miller, who informed him that Respondent would not be in to the court that afternoon or for the remainder of the week because he was leaving town.

16. On April 2 at approximately 4:30 p.m., Respondent called Mr. Tash and explained he had gone to Lake Havasu City, Arizona. Respondent stated he was not attempting to avoid service of process and would be willing to meet Mr. Tash the following afternoon. Respondent stated he would call Mr. Tash the following day to arrange a meeting.

17. On April 3 at approximately 7:30 a.m., Mr. Tash received a phone call from Wife's mother indicating that a vehicle was in the driveway of Respondent's residence, and it appeared to be the one belonging to Respondent's sister, who lives in Lake Havasu City. When Mr. Tash arrived on the street the vehicle was leaving and Respondent appeared to be driving. Mr. Tash was unable to catch up and proceeded to Respondent's church based on Wife's belief that is where Respondent was likely going. Respondent's sister's vehicle was not at the church, but was subsequently sighted back at the residence.

18. Mr. Tash returned to the residence and personally served Respondent eleven days after the issuance of the OOP against him and ten days after Respondent was first made aware

of the pending OOP. The OOP prohibited Respondent from having any contact with Wife or his four children, and listed three protected addresses including the marital residence, church, and a family recreational center.

19. Later the same day, April 3, Respondent called the Peoria Police Department to report that Wife and the children had “disappeared” and he believed they were “missing” since March 22, 2011. The officer who took Respondent’s statement reported that Respondent accused Wife of “kidnapping” the children. The officer explained that he was aware of the OOP, which had been issued March 23 and which Respondent failed to mention, and that it prevented Respondent from having contact with his children. Thus, the officer explained it was not unlawful for Wife to keep the children from seeing Respondent.

20. During his report to the police on April 3, Respondent made a comment suggesting that he would be happy to authorize a search warrant so that the police officers could enter Wife’s residence and retrieve the children. The officer believed he may have been joking, but was nonetheless uncomfortable with the suggestion. Respondent then asked the officers to “ping” Wife’s mobile phone in order to determine her location, which they declined to do. The April 3 police report did not result in any action beyond verifying that Wife was safe with the children and that they had never been missing.

21. On March 29, Respondent called the Commission to voluntarily report his conduct at the court facility on March 24 and subsequently provided a written self-report on April 13, which he supplemented on April 15.

22. On May 18, Commissioner Albrecht presided over an evidentiary hearing, which resulted in subsequent amendments to the OOP on May 26 and June 2. The amendments

removed three of the four children from the OOP, allowing for Respondent to have contact with them, and also removed the marital residence as a protected address.

23. On June 17, Maricopa County Superior Court Judge Michael Gordon entered a minute entry order providing Respondent with supervised visitation of his children, stating:

If, at any time during supervision, Father violates *any* part of these orders, the supervisor shall immediately remove the children from Father's care and immediately return them to Mother. . . . If the children are removed, Father's supervised parenting time shall be suspended until further order of the court.

24. At Respondent's first subsequent supervised visitation, some type of altercation occurred causing the children to be upset and the supervisor to ask Respondent to leave. Respondent claimed in court proceedings that he only left because it was essentially the end of his time in any event, and that he had merely attempted to reprimand his son for behaving disrespectfully. Wife believed that Respondent had improperly disciplined and upset the son, and that the supervisor had effectively removed the children from Father's visitation within the meaning of Judge Gordon's order. Wife subsequently alerted Respondent that she had suspended visitation pursuant to the order.

25. On June 24 the investigative panel sought more information from Respondent, in particular asking whether he had voluntarily ceased hearing protective order matters in his court given his ongoing personal situation involving an OOP. In response, Respondent confirmed his ongoing belief that the OOP against him is unwarranted and further stated

Yes, I have presided over protective order petitions and hearings since March 23, 2011 without disclosing in any of the cases that there was an order in place against me. I found that the wisdom obtained from this experience has not affected my impartiality at all.

26. On July 9, 12, 14, 16, 17, and 19, Respondent contacted the Peoria Police Department to report Wife for custodial interference because of her action in suspending visitation, which he believed was contrary to the court's order.

27. On July 21, Respondent again sought visitation and arrived to pick up the children with his sister and four Phoenix police officers accompanying him because he anticipated difficulty. Wife showed the police officers the original OOP and the officers arrested Respondent at that time for violating the OOP. Respondent attempted to show the officers subsequent court orders allowing for his visitation with the children, but he did not have an amended OOP to show them demonstrating he was not in violation.

28. Respondent was charged with interference with a judicial proceeding and arraigned at approximately 11:00 p.m. on July 21, and thereafter released on his own recognizance. He appeared for his duties on the bench on July 22, initially intending to continue his duties in full. After consultation with the Staff Director for the Arizona Supreme Court Judicial Ethics Advisory Committee (JEAC), it is the Commission's understanding that Respondent voluntarily ceased hearing any matter related to protective orders for the time being.

29. On July 22, Respondent voluntarily reported his arrest to the Commission.

30. On at least two occasions, Respondent's ongoing marital situation and related court proceedings have been the subject of local news broadcasts. Respondent appeared in one of those broadcasts.

31. Members of the Peoria Police Department regularly appear in Respondent's court.

32. On August 10, Aldon Terpstra, the contract public defender assigned to Respondent's regional court facility, filed a request for a change of judge for cause pursuant to Rule 10.1 of the Arizona Rules of Criminal Procedure. The basis for the motion was:

Defendant cannot receive a fair and impartial hearing before the currently assigned judge, Phillip Woolbright, because of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted by the Maricopa County Attorney's Office in CR2011-006610-001, while also presiding over a criminal matter with the Maricopa County Attorney's Office being a party.

33. Respondent's initial appearance occurred on August 15. The prosecutor moved to dismiss the charge at that time and no charge remains pending.

#### **ALLEGATIONS OF MISCONDUCT**

34. As described above, Respondent engaged in a course of conduct since February 18, 2011, involving both his personal and professional behavior that constitutes ethical misconduct. His actions have been improper and have created the appearance of impropriety on multiple occasions, in addition to eroding public confidence in the judiciary and in his impartiality. Further, Respondent's actions demonstrate he has abused the prestige of his office, and permitted his personal, family circumstances to influence his judicial conduct. His misconduct violates Rules 1.2, 1.3, 2.4, 2.11, 2.12, and 3.1 of the Arizona Code of Judicial Conduct as well as the Arizona Constitution, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute." Article 6.1, § 4.

#### **REQUESTED RELIEF**

WHEREFORE, the Commission, upon conclusion of a hearing and a finding of good cause, may recommend to the Supreme Court that Respondent be publicly censured and either

suspended or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as it deems appropriate.

Dated this 16th day of August 2011.

**COMMISSION ON JUDICIAL CONDUCT**



Jennifer M. Perkins  
Disciplinary Counsel

Copies of this pleading hand-delivered  
on August 16, 2011

Hon. Phillip Woolbright  
P.O. Box 8763  
Surprise, Arizona 85374

By: 

Exhibit 4

**Larry Cohen**

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Tuesday, August 23, 2011 11:36 AM  
**To:** Larry Cohen  
**Cc:** Alison  
**Subject:** CJC Case 11-111 (Woolbright) Draft Agreement  
**Attachments:** Draft Stipulated Censure 8-23-11.wpd

Attached please find a draft of a stipulated agreement proposed to resolve Case 11-111. My direct line is listed below and I look forward to hearing back from you at your earliest convenience.

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>PHILLIP WOOLBRIGHT</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	
State of Arizona	)	
Respondent.	)	<b>STIPULATED AGREEMENT FOR DISCIPLINE BY CONSENT</b>

---

COME NOW Judge Phillip Woolbright, Respondent, through his attorney, Larry J. Cohen, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a justice of the peace in Maricopa County since January 2011 and was serving in this capacity at all times relevant to the allegations contained herein.
3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

4. On August 16, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. The Statement of Charges is hereby incorporated into this agreement in its entirety.

5. Respondent admits the facts in the Statement of Charges and concedes that the facts support the charges of judicial misconduct. Respondent believes it is important to note that he did not intend to violate the Code or to act in a manner that would bring the judiciary into disrepute or give the appearance of impropriety. Nonetheless, Respondent acknowledges that his actions resulted in ethical misconduct and thus acknowledges his culpability for his conduct.

6. Disciplinary counsel notes that Respondent's conduct was public and garnered significant media attention, which increased the likelihood that his actions resulted in a diminution of respect specifically for Respondent's court and the Arizona judiciary in general.

7. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a formal censure.

8. The parties also agree that Respondent, with assistance from the Commission, obtain a mentor judge who is law-trained. The mentor is will provide general guidance as well as specific advice regarding Respondent's conduct in personal legal matters to ensure Respondent's compliance with the Code and to avoid negative impacts on his ability to serve as a judge. Further, Respondent agrees that he will not preside over any matter involving a protective order as long as there is a protective order in place against him. Once the order of protection ceases to be effective, and assuming no subsequent order is issued, Respondent is free to resume his normal duties related to the handling of protective order cases.

9. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.

10. Respondent waives his right to file a Response to the Statement of Charges, pursuant to Commission Rule 25(a).

11. Pursuant to Commission Rule 28(a), both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

12. Both parties agree not to make any statements to the press or in public that are contrary to the terms of this agreement.

13. Both parties will pay their own costs and attorneys' fees associated with this case.

14. Respondent, together with his attorney, has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

15. This agreement constitutes the complete understanding between the parties.

**SUBMITTED** this \_\_\_ day of August, 2011.

\_\_\_\_\_  
Phillip Woolbright, Justice of the Peace  
Respondent

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

\_\_\_\_\_  
Date Signed

# Exhibit 5

1 Larry J. Cohen, Esquire  
2 THE COHEN LAW FIRM  
3 P.O. Box 10056  
4 Phoenix, Arizona 85064  
5 (602) 266-3080  
6 (602) 265-6866 (FAX)  
7 Arizona State Bar No. 010192  
8 ljc@licohen.com

9 Attorney for Respondent

10 STATE OF ARIZONA  
11 COMMISSION ON JUDICIAL CONDUCT

12 Inquiry concerning

13 Case No.: 11-11

14 Judge Phillip Woolbright  
15 Arrowhead Justice Court  
16 Maricopa County  
17 State of Arizona

18 ANSWER TO STATEMENT OF  
19 CHARGES

20 Judge Phillip Woolbright, through counsel, submits the  
21 following as his answer to the Statement of Charges filed by  
22 the Commission on Judicial Conduct on August 16, 2011.

23 Judge Woolbright denies each and every allegation in the  
24 Statement of Charges that he does not expressly admit in this  
25 Answer.

26 JURISDICTION

1. Admit.
2. Admit.
3. Admit.
4. Admit.

**FILED**

SEP 01 2011

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

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FACTUAL BACKGROUND

5. Respondent admits that on February 18, 2011, he became involved in a physical altercation with April Woolbright ("Wife") in the doorway of their bathroom; Respondent affirmatively alleges that he tried to move Wife away from him in such a way as would be described as a push, but denies any actual or implied intent to cause physical harm to Ms. Woolbright; and further admits that Maricopa County Superior Court Commissioner Richard Albrecht, based on the ex parte allegations of Wife, determined that an act of domestic violence had occurred and granted Wife an order of protection.

6. Respondent admits that on March 23, 2011, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts; admits that both orders issued; admits that Respondent did not serve the OOP he secured; admits that Wife separately filed for dissolution of marriage on the same date. Respondent lacks personal knowledge about the activities of William Tash, a private process server, and therefore cannot admit or deny the allegations relating to him, but is aware of the affidavit completed and the statements Mr. Tash made therein.

7. Respondent lacks personal knowledge about the activities of William Tash and therefore cannot admit or deny the

1 allegations relating to him, but is aware of the  
2 affidavit completed by Mr. Tash and the statements Mr.  
3 Tash made therein; Respondent further admits that at  
4 about 10:30 a.m. a female court staff member moved  
5 Respondent's van from the public parking area to the  
6 judges' private parking area.

7 8. Respondent lacks personal knowledge about the activities  
8 of William Tash and therefore cannot admit or deny the  
9 allegations relating to him, but is aware of the  
10 affidavit completed by Mr. Tash and the statements Mr.  
11 Tash made therein; Respondent admits Jane Miller,  
12 Respondent's court manager, moved Respondent's van at  
13 Respondent's request; Respondent denies he asked Ms.  
14 Miller to move his van to avoid accepting service of  
15 process because he did not know at the time he asked Ms.  
16 Miller to move his van that the person reportedly waiting  
17 by his van was attempting to serve him with legal  
18 process.

19 9. Respondent lacks personal knowledge about the activities  
20 of William Tash and therefore cannot admit or deny the  
21 allegations relating to him, but is aware of the  
22 affidavit completed by Mr. Tash and the statements Mr.  
23 Tash made therein; Respondent admits Ms. Miller informed  
24 him that after Mr. Tash entered the court facility he  
25  
26

1 spoke with Ms. Miller and that Ms. Miller told Mr. Tash  
2 to serve Respondent's attorney with the paperwork.

3 10. Respondent lacks personal knowledge about the activities  
4 of William Tash and therefore cannot admit or deny the  
5 allegations relating to him, but is aware of the  
6 affidavit completed by Mr. Tash and the statements Mr.  
7 Tash made therein; Respondent lacks personal knowledge  
8 about the activities of Wife and therefore cannot admit  
9 or deny the allegations relating to her, but is aware  
10 that she has made the statements set forth in paragraph  
11 10 of the Statement of Charges.

12 11. Respondent lacks personal knowledge about the activities  
13 of William Tash and therefore cannot admit or deny the  
14 allegations relating to him, but is aware of the  
15 affidavit completed by Mr. Tash and the statements Mr.  
16 Tash made therein.

17 12. Respondent lacks personal knowledge about the activities  
18 of William Tash and therefore cannot admit or deny the  
19 allegations relating to him, but is aware of the  
20 affidavit completed by Mr. Tash and the statements Mr.  
21 Tash made therein.

22 13. Respondent admits he received a call at approximately  
23 9:00 am on March 28, 2010 from Mr. Tash, that he told Mr.  
24 Tash he was unaware of the personal service requirement,  
25 that he agreed to meet Mr. Tash at his attorney's office  
26

1 for the purpose of accepting service, and that he was  
2 lost looking for the office. Respondent denies that  
3 Respondent and Mr. Tash agreed that there would be a  
4 further conversation with Mr. Tash about directions.  
5 Respondent lacks personal knowledge about the activities  
6 of William Tash and therefore cannot admit or deny the  
7 remaining allegations by Mr. Tash relating to him, but is  
8 aware of the affidavit completed by Mr. Tash and the  
9 statements Mr. Tash made therein.

10 14. Respondent admits that he did not call Mr. Tash back or  
11 respond to further calls from Mr. Tash. Without waiving  
12 the privileged relationship with Respondent's attorney,  
13 Respondent affirmatively alleges that in not returning  
14 Mr. Tash's calls Respondent was acting on advice of  
15 counsel; and beyond that, Respondent lacks personal  
16 knowledge about the activities of William Tash and  
17 therefore cannot admit or deny the allegations relating  
18 to him, but is aware of the affidavit completed by Mr.  
19 Tash and the statements Mr. Tash made therein;

20 15. Respondent lacks personal knowledge about the activities  
21 of William Tash and therefore cannot admit or deny the  
22 allegations relating to him, but is aware of the  
23 affidavit completed by Mr. Tash and the statements Mr.  
24 Tash made therein.

25 16. Admit.  
26

- 1 17. Respondent lacks personal knowledge about the activities  
2 of William Tash and therefore cannot admit or deny the  
3 allegations relating to him, but is aware of the  
4 affidavit completed by Mr. Tash and the statements Mr.  
5 Tash made therein.
- 6 18. Admit.
- 7 19. Respondent admits the allegations of paragraph 19 except  
8 that Respondent denies that he failed to reference the  
9 OOP in his communication with the police officer.
- 10 20. Respondent admits stating to the police officer that  
11 Respondent could authorize a search through a search  
12 warrant, but denies that he made that statement in such a  
13 way as to convey any intent that he would do so,  
14 believing rather he made the statement in such a way that  
15 it would be understood not to be a statement conveying  
16 any such intent. Respondent admits the remaining  
17 allegations on Paragraph 21 of the Statement of charges.
- 18 21. Admit.
- 19 22. Admit.
- 20 23. Admit. Respondent affirmatively alleges that it was his  
21 understanding of Judge Gordon's order that the order had  
22 the effect of being a modification of the OOP.
- 23 24. Respondent admits to an event occurring during the  
24 referenced supervised visitation, the event consisting of  
25 Respondent disciplining his son in an age appropriate way  
26

1 to stop being disrespectful to adults, and Respondent  
2 further affirmatively alleges that he left the supervised  
3 visitation willingly in the genuine belief that the time  
4 duration for his supervised visitation had expired.  
5 Respondent is aware that Wife subsequently submitted a  
6 report to Judge Gordon and that Wife unilaterally  
7 suspended visitation. Respondent affirmatively alleges  
8 that thereafter when Respondent had the opportunity to  
9 communication what had happened Judge Gordon reinstated  
10 supervised visitation.

11 25. Admit. Respondent affirmatively alleges that in light of  
12 the understanding he obtained from a voluntary  
13 consultation he initiated with the Judicial Ethics  
14 Advisory Committee (JEAC) about how members of the public  
15 might respond to information that he was hearing OOP  
16 cases at the same time he was himself the subject of an  
17 OOP he ceased immediately hearing OOP matters.

18 26. Admit.

19 27. Admit. Respondent affirmatively alleges that he was  
20 outside Wife's residence at the time of the events that  
21 are the subject of Paragraph 27 of the Statement of  
22 Charged because Wife had invited him to the house to pick  
23 up the children that Respondent genuinely believed at the  
24 time of these events that Judge Gordon's June 17, 2011  
25  
26

1 minute entry order had so modified the OOP as to permit  
2 him to be where he was and doing what he was doing.

3 28. Admit. Respondent affirmatively alleges that he  
4 voluntarily initiated consultation with the JEAC  
5 concerning the matters that are the subject of Paragraph  
6 29 of the Statement of Charges voluntarily and that after  
7 receiving the benefit of that consultation Respondent  
8 voluntarily ceased hearing OOP matters.

9 29. Admit.

10 30. Admit.

11 31. Admit.

12 32. Admit. Respondent affirmatively alleges that Respondent  
13 voluntarily recused himself from case no. CV2011-006610-  
14 001.

15 33. Admit.

16 ALLEGATIONS OF MISCONDUCT

17 34. Respondent admits engaging in acts inconsistent with  
18 certain of the Canons of the Arizona Code of Judicial  
19 Conduct and respectfully reserves the right to address as  
20 this case proceeds the applicable Cannons of the Arizona  
21 Code of Judicial Conduct that apply to the matters that  
22 are the subject of the Statement of Charges.

23 REQUESTED RELIEF

24 Respondent acknowledges that action by the Commission is  
25 appropriate and warranted in light of the matters that  
26

1 are the subject of the Statement of Charges but  
2 respectfully does not agree with the relief proposed in  
3 the Statement of Charges.

4 DATED this 1<sup>st</sup> day of September, 2011.

5 COHEN LAW FIRM  
6

7  
8 By: Larry J. Cohen (ATJ)  
9

10 Larry J. Cohen

11 P.O. Box 10056

12 Phoenix, Arizona 85064  
13  
14  
15  
16  
17  
18

19 ORIGINAL of the foregoing  
20 filed this 1<sup>st</sup> day of  
21 September, 2011 with:

22 Commission on Judicial Conduct  
23 1501 West Washington, Suite 229  
24 Phoenix, AZ 85007

25 ///

1 COPY of the foregoing hand delivered this  
2 same date to:

3 Cynthia Best  
4 14300 N Northsight Blvd, Ste 127  
5 Scottsdale, AZ 85260-3675  
6 Attorney for Petitioner

7 Alison Saubers

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# Exhibit 6

MICHAEL A. JEANES, CLERK  
BY  
Tracy Jones  
FILED

11 APR -4 AM 8:38

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA IN AND FOR THE COUNTY OF MARICOPA

APRIL WOOLBRIGHT

FC2011-070163

Plaintiff/Petitioner,

CERTIFICATE OF SERVICE OF PROCESS BY  
PRIVATE PERSON

v.

PHILLIP WOOLBRIGHT

Defendant/Respondent.

I received: ORDER OF PROTECTION, PETITION FOR ORDER OF PROTECTION and served:

PHILLIP WOOLBRIGHT

By personally handing a true and accurate copy of the above documents to PHILLIP WOOLBRIGHT at 8826 W. ALICE AVE PEORIA, AZ 85345 at approximately 9:28 AM on 4/3/2011.

William Tash attempted to serve the above documents in addition to Petition for Dissolution of Marriage with Children, Summons, Preliminary Injunction, Affidavit Regarding Minor Children, Order and Notice to Attend Parent Information Program Class, Notice Regarding Creditors, Notice of your Rights about Health Insurance on Phillip Woolbright. The following attempts were made by William Tash to serve Phillip Woolbright:

3/23/2011 Approximately 5:00 PM

William Tash attempted service at Mr. Woolbrights known residence, 8826 W. Alice Peoria, Az 85345. William Tash knocked on the door and there was no answer. After speaking with April Woolbright, William was instructed to watch the residence and wait for Mr. Woolbright to arrive. With no activity William departed at 11:30 PM.

3/24/2011 Approximately 7:18 AM

William Tash attempted service at Mr. Woolbrights known residence, 8826 W. Alice Peoria, Az 85345. William Tash knocked on the door and there was no answer.

3/24/2011 Approximately 8:15 AM

William Tash went to Arrowhead Justice Court, 14264 W. Tierra Buena Ln Surprise, Az 85374, to locate Mr. Woolbrights vehicle. Mr. Woolbrights vehicle was not present and William left the court and returned to Mr. Woolbright residence. When William arrived at the residence April Woolbright called William and told him the Mr. Woolbright was at Arrowhead Court.

**3/24/2011**      **Approximately 10:27 AM**

William Tash arrived at the Arrowhead Justice Court and located Mr. Woolbrights vehicle. William set up on the vehicle and waited for Mr. Woolbright to return to it. After a few minutes of watching the vehicle, April Woolbright called William and told him that her son had texted Mr. Woolbright and told him that William was in the parking lot waiting to serve him. While William was on the phone with April a female came from the court and moved Mr. Woolbrights vehicle into the back secure parking lot. The female was wearing a court badge.

**3/24/2011**      **Approximately 11:15 AM**

William verified that Mr. Woolbrights vehicle was still parked in the rear secure parking and then entered the court and asked for Mr. Woolbright at the clerks counter. The clerk told William that she was going to get her supervisor. Jane, whom identified herself as the Court Manager, came out to speak with William. William identified himself and his purpose. Jane told William that Mr. Woolbright was not here. William asked Jane if she was the person who had just moved his vehicle and she replied that she was and stated that she didn't know why Mr. Woolbright had asked her to move the vehicle. William told Jane that the vehicle was still parked in the secure parking and Jane said that she would go look for Mr. Woolbright. She returned and stated that Mr. Woolbright was gone and so was the vehicle. Jane then gave me the contact information for Mr. Woolbrights attorney and instructed me to serve the documents on him. William stated that he didn't believe the attorney could accept the documents on Mr. Woolbrights behalf because there was an Order of Protection included. Jane then reiterated that William was supposed to serve the attorney. William then left the court.

**3/24/2011**      **Approximately 3:18 PM**

William received a call stating that Mr. Woolbright was at his residence. Mr. Woolbright had left his residence before William arrived.

**3/24/2011**      **Approximately 5:27 PM**

William received a call stating that Mr. Woolbright was at his residence. Mr. Woolbright had left his residence before William arrived.

**3/27/2011**      **Approximately 8:30 AM**

William Tash attempted service at Mr. Woolbrights known residence, 8826 W. Alice Peoria, Az 85345. William Tash knocked on the door and there was no answer.

**3/28/2011**      **Approximately 7:15 AM**

William Tash arrived at the Arrowhead Justice Court and awaited Mr. Woolbrights arrival by the secured parking entrance.

**3/28/2011**      **Approximately 8:05 AM**

A Sheriffs Deputy and Officer Ross, Court Security, came out and asked what I was doing. William identified himself and his purpose. The two officers returned inside.

**3/28/2011**      **Approximately 8:17 AM**

Mr. Woolbright had still not arrived and William went around to the front of the court house.

Before he entered Officer Ross came out the exit and told William that Mr. Woolbright wouldn't be in till the afternoon, but that he didn't know what time.

**3/28/2011**      **Approximately 8:52 AM**

William got Mr. Woolbrights cell phone number, 408-390-5005, from April and William called Mr. Woolbright. Mr. Woolbright answered the phone, William identified himself and his purpose. Mr. Woolbright told William to serve his Attorney on his behalf and William replied that his Attorney cannot accept an Order of Protection. Mr. Woolbright stated that he didn't know that. William asked to meet with Mr. Woolbright as soon as possible anywhere that was convenient for him. Mr. Woolbright stated that he was on his way to his Attorney. William asked to meet him at his Attorneys office. Mr. Woolbright replied that he would return to the west side of town in a little while and that he would definitely call William and meet with him, William gave Mr. Woolbright his cell phone number. William asked Mr. Woolbright where he was currently, he replied that he was at Scottsdale Rd and the loop 101 going to his Attorneys. William asked again if he could meet him at his Attorneys office, Mr. Woolbright agreed but stated that he didn't know where the office was and that he was lost. Mr. Woolbright said that he was awaiting a call back from his Attorney at 9:00 AM. William told Mr. Woolbright that he would go to Scottsdale Rd and loop 101 and call him when he got there. Mr. Woolbright agreed and the conversation was ended.

**3/28/2011**      **Approximately 9:34 AM**

William called Mr. Woolbright as agreed upon previously. There was no answer and William left a message stating who he was and again gave Mr. Woolbright his cell phone number. William then went to his Attorneys office, 6245 N. 24th Parkway Phoenix, Az and searched the parking lot for Mr. Woolbrights vehicle. Mr. Woolbright vehicle was not present, William returned to Scottsdale Rd. and loop 101 and again called Mr. Woolbright. There was no answer and William left another message.

**3/28/2011**      **Approximately 1:25 PM**

William went to the Arrowhead Justice Court. When William entered the court Officer Ross told him that he had not seen Judge Woolbright yet. William went to the clerks counter and the Clerk had Jane, Court Manager, come out to speak with him. Jane informed William that she had just talked to Mr. Woolbright over the phone and that he would not be coming in for the rest of the week, Mr. Woolbright was going out of town. Jane said that she was to the understanding that William had meet Mr. Woolbright at his Attorneys office and that everything had been taken care of. William explained the previous events and stated that he still needed to serve Mr. Woolbright. Jane went and called Mr. Woolbright, Mr. Woolbright did not answer. William asked Jane to wait a moment while he makes a call to the law firm. William talked the law firm and spoke with Eric updating him on the events. While William was on the phone Mr. Woolbright returned Janes call. Jane stated that Mr. Woolbright was saying that William needs to call the law firm or the client. That a deal had been reached. William replied he was on the

phone with the law firm and that no deal had been reached and William still needed to deliver the documents. Jane hung up the phone and stated the Mr. Woolbright was out of town. At that time William asked if Judge Williams was Mr. Woolbrights boss. Jane replied that he was, William requested to speak with him. William waited in the lobby while Jane got Judge Williams. Judge Williams took William into a private room. William identified himself and his purpose. Judge Williams stated that he understood that Mr. Woolbright had been ducking service and asked why William didn't just serve his Attorney. William stated that an Order of Protection must be personally served. Judge Williams stated that he was unaware that there was an Order of Protection included in the documents and read the Order. Judge Williams stated "this changes everything". William requested Judge Williams call Mr. Woolbright and ask him to meet with William, Judge Williams agreed to call Mr. Woolbright. After a few moment Judge Williams returned to the lobby and stated that Mr. Woolbright said he's out of town. William asked Judge Williams "what do I do now", Judge Williams replied "I don't know". William then left the court.

**4/2/2011**                      **Approximately 4:32 PM**

Phillip Woolbrights called William Tash and stated that he had gone to Lake Havasu. Mr. Woolbright told William that he was not avoiding service and that he would meet with William tomorrow afternoon when he got back in town. Mr. Woolbright asked William why he didn't serve the Order of Protection to his Attorney, William replied that an Order of Protection must be personally served. Mr. Woolbright stated that he had looked up the rule and in certain circumstances service can be made to the Attorney. William stated that he was not aware of that and William knows the rules of service to demand personal service. Mr. Woolbright then stated that he must contact his Attorney to see the legalities of accepting an Order of Protection, due to Mr. Woolbrights occupation as a Judge. William stated that service of the Dissolution packet had already been made to Mr. Woolbrights Attorney on Friday. William then reiterated that he will meet Mr. Woolbright anywhere convenient for Mr. Woolbright right now. Mr. Woolbright again affirmed that he was not in town and promised to call William tomorrow when he returns to the valley. William replied that Mr. Woolbright had not called him back or met with him on Monday like he had said he would. Mr. Woolbright then stated that his Attorney had advised him not to and to have everything served on Mr. Woolbrights Attorney. William then reiterated that he could not complete service on his Attorney and that's why he had been going into Mr. Woolbrights place of employment. Mr. Woolbright then stated that he had wished to keep this out of his work because all of his employees gossip. William again asked when they could meet and Mr. Woolbright said he would call William when he got back into town.

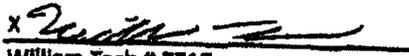
**4/3/2011**      **Approximately 7:29 AM**

William received a call from April Woolbrights Mother stating that there was a vehicle parked in the driveway of Mr. Woolbrights residence. April Woolbrights Mother stated that the vehicle belonged to Mr. Woolbrights Sister.

**4/3/2011**      **Approximately 8:27 AM**

William arrived on Mr. Woolbrights street. As William turned onto the street the vehicle parked in the driveway was leaving. William caught up to and passed the vehicle to identify the occupants. William identified Mr. Woolbright to be driving the vehicle. Mr. Woolbright made a turn and William was unable to catch up to him again. William called April Woolbright and asked where Mr. Woolbright might be heading, she responded that he may be heading to a church on 83rd Ave and Indian School. William went to that church and the vehicle was not present. William then called April Woolbright again and asked her if the vehicle was back at the residence. April responded that it was. William returned to the residence. Mr. Woolbright answered the door and accepted service of the Order of Protection and Petition for Order of Protection.

I declare under penalty of perjury that the foregoing is true and correct.

x 

William Tash # 7717

Cactus Process Serving

8485 E. McDonald Dr. Suite 202

Scottsdale, AZ 85250

480-945-2475

File # 110304A

Executed on

4-3-2011

Exhibit 7

**Larry Cohen**

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Tuesday, September 06, 2011 10:00 AM  
**To:** Larry Cohen  
**Subject:** Case 11-111 (Woolbright)

Mr. Cohen,

It seems we should schedule a time to speak this week and it may be best to do so in person if that is possible. I understand from our previous conversations that Judge Woolbright is interested in reaching a stipulated agreement to resolve the commission's case against him. I am now concerned, however, that we will not be able to reach a stipulation because the judge's formal response disputes facts that are crucial to the commission's charges – and more importantly, based on anticipated witness testimony, the judge appears to have potentially made a material misrepresentation to the commission, which could necessitate an amendment to the charges and further undermine any possibility of a stipulated resolution.

While I have minor concerns about several portions of the response, my most significant concern is with Judge Woolbright's representations in paragraph 8. Based on witness statements provided at the time of the incident, the judge's Response at paragraph 8 directly contradicts his contemporaneous statements made at the time.

Please let me know if you are available to meet this week to discuss our next steps.

Thank you  
Jennifer

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)



**From:** Phil Woolbright [phillipwoolbright@gmail.com]  
**Sent:** Tuesday, September 06, 2011 5:30 PM  
**To:** Larry Cohen  
**Subject:** Commission complaint

Larry,

I spoke with Jane Miller my court manager that moved my van the 24th of March. She says that I took her into the jury room and told her that "a server with papers is out by my van and to move it to the judges parking area." I only remember telling Jane what my son had texted me... I don't even remember the jury room part of the story. I don't agree that I told her a "process server with papers was out by my van would you move it" but cannot.... nor will I.... dispute what she remembers because I was in a frightful and confused state of mind. That is the truth if Jane says it is the truth... I trust her and may have said that exact statement to her.

— REDACTED —

# Exhibit 9

## Larry Cohen

---

**From:** Larry Cohen  
**Sent:** Thursday, September 08, 2011 4:38 PM  
**To:** 'Perkins, Jennifer'  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

Thank you for sending this document. I regret that our conversation became challenging at times and look forward to working with you positively and productively to see if we can reach a stipulated consent agreement.

Larry Cohen

---

**From:** Perkins, Jennifer [<mailto:JePerkins@courts.az.gov>]  
**Sent:** Thursday, September 08, 2011 4:06 PM  
**To:** Larry Cohen  
**Subject:** draft stipulation document

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

# Exhibit 10

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Thursday, September 08, 2011 4:06 PM  
**To:** Larry Cohen  
**Subject:** draft stipulation document  
**Attachments:** Draft Stipulated Censure 8-23-11.wpd

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
 )  
**PHILLIP WOOLBRIGHT** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County )  
State of Arizona )  
Respondent. ) **STIPULATED AGREEMENT FOR  
DISCIPLINE BY CONSENT**

---

COME NOW Judge Phillip Woolbright, Respondent, through his attorney, Larry J. Cohen, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a justice of the peace in Maricopa County since January 2011 and was serving in this capacity at all times relevant to the allegations contained herein.
3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.



4. On August 16, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. The Statement of Charges is hereby incorporated into this agreement in its entirety.

5. Respondent admits the facts in the Statement of Charges and concedes that the facts support the charges of judicial misconduct. Respondent believes it is important to note that he did not intend to violate the Code or to act in a manner that would bring the judiciary into disrepute or give the appearance of impropriety. Nonetheless, Respondent acknowledges that his actions resulted in ethical misconduct and thus acknowledges his culpability for his conduct.

6. Disciplinary counsel notes that Respondent's conduct was public and garnered significant media attention, which increased the likelihood that his actions resulted in a diminution of respect specifically for Respondent's court and the Arizona judiciary in general.

7. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a formal censure.

8. The parties also agree that Respondent, with assistance from the Commission, obtain a mentor judge who is law-trained. The mentor is will provide general guidance as well as specific advice regarding Respondent's conduct in personal legal matters to ensure Respondent's compliance with the Code and to avoid negative impacts on his ability to serve as a judge. Further, Respondent agrees that he will not preside over any matter involving a protective order as long as there is a protective order in place against him. Once the order of protection ceases to be effective, and assuming no subsequent order is issued, Respondent is free to resume his normal duties related to the handling of protective order cases.

9. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.

10. Respondent waives his right to file a Response to the Statement of Charges, pursuant to Commission Rule 25(a).

11. Pursuant to Commission Rule 28(a), both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

12. Both parties agree not to make any statements to the press or in public that are contrary to the terms of this agreement.

13. Both parties will pay their own costs and attorneys' fees associated with this case.

14. Respondent, together with his attorney, has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

15. This agreement constitutes the complete understanding between the parties.

**SUBMITTED** this\_\_ day of August, 2011.

\_\_\_\_\_  
Phillip Woolbright, Justice of the Peace  
Respondent

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

\_\_\_\_\_  
Date Signed

Exhibit 11

**Larry Cohen**

---

**From:** Larry Cohen  
**Sent:** Thursday, September 08, 2011 4:38 PM  
**To:** 'Perkins, Jennifer'  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

Thank you for sending this document. I regret that our conversation became challenging at times and look forward to working with you positively and productively to see if we can reach a stipulated consent agreement.

Larry Cohen

---

**From:** Perkins, Jennifer [<mailto:JePerkins@courts.az.gov>]  
**Sent:** Thursday, September 08, 2011 4:06 PM  
**To:** Larry Cohen  
**Subject:** draft stipulation document

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

# Exhibit 12

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Tuesday, September 13, 2011 4:16 PM  
**To:** Larry Cohen  
**Subject:** RE: draft stipulation document

Thank you for your email. Do you have a time frame in which you plan to send a draft agreement? I had understood you would send it yesterday, but I may have misunderstood. My hope remains that, if we are able to reach an agreement, we do so by September 21 so that we have time to set up a hearing panel meeting for September 23.

Thank you again.

---

**From:** Larry Cohen [<mailto:ljc@ljcohen.com>]  
**Sent:** Thursday, September 08, 2011 4:38 PM  
**To:** Perkins, Jennifer  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

Thank you for sending this document. I regret that our conversation became challenging at times and look forward to working with you positively and productively to see if we can reach a stipulated consent agreement.

Larry Cohen

---

**From:** Perkins, Jennifer [<mailto:JePerkins@courts.az.gov>]  
**Sent:** Thursday, September 08, 2011 4:06 PM  
**To:** Larry Cohen  
**Subject:** draft stipulation document

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Tuesday, September 13, 2011 4:28 PM  
**To:** Larry Cohen  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

You're welcome, please do attempt to get me the response by tomorrow if that is at all possible. My schedule will be a bit difficult Friday and the weekend due to a death in the family combined with preparations for a trip out of the country beginning September 24, so I'd like to move forward as quickly as possible.

Thank you and I do understand that you are still catching up from being away from the office as well, so if it takes until Thursday that is fine. I just wanted to let you know of my time constraints.

To the extent it is helpful, I want to make sure you know that the recent stipulated agreements that have been accepted by hearing panels are available on our website here: [2010](#) (look for 10-099, 10-131, 10-275, 10-286), [2009](#) (look for 09-088/09-244).

---

**From:** Larry Cohen [mailto:ljc@licohen.com]  
**Sent:** Tuesday, September 13, 2011 4:20 PM  
**To:** Perkins, Jennifer  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

I hope to have a draft for you to review tomorrow, Thursday at the latest

Thank you for your patience.

Larry Cohen

---

**From:** Perkins, Jennifer [mailto:JePerkins@courts.az.gov]  
**Sent:** Tuesday, September 13, 2011 4:16 PM  
**To:** Larry Cohen  
**Subject:** RE: draft stipulation document

Thank you for your email. Do you have a time frame in which you plan to send a draft agreement? I had understood you would send it yesterday, but I may have misunderstood. My hope remains that, if we are able to reach an agreement, we do so by September 21 so that we have time to set up a hearing panel meeting for September 23.

Thank you again.

---

**From:** Larry Cohen [mailto:ljc@licohen.com]  
**Sent:** Thursday, September 08, 2011 4:38 PM  
**To:** Perkins, Jennifer  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

Thank you for sending this document. I regret that our conversation became challenging at times and look forward to working with you positively and productively to see if we can reach a stipulated consent agreement.

Larry Cohen

---

**From:** Perkins, Jennifer [<mailto:JePerkins@courts.az.gov>]  
**Sent:** Thursday, September 08, 2011 4:06 PM  
**To:** Larry Cohen  
**Subject:** draft stipulation document

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Thursday, September 15, 2011 10:27 AM  
**To:** Larry Cohen  
**Subject:** RE: draft stipulation document

I believe the following cases included a response although all of these cases were before my time and before most of the current commission members began serving (which is why I did not originally include them):

06-090  
06-181  
06-275  
08-044

---

**From:** Larry Cohen [mailto:ljc@ljcohen.com]  
**Sent:** Thursday, September 15, 2011 10:14 AM  
**To:** Perkins, Jennifer  
**Subject:** RE: draft stipulation document

I am trying to complete my work on the stipulation; of the cases you identified for me there is only one where a response was filed to the statement of charges: 09-088/09-244. Are there any others?

---

**From:** Perkins, Jennifer [mailto:JePerkins@courts.az.gov]  
**Sent:** Tuesday, September 13, 2011 4:28 PM  
**To:** Larry Cohen  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

You're welcome, please do attempt to get me the response by tomorrow if that is at all possible. My schedule will be a bit difficult Friday and the weekend due to a death in the family combined with preparations for a trip out of the country beginning September 24, so I'd like to move forward as quickly as possible.

Thank you and I do understand that you are still catching up from being away from the office as well, so if it takes until Thursday that is fine. I just wanted to let you know of my time constraints.

To the extent it is helpful, I want to make sure you know that the recent stipulated agreements that have been accepted by hearing panels are available on our website here: 2010 (look for 10-099, 10-131, 10-275, 10-286), 2009 (look for 09-088/09-244).

---

**From:** Larry Cohen [mailto:ljc@ljcohen.com]  
**Sent:** Tuesday, September 13, 2011 4:20 PM  
**To:** Perkins, Jennifer  
**Cc:** Elizabeth Gentry  
**Subject:** RE: draft stipulation document

I hope to have a draft for you to review tomorrow, Thursday at the latest

Thank you for your patience.

Larry Cohen

# Exhibit 13

**Larry Cohen**

---

**From:** Larry Cohen  
**Sent:** Thursday, September 15, 2011 11:37 AM  
**To:** 'Perkins, Jennifer'  
**Cc:** Elizabeth Gentry  
**Attachments:** Stipulation.2011.9.15.wpd

I have not reviewed this with my client as yet; I thought it better to be sure I am clear with you what you believe the Commission will require. Thank you for working through this with me.

Larry Cohen

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
 )  
**PHILLIP WOOLBRIGHT** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County )  
State of Arizona )  
Respondent. ) **STIPULATED AGREEMENT FOR  
DISCIPLINE BY CONSENT**

---

COME NOW Judge Phillip Woolbright, Respondent, through his attorney, Larry J. Cohen, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

**JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a justice of the peace in Maricopa County since January 2011 and was serving in this capacity at all times relevant to the allegations contained herein.

3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

#### **BACKGROUND**

4. On August 16, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. That Statement is hereby incorporated into this stipulated resolution in its entirety.

5. On September 2, 2011, Respondent filed a Response to the Statement. The Response is hereby incorporated into this stipulated resolution in its entirety, with the one modification that Respondent changes his answer to Paragraph 8 of the Statement of Charges by admitting the content of Paragraph 8 of the Statement of Charges.

#### **UNDISPUTED FACTS SUPPORTING COMMISSION ACTION**

6. Respondent admits that on March 24, 2011 his court manager moved his van from its location in the public parking area to the private judge's parking area at his request to avoid accepting service of process at his court facility.

7. Respondent admits that he told a process server seeking to serve him with an Order of Protection to serve the Order of Protection on his attorney based on Respondent's then belief that personal service of an Order of Protection was not required.

8. Respondent presided over hearings on protective orders during the time when he was himself the subject of a protective order, voluntarily ceased presiding over hearings on protective orders after consulting with the Judicial Ethics Advisory Committee (JEAC) about

how members of the public might respond to him hearing protective order cases while he was the subject of a protective order.

#### **MUTUAL CONSIDERATION**

9. Respondent admits to the conduct in Paragraphs 8, Paragraph 13 as it related to not knowing at the time of the personal service requirement for a protective order and Paragraph 25.

10. Respondent admits his conduct violated the Code.

11. The parties agree that resolving this matter by stipulation is in their mutual best interests and in the best interests of the judicial system.

#### **AGREED UPON SANCTION**

12. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a formal censure.

13. The parties also agree that Respondent, with assistance from the Commission, will obtain a mentor judge who is law-trained. The mentor will provide general guidance as well as specific advice regarding Respondent's conduct in personal legal matters to ensure Respondent's compliance with the Code and to avoid negative impacts on his ability to serve as a judge. Further, Respondent agrees that he will not preside over any matter involving a protective order as long as there is a protective order in place against him. Once the order of protection ceases to be effective, and assuming no subsequent order is issued, Respondent is free to resume his normal duties related to the handling of protective order cases.

**OTHER TERMS AND CONDITIONS**

14. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.

15. Both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

16. Both parties agree not to make any statements to the press or in public that are contrary to the terms of this agreement.

17. Both parties will pay their own costs and attorneys' fees associated with this case.

18. Respondent, together with his attorney, has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

19. This agreement constitutes the complete understanding between the parties.

**SUBMITTED** this\_\_ day of September, 2011.

\_\_\_\_\_  
Phillip Woolbright, Justice of the Peace  
Respondent

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

\_\_\_\_\_  
Date Signed

Exhibit 14

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Thursday, September 15, 2011 3:12 PM  
**To:** Larry Cohen  
**Cc:** Elizabeth Gentry  
**Subject:** RE:  
**Attachments:** DRAFT Stipulation 9-15-11.wpd

**Importance:** High

Larry – I think (hope) we are close.

I added one additional fact that I would like to explicitly include in the stipulation, and tried to do so keeping true to your language from the Response. I have also made a few additional edits. I only know how to do “track changes” in Word, so I have simply highlighted in yellow the paragraphs that I have edited or added.

Thank you.

---

**From:** Larry Cohen [<mailto:ljc@lccohen.com>]  
**Sent:** Thursday, September 15, 2011 11:37 AM  
**To:** Perkins, Jennifer  
**Cc:** Elizabeth Gentry  
**Subject:**

I have not reviewed this with my client as yet; I thought it better to be sure I am clear with you what you believe the Commission will require. Thank you for working through this with me.

Larry Cohen

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>PHILLIP WOOLBRIGHT</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	
State of Arizona	)	<b>STIPULATED AGREEMENT FOR</b>
Respondent.	)	<b>DISCIPLINE BY CONSENT</b>

---

COME NOW Judge Phillip Woolbright, Respondent, through his attorney, Larry J. Cohen, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

**JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a justice of the peace in Maricopa County since January 2011 and was serving in this capacity at all times relevant to the allegations contained herein.

3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

### **BACKGROUND**

4. On August 16, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. That Statement is hereby incorporated into this stipulated resolution in its entirety.

5. On September 2, 2011, Respondent filed a Response to the Statement. The Response is hereby incorporated into this stipulated resolution in its entirety, with the one modification that Respondent changes his answer to Paragraph 8 of the Statement of Charges by admitting the content of Paragraph 8 of the Statement of Charges.

### **UNDISPUTED FACTS SUPPORTING COMMISSION ACTION**

6. Respondent admits that on March 24, 2011, he asked his court manager to move his van from its location in the public parking area to the private judge's parking area for the purpose of avoiding accepting service of process at his court facility.

7. Respondent admits that he told a process server seeking to serve him with an Order of Protection to serve the Order of Protection on his attorney based on Respondent's then belief that personal service of an Order of Protection was not required.

8. Respondent presided over hearings on protective orders during the time when he was himself the subject of a protective order, but voluntarily ceased presiding over hearings on protective orders after consulting with the Judicial Ethics Advisory Committee (JEAC) about

how members of the public might respond to him hearing protective order cases while he was the subject of a protective order.

9. Respondent admits that he made comments to police officers suggesting he would authorize a search warrant for the officers to enter his wife's residence and retrieve his children. While he admits making the comments, Respondent notes that he did believe he made them in a manner that would convey actual intent to issue a search warrant, and believed the officers understood this. Respondent also admits requesting that the officers "ping" his wife's mobile phone to determine her location.

#### **MUTUAL CONSIDERATION**

10. Respondent admits the conduct described above in Paragraphs 6 through 9, and as set forth in his Response, incorporated in Paragraph 5. Respondent acknowledges that his conduct violates the Code, specifically Rules 1.2, 1.3, 2.4, 2.11, and 3.1.

11. The parties agree that resolving this matter by stipulation is in their mutual best interests and in the best interests of the judicial system.

#### **AGREED UPON SANCTION**

12. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a formal censure.

13. The parties also agree that Respondent, with assistance from the Commission, will obtain a mentor judge who is law-trained. The mentor will provide general guidance as well as specific advice regarding Respondent's conduct in personal legal matters to ensure Respondent's compliance with the Code and to avoid negative impacts on his ability to serve as

a judge. Further, Respondent agrees that he will not preside over any matter involving a protective order as long as there is a protective order in place against him. Once the order of protection ceases to be effective, and assuming no subsequent order is issued, Respondent is free to resume his normal duties related to the handling of protective order cases.

#### **OTHER TERMS AND CONDITIONS**

14. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.

15. Both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

16. Both parties agree not to make any statements to the press or in public that are contrary to the terms of this agreement.

17. Both parties will pay their own costs and attorneys' fees associated with this case.

18. Respondent, together with his attorney, has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

19. This agreement constitutes the complete understanding between the parties.

**SUBMITTED** this\_\_ day of September, 2011.

\_\_\_\_\_  
Phillip Woolbright, Justice of the Peace  
Respondent

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

\_\_\_\_\_  
Date Signed

# Exhibit 15

**Larry Cohen**

---

**From:** Larry Cohen  
**Sent:** Friday, September 16, 2011 6:57 AM  
**To:** 'Perkins, Jennifer'  
**Cc:** Elizabeth Gentry  
**Subject:** Woolbright

I spoke with my client last night and believe he is on board with the proposed stipulation. Before he gives final approval, however, he wants clarification about the mentoring part of the order. Would you have time later today to discuss this part of the stipulation.

Thank you.

Larry Cohen

# Exhibit 16

**Larry Cohen**

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Friday, September 16, 2011 1:23 PM  
**To:** Larry Cohen  
**Cc:** Elizabeth Gentry  
**Subject:** Woolbright Stipulation  
**Attachments:** Woolbright Stipulation 9-16-11.wpd

**Importance:** High

Attached with final added language. For your convenience on the road, the only change from the previous version was to add this sentence:

“Respondent is not required to report to the Commission regarding his interactions with his mentor judge, but agrees to maintain his relationship with the mentor for a reasonable period of time, which is to be no less than one year.”

If you forward to Judge Woolbright for signature, please ask him to print, sign, and mail (or deliver) the original signed copy to the Commission as soon as possible. Once we receive the signed document, I will also sign and then file it, sending you an electronic copy of the filed, signed document.

Only after we have it signed and filed can we ask the hearing panel to convene and consider the stipulation, so hopefully we can continue to move quickly.

Thank you.  
Jennifer

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )

**PHILLIP WOOLBRIGHT** )

Arrowhead Justice Court )

Maricopa County )

State of Arizona )

Respondent. )

Case No. 11-111

**STIPULATED AGREEMENT FOR  
DISCIPLINE BY CONSENT**

---

COME NOW Judge Phillip Woolbright, Respondent, through his attorney, Larry J. Cohen, and Jennifer Perkins, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

**JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.

2. Respondent has served as a justice of the peace in Maricopa County since January 2011 and was serving in this capacity at all times relevant to the allegations contained herein.

3. As a justice of the peace, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

#### **BACKGROUND**

4. On August 16, 2011, Disciplinary Counsel filed a formal Statement of Charges against Respondent after an investigative panel found reasonable cause to authorize formal proceedings. That Statement is hereby incorporated into this stipulated resolution in its entirety.

5. On September 2, 2011, Respondent filed a Response to the Statement. The Response is hereby incorporated into this stipulated resolution in its entirety, with the one modification that Respondent changes his answer to Paragraph 8 of the Statement of Charges by admitting the content of Paragraph 8 of the Statement of Charges.

#### **UNDISPUTED FACTS SUPPORTING COMMISSION ACTION**

6. Respondent admits that on March 24, 2011, he asked his court manager to move his van from its location in the public parking area to the private judge's parking area for the purpose of avoiding accepting service of process at his court facility.

7. Respondent admits that he told a process server seeking to serve him with an Order of Protection to serve the Order of Protection on his attorney based on Respondent's then belief that personal service of an Order of Protection was not required.

8. Respondent presided over hearings on protective orders during the time when he was himself the subject of a protective order, but voluntarily ceased presiding over hearings on protective orders after consulting with the Judicial Ethics Advisory Committee (JEAC) about

how members of the public might respond to him hearing protective order cases while he was the subject of a protective order.

9. Respondent admits that he made comments to police officers suggesting he would authorize a search warrant for the officers to enter his wife's residence and retrieve his children. While he admits making the comments, Respondent did not believe he made them in a manner that would convey actual intent to issue a search warrant, and believed the officers understood this. Respondent also admits requesting that the officers "ping" his wife's mobile phone to determine her location.

#### **MUTUAL CONSIDERATION**

10. Respondent admits the conduct described above in Paragraphs 6 through 9, and as set forth in his Response, incorporated in Paragraph 5. Respondent acknowledges that his conduct violates the Code, specifically Rules 1.2, 1.3, 2.4, 2.11, and 3.1.

11. The parties agree that resolving this matter by stipulation is in their mutual best interests and in the best interests of the judicial system.

#### **AGREED UPON SANCTION**

12. The parties agree that Respondent's misconduct in the underlying cases warrants a sanction, and that the appropriate sanction is a formal censure.

13. The parties also agree that Respondent, with assistance from the Commission, will obtain a mentor judge who is law-trained. The mentor will provide general guidance as well as specific advice regarding Respondent's conduct in personal legal matters to ensure Respondent's compliance with the Code and to avoid negative impacts on his ability to serve as

a judge. Respondent is not required to report to the Commission regarding his interactions with his mentor judge, but will be expected to maintain his relationship with the mentor for a reasonable period of time, which is to be no less than one year. Further, Respondent agrees that he will not preside over any matter involving a protective order as long as there is a protective order in place against him. Once the order of protection ceases to be effective, and assuming no subsequent order is issued, Respondent is free to resume his normal duties related to the handling of protective order cases.

#### **OTHER TERMS AND CONDITIONS**

14. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the panel does not accept this agreement as a full resolution, it may either propose modifications that would render the agreement acceptable, or outright reject the agreement. If the panel rejects the agreement, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of or reference to the agreement.
15. Both parties waive their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.
16. Both parties agree not to make any statements to the press or in public that are contrary to the terms of this agreement.
17. Both parties will pay their own costs and attorneys' fees associated with this case.
18. Respondent, together with his attorney, has reviewed and clearly understands the terms and conditions of this agreement and fully agrees with its terms.

19. This agreement constitutes the complete understanding between the parties.

**SUBMITTED** this\_\_ day of September, 2011.

\_\_\_\_\_  
Phillip Woolbright, Justice of the Peace  
Respondent

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Jennifer Perkins, Disciplinary Counsel  
Commission on Judicial Conduct

\_\_\_\_\_  
Date Signed

# Exhibit 17

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Friday, September 16, 2011 2:14 PM  
**To:** Larry Cohen  
**Cc:** Elizabeth Gentry  
**Subject:** Woolbright stipulation -- please put on hold

**Importance:** High

I have just received additional information related to the matter involving Judge Woolbright and as a result I will not be in a position to sign the stipulation at this time. I need to conduct some investigation into this information and I will be in touch with you next week to determine what, if any, changes there may be in our course of action.

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
[www.azcourts.gov/ethics](http://www.azcourts.gov/ethics)

Exhibit 18

## Larry Cohen

---

**From:** Perkins, Jennifer [JePerkins@courts.az.gov]  
**Sent:** Tuesday, September 20, 2011 9:23 AM  
**To:** Larry Cohen  
**Subject:** Woolbright matter

**Importance:** High

Larry,

I wanted to give you a heads up that either tomorrow or Thursday I will file a motion for leave to amend the statement of charges along with the proposed, amended statement of charges. We have learned that Judge Woolbright engaged in three conversations with his court manager in a manner that intimidated her. Specifically, he spoke with her twice about her potential testimony against him and appears to have attempted to convince her to conform her recollection of events to his that he did not know the man waiting by his van was a process server.

The day after the second of his two conversations with Ms. Miller regarding the commission's case, he spoke with her about his divorce matter and told her that a doctor had testified that the judge is capable of violence and could harm his children or wife. This conversation left Ms. Miller concerned about what the judge might do to her if she didn't conform her recollection of events to his.

My motion to the presiding member of the hearing panel will ask that Judge Woolbright be given an additional 15 day window in which to respond to the amended charges.

Commission Rule 14 (Prohibition against Retaliation) prohibits a judge for directly or indirectly engaging in any act of retaliation against a potential witness. I am greatly concerned about Judge Woolbright's discernment in speaking with his court staff about the commission's case as well as his pending divorce matter. I am asking you to immediately talk to your client about Commission Rule 14. If any further conduct of a similar nature comes to my attention I will file a petition under Commission Rule 14 with the Supreme Court.

Please note that I am sending you this information via email intentionally so that my message is clear, in writing, and there is a record. I would appreciate your written response via email or letter confirming you received this email and understand what I have communicated, in particular the information in the immediately preceding paragraph.

Thank you  
Jennifer

Jennifer M. Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington, Suite 229  
Phoenix, AZ 85007  
602-452-3203  
[JePerkins@courts.az.gov](mailto:JePerkins@courts.az.gov)  
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Exhibit 19

Louis Frank Dominguez  
Judicial Member  
Chair  
Lawrence F. Winthrop  
Judicial Member  
Vice Chair  
Angela H. Silvestre  
Public Member  
Secretary  
Colleen E. Conannon  
Public Member  
Peter J. Eskerstrom  
Judicial Member



**COMMISSION ON JUDICIAL CONDUCT**

1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

Telephone (602) 462-3200  
cjc@courts.az.gov

September 21, 2011

George H. Foster, Jr.  
Judicial Member  
Sherry L. Gelsler  
Judicial Member  
Michael G. Miller  
Judicial Member  
Catherine M. Stewart  
Attorney Member  
J. Tyrrell Taber  
Attorney Member

George A. Ritzner  
Executive Director

**RECEIVED**

SEP 21 2011

CLERK SUPREME COURT

Hon. Rebecca White Berch  
Chief Justice  
Arizona Supreme Court  
1501 West Washington  
Phoenix, AZ 85007

Re: Hon. Phillip Woolbright, Case No. 11-111

Dear Chief Justice Berch:

A three-member investigative panel directed undersigned Disciplinary Counsel (Counsel) to officially request the interim reassignment of Justice of the Peace Phillip Woolbright, pending the resolution of formal charges filed against him on August 16, 2011. This recommendation is made pursuant to Commission Rule 31, which reads as follows:

At any time after the institution of a preliminary investigation, when it appears that a judge poses a substantial threat of serious harm to the public or the administration of justice, the investigative panel may recommend to the chief justice of the supreme court that the judge be reassigned pending a final determination of any proceeding under these rules. The panel's recommendation shall be filed with the clerk of the court and served on the judge, who may file objections to the recommendation. The chief justice's ruling on the recommendation shall continue in effect until final disposition of all pending proceedings against the judge, unless earlier vacated or modified.

The investigative panel members found reasonable cause to believe that Judge Woolbright violated the Code of Judicial Conduct when he used his court manager to intentionally evade service of process of an order of protection. The panel has now received evidence that the judge has attempted to coerce the court manager to change her testimony and that his various communications with her have forced her to request a change of supervisor. When Counsel alerted the judge through counsel of her intent to amend the Statement of Charges based on this information of additional misconduct, the judge's immediate response (through counsel) was to indicate his desire to speak further with his court manager about these issues because he believes she wrongly interpreted his previous attempts to speak with her. The investigative panel believes that Judge Woolbright's conduct and failure to recognize his own problematic behavior poses a substantial threat of serious harm to the administration of justice.

### **Factual Background<sup>1</sup>**

Judge Phillip Woolbright is the Justice of the Peace in the Arrowhead Precinct, which is co-located in the Northwest Regional Court Center in Surprise, Arizona. The judge was elected in November 2010, and began his term in January 2011. In late February and March 2011, Judge Woolbright engaged in conduct that led his wife to request an order of protection against him, which was ultimately upheld after an evidentiary hearing. As a result of that hearing, a Superior Court Commissioner found by a preponderance of the evidence that the judge committed acts of domestic violence within the past year against his wife and one of his children.

On March 24, 2011, a process server attempted service of the protective order by waiting outside Judge Woolbright's courthouse by the judge's van. The judge's son sent him a text message alerting him about the process server and Judge Woolbright then asked his court manager, Jane Miller, to move his van from the public parking lot to the private judge's lot so that he could avoid the process server.

While Ms. Miller was moving his van, Judge Woolbright approached Judge John Keegan, the former Justice of the Peace for the Arrowhead Precinct, who was serving as a pro tem judge that day. Judge Woolbright informed Judge Keegan of his actions and that he was avoiding service of process by having his court manager move his van. Judge Keegan advised Judge Woolbright that his conduct was both improper and created the appearance of impropriety, and that he should not avoid service of process. Judge Keegan prepared an email statement shortly after the meeting recounting their discussion because he did not believe Judge Woolbright was listening to him or would heed his advice.

The judge filed his Answer to the Statement of Charges on September 1, and in his Answer, he stated that "he did not know at the time he asked Ms. Miller to move his van that the person reportedly waiting by his van was attempting to serve him with legal process." Answer at 3, ¶ 8. This directly contradicted the statements he made to Judge Keegan and Ms. Miller on the day in question. Counsel believed this statement to be a material misrepresentation to the Commission and brought that concern to the attention of counsel for Judge Woolbright on Tuesday, September 6.

Late in the afternoon of September 6, Judge Woolbright sent his court manager a text message at home asking that she call him. During a nearly ten minute phone call, the judge repeatedly and forcefully questioned Ms. Miller's memory that he knew the man waiting for him in the parking lot was a process server.

On Monday, September 12, Judge Woolbright approached Ms. Miller in the clerical area of the courthouse and asked whether she had reviewed an article that appeared in a local Peoria newspaper over the previous weekend. Ms. Miller indicated she had not seen the article and he informed her that

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<sup>1</sup> In the interest of brevity, the factual background provided here is limited to those facts Counsel believes are specifically relevant to the Rule 31 request, and do not encompass the entirety of the case pending against Judge Woolbright.

the front page article featured information about her actions in moving his van. Ms. Miller was uncomfortable with this conversation because it appeared to be a further attempt by Judge Woolbright to discuss or question her potential testimony.

On or about Tuesday, September 13, Judge Woolbright spoke with Ms. Miller about his pending family court case. He informed her that a doctor testified in an evidentiary hearing on September 12 that the judge is capable of violence and of physically harming his wife and children. Ms. Miller felt uncomfortable and intimidated by this information, particularly since she knew he was unhappy with her potential testimony, as described above. Later that week she requested a transfer or reassignment so that she would no longer have to work with Judge Woolbright.

On Monday, September 19, Ms. Miller submitted a written report to the Human Resources Department with Maricopa County Justice Court Administration, which provided a copy to the Commission. On Tuesday, September 20, Justice of the Peace Gerald Williams submitted a letter to the Executive Director of the Commission suggesting that the investigative panel consider making a Rule 31 recommendation for interim reassignment of Judge Woolbright. As Judge Williams pointed out,

[Ms. Miller] has, to the best of my knowledge, acted in accordance with all aspects of the Arizona Code of Conduct for Judicial Employees. Judge Woolbright is her immediate supervisor and is the hiring and firing authority for the Arrowhead Justice Court. He also writes her annual performance appraisals. While Ms. Miller is protected by merit protection rules, it is unworkable for Judge Woolbright to continue to serve as her supervisor, at least while the judicial ethics charges against him remain pending.

Letter from Judge Williams to George Riemer at 1 (September 20, 2011) (attached).

Judge Williams explained the various efforts that have unsuccessfully been made to change Ms. Miller's working situation, but ultimately noted that "the only available way to separate the judge from a witness who would be testifying directly against him is to move the judge."

#### **Discussion**

Judge Woolbright's actions in intentionally evading service of process and then misrepresenting his intent to the Commission in his Answer constitute conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of Article 6.1 § 4 of the Arizona Constitution. The judge's subsequent actions in attempting to coerce a witness who is under his direct supervision to change her testimony compound his earlier violations. Together, the judge's actions described here violate Rules 1.2, 1.3, 2.4, 2.12, 2.16, and 3.1 of the Arizona Code of Judicial Conduct.

Significantly, Judge Woolbright continues to compound his initial misconduct by engaging in further misconduct and failing to recognize the seriousness of the Commission's case and of his misconduct. The investigative panel members and Counsel have substantial concerns that the judge may continue to intimidate and harass Ms. Miller and other potential witnesses given the opportunity to do so. Judge Woolbright, based on the conduct set forth above and the potential for him engaging

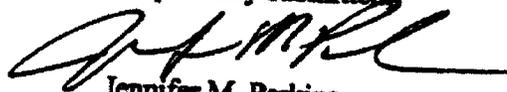
Hon. Rebecca White Berch  
September 21, 2011  
Page 4

in similar conduct going forward, poses a substantial threat of serious harm to the efficient and effective administration of justice in his court should he be allowed to remain in charge during the pendency of the Commission's proceedings against him.

**Conclusion**

For the reasons stated, the investigative panel recommends that you issue an order reassigning Judge Woolbright to other duties pending resolution of this formal proceeding. A copy of this letter will be transmitted immediately to Judge Woolbright's attorney and Presiding Superior Court Judge Norman J. Davis. If you need additional information, please contact me.

Respectfully submitted,



Jennifer M. Perkins  
Disciplinary Counsel

cc: Larry J. Cohen  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
[ljc@licohen.com](mailto:ljc@licohen.com)

*Counsel for Respondent*

Hon. Norman J. Davis  
Presiding Judge  
Maricopa County Superior Court  
125 W. Washington  
Phoenix, AZ 85003

# Fax Cover Sheet

20 September 2011

**To:** George Riemer, Executive Director  
Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007

**From:** Judge Gerald A. Williams, North Valley Justice Court

**Subject:** Judge Phillip Woolbright

**Number of Pages (Including Cover Sheet):** 3

**Copy Also Sent To:** Judge Norman Davis



NORTH VALLEY  
JUSTICE COURT

Gerald A. Williams  
Justice of the Peace

20 September 2011

George Riemer, Executive Director  
Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007

Re: Request for Interim Reassignment; *In Re Phillip Woolbright*, Case No. 11-111

Dear Mr. Riemer,

I have the unfortunate task of requesting that the Investigative Panel assigned to this case recommend that my fellow judge, Arrowhead Justice of the Peace Phillip Woolbright, be reassigned on an interim basis in accordance with Arizona Commission on Judicial Conduct Rule 31. The reason for this request is that Judge Woolbright has allegedly violated Arizona Commission on Judicial Conduct Rule 14. Specifically, he allegedly pressured a witness, who is also his court manager, to change her expected testimony to confirm with factual statements in paragraph eight of his answer to the charges in this case. The factual statements in question appear to be false.

Ms. Jane Miller is the Arrowhead Court Manager. She has, to the best of my knowledge, acted in accordance with all aspects of the Arizona Code of Conduct for Judicial Employees. Judge Woolbright is her immediate supervisor and is the hiring and firing authority for the Arrowhead Justice Court. He also writes her annual performance appraisals. While Ms. Miller is protected by merit protection rules, it is unworkable for Judge Woolbright to continue to serve as her supervisor, at least while the judicial ethics charges against him remain pending.

The options for resolving this employment problem are limited. The Arrowhead Court Manager has been offered the option to transfer to another court, but doing so is arguably unfair and potentially inappropriate if she were to be considered to be a Whistleblower under applicable labor laws. Options to keep her in the same position; but change her reporting official to another justice of the peace or to a superior court judge (or even to the superior court clerk of the court), were explored. However, the Presiding Justice of the Peace for Maricopa County concluded that he does not have the authority to direct a change in reporting officials under our current administrative structure. (I discussed this letter with him and he had no objection to me sending it.) Consequently, the only available way to separate the judge from a witness who would be testifying directly against him is to move the judge.

GERALD A. WILLIAMS  
Justice of the Peace

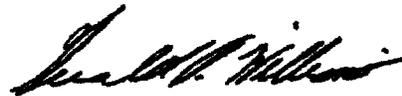
PHIL HAZLETT  
Constable

14264 West Tierra Buena Lane Surprise, AZ 85374 (602) 372-2000

The potential for future allegations of retaliation, even perhaps with some type of prohibited personnel action, remains great as long as this senior court employee is left in the position of coming to work every day for a boss that she will likely testify against. While I have avoided discussing the details of her potential testimony with her, in part because I am potentially a witness in this case myself, she has indicated that she sincerely believes that Judge Woolbright was attempting to coerce her. Some of the statements Judge Woolbright has allegedly made have even caused Ms. Miller to express a concern about her own personal safety. From a larger perspective, an interim reassignment would also protect Judge Woolbright against any short-term future allegations, in the event that Ms. Miller's allegations turn out to be less than credible.

For these reasons, I respectfully request that the Investigative Panel in this case recommend to the Chief Justice that Judge Woolbright be reassigned, pending a final resolution of this formal case, because it appears that he poses a substantial threat of serious harm to the administration of justice.

Sincerely,



Gerald A. Williams  
Presiding Justice of the Peace  
Northwest Regional Court Center

Larry J. Cohen, Esq. (010192)  
The Cohen Law Firm  
P. O. Box 10056  
Phoenix, Arizona 85064  
(602) 266-30809  
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ljc@ljcohen.com

**FILED**

APR 11 2012

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	CJC Case No. 11-111
<b>Judge Phillip Woolbright</b>	)	
Arrowhead Justice Court	)	<b>RESPONSE AND OPPOSITION</b>
Maricopa County	)	<b>TO MOTION IN LIMINE RE:</b>
State of Arizona	)	<b>EVIDENTIARY STANDARDS</b>
	)	
Respondent.	)	
<hr/>		

Respondent Judge Phillip Woolbright, through counsel, strongly opposes Disciplinary Counsel's proposed relaxation of the evidentiary rules for the sanctioning phase of the forthcoming hearing before the Commission. Respondent further and again strongly opposes Disciplinary Counsel's proposal that principles applicable to criminal proceedings be applied to this case. Disciplinary Counsel cites no case in Arizona or any other jurisdiction where judicial conduction proceedings were conducted as she has proposed. The practical effect of what she proposes is that Respondent will be deprived of the opportunity to challenge through cross examination of substantial evidence Disciplinary Counsel would have the Commission consider in deciding what sanction to impose. This is not a criminal proceeding in any sense and Disciplinary Counsel's invocation of

standards applicable to punishment have no place in the forthcoming hearing.

This Response and Opposition is supported by the following Memorandum of Points and Authorities and the pleadings and filings that comprise the record in this case, all of which are incorporated herein by this reference.

**MEMORANDUM OF POINTS AND AUTHORITIES**

Disciplinary Counsel correctly points out that Rule 27(f)(2), Rules of the Commission on Judicial Conduct (RCJC), provides that the "Arizona Rules of Evidence shall apply as far as practicable in all commission proceedings." There is no exception provided for the sanction phase of the proceedings in this Rule or in any Arizona case. In proposing to create an exception to this Rule that would admit rank hearsay and highly prejudicial evidence Disciplinary Counsel would deprive Respondent of his fundamental due process right to confront the evidence being presented against him.

**A. Denial of the Opportunity to Confront the Evidence Denies Respondent of Due Process**

Rule 8, RCJC, provides that a Judge is "entitled to due process" in the proceedings before this Commission. That right extends to the right to "confront evidence on disputed facts." *Carroll v. Commission on Judicial Conduct*, 215 Ariz. 382, 384, 160 P.3d 1140, 1142 (2007). He confronts that evidence through cross examination. Rule 27(f)(6), RCJC. *Id.* at 383, 160 P.3d at

1141. Yet Disciplinary counsel proposes to set these rights aside by admitting directly into evidence without the opportunity for challenge or confrontation a substantial volume of evidence consisting of hearsay statements, allegations, opinions, and conclusions from numerous declarants, who themselves draw upon or reference hearsay and hearsay within hearsay.

If the Arizona Supreme Court believed the Commission should consider such evidence during any phase of the proceeding it could have framed Rule 27(f)(2), RCJC, to permit it. The Arizona Supreme Court did so with the Arizona Rules of Family Law Procedure (ARFLP), where, in Rule 2, ARFLP, it specifically provided for circumstances that would involve other than strict application of the Arizona Rules of Evidence. There is no such mechanism for relaxing the evidentiary rules here.

The Arizona Supreme Court's decision in *In the Matter of Fresquez*, 162 Ariz. 328, 783 P.2d 774 (1989) is instructive on this point. In that attorney discipline proceeding the attorney Respondent objected to what he contended was hearsay testimony. The proceedings there, as here, were governed by the rule that the rules of evidence were to be followed "as far as practicable." Applying that rule when considering Respondent's objection the Arizona Supreme Court did not conclude that the hearsay rules were inapplicable. Rather, the Arizona Supreme Court analyzed the evidence in issue to determine if it was

indeed inadmissible hearsay or fell within one of the hearsay exceptions.

Just so here, the proposed evidence must be evaluated to determine whether it is hearsay or otherwise inadmissible because of the application of some other evidentiary rule or principle.

**1. Custody/Access Report by Dr. Christiano**

Respondent objects to the admission of this report as hearsay. It does not fall within the exception found at Rule 803(4), Arizona Rules of Evidence, because Dr. Christiano was not examining Respondent for purposes of medical diagnosis or treatment. Rather, he conducted his examination and prepared his report for the forensic purposes associated with the custody proceeding. Respondent should have the opportunity to confront Dr. Christiano about the circumstances of his examination and the content of his report if his conclusions and opinions are to be considered in this case.

**2. Letter from Constables to Commission Executive Director**

The letter is hearsay, without any applicable exception, and includes hearsay within hearsay references to the statements of others. Furthermore, it contains opinions about the resolution of the case that are entirely within the scope of the Commission. Finally, the letter consists largely of character statements that are inadmissible pursuant to Rules 404 and 405 of

the Arizona Rules of Evidence.

**3. Objection to Stipulated Agreement and/or Amicus Amicus Comments**

The objection is hearsay, without any applicable exception, and includes hearsay within hearsay references to the statements of others. It too expresses opinions about the resolution of the case that are entirely within the scope of the Commission. Next, the opinions expressed constitute character evidence by judges and is precluded by Rule 3.3, Arizona Code of Judicial Conduct and Rules 404 and 405 of the Arizona Rules of Evidence. Finally, the author of the report, Judge Williams, is scheduled to be called as a witness and can be examined, to the extent it is permissible for evidentiary purposes, about matters that are addressed within the document.

**4. Judge Gordon's Order**

While not offered as a document of which the Commission is being asked to take judicial notice, Respondent concedes that Judge Gordon's order could be offered for admission on that basis. However, the order was entered in entirely another context, involving highly disputed custody issues. It is based on evidence that will not be before the Commission and so taken by itself is out of context. It is likely to have considerable and undue influence on the Commission members because it is the Order of Judge in another matter. Without the Commission knowing

all of the circumstances under which Judge Gordon entered that Order the Commission cannot fairly determine whether and to what extent it should be considered for the purposes of these proceedings. Finally, the issue addressed in that part of Judge Gordon's Order that was raised in the Third Amended Statement of Charges will be addressed specifically by Dr. Potts and, if he appears before the Commission, Dr. Christiano.

**5. Letter from Judge Carrillo**

Once again, the letter is hearsay. Furthermore, the conduct in issue in the letter occurred at least two and as much as three years prior to the events in issue here and so are not relevant. Finally, the letter contains character opinions by a judge that is precluded by Rule 3.3, Arizona Code of Judicial Conduct and Rules 404 and 405 of the Arizona Rules of Evidence.

**6. Media Reports**

These reports are the rankest of hearsay statements. They consist almost entirely of hearsay within hearsay, referencing throughout statements by others. The authors of the so-called "news" articles have no first hand knowledge. Judge Keegan reportedly will be present to testify during the proceeding, but his character statements should be precluded by Rules 404 and 405 of the Arizona Rules of Evidence, and also because they are opinions about the resolution of the case that are entirely within the scope of the Commission.

**B. Principles Applicable to Criminal Proceedings Do Not Apply to Matters before this Commission**

Disciplinary Counsel's proposal that the Commission apply principles from criminal proceedings in deciding what evidence should be considered is completely inappropriate. As noted in Disciplinary Counsel's motion, the goal of Commission proceedings is not to punish. Rather, it is to "protect the public and foster judicial integrity." *In re McVay*, 215 Ariz. 69, 71, 158 P.3d 198, 201 (2007), citing *In re Lorona*, 178 Ariz. 562, 567, 875 P.2d 795, 800 (1994). The United States Supreme Court's decision in *Williams v. People*, 337 U.S. 241, 69 S.Ct. 1079 (1949) was a first degree murder case and has nothing whatsoever to do with the evidentiary issues in these proceedings here. The kind of evidence Disciplinary Counsel proposes be admitted in this case was never discussed or even referenced in either of the Arizona Supreme Court cases cited in the Motion. *In re Peck*, 177 Ariz. 283, 867 P.2d 853 (1994); *In re Haddad*, 128 Ariz, 490, 627 P.2d 221 (1981).<sup>1</sup>

Further, a review of judicial conduct proceedings in other

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<sup>1</sup> Disciplinary Counsel's reference in a footnote to an apparent informal communication she had with Arizona's Presiding Disciplinary Judge should be stricken from her Motion. Such a communication has no authoritative application for these proceedings and is not offered in any context that Respondent can address or that the Commission can seriously consider. The best that could be said for it is that it is an "advisory" opinion of another judicial officer about evidentiary standards for professional discipline proceedings that was obtained ex parte.

jurisdictions has not revealed any case where criminal standards were in any way applied to any aspect of those proceedings. Other jurisdictions, like Arizona, focus on protecting the public and fostering judicial integrity, not punishment. *In re Lorona*, 178 Ariz. 562, 568, 875 P.2d 795, 800 (1994). See also, as examples of other jurisdictions, *Broadman v. Commission on Judicial Performance*, 18 Cal.4th 1079, 1111-1112, 77 Cal.Rptr.2d 408, 440-441 (1998) and *Matter of Reeves*, 63 NY.2d 105, 111, 490 N.Y.S.2d 463, 469 (1984).

**C. Without Bifurcation the Risk of Unfair Prejudice Substantially Outweighs the Probative Value**

Disciplinary Counsel correctly observes that this is not a bifurcated proceeding, meaning that the Commission will consider the evidence on whether Judge Woolbright violated any Rules in the Arizona Code of Judicial Conduct will be considered at the same time it decides, if applicable, what sanction to impose. The risk of evidence intended solely for the "sanction" phase unduly prejudicing consideration of the violation issues is extremely high. It is unreasonable to expect Commission members to segregate from their consideration evidence admitted under one set of evidentiary requirements on the issue of violation from the evidence admitted under another set of evidentiary requirements on the issue of sanction.

At no time has Disciplinary Counsel proposed bifurcated

proceedings. Accordingly, we are proceeding with a unified proceeding in which all of the evidence on violation and sanctions will be considered at the same time. It would be extremely unfair and unjust to Respondent for the Commission members to hear evidence on sanctions that would not be admissible on violations when the Commission members are trying to decide whether or what violations occurred.

**D. The Motion in Limine Should be Denied**

In the end, Disciplinary Counsel offers no authoritative support for her proposal that evidence inadmissible on hearsay and other evidentiary grounds be admitted in this proceeding. She does not cite a single reported case, much less an Arizona case, where what she proposes has been done.

The risk in granting her Motion is that Respondent will be deprived the most fundamental of the due process rights, the right to confront the evidence presented. The Arizona Supreme Court has been clear that due process rights apply to these proceedings, including the rights to confront and cross-examine. The Arizona Supreme Court has adopted other rules intended to ensure that Respondent in this proceeding, like parties in other kinds of proceedings, are treated fairly and with justice. Denying Disciplinary Counsel's Motion will be one important step in ensuring Respondent receives that treatment here.

DATED this 11<sup>th</sup> day of April, 2012.

By: The Cohen Law Firm

/s/ Larry Cohen

Larry J. Cohen, Esq.  
COHEN LAW FIRM  
P.O. Box 10056  
Phoenix, Arizona 85064  
Attorney for Respondent Judge  
Woolbright

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**FILED**

**APR 13 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	CJC Case No. 11-111
Judge Phillip Woolbright	)	
Arrowhead Justice Court	)	<b>RESPONDENT'S MOTIONS IN</b>
Maricopa County	)	<b>LIMINE</b>
State of Arizona	)	
	)	
Respondent.	)	
_____	)	

Respondent Judge Phillip Woolbright, through counsel, respectfully submits the following Motions in Limine. Respondent seeks through these motions either to preclude the admission of the following items of evidence or to preclude referencing to any of the following evidence until such time as a proper foundation is laid and any evidentiary objections are addressed by the Presiding Hearing Panel Member.

The submission of this Motion in Limine is not intended to waive any objections Respondent would be or may be entitled to make at the time of the hearing.

**1. Hearsay**

Ordinarily a Motion in Limine concerning hearsay would not be required as the inadmissibility of hearsay, in the absence of an applicable exception, is a such a fundamental principle of

evidence law. Disciplinary Counsel has argued that the rules of evidence are of necessity relaxed. While Respondent acknowledges that the application of the Rules of Evidence is effected by the use of the term "as far a practicable" Respondent does not believe that the Rules of Evidence are so far relaxed as to permit the admission of rank hearsay. See further Respondent's Response to Disciplinary Counsel's Motion in Limine.

During the depositions of Jane Miller, Judge Gerald Williams and John Keegan there were many references by the witnesses to statements made by other people. Such references are of course hearsay and should not be admitted. What makes many of these references even worse, however, is that when pressed for the names of these second hand speakers the witnesses could not even identify them.

Respondent is concerned that in the course of testifying these witnesses and others may reference such second and third hand statements before Respondent has the opportunity to object to the testimony.

Accordingly, Respondent seeks two rulings on this issue:

1. As a general proposition hearsay references to statements of others by a testifying witness will not be permitted;

2. Both counsel should be advised to notify their respective witnesses as they prepare them for the hearing that they should not refer to statements of others, but should be

limited to the first hand knowledge required by Rules 602 and 802, Arizona Rules of Evidence.

3. Alternatively, and at the very least, there should be guidelines as to what hearsay or kind of hearsay will be admitted and what will be precluded.

**2. Evidence Limited to the Facts Set Forth in the Statement of Charges**

During argument on the proposed Third Amended Statement of Charges Respondent raised the question of whether Disciplinary Counsel is limited by the facts set forth in the Statement of Charges in presenting her case. Respondent argued that the proposed Third Amendment was not necessary because there was no change proposed for the allegations of misconduct. Disciplinary Counsel argued that the proposed amendment was necessary to give required notice to Respondent of the case being presented against him.

Rule 24(a), Rules of the Commission on Judicial Conduct, provide that the Formal Charges give the respondent judge "full and fair notice of the allegations." Considering the argument made by Disciplinary Counsel about the need to add facts in the third amended Statement of Charges to give Respondent the required fair notice of the allegations being made against him, it is Respondent's position that Disciplinary Counsel must now be limited to those facts.



**4. The Panel Members Should be Directed in How to Consider the Evidence on the Issues of Code Violation and Sanctions**

While the hearing has not been bifurcated in fact, it is a bifurcated de jure in that the Panel Members are being asked to consider issues that are subject to different standard of proof and different evidentiary principles. Disciplinary Counsel clearly recognized this during her arguments on her own Motion in Limine.

All Panel Members, and particularly the lay members, must be directed on what evidence can be considered for what purpose and further what standards of proof apply on what issues. Respondent respectfully requests that this direction be given at the beginning of the hearing so the Panel Members will know what significance to give to what evidence and how to weigh the evidence presented during the case.

**5. Disciplinary Counsel's Witnesses Should be Precluded from Giving Cumulative Testimony**

Respondent knows something about Disciplinary Counsel's case from the Third Amended Statement of Charges and from the disclosure statements. However, Respondent can only speculate about what the witnesses identified by Disciplinary Counsel will say.

There is a great potential for overlap, having heard the deposition testimony of Jane Miller, Judge Gerald Williams and

John Keegan on the one hand, and having reviewed the Peoria Police Department reports. Disciplinary Counsel should be directed to minimize the extent to which these sets of witness giving cumulative testimony, as the subject matter about which they will testify overlap considerably.

**6. Respondent Moves to Exclude Hearsay Evidence**

Respondent argued in his Response and Objection to Disciplinary Counsel's Motion in Limine about the introduction of evidence contrary to the applicable rules of evidence, and especially the rule against hearsay. Respondent incorporates those arguments herein by this reference. Relying on those arguments Respondent moves to preclude the admission of the following Exhibits<sup>1</sup>:

1. Disciplinary Counsel's Letter to Respondent.

The Presiding Hearing Panel Member stated that Disciplinary Counsel will not be a witness in this case. As such she is not subject to cross-examination about the content of this letter.

2. Memorandum from Officer Karloff to Lt. Scrivens.
3. Memo from Sgt. P. Shearer
4. Peoria Police Department Incident Reports

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<sup>1</sup> Additional reasons to exclude the respective exhibits, beyond those urged in the Objection to Disciplinary Counsel's Motion in Limine, as applicable, are set forth below.

5. Peoria Police Department CAD Call Information log  
6. Peoria Police Department Incident Report Summaries  
for Phillip Woolbright

7. Domestic Violence Bench Book Excerpt  
8. Request for Interim Reassignment  
9. Documents from Maricopa County Attorneys Office  
10. Recordings of CrimeStop and 911 calls on July 21,  
2011, to the extent they contain statements by persons not  
testifying at the hearing in this case.

11. Email exchange between Ken Crenshaw and  
Disciplinary Counsel.

12. Email exchanges between Craig Gildersleeve and  
Disciplinary Counsel.

The Presiding Hearing Panel Member stated that  
Disciplinary Counsel will not be a witness in this case. As such  
she is not subject to cross-examination about the content of this  
letter.

RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of April, 2012.

By: The Cohen Law Firm

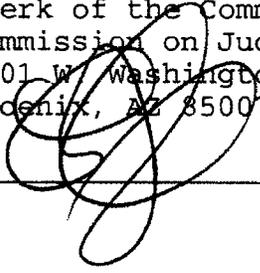
/s/ Larry Cohen

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Attorney for Respondent Judge  
Woolbright

ORIGINAL of the foregoing  
emailed this 9<sup>th</sup> day  
of April, 2012 to:

Jennifer Perkins  
Disciplinary Counsel  
Commission on Judicial Conduct  
1501 W. Washington Street  
Suite 229  
Phoenix, Arizona 85007

Barbara Wanlass  
Clerk of the Commission  
Commission on Judicial Conduct  
1501 W. Washington Street  
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Telephone: (602) 452-3200

**FILED**

**APR 13 2012**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent. )

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On April 12, 2012, a status conference was held in this matter.

Counsel have exchanged disclosures and have conducted discovery. Mr. Cohen reports he was unable to complete the deposition of Judge Keegan, who reportedly has no further availability before the scheduled hearing.

Ms. Perkins has requested and obtained signed subpoenas for several witnesses. Mr. Cohen will submit his subpoena requests shortly.

Counsel will have a final meeting to inspect and resolve any continuing concerns/issues relative to the hearing room on the first floor.

Following completion of evidence at the formal hearing, Counsel have agreed to submit written closing arguments of ten pages or less. Pursuant to Rule 27(f)(8), the undersigned Presiding Member requests that counsel also submit proposed findings, conclusions and recommendations for discipline or order of dismissal with their closing statements. The date for such submissions will be either Monday, April 30 or Wednesday, May 2. Ms. Perkins expressed no preference; Mr. Cohen will advise on which date he prefers. Counsel agree that the fifteen-day deadline for the Hearing Panel's recommendations to the Supreme Court starts upon receipt of the parties' written closing submissions.

**Motion in limine**

Counsel for the Commission filed a Motion *in limine* dated April 3, 2012, seeking admission of certain documents for the hearing; counsel for Judge Woolbright filed his response and objections to these documents on April 11, 2012.

This is not a criminal proceeding; however, principles of due process certainly do apply. At the same time, the Hearing Panel must balance Judge Woolbright's right to a fair proceeding with the protection of the public. Ms. Perkins argues that, of necessity, certain evidentiary rules must be relaxed; analogizing to criminal sentencing procedures, where often irrelevant and hearsay material is presented to the sentencing judge for consideration. Mr. Cohen disagrees that criminal sentencing procedure and law have any application to this matter.

Rule 27(f)(2) provides that the Arizona Rules of Evidence apply "as far as practicable..." to these proceedings. Our Supreme Court has not had the opportunity to specifically comment on or interpret this rule.

Following argument, having reviewed some or all of the subject materials, and having reviewed the Commission's Rules, the Rules of Evidence and the case authorities cited by counsel, the Presiding Member makes the following rulings. These rulings are guided, in part, by the direction in Rule 19 of the Commission Rules that the Hearing Panel may consider a non-exclusive list of ten mitigating and aggravating factors which, of necessity, expands the concept of relevance in these matters.

- (a) **Dr. Christiano's Report of October 12, 2011 and Dr. Potts report of February 28, 2012, as revised March 20, 2012:** These reports document interaction with and evaluation of Respondent and members of his family relative to divorce/custody matters pending in the superior court. The reports themselves constitute hearsay, but may upon appropriate foundation, qualify under an exception to the hearsay rule. Even applying a broad definition of relevance, most of Dr. Christiano's report is not relevant to these judicial conduct proceedings, and the same is substantially true as it relates to portions of Dr. Potts' report as well. The only portions of these reports that are relevant deal with the psychological test results and interpretation of same. Accordingly, counsel may call either of these professionals to testify concerning those tests, and their opinions concerning interpretation and validity of the results. In the alternative, counsel may choose to stipulate to the admissibility of a portion of these reports as follows: In Dr. Christiano's report, that section labeled "Testing," starting on page 3 through page 4, describing the MMPI-II and MCMI-III tests, and page 9, the section labeled "Result of Psychological Testing (MMPI-II) AND (MCMI-III)." In Dr. Potts' report (as revised March 20, 2012), pp. 4-5, the sections entitled "Psychological Testing Results" and "Discussion and Summary," ending with the DSM-IV diagnosis.
  
- (b) **Letter from Constables to Executive Director Riemer, dated December 12, 2011:** Respondent's objection to this document on the basis of hearsay is

sustained. To the extent any such witness has been disclosed, counsel for the Commission may call one or more of the subject constables to testify concerning personal or observed interactions with Judge Woolbright, and relevant concerns relative to his observed workplace behaviors. Absent more foundation, such witness(s) will not be allowed to offer general and/or subjective opinions concerning Judge Woolbright's fitness or retention as a judicial officer.

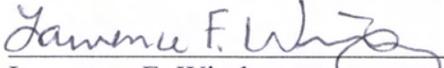
- (c) **Objection to Stipulated Agreement and/or Amicus Comments, dated December 14, 2011:** Respondent's objection on the basis of hearsay is sustained and, absent stipulation, this document will not be admitted into evidence, without prejudice to its potential use to refresh recollection or for impeachment purposes. Ms. Perkins advises that Judge Williams and Judge Keegan are expected to testify at the hearing, and they may testify to their observations and concerns.
- (d) **Judge Gordon's Custody Order dated December 14, 2011:** The Commission may take judicial notice of this court order; additionally, it fits within a recognized hearsay exception. Mr. Cohen objects to admission on the basis of relevance and that, even if relevant, the relevance of the order is outweighed by its prejudicial effect. In the alternative, he contends that, if admitted, the order should be redacted. While the child custody issues are not directly relevant to these proceedings, Judge Gordon has made some credibility findings that are relevant. This order will be admitted, with the exception of footnote 3 on page 4, which is to be redacted.
- (e) **March 27, 2012, letter from Judge Rachel Torres Carrillo:** Ms. Perkins indicated she is withdrawing this document and has no present intention of offering it at the hearing.
- (f) **Various Media Reports (listed as "a" through "g" in the Motion):** Respondent objects on the basis of hearsay, and that objection is sustained, without prejudice to use of media reports/clips as appropriate for refreshing witness recollection and/or impeachment purposes.

Absent a request from counsel in the interim, the next conference will be a pre-hearing conference, presently set for **April 24, 2012 at 9:30 a.m.**

The formal hearing in this matter remains scheduled for **April 25** (all day) and **April 26** (half-day).

**DATED** this 13th day of April 2012.

**FOR THE HEARING PANEL**

  
\_\_\_\_\_  
Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies mailed, e-mailed or hand-delivered  
on April 13th, 2012, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

By:   
\_\_\_\_\_  
Clerk of the Commission

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
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**FILED**

**APR 17 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **RESPONSE TO RESPONDENT'S**  
State of Arizona ) **MOTIONS IN LIMINE**  
Respondent. )

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Counsel for Respondent submitted several requests for in limine rulings on Friday, April 13, 2012. Undersigned Disciplinary Counsel (Counsel) hereby responds on behalf of the Commission on Judicial Conduct (Commission) to those requests.

**I. In Considering the Appropriate Evidentiary Standards, the Presiding Member and Panel Must Be Mindful of the Context.**

In the parties' prior briefing and in oral argument on a previous motion in limine, Counsel raised the issue of whether differing standards may apply to evidentiary issues depending on whether the proffered evidence relates to misconduct allegations or to mitigating and aggravating factors. The Presiding Member did not explicitly rule on these standards, and appears to have declined to apply a lesser evidentiary standard in reaching his conclusions as to prior issues raised. Counsel thus respectfully re-urges that the Presiding Member follow the Arizona Supreme Court's lead in the attorney discipline context in this case.

Commission Rule 27(f)(2) states, "The Arizona Rules of Evidence shall apply as far as

practicable in all commission proceedings.” Notably, the Supreme Court in promulgating the Commission’s procedural rules chose not to simply state that the rules of “shall apply” and did not choose to state that the rules “shall apply except in extraordinary circumstances” or otherwise similarly strong language. This is notable because it means the Court recognized an expectation that Commission proceedings would be different from traditional court litigation.

Unfortunately, there is no further guidance from the Court in the judicial discipline context, but there is guidance in the very analogous attorney discipline context. Supreme Court Rule 48(c), which governs attorney discipline proceedings, likewise states that “the rules of evidence applicable in the superior court shall be followed as far as practicable.” Within that context, the Court has recognized that the rules of evidence need not strictly apply when establishing aggravating and mitigating circumstances. *See In re Varbel*, 182 Ariz. 451, 455 n. 7, 897 P.2d 1337, 1341 n.7 (1995) (“Because even under our criminal jurisprudence (except in death penalty cases), aggravating circumstances need only be supported by reasonable evidence, it is difficult to believe that a higher standard of proof could or should be required in attorney discipline cases.”) (internal citations and quotation marks omitted).

In determining the appropriate approach to evidentiary issues in judicial discipline proceedings, it is paramount that the Presiding Member be mindful of the nature of the proceedings. First, this is not traditional civil or criminal litigation, but rather is akin to an administrative proceeding. As such, neither the civil nor criminal procedural rules apply. Second, the purposes of judicial discipline are largely concerned with the protection of the public, *see, e.g., In re Carpenter*, 199 Ariz. 246, 248, 17 P.3d 91, 93 (2001); *In re Goodfarb*, 179 Ariz. 400, 403, 880 P.2d 620, 623 (1994). It makes no sense to allow Respondent to thwart the

public purpose of the process by relying a hyper-technical reading of the evidentiary rules. The rules are generally intended to be a shield protecting against the use of unreliable evidence, not a sword preventing the Hearing Panel and the Supreme Court from viewing evidence that is demonstrably reliable and relevant. Third, at least two relevant aggravating factors identified in Commission Rule 19 to some degree may require relaxed evidentiary rules because they necessarily rely, to some degree, on hearsay. *See* Rule 19(d) (“the nature and extent to which the acts of misconduct injured other persons or respect for the judiciary”) and Rule 19(f) (“whether the judge has recognized and acknowledged the wrongful nature of the conduct and manifested an effort to change or reform the conduct.”) Fourth, the Hearing Panel is tasked with holding a hearing to establish a factual record and then to make a recommendation to the Supreme Court on the basis of that record. While there are lay members of the panel, they will not be acting alone but rather in conjunction with experienced members of the bar and judiciary in reviewing the evidence. The Panel will not be making the final decision in this case, and the Court is the ultimate fact-finder. As such, it is imperative that the Panel ensure a complete factual record is available to the Court and Counsel asserts that can best be achieved by recognizing a “reasonable and reliable” standard for sanctions-related evidence that the Court has clearly endorsed in the attorney discipline context.

## **II. Respondent’s Motion is Extremely Broad and Requests Improperly General Prehearing Advisory Rulings.**

Before addressing the merits of the specific requests in Respondent’s Motions in Limine, Counsel first notes that the entire set of motions is not well-taken as it is overly broad and thus seeks improperly general advisory rulings that ignore the realities of evidentiary

issues in the context of a hearing. Respondent effectively asks for premature rulings to substantially limit Counsel's ability to try this case without acknowledging that all evidentiary rulings are by necessity made within a particular context. There is no context pending before the Presiding Members as to the issues raised, such as a pending question or prior testimony, that would allow for a proper ruling. Counsel thus respectfully suggests that the issues raised should generally abide the hearing.

### **III. Respondent's General Hearsay Objection is Premature.**

Respondent broadly argues that hearsay should not be permitted absent an applicable exception and requests broad prehearing limiting instructions to prohibit witnesses from testifying as to statements of others. Counsel has not ever argued or suggested that the hearsay rule does not generally apply to evidence of Respondent's misconduct. Further, counsel for Respondent appears to be raising this concern because the witnesses did their best to answer his exhaustive questioning during depositions about any communications that they have ever had with anyone from any source under any circumstances that involved or referred to Respondent in any way. In that context, it is not terribly surprising that they were unable to identify with specificity each conversation or the source of each communication. Respondent's strategy for deposition questioning should not be the standard by which Counsel's examinations are pre-judged before she has the opportunity to ask a question.

A limiting instruction at this stage is premature and unnecessary, particularly in requiring counsel for both parties to give limiting instructions to their witnesses. There are circumstances under which the statements of others may fall under a hearsay exception, *see, e.g.*, Rule 803(1), (2), (3), (21), and (24), Arizona Rules of Evidence. Without a particular

question pending, and outside the dynamic context of the hearing itself, it would be improper to hamstring either counsel's ability to properly and thoroughly examine witnesses. Counsel thus respectfully requests that the Presiding Member reject this request.

**IV. There is no Justifiable Basis for Limiting the Evidence to the Facts in the Third Amended Statement of Charges.**

Respondent has effectively asked the Presiding Member to declare this case an exception to the notice pleading standards of this state and the Commission, and to nullify a portion of Commission Rule 24(c). Under Commission Rule 24(a), formal charges are intended to provide a judge with "full and fair notice of the allegations." There is nothing in the rule that suggests there is a threshold at which a set of charges gives "too much" notice such that Counsel should be bound to those facts. Further Rule 24(c) clearly allows for and thus anticipates circumstances in which "During or after the formal hearing, and pursuant to motion, the formal charges may be amended to conform to the evidence." Counsel thus respectfully requests that the Presiding Member reject this invitation to abrogate the rules.

**V. A Prehearing Limiting Instruction as to Judge Gordon's Order is Premature.**

Respondent's vague request for an order about the consideration of Judge Gordon's order is premature. The Presiding Member has already generally ruled the order admissible, and noted some specific bases for its admissibility. Respondent notes his concern that portions of the order may have "no bearing on the issues of code violation or sanction" but failed to raise any specific objections. Counsel notes that, in addition to the credibility concerns the Presiding Member has already identified, the order also addresses findings related to domestic violence committed by Respondent. Because Respondent's private conduct is subject to

evaluation under the Code of Conduct, his behavior in this context is certainly relevant to the Commission's determination of whether Respondent engaged in conduct violating Rule 1.2 of the Code of Judicial Conduct or Article 6.1, Section 4 of the Arizona Constitution. Respondent will be free to raise more specific objections or just to argue against reliance on this order at the hearing, but a limiting instruction is premature at this stage and Counsel respectfully requests that the Presiding Member deny that request.

**VI. The Evidentiary Standard for Sanctions-Related Evidence Should be Relaxed.**

As discussed more fully in Counsel's own Motion in Limine, as well as above in Section I, there is good reason to proceed with a lesser evidentiary standard for sanctions-related evidence. If the Presiding Member is inclined to provide direction to the panel members either at the beginning of the hearing or instead at the beginning of deliberations, Counsel has no objection to either course.

**VII. A Prehearing Limiting Instruction For "Cumulative" Testimony is Premature.**

Respondent notes a potential for "overlap" between several of the witnesses testifying on behalf of the Commission and on that vague basis requests a limiting instruction. Counsel has thus far made every effort to streamline this case and present only that evidence necessary to support the charges, as well as her requested sanction of removal and has given Respondent no basis for expecting otherwise in this instance.

It is not outside the realm of possibility that the three fact witnesses who were directly involved in several instances of Respondent's misconduct may provide similar or related testimony. A core issue in this case – and, indeed, the primary basis for the first two amendments to the statement of charges – is Respondent's lack of truthfulness to this

Commission and to the Superior Court. This is a serious charge and Counsel does not make it lightly, but rather only after determining that Respondent's factual claims are contrary to that of all other proffered witnesses. In assessing Respondent's credibility, it will be essential that the Panel Members are presented with all relevant testimony as to the particular instances of misconduct. Counsel thus respectfully requests that the Presiding Member deny this request.

### **VIII. Specific Evidentiary Objections.**

Unfortunately, counsel for Respondent did not contact Counsel to confer about any of his requests in these motions, which may have limited the scope of the motions (and thus this response). Had she been provided an opportunity to do so, Counsel would have alerted Respondent that she does not intend to rely on the memo from Sergeant Shearer, the email exchange with Ken Crenshaw, or the 911 call listed in Respondent's motion (items 3, 10, and 11). Further, Officer Karaloff and Mr. Gildersleeve will be present to testify to the information contained in items 2 and 12. It is, of course, always possible that one or both of these exhibits may be both relevant and admissible under a hearsay exception depending on the course of those examinations.

Counsel's letter requesting Respondent to address the concerns of the investigative panel in this case (item 1) should be admitted for completeness of the record as the letter sent in response to that request will be admitted and would otherwise be out of context and incomplete.

The documents listed in items 4, 5, 6, and portions of item 9, all fall within an exception to the hearsay rule as public records and reports. Further, many of these may provide the basis for impeachment or may meet other exceptions depending on the flow of witness

examination. Some contain non-hearsay statements of Respondent himself, which would allow their introduction in spite of any hearsay concerns.

The purpose of the Domestic Violence Bench Book (item 7) is to demonstrate that Respondent received instruction and materials during his orientation training – twice – alerting him to the fact that an order of protection must be personally served. This bench book is prepared by the Judicial College of Arizona as an educational tool, is provided to new judges during orientation, and is made available via the judicial reference website to the entire state judiciary. As such, it would be appropriate for the Presiding Member to take judicial notice of the bench book pursuant to Rule 201, Arizona Rules of Evidence.

The Request for Interim Reassignment is a filed pleading before the Arizona Supreme Court in this case and, as such, the Presiding Member may take judicial notice of the pleading and attachments. *See Reed v. Burke*, 219 Ariz. 447, 448 n.1, 199 P.3d 702, 703 n.1 (Ct. App. 2008). Further, the document and attachments contain statements or references to statements of at least three witnesses including Respondent himself. These statements may constitute exceptions to the hearsay rule depending on the progress of testimony during the hearing, *see* Rule 803(1), (3), and (5). Without more context, it would be inappropriate to wholly exclude the document at this time.

The recording of Respondent's call to CrimeStop contains his own statements against interest, which are by definition not hearsay. It is not clear whether it is currently possible for Counsel to offer those statements while removing the operator's responses from the recording, but she will attempt to do so if directed by the Presiding Member.

## CONCLUSION

Counsel respectfully requests that the Presiding Member issue an order consistent with the requests and arguments presented herein. To the extent the Presiding Member is inclined to grant the request for any limiting instructions, Counsel requests that all such instructions be clearly reciprocal, applying to all parties and witnesses.

Dated this 17th day of April 2012.

## COMMISSION ON JUDICIAL CONDUCT

s/ Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

Copy delivered on April 17, 2012,  
via electronic mail to:

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*Counsel for Respondent*

By: s/ Jennifer M. Perkins

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**FILED**

**APR 23 2012**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent. )

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Respondent filed several motions *in limine* in a combined pleading dated April 13, 2012. Disciplinary Counsel filed a response on April 17, 2012. Having reviewed these memoranda, and the applicable Commission Rules, the Presiding Member makes the following rulings:

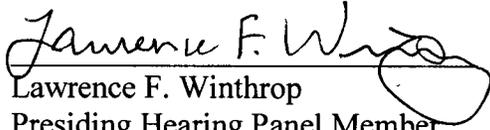
1. These proceedings before the Commission on Judicial Conduct are essentially administrative in nature. Neither the Rules of Criminal Procedure nor the Rules of Civil Procedure apply; instead the Rules of the Commission on Judicial Conduct (as amended February 19, 2010) apply. As previously noted, the Rules of Evidence generally apply, but only “as practicable.”
2. The Hearing Panel is not the equivalent of a lay jury panel. Although there are public members of the Hearing Panel, these individuals are familiar with the purpose, nature and extent of the Commission Rules, and the applicable burden and standards of proof relative to the issues for the hearing. Additionally, the lay members of the hearing panel will be guided concerning these standards and the burden of proof by the Presiding Member and other judicial and attorney members of the Panel. **Accordingly, to the extent any pre-hearing motion seeks a specific order or instruction concerning how the panel is to consider or receive testimony or other evidence, such motion is denied.**
3. Neither Disciplinary counsel nor counsel for Respondent need to be instructed on how to prepare witnesses, how to ask proper questions on direct or cross-examination, nor how to “instruct” such witnesses on the nature and extent of their anticipated relevant testimony. **To the extent any pre-hearing motion seeks such instruction, it is denied.**

4. Respondent seeks an order limiting the evidence presented “to the facts set forth in the Statement of Charges.” Respondent received timely notice of the direct and ancillary facts arising out of and surrounding the amended charges, the mutual disclosures exchanged by counsel and other discovery in this matter. Further, Rule 24 (c) allows the charges to be further amended to conform to the evidence presented at the hearing, as appropriate. **Accordingly, Respondent’s motion is denied.**
  
5. Respondent seeks an order “about the extent to which the content of Judge Gordon’s December 14, 2011 Order in the custody case can be considered by the Panel Members and for what purpose.” **Consistent with the earlier portion of this order, particularly as to how the Panel Members are to consider or weigh any testimony or evidence, Respondent’s motion is denied.**
  
6. Respondent seeks an order directing the Panel Members “how to consider the evidence on the issues of code violation and sanctions.” As previously noted, the Panel is well-familiar with the Commission Rules and applicable standards of proof, and do not need formal direction as requested by Respondent; accordingly, **this motion is denied.**
  
7. Respondent seeks an order generally prohibiting “cumulative” testimony and/or other evidence. The Presiding Member and, indeed, the entire Panel anticipates and appreciates that both counsel will be as efficient as possible in the organization and presentation of the evidence in this matter. Depending on context and timing, some factual testimony may, of necessity, be somewhat cumulative. **Any ruling concerning inappropriately cumulative testimony is premature; accordingly, Respondent’s motion is denied without prejudice.**
  
8. Respondent raises additional specific hearsay objections to the following documents/exhibits:
  - (a) Disciplinary Counsel’s letter to Respondent: Objection is **overruled**.
  
  - (b) Memorandum from Officer Karaloff to Lt. Scrivens: Based on the avowal of Disciplinary Counsel that Officer Karaloff will testify, **such objection is overruled, subject to appropriate foundation.**

- (c) Memorandum from Sgt. P. Shearer: Based on avowal of Disciplinary Counsel, this objection is **overruled as moot**.
- (d) Peoria Police Department Incident Reports, Peoria Police Department CAD Call Information Log, and Peoria Police Department Incident Report Summaries for Phillip Woolbright: a ruling on Respondent's objection may depend on the context in which the proffered evidence is offered, and is therefore **deferred pending presentation of foundational testimony**.
- (e) Domestic Violence Bench Book Excerpt: Respondent's objection is **overruled**.
- (f) Request for Interim Reassignment: Respondent's objection is **overruled**.
- (g) Documents from Maricopa County Attorneys' Office: Without greater specificity concerning the identity and nature of these documents, no definitive ruling can be made relative to Respondent's hearsay objection. Accordingly, **such objection is overruled without prejudice to being reasserted as particular documents are offered**.
- (h) Recordings of CrimeStop and 911 calls on July 21 to the extent they contain statements by persons not testifying at the formal hearing: Disciplinary Counsel advises that she does not intend to offer the 911 calls. With respect to the CrimeStop hearings, and assuming Respondent does testify, the **objection is denied**.
- (i) E-mail exchange between Ken Crenshaw and Disciplinary Counsel: Based on the avowal of Disciplinary Counsel that these documents will not be offered or utilized, **the objection is overruled as moot**.
- (j) E-mail exchange between Craig Gildersleeve and Disciplinary Counsel: Based upon the avowal that Mr. Gildersleeve will be called to testify, **any ruling on Respondent's objection is deferred** until that time.

**DATED** this 23rd day of April 2012.

**FOR THE HEARING PANEL**

  
Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies mailed, e-mailed or hand-delivered  
on April 23rd, 2012, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

By:   
Clerk of the Commission

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>JOINT PREHEARING STATEMENT</b>
State of Arizona	)	<b>(Second Amended)</b>
Respondent.	)	

Disciplinary Counsel and counsel for Respondent, after conferring, hereby submit this prehearing statement prepared pursuant to the Case Management Orders issued on October 20, 2011, and March 7, 2012.

**1. Agreements Reached by the Parties**

- a. Admissibility of the “Christiano Report” and “Potts Reports”: The parties agree to the admissibility of, in Dr. Christiano’s report, that section labeled “Testing,” starting on page 3 through page 4, describing the MMPI-II and MCMI-III tests, and page 9, the section labeled “Result of Psychological Testing (MMPI-II) AND (MCMI-III).” In Dr. Potts’ report (as revised March 20, 2012), pp. 4-5, the sections entitled “Psychological Testing Results” and “Discussion and Summary,” ending with the DSM-IV diagnosis. [This stipulation is withdrawn if Dr. Potts testifies, in which case DC intends to rely on additional portions of the Christiano Report]
- b. Communication from Larry Cohen to Jennifer Perkins concerning Response to Statement of Charges Paragraph 8: On or about September 8, 2012, counsel for Respondent notified Disciplinary Counsel that while his recollection of the events was different than hers, Respondent was willing to accept Ms. Miller’s account of what occurred on March 24, 2011 with respect to him asking her to move his van; and accordingly, he would amend his Answer to Paragraph 8 of the Statement of Charges to “admit” Paragraph 8 of the Statement of Charges.
- c. Testimony by Arrowhead Court Non-Judicial Staff Concerning Relations With One Another: Respondent and Disciplinary Counsel agree that there will be no examination inquiry on direct or cross examination of Arrowhead Court non-judicial staff witnesses, to include but not limited to Jane Miller, Yvette Resendes, or Tanya Faulkner, concerning the personal or professional relationships of these staff persons with or among one another, disciplinary actions, complaints and assertions of improper conduct with respect to or involving in any way any members of the non-judicial staff, or comments or statements by any non-judicial staff person about the personality or character of another non-judicial staff person.

- d. The parties stipulate to the admissibility of the following exhibits: Commission Exhibits 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23. Respondent's Exhibits A, B, C, E, F, G, H, I. Both parties agree that this stipulation is not intended to and does not waive Respondent's objections to Commission Exhibits, including but not limited to 6, 7, 8, 9, 10, 11, 12, 15, 16, and 17, for the reasons addressed in earlier motions and the Joint Prehearing Statement, as well as because Respondent believes these exhibits contain hearsay and are also unnecessarily cumulative. Because Respondent acknowledges that, based on his prior rulings, the Presiding Member is likely to grant the admission of these exhibits over objection, and in the interests of moving the proceedings along efficiently, Respondent will agree to this stipulation while preserving his objections for the record. Disciplinary Counsel agrees that all objections have been properly and timely raised, and should not be considered waived.

## **2. Undisputed Facts**

1. The Commission on Judicial Conduct (Commission) has jurisdiction of this matter pursuant to Article 6.1, sec. 4 of the Arizona Constitution.
2. The formal Statement of Charges (and subsequent amendments) in this matter were filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules) and Respondent has filed his Answers to those charges
3. Respondent has served as a justice of the peace in Maricopa County since January 2011, and was serving in his capacity as a judge at all times relevant to these allegations.
4. As a Judge Respondent has been subject to all provisions of the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.
5. On February 18, 2011, he became involved in a physical altercation with April Woolbright in the doorway of their bathroom;
6. On March 23, 2011, Respondent and Wife each applied for orders of protection (OOP) against each other in different Maricopa County courts;
7. Maricopa County Superior Court Commissioner Richard Albrecht found by a preponderance of the evidence that the Respondent committed an act of domestic violence within the past year against his wife and an act of domestic violence against his son for purposes of issuing an order of protection. Commissioner Albrecht further found by a preponderance of the evidence that Respondent had not committed any acts of domestic violence against the other three children and so removed them from the order of protection.
8. An Order of Protect in favor of Respondent was issued as well determining that an act of domestic violence had occurred on the basis of Respondent alleging that his wife

had kidnapped his children, refused to place the children in school and that his wife is sometimes is violent. Respondent did not serve the OOP he secured.

9. On March 23, 2011 Respondent's wife filed for dissolution of their marriage
10. On March 24, 2011 Respondent was at the Northwest Regional Court facility where the Arrowhead Justice Court is located addressing personal matters.
11. On March 24, 2011 at about 10:30 Respondent asked his office manager Jane Miller to move his van from the public parking area to the judges' private parking area, and Jane Miller moved the van.
12. When Ms. Miller spoke with Mr. Tash on March 24, 2011, Ms. Miller told Mr. Tash that she did not know why Judge Woolbright asked her to move his vehicle.
13. Ms. Miller informed Respondent that after Mr. Tash entered the court facility that Mr. Tash spoke with Ms. Miller and that Ms. Miller told Mr. Tash to serve Respondent's attorney with the paperwork.
14. Jane Miller reports her recollection that Respondent asked her to move Respondent's van specifically because he wanted to avoid accepting service of process at his court facility and Respondent accepts her reported recollection as what occurred on March 24, 2011.
15. When Respondent received a call at approximately 9:00 am on March 28, 2010 from Mr. Tash, he told Mr. Tash he was unaware of the personal service requirement, that he agreed to meet Mr. Tash at Respondent's attorney's office for the purpose of accepting service, and that he was lost looking for the office.
16. Respondent did not call Mr. Tash back or respond to further calls from Mr. Tash on March 28, 2011.
17. Respondent called the Commission on March 29, 2011, to report certain conduct and subsequently provided written self-reports on April 13 and 15, 2011
18. On April 2 at approximately 4:30 pm, Respondent called Mr. Tash and explained he had gone to Lake Havasu City, Arizona; Respondent stated he was not attempting to avoid service of process and would be willing to meet Mr. Tash the following afternoon; and Respondent stated he would call Mr. Tash the following day to arrange a meeting.
19. Mr. Tash personally served Respondent at Respondent's residence on April 3, 2011.
20. The Order of Protection prohibited Respondent from having any contact with his wife or his four children and list three protected addresses, including the marital residence, church and a family recreation center.

21. On April 3, 2011, Respondent called the Peoria Police Department to report that his wife and the children had “disappeared” and he believed they were “missing” since March 22, 2011. The officer who took the statement reported that Respondent accused his wife of kidnapping the children.
22. During his report to the police on April 3, 2011 Respondent made a comment suggesting he would be happy to authorize a search warrant so that the police officers could enter his wife’s residence and retrieve the children. The officer believed Respondent may have been joking.
23. Respondent asked the officers to ping the wife’s phone to determine her location, which they declined to do.
24. The April 3, 2011 police report confirmed that the children were safe with the wife and had never been missing.
25. On May 18, 2011, following an evidentiary hearing, Commissioner Albrecht removed three of the four children from the order of protection and removed the marital residence from the order of protection, leaving the wife and the oldest son as protected persons and leaving the remaining addresses as protected.
26. On June 24, 2011, the Commission’s Investigative Panel sent Respondent a letter requesting more information and in particular asking whether he had voluntarily ceased hearing cases involving protective orders given his personal situation involving an order of protection.
27. Respondent confirmed that he continued to hear protective order cases without disclosing the order in place against him. Respondent stated that he believed what he learned from the experience did not affect his impartiality in hearing such cases.
28. On six occasions in July, 2011 Respondent contacted the Peoria Police Department to report his wife for custodial interference because of her action in suspending visitation, which Respondent believed was contrary to the Court’s order.
29. Thereafter, when Respondent reported to Judge Gordon’s wife actions in suspending supervised visitation Judge Gordon reinstated supervised visitation.
30. On July 21, 2011 Respondent sought visitation with his children. He went to his wife’s residence at her suggestion with his sister. Respondent genuinely believed that Judge Gordon had altered the order of protection to permit him to get his children at the residence for this visitation. Wife showed the police the original order of protection which the police officers enforced by arresting Respondent.
31. On July 22, 2011, Respondent voluntarily reported his arrest to the commission.

32. On Friday, July 22, 2011, Respondent initiated contact with the Judicial Ethics Advisory Committee's Staff Director concerning his hearing orders of protection and then voluntarily ceased hearing any matters relating to orders of protection.
33. On August 15, 2011, the Maricopa County Attorney's Office (MCAO) moved to dismiss the pending charge against Respondent and the charges were dismissed.
34. On January 9, 2012, the MCAO reinstated the misdemeanor charge for interference with a judicial proceeding by filing a direct complaint in Maricopa County Superior Court.
35. On January 12, 2012, Respondent self-reported the reinstatement of charges to disciplinary counsel.

### **3. The Parties Positions Regarding Issues in Dispute**

#### **Commission**

Disciplinary Counsel will establish the following additional facts during the hearing, which appear to be in dispute:

1. In his initial self-report to the Commission Respondent explained that at approximately 10:30 a.m. on March 24, 2011, he received a text message from his son's phone that he believes his wife wrote. The message stated, "The server has found his van and is waiting for him to come out." This message alerted Respondent that a process server was waiting for him by his van and that is the reason he asked Jane Miller to move his van.
2. When Respondent initially answered the charges he affirmatively stated that "he did not know at the time he asked Ms. Miller to move his van that the person waiting by his van was attempting to serve him with legal process."
3. Disciplinary Counsel alerted Respondent that his Answer was inconsistent with his earlier statement and with the statements of others, in particular Ms. Miller. Respondent inappropriately approached Ms. Miller and aggressively questioned her about her proposed testimony against him. She believed that he intended for her to change her testimony.
4. On July 21, 2011, twice during interactions with law enforcement representatives, Respondent volunteered that he is a judge.
5. On July 22, 2011, the morning after his arrest by officers with the Phoenix Police Department, Respondent appeared on the bench and presided over matters including cases that involved law enforcement officers as witnesses.
6. On September 21, 2011, at a family court proceeding, Respondent's divorce lawyer requested that the dissolution and custody proceedings be sealed. Judge Michael

Gordon indicated he would deny the request, and thereafter Respondent sought to convince the judge to grant the request to seal proceedings by testifying, untruthfully, that his court staff and, indeed, the entire judiciary had access to and was, in fact, viewing the video recordings of his family court proceedings

7. If he returns to serve as the Arrowhead Justice of the Peace, Respondent will routinely be faced with the following types of cases and issues, all of which may subject him and his court to repeated requests for recusal or, at a minimum, disclosure and waiver of potential conflicts:
  - a. Matters involving orders of protection;
  - b. Matters involving the issue of alternative service, particularly those in which there is an allegation that a party is avoiding service of process;
  - c. Matters involving allegations of domestic violence;
  - d. Matters in which representatives of the Peoria or Phoenix Police Department serve as witnesses;
  - e. Matters involving the Maricopa County Attorney's Office

Based on the uncontested facts and additional facts that Disciplinary Counsel believes will be established at the hearing, there is unfortunately only one reasonable result for the Panel to reach: Respondent must be removed from his position on the bench.

### **Respondent**

**General Statement:** Respondent acknowledges, as set forth in his Answers to the Statements of Charges, that he engaged in conduct contrary to the Arizona Code of Judicial Conduct and accepts responsibility for his actions. His sincerity is demonstrated in part by his self-reporting at various times concerning matters relating to his actions and the Arizona Code of Judicial Conduct. The extreme circumstances of his life during times relevant to the Allegations of Misconduct do not excuse his actions, and he does not offer them as an excuse, but provide the context in which conduct in issue here occurred. Notwithstanding those extreme circumstances, and acknowledging that at times he acted inconsistent with provisions in the Arizona Code of Judicial Conduct, Judge Woolbright sought in good faith and with determination to fulfill his responsibilities as a Justice of the Peace. He sought guidance from those he believed could guide him in the positive and productive performance of his duties, and to the best of his ability acted in conformance with that guidance to the extent he understood the guidance and could act consistent with it. He acknowledges that sanctions are warranted for his past conduct, notwithstanding the extreme circumstances in which they occurred. He disagrees with the proposal by Disciplinary Counsel that he be removed from office and proposes in the event of the sanction of suspension that some consideration be given to the time he has been reassigned from his office in connection with these proceedings.

Going forward he is intent on fulfilling the duties of his office and would welcome guidance in the form of a mentor from a current or retired Justice of the Peace who is considered an exemplary Justice of the Peace and in whom he can have trust and high regard. He is willing to bear from his own personal resources the expense of such a mentor. He intends to undergo additional training at his own expense, beyond that required of him, to ensure his performance of his duties at the highest level possible. He understands his responsibilities to the public and to the judiciary and is intent on fulfilling those responsibilities and being a model member of the judiciary.

Respondent's position regarding facts Disciplinary Counsel expects to establish during the hearing

Respondent expects at the hearing to challenge the completeness and accuracy in their entirety of Disciplinary Counsel's description of these disputed facts. Further Respondent will address his ability and determination to fulfill his duties and responsibilities as a Justice of the Peace, both as a factual matter and consistent with the Code of Judicial Conduct notwithstanding the events that occurred between March and September, 2011.

Respondent submits the following specific information at this time concerning the facts the Commission states are in dispute:

1. Respondent's statements to the Commission concerning the text message he received and the action he took included the following:

This event occurred one time. I had parked in the Northwest Regional Court Public Parking lot to visit the family court location at the Northwest Center. I had completed my business with the family court and went to my chambers to visit with my pro tem prior to leaving. While in chambers I received a text from my wife, sent from my teenage sons' cell phone that read. "The server has found his van and is waiting for him to come out." I became frightened, shocked and confused. Under the circumstances I asked if my manager would go out to my van in the parking lot, see who is there, and drive my van to the secure judges parking area. I then got in my van and left the Northwest Regional Court Center. I don't think that this was the best decision, even though I thought it was a good idea at the time to take the matter away from the courthouse, it may be viewed by others differently.

I should not have asked my manager to move my van. I believe it may have been more appropriate to have court security help me investigate any possible security issue or person by my vehicle.

2. The first Statement of Charges read at paragraph 8 as follows:

The staff member was Jane Miler, Respondent's court manager, and she moved the Respondent's van at his request specifically because he wanted to avoid accepting service of process at his court facility.

Respondent initially answered that charge, in part, as follows:

Respondent admits Jane Miller, Respondent's court manager, moved Respondent's van at Respondent's request; Respondent denies he asked Ms. Miller to move his van to avoid accepting service of process because he did not know at the time he asked Ms. Miller to move the van that the person reportedly waiting by his van was attempting to serve him with legal process.

The process server, William Tash, declared under penalty of perjury in an affidavit he wrote on April 3, 2011 that he had the following communication with Jane Miller in the lobby of the courthouse on March 24, 2011, the day Jane Miller moved the vehicle, shortly after she moved the van

William [Tash] verified that Mr. Woolbright's vehicle was still parked in the rear secure parking and then entered the court and asked for Mr. Woolbright at the clerks counter. The clerk told William that she was going to get her supervisor. Jane, whom identified herself as the Court manager, came out to speak with William. William identified himself and his purpose. Jane told William that Mr. Woolbright was not here. William asked Jane if she was the person who had just moved his vehicle and she replied that she was and stated that she didn't know why Mr. Woolbright had asked her to move the vehicle.

3. Jane Miller testified during her deposition that this conversation, which lasted about nine minutes, focused on the different recollections Ms. Miller and Respondent had about the circumstances surrounding Respondent asking Ms. Miller to move his van. Ms. Miller recalls that Respondent was insistent at first about his recollection of the events and that she was equally insistent in her recollection of the events. As the discussion proceeded Ms. Miller reminded Respondent that he had been upset and distraught on the day the event occurred and Respondent agreed. By the end of the conversation Respondent told Ms. Miller he would accept her recollection over his recollection of what took place. Ms. Miller agrees that at no time did Respondent tell Ms. Miller that she had to give a different statement, that she

would get into any trouble for her recollection of the events or that she had to change her story.

4. Respondent recalls the subject of his employment coming up twice in the course of his responding to background questions asked of him by one or more of the police officers.
5. Respondent recalls hearing traffic enforcement cases. He recalls discussing his plans for that day with another judge, who suggested Respondent not hear Orders of Protection and Interference with Judicial Proceedings cases, but said nothing about there being a reason for him not to hear traffic cases.
6. Respondent made these statements because of his genuine belief at the time that persons at the courthouse were getting information they had about his custody case in part or in whole by watching FTR. Respondent has come to understand that FTR is not available to staff in the way he believed it was at the time he spoke to Judge Gordon.
7. Respondent agrees that while the misdemeanor charges are pending he should not hear cases involving Interference with Judicial Proceedings or cases being prosecuted by the Maricopa County Attorney's Office. The March 23, 2011 Order of Protection served on Respondent has expired and there is no longer an Order of Protection in place involving him. He does not believe the events that have occurred during the time period relevant to the matters pending require he be precluded going forward from hearing cases involving orders of protection and injunctions against harassment, domestic violence, or cases where law enforcement officials are witnesses. When the pending Interference with Judicial Proceeding case is resolved, and particularly if it is dismissed, Respondent does not believe that the events that have occurred preclude him from hearing cases involving the Maricopa County Attorney's Office. That being said, Respondent will comply in all instances going forward with the letter and spirit of the applicable provisions of the Code of Judicial Conduct.

**4. Pending Discovery Disputes**

None

**5. Final Witness Lists and Summary of Anticipated Witness Testimony**

**Commission**

- A. **Jane Miller, Arrowhead Court Manager** – Ms. Miller will testify as to her recollection of the incident on March 24, 2011, in which she moved Respondent's van at his request; her interactions with Respondent on July

21-22, 2011; and her conversations with Respondent on September 6, 2011, and in the following week or two.

- B. **William Tash, Process Server** – Mr. Tash will testify as to his recollection of his attempts to serve Respondent with an order of protection between March 24 and April 3, 2011.
- C. **Hon. Gerald Williams, North Valley Justice Court** – Judge Williams will testify about his interactions with Respondent, Ms. Miller, and Mr. Tash related to Respondent’s conduct on March 24, 2011, and September 6, 2011; his experience as Respondent’s assigned mentor; and his concerns as Respondent’s former mentor and the presiding regional Justice of the Peace should Respondent return to the Arrowhead Justice Court.
- D. **Hon. John Keegan** – former Judge Keegan will testify as to his recollection of his interactions with Respondent and Ms. Miller related to Respondent’s conduct on March 24, 2011; his experience as Respondent’s assigned training judge; and the basis for his public statements calling on Respondent to resign.
- E. **Craig Gildersleeve, CTS Maricopa County Superior Court** – Mr. Gildersleeve will testify as to the access Respondent and his staff had and did not have to superior court FTR recordings and whether there is any evidence that anyone from the Arrowhead Justice Court viewed superior court recordings related to Respondent’s family court proceedings.
- F. **Officer Christopher Jones, Phoenix Police Department** – Officer Jones will testify about his interactions with Respondent on July 21, 2011, the date of Respondent’s arrest.
- G. **Officer Pat Karaloff, Peoria Police Department** – Officer Karaloff will testify about his interaction with Respondent on April 3, 2011, when Respondent reported that his ex-wife had kidnapped their children; Officer Karaloff can also testify generally as to the number and context of Respondent’s numerous interactions with the Peoria Police Department.

## **Respondent**

- A. **Judge Phillip Woolbright**

Judge Woolbright is expected to testify as to all matters concerning the Statement of Charges, including the factual background, supplemental facts, allegations, and requested relief, his responses thereto, his conduct in office and his anticipated future conduct.
- B. **Judge Quentin Tolby**

Judge Tolby is expected to testify as to his interactions with and observations of Judge Woolbright as they relate to Judge Woolbright's past and likely future conduct as a Justice of the Peace. He is further expected to testify concerning the role of a mentor in guiding or facilitating the conduct of a Justice of the Peace.

**C. Yvette Resendes**

Ms. Resendes is expected to testify about her work with Judge Woolbright in her capacity as a staff person in the Arrowhead Justice Court and in his capacity as the Justice of the Peace. She is expected to report her observations of his work as a Justice of the Peace.

**D. Dr. Jack Potts**

Dr. Potts is expected to testify consistent with the two reports he authorized concerning his psychiatric examination of Judge Woolbright.

**E. Judge Melanie DeForest**

Judge DeForest is expected to testify about her observations of the case files on which Judge Woolbright worked that she had the opportunity to review in the course of her work as a Judge Pro Tem of the Arrowhead Justice Court during the time Judge Woolbright was the Justice of the Peace of the Arrowhead Justice Court

**F. Judge Jeff Fine**

Judge Fine is expected to testify about his observations of the work and work performance of Judge Woolbright during the time Judge Woolbright was assigned to his Court. He is further expected to testify about the role of a mentor in guiding or facilitating the conduct of a Justice of the Peace.

**G. Tanya Lee Faulkner**

Ms. Faulkner is expected to testify about her work with Judge Woolbright in her capacity as a staff person in the Arrowhead Justice Court and in his capacity as the Justice of the Peace. She is expected to report her observations of his work as a Justice of the Peace.

**H. William Tash**

In the event Mr. Tash is not called as a witness in the Disciplinary Counsel's case Respondent will call Mr. Tash to testify about the events of March 24, 2011 as related in Mr. Tash's affidavit.

**6. Final Exhibit Lists**

## **Commission**

1. Respondent's Letters to the Commission [CJC00001-14]
2. Disciplinary Counsel's June 24, 2011, Letter to Respondent [CJC000575-576]
3. Order of Protection obtained by April Woolbright [CJC000234-00238]
4. Order of Protection obtained by Phillip Woolbright [CJC000239-242]
5. Affidavit for Certificate of Service by William Tash [CJC000243-247]
6. Judge Keegan Email Memo to File, March 25, 2011 [CJC000258]
7. Gerald Williams Memo, March 28, 2011 [CJC000256-257]
8. Judge Keegan Email to Disciplinary Counsel, September 2, 2011 [CJC000260]
9. Officer Karaloff Memo to Lt. Scrivens, July 16, 2011 [CJC000182-183]
10. Peoria Police Department Incident Reports [CJC000187-217]
11. Peoria Police Department Call Log [CJC000218-219]
12. Phoenix Police Department Reports [CJC000321-325]
13. Text Messages between Respondent and April Woolbright [CJC000334-357]
14. Respondent's call to CrimeStop on July 21, 2011 [audio excerpt]
15. Jane Miller Memo to Judge Pearce [CJC000252-255]
16. Jane Miller Supplemental Memo to Judge Pearce [CJC000653]
17. Judge Keegan Email to Self, September 7, 2011 [CJC000259]
18. Rule 31 Request for Reassignment [CJC000658-664]
19. Excerpt of September 21, 2011, family court proceeding FTR [video excerpt]
20. Craig Gildersleeve Email Exchange, November 29, 2011 [CJC000288]
21. Craig Gildersleeve Email Exchange, November 30, 2011 [CJC000289-290]
22. Custody / Access Report by Dr. Christiano, October 2011 [CJC000577-602]

23. Judge Michael Gordon's December 14, 2011, Minute Entry Order [CJC000603-614]  
[redacted pursuant to Judge Winthrop's Order]
24. Domestic Violence Bench Book [CJC000265-273]

**Respondent:**

- A. Answers to Statements of Charges
- B. Objection to Order of Reassignment, dated September 21, 2011 (without attachments)
- C. Judge Woolbright's Day Planner
- D. Affidavit of William Tash
- E. Maricopa County Attorney's Office File (Respondent reserves the right not to offer this exhibit or any part of it in evidence and does not waive the right to challenge the admission of this exhibit)
- F. Reports of Dr. Jack Potts (Respondent acknowledges that if Dr. Christiano's report is excluded the same evidentiary ruling may apply to the reports by Dr. Potts).
- G. November 21, 2011 Email from Craig Gildersleeve to Larry Cohen (Respondent agrees that if other writings authored by Craig Gildersleeve are excluded then this writing should be excluded as well).

Without waiving any objection as to the admissibility of any document contained therein, Respondent reserves the right to offer in evidence any of the documents disclosed by Disciplinary Counsel to address testimonial evidence at the hearing of this matter

**7. Objections to Witnesses or Exhibits**

**Commission's Position**

- A. No Objection
- B. Objection: Hearsay (Disciplinary Counsel notes that this document should be treated the same as Commission Exhibit 18 as both are pleadings submitted in this matter before the Supreme Court)
- C. Objection: Hearsay
- D. No Objection
- E. Objection: Relevance, Hearsay. The documents from MCAO are the county attorney's entire file comprising 284 pages and including notes, pleadings, police reports, party communications, and other documents. Without more specificity as to which portions of the file Respondent intends to rely on, it is difficult to more

accurately determine to what and whether Disciplinary Counsel objects.

- F. Disciplinary Counsel simply notes that the Potts and Christiano Reports should be treated similarly.
- G. Objection: Hearsay, incompleteness. If this particular communication is admitted, the remaining, subsequent communications from Mr. Gildersleeve that alter his conclusions must also be admitted.

**Respondent's Position**

- 1. Respondent objects to any reference to the June, 2011 supervised visitation session on the ground that the activities that occurred there are not relevant to any matter pending before the Commission.
- 2. Objections to Specific Exhibits
  - A. No objection
  - B. Objection: Relevance, hearsay
  - C. Objection: Relevance, including Rule 403, hearsay, including hearsay within hearsay
  - D. No objection (however, Respondent agrees that if April Woolbright's Order of Protection is excluded Respondent's Order of Protection should be excluded as well.
  - E. No objection
  - F. Objection: Hearsay, including hearsay within hearsay
  - G. Objection: Hearsay, including hearsay within hearsay
  - H. Objection: Hearsay, including hearsay within hearsay
  - I. Objection: Hearsay, including hearsay within hearsay
  - J. Objection: Hearsay, including hearsay within hearsay
  - K. Objection: Hearsay, including hearsay within hearsay
  - L. Objection: Hearsay, including hearsay within hearsay

- M. Objection: Relevance, including Rule 403, Hearsay, including hearsay within hearsay
- N. Relevance
- O. Objection: Hearsay, including hearsay within hearsay
- P. Objection: Hearsay, including hearsay within hearsay
- Q. Objection: Hearsay, including hearsay within hearsay
- R. Objection: Hearsay, including hearsay within hearsay
- S. No objection
- T. Objection: Hearsay, including hearsay within hearsay
- U. Objection: Hearsay, including hearsay within hearsay
- V. Objection: This exhibits is the subject of a motion in limine and may be the subject of a stipulation of the parties. In any event, Relevance, including Rule 403, Hearsay, including hearsay within hearsay.
- W. Objection: This exhibit is the subject of a motion in limine. In any event, Respondent objects to the admission of this order in its entirety because it addresses matters that are outside the scope of these proceedings, that it contains matters that are within the scope of Rule 403.
- X. Objection: Relevance

**8. Remaining Issues**

**Commission**

1. Disciplinary Counsel has addressed these concerns in the context of the Motions in Limine, but notes resolution remains pending.
2. Disciplinary Counsel is willing to agree to exclude additional portions of Judge Gordon's order, but much of what Respondent has proposed remains relevant to this proceeding. Disciplinary Counsel suggests excluding the following: Under "Legal Custody and Parenting Time" Items 1, 2, 4, 7, 8, 9, 10, the portion of 11 that appears on pages 7-9 up to Item A "Mental Health Counseling", then Item B (in other words, keep item A, exclude Item B); and all of pages 10-12.
3. Disciplinary Counsel notes that Respondent's argument attempts to negate the

Commission's Rules of procedure as well as the standard "notice pleading" practice that is well-understood to be the standard in Arizona. This issue is further addressed in response to the Motions in Limine, which remain pending at this time.

### **Respondent**

1. Respondent remains very concerned about the impact of hearsay on the anticipated testimony of Disciplinary Counsel's witnesses in this case. The depositions of Judge Williams, John Keegan and Jane Miller contain many instances where the bases for actions and opinions are grounded in hearsay rather than first hand knowledge. It is essential for Respondent to know the scope of hearsay that will be permitted so he can meet the testimony of these witnesses. Their reliance on second and further-hand statements and their inability to identify the sources of these hearsay statements deprives Respondent of the ability to confront the evidence that may be presented against him.
2. Judge Gordon's order deals in very large part with substantive matters unrelated to the issues before the Commission. Insofar as there are issues raised in the Order bearing on Respondent's capability to fulfill his duties as a Justice of the Peace they are addressed narrowly in sections of the Order specifically directed to mental health issues and the order can be redacted of all other references. There are matters addressed in the Order, including disputed allegations of physical and sexual misconduct that will be highly prejudicial with little if any probative value. Respondent continues to object to any part of the Order coming into evidence, but at the very least the following proposes that the following be excluded: Page 1, beginning with Legal Custody and Parenting Time, through page 5, up to the beginning of number 11. I do not believe 11 should be included either, but acknowledge in light of Judge Winthrop's rulings that it is relevant. Page 6, beginning with "based on the totality of the circumstances, through page 9 up to Father's Mental Health Counseling Page 9, beginning with B through the end.
3. It continues to be Respondent's position that the scope of the evidence that can be offered by Disciplinary Counsel is limited to the factual statements and allegations in the Third Amended Statement of Charges. The Presiding Member will recall that Disciplinary Counsel asserted the necessity to amend the Statement of Charges to put Respondent on notice of the case being asserted against him. Disciplinary Counsel should not be permitted now to go beyond the facts in the Statement of Charges in pursuing the case against him,

Respectfully submitted this 24th day of April, 2012.

s/Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

s/Larry J. Cohen  
Larry J. Cohen  
Attorney for Respondent

Commission on Judicial Conduct  
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Telephone: (602) 452-3200

**FILED**

**MAY 01 2012**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent. )

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At the conclusion of the formal hearing in this matter, Respondent orally moved for a protective order, requesting that the reports of Daniel Christiano, Ph.D, and Jack Potts, M.D. be sealed, and only be accessible to members of the Hearing Panel for their further consideration, and to the Arizona Supreme Court in its ultimate consideration of the Hearing Panel's recommendation in this matter.

Respondent has now submitted a memorandum of points and authorities in support of his motion, with attached exhibits. Disciplinary Counsel has filed a memorandum in opposition, and has offered a proposed redaction relative to Dr. Christiano's report.

Having reviewed the reports in question, the memoranda and exhibits submitted by counsel, having considered the provisions and purposes of Rule 123, Rules of the Arizona Supreme Court, and being fully advised of the premises,

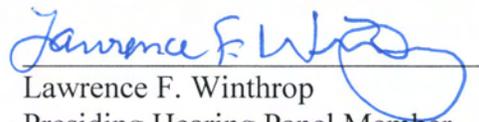
**IT IS ORDERED** granting Respondent's motion for protective order. The reports in question contain, in large part, sensitive data and information concerning others that, on balance, invades the privacy of individuals who are not parties to this disciplinary proceeding. The fact

that Judge Gordon of the Maricopa County Superior Court determined that Dr. Christiano's report should be sealed is an important but not entirely dispositive factor. The undersigned Presiding Member has independently reviewed the subject reports and concludes that the privacy rights of Judge Woolbright's ex-wife and minor children outweigh the public's right of access to the details of these two reports.

**IT IS FURTHER ORDERED** that Exhibits 22 and F be sealed, and not disseminated to the public upon request or otherwise, and that access to these reports be limited to members of the Hearing Panel for use during its deliberations and to members and staff of the Arizona Supreme Court upon its consideration of the Hearing Panel's recommendation in this matter.

**DATED** this 1st day of May 2012.

**FOR THE HEARING PANEL**

  
Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies mailed, e-mailed or hand-delivered  
on May 1st, 2012, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

By:   
Clerk of the Commission

Larry J. Cohen, Esq. (010192)  
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**FILED**

**MAY 02 2012**

**ARIZONA COMMISSION ON  
JUDICIAL CONDUCT**

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	CJC Case No. 11-111
<b>Judge Phillip Woolbright</b>	)	
Arrowhead Justice Court	)	<b>RESPONDENT'S CLOSING</b>
Maricopa County	)	<b>ARGUMENT</b>
State of Arizona	)	
	)	
Respondent.	)	
	)	
	)	
	)	

Judge Woolbright accepts responsibility for his actions and his violations of the Code of Judicial Conduct. He has demonstrated his acceptance of responsibility since the beginning of these proceedings, when he self-reported his actions. He then made further self-reports thereafter. He entered into stipulations that acknowledged his misconduct and accepted sanctions, including the sanction of suspension. During the hearing before the Commission Judge Woolbright repeatedly stated that he acknowledged what he did was wrong, that he would accept the sanctions imposed on him, and that he is intent, if given the opportunity, to be a fair judge who follows the rule of law, complies in all respects with the Code of Judicial Conduct and is a credit to the Arizona judiciary.

**The Context in Which the Misconduct Occurred**

While accepting responsibility and not seeking to excuse his actions, Judge Woolbright

has urged the Commission to appreciate the context in which these actions occurred. Our cross-examination of the Commission witnesses and our direct examination of Dr. Potts tried to bring that context to light.

**1. Moving the Van:** Judge Woolbright admits that he exercised poor judgment when he asked his court manager to move his van. Ms. Miller, the court manager, testified that Judge Woolbright was exhibiting extreme emotional distress at the time he asked her to move the van. She suggested it was that distress that probably compromised his recollection of the exact events that occurred that day.

**2. Service of Process:** Judge Woolbright agrees he should have accepted service himself right away. His mistaken belief that all of the documents could be delivered to his attorney is no excuse for the delay he caused. Ultimately Judge Woolbright called the process server to arrange for service on him personally in a belated effort to remedy the situation.

**3. Effort to Locate Wife and Children:** Judge Woolbright's distress over the safety and whereabouts of his children accounts for his contacting the police in early April. His statement that they had been "kidnaped" reflected his anxiety. His reference to himself as a Judge was not intended to gain any advantage, but should not have been done anyway. His "joking" remark about issuing a search warrant himself was an inappropriate expression of his anxiety. He ceased his efforts to locate them when the police confirmed that his children were safe and in the state.

**4. Arrest for Interference with Judicial Proceedings:** Judge Gordon had issued an order on July 21 directing that Judge Woolbright have supervised visitation with his son that day. The evidence shows that Judge Woolbright suggested places other than his wife's home for the

exchange. Even when she told him to come to the home he tried to enlist the police to help him enforce Judge Gordon's order without any conflict with his wife. He acknowledges the arrest was technically proper, though he still feels it was not his intent to violate a court order. Finally, looking back he regrets the aggressive messages he sent his wife in the midst of his frustration over the role she played in his being separated from his children for a period of months.

**5. Interactions with Court Manager Concerning Testimony:** Judge Woolbright changed his answer to paragraph 8 of the Statement of Charges immediately after Ms. Miller urged him to see that his recollection of the events of March 24 was clouded by his distress of that day. His subsequent communications with her about the testimony of the witness at his trial and the Peoria Times certainly were not efforts to get her to change her testimony because he had already accepted her version of the applicable events. Moreover, Ms. Miller acknowledges that Judge Woolbright and her spoke on a daily basis about the custody proceedings and in that context his report to her about the witness was not out of the ordinary. Most importantly, Ms. Miller admitted that aside from these interactions Judge Woolbright conducted himself appropriately and professionally in all of his interactions with her at the Courthouse.

**6. Statement about FTR to Judge Gordon:** Judge Woolbright understands now that his genuine belief that the staff at the Northwest courthouse could watch his custody proceedings on FTR was an insufficient foundation for urging that as a reason to seal the custody record. Though the Court's information technology staff initially thought Judge Woolbright was correct in his belief, further research has demonstrated that Superior Court FTR is not accessible

in the Justice of the Peace courts. In any event, Judge Woolbright made the request in the context of wanting to shield his wife and children, as well as himself, from negative effects of the media storm that was engulfing his custody proceedings. His request to seal the record was not unreasonable, but he should have been certain of his facts before he referenced FTR.

So there is no lack of clarity, Judge Woolbright presented the foregoing evidence to make clear that he never acted in defiance of the Code of Judicial Conduct. He never intended to shed a negative light on the judiciary. He made poor decisions in the midst of very difficult times. At every stage where he has seen upon reflection that he acted wrongly, he has admitted his mistake and expected to be held to account. This leads us to the issue of what sanction is appropriate under all of these circumstances.

**Aggravating and Mitigating Factors**

(a) The instances of misconduct were a series of isolated events, each relating to things occurring in connection with Judge Woolbright's highly contentious custody proceeding.

(b) Judge Woolbright began serving as the Arrowhead Justice of the Peace in January, 2011. He had previously served as a hearing officer, but this was his first time in judicial office.

(c) Nearly all of the acts in issue occurred in Judge Woolbright's personal life. The only exceptions are the interactions with his court manager, none of which involved case handling or disposition.

(d) There is no evidence Judge Woolbright's actions caused harm to any party in any case over which he presided or made decisions. There is likewise no evidence that the

management of cases in his Court was compromised in any way.

Ms. Miller reported feeling uncomfortable initially and then threatened later by three interactions with Judge Woolbright concerning her recollection of the events surrounding her moving his van on March 24, 2011. However, Ms. Miller conceded that (1) Judge Woolbright never expressly threatened her in any way, (2) acted professionally and appropriately at all times in their day to day interactions and (3) expressly reassured her she was at no risk of any kind of harm from him. Finally, she was not aware that immediately after their September 6 telephone call that Judge Woolbright had changed his position formally with the Commission to accept her recollection of the events of March 24 over his recollection, and so had no reason at all to seek to change her testimony.

(e) While Judge Woolbright identified himself as a Justice of the Peace at times in the course of some of the events in issue here, there is no evidence he sought to exploit his position for an improper purpose, nor will he ever do so. Quite to the contrary, both of the officers to whom he identified himself as a Judge said they never thought he was trying to gain some advantage. The officer to whom Judge Woolbright made the remark about issuing a search warrant said in his report that Judge Woolbright “jokingly commented” about authorizing a search warrant.

(f) Judge Woolbright has repeatedly recognized and acknowledged the wrongful nature of his conduct. He has demonstrated, as through his work with Judge Fine, his ability and his preparedness, to properly fulfill his duties and responsibilities as a Judge.

(g) There has not been any prior disciplinary action.

(h) There has not been any prior discipline.

It undisputed that Judge Woolbright sought advice from other judges and the judicial ethics advisory committee about his conduct.

(i) Judge Woolbright cooperated with the Commission in these proceedings. The Commission raised an issue about his initial answer to paragraph 8 of the Statement of Charges, which alleges that he asked the Court manager to move his van “specifically because he wanted to avoid accepting service of process at the court facility.” Judge Woolbright did not recall asking the court manager to move the van for that reason and there is evidence, as in the process server’s affidavit, supporting his recollection. However, he changed his answer immediately after discussing the events of that day with Ms. Miller on September 6 and acknowledges that his original answer should have admitted this allegation.

(j) Judge Woolbright absolutely was suffering from extreme emotional distress at the time of all of the events in issue here. That is demonstrated in part by how witnesses described him, including, for example, Ms. Miller’s description of the extreme emotional state he was in when he asked her to move the van. It is also demonstrated by the different accounts of him in Dr. Christiano’s psychological assessment, when Judge Woolbright was in the midst of the worst parts of the custody proceedings, and Dr. Potts’ psychiatric assessment, when the custody proceedings were largely concluded.

### **Proposed Sanctions**

Judge Woolbright acknowledges sanctions are warranted here. He candidly stated he wants to continue as a Justice of the Peace. Toward that end he proposes a combination of sanctions that he believes are consistent with the Commission's goals and responsibilities:

1. Suspension from office through the period of time the pending criminal case is proceeding. The Commission will note again that Judge Woolbright previously stipulated to a two month suspension.

2. Upon return to the bench Judge Woolbright would work in close contact with a mentor, someone like Judge Orr or Judge Tolby, until such time as the mentor reports to the Commission that Judge Woolbright no longer needs a mentor. Judge Woolbright is willing to bear the cost of the mentor judge,

3. Judge Woolbright would not preside over cases involving domestic violence or interference with judicial proceedings until such time as the mentor opines that it appears appropriate for him to do so in light of all of the circumstances.

4. Judge Woolbright will continue with counseling until such time as the behavioral health provider opines that Judge Woolbright is able to appreciate and effectively manage the emotional issues identified by Dr. Potts.

5. Judge Woolbright will in addition to his regular continuing education obligations enroll at his own expense in continuing education courses dealing with the disposition of domestic violence cases, judicial ethics and judicial professionalism.

### **Judge Woolbright's Potential for Good Service as a Justice of the Peace**

This Commission will likely consider in the course of its deliberations what it can expect from Judge Woolbright if he is permitted to continue in his elected office as Justice of the Peace. We went to considerable length to address this issue through the testimony of witnesses familiar with him inside and outside of office and during time periods before and after the intensely negative circumstances of the custody proceedings. The positive observations and impressions these witnesses have of Judge Woolbright were unchallenged.

Ray Mulnar met and interacted professionally with Judge Woolbright in the campaign that resulted in Judge Woolbright's election. He describes Judge Woolbright as someone who is open minded, receptive to direction from people he respects and hard working.

Evette Resendes was a member of the Arrowhead Justice of the Peace court staff who worked with Judge Woolbright from the time he took the bench until he was reassigned. She described him as intent on learning the courtroom procedures and substantive law necessary to effectively fulfill his duties. She also described him as deeply committed to serving the interests of the public. Finally she described Judge Woolbright as someone who sought direction from others, from her about case management, and applied what he learned to his judicial duties.

Judge Jeff Fine commended Judge Woolbright for his handling of the civil cases assigned him, for his positive and productive interactions with staff and for his devotion of time and effort and commitment to his assigned responsibilities. He observed Judge Woolbright's eagerness to learn, including his enthusiasm about discussing legal issues. Judge Fine thought Judge

Woolbright could and would work effectively with a mentor like Judge Orr in fulfilling his judicial responsibilities.

Finally, Judge Tolby has met with Judge Woolbright on many occasions to discuss among other things the events that resulted in these proceedings. Judge Tolby did not try to minimize the issues with Judge Woolbright's previous actions, but did note the challenge Judge Woolbright confronted when he took office in the "hostile" work environment he had to face following the hard-fought election campaign. Judge Tolby expressed the opinion that Judge Woolbright could be effective returning to office, with the assistance of a mentor like Judge Orr. He acknowledged there would be challenges in working with court staff and other Judges in the northwest regional courthouse in the aftermath of these proceedings, but felt that with some short term adjustments and with the benefit of time Judge Woolbright could overcome these challenges and effectively serve the public as the Arrowhead Justice of the Peace.

The testimony of these witnesses speaks directly to the principle of redemption we urged at the opening of these proceedings. With the intensely negative, contentious, highly stressful and emotional custody proceedings behind him, with the benefit of what he has learned through these judicial conduct proceedings, with the assistance of a mentor, and with the commitment he expressed to the rule of law and the Code of Judicial Conduct, Judge Woolbright will be the determined Judge that Evette Resendes and Judge Fine observed and that Judge Tolby and Judge Fine see in him.

Finally, the combination of sanctions we propose is the appropriate action to take in the

kind of progressive approach the Commission has taken historically in dealing with judicial misconduct. It would communicate to Judge Woolbright and the public the Commission's conclusion that Judge Woolbright's actions were unacceptable and will not be tolerated.

Through the proposed sanctions, it puts in place a system that ensures the public will be protected from risk of further misconduct. It gives Judge Woolbright the opportunity to carry forward with his commitment to serve responsibly the public that elected him, consistent with the rule of law and the Code of Judicial Conduct.

DATED this 2<sup>nd</sup> day of May, 2012

By: The Cohen Law Firm

/s/ Larry Cohen

Larry J. Cohen, Esq.

COHEN LAW FIRM

P.O. Box 10056

Phoenix, Arizona 85064

Attorneys for Judge Woolbright

**FILED**

**MAY 02 2012**

**ARIZONA COMMISSION ON  
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**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>CLOSING ARGUMENT</b>
State of Arizona	)	
Respondent.	)	

This case is like a jigsaw puzzle made up of many pieces, each evidencing new misconduct and aggravating factors. The panel is now confronted with a completed puzzle that depicts a lengthy, ongoing course of substantial misconduct. In particular, a pattern of dishonesty and abusing the prestige of Respondent’s position has emerged. When the panel confronts the picture as a whole—as you must do—in the context of your duty to protect the public and uphold the integrity of the judiciary, you will conclude that Respondent must be removed from his judicial position and precluded from serving as a judicial officer in the future.

**I. A Chronology of Misconduct.**

This matter involved numerous allegations of misconduct that occurred over a period of about seven months and the chronology of the case is particularly important because Respondent had opportunities at numerous points to alter his conduct. Below is a detailed chronology of relevant events establishing substantial misconduct by clear and convincing evidence.

<b>DATE</b>	<b>CONDUCT</b>	<b>RECORD CITES</b>
2/18/11	Respondent commits act of domestic violence against his then-wife (Wife).	Undisputed Fact 5.
3/23/11	Respondent and Wife obtain Orders of Protection (OOP) against each other.	Undisputed Fact 6
3/23 – 4/3/11	Tash attempts to serve Respondent OOP	Exhibit 5
3/24/11	<ul style="list-style-type: none"> <li>• Process Server William Tash attempts to serve Respondent at court facility and Respondent receives text alerting him to presence of “server.”</li> <li>• Respondent directs Jane Miller, his subordinate, to move his van in order to avoid service.</li> <li>• Respondent speaks with Judge Keegan, confirming he intended to avoid service of process.</li> <li>• Tash makes additional attempts at service.</li> </ul>	Undisputed Facts 11, 14; Third Amended Statement of Charges and Third Amended Answer at para. 8; Exhibits 1, 5, 6, 7, 8; Hearing recording at 4/25, 9:56 a.m. to 9:58 (Miller testimony), 4/25, 11:07 to 11:10 a.m. (Keegan testimony)
3/28/11	<ul style="list-style-type: none"> <li>• Tash attempts service again, and speaks with Respondent to arrange a meeting.</li> <li>• Respondent claims he is unaware of personal service requirement for OOPs.</li> <li>• Respondent abruptly leaves town without accepting service of process.</li> </ul>	Exhibit 5; Hearing recording at 4/25, 10:53 a.m. to 10:56 a.m. (Tash testimony)
3/30/11	Respondent returns from Lake Havasu City	Hearing Recording at 4/26, 8:40 a.m. to 8:42 a.m. (Woolbright testimony)
4/2/11	Respondent contacts Tash and claims he is still out of town, but will accept service of process when he returns.	Exhibit 5; Hearing Recording at 4/26, 8:43 a.m. to 8:44 a.m. (Woolbright testimony)
4/3/11	<ul style="list-style-type: none"> <li>• Respondent accepts service of OOP;</li> <li>• Respondent falsely reports to Peoria Police that Wife “kidnapped” his children;</li> <li>• Respondent offers to issue search warrant against his wife, requests officer “ping” her cell phone to locate Wife, and voluntarily alerted law enforcement that he was a judge.</li> </ul>	Exhibits 5, 9, 10, 11; Hearing Recording at 1:50 p.m. to 1:57 p.m. (Karaloff testimony)
4/13/11	Respondent self-reported to commission regarding avoiding service of process.	Exhibit 1
5/26/11	Commissioner Albrecht finds two acts of domestic violence and upholds OOP against Respondent.	Undisputed Fact 25

6/24/11	Disciplinary Counsel sends letter to Respondent with questions, including whether he is still presiding over OOP cases.	Exhibit 2
7/1/11	Respondent sends letter confirming he is still hearing OOP cases, and slightly altering his story regarding the events of March 24.	Exhibit 1
7/9 - 7/19/11	Respondent makes repeated reports to Peoria Police of custodial interference, after his wife alerted him that she believed visitation was halted pursuant to terms of court order.	Undisputed Fact 28, Exhibit 10; Hearing Recording at 4/26, 9:50 a.m. to 9:56 a.m. (Woolbright testimony)
7/21/11	<ul style="list-style-type: none"> <li>Respondent sends threatening texts to Wife;</li> <li>Respondent interacts with law enforcement at attempted visitation and voluntarily identifies himself as a Judge twice;</li> <li>Respondent arrested for violating OOP</li> </ul>	Hearing Recording at 4/26, 10:37 a.m. – 10:40 a.m. (Woolbright testimony), 4/25, 1:31 p.m. to 1:33 (Jones testimony); Exhibits 12, 14.
7/22/11	<ul style="list-style-type: none"> <li>Respondent presides over matters involving law enforcement, rejecting offer from Judge Williams to cover cases;</li> <li>Respondent contacts Judicial Ethics Advisory Committee for advice, and thereafter ceases hearing cases involving OOPs</li> <li>Respondent self-reports his arrest.</li> </ul>	Hearing Recording at 4/25, 11:33 a.m. to 11:36 a.m. (Williams testimony); Undisputed Facts 31, 32.
8/16/11	Formal Charges filed before the commission	Statement of Charges
9/1/11	Respondent files Answer to Charges including untruthful response to ¶ 8 of Charges	Answer to Statement of Charges
9/6/11	Respondent improperly approaches Jane Miller, who was his subordinate, in her role as a potential witness to forcefully question her proposed testimony against him. Ms. Miller believes his intent was to intimidate her so that she would change her testimony.	Exhibits 15, 16, 17, 18; Hearing Recording at 10:01 a.m. to 10:08 (Miller testimony).
9/21/11	<ul style="list-style-type: none"> <li>Arizona Supreme Court reassigns Respondent based on his interactions with Ms. Miller.</li> <li>Respondent offers untruthful testimony during his family court proceeding for the purpose of changing the judge's mind and having the proceeding sealed.</li> </ul>	Hearing Recording at 4/25, 11:43 a.m. to 11:44 a.m. (Williams testimony) 4/26, 9:56 a.m. to 9:59 a.m. (Woolbright testimony); Exhibit 19

**II. Taking in the Whole Picture Reveals a Pattern of Dishonesty and Abusing the Prestige of Respondent's Judicial Position.**

In considering the above chronology and evidence of misconduct, it is important that

panel members keep in mind that each particular allegation of misconduct should not be considered separately or in a vacuum. The Supreme Court of Florida explained:

“Standing alone, each individual charge against Judge McAllister, while extremely serious in nature, might not warrant the extreme disciplinary measure of removal. However, [c]onduct unbecoming a member of the judiciary may be proved by evidence of specific major incidents which indicate such conduct, or it may also be proved by evidence of an accumulation of small and ostensibly innocuous incidents, which, which considered together, emerge as a pattern of hostile conduct unbecoming a member of the judiciary.”

*In re McAllister*, 646 So.2d 173, 178 (Fla. 1994). The Arizona Supreme Court recognized this concept in the area of negligence: “To determine wanton negligence, the acts of a defendant must be considered as a whole and although each of several acts standing alone might not exceed the bounds of ordinary negligence, yet taken together they may establish wanton negligence.” *Southern Pacific Transp. Co. v. Lueck*, 111 Ariz. 560, 563, 535 P.2d 599, 602 (1975).

Two themes emerge when considering the full picture of Respondent’s misconduct: dishonesty and abuse of Respondent’s position. With regard to dishonesty, Respondent’s version of various events throughout this case differed in significant ways from one or more other credible individuals. The most notable event occurred on March 24, 2011, when Respondent received a text message from his son alerting him to a process server, told his Court Manager to move his van so he could avoid the process server, spoke with Judge Keegan and explained he had intentionally avoided a process server, and then self-reported to the commission noting the text message that prompted him to have his van moved.

Respondent began to change his story in his July 1, 2011, letter to the commission in which he altered his explanation and then substantially changed his story in his initial Answer to the Statement of Charges. While Respondent claims he simply has a differing memory, his

convenient explanations are not credible. It is not credible that he believed an unknown person was waiting at his vehicle for an unknown purpose except possibly to assault him, and that his response was to send an unaccompanied staff member to face that individual. Had Respondent actually feared for his physical safety, a rational response would have been to speak with security or a colleague to aid in handling the situation. His post-hoc self-serving explanations serve only to avoid accepting responsibility for his material misstatement to the commission.

Other examples of Respondent's less than honest conduct include: (1) claiming to Tash that he was unaware of the personal service requirement for OOPs despite being trained, twice, otherwise; (2) claiming to Tash on April 2, 2011, that he was out of town (and thus had been unavailable to accept service) even though he had returned to town three days prior; (3) claiming to Officer Karaloff that his wife had "kidnapped" his children; (4) claiming he only identified himself as a judge in response to Officer Jones' questions; and (5) claiming to Judge Gordon that his staff and, indeed, "the entire judiciary" was actively watching recordings of his family court proceedings in an effort to get the matter sealed. The common thread to this dishonesty is that, in each instance, Respondent made self-serving statements of exaggeration or outright falsehood. When caught in his untruths, his memory is conveniently suspect or he claims that he "believed it to be true" at the time, regardless of how credible his belief was.

Even more troubling, rather than accept responsibility when caught in half-truths, misstatements, and untruths, Respondent's tactic has been to cast aspersions on those testifying against him in an effort to distract from his own conduct. For example, when caught in his misstatements to the commission, Respondent's immediate response was to interrogate Ms. Miller as a witness against him, and then throughout the proceeding to attack her credibility. To

the extent Respondent's defense constituted an attempted indictment of the motives or conduct of the witnesses against him, panel members should avoid the temptation to be distracted. *See* Report of the New York State Commission on Judicial Conduct Regarding Complaints Against the Honorable Luis A Gonzalez, at 14 (March 30, 2012)<sup>1</sup> (“Even where a known or unknown complainant’s motives may be less than altruistic, the Commission’s attention has always been on the accused judge’s conduct, and its decisions have always been based on whether the conduct at issue was proven and, if so, warranted discipline.”).

Dishonesty is a core disqualification for a judge. *See, e.g., Inquiry Concerning MacEachern*, 49 Cal.4<sup>th</sup> CJP Supp. 289, 307, 309 (2008)<sup>2</sup> (removal was warranted of a judge with a previously good reputation who engaged in a relatively minor act of dishonesty and subsequent lack of candor because “Honesty is a minimum qualification for every judge. . . . A judge who does not honor the oath to tell the truth cannot be entrusted with judging the credibility of others.”). In this case, dishonesty appears to be a character problem; Dr. Christiano described Respondent’s traits in his report, Exhibit 22 at 9, and Dr. Potts confirmed the diagnosis of a narcissistic personality, Exhibit F (final report) at 5.

With regard to Respondent’s various attempts to abuse his judicial position for his own gain, it is clear that he repeatedly referenced his judicial position when interacting with law enforcement agencies. On one occasion, Respondent explicitly abused his authority by offering to sign an improper search warrant. Exhibit 9. In his other encounters with law enforcement, Respondent continued to voluntarily identify himself as a judge and, while it seems he did not explicitly request special treatment or clearly infer a desire for preference, he was engaging in

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1 Available at: <http://www.scjc.state.ny.us/Publications/GonzalezPublicReport.htm>

2 Available at: [http://www.cjp.ca.gov/desisions\\_by\\_judges.htm#m](http://www.cjp.ca.gov/desisions_by_judges.htm#m).

interactions that were purely personal with law enforcement officers from agencies whose representatives routinely appear before him in court. Respondent's failure to explicitly request special treatment does not absolve him of violating Rule 1.3 of the Code.

**III. The Panel Should Consider Both Aggravating and Mitigating Factors.**

Commission Rule 19 provides a nonexclusive list of factors to consider.

**a. Mitigating Factors**

The panel should take into account three mitigating factors. First, much of Respondent's misconduct—though not all of it—occurred in his private life. While this is a mitigating factor, any mitigation is somewhat diminished by Respondent's various efforts to abuse his position while acting in his private capacity. Second, Respondent had spent one year as a volunteer hearing officer and began his service as a justice of the peace in January 2011, so he was relatively inexperienced at the time of this misconduct. Third, Respondent was suffering from personal and emotional problems during his misconduct. Again, while this is a mitigating factor, it cannot serve to absolve Respondent of his misconduct and the panel members should take into account the span of time involved in this case. *See In re Carpenter*, 199 Ariz. 246, 249, 17 P.3d 91, 94 (2001) ("recognition of a judge's personal problems does not permit us to ignore our duty to the public.").

**b. Aggravating Factors**

Several of the Rule 19 aggravating factors apply in this case. In particular, the first listed factor, which is the "nature, extent, and frequency of the misconduct." The misconduct in this matter was extensive, spanned more than six months, involved several acts of dishonesty and abuse of authority, and the majority of the misconduct occurred even after Respondent was

aware of the commission's scrutiny into his ongoing conduct.

Next, "the nature and extent to which the acts of misconduct injured other persons or respect for the judiciary" is a substantially aggravating factor in this case. Respondent's misconduct has significantly impacted his Court Manager, Jane Miller, in her professional life and left her in an untenable position in terms of her ongoing employment. Hearing Recording at 4/25, 10:13 a.m. to 10:16 a.m. (Miller testimony). Of wider consequence is the damage Respondent has done to the respect for the judiciary. This matter has been the subject of extensive public scrutiny and the misconduct that began the matter alone—intentionally evading service of process—strikes at the heart of the public's trust.

The additional relevant aggravating factors include Respondent's exploitation of his position for improper purposes, his failure to recognize and acknowledge the wrongful nature of his misconduct; and his failure to cooperate fully and honestly with the commission. As to the second of these factors, it is true that Respondent, by the time of the hearing proceeding, was better able to acknowledge his misconduct and did so explicitly. That said, throughout the months of this formal process, Respondent's ongoing responses to the commission have consistently included admissions that are fraught with justifications, obfuscations, and excuses for his behavior. *See* Respondents' Answers to the various Statements of Charges. This is consistent with his recognized problems in blaming others for his own conduct. *See* Exhibit 22 at 9; Exhibit 23 at 3, 4. Respondent's conversion literally on the courthouse steps should not be considered in the absence of reviewing of his conduct throughout the formal proceedings. *See, generally, In re Carpenter*, at 250, 17 P.3d at 95 (discussing aggravating factors).

#### **IV. Removal is Warranted.**

When the panel considers all of the proven misconduct, together with the aggravating factors that substantially outweigh any mitigation, you will conclude that Respondent should be removed from the bench. *See In re Carpenter*, 199 Ariz. at 249, 17 P.3d at 94 (removing a justice of the peace who was new to the bench and committed numerous acts of misconduct; “A disproportionately light sanction for serious judicial misconduct does not foster public confidence in our self-policing system or ensure judicial integrity and preserve judicial independence, as judicial discipline must . . . We cannot justify allowing a judge who has committed so much misconduct in so short a period of time to receive discipline short of removal.”) (internal quotation marks and citation omitted).

Practical hurdles to be faced should Respondent be returned to the bench are also important to consider. First, numerous cases may require reassignment for a period of time, including all cases: involving protective orders; in which the sufficiency of service of process is a question; involving the Peoria or the Phoenix Police; and involving the Maricopa County Attorney’s Office. Second, Ms. Miller’s concerns as a primary witness against Respondent must be addressed. While the Code prohibits retaliatory conduct, such conduct is, in practice, very difficult to prove when the parties at issue are a supervisor and his subordinate. Some measures are likely necessary to protect Ms. Miller.

Third, while Respondent expressed interest in a mentor, his previous mentor and training judge indicated their lack of success with Respondent on numerous occasions. Hearing Recording at 4/25, 11:13 a.m. to 11:17 a.m. (Keegan testimony), 11:43 a.m. to 11:51 a.m. (Williams testimony). Respondent’s own witness indicated that a mentor who is perceived to

be a Marine Corps. Drill Sergeant will be required for effective mentoring. Hearing recording at 4/25, 2:45 p.m. to 2:46 p.m. (Tolby testimony). That same witness indicated he had “numerous” contacts with Respondent during the time of these issues, yet Respondent failed to curb his continuing course of misconduct despite his regular contacts with someone he viewed as a confidant or mentor. Hearing Recording at 4/25, 2:42 p.m. to 2:44 p.m. (Tolby testimony).

### CONCLUSION

Fulfilling the panel’s purpose of protecting the public and preserving the integrity of the judiciary simply and sadly lead to the conclusion that Respondent must be removed from his judicial position and precluded from serving as a judge in the future.

Dated this 2nd day of May 2012.

### COMMISSION ON JUDICIAL CONDUCT

s/ Jennifer M. Perkins

Jennifer M. Perkins  
Disciplinary Counsel

Copy delivered on April 30, 2012,  
via electronic mail to:

Larry J. Cohen, Esq.  
The Cohen Law Firm  
P.O. Box 10056  
Phoenix, AZ 85064  
(602) 266-3080  
(602) 265-6866 (Fax)  
[ljc@ljcohen.com](mailto:ljc@ljcohen.com)

*Counsel for Respondent*

By: s/ Jennifer M. Perkins

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ljc@ljcohen.com

**FILED**  
**MAY 02 2012**  
ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	CJC Case No. 11-111
<b>Judge Phillip Woolbright</b>	)	
Arrowhead Justice Court	)	<b>OBJECTIONS TO EVIDENTIARY</b>
Maricopa County	)	<b>RULINGS</b>
State of Arizona	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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Judge Woolbright, through counsel, submits the following supplement to objections he has submitted in previous filings in this case:

1. During the April 25 and April 26 hearing Respondent objected to the admission of hearsay evidence. It continues to be Respondent's position, as set forth in the filings submitted in this case, that Rule 27, Rules of the Commission on Judicial Conduct, does not permit Respondent to be deprived of the opportunity to confront the evidence the Commission is offering against him. During the hearing witnesses called by Disciplinary Counsel were permitted to report statements by persons not at the hearing to testify for the truth of the matters asserted, depriving Respondent of the opportunity to cross examine this evidence.

2. Of particular concern to Respondent during the hearing that after some witnesses had testified and been released the Presiding Hearing Panel Member permitted subsequent

witnesses to testify about conversations they had with the prior witnesses who had been released. Disciplinary Counsel knew the witnesses she would call and knew their anticipated testimony. She should have elicited from the witnesses as they testified information she believed admissible. Allowing subsequent witnesses to testify about what these previous witnesses said permitted hearsay, depriving Respondent the right again to confront the evidence presented.

3. It continues to be Respondent's position that the Presiding Hearing Panel Member should not have relaxed the rules or standards for the admission of evidence in furtherance of mitigating and aggravating issues in the case. Disciplinary Counsel should have sought a bifurcated hearing if she did not want to be held throughout the proceeding to the higher evidentiary standard otherwise applicable. Under the circumstances, and considering that there were panel members not trained in the law, it was inadequate to assume that the hearing panel members would know when and how to distinguish evidence submitted for the limited purposes of mitigation and aggravation and evidence submitted for other purposes. Finally, there was no record made that the panel members were advised about considering some evidence solely for the limited purpose of mitigating and aggravating factors or sentencing generally.

4. Disciplinary Counsel apparently did not admonish Judge Gerald Williams to restrict his testimony to the issues that were before the Commission. As a result he frequently made statements about unrelated matters, toward the obvious end of prejudicing the panel against Respondent. There was no opportunity to object to the statements because they were offered by this witness spontaneously, rather than in response to a question. Requesting that the statements be stricken was inadequate in the context of this case. The statements were unduly prejudicial to the Respondent.

5. The Presiding Hearing Panel Member permitted an excessive amount of evidence about the Respondent's custody proceedings into evidence. Respondent concedes that as a Judge activities in his personal life can be considered. However, the extent of information permitted in evidence from the custody proceedings greatly exceeded what is appropriate and was extremely prejudicial to the Respondent.

6.

DATED this 2<sup>nd</sup> day of May, 2012

By: The Cohen Law Firm

/s/ Larry Cohen

Larry J. Cohen, Esq.

COHEN LAW FIRM

P.O. Box 10056

Phoenix, Arizona 85064

Attorneys for Judge Woolbright

Jennifer M. Perkins  
Disciplinary Counsel (Bar #023087)  
Commission on Judicial Conduct  
1501 W. Washington St., Suite 229  
Phoenix, Arizona 85007  
Telephone: (602) 452-3200

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	
<b>Judge Phillip Woolbright</b>	)	Case No. 11-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>DISCIPLINARY COUNSEL’S</b>
State of Arizona	)	<b>POST-HEARING OFFER OF PROOF</b>
Respondent.	)	

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Presiding Hearing Panel Member Judge Winthrop authorized the parties to submit written offers of proof after the conclusion of the hearing in this matter for the purpose of ensuring a complete record as to any evidentiary disputes. Pursuant to that authorization, Disciplinary Counsel hereby objects to the Presiding Member’s ruling regarding the admissibility of evidence intended to establish aggravating and mitigating factors.

This issue was previously briefed and argued in the context of the parties’ pre-hearing motions *in limine*. In summary, Disciplinary Counsel’s position was and remains that evidence submitted in a judicial discipline case for the limited purpose of establishing aggravating and mitigating factors is subject to a lesser evidentiary standard and may include hearsay as long as the evidence is “reasonable”. *See* Motion in Limine at 2-4 (filed April 3, 2012); Response to Respondent’s Motions in Limine at 1-3 (filed April 17, 2012). These arguments are hereby incorporated by reference.

Commission Rule 27(f)(2) states, “The Arizona Rules of Evidence shall apply as far as practicable in all commission proceedings.” This rule essentially mirrors the relevant rule in the attorney discipline context: Supreme Court Rule 48(c) likewise states that “the rules of evidence applicable in the superior court shall be followed as far as practicable.” In that context, the Court recognized that the rules of evidence need not strictly apply when establishing aggravating and mitigating circumstances. *See In re Varbel*, 182 Ariz. 451, 455 n. 7, 897 P.2d 1337, 1341 n.7 (1995) (“Because even under our criminal jurisprudence (except in death penalty cases), aggravating circumstances need only be supported by reasonable evidence, it is difficult to believe that a higher standard of proof could or should be required in attorney discipline cases.”) (internal citations and quotation marks omitted).

Judge Winthrop sustained hearsay objections to the following pieces of evidence, which should have been admitted as “reasonable” for the purpose of establishing aggravating factors:

1. **Attachment 1:** December 12, 2011, Letter from Constables to Commission;
2. **Attachment 2:** December 14, 2011, Objection to Stipulated Agreement and/or Amicus Comments for Consideration;
3. **Attachment 3:** March 27, 2012, Letter from Judge Rachel Torres Carrillo;
4. **Attachment 4:** Relevant Media Reports
5. **Attachment 5:** Testimony of Hon. Gerald Williams regarding aggravating factors that included hearsay statements.<sup>1</sup>

Disciplinary Counsel thus hereby requests that the Supreme Court, upon review of this matter, overrule Judge Winthrop and adopt the standards identified in the *Varbel* case for the judicial discipline context, allowing for the admission of “reasonable” evidence. The Court should then apply that standard to determine the admissibility of the attached evidence and, to

---

<sup>1</sup> While this testimony was not permitted during the hearing, Judge Williams provided the relevant testimony during his deposition, excerpts of which are attached hereto [April 5, 2012, Deposition at 95:8 – 99:25].

the extent the Court deems any proposed evidence as “reasonable,” consider the evidence in establishment of the aggravating factors in this case, granting it whatever weight the Court deems appropriate.

Dated this 2nd day of May 2012.

**COMMISSION ON JUDICIAL CONDUCT**

s/ Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

Copy delivered on April 30, 2012,  
via electronic mail to:

Larry J. Cohen, Esq.  
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[ljc@ljcohen.com](mailto:ljc@ljcohen.com)

*Counsel for Respondent*

By: s/ Jennifer M. Perkins

**Attachment 1**  
**Disciplinary Counsel's**  
**Offer of Proof**



## Northwest Regional Court Center Constables

Constable Lennie McCloskey  
Constable Phil Hazlett

Constable Ron Myers  
Constable Miles Keegan

DEC 12 2011

December 12, 2011

Mr. George A. Riemer  
Executive Director  
Arizona Commission on  
Judicial Conduct  
1501 W. Washington St. Suite 229  
Phoenix, AZ 85007

Reference: Judge Phillip Woolbright

Dear Mr. Riemer:

The undersigned four Constables have all been elected to serve the Justice of the Peace Courts located in the Northwest Regional Courthouse in Maricopa County. In our position we are familiar with Justice of the Peace Phillip Woolbright of the Arrowhead Justice Precinct as we all have to serve orders and other process issued by his court. We are all acutely aware of the charges of misconduct that have been made against Judge Woolbright.

We have also been made aware of the proposed settlement between the Judicial Conduct Committee and Judge Woolbright that might result in his being suspended for a period of sixty days for his actions.

It is our duty to serve all process issued by a Justice of the Peace or other competent authority. It is beyond our understanding why Judge Woolbright might be given a slap on the wrist for these offenses. The idea of a suspension is tantamount to a vacation for him after having disgraced the office of Justice of the Peace. Voters put him in office expecting him to fairly and honestly serve the community and to follow the Judicial Canons for his office.

We believe that Judge Woolbrights' conduct was so outrageous any punishment merits more than what has been proposed. For a Judge to knowingly attempt to avoid service of an Order of Protection by a licensed processor server who is an officer of the court and then to sit on the bench adjudicating similar actions is inconceivable. For a Judge to issue Orders of Protection and then be arrested for violating an order against him is just beyond belief. How can such an individual fairly and impartially sit on the bench and hear these types of cases after such an incident?

Phone 602-372-2565 Hassayampa – 602-372-2566 North Valley  
602-372-2567 Manistee – 602-372-2568 Arrowhead  
14264 W. Tierra Buena Lane  
Surprise, AZ. 85374

CJC000654

Additionally, it is our understanding that Judge Woolbright has been accused of attempting to persuade a witness in this case to reconsider her statements to your investigator. If this is correct, it would appear to be a violation of ARS 13-2804 Tampering with a Witness which is a class 6 felony. If this has occurred it is our belief that the matter should be referred to the Maricopa County Attorney for a legal opinion as to possible criminal prosecution.

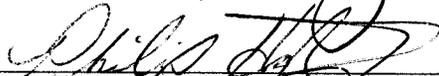
If Judge Woolbright were to return to the bench this would place his Court Manager in an untenable position as she is the chief witness against him. It would make for a situation tantamount to a hostile work environment for her and could potentially open Maricopa County up to legal action on her part.

It is the belief of the four of us that any punishment short of removal from the bench would be insufficient in this instance. It is our belief that Judge Woolbright has brought so much shame and disgrace on his office that he can never again be an effective and impartial Judge in any future proceedings.

Based on all the above, we are asking that you reconsider the offer of suspension and proceed towards removal from the bench.

Respectfully submitted,

  
\_\_\_\_\_  
Constable Ron Myers-Arrowhead Precinct

  
\_\_\_\_\_  
Constable Phil Hazlett-North Valley Precinct

  
\_\_\_\_\_  
Constable Lennie McCloskey-Manistee Precinct

  
\_\_\_\_\_  
Constable Miles Keegan-Hassayampa Precinct

**Attachment 2**  
**Disciplinary Counsel's**  
**Offer of Proof**

STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning:	)	
	)	
PHILLIP WOOLBRIGHT	)	Case No. 2011-111
Arrowhead Justice Court	)	
Maricopa County	)	<b>OBJECTION TO STIPULATED</b>
State of Arizona,	)	<b>AGREEMENT and/or</b>
	)	<b>AMICUS COMMENTS</b>
Respondent.	)	<b>FOR CONSIDERATION</b>

There is no mechanism in the Rules for the Arizona Commission on Judicial Conduct for judges, who are not parties to a formal case, to provide feedback on a proposed stipulated agreement for discipline by consent. However, this particular case is highly unusual and it is perhaps uniquely important that all decision authorities have as much information as is possible. The undersigned judges, in their individual capacities as judges, commend the efforts to resolve this case without the need for a formal hearing; however, those same judges are concerned about the agreed upon sanctions. It may also be relevant that none of the justice court judges who work in the same building with the Respondent desire him to return.

**BEFORE AN ATTORNEY IS APPOINTED TO ACT AS A MENTOR FOR A YEAR, THERE MUST BE SOME TYPE OF DETERMINATION MADE THAT THE RESPONDENT IS RECEPTIVE TO CONSTRUCTIVE CRITICISM BECAUSE TO DATE, HE HAS NOT BEEN**

The Respondent in this case may not be “teachable.” The Respondent has already been through Arizona New Judge Orientation – twice. When he asks a question of another judge, he often is merely seeking a reaffirmation of what he believes he should already do. When another judge gives an answer inconsistent with what the Respondent believes the law to be, the Respondent becomes argumentative. From the bench, the Respondent reportedly often announced that he was “well versed in the law.” Landlord attorneys complain that, when they attempt to apply the law to the facts of the case during closing arguments, the Respondent interrupts them and scolds them for attempting to explain the applicable law to him.

There is a problem with using the fact that the Respondent is not an attorney as a mitigating factor. *In re Lorona*, 178 Ariz. 562, 875 P.2d 795, 802 (1994)(Non-lawyer judge should be held to same ethical standards of attorney judge). His constant mendacity has nothing to do with the lack of a law degree. However, and perhaps more significantly, there should not be a reduced ethical standard for judges who are not attorneys. ALL judges are expected to

either know the law or at least be able to find it by the day they take office. The Respondent has some problems in this area.

The Respondent proudly campaigned that he was not an attorney and instead was going to bring "morals and ethics to the bench." (See Attachment One). His campaign material noted, "Phillip Woolbright does not align himself to the legal industry and is not a lawyer nor has any desire to be a lawyer. He believes that in the Justice Court, a citizen on the bench, educated in law, is best to be impartial. Phillip Woolbright has the life wisdom and judicial education combined with experience that the Justice Court needs." (See Attachment One).

An example of the Respondent's application of, or disregard for, the law can be found within a recent appellate opinion. (See Attachment Two). In an eviction action after a trustee's sale, a tenant either begins paying rent to the new property owner under the terms of the existing lease or has 90 days to vacate (depending on whether the new owner is going to occupy the property). The Respondent, without any legal basis to do so, decided that a tenant in those circumstances must leave in 30 days and went on to determine the amount of the tenant's rent. The Respondent also awarded the tenant a \$300.00 judgment for "inconvenience/trespassing" even though no counterclaim had been made and no counterclaim was legally authorized.

Funding for this mentor is also a concern. A mentor who is merely available by telephone if the Respondent decides to ask a question would be ineffective. An attorney present with the Respondent in the courtroom each day might be appropriate; but it could be cost prohibitive. If the Commission believes that a mentoring program is appropriate, then it should also identify a funding source for that program, other than Maricopa County.

## **A TWO MONTH SUSPENSION IS TOO LENIENT GIVEN THE LEVEL AND PATTERN OF JUDICIAL ETHICAL MISCONDUCT**

The Respondent's misuse of his official position, during duty hours to direct his court manager to move his car to the secured judges' parking lot, to avoid being served with an Order of Protection is not a minor matter. So that a complete picture of his actions becomes part of the record in this case, a witness statement is attached. (See Attachment Three). The Respondent then exponentially compounded this misconduct by filing a false answer about this matter in response to the formal charges in this case. As if this were not enough, he then harassed his court manager, at her home and at work, about the incident after realizing that he had been caught in a lie. The Respondent also attempted to misuse the local police and gave false testimony about a court access issue during his own divorce. This complete picture is what caused former Judge John Keegan to resign from serving as a paid pro tem judge so he would be able to call for the Respondent to resign from office. (See Attachment Four).

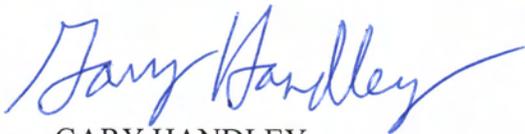
If the Respondent's misconduct, especially given that it includes filing a false answer in response to formal charges, warrants only a two month suspension, then the level of misconduct required for anything above that becomes almost unimaginable. *See generally, In re Lorona,*

178 Ariz. 562, 875 P.2d 795 (1994)(JP who contacted magistrate about pending cases involving the JP's friends and step-grandson received 90 day suspension; Commission had recommended 15 day suspension); *Cf. In re Curfman*, JC-98-0004 (April 20, 1999)(City judge who operated a towing company received 90 day suspension for refusing to return vehicle); *In re Bradshaw*, JC-97-0001 (June 6, 1997)(Superior Court judge was suspended for 90 days for not ruling on 28 cases within 60 days); *In re Braun*, 180 Ariz. 240, 883 P.2d 996 (1994)(JP, who was constantly late and failed to timely decide cases; stipulated to 30 day suspension and agreed not to seek reelection). In addition to setting an inappropriate precedent, the two month suspension will have another unintended consequence.

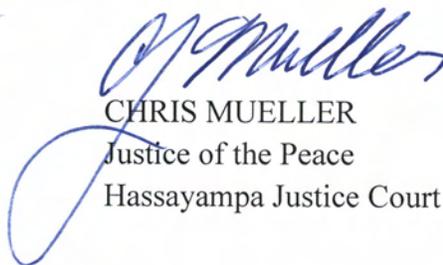
An unintended consequence of such a lenient suspension will be that court clerks will be, at best, reluctant to communicate with representatives from the Arizona Commission on Judicial Conduct's staff. In this case, the Respondent's court manager acted in accordance with all aspects of the Arizona Code of Conduct for Judicial Employees. She cooperated with the Commission's staff and agreed to testify against her boss in a public hearing. Now, she will most likely be forced to find another job.

### CONCLUSION

For the reasons stated, we have some concerns about the Stipulated Agreement For Discipline By Consent in this case.



GARY HANDLEY  
Justice of the Peace  
Manistee Justice Court



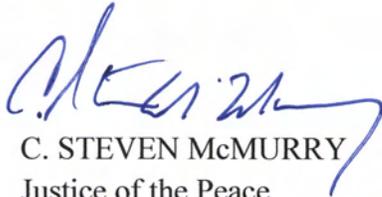
CHRIS MUELLER  
Justice of the Peace  
Hassayampa Justice Court



GERALD A. WILLIAMS  
Justice of the Peace  
North Valley Justice Court

#### Attachments:

1. Campaign Material; Available on <http://www.votewoolbright.com>
2. *Lucas Properties Arizona, LLC v. Scot Martin*, LC2011-000448-001 DT (10/11/2011)
3. Witness Statement, Judge Gerald A. Williams, dated 28 March 2011
4. Editorial by former Judge John C. Keegan



C. STEVEN McMURRY  
Justice of the Peace  
Encanto Justice Court



RACHEL T. CARRILLO  
Justice of the Peace  
West McDowell Justice Court



CLANCY JANE  
Justice of the Peace  
Desert Ridge Justice Court

# Attachment One

***“Our community wants an impartial judge.  
Hard working. Honest. Fair.”***



**Phillip Woolbright Quick Facts:**

- Appointed by the Superior Court of Arizona for the Justice Courts, working as a Volunteer
- Not an attorney... a Citizen educated by the 'Judicial College of Arizona' to become a judge.
- A part-time preacher, bringing morals and ethics to the bench

**Justice of the Peace**

---

The Justice of the Peace serves a four year term and presides over civil cases under \$10,000 and misdemeanor type criminal cases. The Justice Court is a Limited Jurisdiction Court. Those charged with Driving Under the Influence (DUI) and Misdemeanor crimes are heard in the justice courts as well as Orders of Protection, Injunctions Against Harassment, Landlord / Tenant Disputes, Traffic Cases and Small Claims. Over 25,000 cases are filed each year which demands a judge with stamina, wisdom and energy.

**Phillip Woolbright - Education and Experience**

---

In addition to the Judicial College of Arizona classes taken to become a judge in the Justice Courts, Phillip Woolbright has

attended Abilene Christian University classes on the Gospels and extensive studies through the Church of Christ Preacher Training Program in Oregon to become a preacher.

Prior to his judicial and preacher training Phillip attended the following schools for his career as a Computer Chip Designer.... the California Academy of Drafting, The Institute for Business and Technology, Masters Printed Circuit Design School and also holds an Associate of Applied Science Degree in General Technology and was trained as an apprentice designer by three top journeymen to start a computer chip design firm called APM Design Laboratories Inc.

In the early 90s, Phillip went to Real Estate School to assist a Home Construction business and also worked in construction to start his own company. Continued self study legal research and judicial education are attended often to keep Phillips judicial skills fine tuned and the new case laws and statutes up to date.

### Phillip Woolbright - Professional and Family Life

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Phillip Woolbright currently sits on the bench in several Justice Courts in Maricopa County part time to help the courts and serves his time "pro bono" without charge to the community. The Arizona Superior Court appointed Phillip Woolbright to the courts after his completion in 2008 of the classes taken at the Judicial College of Arizona. The education offered, by the Judicial College of Arizona about adjudication of the law, has truly been an inspiration for Woolbright to perform



further judicial work and humbly serve his community. Phillip Woolbright does not align himself to the legal industry and is not a lawyer nor has any desire to be a lawyer. He believes that in the Justice Courts, a citizen on the bench, educated in law, is best to be impartial. Phillip Woolbright has the life wisdom and judicial education combined with experience that the Justice Court needs.

A true joy in Phillip Woolbright's life is his part time preaching job to congregations all over the state of Arizona and New Mexico. Phillip is a former Deacon with the church, serving and helping the benevolent, the widows and has been preaching now for over 17 years part time. Preaching has been an interest of Phillip for a long time, after losing his brother at the age of 12 to drugs and alcohol, and seeing the effects of crimes on a family, it has motivated Phillip to be a servant of the Lord and the community. Now, as a polished speaker, with a lifetime dedication to the Lord, this work is a true solitude in his life. The Woolbright family travels to different congregations on the weekends, where help is provided in sermons and classes regarding Gods salvation, relationships, morals and ethics.

Phillip Woolbright is a former Computer Chip Mask Design Engineer. He worked steady for many years and was forced to find other employment when design work was sent overseas to other countries and Mask Design Engineering began fading in the United States. However, Phillip created many chips for those years in the industry. Several chips were built for the Department

of Defense and NASA by subcontracting through major Semiconductor Companies such as Motorola, Intel, Rockwell Scientific and others. In 1989, Woolbright was one of over 100 designers to build a large microprocessor for the military F18e fighter jet. Part of the microprocessor later became the foundation for Intel's' Pentium Microprocessor. In the 1980s and 1990s new innovations in computer chip technology had been developed by Woolbright for the Star Wars Program started by President Ronald Reagan. Also, Woolbright developed a patent that helped use artificial intelligence to design computer chips automatically using Computer Aided Design tools. Finally, one of Woolbright's designs was for NASA and the Hubble Space Telescope in 2003 called the Imaging Sensor that collects detailed light images from outer space. Woolbright currently assists companies with design consulting advice. His design company has a website found at [www.apmdesignlabs.com](http://www.apmdesignlabs.com)

At the turn of the century Phillip Woolbright helped start a construction company and has developed parcels of land including several small homes around the state for low income families. The company is called A and B Homes Inc. and contributes to the community with voluntary services to churches and free remodeling advice. Phillip Woolbright at one time obtained a real estate license and is currently a licensed General Contractor. The latest project for the company can be found at the website. [www.abhomesaz.com](http://www.abhomesaz.com)

Phillip Woolbright is blessed with 4 children and a very

supportive wife. The neighborhood children find the Woolbright home a safe haven and respect the rules of their house. Many teens stay at the Woolbright home during the summer and those teens also attend summer camp together in July. Over the last ten years the Woolbrights have also been very involved in raising Labrador Retrievers while delivering Labrador puppies to good homes.

Phillip Woolbright has many hobbies such as playing guitar in his soft rock and country band and performing to young children his antics as an amateur magician and juggler. Other projects include restoration of an old 1963 pickup truck with his boys and keeping fit as a basketball referee at the High Schools in Maricopa County.

### Phillip Woolbright - The Candidate

---

Phillip Woolbright is appalled by injustice. There are many things that Judges "can" do, however just because they can do something legally does not mean that they should do it as a judge. Keeping the judiciary "above reproach" is very important to the people of the community and the other judges that sit on the bench. Those things that appear as "greedy politics" or something that appears less than service to the community should be avoided. It also makes the political party look intoxicated. Our Judicial branch of government should be upheld with HONOR and those serving should behave with the honor and dignity that the office represents on and off the bench.

Questions or Comments? Contact Us Today!

---

Office: (623) 412-9044 or [woolbrightjustice@gmail.com](mailto:woolbrightjustice@gmail.com)

**Phillip Woolbright is the RIGHT candidate.**

**Paid for by: Woolbright for Justice of the Peace Committee**

# Attachment Two

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2011-000448-001 DT

10/11/2011

COMMISSIONER MYRA HARRIS

CLERK OF THE COURT  
H. Beal  
Deputy

LUCAS PROPERTIES ARIZONA L L C

BRADY L JONES

v.

SCOT MARTIN (001)

SCOT MARTIN  
9327 W CINNABAR AVE  
PEORIA AZ 85345

ARROWHEAD JUSTICE COURT  
REMAND DESK-LCA-CCC

RECORD APPEAL RULING / REMAND

**Lower Court Case No. CC2011042208**

Plaintiff Appellant Lucas Properties Arizona, LLC (Plaintiff) appeals the Arrowhead Justice Court's determination—during a forcible entry proceeding—that (1) it owed Defendant damages for trespassing and (2) Defendant had established a month to month tenancy. Plaintiff contends the trial court erred. For the reasons stated below, the court reverses the trial court's judgment.

**I. FACTUAL BACKGROUND.**

On March 2, 2011, Plaintiff filed a forcible detainer action claiming Defendant was an unauthorized occupant. Although Defendant had a rental agreement with the original homeowner and was current on his rent, he entered this agreement in December, 2010, after the home went into foreclosure. Plaintiff purchased the home on February, 15, 2011. Plaintiff alleged (1) Defendant's rental agreement provided for rent substantially below the market rate; and (2) Defendant was not entitled to complete the rental term according to the Protecting Tenants at Foreclosure Act of 2009, § 702(a), 12 U.S.C. § 5220 (PTFA) because he knew of the foreclosure prior to signing the agreement. Plaintiff requested damages including past rent, attorneys' fees, and sums for damage to the property.

On February 17, 2011, Plaintiff posted a "Five Day Notice" at the premises informing the tenant the property had been purchased at a trustee's sale. On March 2, 2011, Plaintiff filed a Complaint and demanded (1) rent of \$1,000.00; (2) possession of the property; (3) money

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damages for any damage to the property; and (4) attorney fees and costs. Plaintiff alleged Defendant was not a bona fide tenant and was occupying the property without authorization after a foreclosure. Defendant was told to contact the new owner and produce a copy of the signed lease plus proof of payment of the rent for the past four months. Defendant filed an Answer and a Counterclaim on March 10, 2011. In his Answer, Defendant asserted he had 90 days in which to vacate and listed the options he believed Plaintiff offered him. He also pled that if he was not a bona fide tenant, he was a tenant at will. In the Counterclaim, Defendant alleged Plaintiff breached the PTFA and requested (1) "a minimum of 90 days to vacate"; (2) \$2,300.00 moving costs; and (3) "\$500.00 loss of hours at work/compensation for time and inconvenience this has caused me."

The Court held a trial on March 10, 2011. At trial, both the property manager for Plaintiff and the Defendant testified about the circumstances surrounding the tenancy. Defendant stated he had been living at the property with his then girlfriend—and original homeowner—for approximately ten to eleven months.<sup>1</sup> Their relationship ended by summer's end.<sup>2</sup> Defendant and the original owner entered a six month lease of the premises in December, 2010.<sup>3</sup> Defendant stated his girlfriend moved out of the property at the end of the summer.<sup>4</sup> The home went into foreclosure in October, 2010. Defendant stated he did not know about the foreclosure.<sup>5</sup> He also testified he negotiated the lease terms with his former girlfriend and stated he agreed he would help repair the home—he is a handyman—and pay rent of \$600.00 per month. The property manager testified the amount of the rent charged was substantially below the current market value for similar properties in the area and provided comparative prices for rental homes of similar size.<sup>6</sup> Defendant provided copies of receipts indicating rent was paid in December, 2010; January, 2011; and February 2011.

Plaintiff purchased the property on February 15, 2011. Its property manager went to the premises to investigate the home's condition. She stated the property appeared to be vacant.<sup>7</sup> She noticed the door going into the home appeared to have been knocked down. She went inside and noticed there was no power.<sup>8</sup> After she spotted a candle in the living room, she left.<sup>9</sup> She then returned to her office and obtained a "5-day Notice" which she posted at the premises. Because Defendant called and informed her the Five Day Notice contained incorrect information, she later returned with a corrected Five Day Notice which resulted in Defendant having an additional

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<sup>1</sup> Audio recording, bench trial, March 10, 2011 at 2:28:48.

<sup>2</sup> *Id.* at 2:32:36.

<sup>3</sup> *Id.* at 2:30:18.

<sup>4</sup> *Id.* at 2:32:36.

<sup>5</sup> *Id.* at 3:8:41.

<sup>6</sup> Plaintiff's Exhibit 4.

<sup>7</sup> Audio recording, at 2:44:31.

<sup>8</sup> *Id.* at 2:44:31–2:45:00.

<sup>9</sup> *Id.* at 2:45:14.

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four days in which to vacate the home.<sup>10</sup> Although the property manager posted the notice on February 17, 2011,<sup>11</sup> Defendant told her he did not receive the notice until February 19, 2011.<sup>12</sup>

The parties engaged in a series of offers and counteroffers about Defendant vacating the home. Initially, Plaintiff offered Defendant \$500.00 but later increased the offer to \$2,300.00 if Defendant would vacate the home by March 4, 2011.<sup>13</sup> Defendant stated the property manager initially told him (1) he was not a bona fide tenant and (2) he needed to vacate the home within two days.<sup>14</sup> He stated he believed he had 90 days in which to leave if he was a bona fide tenant or 30 days if he was a month to month tenant.<sup>15</sup> He further stated he thought he would be able to pack up and locate a new residence within two weeks. Defendant testified the property manager made several offers. He also said—as a part of the \$2,300.00 offer—the property manager requested he leave his brand new washer, dryer, and refrigerator—with his estimated value of \$3,000.00—at the home.<sup>16</sup> Defendant stated this request caused him to believe the property manager had been in his home and he called and asked if she had been there. Defendant maintained he believed the property manager needed to give notice before entering his home.<sup>17</sup>

At the trial's conclusion, the trial court (1) ruled Defendant was not a bona fide tenant; (2) determined Defendant was subject to a month to month tenancy; and (3) awarded Defendant damages of \$300.00 for Defendant's "inconvenience" because of the property manager's trespass at his home. The trial court established a monthly rental value for the property of \$900.00 for rent due mid-March and offset the \$300.00 award to Defendant against the rent. Finally, the trial court informed Defendant he would need to vacate the premises by April 15, 2011, if Plaintiff gave him a 30 day notice. After the trial but before the appeal was finalized, Defendant moved from the property.<sup>18</sup>

Plaintiff filed a timely appeal. Defendant failed to file a response. This Court has jurisdiction pursuant to ARIZONA CONSTITUTION Art. 6, § 16, and A.R.S. § 12-124(A).

II. ISSUES:

*A. Is the Appeal Moot.*

Defendant moved from the premises following a second FED action. Plaintiff is appealing from the trial court's decision in its first FED case and asserts the claim should not be dismissed as moot because this is an issue "capable of repetition yet evading review" or "of great

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<sup>10</sup> *Id.* at 2:45:45–2:46:15.

<sup>11</sup> *Id.* at 2:47:01.

<sup>12</sup> *Id.* at 2:48:38.

<sup>13</sup> *Id.* at 2:48:58.

<sup>14</sup> *Id.* at 3:14:26.

<sup>15</sup> *Id.* at 3:14:28.

<sup>16</sup> *Id.* at 3:15:54–3:16:03.

<sup>17</sup> *Id.* at 3:16:05.

<sup>18</sup> Plaintiff filed a second FED after Defendant failed to pay his court ordered rent.

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public importance”.<sup>19</sup> Plaintiff asserts this is an issue of great public importance because foreclosed properties are often home to non-owner occupants. Defendant was a non-owner occupant who signed a lease after the notice of foreclosure. As such, he was not subject to the protections of the PTFA. In *Bank of New York Mellon v. De Meo*, 227 Ariz. 192, 254 P.3d 1138 ¶ 8 (Ct. App. 2011) the Arizona Court of Appeals considered the issue of mootness in a case involving the PTFA. In *Bank of New York Mellon, id.*,—as in the case before this Court—Defendant vacated the premises before the appeal ended. The Court determined the issue of notice under the PTFA and its application to the FED statutes fell within the mootness exception. Because this issue may be repeated, this Court will proceed with Plaintiff’s appeal.

*B. Did the Trial Court Abuse Its Discretion When It Ruled Defendant Had a Month to Month Tenancy in a Forcible Detainer Action.*

This case presents a mixed question of fact and law. The fact portions will be reviewed on an abuse of discretion standard and any interpretation and application of statutes will be reviewed *de novo*. *Bank of New York Mellon, id.* ¶ 11. Where this Court reviews the trial court’s actions based on an abuse of discretion standard, this Court will not change or revise the trial court’s determination if there is a reasonable basis for the order. A court abuses its discretion when there is no evidence supporting the court’s conclusion or the court’s reasons are untenable, legally incorrect, or amount to a denial of justice. *Charles I. Friedman, P.C. v. Microsoft Corp.*, 213 Ariz. 344, 141 P.3d 824 ¶ 17 (Ct. App. 2006). In discussing discretion, the Arizona Supreme Court, in *State v. Chapple*, held:

Something is discretionary because it is based on an assessment of conflicting procedural, factual or equitable considerations which vary from case to case and which can be better determined or resolved by the trial judge, who has a more immediate grasp of all the facts of the case, an opportunity to see the parties, lawyers, and witnesses, and who can better assess the impact of what occurs before him. Where a decision is made on that basis, it is truly discretionary and we will not substitute our judgment for that of the trial judge; we will not second-guess. Where however, the facts or inferences from them are not in dispute and where there are few or no conflicting procedural, factual or equitable considerations, the resolution of the question is one of law or logic. Then it is our final responsibility to determine law and policy and it becomes our duty to “look over the shoulder” of the trial judge and, if appropriate, substitute our judgment for his or hers.

*State v. Chapple*, 135 Ariz. 281, 297 n.18, 660 P.2d 1208, 1224 n. 18 (1983) (citation omitted). In this case, the “factual and equitable considerations which vary from case to case” are not in dispute. Neither party contested Defendant had a lease and the date the lease was signed. The record clearly reflects the home went into foreclosure in October, 2010, and Defendant signed

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<sup>19</sup> This Court reminds the parties the opinion does not have any precedential value.

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his lease in December, 2010. Defendant's lease provided he pay rent of \$600.00 per month, an amount below comparable rental values for the area. Defendant's testimony reflected he was aware his rent was reduced below current market value because he testified he agreed to provide handyman services and repair the home in addition to his rental obligation. Thus the parties agreed with the factual and equitable considerations. They disagreed about the significance of Defendant's status as a renter under the PTFA, a federal law designed to give existing tenants rights when the home they rent is sold pursuant to a foreclosure. Because this is primarily a "question of law or logic" this Court has "the final responsibility to determine law and policy". Consequently, this Court may exercise its final responsibility to determine if the trial court impermissibly determined Defendant had a month to month tenancy during the forcible detainer action.

As is more fully explained in section C, a forcible detainer is a limited procedure to allow possession of the property. After Plaintiff filed the forcible detainer Defendant alleged he was subject to the protections of the PTFA. 12 U.S.C. § 5220. The PTFA requires a bona fide tenant be given 90 days—or until the end of the lease—notice before the lease is terminated. The statute defines a bona fide tenant as a person who held a tenancy as a result of an arms-length transaction which required rent that was not substantially less than fair market rent for the property. At trial, Plaintiff presented evidence and argued Defendant did not meet the criteria of a bona fide tenant because (1) the lease was not the result of an arms-length transaction; and (2) his rental agreement was for less than the fair market value. Defendant testified he ended his relationship with his girlfriend several months prior to signing the lease and provided handyman services in addition to the rent. The trial court found the transaction was an arms length transaction. However, the trial court also found Defendant failed to show he paid fair market rent for the property. Plaintiff provided evidence about the rental value for comparable properties which indicated similar homes rented for between \$900.00 and \$1,100.00 per month. Defendant contracted to pay only \$600.00 per month. The trial court ruled Defendant rented the property for less than market value and therefore Defendant did not qualify as a bona fide tenant according to PTFA.

Once the trial court determined Defendant did not enjoy the status of a bona fide tenant, the trial court should have recognized Defendant was not entitled to PTFA protection. At that point, the matter should only have proceeded as a forcible detainer. The trial court, however, ruled Defendant had a month to month tenancy and determined (1) he should be afforded 30 day notice before the new owner could take back the property; and (2) the amount of rent Defendant should pay. Neither of these issues was properly before the trial court on a forcible detainer and the trial court exceeded its authority when it ruled on them. This Court notes the trial court's ruling may have been intended to be an equitable resolution to the issues between the parties. However, a forcible detainer action does not lend itself to such a creative approach. It is a summary proceeding and, as such, is a harsh remedy, particularly against a tenant who paid his rent and entered his lease in good faith. Defendant should have been notified about the effect the

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pending foreclosure might have on his tenancy. A.R.S. § 33-1331 (A) mandates such notification by the former owner. If the former owner did not comply with this statute, however, Defendant's remedy lies against the former owner and not against Plaintiff who did no more than exercise its right to obtain possession of the property it purchased.

*C. Did the Trial Court Err When It Allowed Defendant's Counterclaim in a Forcible Detainer Action*

Forcible detainer actions are limited proceedings. They are intended to provide "a summary, speedy and adequate remedy for obtaining possession of the premises withheld by a tenant"—and allow the rightful owner to retain—or gain—possession of the property. *Old Bros. Lumber Co. v. Rushing*, 64 Ariz. 199, 204, 167 P.2d 394, 397 (1946).

This leads up to a consideration of the nature of an action of forcible entry or detainer. Such actions are statutory proceedings, the only means of trying the right to the possession of property at common law being the common law action of ejectment. The common law action of ejectment is now codified in this and most states of this county, [sic] and in such an action the Court may determine the question of which party has the paramount legal title to the premises for the purpose of determining who has the right to possession.

*Id.* (Citation omitted.) The Arizona Supreme Court stated the right to actual possession is the only issue to be determined in a forcible detainer action. *Id.* This standard has been re-iterated in numerous decisions. In *Gangadean v. Erickson*, 17 Ariz. App. 131, 134, 495 P.2d 1338, 1341 (Ct. App. 1972), the Court of Appeals explained:

The reason for denying counterclaims and the like and limiting judgment only to possession, costs, and recovery for unpaid rent is to preserve the proceeding as a summary remedy. Allowing other claims would increase the issues and protract the action.

In *United Effort Plan Trust v. Holm*, 209 Ariz. 347, 351, 101 P.3d 641, 645 (Ct. App. 2004), the Court of Appeals stated:

The purpose of a forcible detainer action is limited, however; it is not a vehicle to decide whether the parties have a landlord-tenant relationship or were under a lease agreement.

In *Colonial Tri-City Ltd. Partnership v. Ben Franklin Stores, Inc.*, 179 Ariz. 428, 433-34, 880 P.2d 648, 653-54 (Ct. App. 1993), (citations omitted), the Court of Appeals stated:

Because the only issue to be decided in a summary proceeding is the actual right of possession, a trial court hearing a section 22-361 action governed under the forcible entry and detainer statute may not consider counterclaims, offsets, or cross-claims either as defenses or as claims for affirmative relief.

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Our result is not novel. Arizona has long recognized that claims and counterclaims for damages for breach of a lease, and attorney's fees incurred for the landlord's retaking of the premises are not issues to be determined in a forcible entry and detainer action.

Because forcible detainer actions are limited proceedings, courts are not to determine all of the issues the parties may face within the ambit of a forcible detainer action. Possession is the only issue the court may determine. As indicated, courts may not consider counterclaims, cross claims or offsets in a forcible detainer action. *Hinton v. Hotchkiss*, 65 Ariz. 110, 116, 174 P.2d 749, 754 (1946); *Old Bros. Lumber Co.*, 64 Ariz. at 205, 167 P.2d at 400. The Arizona Supreme Court then continued in *Old Bros. Lumber Co., id.*, and held the purpose of the forcible detainer is to provide a speedy remedy to obtain possession of premises. Any subsequent judgment on the forcible detainer is not a bar to later civil proceedings between the parties. *Id.* Indeed, where there is a genuine issue that is not suited to a forcible detainer process, that issue is one that "must be left to an ordinary civil action in which time periods are not accelerated, counter-and cross-claims are allowed and there is an opportunity for discovery." *RREEF Management Co. v. Camex Productions, Inc.*, 190 Ariz. 75, 79, 945 P.2d 386, 390 (Ct. App. 1997).

In the case before this Court, the trial court erred when it considered Defendant's counterclaim and awarded Defendant damages. While Defendant might have made requests in a general civil action, a forcible detainer proceeding was an inappropriate forum for such a claim. The trial court did not have the ability to consider this counterclaim in the forcible detainer context and erred in so doing.

*D. Did the Trial Court Abuse Its Discretion When It Awarded Damages For Trespassing When Defendant Did Not Make Any Claim For Trespassing.*

Defendant did not request any damages for trespassing. In his counterclaim, he alleged Plaintiff violated the PTFA and requested (1) a minimum of 90 days to vacate; (2) \$2,300.00 for moving costs; and (3) \$500.00 loss of hours at work/compensation for time and inconvenience caused to him. The trial court awarded him a \$300.00 judgment for inconvenience/trespassing.

It is axiomatic that a litigant must be apprised of claims so the litigant may properly defend an action. Due process requires notice and a hearing so the matter can be heard in a meaningful manner. *McClanahan v. Cochise College*, 25 Ariz. App. 13, 18, 540 P.2d 744, 749 (Ct. App. 1975). In this case, Plaintiff was not given notice about the possibility of a trespassing charge. Additionally, trespassing is not within the realm of a forcible detainer action. If Defendant believed he had a valid cause of action against Plaintiff for trespassing, he was certainly able to make the allegation and proceed with a civil suit. As the Court of Appeals stated in *Gangadean v. Erickson, id.*,

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Though defendant's counterclaim for damages allegedly caused by plaintiff's failure to pay utility bills and to repair the premises is not permissible in this type of action, this does not mean that he is without a remedy, for he can, assuming the statute of limitations has not run, pursue this claim in a separate proceeding. The forcible entry and detainer proceeding is not a bar to a subsequent action for waste, damage, rent, or breach of the lease.

17 Ariz. App. at 134, 495 P.2d at 1341.

*E. Is Plaintiff Entitled to Attorneys' Fees For the Appeal.*

Plaintiff appeals from the trial court's ruling awarding Defendant damages for Plaintiff's trespassing. This Court notes Defendant did not make a claim for trespassing. Indeed, Plaintiff argued—in its appellate memorandum—"defendant made no such claim".<sup>20</sup> Plaintiff failed to file any motion requesting Defendant's counterclaim be dismissed and failed to even raise this issue with the trial court. Plaintiff did not ask the trial court to reconsider its ruling. Because Plaintiff failed to raise this issue with the trial court and because Defendant did not oppose Plaintiff's appeal this Court finds it would be inappropriate to charge Defendant with the costs of Plaintiff's appeal and declines to do so. Plaintiff has provided this Court with no authority or argument indicating why it believes it is entitled to attorney fees in this action. This Court notes that any award of attorney fees under A.R.S. 12-341.01 is subject to an analysis about the reasons for the shifting of responsibility for fees. Our Arizona Supreme Court has discussed the factors a court should consider prior to making an award. These include:

1. whether the unsuccessful party's position or defense had merit;
2. whether the litigation could have been avoided, or settled and how the successful party's efforts influenced the result;
3. whether assessing fees against the unsuccessful party would cause extreme hardship;
4. whether the successful party prevailed with respect to all of the relief sought;
5. whether the legal question was novel;
6. whether a similar claim had been previously adjudicated in this jurisdiction;
7. whether the particular award would discourage other parties with tenable claims or defenses from litigating or defending for fear of incurring liability for substantial amounts of attorney fees.

*Assoc. Indem. Corp. v. Warner*, 143 Ariz. 567, 570, 694 P.2d 1181, 1184 (1985); *Moedt v. General Motors Corp.*, 204 Ariz. 100, 60 P.3d 240 ¶ 19 (Ct. App. 2003). In establishing these

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<sup>20</sup> Appellant's Appellate Memorandum (Forcible Detainer) at p. 7, ll. 11-12.

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factors, the Arizona Supreme Court considered the language of A.R.S. 12-341.01 and cited subsection B which states the award

. . . should be made to mitigate the burden of the expense of litigation to establish a just claim or a just defense. It need not equal or relate to the attorney's fees actually paid or contracted. . . .

*Assoc. Indem. Corp. v. Warner*, 143 Ariz. at 569, 694 P.2d at 1183. In this case, while Plaintiff prevailed on its legal argument it provided no authority indicating why it believes Defendant should be responsible for any fee shifting. Plaintiff is a company handling approximately 143 homes while Defendant is an unemployed handyman. Plaintiff failed to raise the issue about the inappropriateness of a counterclaim in a forcible detainer proceeding with the trial court. Had Plaintiff properly raised this issue, the appeal might not have been necessary. Defendant's position—he was a tenant subject to a lease and it would be unjust to summarily evict him—while legally incorrect, did not completely lack merit. Furthermore, it appears Defendant was provided information indicating he was allowed to file a counterclaim.<sup>21</sup> In reviewing the trial court file, this Court located a Residential Eviction Information Sheet following the Summons. This sheet, with an identification number FD 8150-214 R: 01-20-2009 indicates as follows:

Before Court If a tenant believes that the landlord owes him or her money, the tenant may under some circumstances file a counterclaim.

This Court further finds attorney fees would be inappropriate under A.R.S. § 12-1178. Although this statute authorizes an attorney fees award in forcible detainer actions, the fees are granted when a party is found to be “guilty” or “not guilty” of a forcible detainer. In this action, the trial court did not find Defendant to be either guilty or not guilty of a forcible detainer. Neither the trial court's Judgment nor Amended Judgment included a finding about guilt for the forcible detainer. Because the language of A.R.S. § 12-1178 specifically mentions “guilt” or “no guilt” in its language, this Court does not believe attorney fees can be authorized under this law.

Because the Defendant was generically informed he was allowed to file a counterclaim, this Court believes it would be unfair to penalize Defendant for so doing. Furthermore, Plaintiff provided no statutory or contractual basis for an attorney fee award. Defendant moved from the property before the appeal was finalized. Consequently, and based on the foregoing, this Court finds it would be inappropriate to assess Defendant for the cost of Plaintiff's attorney fees for this appeal.

### III. CONCLUSION.

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<sup>21</sup> This Court is cognizant about a tenant's right to file a counterclaim in the limited situation where the tenant is counterclaiming for landlord liabilities established either by the rental agreement or the Arizona Residential Landlord-tenant Act, A.R.S. § 33-1365 (A). Neither situation applies in this case. This distinction was not referenced in the notice and this Court declines to hold Defendant,—an unrepresented litigant—responsible for understanding the exceptions to a notice provided to him.

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This case was a forcible detainer action. Because forcible detainer actions are summary proceedings counterclaims are limited to issues involving either the Arizona Residential Landlord-Tenant Act or claims based on the rental agreement. Bbecause Defendant's counterclaim was not based on allowed issues, this Court finds the trial court erred in ruling on Defendant's counterclaim. This Court also finds Defendant was not a bona fide tenant according to the requirements of the PTFA and therefore was not entitled to the statute's protection. This Court also finds Defendant did not request damages for any trespassing and the trial court exceeded its authority when it awarded Defendant damages for "inconvenience/trespassing". Finally, this Court determines there is no basis for ordering Defendant to assume the burden of Plaintiff's appeal. Based on the foregoing, this Court concludes the Arrowhead Justice Court erred.

**IT IS THEREFORE ORDERED** reversing the judgment of the Arrowhead Justice Court.

**IT IS FURTHER ORDERED** remanding this matter to the Arrowhead Justice Court for all further appropriate proceedings.

**IT IS FURTHER ORDERED** signing this minute entry as a formal Order of the Court.

/s/ Myra Harris  
THE HON. MYRA HARRIS  
Judicial Officer of the Superior Court

1011020111630

# Attachment Three

28 March 2011

**Witness Statement****Prepared for the Disciplinary Counsel for the Arizona Commission on Judicial Conduct**

1. On March 24, 2011, former Justice of the Peace John Keegan was in my office. He was serving as a pro tem judge for the Arrowhead Justice Court that Thursday. The court manager for the Arrowhead Justice Court, Jane Miller, came into my office and was obviously upset. She looked at both of us and said, "I need help."
2. She indicated that the Arrowhead Justice of the Peace, Phillip Woolbright, had asked her to move his vehicle from the front of the courthouse to the back parking lot where the judges have card access secure parking. Apparently, a process server was near his vehicle and his wife is attempting to serve him with divorce papers. Judge Woolbright apparently was doing something with a superior court clerk when his son sent him a text and alerted him to the presence of the process server.
3. The Arrowhead Justice Court Manager had an obviously unpleasant encounter with the process server who demanded her full name and her employee ID number. I stated she was only obligated to give her first name and the court she worked for. She came back a second time and I think Judge Keegan agreed to speak briefly with the process server and try to defuse the situation.
4. When I came to work on March 28, 2011, a large intimidating looking man was standing near the judge's parking area. I assumed that he was the process server looking for Judge Woolbright and briefly considered notifying court security personnel to confirm that fact. Within an hour, the head of court security for our building came into my office and indicated that people were troubled by this person and so he approached him. The court security officer told me that he was the process server that was looking for Judge Woolbright.
5. It was my understanding that Judge Woolbright had pro tem coverage for the morning of March 28, 2011; but he would be in during the afternoon and I was going to speak with him at that time. However, Judge Woolbright extended his pro tem coverage for the afternoon of March 28, 2011 and he informed his court manager that he would not be in the rest of the week.
6. The process server returned and I honored the Arrowhead Court Manager's request to meet with him at approximately 2:00 p.m. on March 28, 2011. She was clearly getting tired of running interference for her boss/judge.
7. I met briefly with the process server who apologized for getting me involved. I told him that I was the presiding justice of the peace for the building; but that my authority was very limited. He said that he had been trying to be as low key as possible. I told him that it was my understanding that Judge Woolbright had an attorney and that I was sure that the attorney would

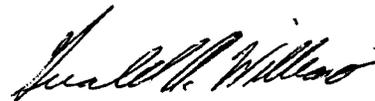
accept service of any divorce complaint. The process server told me that he was also attempting to serve Judge Woolbright with an Order of Protection, which cannot be accepted by his counsel.

8. I scanned the order of protection. It was issued by the Maricopa County Superior Court by Commissioner Stephen Kupiszewski. The petition contained allegations of domestic violence. The process server said that he would meet Judge Woolbright anywhere; but that Judge Woolbright had already promised to be somewhere once and failed to appear. I told the process server that I would call Judge Woolbright.

9. As I was in the Arrowhead Court Manager's Office getting Judge Woolbright's cell phone number, he sent her a text indicating that his attorney and his wife's attorney had worked out a deal and that the order of protection was going to be dismissed. He also instructed her to tell me not to accept service on his behalf. (I have no authority to do so and would not attempt to do so.)

10. I called Judge Woolbright and spoke with him briefly. He indicated that he was out-of-town and that he was dealing with a new issue because his mother was ill. When he indicated that he would not accept service, I lost my temper and indicated that he could not keep putting the entire building in this situation. He indicated that he was going to contact his attorney again and that he was going to self-report this situation to the Commission on Judicial Conduct.

11. I went back and told the process server that I had spoken to Judge Woolbright who indicated that he was out-of-town. I told the process server that I could not assist him any further.



Gerald A. Williams  
Justice of the Peace  
North Valley Justice Court

# Attachment Four

## Woolbright should resign as Arrowhead Justice of the Peace

Posted: Wednesday, September 28, 2011 3:25 pm | Updated: 3:27 pm, Tue Sep 27, 2011.

By JOHN C. KEEGAN, Retired Justice of the Peace |

Judge Phillip Woolbright should resign as Arrowhead Justice of the Peace. As long as he continues in office, the public is being done a severe disservice and the integrity of the judicial system is being defamed. The Arrowhead court serves Peoria, Arrowhead Ranch and Sun City.

In the past few months, issues in his private life have lead to him being arrested and being served with a restraining order due to past and potential domestic violence against his wife and children. As a result, under federal law he is prohibited from possessing a firearm.

Mr. Woolbright has compounded these problems by evading legal service and apparently trying to coerce a witness against him. Although these charges have not been fully adjudicated, the evidence is so strong that the Chief Justice of the Arizona Supreme Court has taken the extraordinary action of removing him from his court because he "poses a substantial threat of serious harm to the public or the administration of justice." Further, he has been ordered by the Supreme Court to not "engage in any act of retaliation" against any witness against him.

The public defender's office at his courthouse had to request a change of judge because "of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted ... while also presiding over a criminal matter." The Commission on Judicial Conduct has charged him with violating his constitutional oath, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute."

While all of these issues are working their way through the process, he continues to be paid more than \$100,000 per year while prohibited from sitting in his courtroom or contacting his staff. In addition, the taxpayers have to pay for a replacement judge to cover his workload.

The public is not being well served by Philip Woolbright remaining in office. He has a right to address these issues in the proper forum, but it is clear that he is incapable of simultaneously doing the job that the public entrusted to him. The public's trust and judicial integrity demand that he resign immediately.

*John C. Keegan is the former Mayor of Peoria and a retired judge of the justice courts.*

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**Attachment 3**  
**Disciplinary Counsel's**  
**Offer of Proof**



## Maricopa County

Rachel Torres Carrillo  
Justice of the Peace

WEST MCDOWELL JUSTICE COURT  
620 West Jackson, Suite 200  
Phoenix, Arizona 85003  
602-372-6300

March 27, 2012

Jennifer M. Perkins  
Disciplinary Counsel  
Arizona Commission on Judicial Conduct  
Commission on Judicial Conduct

Re: Judge Phillip Woolbright

Attention: Ms. Perkins

Phil Woolbright was a Hearing Officer for West McDowell Justice Court around 2009 before he decided he would run for the office of Justice of the Peace in 2010. He approached my Court Manager about conducting our civil traffic cases and we agreed to on a trial basis since he completed his required classes. Immediately, I began to receive complaints on his conduct by being very disrespectful to staff and not taking direction when the clerks or Court Manager approached him and explained how the Judge conducts traffic hearings and proper procedures.

He refused to take any direction by my Court Manager and staff on several occasions. He continued to proceed on his own doing. Hearing Officer Woolbright didn't like the thought that the clerks were trying to telling him what he should do. The clerks were trying to inform him on proper civil traffic procedures that he didn't seem to want to follow.

That same day Hearing Officer Woolbright asked me if I would allow traffic hearing officers to rule on motions. I said no. He then asked what about the civil traffic motions. I then informed him no and that hearing officers are not allowed to rule on any motions in my court. He then went on to share with me that other hearing officers told him that some of the judges do allow it. I responded by saying that I wasn't aware of that, but that I only allow our pro tempore to rule on motions since they are in our courts representing the judge during their absence.

That day Hearing Officer Woolbright went in to the court room to conduct traffic hearings, when I was told by my clerks that he overruled my motion. I was given a motion to continue a

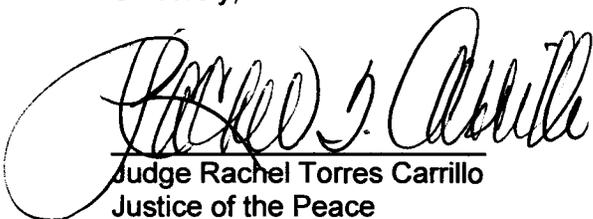
trial by my clerk for a trial that was to take place the same day. The Motion was denied because this was the attorney's third request. The clerks stated that the attorney arrived without the defendant and the hearing officer, Mr. Woolbright, asked her what she wanted to do and she asked for a continuance. He then granted a motion that I had already denied the day before.

I discussed this with Hearing Officer Woolbright when he finished with his cases that afternoon. I basically wanted to know why he felt that he had to grant that motion knowing I had already denied it. He just smiled uncomfortably with no real reason but admitted he did grant the motion when he had no authority to do so. I then explain to him that I needed to have pro tempore and hearing officers that I can trust and who represented me and this court, and that he didn't do that very well today. He responded by saying he made a mistake and to give him a break since he was new at this and had a lot to learn.

I informed him that I had already spoke to him about this so I am not sure what to say, but that I will no longer use you as a hearing officer. He stated that he was sorry and that he had hope one day I would change my mind about him. I personally didn't think so. After this incident I had very little to no contact with Hearing Officer Woolbright nor did I want to because I believe he knew what he was doing since he was told he had no authority to rule on motions. He refused to take any direction from me, staff or managers and made a conscience decision that day to rule on this motion even knowing he had no authority. He knew it was wrong; it was unethical to do so and he over reached his authority.

If you have any further questions please feel free to call me at my office (602) 372-6379.

Sincerely,



Judge Rachel Torres Carrillo  
Justice of the Peace

**Attachment 4**  
**Disciplinary Counsel's**  
**Offer of Proof**

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**NEWS UPDATE**



**Valley Judge Responds To Allegations 4-05-2011**



Jason BarryReporter, KPHO.com  
 PHOENIXPhillip Woolbright is one of Maricopa County's newest Justices of the Peace. Woolbright's website describes him as a part-time preacher, bringing morals and ethics to the bench.  
 • Video: [Judge Could Face Ethics Investigation](#)

But court papers obtained by CBS 5 News paint a very different picture. A restraining order filed by Woolbright's wife accuses the judge of domestic violence. The court records state that on one occasion, the judge "shoved me (wife) ... against the bathroom sink."  
 Another instance the report states he "threw our (child) to the floor and started angrily swinging the belt at our (child). Dad continued to swing the belt and struck our (child) across the face, leaving a welt."  
 CBS 5 News met with Woolbright on Tuesday at the Arrowhead Justice Court to ask him about the allegations. Woolbright said the couple is going through a divorce. "I just want the public to pray for my wife and my four children," said Woolbright. CBS 5 News asked Woolbright to address the domestic violence allegations. He said that it was a personal family issue and it would have no effect on his ability to serve the community in the courtroom. "I don't have anything to say other than I love my kids, I love my wife and we're going through a divorce and allegations have been made," said Woolbright. No criminal charges have been filed against Woolbright. However, Jennifer Liewer, with the Arizona Supreme Court, said that all judges can be investigated for ethics violations by the Commission On Judicial Conduct. "Should ethical violations be found and proven, a judge can be stripped of their role," said Liewer. Woolbright said that his priority is keeping his family together. "We are going through a very struggling time and that's it," Woolbright said.

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# NEWS UPDATE



## Justice of the Peace faces charges, could lose job

Posted: Sep 02, 2011 7:53 PM  
Updated: Sep 02, 2011 7:59 PM  
By Elizabeth Erwin - email

First a Maricopa County Justice of the Peace was arrested.

Now he could lose his job.

Justice of the Peace Phillip Woolbright has been on our radar for a couple months now, and it appears we aren't the only ones checking into his past.



It's not the picture you'd expect to find for a justice of the peace.

But it's the mug shot we found for Judge Phillip Woolbright.

He was arrested in July for violating an order of protection.

His estranged wife filed a restraining order accusing the judge of domestic violence.

In the order, she claimed the judge shoved her against the bathroom sink.

Another time, she said, he threw their child to the floor.

The order was supposed to keep Woolbright from visiting his wife's home.

As a court employee, you'd think he'd know better than to break it.

But court records show Woolbright decided to show up, bang on his wife's door and ask to see their kids.

"I love my kids and I love my wife," Woolbright said.

Woolbright told us in April that he was dealing with personal family issues.

That didn't answer our questions.

"Are you guilty of hitting your wife? Hitting your children? What do you tell people about these allegations, are those legit?" our reporter asked.

"I don't have anything to say other than I love my kids and I love my wife and we're getting a divorce and allegations have been made," Woolbright responded.

Now those allegations have reached a new level.

The Commission on Judicial Conduct has decided to file formal charges against the judge, saying he's violated a number of rules.

The commission says the judge's actions were improper and created the appearance of impropriety and that they eroded public confidence in his impartiality.

We tried to talk to Woolbright about the charges but he was nowhere to be found.

The commission could recommend the judge be suspended without pay or even removed from office.

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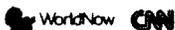
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# NEWS UPDATE



## Valley judge accused of tampering with witness

Posted: Sep 23, 2011 9:39 PM  
Updated: Sep 23, 2011 9:46 PM

By Jason Barry - email

Justice of the Peace Phillip Woolbright has been accused of trying to intimidate or influence a potential witness in a case against himself.

Woolbright was being investigated by Arizona's Commission on Judicial conduct.

A commission letter stated that Woolbright may have asked his court manager's help to avoid a process server from delivering an order of protection.

According to the commission's initial findings, the judge attempted to coerce the court manager to change her testimony.

"Judge Woolbright may continue to intimidate and harass (court manager) and other potential witnesses given the opportunity to do so," the letter said.

At the time, Woolbright was being served with a restraining order from his estranged wife, who accused the judge of domestic violence.

CBS-5 News asked the judge in April if he ever hit his wife.

"I don't have anything to say, other than I love my kids, I love my wife and we're going through a divorce and allegations have been made," said Woolbright.

Earlier this month, Woolbright was in family court where psychologist Jill Messing testified that the Woolbright is extremely dangerous and could resort to physical violence.

"Given his extreme control over his family, I'm also concerned about his ability to harm his children, as well as to kill them," Messing said.

Woolbright has been working out of the Arrowhead Justice Court.

He has been reassigned to a justice court in Buckeye, pending the outcome of a court hearing, officials said.

A court spokesperson said that since Woolbright is an elected justice court judge, only the Arizona Supreme Court can remove him from the bench.

Woolbright will be doing civil case backlog under the supervision of another judge.

Some Valley residents said they don't think Woolbright should be allowed to preside over cases, pending the outcome of his case.

"I don't think that's OK at all," said Tiana Sueing of Phoenix. "I don't think he should be allowed to work on any cases."

"I don't think he should be able to try cases," said Christina Taylor of Phoenix. "I think these allegations are definitely valid enough."

A hearing date has not yet been set.

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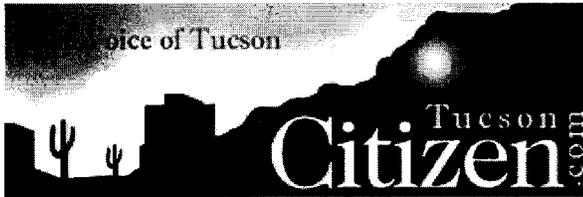
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## Arizona News from The Arizona Republic

### Justice of peace Woolbright ordered not to retaliate vs. worker

by [Sonu Munshi](#) on Sep. 24, 2011, under [Arizona Republic News](#)

0

Recommend

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A northwest Valley justice of the peace was reassigned this week based on allegations he tried to intimidate or influence a court worker who is a potential witness in an ongoing ethics investigation against him.

The Arizona Supreme Court ordered Phillip Woolbright not to engage in retaliatory conduct toward the employee.

The court order came at the request of the Arizona Commission on Judicial Conduct, which earlier this month announced it was investigating Woolbright.

The commission's probe relates to an order of protection issued against Woolbright this spring on suspicion of domestic violence. He is said to have tried to avoid being served the court order.

Woolbright had continued to work at the Arrowhead Justice Court in Surprise, but he was reassigned this week to the Estrella Mountain Justice Court in Buckeye. It wasn't immediately clear what his duties might be.

Jennifer Perkins, a commission attorney, said Woolbright "continues to compound his initial misconduct by engaging in further misconduct and failing to recognize the seriousness of the commission's case and of his misconduct."

Woolbright told *The Republic* on Friday that he is confident "everything will work out in good light."

He said that the issues stem from his pending divorce and that "I'm trying to do things that are honorable for all the judges of Maricopa County."

Woolbright has denied one of the main issues raised in the commission's investigation, that he attempted to evade being served the court-issued order of protection.

Gerald Williams, presiding justice of the peace at the Northwest Regional Court Center, sent a letter to the commission stating that Court Manager Jane Miller had told him that Woolbright asked her to move his vehicle because of the process server.

Williams sent another letter to the commission this week to request Woolbright's reassignment because he was pressuring Miller, noting that some statements by Woolbright had "caused Ms. Miller to express a concern about her own personal safety."

Earlier this month, Woolbright "repeatedly and forcefully" questioned Miller on her memory of the incident, the commission's high-court petition said.

The petition indicated Woolbright told Miller about his pending divorce and said a doctor had testified that he is capable of violence and physically harming his wife and children. "Ms. Miller felt uncomfortable and intimidated by this information, particularly since she knew he was unhappy with her potential testimony," it added.

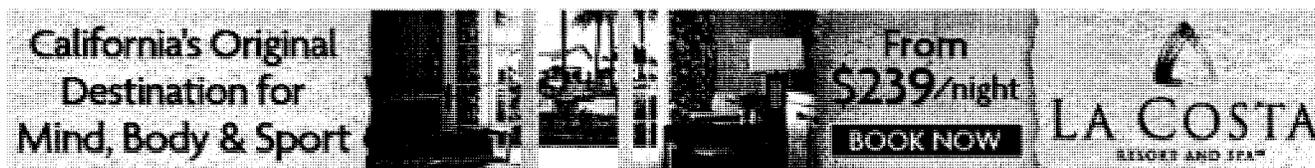
Woolbright was elected justice of the peace last year, a position that pays \$103,000 annually.

This entry was posted on Saturday, September 24th, 2011 at 12:00 am and is filed under [Arizona Republic News](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can skip to the end and leave a response. Pinging is currently not allowed.

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## WEST VALLEY VOICES

Send your letter to the editor to [wvalley\\_letters@arizonarepublic.com](mailto:wvalley_letters@arizonarepublic.com). Letters may appear in print or online.

### Public ill-served by Judge Phillip Woolbright

By John C. Keegan



[click to enlarge](#)

Judge Phillip Woolbright should resign as Arrowhead Justice of the Peace.

As long as he continues in office, the public is being done a severe disservice and the integrity of the judicial system is being defamed. The Arrowhead court serves Peoria, Arrowhead Ranch and Sun City.

In the past few months, issues in his private life have led to him being arrested and being served with a restraining order because of past and potential domestic violence against his wife and children. As a result, under federal law he is prohibited from possessing a firearm.

Mr. Woolbright has compounded these problems by evading legal service and apparently trying to coerce a witness against him. Although these charges have not been fully adjudicated, the evidence is so strong that the Chief Justice of the Arizona Supreme Court has taken the extraordinary action of removing him from his court because he "poses a substantial threat of serious harm to the public or the administration of justice." Further, he has been ordered by the Supreme Court to not "engage in any act of retaliation" against any witness against him.

The public defender's office at his courthouse had to request a change of judge because "of the necessary impropriety created by Judge Woolbright simultaneously being prosecuted ... while also presiding over a criminal matter". The Commission on Judicial Conduct has charged him with violating his constitutional oath, which forbids "conduct prejudicial to the administration of justice that brings the judicial office into disrepute."

While all of these issues are working their way through the process, he continues to be paid over \$100,000 per year while prohibited from sitting in his courtroom or contacting his staff. In addition, the taxpayers have to pay for a replacement judge to cover his workload.

The public is not being well served by Phillip Woolbright remaining in office. He has a right to address these issues in the proper forum, but it is clear that he is incapable of simultaneously doing the job that the public entrusted to him. The public's trust and judicial integrity demand that he resign immediately.

*John C. Keegan is the former mayor of Peoria and a retired judge of the justice courts.*

Monday, September 28, 2011 at 02:40 PM

[Report a Violation](#)

## 4 COMMENTS FROM 4 USERS

<Reverse Sort Order>

posted by tmc40 on Sep 27, 2011 at 04:10 AM

Report Violation

As a licensed private process server with over 23 years of experience, I also believe Justice Woolbright need to resign. His actions, including the avoidance of service, are a sham to the legal process and is embarassment to the system and erodes the faith in the justice system for the public he serves. Sorry, but one bad apple in the 23 Justice Courts in Maricopa County is not to be allowed, I wish the Supreme Courts investigation of his actions could result in his prompt removal, but I guess only the bad publicity may force him to resign.

---

posted by rudy57 on Sep 27, 2011 at 11:04 AM

Report Violation

I thank you for this article. Mr Wolbright should leave ASAP. If he is a real "Judge". He will know that his actions are not one that fits appropriate for his judicial position. He has some family problems that need to be worked out and should not dispatch his problems upon the public. The postilion of Judge is hard enough but having other problem along with the position, well this could lead to many other problems and the public is at risk.

---

posted by angelofmercy on Sep 28, 2011 at 04:25 PM

Report Violation

A psychologist whose credentials include Domestic Violence and Partner Homicide has said that Woolbright is extremely dangerous and may murder his family because he sees them as "extensions of himself". I don't think he should be living on the streets either. Can any of you imagine being his family and constantly having to live in fear of this man all the time? I would definitely want to know if this man has access to ANY firearms.

---

posted by threedayscondor on Oct 7, 2011 at 05:12 PM

Report Violation

This Judge is a victim of a smear campaign. The case involving a MORMON law firm in Mesa known as Maxwell & Morgan. They are CLASSIFIED by an Executive order at the CENTRAL INTELLIGNCE AGENCY. Mr Charles Maxwell is the man who runs the HOA based drug trafficking and money laundering operations here in Arizona. Many lawsuits have been filed against Maxwell & Morgan. In a lawsuit in Judge Woolbright's court, Maxwell & Morgan and Planned Developement Services, another CIA "asset" front company, Judge Woolbright refused to allow Maxwell & Morgan to INTIMIDATE him, and their opeartions were EXPOSED G. In addition, many complaints were lodged against Maxwell & Morgan to Congresswoman Gabrielle Gifford, and so.....In the meantime, Maricopa County sheriff officials have been shutting down Mr. Maxwell's drug houses....

## Southwest Valley

### **Embattled Arrowhead justice of peace reassigned to Buckeye**

### **Ethics probe against Woolbright continues**

by **Sonu Munshi** - Sept. 27, 2011 10:47 AM  
The Arizona Republic

Recommend 4 people recommend this. Be the first of your friends.

11

Phillip Woolbright, a justice of the peace at Arrowhead Justice Court, has been ordered not to hear cases in his courtroom as an ongoing ethics investigation against him continues.

Instead, the judge has been reassigned to hear civil cases at the Estrella Mountain Justice Court in Buckeye, while a pro tem judge handles his cases in the Northwest Valley court at a cost of about \$50 an hour.

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#### Keegan: Public ill-served by Judge Woolbright

---

Woolbright, a Peoria resident, faces an investigation related to an order of protection issued against him this spring over domestic violence charges from his estranged wife. Woolbright is said to have tried to avoid being served the court order, and he initially continued to hear cases dealing with orders of protection.

The Arizona Commission on Judicial Conduct earlier this month had announced the investigation.

Then, the Arizona Supreme Court last week agreed to reassign Woolbright and ordered him not to retaliate against any witnesses.

This was done at the behest of the investigative panel of the commission, which said Woolbright tried to coerce his court manager to change her testimony related to an incident in March when he is believed to have evaded a court server who was trying to hand him the order of protection.

According to a filing by the commission, earlier this month, Woolbright questioned court manager Jane Miller repeatedly about her memory of whether he knew the man waiting by his van was indeed a court server. That was followed by other conversations that led Miller to feel "uncomfortable and intimidated," the document states.

As a result, last week, presiding justice of the peace at the Northwest Regional Court Center, Gerald Williams, requested Woolbright's reassignment

The justice of the peace, who makes \$103,000 annually, will hear civil cases in the Buckeye court. He has served as justice of the peace since January after being elected last year.

Since August, Woolbright has been in court eight days. Judge Melanie DeForest now is hearing his cases.

The Arrowhead court, in Surprise, oversees cases from Peoria, Sun City and parts of Glendale.

Former Justice of the Peace John Keegan, who preceded Woolbright as the Arrowhead court judge, urged Monday for Woolbright to resign.

"As long as he continues in office, the public is being done a severe disservice and the integrity of the judicial system is being defamed," Keegan said.

Woolbright told *The Republic* that these issues are a result of his ongoing divorce case and that he is confident everything will work out fine.

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## Woolbright should resign as Arrowhead Justice of the Peace

Story [Comments \(1\)](#)

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Judge John C. Keegan, Arrowhead Justice Precinct

Posted: Thursday, September 29, 2011 8:00 pm | Updated: 10:51 am, Wed Sep 28, 2011.

By JOHN C. KEEGAN, Retired Justice of the Peace | [1 comment](#)

Judge Phillip Woolbright should resign as Arrowhead Justice of the Peace. As long as he continues in office, the public is being done a severe disservice and the integrity of the judicial system is being defamed. The Arrowhead court serves Peoria, Arrowhead Ranch and Sun City.

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*John C. Keegan is the former Mayor of Peoria and a retired judge of the justice courts.*

## Should Judge Phillip Woolbright resign?

Yes

No

## Should Judge Phillip Woolbright resign?

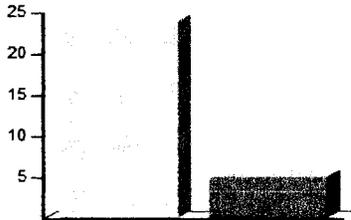
chart by amCharts.com

Yes

83%

No

17%



### 4 comments:

3dayscondor posted at 3:35 pm on Sat, Oct 1, 2011.



Posts: 1

This Judge is a victim of a smear campaign. The case involving a MORMON law firm in Mesa known as Maxwell & Morgan. They are CLASSIFIED by an Executive order at the CENTRAL INTELLIGENCE AGENCY. Mr Charles Maxwell is the man who runs the HOA based drug trafficking and money laundering operations here in Arizona. Many lawsuits have been filed against Maxwell & Morgan. In a lawsuit in Judge Woolbright's court, Maxwell & Morgan and Planned Development Services, another CIA "asset" front company, Judge Woolbright refused to allow Maxwell & Morgan to INTIMIDATE him, and their operations were EXPOSED G. In addition, many complaints were lodged against Maxwell & Morgan to Congresswoman Gabrielle Gifford, and so.....In the meantime, Maricopa County sheriff officials have been shutting down Mr. Maxwell's drug houses....

Concerned American posted at 3:08 pm on Fri, Sep 30, 2011.



Posts: 1

Absolutely not! What happened to innocent until proven guilty people? Live and Let Live. He is going through a nasty divorce. You of all people should be supportive.. not heading a linching campaign. You should be ashamed of yourself!

angelofmercy posted at 6:44 pm on Wed, Sep 14, 2011.



Posts: 1

What is the matter with the people in Phoenix?! Do you really want this criminal to sit in judgement of YOU?

katkar63 posted at 12:28 am on Tue, Sep 13, 2011.



Posts: 1

He's a scary guy! Doesn't need to be passing judgement on other people. He needs to fix his own problems first.

## Calendar

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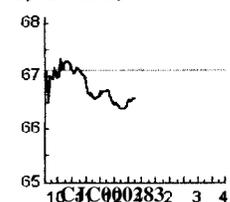
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**Attachment 5**  
**Disciplinary Counsel's**  
**Offer of Proof**

1           You know he went to two new judge trainings,  
2 there were one or two times when you spoke to him about  
3 arraignments and you're aware of one occasion involving nine  
4 arraignments on a single day that he didn't do it properly.

5           That's what you know as you sit here right  
6 now?

7           A.     Correct.

8           Q.     Landlord-tenant. Tell me, please, sir, what your  
9 knowledge is of his improper handling of landlord-tenant  
10 cases.

11          A.     Several of the landlord-tenant attorneys complained  
12 about him constantly.

13          Q.     And was this before he left the Arrowhead bench?

14          A.     Yes.

15          Q.     So what action did you take to try and help resolve  
16 the problem he was handling -- having with landlord-tenant  
17 cases?

18          A.     I would talk to him from time to time about  
19 landlord-tenant issues. Sometimes he would ask my advice on  
20 something and then go off and do perhaps something different.

21                 The -- the main attorneys that -- that  
22 complained about him were Denise and Kevin Holliday, and I  
23 told them to report their concerns to the commission. The  
24 landlord attorneys are very reluctant to report anything to  
25 the commission unless there's some kind of guarantee that the

1 judge won't be coming back again, because their livelihood  
2 depends on them appearing before that judge twice a week. So  
3 historically landlord attorneys generally don't report things  
4 to the commission.

5 Q. On the occasion when you spoke with  
6 Judge Woolbright about his handling of landlord-tenant cases,  
7 you didn't do anything to follow up to see if he had  
8 corrected his action or needed more instruction, did you?

9 A. I can't recall any time I did, no.

10 Q. Thank you.

11 And you don't know, to the best of your  
12 knowledge, whether any attorney has ever complained to the  
13 commission about it?

14 A. No, I do not know if any landlord attorney has  
15 complained to the commission about Judge Woolbright.

16 Q. And your knowledge about his handling of  
17 landlord-tenant cases comes entirely from what others have  
18 told you?

19 A. And the appellate decision that I saw, yes.

20 Q. So you saw an appellate decision which reversed  
21 him; right?

22 A. Yes.

23 Q. Have you ever been reversed?

24 A. Yes.

25 Q. How many times?

1 A. Maybe once or twice.

2 Q. By our court of appeals?

3 A. No.

4 Q. By the superior court appellate division?

5 A. It's -- the superior court judge designated to hear  
6 lower court appeals, yes.

7 Q. The superior court appellate division?

8 A. Yes.

9 Q. As far as you know, you've never been reversed by  
10 the Arizona Court of Appeals; right?

11 A. No. Nothing's ever gone up that high.

12 I take that back. One thing went that high,  
13 and I was affirmed.

14 Q. And when Judge Woolbright was reversed, was that by  
15 the superior court appellate division?

16 A. Yes.

17 Q. How many times has he been reversed by the superior  
18 court appellate division?

19 A. I have no idea.

20 Q. You're only aware of one?

21 A. I was aware of one, but it wasn't the reversal that  
22 was the problem in that case.

23 Q. What was the problem?

24 A. The problem was him essentially just making up the  
25 law. He either didn't know what the law was or decided just

1 to, under general principles of equity, to do whatever he  
2 wanted.

3 Q. And he was reversed for that?

4 A. Yes, for failure to follow the law.

5 Q. Okay. Are you aware of any judges ever being  
6 reversed for failing to follow the law?

7 A. I'm aware of judges for making -- being reversed  
8 for making mistakes in law. I'm not aware of a judge who's  
9 awarded money on a counterclaim when a counterclaim wasn't  
10 requested.

11 Q. I understand.

12 Are you aware of judges ever being reversed  
13 for not following the law?

14 A. For making mistakes in law, yes.

15 Q. But otherwise you're not aware of any judge other  
16 than Judge Woolbright being reversed for not following the  
17 law; right?

18 A. I'm aware of many judges being reversed for many  
19 reasons. Judge Woolbright's case was unique.

20 Q. In your experience?

21 A. In anyone's experience.

22 Q. And how do you know that?

23 A. Because I'm not aware of any other case where a  
24 judge is just complete -- I take that back. Barbara Watkins  
25 used to just completely ignore the law as well.

1 Q. Anyone else?

2 A. I haven't seen anyone as bad as Barbara Watkins or  
3 Judge Woolbright. I'm sure there are people in other  
4 jurisdictions that I'm not aware of that are also  
5 incompetent.

6 Q. So other than this one occasion where you saw a  
7 court of appeals decision that, in your opinion, demonstrated  
8 that Judge Woolbright was not following the law, how many  
9 other occasions have you observed directly or by reading an  
10 opinion yourself?

11 A. It wasn't a court of appeals opinion --

12 Q. And let --

13 A. -- but the --

14 Q. Let me interrupt you and reask my question.

15 So other than this one occasion where you saw  
16 an appellate decision that, in your opinion, demonstrated  
17 that Judge Woolbright was not following the law, how many  
18 other occasions have you observed, directly or by observing  
19 yourself, Judge Woolbright not following the law?

20 A. I have not observed other occasions beyond the  
21 information that I brought to the commission of  
22 Judge Woolbright not following the law. The other things I  
23 have are anecdotal.

24 Q. Anecdotal based on what other people have told you?

25 A. Yes.

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**FILED**

**MAY 08 2012**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	Case No. 11-111
<b>Judge Phillip Woolbright</b>	)	
Arrowhead Justice Court	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
Maricopa County	)	<b>OF LAW, AND RECOMMENDATIONS</b>
State of Arizona	)	
Respondent.	)	

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The Commission on Judicial Conduct (“Commission”) commenced formal proceedings against Justice of the Peace Phillip Woolbright (“Respondent”) on August 16, 2011, by issuing a Notice of Formal Proceedings and a Statement of Charges (“Charges”), pursuant to Rule 24 of the Rules of the Commission on Judicial Conduct (“Commission Rules”). Respondent filed an Answer on September 1, 2011. The Charges were subsequently amended on September 28, 2011, (“Amended Charges”) and Respondent filed an answer to the amended charges on October 13, 2011 (Amended Answer”).

A second set of amended charges (“Second Amended Charges”) was filed on November 28, 2011. The parties then reached a Stipulated Agreement on December 8, 2011, which the Hearing Panel accepted and recommended to the Arizona Supreme Court on December 23.

After receiving a Notice of Changed Circumstances on January 23, 2012, the Supreme Court on February 15, 2012, remanded the case for further proceedings before the Commission. A third amended set of charges (“Third Amended Charges”) was filed by Disciplinary Counsel. Respondent filed an answer to the second and third amended charges (“Third Amended Answer”),

and the parties completed all discovery and disclosures as contemplated under the Rules.

A hearing was set for April 25-26, 2012, in front of the appointed Hearing Panel, which included Presiding Member Judge Lawrence F. Winthrop, and panel members Colleen Concannon, Judge Louis F. Dominguez, Judge Peter J. Eckerstrom, Judge Sherry Geisler, Rick Medina, Judge Michael O. Miller, and Catherine M. Stewart.

Under the direction of the Presiding Member, the parties met in pre-hearing conferences to consider the hearing schedule, management of the case, possible stipulations to issues of fact, the exclusion of cumulative evidence, stipulations as to the foundation or admissibility of evidence and motions relating to the submission of documents and other exhibits during the hearing. The outcome of these conferences and the rulings on motions and admissions of Respondent are described, as appropriate, in the findings below or are otherwise included in the record submitted to the Supreme Court.

In pre-hearing matters and at the hearing conducted on April 25-26, the Commission was represented by Jennifer M. Perkins, Disciplinary Counsel. Respondent was represented by Larry J. Cohen. By agreement of the parties, the digital Liberty Recording System was used to record the proceedings. All of the members of the Hearing Panel were present during the hearing except for Judge Michael O. Miller, who was presiding over a criminal trial and unable to participate in the hearing or deliberations. Even so, the seven members who heard the evidence included a member from each category of membership, as required by Rule 3(f), and constituted both a quorum of the panel and a majority of the full Commission.

## **JURISDICTION**

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.

2. Respondent served as a hearing officer in Maricopa County during 2010, and was subsequently elected justice of the peace, taking his position in January 2011. Respondent was serving in his capacity as a justice of the peace at all times relevant to these formal proceedings.

3. As a justice of the peace, Respondent is and has been subject to all of the Canons of the Code of Judicial Conduct, Arizona Rules of Supreme Court 81 (“Code”).

## **FINDINGS OF FACT**

On the basis of the evidence presented at the hearing, the admissions made by Respondent during the course of the proceedings, and the stipulated facts reached by the parties, the Hearing Panel finds that the following facts proven by clear and convincing evidence:

1. In early 2011, Respondent engaged in two acts of domestic violence that resulted in an Order of Protection, which was issued on March 23, 2011. The original Order included Respondent’s then-wife (“Wife”) and four children as protected persons; however, the Order was subsequently amended to remove three of the children, leaving in place Wife and one child.

2. On March 24, 2011, Respondent learned that a process server was waiting by his vehicle in the public parking area of the Northwest Regional Court Facility in Surprise, Arizona. In order to avoid having to accept service of any papers, Respondent directed his Court Manager to move his vehicle to the private, secured judges’ parking area. Once the vehicle was so moved, Respondent drove off the premises. By these actions on March 24, Respondent intentionally

evaded service of process.

3. Between March 24 and April 2, 2011, Respondent continued to intentionally evade service of process. On March 24, his training judge, John Keegan, and on March 28, his assigned mentor judge, Gerald Williams, separately advised Respondent that he should not avoid accepting service of process. Respondent did not follow this advice. Respondent further provided misleading information to Judge Williams indicating that the “lawyers were working it out” in anticipation that Judge Williams would provide such information to the process server and further discourage efforts to serve process.

4. On March 28, 2011, the process server spoke with Respondent directly and explained that Respondent must personally accept service because the paperwork included an Order of Protection. Respondent subsequently declined to answer calls from the process server, refused to set a time and place to meet the process server, and abruptly left town on a previously unplanned trip to Lake Havasu City.

5. Respondent returned from Lake Havasu City on Wednesday, March 30, and called the process server on April 2 to discuss accepting service of process. During that call, Respondent misrepresented his location, indicating that he remained out of town and would not return until the following day. During that same conversation, Respondent also claimed to have researched the question of personal service of process and incorrectly informed the process server that certain circumstances allowed service to be made to an attorney. On April 3, 2011, Respondent accepted service of process of the Order of Protection.

6. On April 3, 2011, Respondent went to a Peoria Police Department station and reported untruthfully that Wife had kidnapped his four children. During this encounter, Respondent voluntarily identified himself as a judge. Respondent requested that an officer “ping” Wife’s cell

phone to learn her location and, in a “joking” tone, offered to sign a search warrant for officers to enter that location. The officer declined to “ping” the phone and reported the improper request and offer to his supervisor.

7. On April 13 and 15, 2011, Respondent submitted written “self-report” letters to the Commission. He admitted to one act of domestic violence and admitted to having his Court Manager move his van after learning that a process server was waiting by the vehicle.

8. On July 1, 2011, in response to a June 24 letter from Disciplinary Counsel for the Commission, Respondent confirmed that he continued to hear matters involving orders of protection without disclosing the current Order in place against him or disqualifying himself on that basis. He indicated that he was now deciding such cases by using the “wisdom” gained from his own and ongoing personal experience. Respondent also revised his initial report to the Commission in his July 1 letter by suggesting therein that he did not know the person waiting by his van was a process server, and indicating his motive in having the van moved was to avoid a possible assault.

9. Between July 9 and July 19, 2011, Respondent repeatedly called the Peoria Police Department to report Wife for custodial interference. At the time of these reports, Respondent knew that Wife had ceased allowing visitation with his children due to an incident during a visitation that she believed constituted a violation of a superior court order. Police officers repeatedly advised Respondent that he would have to go to court to sort out the differing interpretations of the order.

10. On July 21, 2011, Respondent received a court order reinstating his visitation, and sought to immediately enforce his visitation time that day. In order to ensure his wife complied with his wishes, Respondent sent her threatening text messages. When he went to pick up the

children, Respondent contacted the Phoenix Police Department's "Crimestop" phone line, and during his call voluntarily identified himself to the operator as a judge. When police officers arrived, Respondent again immediately volunteered his identity as a judge; however, Respondent did not explicitly request special treatment due to his judicial status. After reviewing the Order of Protection to confirm that it remained in effect, Respondent was arrested for interference with a judicial proceeding.

11. Following his release from custody, and on the next day, July 22, 2011, Respondent insisted on presiding over his regular calendar of cases, which involved traffic matters in which law enforcement officers appeared as witnesses, despite his arrest the night before and the existence of pending criminal charges against him. Respondent's mentor judge, Gerald Williams, offered to cover Respondent's cases that day and advised Respondent that he should consider taking the day off, but Respondent rejected this advice.

12. Also on July 22, Respondent contacted the staff director for the Judicial Ethics Advisory Committee and subsequently ceased hearing cases involving protective orders. Respondent also self-reported his arrest to the Commission.

13. On August 15, 2011, the Maricopa County Attorney's Office (MCAO) voluntarily dismissed without prejudice the criminal charges against Respondent. The MCAO subsequently filed a direct complaint against Respondent for interference with a judicial proceeding in Maricopa County Superior Court on January 9, 2012. As of the date of the formal hearing in this judicial ethics matter, the criminal charges remain pending and no trial date has been set.

14. On September 1, 2011, Respondent filed an Answer to the Statement of Charges in which he made a material misrepresentation of the facts. He stated, "Respondent denies he asked [his Court Manager] to move his van to avoid accepting service of process because he did not

know at the time he asked [her] to move the van that the person reportedly waiting by his van was attempting to serve him with legal process.” This statement was contrary to his initial self-report to the Commission and also contrary to statements Respondent made to his Court Manager and Judge Keegan on March 24, 2011.

15. To the extent that Respondent has subsequently contended that he simply remembers these events differently from all other witnesses, the Hearing Panel does not find his testimony credible.

16. On September 6, 2011, Respondent contacted his Court Manager to question her potential testimony against him. As a result of this and subsequent interactions, the Court Manager believed that Respondent was seeking to intimidate her to secure a change to her anticipated testimony in these proceedings.

17. While there is not clear and convincing evidence that Respondent actually intended to intimidate a witness to cause her to change her testimony, there is clear and convincing evidence that Respondent improperly approached a potential witness who was his subordinate employee to aggressively challenge her potential testimony against him.

18. In mitigation, the Hearing Panel finds that:

- (a) Respondent is a relatively inexperienced judge;
- (b) The misconduct proven by clear and convincing evidence occurred largely in Respondent’s private life; and,
- (c) Respondent was suffering from personal and emotional problems during the period of his misconduct.

19. In aggravation, the Hearing Panel finds that:

- (a) While Respondent is relatively inexperienced as a judge, none of his

misconduct was a result of improper training, lack of training, or lack of available training or mentoring resources;

(b) While Respondent was suffering from personal and emotional problems, his misconduct was not limited to an isolated incident or time frame, but rather spanned a significant period of time, during which Respondent was receiving advice from his mentor judge and others, and during which he was aware of the Commission's ongoing investigation into his conduct. Respondent nonetheless failed to alter his course of conduct;

(c) The nature, extent, and frequency of the misconduct is substantial because it involved numerous acts of dishonesty and abuse of Respondent's position, and lasted more than six months;

(d) Respondent's misconduct adversely affected his Court Manager specifically, and damaged the reputation of his court and the public's respect for the judiciary as a whole;

(e) Respondent attempted to and did exploit his judicial position for improper purposes;

(f) Respondent has failed to fully recognize and completely acknowledge the wrongful nature of his misconduct. The Hearing Panel notes that Respondent attempted to demonstrate otherwise at the hearing; however, Respondent continues to not recognize or acknowledge the most serious acts of misconduct, which were his ongoing and multiple acts of deceit and dishonesty, and his various efforts to abuse his authority and judicial position;

(g) Respondent's acts of dishonesty included a failure to cooperate fully and honestly with the Commission.

20. Respondent's actions were not only improper, but have diminished the public's confidence in the judiciary. As a result of his misconduct, the public's perception of Respondent's

ability to carry out judicial responsibilities with integrity and impartiality, and thereby his ability to comply with Rule 1.2 of the Code, has been irreparably impaired.

## **CONCLUSIONS OF LAW**

On the basis of the foregoing findings of fact, the Hearing Panel concludes, as a matter of law, that:

1. Respondent has, by the conduct described in Findings of Fact, paragraphs 1 through 6, 8 through 11, 14 through 16, and 20, violated Canons 1, 2, and 3 of the Arizona Code of Judicial Conduct. Specifically, Respondent violated the following Rules:

(a) Rule 1.2 (“A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety”) [Findings of Fact, para. 1-17];

(b) Rule 1.3 (“A judge shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge”) [Findings of Fact, para. 2, 6, 9, and 10];

(c) Rule 2.4(B) (“A judge shall not permit family . . . interests or other relationships to influence the judge’s judicial conduct or judgment”) [Findings of Fact, para. 8];

(d) Rule 2.11 (“A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned”) [Findings of Fact, para. 8 and 11];

(e) Rule 2.12(A) (“A judge shall require court staff . . . to act in a manner consistent with the judge’s obligations under this code”) *see* Cmt. 1 (“A judge may not direct court personnel to engage in conduct on the judge’s behalf . . . when such conduct would violate the code if undertaken by the judge”) [Findings of Fact, par. 2];

(f) Rule 2.16(A) (“A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies”) [Findings of Fact, para. 8, 14, and 15];

(g) Rule 3.1(D) (“A judge shall not engage in conduct that would appear to a reasonable person to be coercive”) [Findings of Fact, para. 16 and 17].

2. The aggravating factors found in Findings of Fact, paragraph 19, substantially outweigh the mitigating factors found in paragraph 18.

3. Taken as a whole, Respondent’s conduct constitutes conduct prejudicial to the administration of justice and that brings the judicial office into disrepute within the meaning of Article 6.1, § 4, of the Arizona Constitution.

### **RECOMMENDATIONS**

On the basis of the foregoing Findings of Fact and Conclusions of Law, and pursuant to the duty imposed on its members by Article 6.1, § 4, of the Arizona Constitution, the Hearing Panel, by its vote of 6-1, recommends that the Arizona Supreme Court:

1. Remove Respondent from judicial office, pursuant to Commission Rule 18(a), for violations of the Code of Judicial Conduct and for conduct prejudicial to the administration of justice that brought his judicial office into disrepute;

2. Immediately disqualify Respondent, pursuant to Commission Rule 18(a), without loss of salary, from acting as a judge;

3. Order that Respondent is not permitted to serve as a judicial officer again;

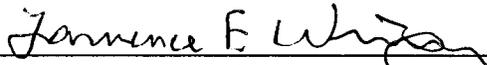
4. Order Respondent, pursuant to Rule 18(e), to pay the costs and fees incurred by the Commission in preparing and conducting the formal hearing in this matter; and

5. Grant such other relief as the Court may deem appropriate in these proceedings.

These Findings of Fact, Conclusions of Law and Recommendations have been prepared and filed pursuant to Rule 28(a) of the Rules, along with a proposed Order of Interim Suspension, as required by Rule 29(f), giving notice to Respondent of his immediate disqualification under Article 6.1, § 2 of the Arizona Constitution.

**DATED** this 8<sup>th</sup> day of May, 2012.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Hon. Lawrence F. Winthrop  
Presiding Member of the Hearing Panel

Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
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Telephone: 602-452-3200

**FILED**

**MAY 08 2012**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

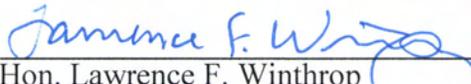
Inquiry concerning Judge	)	
	)	Case No. 11-111
<b>PHILLIP WOOLBRIGHT</b>	)	
Arrowhead Justice Court	)	<b>AMENDED NOTICE OF FINDINGS</b>
	)	<b>OF FACT, CONCLUSIONS OF LAW</b>
Maricopa County	)	<b>AND RECOMMENDATIONS</b>
State of Arizona	)	
Respondent	)	

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**PLEASE TAKE NOTICE** that the Hearing Panel in the above-entitled proceeding has approved Findings of Fact, Conclusions of Law, and Recommendations, a copy of which is attached, and counsel are hereby notified that the parties have 10 business days to file a motion for reconsideration with the Hearing Panel pursuant to Rule 28(a) of the Rules of the Commission on Judicial Conduct.

**DATED** this 8<sup>th</sup> day of May 2012.

**COMMISSION ON JUDICIAL CONDUCT**

  
\_\_\_\_\_  
Hon. Lawrence F. Winthrop  
Presiding Member of the Hearing Panel

TO:  
Larry J. Cohen, Counsel for the Respondent  
Jennifer M. Perkins, Disciplinary Counsel

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**FILED**  
**MAY 18 2012**  
ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**

**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning	)	
	)	CJC Case No. 11-111
<b>Judge Phillip Woolbright</b>	)	
Arrowhead Justice Court	)	<b>MOTION FOR</b>
Maricopa County	)	<b>RECONSIDERATION OF</b>
State of Arizona	)	<b>MAY 8, 2012 FINDINGS OF</b>
	)	<b>FACT, CONCLUSIONS OF LAW</b>
Respondent.	)	<b>AND RECOMMENDATIONS</b>
	)	
	)	

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Respondent, through counsel, and pursuant to this Commission's May 8, 2012 Findings of Fact, Conclusions of Law, and Recommendations, respectfully request that this Commission reconsider its recommendation to the Arizona Supreme Court.

This Motion for Reconsideration is supported by the following Memorandum of Points and Authorities, Respondent's Closing Argument, Respondent's Proposed Findings of Fact and Conclusions of Law and all filings previously submitted in this case, all of which are incorporated herein by this reference.

**MEMORANDUM OF POINTS AND AUTHORITIES**

Much as Respondent respects the Commission hearing panel members for the time and effort they put into this case, he must express his great disappointment that the Commission has

recommended he be removed from office. In this Motion he will identify findings of facts that may not be warranted in light of the evidence presented at the hearing and review compelling evidence that challenges the appropriateness of other findings of fact. He will conclude by reviewing the mitigating circumstances that he thinks supports the sanction recommendation he proposed rather than the removal recommendation the Commission is making.

**A. Facts Not Supported by the Record**

1. There is no evidence that Respondent identified himself as a judge in an attempt to receive special treatment. Officer Karaloff's testimony substantiates that Respondent did not identify himself as a judge to take advantage of or gain any favor in his position as a judge.<sup>1</sup>

2. Respondent's self reports to the commission never stated that Respondent knew that the person waiting by the vehicle was a process server, only that he understood that person *could* have been a process server. Respondent certainly recognized the possibility that it was a process server given the content of the text message he received. However, given the high level of conflict at that time between him and his then wife he was not certain who this person was and how that person might respond if

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<sup>1</sup> Testimony before the Commission of Officer Karaloff, Apr. 25, 2012.

he went to his vehicle. It is important as well to recall that Ms. Miller told the process server shortly after she moved the vehicle that she did not know why she was asked to move Respondent's van.<sup>2</sup> Ms. Miller has since testified that this was a false statement on her part. However, if we take her statement to the process server at face value it certainly supports Judge Woolbright's contention that he did not ask her to move the vehicle to avoid service of process.

3. During the July 21, 2011 incident, Respondent never identified himself as a judge for an improper purpose either explicitly or implicitly. Officer Jones, testified that he did not believe Judge Woolbright was seeking any kind of advantage or special treatment by virtue of him being a judge.<sup>3</sup>

#### **Facts In Dispute**

1. The Commission notes that three of Judge Woolbright's children were removed from the Order of Protection. The Commission should further note that Judge Gordon ordered Respondent's fourth child off the Order of Protection at a June 17, 2012 hearing.

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<sup>2</sup> William Tash Affidavit.

<sup>3</sup> Testimony before the Commission of Officer Jones, Apr. 25, 2012.

2. The Commission's inference that Judge Woolbright was at all times avoiding service of process is inconsistent with the record. He never questioned whether process should be served, but rather took issue with the need to serve him personally. He thought the order of protection could be served on his attorney and continually directed the process server to do so. He recognizes in retrospect that his belief on this issue was incorrect. However, there is a significant difference between a belief and intentionally trying to evade lawful service. When he came to understand that he must be served personally he took steps for that to happen. The delay that occurred was the result of his being legitimately out of the service area and not continuing avoidance of service. Indeed, when he knew he would be back in the area he took specific steps to be served personally and ultimately was served personally.

Furthermore, Judge William's testimony at the hearing substantiates Respondent's claim that he did not know that Orders of Protection must be personally served. Judge Williams testified that Respondent instructed him not to accept service on his behalf from Mr. Tash in a March 28, 2011 phone call.<sup>4</sup>

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<sup>4</sup>Testimony before the Commission of Judge Williams, Apr. 25, 2012.

Respondent would have had no fear of Judge Williams accepting service if Respondent knew that Orders of Protection could not be served via an agent.

Respondent arranged to meet with Mr. Tash on March 28, 2011 at Respondent's attorney's office; however, Respondent had never been to his attorney's office before and got lost going to that location. When Mr. Tash later arrived at Respondent's attorney's office, he decided not to stop when he did not see Respondent's vehicle.<sup>5</sup>

Respondent's trip to Lake Havasu City was not an unplanned trip; Respondent was going in connection with his need for a vehicle. He did not go to avoid service.

On April 2, 2011 Respondent called Mr. Tash and accurately explained that he was on his way back to Lake Havasu City. Respondent did not misrepresent his location as he was on his way to Lake Havasu City, to return on April 3, 2011, while on the phone with Mr. Tash. Further, Respondent made arrangements to accept service from Mr. Tash upon his return on April 3, 2011.

The point here is not to excuse Judge Woolbright's lack of knowledge during this time period about how service of an order of protection must be accomplished. Rather, the point is that

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<sup>5</sup> *Id.*

Judge Woolbright was not acting in defiance of service, but seeking to manage the way in which he was served. He wanted service to be completed by serving his attorney with all of the domestic relations paperwork, including the order of protection. His cooperation in completing service once it was clear that he had to be served personally is compelling evidence that avoiding service of the legal documents was not his goal.

3. Respondent's statement to the police that he feared his children had been "kidnaped" may have been dramatic, but it was not an untruthful statement. He was genuine in his concern that his children may have been removed from the state. Accordingly, it is inaccurate to say that he was lying to the police. It turned out he was wrong factually, but he was not being untruthful when he made the statement.

4. During an April 1, 2011 telephone call, Lester Pearce informed Respondent that he could continue to hear cases involving Orders of Protection. Respondent continued to hear cases involving Orders of Protection relying on that conversation.

He felt, as stated in his July 1, 2011 response to the Commission's June 24, 2011 inquiry that the "wisdom obtained from

this experience" had not affected his impartiality at all.<sup>6</sup> To say that he felt he benefitted from that wisdom is very different than saying he made decisions based on that wisdom. Respondent continued to make decisions based on the law as he understood its applications in the cases he decided.

Respondent agrees with Judge Fine that under circumstances like these he should have recused himself from hearing such cases while he was still under an order of protection himself. He stopped hearing cases on July 22, 2012 and did not hear any such cases thereafter.

The order of protection has now expired.

7. Respondent continued to call the Peoria Police Department to report his ex-wife for custodial interference because it had been suggested to him that police reports could be used by Respondent to show that his ex-wife had not permitted the court ordered visitation. His reports were not unwarranted to the extent that the Superior Court later confirmed that Respondent should have had all his visitation. He was not seeking to abuse the legal process, but agrees in retrospect he should have dealt in a different way with documentation of what he believed to be

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<sup>6</sup> Respondent's July 1, 2011 Response to Disciplinary Counsel for the Commission's June 24, 2011 Letter.

his wife's violation of a court order.

8. Respondent cannot agree that he was not truthful with the Commission. There were disputes of fact that the Commission had to resolve. In resolving some of them against Judge Woolbright the Commission accepted accounts of others about events over those of the Respondent. Such findings do not mean that Respondent was being untruthful. Rather, the findings reflect different recollections of events that occurred.

The circumstances surrounding Ms. Miller moving the van is a good illustration of this point. At the time of the events in issue she told the process server she did not know why she was asked to move the van. Later she reported differently to the Commission and pressed Respondent during their September 6, 2011 conversation that her new "recollection of the events" was what happened. Respondent had been confident in his own mind that what she originally told the process server was true, that Respondent did not tell her why he wanted her to move the van. When Ms. Miller reminded him of how emotional he had been that day he accepted her account of what happened. His acceptance of her account does not mean that he was being untruthful in reporting his memory when he first responded to the Commission's Statement of Charges.

9. Respondent never threatened Ms. Miller during their conversations, nor did he try to convince her to alter her testimony in any way. Respondent expressly reassured Ms. Miller that she was at no risk of harm from him.<sup>7</sup> Respondent acted professionally and appropriately at all times in his day to day interactions with Ms. Miller, including the time period after September 6, 2011.<sup>8</sup> With great respect to Ms. Miller, her feeling that she was being intimidated does not correspond to the surrounding facts, when considering the course of their relationship, Respondent's interactions with her afterwards reflected the respect he continued to show her.

10. Additional mitigating factors:

(a) The Commission did not consider as a mitigating factor the extremely hostile environment Judge Tolby described when talking about Respondent taking office at the Arrowhead Court. The Commission should give great weight to the testimony of Ms. Resendes, a truly unbiased person who reported honestly what she observed about Respondent's efforts to fulfill his responsibilities as a new Justice of the Peace in light of that environment.

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<sup>7</sup> Testimony before the Commission of Ms. Miller, Apr. 25, 2012.

<sup>8</sup> *Id.*

Likewise, the Commission should give great weight to Judge Fine. He too is an unbiased person who described what excellent work and what a positive member Respondent was of the Court environment outside the hostile work setting Respondent confronted at the Northwest courthouse.

(b) The Commission should also give great weight to the observations by Judge Tolby about Respondent's capacity for good work with an appropriate mentor. This is not a situation where a respondent cannot fulfill his elected duties and serve the public. He simply needs a fair opportunity to do so.

(c) Prior to March 24, 2011, neither Judge Keegan, Judge Williams nor anyone else submitted any complaint or concern about Respondent to the Commission on Judicial Conduct.<sup>9</sup>

(d) During the investigation, Respondent continued to keep the Commission apprised of his situation and made numerous truthful self-reports immediately after each of the aforementioned incidents.<sup>10</sup>

(e) In evaluating the reasonableness of how Respondent reacted and dealt with the tumultuous pressures he was

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<sup>9</sup> Testimony before the Commission of Judge Keegan and Judge Williams, Apr. 25, 2011.

<sup>10</sup> See Respondent's Self-Reports to the Commission dated Apr. 13, 2011, Apr. 15, 2011, July 1, 2011, and July 22, 2011.

experiencing, the Commission should consider the response of some of the witness who came before it to much less severe circumstances. Ms. Miller claimed to be in fear of her personal safety because of a process server inquiring of her where Respondent was. Three Justices of the Peace met repeatedly over the lunch hour to talk about bringing guns to the courthouse because of a statement by a witness during Respondent's custody proceeding. If the Commission deems these kinds of reactions within the bounds of reasonableness under the circumstances presented surely the Commission can appreciate the incredible stress on Respondent from the highly contentious circumstances of his dissolution proceedings, the loss of contact with his children over a period of many months, a hostile work environment and the allegations he has been addressing with the Commission.

Finally, as the Commission reviews, as Respondent hopes it will review, the recommendation it made in this case, Respondent respectfully suggests that the surrounding circumstances changed very little between the time the Commission agreed that a two month suspension was appropriate and its current recommendation to remove him from the bench. Indeed, the only change was the County Attorney chose to re-institute charges against him that it had previously dismissed for circumstances arising out his going

to wife's house while under the order of protection. It was in this context that Respondent proposed at the end of the hearing a set of sanctions that were appropriate to this case. Respondent respectfully urges the Commission to reconsider them here:

1. Suspension from office through the period of time the pending criminal case is proceeding. The Commission will note again that Judge Woolbright previously stipulated to a two month suspension.

2. Upon return to the bench Judge Woolbright would work in close contact with a mentor, someone like Judge Orr or Judge Tolby, until such time as the mentor reports to the Commission that Judge Woolbright no longer needs a mentor. Judge Woolbright is willing to bear the cost of the mentor judge.

3. Judge Woolbright would not preside over cases involving domestic violence or interference with judicial proceedings until such time as the mentor opines that it appears appropriate for him to do so in light of all of the circumstances.

4. Judge Woolbright will continue with counseling until such time as the behavioral health provider opines that Judge Woolbright is able to appreciate and effectively manage the emotional issues identified by Dr. Potts.

5. Judge Woolbright will in addition to his regular

continuing education obligations enroll at his own expense in continuing education courses dealing with the disposition of domestic violence cases, judicial ethics and judicial professionalism.

By: The Cohen Law Firm

          /s/ Larry Cohen            
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**FILED**  
**MAY 22 2012**  
ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning )  
) Case No. 11-111  
**Judge Phillip Woolbright** )  
Arrowhead Justice Court ) **RESPONSE TO MOTION FOR**  
Maricopa County ) **RECONSIDERATION**  
State of Arizona )  
Respondent. )

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On May 8, 2012, a Hearing Panel (Panel) comprised of members of the Commission on Judicial Conduct (Commission) issued Findings of Fact, Conclusions of Law, and Recommendations (Findings and Recommendations) in the above-captioned matter. On May 18, Respondent requested that the Panel reconsider those Findings and Recommendations. Undersigned Disciplinary Counsel hereby responds to the motion for reconsideration and respectfully requests that the Panel deny the request, finalize its Findings and Recommendations, and submit the same to the Supreme Court.

**I. Respondent Failed to Present a Legitimate Basis for the Panel to Reconsider its Findings and Recommendations.**

Respondent's request is primarily based on his disagreement with the Panel's evaluation of the evidence, the testimony, and the credibility of witnesses. The record in this matter included approximately nine hours of live testimony and argument, more than thirty exhibits, and thirty-five stipulated facts. Respondent has failed to articulate a single material error in the

Panel's Findings and Recommendations, but rather suggests the Panel should re-think its decisions. The Panel should reject the invitation to second-guess the decision reached after weighing the substantial record in this case.

Of particular note, at pages 9-12 of his request, Respondent appears to suggest that the Panel failed to account for various mitigating factors. That is, of course, incorrect as the Panel explicitly identified the mitigating factors that were demonstrated through clear and convincing evidence. *See* Findings and Recommendations at 7, para. 18. The Panel simply determined that such factors were "substantially" outweighed by aggravating factors. *Id.* at 10, para. 2.

Further, Respondent also questions the change from the Panel's earlier recommendation in this case, which was a 60-day suspension coupled with additional terms, to the current recommendation of removal from the bench. In particular, Respondent suggests that "very little" changed in between the two recommendations. Respondent's concerns here fail to take into account the different contexts in which the Panel made its two recommendations.

The Panel's initial recommendation came as a result of a stipulation reached by the parties – in that context there was no adjudication of facts and evaluation of evidence and testimony. The Panel was instead presented with limited factual information consisting of only those facts to which the parties could agree, and in language Respondent approved. The Panel's current recommendation is based on its own full adjudication of the facts and evidence, where the members were not bound by Respondent's characterization of the facts but rather reached their own determinations.

Additionally, certain additional facts and evidence did come to light in the interim between the two recommendations, including the following: (1) the re-filing of criminal charges

against Respondent, complete with additional evidence not previously available or considered in this context; (2) additional information from Respondent's dissolution and custody case confirming Disciplinary Counsel's concerns about Respondent's pattern of failure to fully accept responsibility for his actions; (3) several local Constables and Justices of the Peace presented persuasive arguments to the Commission and to the Supreme Court that this case required a full evidentiary hearing in order to properly evaluate the appropriate sanction; and (4) the Supreme Court remanded the case to the Commission for further proceedings.

Finally, while Respondent presented himself as contrite and wholly accepting responsibility for his conduct at the time of the hearing, the Panel should continue to be mindful of Respondent's attitude as demonstrated throughout the proceedings – which is in contrast to his attitude and demeanor at the hearing.

## **II. Respondent's Request Improperly Contains New Information.**

Respondent through his request improperly attempts to expand the factual record by presenting new information to the Panel. First, when now caught in the inconsistency between his statements to the process server, William Tash, and his testimony at the hearing about his travel to Lake Havasu, Respondent now, for the first time, claims to have made two separate trips to Lake Havasu. *See* Motion for Reconsideration at 5. Respondent's new story is that, after returning from his first trip on March 30, he drove back to Lake Havasu on April 2, and returned on April 3. The purpose of this second eight-hour roundtrip remains unknown. Based on Mr. Tash's affidavit, Respondent's attempt to explain away the inconsistency recognized by the panel is implausible: Mr. Tash spoke with Respondent at 4:27 p.m. on Saturday, April 2, at which time Respondent now claims he was "on his way" to Lake Havasu. Mr. Tash then saw

Respondent leaving his residence in Peoria the next morning at 8:27 a.m., eventually tracking Respondent down back at the residence a short while later where service was finally effectuated. *See* Exhibit 5.

Second, Respondent now claims that he continued to hear matters involving orders of protection between April and July 2011, based on advice from Lester Pearce received on April 1, 2011, before Respondent even accepted service of the order. Mr. Pearce did not testify at the hearing and Respondent did not previously testify or present evidence related to this alleged advice. Indeed, at the most appropriate opportunity for Respondent to indicate that he was relying on advice from Mr. Pearce, his July 1, 2011, letter to Disciplinary Counsel explaining his decision to continue hearing such cases, Respondent failed to mention Mr. Pearce at all. This new information is thus not only inappropriate for the Panel to consider, but is not credible.

### **III. Respondent's Request Mischaracterizes the Evidence Presented.**

Respondent incorrectly states that Officer Karaloff's testimony "substantiates that Respondent did not identify himself as a judge to take advantage of or gain any favor in his position as a judge." Motion for Reconsideration at 2, para. 1. This is contrary to the officer's testimony, which confirmed that Respondent inferred a desire for special treatment when he: (1) incorrectly asserted that his wife had "kidnapped" the children, then relied on his position as a judge to explain that he was not really making a false report; (2) improperly asked the officer to "ping" his wife's cell phone; and (3) improperly offered, due to his authority as a judge, to sign a search warrant. Testimony of Officer Pat Karaloff, April 25 (1:50 p.m. to 1:57 p.m.).

Next, Respondent repeatedly suggests that Ms. Miller changed her story from the time she spoke with Mr. Tash to the time she spoke with the Commission. Motion for Reconsideration

at 3, 8. This suggestion ignores Ms. Miller's testimony that she knowingly lied to Mr. Tash on March 24 when she told him that she did not know why she had moved the van. Testimony of Jane Miller, April 25 (9:59 a.m. to 10:00 a.m.). In other words, Ms. Miller's story has never changed, but she understandably declined to tell the process server that she had helped her boss to intentionally avoid service of process.

### CONCLUSION

Respondent has failed to present any reasonable basis on which this Panel should reconsider its Findings and Recommendation. Disciplinary Counsel thus respectfully requests that the Panel deny the Motion for Reconsideration, finalize its Findings and Recommendation, and file the same with the Supreme Court at the earliest possible opportunity.

Dated this 22nd day of May 2012.

### COMMISSION ON JUDICIAL CONDUCT

s/ Jennifer M. Perkins  
Jennifer M. Perkins  
Disciplinary Counsel

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**FILED**

**MAY 31 2012**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA  
COMMISSION ON JUDICIAL CONDUCT**

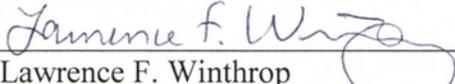
Inquiry concerning )  
)  
**Judge Phillip Woolbright** ) Case No. 11-111  
Arrowhead Justice Court )  
Maricopa County ) **ORDER**  
State of Arizona )  
Respondent )

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Respondent filed a Motion for Reconsideration of May 8, 2012, Findings of Fact, Conclusions of Law and Recommendation on May 19, 2012. Disciplinary Counsel filed a Response to Motion for Reconsideration May 22, 2012. Having reviewed the motion and the response, **the motion is denied.**

**DATED** this 31st day of May 2012.

**FOR THE HEARING PANEL**

  
Lawrence F. Winthrop  
Presiding Hearing Panel Member

Copies mailed, e-mailed or hand-delivered  
on May 31<sup>st</sup>, 2012, to:

Larry J. Cohen  
Respondent's Counsel

Jennifer M. Perkins  
Disciplinary Counsel

  
Clerk of the Commission