



SCHERN RICHARDSON FINTER

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8 *Attorneys for Defendants*

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

10 IN AND FOR THE COUNTY OF MARICOPA

11 JIE CAO; HAINING XIA; STONE XIA,

12 Plaintiffs,

13 v.

14 LORNE POLGER; MATT QUINN;
15 MICHAEL A. SCHERN,

16 Defendants.

No. CV2019-055353

DEFENDANTS' NOTICE REQUESTING
ASSIGNMENT TO COMMERCIAL COURT

17 Defendants Lorne Polger, Matt Quinn, and Michael A. Schern ("Defendants"), by and
18 through undersigned counsel, and pursuant to Ariz. R. Civ. P. 8.1(d)(3), hereby give notice that
19 this case is eligible for commercial court assignment and respectfully request that the case be
20 assigned to the commercial court forthwith.

21 **I. The Case is Eligible for Commercial Court Assignment**

22 On December 18, 2019, Defendants filed a Motion for More Definite Statement in
23 accordance with Ariz. R. Civ. P. 12(e). Although Plaintiffs have not yet amended their Complaint
24 to clarify their claims and identify intended defendants so that a substantive responsive pleading
25 may be filed, it is clear that Plaintiffs' lawsuit was prompted by the termination of a condominium
in which Defendants formally had a property interest.

1 The property which is the subject of Plaintiffs’ lawsuit was a condominium known as the
2 Dorsey Place Condominiums, consisting of 96 units. (“**Property**”). The Property was established
3 as a condominium by virtue of the recording of a Declaration of Condominium at Instrument
4 2007-0921387 in the office of the Maricopa County recorder. (“**Declaration**”). One of the
5 condominium units at the Property was owned by Plaintiffs. Plaintiffs’ claims appear to be that
6 the decision of the Property condominium association, a domestic non-profit corporation, to
7 terminate the condominium pursuant to A.R.S. §33-1228 and the Declaration was wrongful.
8 Arizona law is clear that the relationship between property association and the individual unit
9 owners is a *contractual* relationship which derives from the Declaration. *Johnson v. Pointe Cmty.*
10 *Ass’n, Inc.*, 205 Ariz. 485, 489, ¶ 23, 73 P.3d 616, 620 (App. 2003).

11 This case is eligible for Commercial Court assignment because:

- 12 1. One or more of Plaintiffs’ claims is or will be asserted against the Property
13 condominium association and the association is a business organization. Ariz. R.
14 Civ. P. 8.1(a)(1), (2)
- 15 2. The primary issues of law and fact in this case do or will relate to the association,
16 the Declaration, and a contractual termination agreement, and therefore, a business
17 contract or transaction. Ariz. R. Civ. P. 8.1(a)(1)
- 18 3. Plaintiffs’ case concerns the sale of assets of the association, the dissolution of the
19 association, and the governance of the association. Ariz. R. Civ. P. 8.1(b)(1), (2),
20 (3)

21 **II. Request for Commercial Court Assignment**

22 In accordance with Ariz. R. Civ. P. 8.1(d)(3), Defendants respectfully request that this case
23 be assigned to the Commercial Court.

1 DATED this 18th day of December 2019.

2 SCHERN RICHARDSON FINTER, PLC

3
4 By



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10 Attorneys for Defendants

11 ORIGINAL of the foregoing electronically filed
12 this 18th day of December 2019.

13 COPY of the foregoing mailed/e-mailed
14 this 18th day of December 2019, to:

15 Jie Cao, Haining Xia, Stone Xia
16 15742 E. Eagle Crest Road
17 Fountain Hills, AZ 85268
18 Plaintiffs

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Ann Bernzen