

Diane J. Humetewa  
10236 N. Central Avenue  
Phoenix, Arizona 85020

January 6, 2014

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Chairman Leahy:

I have reviewed the Senate Questionnaire that I previously filed in connection with my nomination on September 19, 2013, to be a United States District Court Judge for the District of Arizona. Incorporating the additional information below, I certify that the information contained in that document is, to the best of my knowledge, true and accurate.

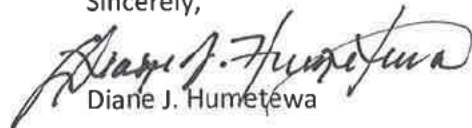
Q.12d:

November 22, 2013: Moderator, "The Legal Landscape of Tribal Renewable Energy Development" Conference, Arizona State University, Sandra Day O'Connor College of Law, Tempe, Arizona. I moderated a panel presentation on legal ethics and professional responsibility. Presentation slides and notes supplied.

December 17, 2013: Speaker, "Fall 2013 American Indian Student Convocation" Arizona State University, Tempe, Arizona. I provided brief welcome remarks. I have no notes, transcript or recordings. The address of Arizona State University is 1151 South Forest Avenue, Phoenix, Arizona 85287.

I am also providing an updated Net Worth Statement and Financial Disclosure Report as required by the Senate Questionnaire. I appreciate the Committee's consideration of my nomination.

Sincerely,



Diane J. Humetewa

cc: The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

**THE LEGAL LANDSCAPE OF TRIBAL RENEWABLE ENERGY  
DEVELOPMENT**

**November 22, 2013**

1:15-3:00

**DIANE:**

1. INTRODUCTIONS

2. DISCLAIMERS

**HYPOTHETICAL 1: [NICCOLE TO LEAD]**

**You are the chief legal counsel for your tribe. ZEN Energy, a renewable energy company, and TRY, a tribal enterprise, have proposed developing valuable tribal renewable energy resources to the tribal leadership. The leadership asks you to enter into a Letter of Intent and to carry out the development of the project for the tribe. You have limited experience in developing renewable energy resources for an Indian tribe.**

*Q. What ethical issues arise?*

*Who is the client? [Discuss: Council delegates, President or Chairman, committees of the Council, tribal enterprise, competing governmental entities?]*

*Q. Are you able to hire independent counsel for the other governmental unit?*

Discuss:

- \* Attorney role as mediator
- \* Charter responsibility for representation
- \* What are the objectives of representation?
- \* Has a final decision been made to develop the project?

*Q. If you question the viability of the project or question the competence of the ZEN Energy, is it within your responsibility to investigate these issues?*

**MRPC Ethical Rule 1.2. Scope of Representation and Allocation of Authority between Client and Lawyer**

- (a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation.
- (b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

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- (c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
- (d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

## Rule 16-101 of New Mexico Rules. & ABA MR 1.1

**Competence.** A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation **reasonably necessary for the representation.**

*Q. How do you determine whether to handle the matter yourself or hire outside counsel?*

Considerations: **Competence**

- \* Evaluate your own competence; honestly.
- \* Assess what you know about legal requirements for project development?
- \* What don't you know? Do you have sufficient knowledge on the complex issues involved? Including complex laws and regulations that are constantly changing, e.g., permitting, federal subsidies, financing vehicles, tax credits, etc.
- \* How much work will be required for you to get up to speed?
- \* Do you have the time?
- \* Whose ethical rules apply?
- \* Expertise of a general practitioner is required.
- \* Can you limit your representation?
- \* How will due diligence be conducted?

DH Comment to 1.1: in determining competence – suggests focusing on the following factors: Relative Complexity of the Matter and the Specialized Nature of the Work

*Q. How do you achieve competence to meet the parameters of the rule?*

DH Practical Considerations that I assume every tribal general counsel must consider:

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*Q. If you need to hire outside counsel, how do you select a firm?*

Discussion regarding selecting an outside firm:

- \* References. Check out any references yourself.
- \* Utmost care required
- \* Due diligence quandary - How do you know which attorneys to hire prior to completion of diligence?
- \* Lawyers do not know it all. You will also need industry experts. The right law firm should know of such experts. Insist on experts.
- \* Experience in the specific subject matter – you want someone who has done it before
- \* Expertise required of outside counsel
- \* Indian law knowledge \* Knowledge of laws governing the tribe

*Q. What do you do in special situations? For instance, what issues arise when the enterprise has its own counsel and partners? Is there an implied “association”?*

Discuss:

- \* Be wary of sharing confidential information
- \* Attorney has discretion to make limited disclosures

## **New Mexico Rule 16-104 Communication ABA MR 1.4**

- A. Status of Matters. A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.
- B. Client’s Informed Decision-Making. A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

*Q. With a tribal government client – how do you comply with “Communication”?*

- \* Obtaining tribal approvals
- \* Inclusion of approving committee members on project team
- \* Hiring expert consultants
- \* Committee reports

## **New Mexico Rule 16-106 Confidentiality of Information/ ABA MR 1.6**

- A. Disclosure of Information Generally. A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in Paragraphs B, C and D.

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- \* Issue of disclosure to enterprise and ZEN Energy attorneys
- \* Non-Disclosure Agreements
- \* Executive Sessions
- \* Tribal Access to Information Acts [[How many here work for or know of tribes who have enacted these kinds of laws]?
- \* Who is authorized to consent to disclosure of confidential or attorney client privileged information?

## **New Mexico Rule 16-103 Diligence / ABA MR 1.3**

A lawyer shall act with reasonable diligence and promptness in representing a client.

**DH Comment states that lawyers shall pursue the matter despite opposition, obstruction or personal inconvenience.**

Discuss diligence considerations:

- \* Get expert consultants quickly.
- \* If the tribe will contribute financing or guarantee the project
  - Do feasibility and market studies
    - \* Bank loan will require bond counsel
- \* What natural or renewable resources of the tribe will be utilized?
  - \* If water is to be used, is there a water right and is there an available supply?
    - \* Will the tribe discount the value of resources it provides to the enterprise?
      - \* Beware of escalated commitment
      - \* Enterprises' participation should be long term feasible
- \* Infrastructure availability
  - \* Transportation facilities
  - \* Pipelines, transmission lines, railroads, trucking
- \* Time to bring the project to completion
  - \* Environmental assessments or EIS
  - \* Federal action
  - \* Endangered species Act compliance
- \* Critical path
  - \* Investment tax credit
  - \* PPA with utility company necessary for financing
  - \* Transmission and interconnection rights
  - \* Environmental/endangered species/cultural resource studies
- \* Construction within allowable time frames to qualify for tax credits

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**HYPOTHETICAL 2:      [PETER TO LEAD]**

**Attorney A in your firm's Texas office represents Client A in a loan transaction. The matter is small and ongoing, although there has been no activity recently. After some time, Client B seeks to have Attorney B in your firm's Sacramento office represent Client B in an energy development project in California. Client A is one of many entities who have a role in the California transaction. 2 clients; same firm but 2 attorney's in the firm handling each client**

**What issues arise? What if Client A is a former client?**

**Conflicts of Interest!**

**MRPC Rule 1.7 Conflict Of Interest: Current Clients**

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

*Q. What if you identify that adversity present? See Model Rules Comments 6 and 7 to Rule 1.7. ("Absent consent a lawyer may not act as an advocate in one matter against the person the lawyer represents in some other matter, even when the matters are wholly unrelated.").*

*Q. Could the representation of Client A or B materially limited? What if the firm represents Clients A and B in an economic development project?*

Could the lawyer be limited in his representation due to the duty of loyalty to each?

Comment: consider whether the representation will interfere w/lawyers "independent professional judgment"

Accordingly, the lawyer may be limited in its ability to recommend all possible positions that each Client may take. See Model Rules Comment 8 to Rule 1.7.

Consider also attorney's knowledge of confidential information about a client that may be adverse the interests of other client. For example - What is Client B's source of funds?

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## MRPC Rule 1.7(b). Waiver.[Informed Consent]

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) **the lawyer reasonably believes** that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives **informed consent**, confirmed in writing.

## What is the math on reasonable belief? Could the attorney undertake the representation despite the presence of a concurrent conflict?

Consider professional judgment, **independence**, **duty of loyalty**, potential for material limitation, potential for disagreements and prejudice from any conflict.

Consider how antagonistic the Client's interests are with respect to each other.

## **Can the Client consent?** And more importantly, how would the lawyer's representation of each be impacted? Can the lawyer provide competent and diligent representation to each client. See **MRPC Rules 1.1, 1.3.**

**[Informed consent is described in MR 1.0 (6)– terminology – Requires a reasonable effort to ensure that the client possesses information to make an informed decision]**

### **Rule 1.1 Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

**Rule 1.1 Comment 1:** “In determining whether a lawyer employs the requisite knowledge and skill in a particular matter, relevant factors include the relative complexity and specialized nature of the matter, the lawyer's general experience, the lawyer's training and experience in the field in question, the preparation and study the lawyer is able to give the matter and whether it is feasible to refer the matter to, or associate or consult with, a lawyer of established competence in the field in question.”

## What if a portion of the subject matter is outside of a lawyer's wheelhouse?

o In for a penny in for a pound?

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- o Coming to speed.
  - o Association?
  - o Limitation of representation. See **Arizona State Bar Opinion 05-06**. But see **MRPC Rule 1.8(h)** (“a lawyer shall not make an agreement prospectively limiting the lawyer’s responsibility to a client for malpractice unless the client is independently represented in making the agreement.”)
- Consider attorney “competence” vs. a wonderful opportunity for malpractice.

## MRPC Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

**Rule 1.3 Comment:** “A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf.” But see Arizona: removal of “and with zeal in advocacy upon the client's behalf.”

- Attorney availability and responsiveness.
  - o Consider prejudice to client interests in business negotiations. See also Rule 1.4 – Communication. See the discipline section of the Arizona Attorney magazine for various transgressions involving failure to communicate and failure to take action by a required date.
- Assuming you have the time, subject matter expertise, and feel comfortable representing the client in a transaction where a conflict may be present, how does the client consent to such representation?
- Informed consent. What is informed consent? **Comment 6 to Model Rule 1.0**. It depends upon the situation.

“The communication necessary to obtain such consent will vary according to the Rule involved and the circumstances giving rise to the need to obtain informed consent. The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client's or other person's options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a client or other person of facts or



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implications already known to the client or other person; nevertheless, a lawyer who does not personally inform the client or other person assumes the risk that the client or other person is inadequately informed and the consent is invalid.”

- Consider how to request a waiver. Engagement letter or other writing with discussion.

The more detail the better. But consider Rules regarding confidentiality.

## Organization as Client

- Entity Consent. Who is the client? Is it a state or tribal law entity? Governmental agency? A government?

- **Illinois State Bar Opinion 07-01.**

- o “We conclude that for the purpose of conflict of interest questions, there is not one entity, composed of all state agencies. But, we caution this does not mean that each state governmental agency is necessarily a separate entity from every other state governmental agency. On a case-by-case basis additional information must be considered, such as “whether or not each government entity has independent legal authority to act on the matter in question, and whether representation of one government entity has any importance to the other government entity. Because the state government is not one entity composed of all departments under the jurisdiction of the Governor for purposes of resolving conflict of interest questions, a lawyer may represent one government agency while representing a private party adverse to another state government agency.”

- Waiver of conflict of interest by Government? Some jurisdictions do not permit public entities to waive conflicts of interest. Look to particular jurisdiction.
- The identity of the entity client is largely dependent upon facts and law. **NY City Ethics Opinion 2004-03.**
- Limitation on scope of representation of entities in Arizona. **Arizona Bar Opinion 02-06.**

A lawyer may form a business entity for various individuals and be counsel only for the yet-to-be-form entity, if appropriate disclosures and consents occur. Alternatively, a lawyer may represent all of the incorporators collectively, with appropriate disclosures.

Consider:

- o **MRPC Rule 1.6 – Confidentiality**
- o **MRPC Rule 1.7 – Conflict of Interest General Rule**
- o **MRPC Rule 1.13 – Organization as Client**

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- o What is informed consent for the entity? Are the individuals providing informed consent? What disclosures should be made? Representation of the LLC vs. representation of the members.
- Majority Rule re Corporate Families. A lawyer who represents a corporation or other organization does not by virtue of that representation, necessarily represent any constituent or affiliated organization, such as a parent or subsidiary. See Comment 34 to Model Rule 1.7. That being said, consider the facts and circumstances.

## MRPC Rule 1.13 Organization As Client

- (a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.
- (b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the circumstances to the highest authority that can act on behalf of the organization as determined by applicable law.
- (c) Except as provided in paragraph (d), if
  - (1) despite the lawyer's efforts in accordance with paragraph (b) the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law, and
  - (2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.
- (d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.
- (e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those

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paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

- (f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.
- (g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

- Who speaks for the Entity Client? Confirm this early and often. Who gets to say yes?*
- What are the ultimate approvals? Are there delegations of authority in place?*
- When do you notify higher authorities within the entity?*

## Former Clients

*What if Client A is a former client? How might this impact your representation?*

## MRPC Rule 1.9 Duties To Former Clients

- (a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.
- (b) A lawyer shall not knowingly represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client
  - (1) whose interests are materially adverse to that person; and
  - (2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter; unless the former client gives informed consent, confirmed in writing.
- (c) A lawyer who has formerly represented a client in a matter or whose present or former firm has formerly represented a client in a matter shall not thereafter:

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- (1) use information relating to the representation to the disadvantage of the former client except as these Rules would permit or require with respect to a client, or when the information has become generally known; or
  - (2) reveal information relating to the representation except as these Rules would permit or require with respect to a client.
- Consider knowledge gained in prior representation.
  - Informed consent waiver. *Who provides?*

## **Negotiation Ethics. Communication, Omissions and Truthfulness.**

- The Model Professional Responsibility Rules have a number of communication rules to consider during the negotiation of any transaction.
- A large transaction may involve a number of players which may include both attorneys and the actual represented parties. Due to subject matter expertise, individual parties may take an active role within contract negotiations. The following are a few of the rules which can be triggered in the agreement negotiations.
- Don't lie.

## **Rule 1.4 Communication**

- (a) A lawyer shall:
  - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
  - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
  - (3) keep the client reasonably informed about the status of the matter;
  - (4) promptly comply with reasonable requests for information; and
  - (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation
  - o Confirm informed decisions with client. Consider communication reports when client is an organization.
  - o Clarity regarding legal counsel role.

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## **Rule 4.1 Truthfulness In Statements To Others**

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.
- o Note materiality standard.
- o Representation by omission?
- o Rule 1.6 – Confidentiality considerations.

## **Rule 4.2 Communication With Person Represented By Counsel**

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

- o See Formal Opinion 92-362 (2002) and 06-443 (2006) of ABA Ethics Committee.
- o More recently, ABA Ethics Committee Formal Opinion 11-461.
- o Set expectations and obtain consent.

## **Rule 4.3 Dealing With Unrepresented Person**

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

- o Disclosure of role of attorney.

## **Rule 8.4 Misconduct**

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

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- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;  
or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

This broad rule applies to communications with adverse parties and opposing counsel.

## **HYPOTHETICAL 3 [ROXANN TO LEAD]**

**Due to the complexity of tribal energy development transactions, a request for legal services by tribes and tribal entities asks responding firms to identify similar clients and transactions that they have worked on in the past.**

*Q. Is the identification of those **clients** or **transactions** a violation of the ethical rules regarding confidentiality?*

Yes, a lawyer must have the consent of the clients prior to providing the responses or must identify the transaction so generally that the client cannot be surmised.

1.6 Confidentiality. A lawyer shall not disclose information about a client that the lawyer has gained in the professional relationship. Some rules are broad and would hold that even disclosure of the name would violate ethical rules and some rules say that only if the information is embarrassing or detrimental must the lawyer withhold it.

A lawyer may, however reveal the information with the consent of the client.

Bay Mills Code of Ethical Conduct Rule 2.303(E), California Rules of Professional Conduct Rule 3-100, ABA Model Rule 1.6

## **HYPOTHETICAL 4 [PETER TO LEAD]**

**During the course of negotiating the structure of a tribal energy transaction for Tribe X, the client asks the lawyer who is known to have recently worked on a similar transaction for Tribe Y, how Tribe Y structured their transaction.**

*Q. Can the lawyer reveal this information?*

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*Q. If the lawyer cannot reveal the information, can they nevertheless use the same structure?*

1. Confidentiality 1.6. A lawyer shall not disclose information about a client that the lawyer has gained in the professional relationship.
2. Duties to Former Clients. A lawyer who has formerly represented a client shall not thereafter reveal information relating to the representation. Is this practical? **ABA Model Rule 1.7 and 1.8**

*Q. What if Tribe X's energy project will compete directly with Tribe Y's energy project?*

Duties to Former Clients. A lawyer who has formerly represented a client shall not thereafter use information relating to the representation to the disadvantage of the former client (except including when the information becomes generally known). **ABA Model Rule 1.9**

*Q. Can the lawyer use documents from Tribe Y transaction as the base documents for the Tribe X transaction?*

*Q. If the same forms are used but adapted for Tribe X, can the lawyer charge the same amount for legal fees associated with drafting the documents?*

1. Fees. A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:
  - (1) **the time and labor required, the novelty and difficulty of the questions involved**, and the skill requisite to perform the legal service properly;
  - (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
  - (3) the fee customarily charged in the locality for similar legal services;
  - (4) the amount involved and the results obtained;
  - (5) the time limitations imposed by the client or by the circumstances;
  - (6) the nature and length of the professional relationship with the client;
  - (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
  - (8) whether the fee is fixed or contingent.

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*ABA Model Rule 1.5*

**HYPOTHETICAL 5 [NICCOLE TO LEAD]**

**The lawyer represents two separate tribal utility authorities both owned and operated by the same tribal nation. Both authorities provide energy and both want to apply for the same federal grant funds. Both entities have asked the lawyer to assist in the preparation and submission of their grant applications.**

*Q. Is it a conflict of interest for the lawyer to represent both entities in this situation? Is it a waivable conflict?*

Conflict of Interest: A lawyer shall not represent a client if the representation of the client is directly adverse to another client, unless the lawyer reasonably believes the representation will not adversely affect the relationship with either client and the clients consent after consultation.

A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyers responsibilities to another client unless the lawyer reasonably believes that the clients would not be adversely affected and the clients consent.

NOTE: Consent includes a full explanation of the implications of the common representation, the scope and the risks and advantages involved. Bay Mills Code of Ethical Conduct Rule 2.303(F), California Rules of Professional Conduct Rule 3-310; ABA Model Rule 1.7 and 1.8

**HYPOTHETICAL 6 [ROXANN TO LEAD]**

**A lawyer has developed an expertise for a specific type of tribal solar projects. Sometimes the lawyer is engaged by the tribe and sometimes by the development company. After completing a number of projects, the lawyer discovers an error in the project documents that could be fatal the project structure. The error is in the documents for most of the projects that have been completed.**

*Q. Does the lawyer have a duty to report the error to his existing clients? How about his former clients? What if fixing the error in the deal with Tribe X would harm his other client, Tribe Y or his current development client?*



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**HYPOTHETICAL 7 [DIANE or ROXANN TO LEAD]**

**A lawyer represents a utility created by the tribal governmental authority. Most of the lawyer’s work is requested by the entity’s most senior employee, which is a CEO in this instance. The CEO calls the lawyer and tells him that the entity’s Board of Directors is micromanaging him and asks for the lawyer’s assistance in defining his and the Board’s duties pursuant to the entity’s governing documents. The lawyer agrees to the task. Later that week the the lawyer gets a call from the Board chair complaining about the CEO and asking the lawyer to perform a due diligence investigation of the CEO.**

*Q. Is there a conflict now proceeding against the CEO when the lawyer was previously acting at his request?*

California Rules of Professional Conduct Rule 3-600, ABA Model Rule 1.13

In representing an organization, a lawyer shall conform his or her representation to the concept that the client is the organization itself, acting through its highest authorized officer, employee, body or constituent overseeing the engagement.

If you find out that person is acting in a way that is or may be a violation of the law, the lawyer may take such actions that are in the best interest of the organization, including (i) urging reconsideration or (ii) reporting it to the next higher internal authority. If no response, then the lawyer must resign.

**Q. Is the work request by the CEO in the interest of the organization?**

In dealing with the board, the lawyer must explain the identity of the client and must explain that the individual members are not the clients. The board cannot be misled into believing that they are entitled to individual confidentiality.

**DH 1.13 “Comment : provides that the organization can only act through its officers, directors, etc... so if any of those officers, directors etc.. speaks to the organization’s lawyer – and does so in his capacity as an officer – ABA MR. 1.6 -Confidentiality is also implicated [READ Comment]”**

**THE LEGAL LANDSCAPE OF TRIBAL RENEWABLE ENERGY  
DEVELOPMENT**

**November 22, 2013**

1:15-3:00

**HYPOTHETICAL 8 [DIANE and/or ROXANN TO LEAD]**

**Similarly, the lawyer is engaged as borrower's counsel for a tribe borrowing money to make improvements to utility facilities. The tribe does not have sufficient expertise to operate the utility and has hired an outside management company. All of the lawyer's work is at the request of a senior employee of the management company and paid for out of the authority's operating account. One day the tribe decides to fire the management company and the new tribal president calls the lawyer and asks why the lawyer has been doing work at the request of the management company rather than at the request of the tribe?**

*Q. Has the lawyer committed an ethical violation by acting at the request of an outside management company, rather than the tribe? Who is the client?*

Though it is unlikely that an ethical violation was committed in either instance, these are both areas where COMMUNICATION at the outset and identification of the client would likely have avoided the issues.

**HYPOTHETICAL 9 [DIANE and/or ROXANN TO LEAD]**

**The lawyer is licensed in Arizona but is engaged as special counsel for a tribe located in Oklahoma. The energy project documents specify that state law will apply to certain portions of the contract (e.g., the perfection of security interests) and the documents contain a limited waiver of sovereign immunity. The lawyer is asked to give an opinion regarding the enforceability of the project documents. The opinion would therefore require the lawyer to opine on both tribal law and State of Oklahoma law.**

*Can the lawyer give this opinion without breaching the ethical rules?*

*Can the lawyer give this opinion if he relies on the opinions of other counsel whom he associates with for the deal, for example, the tribe's in-house counsel and an attorney licensed in the state of Oklahoma?*

*What if the tribe has adopted State law as a fill-in where they don't have applicable laws. Are you bound by State law?*

1. The Unauthorized Practice of Law A lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction. Arizona Ethical Rule 5.5, California Rules of Professional Conduct Rule 1-300

**THE LEGAL LANDSCAPE OF TRIBAL RENEWABLE ENERGY  
DEVELOPMENT**

**November 22, 2013**

1:15-3:00

2. Competence. A lawyer shall not handle a legal matter which the lawyer knows that the lawyer is not competent to handle, without associating a lawyer who is competent to handle it. Bay Mills Code of Ethical Conduct Rule 2.303(A)

**HYPOTHETICAL 10 [DIANE TO /ROXANN TO LEAD]**

**A lawyer has served as counsel to the office of the tribal president for several years. In this capacity, the lawyer has advised the President X on projects related to coal technology. A new tribal president, President Y, has been elected and has decided to go in the direction of green technology. President Y has asked the lawyer to prepare materials to be used in a lobby effort against the use of coal and for the development of green technology instead.**

*Q. What are the potential conflicts involved?*

*Q. Is the lawyer obligated to complete this request? What if the lawyer knows that abandoning coal production will cause the loss of a significant number of jobs?*

Lawyer as Advisor. In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation. ABA Model Rule 2.1

**HYPOTHETICAL 11 [ROXANN TO LEAD]**

**In order to get out of the coal business, President Y asks the lawyer to find loopholes in the contracts that the lawyer previously helped negotiate.**

*What should the lawyer do?*



# the legal landscape of tribal renewable energy development

November 22, 2013

By:

**Diane Humetewa**, Special Advisor to ASU President Michael M. Crow,  
Special Counsel, General Counsel's Office &  
Professor of Practice, College of Law

**Louis Denetsosie**, Breach of Trust Counsel for the Navajo Nation

**Peter Larson**, Partner, Lewis Roca Rothberger LLP

**Roxann Gallagher**, Sacks Tierney P.A.



SUDDENLY, THE PERKINS COIE FOLKS BEGAN TO REALIZE THEY HAD TERRIBLY MISUNDERSTOOD THE TRENDING “ENERGY LAW” SECTOR.

# Disclaimers

- The hypotheticals have been created for discussion only and are not necessarily reflective of any actual experience, client, lawyer, firm, or other entity. Further, the opinions that each of us are expressing today are our own and are not to be attributed to any employing firm, entity or any other individual attorney.
- Unless otherwise indicated, for discussion purposes the ABA Model Rules of Professional Conduct (“**MRPC**”) are referenced. A selection of the MRPC Rules discussed in this presentation have been included as an Appendix. Please note that tribal and state law may be different so please consult the laws of all applicable jurisdictions.

# Hypothetical 1

You are the chief legal counsel for your tribe. ZEN Energy, a renewable energy company, and TRY, a tribal enterprise, have proposed developing valuable tribal renewable energy resources to the tribal leadership. The leadership asks you to enter into a letter of intent and to carry out the development of the project for the tribe. You have limited experience in developing renewable energy resources for an Indian tribe.

❖ *What ethical issues arise?*

# Hypothetical 2

Attorney A in your firm's Texas office represents Client A in an loan transaction. The matter is small and ongoing, although there has been no activity recently. After some time, Client B seeks to have Attorney B in your firm's Sacramento office represent Client B in an energy development project in California. Client A is one of many entities who has a role in the California transaction.

❖ *What ethical issues arise?*

❖ *What if Client A is a former client?*



# Hypothetical 3

Due to the complexity of tribal energy development transactions, a request for legal services by tribes and tribal entities asks responding firms to identify similar clients and transactions that they have worked on in the past.

- ❖ *Is the identification of those clients or transactions a violation of ethical rules regarding confidentiality?*

# Hypothetical 4

During the course of negotiating the structure of a tribal energy transaction for Tribe A, the client asks the lawyer who is known to have recently worked on a similar transaction for Tribe B, how Tribe A structured their transaction.

# Hypothetical 4 Questions

- ❖ *Can the lawyer reveal this information?*
- ❖ *If the lawyer cannot reveal this information, can the lawyer still use the same transaction structure?*
- ❖ *Can the lawyer use documentations from the Tribe A transaction as the base documents for the Tribe B transaction?*
- ❖ *What if Tribe A's energy project will compete directly with Tribe B's energy project?*
- ❖ *If the same forms are used but adapted for Tribe B and all other things being equal, can the lawyer charge the same amount for legal fees associated with drafting the documents that they charged Tribe A?*

# Hypothetical 5

A lawyer represents two separate tribal utility authorities both owned and operated by the same tribal nation. Both authorities provide energy and both want to apply for the same federal grant funds. Both entities have asked the lawyer to assist in the preparation and submission of their grant applications.

- ❖ *Is it a conflict of interest for the lawyer to represent both entities in this situation?*
- ❖ *If so, is the conflict waiveable?*

# Hypothetical 6

A lawyer has developed an expertise for a specific type of tribal solar projects. Sometimes the lawyer is engaged by the tribe and sometimes by the development company. After completing a number of projects, the lawyer discovers an error in the project documents that could be fatal to the project structure. The error is in the documents for most of the projects that have been completed.

- ❖ *Does the lawyer have a duty to report the error to his existing clients?*
- ❖ *How about former clients?*
- ❖ *What if fixing the error for Tribe A would harm his other client, Tribe B or his current energy company client?*

# Hypothetical 7

A lawyer represents a utility created by the tribal governmental authority. Most of the lawyer's work is requested by the entity's most senior employee, which is a CEO in this instance. The CEO calls the lawyer and tells him that the entity's board of directors is micromanaging him and asks for the lawyer's assistance in defining his and the board's duties pursuant to the entity's governing documents. The lawyer agrees to the task. Later that week the lawyer gets a call from the board chair complaining about the CEO and asking the lawyer to perform a due diligence investigation of the CEO.

- ❖ *Is there a conflict now proceeding against the CEO when the lawyer was previously acting at his request?*

# Hypothetical 8

A lawyer is engaged as borrower's counsel for a tribe borrowing money to make improvements to utility facilities. The tribe does not have sufficient expertise to operate the utility and has hired an outside management company. All of the lawyer's work is at the request of a senior employee of the management company and paid for out of the authority's operating account. One day the tribe decides to fire the management company and the new tribal president calls the lawyer and asks why the lawyer has been doing work at the request of the management company rather than at the request of the tribe?

- ❖ *Who is the client?*
- ❖ *Has the lawyer committed an ethical violation by acting at the request of the management company rather than the tribe?*

# Hypothetical 9

A lawyer is licensed in Arizona but is engaged as special counsel for a tribe located in Oklahoma. The energy project documents specify that state law will apply to certain portions of the contract and the documents contain a limited waiver of sovereign immunity. The lawyer is asked to give an opinion regarding the enforceability of the project documents. The opinion would therefore require the lawyer to opine on both tribal law and State of Oklahoma law.

- ❖ *Can the lawyer give this opinion without breaching the ethical rules?*
- ❖ *Can the lawyer give this opinion if he relies on the opinions of other counsel whom he associates with for the deal (e.g., the tribe's in-house counsel and an attorney licensed in the State of Oklahoma)?*



# Hypothetical 10

A lawyer has served as counsel to the office of the tribal president for several years. In this capacity, the lawyer has advised the President A on projects related to coal technology. A new tribal president, President B, has been elected and has decided to go in the direction of green technology. President B has asked the lawyer to prepare materials to be used in a lobby effort against the use of coal and for the development of green technology instead.

- ❖ *What potential conflicts are involved?*
- ❖ *Is the lawyer obligated to complete this request?*
- ❖ *What if the lawyer knows that abandoning coal production will cause the loss of a significant number of jobs?*

# Hypothetical 11

Same facts as Hypothetical 10. In order to get out of the coal business, President B asks the lawyer to find loopholes in the contracts that the lawyer previously helped negotiate and draft?

❖ *What should the lawyer do?*

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

1. **Name:** State full name (include any former names used).

Diane Joyce Humetewa  
Diane Killigrew  
Diane Joyce Juarez

2. **Position:** State the position for which you have been nominated.

United States District Judge for the District of Arizona

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Arizona State University  
Fulton Center 410  
300 East University Drive  
P.O. Box 877705  
Tempe, Arizona 85287

Residence: Phoenix, Arizona

4. **Birthplace:** State year and place of birth.

1964; Phoenix, Arizona

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1990 – 1993 Arizona State University College of Law; J.D., 1993  
1985 – 1987 Arizona State University; B.S., 1987  
1982 – 1985 Phoenix College; A.A.S., 1985

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2011 – present  
Arizona State University  
Fulton Center 410  
300 East University Drive  
P.O. Box 877705  
Tempe, Arizona 85287  
Special Advisor to the President (2011 – present)  
Special Counsel, Office of General Counsel (2011 – present)  
Professor of Practice, Sandra Day O'Connor College of Law (2011 – present)

2009 – 2011  
Squire, Sanders & Dempsey (US) LLP  
One East Washington Street, Suite 2700  
Phoenix, Arizona 85004  
Of Counsel and Principal

August – September 2009  
The Hopi Tribe  
Hopi Tribal Prosecutor's Office  
P. O. Box 306  
Keams Canyon, Arizona 86034  
Acting Chief Prosecutor

1998 – 2009  
United States Attorney's Office, District of Arizona  
Two Renaissance Square  
40 North Central Avenue, Suite 1200  
Phoenix, Arizona 85004  
United States Attorney (2007 – 2009)  
Senior Litigation Counsel (2001 – 2007)  
Assistant U.S. Attorney (1998 – 2007)

2002 – 2007  
The Hopi Tribe  
Hopi Appellate Court  
P.O. Box 156  
Keams Canyon, Arizona 86034  
Appellate Court Judge (uncompensated)

2005 – 2006  
United States Senate  
Committee on Indian Affairs  
838 Hart Office Building  
Washington, D.C. 20510  
One-year detail from the United States Department of Justice

1996 – 1998

United States Department of Justice  
Office of the Deputy Attorney General  
Office of Tribal Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Counsel to the Deputy Attorney General (1996 – 1998)  
Special Assistant U.S. Attorney, District of Arizona (1997 –1998)

1993 – 1996

United States Senate  
Committee on Indian Affairs  
838 Hart Office Building  
Washington, D.C. 20510  
Deputy Counsel

May – September 1992

U.S. Attorney's Office, District of Arizona  
230 North First Avenue, Room 4000  
Phoenix, Arizona 85251  
Summer Law Clerk

January – May 1992

United States Senate  
Committee on Indian Affairs  
838 Hart Office Building  
Washington, D.C. 20510  
Law Student Intern

May – August 1991

Hon. Stephen M. McNamee  
United States District Court  
Sandra Day O'Connor United States Courthouse  
401 West Washington Street, Suite 625  
SPC 60  
Phoenix, Arizona 85003  
Law Student Intern

1990 – 1991

Arizona State University College of Law  
Indian Legal Program  
1151 South Forest Avenue  
Tempe, Arizona 85287  
Legal Research Assistant

1987 – 1990  
U.S. Attorney's Office, District of Arizona  
230 North First Avenue, Room 4000  
Phoenix, Arizona 85251  
Victim Advocate

Other Affiliations (uncompensated)

2010 – present  
The Nature Conservancy in Arizona  
7600 North 15th Street, Suite 100  
Phoenix, Arizona 85020  
Member, Board of Trustees (2010 – present)  
Secretary, Board of Trustees (2013 – present)

2010 – present  
National Indian Justice Center  
5250 Aero Drive  
Santa Rosa, California 95403  
Member, Board of Directors

2006 – present  
The Udall Foundation  
130 South Scott Avenue  
Tucson, Arizona 85701  
Member, Board of Trustees (2006 – present)  
Secretary, Board of Trustees (2013)

2001 – 2004  
The Phoenix Heard Museum  
2301 North Central Avenue  
Phoenix, Arizona 85004  
Member, Board of Directors

2000 – 2002  
The Hopi Education Endowment Fund  
P.O. Box 605  
Kykotsmovi, Arizona 86039  
Member, Board of Directors

1997 – 2011  
Arizona State University  
Sandra Day O'Connor College of Law  
Indian Legal Program  
1151 South Forest Avenue

Tempe, Arizona 85287  
Member, Advisory Council

1996 – 1997  
Maricopa County Bar Association  
Public Lawyers Division  
303 East Palm Lane  
Phoenix, Arizona 85004  
Member, Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I am not required to register for the selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Named as one of the Best Lawyers in America for the Native American Law practice area by The Best Lawyers publication (August 2013)

48 Intriguing Women of Arizona Award, Arizona State Historical Society in recognition of Arizona's Centennial Celebration (2012)

Women in Business Honoree, Phoenix Business Journal (2010)

Distinguished Service Award, Federal Bar Association, Arizona Chapter (2009)

President's Award, Women in Federal Law Enforcement Association (2009)

John S. Lancy Award, Sandra Day O'Connor College of Law (2009)

Native American Indian Alumni of the Year, Arizona State University (2009)

Director's Award for Superior Performance, U.S. Department of Justice, Executive Office of United States Attorneys (1999)

Hopi Tribal Education Scholarship, The Hopi Tribe (1992 – 1993)

Hopi Women's Scholarship, Arizona State University College of Law (1991 – 1992)

Recognition for Outstanding Contribution, United States Attorney's Office, District of Arizona (1990)

Certificate of Appreciation for Contribution to the District of Arizona, U.S. Attorney's Office (1987 – 1990)

Certificate of Appreciation for Outstanding Dedication, Service & Advocacy, Richard A. Abell, Assistant Attorney General, U.S. Department of Justice (1989)

Golden Key National Honor Society (1987)

Arizona Bank Scholarship (1987)

Dean's List, Phoenix College (1985 – 1987)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Ad Hoc Native American Advisory Committee on Sentencing Issues, U.S. Sentencing Commission (2002 – 2003)

American Bar Association (2009 – present)

Arizona State Bar Association (1995 – present)

Arizona State Bar Association's annual State Bar Conference Planning Committee (2006 – 2007)

Arizona U.S. Magistrate Judge Merit Selection and Reappointment Committee  
Chairperson (April 2011 – July 2011)  
Chairperson (November 2011 – February 2012)  
Chairperson (July 2012 – October 2012)  
Member (2006)

Federal Bar Association (1998 – present)

Judge Learned Hand Award Selection Committee, Arizona Chapter of the American Jewish Committee (2008 – present)

Maricopa County Public Lawyers (1996 – 1997)  
Board of Directors (1996 – 1997)

National Association of Former United States Attorneys (2009 – present)

National Crime Victim Law Institute (2009 – present)  
Education Advisory Committee Advisor



National Indian Justice Center (2010 – present)  
Board of Directors

Ninth Circuit Court of Appeals Task Force on Racial, Religious and Ethnic Fairness  
(1997)  
Advisor

**10. Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Arizona, 1995

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Arizona State Courts, 1995

United States Court of Appeals for the Ninth Circuit, 1997

United States District Court for the District of Arizona, 1996

There have been no lapses in membership.

**11. Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Arizona State, Tribal and Federal Court Forum, Arizona Supreme Court  
(2003 – 2009)

Arizona State University Alumni Association (2011 – present)

Arizona State University College of Law Indian Legal Program Advisory  
Committee (1997 – 2011)

Attorney General's Border and Immigration Law Enforcement Subcommittee  
(2007 – 2009)

Attorney General's Native American Issues Subcommittee (2007 – 2009)

LA Fitness (2003 – present)

Mount Central Place Homeowners Association (2003 – present)

National Association of Former U.S. Attorneys (2009 – present)

The American Inns of Court, Phoenix Chapter (1997)

24 Hour Fitness (1998 – 2003)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To my knowledge, none of the organizations or associations that I am a member of or have been a member of has ever invidiously discriminated on the basis of race, sex, religion or national origin.

**12. Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

*Introduction to The State of Indian Country Arizona* (Aug. 2013). Copy supplied.

*1984 Act Has Helped Victims of Crime; More Can Be Done*, Arizona Republic, Apr. 25, 2009. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In my capacity as a member of the Education Advisory Committee of the National Crime Victim Law Institute (NCVLI), I reviewed a Frequently Asked

Questions fact page, regarding crimes committed on Indian lands, which is posted on the NCVLI web page, on April 6, 2012. Copy supplied.

2010 – 2011, Annual Report, National Crime Victim Law Institute. Copy supplied.

2009 Indian Country Report, United States Attorney's Office, District of Arizona. Copy supplied.

2008 Indian Country Report, United States Attorney's Office, District of Arizona. Copy supplied.

Report of the Native American Advisory Group, United States Sentencing Commission, November 4, 2003. Copy supplied.

1997 Report, Ninth Circuit Court of Appeals Task Force on Racial, Religious and Ethnic Fairness. Available for purchase at: <http://www.docstoc.com/docs/63122425/David-Nakashima-Management-Consultant-Oakland>.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Joint Letter from Former U.S. Attorneys to the Senate Judiciary Committee in Support of the Confirmation of Jim Comey to be Director, Federal Bureau of Investigation, July 3, 2013. Copy supplied.

I have been an advisory member to the Education Committee of the Board of the National Crime Victim Law Institute since 2009. Although I have not drafted, reviewed, or voted on various resolutions that have been issued during my tenure, my name has appeared on the letterhead of resolutions from time to time. In an abundance of caution I am listing those that I could locate below:

Resolution on Political Endorsements and Political Action Committee Policy, National Crime Victim Law Institute, December 5, 2012. Copy supplied.

Resolution on Anti-Discrimination Policy, National Crime Victim Law Institute, April 16, 2012. Copy supplied.

Joint Letter from Former U.S. Attorneys to the Senate Indian Affairs Committee in Support of the Confirmation of Kevin Washburn to be Assistant Secretary for Indian Affairs (Sept. 13, 2012). Copy supplied.

Letter to U.S. Representative Nick J. Rahall re: H.R. 1924, March 26, 2010.  
Copy supplied.

Testimony to the United States Sentencing Commission, October 20, 2009.  
Written testimony supplied.

Testimony to the Senate Indian Affairs Committee, "Law and Order in Indian  
Country," March 17, 2008. Written testimony supplied.

Testimony to the United States Sentencing Commission re: "Proposed  
Amendments," March 13, 2008. Written testimony supplied.

Testimony to the United States Sentencing Commission re: Findings of the Native  
American Advisory Group, November 4, 2003. I have no notes, transcript, or  
recording.

Arizona State, Tribal and Federal Court Forum, Meeting Minutes, 2001 – 2009.  
Meeting minutes supplied where available.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have, to the best of my ability, listed all of the remarks, speeches, lectures and conference discussions that I have participated in. Throughout the course of my professional career, I have conducted numerous presentations, trainings and speeches and I have attempted to provide all that I could recall or locate in my records. Where specific dates are not listed, I have attempted to narrow the date by month and year.

June 21, 2013: Panelist, "The Tribal Law and Order Act – Meeting the  
Challenges for Justice in Indian Country," Arizona State Bar Association's  
Annual Conference, Phoenix, Arizona. Notes supplied.

February 20 – 21, 2013: Presenter, "Pending and Declined Prosecutions in Indian  
Country - Working with U.S. Attorneys," National Judicial Center, Reno, Nevada.  
I presented three sessions: 1) Putting Together a Viable Federal Prosecution, 2)  
Whether to Accept or Decline a Criminal Case and 3) Tribal Provisions of the  
Violence Against Women Act. Presentation slides and handout supplied.

February 14, 2013: Panelist, “48 Intriguing Women of Arizona” panel presentation, Arizona State Legislature’s Centennial Celebration, Phoenix, Arizona. I was on a panel of five Honorees speaking on women in public service. I have no notes, transcript, or recording. The address for the 48 Women Governing Board is 7904 East Chaparral Road, PMB 196, Scottsdale, Arizona 85250. November 2012: Speaker, “Native American Heritage Month” commemorative speaker at the Lawrence Livermore Labs, Livermore, California. I have no notes, transcript or recording. The address for the Lawrence Livermore Labs is 7000 East Avenue, Livermore, California 94550.

August 2012: Speaker, “Rising to New Heights,” Arizona Association for Economic Development Conference, Phoenix Country Club, Phoenix, Arizona. Presentation slides supplied.

June 21, 2012: Panelist, “48 Intriguing Women of Arizona,” Changing Hands Bookstore, Tempe Arizona. I was one of four Honorees who gave a brief personal biography and answered audience questions. I have no notes, transcript or recording. The address for Changing Hands Bookstore is 6428 South McClintock, Drive, Tempe, Arizona 85283.

June 18 – 19, 2012: Presenter, “NAGPRA Roundtable,” Sandra Day O’Connor College of Law, Indian Legal Program, Tempe, Arizona. Presentation slides supplied.

April 24, 2012: Speaker, “Construction in Indian Country Conference,” Arizona State University, Del E. Webb School of Construction, Gila River Indian Community. I provided welcome remarks to conference participants. I have no notes, transcript or recording. The address for the Del E. Webb College is P.O. Box 870204, Tempe, Arizona 85287.

April 3, 2012: Speaker, “RECHARGE,” Arizona State University, Phoenix, Arizona. I provided welcome remarks to visiting tribal high school students. I have no notes, transcript or recording. The address for the ASU Education Outreach Office is P.O. Box 871112, Tempe, Arizona 85287.

March 30, 2012: Presenter, “Indian Country Criminal Jurisdiction” for a continuing legal education program “Indian Law 101,” Sandra Day O’Connor College of Law, Indian Legal Program, Tempe, Arizona. I provided substantially the same program in 2006 and 2003. Presentation notes and slides supplied for 2012 presentation.

March 29, 2012: Presenter, “Indian Country Criminal and Civil Jurisdiction,” Arizona State Attorney General’s Office Continuing Education Program, Phoenix, Arizona. Presentation slides supplied.

February 2, 2012: Presenter, “Native American Graves Repatriation Act”

seminar, Arizona State University, American Indian 13th Annual Studies Conference, Tempe, Arizona. I also provided brief welcome remarks. Presentation slides supplied.

December 2, 2011: Panelist, Professional Responsibility Continuing Legal Education Seminar, Sandra Day O'Connor College of Law, Indian Legal Program, Tempe, Arizona. Notes supplied.

November 16, 2011: Panelist, "Arizona State Bar Association's Leadership Forum," Law Offices of Udall Shumway, Tempe, Arizona. I was one of five presenters providing professional and career advice. I have no notes, transcript or recording. The address for the Arizona State Bar Association is 4201 North 24th Street, Suite 100, Phoenix, Arizona 85016.

October 2011: Panelist, Department of the Interior, Victim Advocate Academy, Crime Victimization, Albuquerque, New Mexico. The curriculum was developed by an Interior Department vendor. Presentation materials supplied.

October 21, 2011: Moderator, "Indian Water Law" Seminar, Arizona State University Sandra Day O'Connor College of Law, Indian Legal Program, Tempe, Arizona. I moderated a panel presentation and provided welcome remarks. I have no notes, transcript or recording. The address for the Sandra Day O'Connor College of Law is 1151 South Forest Avenue, Tempe, Arizona 85287.

August 31, 2011: Speaker, welcome event, HEATHERS (a Native American student's club), Arizona State University, Tempe, Arizona. I provided inspirational remarks to new students at Arizona State University. I have no notes, transcript or recording. The HEATHERS student group is defunct.

August 9, 2011: Speaker, "Hopi Summer Send-Off," Hopi Education Endowment Fund, Kykotsmovi, Arizona. I provided comments on college readiness. I have no notes, transcript or recording. The address for the Hopi Education Endowment Office is P.O. Box 605, Kykotsmovi, Arizona 86039.

July 26, 2011: Presenter, "Tribal Jurisdiction and Energy Development," Annual Southwest Regional Conference on Native American Fish and Wildlife Association, Santa Fe, New Mexico. I spoke about regulations governing Indian country energy development. I have no notes, transcript or recording. The address for the Native American Fish and Wildlife Society is 8333 Greenwood Boulevard, Suite 260, Denver, Colorado 80221.

June 2011: Presenter, "Establishing Victim's Rights in Tribal Courts," National Crime Victim Law Institute, Annual Conference, Portland, Oregon. Presentation slides supplied.

June 13, 2011: Speaker, College America Convocation, Northern Arizona

University campus, Flagstaff, Arizona. I provided inspirational remarks to the graduating class. I have no notes, transcript or recording. The address for College America is 3012 East Route 66, Flagstaff, Arizona 86004.

April 28 – 29, 2011: Speaker, “Treaty to Trust to Carcieri: The Economic Future for Indian Lands,” Sandra Day O’Connor College of Law Indian Legal Program Conference, Tempe, Arizona. I provided welcome remarks. I have no notes, transcript or recording. The address for the Sandra Day O’Connor College of Law is 1151 South Forest Avenue, Tempe, Arizona 85287.

April 15, 2011: Panelist, “Best Practices for Civil Litigators,” Arizona State Bar Association Minority Bar Convention, Tempe, Arizona. I participated in a substantially similar presentation for the same event in 2010. Notes from 2011 presentation supplied.

April 4 – 7, 2011: Panelist, “Cultural Resource Crimes,” To Bridge a Gap Conference, U.S. Department of Agriculture and the Chickasaw Nation, Norman, Oklahoma. I was on a panel of presenters discussing cultural resource crimes. I have no notes, transcript or recording. The address for the Chickasaw Nation is P.O. Box 1548, Ada, Oklahoma 74821.

March 23, 2011: Panelist, “Legal and Political Barriers to Successful Economic Development,” Arizona Indian Town Hall Business Summit, Arizona Commission on Indian Affairs, Phoenix, Arizona. I was one of four panelists who spoke about business transactions on Indian lands. I have no notes, transcript or recording. The address of the Arizona Commission on Indian Affairs is 1700 West Washington Street, Suite 430, Phoenix, Arizona 85007.

March 5, 2011: Panelist, “Contemporary Issues for American Indians and American Immigrants,” Wisconsin Journal of Law, Gender and Society Symposium, Madison Wisconsin. I spoke about victimization of American Indians and immigrants in Arizona. I have no notes, transcript or recording. The address for the University of Wisconsin Law School is 975 Bascom Mall, Madison, Wisconsin 53706.

February 18, 2011: Panelist, “A Tribal Judge’s and Federal Prosecutor’s Perspective on Domestic and Other Violence Against Indian Women,” Ruth Bader Ginsburg Lecture, the Thomas Jefferson School of Law, San Diego, California. I spoke about violent crimes in Indian country. I have no notes, transcript or recording. The address for the Thomas Jefferson School of Law is 1155 Island Avenue, San Diego, California 92101.

December 2010: Presenter, “Indian Cultural Issues and Considerations in Family Violence Cases” workshop, U.S. Department of Justice Crime Victim’s Conference, Offering Hope to Victims in the Spirit of Justice, Palm Springs, California. Presentation slides supplied.

October 2010: Panelist, “NAGPRA in the Courts,” National Park Service, National Native American Graves Protection Act [NAGPRA] Office, “NAGPRA at 20 Conference,” Washington, D.C. Presentation slides supplied.

July 2010: Presenter, “The Impact of Tribal Law and Order Act to Tribal Justice Systems,” National Indian Justice Center, “For All My Relations Conference,” Anaheim, California. Presentation slides provided (my co-presenter contributed one or two slides).

July 2010: Speaker, National Indian Justice Center, “For All My Relations Conference,” Anaheim, California. I provided remarks on the progress of victim issue awareness in Indian Country. I have no notes, transcript or recording. The address for the National Indian Justice Center is 5250 Aero Drive, Santa Rosa, California 95403.

June 11, 2010: Panelist, “Expanding the Jurisdiction of Tribal Courts,” Annual Arizona State Bar Convention, Glendale, Arizona. Presentation slides supplied.

April 27, 2010: Presenter, “Gang and Juvenile Delinquency Issues,” U.S. Department of Justice, Office of Juvenile Delinquency and Prevention Tribal Regional Training, Phoenix, Arizona. Presentation slides supplied.

April 21, 2010: Speaker, “Our Elders—Living Treasures,” Annual Arizona Indian Council on Aging Conference, Fort McDowell Yavapai Nation. Presentation slides supplied.

April 8 – 9, 2010: Presenter, “Hot Topics, NAGPRA, 20 Years Later,” Federal Bar Association, 35th Annual Federal Bar Association’s Indian Law Section Conference, Santa Fe, New Mexico. Presentation slides supplied.

February 12, 2010: Presenter, “Animal Law in Indian Country,” Arizona State Bar Association’s Animal Law Section, Arizona State Bar Office, Tucson, Arizona. Presentation slides supplied.

December 1 – 3, 2009: Presenter, “Combating Crime in Indian Country, Combining State and Tribal Solutions,” National Association of Attorneys General, Winter Meeting, Phoenix, Arizona. Presentation slides supplied.

November 2009: Speaker, San Carlos Apache Tribe’s Temporary Assistance for Needy Families [TANF] Conference, San Carlos, Arizona. I spoke about my personal and professional history. I have no notes, transcript or recording. The address for San Carlos Tribal TANF is P.O. Box 871, Peridot, Arizona 85542.

August 23 – 27, 2009: Speaker, 35th Annual National Organization for Victim Assistance Conference, Scottsdale, Arizona. I provided welcome remarks to



conference attendees. I have no notes, transcript or recording. The address for the National Organization for Victim Assistance is 510 King Street, Suite 424, Alexandria, Virginia 22314.

August 6 – 7, 2009: Panelist, Udall Foundation Scholars Orientation, Tucson, Arizona. I participated in a panel discussion on federal Indian policy. I have no notes, transcript or recording. The address for the Udall Foundation is 130 South Scott, Tucson, Arizona 85701.

August 4 – 6, 2009: Presenter, “Lessons Learned,” Wind River Native American Conference, U.S. Attorney’s Office for the District of Wyoming, Wind River Indian reservation. Presentation slides supplied.

June 24, 2009: Presenter, “Project Safe Neighborhoods,” Office of the Mayor, Mesa, Arizona. I provided the Mesa City Prosecutor’s Office and Police Chief a plaque for their support of an initiative to prevent and prosecute drug and firearm offenses. I have no notes, transcript or recording. The address for the Mesa Mayor is P.O. Box 1466, Mesa, Arizona 85211-.

June 16, 2009: Speaker and panelist, “Women in Federal Law Enforcement,” Women in Federal Law Enforcement Association, Tucson, Arizona. I provided welcome remarks and participated on a panel discussing border crimes. I have no notes, transcript or recording. The address for the Women in Federal Law Enforcement Association is 2200 Wilson Boulevard, Suite 102, PMB-204, Arlington, Virginia 22201.

June 2, 2009: Speaker, Society of American Indian Government Employees [SAIGE] Sixth Annual Conference, “Many Nations, One Spirit,” San Diego, California. I spoke about the importance of women in leadership positions. I have no notes, transcript or recording. The SAIGE organization lists [www.saige.org](http://www.saige.org) as its web page but no mailing or delivery address.

May 13 – 14, 2009: Panelist, Border Security Expo and Conference, Phoenix Convention Center, Phoenix, Arizona. I was part of a federal law enforcement panel speaking on Arizona border crimes. I have no notes, transcript or recording. The address for the U.S. Border Patrol is 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

March 6, 2009: Presenter, Arizona U.S. District Court Conference, Tucson, Arizona, sponsored by the Federal Bar Association, Tucson Chapter. I provided an overview of the current state of the U.S. Attorney’s Office and the U.S. Department of Justice priorities and presented on “Access to Justice in Arizona’s Indian Country.” I have no notes, transcript or recording. The address of the Tucson Chapter of the Federal Bar Association is 407 West Congress, Suite 501, Tucson, Arizona 85701.

February 27, 2009: Speaker, Law Enforcement Coordinating Committee Conference “Inter-agency Forum on Alien Smuggling and Associated Violence,” Phoenix, Arizona. I spoke about the law enforcement cooperation necessary to combat violence. I have no notes, transcript or recording. The address for the U.S. Attorney’s LECC Program is 40 North Central, Suite 1200, Phoenix, Arizona 85004.

January 13, 2009: Speaker, “Preventing Domestic Violence,” Empire School of Beauty, Chandler, Arizona. I provided a talk on domestic violence. I have no notes, transcript or recording. The address of the Empire School of Beauty is 2978 North Alma School, Chandler, Arizona 85224.

December 11 – 13, 2008: Speaker, “Closing the Gap in Indian Country: Criminal Jurisdiction and its impact on Crime Victim Services,” 11th Annual Indian Nations Conference, Justice for Victims of Crime, Palm Springs, California. I have no notes, transcript or recording. The address of the U.S. Department of Justice, Office for Victims of Crime is 810 Seventh Street N.W., Eighth Floor, Washington, DC 20531.

November 2008: Speaker, “Native American Heritage Month,” Federal Bureau of Investigation, Washington, D.C. I spoke about the impact of the FBI’s work on communities and families in Indian country. I have no notes, transcript or recording. The address of the Federal Bureau of Investigation is 950 Pennsylvania Avenue, N.W., Washington, D.C. 200535.

October 16, 2008: Panelist, “Panel on Sovereignty: Changing Perspectives,” hosted by Northern Arizona University, Flagstaff, Arizona. I commented on panelist presentations on sovereignty and answered student questions. I have no notes, transcript or recording. The address of the Northern Arizona University is South San Francisco Street, Flagstaff, Arizona 86011.

September 18, 2008: Panelist, “Tribal Sacred Places and Cultural Resources on Public Lands,” American Bar Association Environmental Law Section Conference, Phoenix, Arizona. I was on a panel discussing federal, state and tribal cultural resource laws. I have no notes, transcript or recording. The address for the American Bar Association is 1050 Connecticut Avenue, N.W., Suite 400, Washington, D.C. 20036.

September 2008: Presenter, “Evolution of a Federal Victim Services Program,” Annual Four–Corners Conference, U.S. Attorney’s Offices for Arizona, New Mexico, Colorado and Utah, Albuquerque, New Mexico. Presentation slides supplied.

August 7, 2008: Speaker, “Safe School Summit,” Window Rock Department of Education, Window Rock, Arizona. I provided welcome remarks to this forum discussing school safety, violence prevention and responses. I have no notes,

transcript or recording, but press coverage is supplied. The address for the Window Rock Department of Education is P.O. Box 670, Window Rock, Arizona 86515.

August 2 – 6, 2008: Panelist, Udall Foundation Scholars Orientation, Tucson, Arizona. I participated in a panel discussion on federal Indian policy. I have no notes, transcript or recording. The address for the Udall Foundation is 130 South Scott, Tucson, Arizona 85701.

August 1 – 2, 2008: Panelist, “Weed and Seed” Conference, U.S. Attorney’s Office, District of Arizona, Law Enforcement Coordinating Committee’s Weed and Seed Conference, Flagstaff, Arizona. I provided remarks on the importance of Weed and Seed neighborhood partnerships to achieving crime suppression. I have no notes, transcript or recording. The address for the U.S. Attorney’s Office is 40 North Central, Suite 1200, Phoenix, Arizona 85004.

July 23, 2008: Speaker, “Homeland Security CLE,” Sandra Day O’Connor College of Law Indian Legal Program, Tempe, Arizona. I participated in a continuing legal education program on homeland security in Indian country. I have no notes, transcript or recording. The address of the Sandra Day O’Connor College of Law is 1151 South Forest Avenue, Tempe, Arizona 85287.

June 2008: Speaker, “Third Annual Division of Public Safety Conference,” Fort McDowell Yavapai Resort and Casino, Fountain Hills, Arizona. I provided remarks on the office’s role and commitment to addressing Indian country crimes and working with tribal law enforcement. I have no notes, transcript or recording, but press coverage is supplied. The address for the Navajo Division of Public Safety is P.O. Box J, Window Rock, Arizona 86515.

May 28, 2008: Speaker, “Federal Law Enforcement Memorial Service,” Federal Bureau of Investigation, Phoenix Division, Phoenix, Arizona. I spoke on the importance of remembering the sacrifices made by our federal law enforcement. I have no notes, transcript or recording. The address for the Federal Bureau of Investigation is 21711 North 7th Street, Phoenix, Arizona 85024.

May 5 – 6, 2008: Speaker, Annual TANF Conference, Fort McDowell, Yavapai Nation. I provided remarks to encourage individuals to continue attaining their personal goals. I have no notes, transcript or recording, but press coverage is supplied. The address of TANF is U.S. Department of Health and Human Services, 370 L’Enfant Promenade, S.W., Washington, D.C. 20447.

April 4, 2008: Speaker, Vigil at the beginning of National Crime Victims Week, Arizona State Capitol, Phoenix, Arizona. I provided remarks on my experiences as a crime victim service provider. I have no notes, transcript or recording. The address of the Arizona State Capitol is 1700 West Washington Street, Phoenix, Arizona 85007.

April 4, 2008: Presenter, "Legal Issues in Museum Administration," 36th Annual ALI-ABA Conference, Scottsdale, Arizona. I discussed the use of traditional and non-traditional experts. I have no notes, transcript or recording. The address for the American Law Institute is 4025 Chestnut Street, Philadelphia, Pennsylvania 19104.

February 23, 2008: Judge, "Native American Law Student's Association Moot Court Competition," Sandra Day O'Connor College of Law, Tempe, Arizona. I participated as a competition judge. I have no notes, transcript or recording. The address for the Sandra Day O'Connor College of Law is 1151 South Forest Avenue, Tempe, Arizona 85287.

February 2008: Speaker, "Walk Away from Drugs," Arizona Methamphetamine Coalition, Mohave County, Kingman, Arizona. I was one of several speakers on fighting methamphetamine abuse. I have no notes, transcript or recording. The address for the Kingman Methamphetamine Coalition is 310 North Fourth Street, Kingman, Arizona 86401.

December 18, 2007: Speaker, U.S. Attorney for the District of Arizona Investiture, Sandra Day O'Connor U.S. Courthouse. I provided brief remarks upon being sworn in as U.S. Attorney. I have no notes, transcript or recording. The address of the U.S. Attorney's Office, District of Arizona, is 40 North Central, Suite 1200, Phoenix, Arizona 85004.

September 25 2007: Panelist, "15th Annual Four Corners Indian Country Conference," in Colorado Springs, Colorado. I provided remarks on the impact of substance abuse on Indian country crimes. I have no notes, transcript or recording. The address of the U.S. Attorney's Office, District of Arizona is 40 North Central, Suite 1200, Phoenix, Arizona 85004.

August 1, 2007: Speaker, "Tribal Crime Data and Information Sharing," U.S. Attorney's Office, Law Enforcement Coordinating Committee Conference, Phoenix, Arizona. I provided opening remarks. I have no notes, transcript or recording. The address for the U.S. Attorney's Office is 40 North Central Avenue, Suite 1200, Phoenix, Arizona 85004.

July 30, 2001: Speaker, "National Criminal Justice Association National Forum on Criminal Justice and Public Safety Conference" Phoenix, Arizona. I provided welcome remarks on behalf of the U.S. Attorney's Office. I have no notes, transcript or recording. The address for the U.S. Attorney's LECC Program, District of Arizona is 40 North Central, Suite 1200, Phoenix, Arizona 85004.

June 2007: Speaker, "2007 Crime Victim Law and Litigation Conference," National Crime Victim Law Institute, Portland, Oregon. I spoke about federal crime victim's rights. I have no notes, transcript or recording. The address for

the National Crime Victim Law Institute is 10015 Southwest Terwilliger Boulevard, Portland, Oregon 97219.

2006: Presenter, "Looting and Trafficking Issues in Indian Country," National Association of Tribal Historic Preservation Officers Conference, Santa Fe, New Mexico. I provided an overview of federal archeological and cultural resource crime statutes. I have no notes, transcript or recording. The address for the National Association of Tribal Historic Preservation Officers is 1785 Massachusetts Avenue, N.W., Washington D.C. 20036.

December 9 – 11, 2004: Panelist, "Financial Fraud Victim Issues," U.S. Department of Justice, Office for Victims of Crime, National Indian Nations Justice for Victims of Crime Conference, Palm Springs, California. The panel discussed financial fraud crimes and victim impact. I have no notes, transcript or recording. The address for the U.S. Department of Justice, Office for Victims of Crime is 810 Seventh Street, N.W., Eighth Floor, Washington, D.C. 20531.

2004 – 2008: Presenter, "Indian Cultural Issues and Considerations in Family Violence Cases." I taught this course to various state and federal criminal justice agencies in Arizona. This seminar provided information on how to identify and understand cultural issues in Indian country crime cases. I have no notes, transcript or recording, but the presentation would have been substantially similar to the one in December 2010, for which presentation slides have been supplied.

2000 – 2006: Presenter, "The Unusual Expert," National Park Service and U.S. Department of Justice training course on natural resource crimes. The training was provided to state, local and federal prosecutors and heritage resource officers. Training took place in Vermont, Florida, New Mexico and California. I generally taught courses on how to prosecute the Archeological Resource Protection Act and the Native American Graves Protection Act crimes. Video supplied.

April 7, 1995: Speaker, Federal Bar Association's Annual Indian Law Conference, Albuquerque, New Mexico. I provided an update on congressional legislation. I have no notes, transcript or recording. The address of the Federal Bar Association's Indian Law Section is 1220 North Fillmore Street, Suite 444 Arlington, Virginia 22201.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

On July 3, 2013, I was interviewed by U.S. Magistrate Judge Michelle Burns for an article that she is writing on the Hon. Stephen M. McNamee, U.S. District Court Judge for the District of Arizona, for the Federal Bar Association magazine.

I was asked to provide a historical perspective of Judge McNamee. The article is currently being written.

Dennis Wagner, *Andrew Chambers Jr. Was Once the 'Highest-Paid Snitch' in DEA History, but the Government Severed Ties with Him in 2000 After He Gave False Testimony*, Arizona Republic, June 5, 2013. Copy supplied.

*Tsositse Joins the Ranks of ASU's Most Prestigious Scholars*," Sandra Day O'Connor College of Law News, Feb. 5, 2013. Copy supplied.

Lee Allen, *Construction in Indian Country Conference Addresses the Need to "Grow our Own"*, Indian Country Today, Apr. 30, 2012. Copy supplied.

*48 Women, Arizona's Most Intriguing Women*, Arizona Historical Society, Mar. 2012. Copy supplied.

In January 2012, I was interviewed for a video clip describing the ASU College Access Grant "Tribal Nations Tour" recruitment initiative. Video available at: <http://www.youtube.com/watch?v=gZpk2QMi2Iw>.

Joshua Armstrong, *Native American Women Face High Rates of Sexual Assaults, Low Access to Support*, Associate Press, Dec. 15, 2011. Copy supplied.

JJ Hensley and Yvonne Wingett Sanchez, *With Released MCSO Records, Case-Delay Questions Emerge*, Arizona Republic, Apr. 23, 2011. Copy supplied.

Yvonne Wingett, *Loughner Trial Sets Up Clash of Legal Minds*, Arizona Republic, Jan. 24, 2011. Copy supplied.

Ingrid V. Eagly, *Local Immigration Prosecution: A Study of Arizona Before SB 1070*, 58 UCLA L. Rev. 1749, 1788 (2011). Copy supplied.

Mike Sunnucks, *2010 Women in Business*, Business Journal (Phoenix), Mar. 12, 2010. Copy supplied.

Kerry Young, *A New Era of Influence for American Indians*, CQ Weekly, Nov. 29, 2009. Copy supplied.

Zaher Karp, *Q&A: Hopi Attorney to Represent Native American Interests in Global Legal Firm*, News Watch Native America, Sept. 25, 2009. Copy supplied.

*U.S. Attorney: Tribe Needs Programs to Prevent Repeat Offenders*, Navajo Times, Mar. 19, 2009. Copy supplied.

Note, *Alumni Spotlight: Diane Humetewa*, Sandra Day O'Connor College of Law News, Nov. 20, 2008. Copy supplied.

Alexis Huicochea, *Life is Better Along 29th Street*, Arizona Daily Star, Nov. 20, 2008. Copy supplied.

David Teibel, *Fed Program Reduces Crime Along 29th Street Corridor*, Tucson Citizen, Nov. 19, 2008. Copy supplied.

David Schwartz, *Leading Lady*, Phoenix Magazine (Oct. 2008). Copy supplied.

On September 9, 2008, I was interviewed by the Native America Calling radio program on my role as the U.S. Attorney. The program aired on tribal radio stations nationwide. The interview is archived and can be accessed at [www.nativeamericacalling.com](http://www.nativeamericacalling.com).

*The Issue: SRP Settlement*, Arizona Republic, Aug. 24, 2008. Copy supplied.

Nick R. Martin, *U.S. Attorney Denies Renzi Probe Pressure: Arizona's Humetewa Says Letter on Rumor 'Very Harsh,' Unjustified*, Tribune (Mesa, AZ), July 7, 2008. Copy supplied.

Chris Kahn, *Authorities Round Up 312 Fugitives in Arizona*, Associated Press, July 7, 2008. Copy supplied.

Arthur Rotstein, *Officials: Entry Prosecutions Success in Arizona*, Associated Press, July 6, 2008. Copy supplied.

Rob Capriccioso, *First Female Native U.S. Attorney Airs Her Concerns*, Indian Country Today, June 25, 2008. Copy supplied.

Chris Kahn, *Grand Canyon Tourist's Killer Sentenced to Life in Prison*, Associated Press, June 20, 2008. Copy supplied.

Josh Brodesky, *Border Cases Pose Stern Test for Prosecutors*, Arizona Daily Star, June 11, 2008. Copy supplied.

Lou Dobbs Tonight (Apr. 7, 2008). Relevant portion of transcript supplied.

*Bush Taps Hopi for Ariz.'s U.S. Attorney*, Arizona Republic, Nov. 16, 2007. Copy supplied.

Mark Brodie, *Analysis: Artifacts Amnesty Program to Get Back Stolen American Indian Artifacts*, NPR, Morning Edition, Aug. 5, 2004. Transcript supplied.

*Alumni Spotlight: Diane Humetewa, Class of 93*, Sandra Day O'Connor College of Law's Alumni Newsletter, Dec. 2003. Copy supplied.

*Violence Plagues Ariz. Indians Reservation Murder Rate 5 Times that of U.S.*, Arizona Republic, Oct. 7, 2003. Copy supplied.

*Crime Rate on Indian Reservations Much Higher than U.S.*, Associated Press, Oct. 7, 2003. Copy supplied.

*MacDonald Owes Over \$1.5 Million*, Navajo Times, Mar. 1, 2001. Copy supplied.

Mark Smith, *Cultural Divide: Collecting Indian Artifacts Can Be Illegal, Thanks to a Law Protecting Them, a Law Many Call Too Vague*, Houston Chronicle, Feb. 22, 1998. Copy supplied.

#### Press releases

Press release, *ASU Welcomes 5 New American Indian Scholars to Faculty*, Arizona State University, Aug. 28, 2013. Copy supplied.

Press release, *New State of Indian Country Arizona Report Released*, Arizona State University, Aug. 21, 2013. Copy supplied.

Press release, *ASU Athletes, American Indian Students to visit Navajo, Hopi Tribal Nations*, Arizona State University, June 20, 2013. Copy supplied.

Press release, *Native Research Trailblazer Joins Ranks of ASU's Most Prestigious Scholars*, Arizona State University, Feb. 7, 2013. Copy supplied.

Press release, *Gift to ASU Will Aid American Indian Retention Efforts*, Arizona State University, June 18, 2012. Copy supplied.

Press release, *ASU, EPA Partner to Engage Students in Green Careers*, Arizona State University, Apr. 18, 2012. Copy supplied.

Press release, *Arizona State University Appoints Diane Humetewa to Advise President on Indian Affairs*, Arizona State University, Mar. 24, 2011. Copy supplied.

Press release, *Former U.S. Attorney for Arizona Joins Squire Sanders Native American Law Practice*, Squire, Sanders & Dempsey LLP, Sept. 14, 2009. Copy supplied.

Press release, *Arizona Man Pleads Guilty to Mailing Child Pornography*, U.S. Attorney's Office, District of Arizona, July 29, 2009. Copy supplied.

Press release, *U.S. Attorney in Arizona Announces Resignation*, U.S. Attorney's Office, District of Arizona, July 28, 2009. Copy supplied.



Press release, *Federal Officers in Arizona Indicted in Fraud, Bribery Scheme*, U.S. Attorney's Office, District of Arizona, July 17, 2009. Copy supplied.

Press release, *Pair Sentenced for Charges Related to Illegal Base Jumping in Grand Canyon National Park*, U.S. Attorney's Office, District of Arizona, July 15, 2009. Copy supplied.

Press release, *Arizona Woman Sentenced on Money Laundering and Tax Charges*, U.S. Attorney's Office, District of Arizona, July 8, 2009. Copy supplied.

Press release, *Globe Woman Indicted for \$1.2 Million Embezzlement from Arizona Credit Union*, U.S. Attorney's Office, District of Arizona, July 8, 2009. Copy supplied.

Press release, *Tucson Man Sentenced to 3 Years in Prison for Identity Theft and Fraud Charges*, U.S. Attorney's Office, District of Arizona, July 2, 2009. Copy supplied.

Press release, *Illinois Brothers Indicted in February 2004 Package Bombing of Scottsdale Diversity Office*, U.S. Attorney's Office, District of Arizona, June 26, 2009. Copy supplied.

Press release, *65 Individuals Charged in Federal Financial Aid Fraud Resulting in the Loss of Over \$530,000*, U.S. Attorney's Office, District of Arizona, June 24, 2009. Copy supplied.

Press release, *Drug Dealer on Gila River Indian Reservation Sentenced to 160 Months in Prison*, U.S. Attorney's Office, District of Arizona, June 24, 2009. Copy supplied.

Press release, *Mexican Citizen Found Guilty in Jury Trial, Faces Over 100 Years in Prison for Violent Hostage Taking and Alien Smuggling Conspiracy*, U.S. Attorney's Office, District of Arizona, June 23, 2009. Copy supplied.

Press release, *Convicted Human Smuggler Faces More than 100 Years in Prison*, U.S. Immigration and Customs Enforcement, June 25, 2009. Copy supplied.

Press release, *Large Scale Cocaine Trafficker Found Guilty of Drug Trafficking and Money Laundering*, U.S. Attorney's Office, District of Arizona, June 18, 2009. Copy supplied.

Press release, *Federal Prosecutors in Arizona Recognized for Outstanding Achievement by National Law Enforcement Association*, U.S. Attorney's Office, District of Arizona, June 16, 2009. Copy supplied.

Press release, *Jury Finds Tucson Man Guilty of Knowingly Littering on National Wildlife Refuge*, U.S. Attorney's Office, District of Arizona, June 3, 2009. Copy supplied.

Press release, *Third Serial Bank Robber in Three Weeks Caught by FBI Task Force*, U.S. Attorney's Office, District of Arizona, May 29, 2009. Copy supplied.

Press release, *U.S. Attorney, Prosecutors Honored with Top Awards by the Association of Women in Federal Law Enforcement*, U.S. Department of Justice, May 28, 2009. Copy supplied.

Press release, *Take 25 Minutes to Remind Your Kids About Internet Safety*, U.S. Attorney's Office, District of Arizona, May 21, 2009. Copy supplied.

Press release, *Federal, State, Tribal Partnership Seeks Protection for Drug Endangered Children*, U.S. Attorney's Office, District of Arizona, May 13, 2009. Copy supplied.

Press release, *FBI Bank Robbery Task Force Announced*, FBI Phoenix Field Office, May 7, 2009. Copy supplied.

Press release, *Mesa Man Pleads Guilty to Lying to FBI*, U.S. Attorney's Office, May 6, 2009. Copy supplied.

Press release, *Eight Charged in Scheme to Smuggle Semiautomatic Rifles to Mexico*, U.S. Attorney's Office, District of Arizona, May 6, 2009. Copy supplied.

Press release, *Mexican National Sentenced to 57 Months in Prison for Possessing Firearm*, U.S. Attorney's Office, District of Arizona, May 6, 2009. Copy supplied.

Press release, *Texas Man Pleads Guilty to Travel With Intent to Engage in Sexual Conduct with a Minor, Possession of Child Pornography*, U.S. Attorney's Office, District of Arizona, May 5, 2009. Copy supplied.

Press release, *Criminal Justice Personnel Honored for their Role in Helping Crime Victims*, U.S. Attorney's Office, District of Arizona, Apr. 30, 2009. Copy supplied.

Press release, *Promoter of High-Yield Investment Scheme Sentenced to Federal Prison*, U.S. Attorney's Office, District of Arizona, Apr. 20, 2009. Copy supplied.

Press release, *U.S. Attorney's Office Highlights Recent Arizona Federal Tax Enforcement Results*, U.S. Attorney's Office, District of Arizona, Apr. 14, 2009. Copy supplied.

Press release, *Former Lake Havasu City Couple Pleads Guilty to Fraudulently Distributing Drugs from India*, U.S. Attorney's Office, District of Arizona, Mar. 17, 2009. Copy supplied.

Press release, *Navajo Nation President Joe Shirley, Jr., Welcomes Arizona U.S. Attorney Diane J. Humetewa to Navajoland*, The Navajo Nation, Mar. 13, 2009. Copy supplied.

Press release, *U.S. Border Patrol Agent Indicted on Federal Civil Rights Charge for Assault in Federal Detention Facility*, U.S. Attorney's Office, District of Arizona, Mar. 13, 2009. Copy supplied.

Press release, *Arizona Man Pleads Guilty to Receipt of Child Pornography*, U.S. Attorney's Office, District of Arizona, Mar. 10, 2009. Copy supplied.

Press release, *Two Arizona Men Sentenced to Prison for Elaborate Securities and Tax Fraud Scheme*, U.S. Attorney's Office, District of Arizona, Mar. 3, 2009. Copy supplied.

Press release, *Real Estate Agent and Two Others Sentenced to Prison for Role in Mortgage Fraud Scheme – Scheme involved Approximately \$2.5 in Losses to Lending Institutions*, U.S. Attorney's Office, District of Arizona, Feb. 26, 2009. Copy supplied.

Press release, *Canadian Man Sentenced to 24 Months for Falsely Claiming to be a U.S. Citizen*, U.S. Attorney's Office, District of Arizona, Feb. 17, 2009. Copy supplied.

Press release, *Mortgage Fraud Leaders Sentenced to Prison*, U.S. Attorney's Office, District of Arizona, Feb. 12, 2009. Copy supplied.

Press release, *Arizona Man Sentenced to Five Years for Distribution of Child Pornography*, U.S. Attorney's Office, District of Arizona, Feb. 10, 2009. Copy supplied.

Press release, *Former Northern Arizona Postmaster Sentenced for Misappropriation of Postal Funds*, U.S. Attorney's Office, District of Arizona, Feb. 4, 2009. Copy supplied.

Press release, *Customs Official and His Wife Charged with Accepting Bribes to Smuggle Drugs into U.S.*, U.S. Attorney's Office, District of Arizona, Jan. 28, 2009. Copy supplied.

Press release, *Drug Kingpin Sentenced to 20 Years in Federal Prison for Directing Criminal Enterprise*, U.S. Attorney's Office, District of Arizona, Jan. 6, 2009. Copy supplied.

Press release, *Arizona Man Pleads Guilty to Sex Tourism Charge*, U.S. Attorney's Office, District of Arizona, Dec. 29, 2008. Copy supplied.

Press release, *Former Palo Verde Software Engineer Sentenced to Federal Prison*, U.S. Attorney's Office, District of Arizona, Dec. 16, 2008. Copy supplied.

Press release, *Federal, State, Local and Tribal Police Join Forces Against Drug Trafficking on Arizona Highways*, U.S. Attorney's Office, District of Arizona, Dec. 10, 2008. Copy supplied.

Press release, *Arizona Man Sentenced to More than 18 Years in Prison on Child Pornography Charges*, U.S. Attorney's Office, District of Arizona, Dec. 10, 2008. Copy supplied.

Press release, *Office Manager in Work Site Enforcement Probe Sentenced to Jail and Fined*, U.S. Attorney's Office, District of Arizona, Nov. 25, 2008. Copy supplied.

Press release, *Tribal Police Earn Federal Enforcement Authority in Indian Country*, U.S. Attorney's Office, District of Arizona, Nov. 20, 2008. Copy supplied.

Press release, *Nogales Family Sentenced for Trafficking in Cocaine, Marijuana*, U.S. Attorney's Office, District of Arizona, Nov. 20, 2008. Copy supplied.

Press release, *Meth Trafficker Sentenced to 134 Months I Prison; Methamphetamine Had Purity of 99 Percent*, U.S. Attorney's Office, District of Arizona, Nov. 13, 2008. Copy supplied.

Press release, *Smuggler Charged in Drowning Deaths of Four in Arizona Canal*, U.S. Attorney's Office, District of Arizona, Nov. 7, 2008. Copy supplied.

Press release, *U.S. Attorney Announces Election Day Program for the District of Arizona*, U.S. Attorney's Office, Nov. 3, 2008. Copy supplied.

Press release, *U.S. Attorney Participates in 16th Annual Four-Corners Indian Country Conference*, U.S. Attorney's Office, District of Arizona, Oct. 29, 2008. Copy supplied.

Press release, *U.S. Attorney Announces Election Day Program for the District of Arizona*, U.S. Attorney's Office, District of Arizona, Oct. 27, 2008. Copy supplied.

Press release, *Former Arizona Police Officer Pleads Guilty to Civil Rights Violation*, U.S. Attorney's Office, District of Arizona, Oct. 3, 2008. Copy supplied.

Press release, *ATF, U.S. Attorney for the District of Arizona and Firearms Industry Join Forces to Stop Illegal Purchase of Firearms in Phoenix; "Buy a Gun for Someone Who Can't and Buy Yourself 10 Years in Jail,"* U.S. Attorney's Office, District of Arizona, Sept. 24, 2008. Copy supplied.

Press release, *Former Indian Housing Director Sentenced to Prison for Theft from Tohono O'odham Nation and Failure to File Federal Tax Returns*, U.S. Attorney's Office, District of Arizona, Sept. 18, 2008. Copy supplied.

Press release, *Drug Kingpin Gonzalez Pleads Guilty to Controlling Criminal Enterprise*, U.S. Attorney's Office, District of Arizona, Sept. 16, 2008. Copy supplied.

Press release, *Two Arizona Men Convicted in Elaborate Securities and Tax Fraud Scheme Involving Publicly Traded Company*, U.S. Attorney's Office, District of Arizona, Sept. 15, 2008. Copy supplied.

Press release, *Officials Host First Ever Training Academy for Arizona Tribal Gaming Agents*, U.S. Attorney's Office, District of Arizona, Sept. 11, 2008. Copy supplied.

Press release, *Tribal Leader in Arizona Charged in 65-Count Indictment for Theft of Tribal Funds*, U.S. Attorney's Office, District of Arizona, Sept. 11, 2008. Copy supplied.

Press release, *Casino Employee Indicted for Embezzling \$664,442 from Desert Diamond Casino*, U.S. Attorney's Office, District of Arizona, Sept. 5, 2008. Copy supplied.

Press release, *Two Indicted in Multi-Million Dollar Business Opportunity Scheme*, U.S. Attorney's Office, District of Arizona, Aug. 21, 2008. Copy supplied.

Press release, *Canadian Man Sentenced to Four Years in Prison for Sex Tourism Case*, U.S. Attorney's Office, District of Arizona, Aug. 15, 2008. Copy supplied.

Press release, *Cultivating Marijuana in Tonto National Forest Nets Defendant 10 Years in Federal Prison*, U.S. Drug Enforcement Agency, Phoenix Field Office, Aug. 14, 2008. Copy supplied.

Press release, *Driver of Rollover Crash that Killed Nine Near Florence, Ariz., Arrested and Charged*, U.S. Attorney's Office, District of Arizona, Aug. 13, 2008. Copy supplied.

Press release, *Federal Government Announces Settlement with Coal-Fired Power Plant*, U.S. Attorney's Office, District of Arizona, Aug. 12, 2008. Copy supplied.

Press release, *Training Targets Prevention of School Violence*, U.S. Attorney's Office, District of Arizona, Aug. 7, 2008. Copy supplied in response to Q.12d.

Press release, *Violent Kidnapper Sentenced to 25 Years in Prison*, U.S. Attorney's Office, District of Arizona, Aug. 6, 2008. Copy supplied.

Press release, *More Bootlegging Suspects Nabbed on Navajo Nation*, U.S. Attorney's Office, District of Arizona, Aug. 6, 2008. Copy supplied.

Press release, *Arizona Man Pleads Guilty to Distributing Child Pornography*, U.S. Attorney's Office, District of Arizona, Aug. 4, 2008. Copy supplied.

Press release, *Bootlegging Suspects Nabbed on Navajo Nation*, U.S. Attorney's Office, District of Arizona, July 15, 2008. Copy supplied.

Press release, *Tribal and State Police Earn Federal Enforcement Authority in Indian Country*, U.S. Attorney's Office, District of Arizona, June 30, 2008. Copy supplied.

Press release, *Havasupai Man Sentenced to Life in Prison for Murder of Japanese Tourist in Northern Arizona*, U.S. Attorney's Office, District of Arizona, June 19, 2008. Copy supplied.

Press release, *36 Defendants Charged for Roles in Mortgage Fraud Schemes as Part of Operation Cash Back*, U.S. Attorney's Office, District of Arizona, June 19, 2008. Copy supplied.

Press release, *U.S. Marine Corps Awards Bronze Star to Local Federal Prosecutor for Performance During Second Tour of Duty in Iraq*, U.S. Attorney's Office, District of Arizona, June 17, 2008. Copy supplied.

Press release, *Federal, Tribal, State and Local Officials Take on Meth Trafficking in Four Corners*, U.S. Attorney's Office, District of Arizona, June 13, 2008. Copy supplied.

Press release, *Southern Arizonans Charged with Distributing Tons of Marijuana to East Coast*, U.S. Attorney's Office, District of Arizona, June 13, 2008. Copy supplied.

Press release, *Tempe Man Found Guilty on Charges Related to Super Bowl Threats*, U.S. Attorney's Office, District of Arizona, June 12, 2008. Copy supplied.

Press release, *Whiteriver, Arizona Man Sentenced to Life in Prison for Brutal 2005 Murder*, U.S. Attorney's Office, District of Arizona, May 29, 2008. Copy supplied.

Press release, *Yuma Customs Officer and Others Arrested for Conspiracy to Bring Illegal Aliens into U.S.*, U.S. Attorney's Office, District of Arizona, May 13, 2008. Copy supplied.

Press release, *Trucker Sentenced to Over Six Years in Prison for His Role in Marijuana Transportation Conspiracy*, U.S. Attorney's Office, District of Arizona, May 9, 2008. Copy supplied.

Press release, *Smuggler Linked to Rollover that Caused 10 Deaths Receives Life Sentence*, U.S. Immigration and Customs Enforcement, May 9, 2008. Copy supplied.

Press release, *Mexican Man Sentenced to Life in Prison for Transportation Illegal Aliens Resulting in 10 Deaths*, U.S. Attorney, District of Arizona, May 8, 2008. Copy supplied.

Press release, *Forest Service Recovers \$500,000 for Costs Associated with Fighting the 2006 LaBarranca Fire*, U.S. Attorney's Office, District of Arizona, May 7, 2008. Copy supplied.

Press release, *Phoenix Man Sentenced to Six Years in Federal Prison for Role in Marijuana Distribution Conspiracy*, U.S. Attorney's Office, District of Arizona, Apr. 18, 2008. Copy supplied.

Press release, *TSA Supervisor Sentenced for Stealing Laptop*, U.S. Attorney's Office, District of Arizona, Mar. 7, 2008. Copy supplied.

Press release, *Tribal and State Police Earn Federal Enforcement Authority in Indian Country*, U.S. Attorney's Office, District of Arizona, Feb. 29, 2008. Copy supplied.

Press release, *U.S. Congressman and Associates Indicted on Multiple Counts Including Fraud, Extortion and Money Laundering*, U.S. Attorney's Office, District of Arizona, Feb. 22, 2008. Copy supplied.

Press release, *Former Mexican Police Chief Sentenced to Prison for Bribery*, U.S. Attorney's Office, District of Arizona, Feb. 19, 2008. Copy supplied.

Press release, *Federal Jury Convicts Arizona Man for Distributing and Possessing Child Pornography*, U.S. Attorney's Office, District of Arizona, Feb. 15, 2008. Copy supplied.

Press release, *Violent Hostage Taker Receives Life Sentence*, U.S. Attorney's Office, District of Arizona, Feb. 12, 2008. Copy supplied.

Press release, *Mexican Receives Life Sentence in Smuggling-Related Phoenix Hostage Case*, U.S. Immigration and Customs Enforcement, Feb. 12, 2008. Copy supplied.

Press release, *Two White Mountain Apache Tribal Police Department Officials Sentenced for Conspiracy to Falsify Records*, U.S. Attorney's Office, District of Arizona, Jan. 18, 2008. Copy supplied.

Press release, *Diane Humetewa Sworn in as U.S. Attorney*, U.S. Attorney's Office, District of Arizona, Dec. 18, 2007. Copy supplied.

Press release, *U.S. Attorney Nominee Honored*, U.S. Attorney's Office, District of Arizona, Nov. 16, 2007. Copy supplied.

#### Press conferences

On July 9, 2009, I participated in a press conference "Operation Falcon" U.S. Marshall's Service, Phoenix, Arizona. We announced the arrest of hundreds of federal fugitives nationally and in Arizona. I have no transcript or recording.

On June 26, 2009, I participated in a press conference at the Arizona U.S. Attorney's Office with the ATF announcing the indictment of Dennis Mahon and Daniel Mahon for bombing the Scottsdale City Office of Diversity. I have no notes, transcript or recording.

On June 24, 2009, I participated in a press conference with the U.S. Department of Education, announcing the indictment of individuals involved in large financial fraud schemes. I have no transcript or recording, but related press release has been previously supplied and press coverage is supplied.

On September 24, 2008, I participated with the ATF in a press conference "Don't Lie for the Other Guy," ATF Phoenix Field Division Office, Phoenix Arizona. The conference was meant to educate the public about federal laws and penalties associated with illegal gun purchasing. I have no transcript or recording, but related press release has been previously supplied.

On September 18, 2008, I participated in a press conference for Indian tribal news outlets on federal prosecution of Indian country crimes during a meeting of the



Attorney General's Native American Issues Subcommittee, Phoenix, Arizona. I have no notes, transcript or recording.

On July 15, 2008, I participated in a press conference in Flagstaff, Arizona announcing the results of a four-month undercover operation into the illegal transport and sale of alcohol on the Navajo Nation. I have no transcript or recording, but representative press coverage is supplied.

On April 24, 2008, I introduced U.S. Deputy Attorney General Mark Filip in a press conference announcing additional federal resources to respond to southwest border crimes. I have no notes, transcript or recording.

On February 22, 2008, I participated in a press conference with the FBI and Department of Justice officials announcing the unsealing of a federal grand jury indictment charging Arizona Congressman Richard Renzi with federal crimes. I have no transcript or recording, but related press release has been previously supplied and press coverage is supplied.

January 11, 2008: Speaker, Press Conference announcing "National Human Trafficking Awareness Day," United States Attorney's Office, Phoenix, Arizona. Federal law enforcement and human rights organizations provided remarks to bring awareness to human trafficking. I have no notes, transcript or recording, but press coverage is supplied.

14. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

In 2002, I was confirmed by the Hopi Tribal Council as an Appellate Court Judge for the Hopi Tribal Court. I voluntarily served in that capacity without compensation up to the time I resigned in 2007. The Hopi Tribal Appellate Court's jurisdiction is governed by the Hopi Tribal Constitution and Hopi Tribal law. The Court's authority is limited to reviewing civil and criminal tribal court final judgments for matters arising on Hopi lands. The Hopi Constitution and tribal law authorize the Court to answer certified questions of law.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

I participated in several Appellate Court oral arguments. I was one of three or four Justices presiding over the arguments. As such, I did not preside over any trials.

- i. Of these, approximately what percent were:

jury trials: \_\_\_\_\_ %  
bench trials: \_\_\_\_\_ %

civil proceedings: \_\_\_\_\_%  
criminal proceedings: \_\_\_\_\_%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

A check of Hopi Tribal Court records shows that I participated in issuing the following majority decisions. I contributed, in part, to the drafting of each of the decisions and I do not recall wholly authoring any one decision.

*In the Matter of Arthur Batala*, November 21, 2003 (No. 03AP000008)

*Day v. Chief Judge of the Trial Court I*, April 9, 2004 (No. 04AP000003)

*Day v. Chief Judge of the Trial Court II*, November 19, 2004 (No. 04000003)

*Honyaoma et al. v. Nuvamsa I*, November 8, 2007 (No. AP0005)

*Honyaoma et al. v. Nuvamsa II*, \_\_\_\_\_ 2007 (No. AP0005)

*In the Matter of the Estate of Komaquaptewa*, August 16, 2002 (No. 01AP000013)

*Laban v. Yu Weh Loo Pah Ki Community I*, November 21, 2003 (No. 03AP000007)

*Laban v. Yu Weh Loo Pah Ki Community II*, November 21, 2003 (No. 3AP000012)

*Mahkewa v. Mahkewa*, April 9, 2004 (No. 03AP000009)

*Monestersky v. Tribe, et al.*, June 24, 2002 (No. 01AP000015)

*Sipaulovi Village Board of Directors v. Sunrise Quoyavema II*, March 30, 2006 (No. 04AP000004)

*Sipaulovi Village Board of Directors v. Sunrise Quoyavema I*, April 9, 2004 (No. 04AP000004)

*Thomas v. Hopi Tribe*, November 22, 2002 (No. 02AP000006)

*Village of Mishongnovi Cultural Preservation Board v. Mishongnovi Board of Directors*, November 19, 2004 (No. 04AP000002)

*In Re the Order of the Upper Village of Moenkopi*, April 5, 2007 (No. AP0001)

*In the Matter of Certified Question of Law Re: In the Matter of the Practice of Law of All Persons Admitted to Practice as Lay Counsel in the Hopi Tribal Court*, April 9, 2004 (No. 03AP000005)

*In the Matter of Certified Question of Law: First Mesa Consolidated Villages*, November 19, 2004 (No. 4AP000001)

*Mishongnovi Cultural Preservation Board*, November 19, 2004 (No. 02AP000013)

*In Re Sekayumtewa, et al. v. Tribal Election Board*, November 8, 2007 (No. AP0006)

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *In the Matter of Certified Question of Law Re: In the Matter of the Practice of Law*, April 9, 2004 (No. 03AP000005). Opinion supplied.

The Appellate Court analyzed whether lay advocates should be permitted to practice in the Hopi Tribal Courts. The question was posed by the Tribal Court Chief Judge after a number of advocates were disciplined by the Trial Courts. The Appellate Court's answer recognized that lay advocates offered a benefit to the Hopi courts by providing information on traditional common law and customary practices within each of the twelve Hopi villages. The Appellate Court further recognized a need to facilitate the professional practice of law in the Hopi courts therefore it ordered the Chief Judge to establish a committee to develop professional practice rules and procedures for all Hopi Court practitioners.

Petitioner: Gary Larance, Hopi Tribal Court Chief Judge (former)  
7904 East Chaparral Road, Suite A110-146  
Scottsdale, Arizona 85250  
(928) 401-1842

2. *Sekayumtewa v. Hopi Election Board*, November 18, 2007 (No. 2007AP006). Opinion supplied.

The Appellate Court declined to exercise its jurisdiction to hear a Motion for Extraordinary Writ. Petitioner sought to appeal a decision of the Hopi Election Board finding that Mr. Nuvamsa met the qualifications to run for Hopi Tribal Chairman. Petitioners filed a claim seeking a review of the Election Board decision. The Election Board filed a Motion for Summary Judgment and Petitioner filed a Responsive Motion. The Trial Court held a hearing on the

Motion and took the matter under advisement. Petitioner filed a Motion for Extraordinary Writ with the Appellate Court to compel the Trial Court's decision. While the Motion was pending, the Trial Court issued its order negating a need for Appellate Court review.

Petitioner/Lay Counsel: Mr. Sekayumtewa (no address available)  
Respondent's Counsel: record of counsel unavailable

3. *In the Matter of the Estate of Komaquaptewa*, August 16, 2002 (No. 1AP000013). Opinion supplied.

The parties disputed the ownership of decedent's home in the Village of Bacavi. This matter of first impression required an analysis of the Tribal Court's jurisdiction and process for distribution of property located in a Village that is not organized by a Constitution and that waived its authority and jurisdiction to resolve internal village property disputes pursuant to the Hopi Tribal Constitution. The Appellate Court ordered the parties to brief the following legal questions: 1) when a Village decides not to exercise its Hopi Constitutional power to resolve internal Village property disputes, does the Constitution give the tribal court the power to distribute property according to a valid will; and (2) whether the Hopi Trial Court may validate, recognize and probate wills in the absence of a village or tribal statute authorizing and defining the process for recognizing such wills. The Hopi Appellate Court deemed this matter to have legal and procedural implications for all Hopi Villages. Therefore, the Appellate Court remanded the case to the Trial Court to have the parties develop a record on custom, tradition and familial property use and further invited each Hopi Village to submit amicus briefs on the questions.

Appellant's Counsel: Gary L. Thomas  
723 West Polk Street, Suite Two  
Phoenix, Arizona 85007  
(602) 265-2414

Lay Advocate: Mr. Brandel (no address available)

4. *Thomas v. Hopi Tribe*, November, 22 2002 (No. 02AP000006). Opinion supplied.

The parties were involved in an employment contract dispute concerning a four-month termination provision. The primary issues were: (1) the Trial Court's admission of hearsay evidence based on Arizona Rules of Evidence 803(8), the public records and reports exception; and (2) the Trial Court's finding of Accord and Satisfaction to absolve the employer from further liability. The Appellate Court found that the trial court erred in admitting the hearsay statement but that the error failed to meet the clear abuse standard for appellate review of trial court evidentiary rulings and that admitting the statement was not prejudicial. The

Appellate Court found Accord and Satisfaction when an employer makes a clear offer to settle a dispute by offering a check accompanied by an explanatory letter and the former employee subsequently cashes the check, regardless of the former employee's protest that the check does not fully satisfy his claim.

Appellant's Counsel: Gary L. Thomas  
723 West Polk Street, Suite Two  
Phoenix, Arizona 85007  
(602) 265-2414

Appellee's Counsel: Scott Canty  
Hopi General Counsel (former)  
Law Offices of Scott Canty  
P.O. Box 22353  
Flagstaff, Arizona 86002  
(928) 380-3900

5. *Sipaulovi Village Board of Directors v. Quoyavema*, April 19, 2004; November 11, 2005; March 30, 2006 (No. 04AP000004). Opinions supplied.

The Village appealed a Tribal Court Summary Judgment order finding for Appellee. The Village filed a claim in Tribal Court seeking an Order compelling Appellee to remove a body that he buried on alleged "Clan lands" and a finding of trespass by Appellee on the Clan lands. Appellee argued that the claim violated the Native American Graves Protection Act and alternatively, Hopi Ordinance 26 which required the Village to receive a license to remove human remains. He also claimed that he received authority to use the land from a Village Leader. Appellant claimed that the land was not owned by one individual but rather it is common use Clan land and disputed that the person granting Appellee land access was a bona fide Village Leader. After a hearing on Appellee's Summary Judgment Motion, the Trial Court informed the parties that he would take the matter under advisement and inform them of his decision. The Appellate Court reversed and remanded the case finding that the Trial Court erred because it failed to give the parties, orally or in writing, a basis for its ruling. The Appellate Court further found that abundant issues of fact remained warranting a remand of the case. I filed a dissenting opinion to indicate a concern that the Appellate Court's written decision overreached by prematurely invoking Hopi Ordinance 26.

Appellant's Counsel: Franklin Hoover  
Magnum, Wall, Stoops and Warden LLP  
100 East Elden Street  
Flagstaff, Arizona 86001  
(928) 779-6951

Appellee's Counsel: Fredrick Aspey  
Aspey, Watkins and Diesel LLP

123 North San Francisco Street  
Flagstaff, Arizona 86001  
(928) 774-1428

6. *Monestersky v. The Hopi Tribe, The Hopi Tribal Chairman Wayne Taylor, Jr. and the Hopi Tribal Council*, June 24, 2002 (No. 01AP000015). Opinion supplied.

Appellant appealed a Trial Court's affirmation of an Order of Exclusion excluding her from the Hopi reservation issued by the Chairman of the Hopi Tribe pursuant to Hopi Tribal Ordinance 46. Appellant argued that Hopi Tribal Ordinance 46 violated her due process rights. A Trial Court affirmed the Hopi Tribe's administrative decision to exclude Appellant, a non-Indian, from the Hopi reservation. The Trial Court found that it had jurisdiction to review the Order of Exclusion and that no due process violations occurred during Appellant's the exclusion process. The Appellate Court affirmed the Trial Court's decision.

Appellant/Lay Advocate: Ms. Monestersky (Pro Se)

Appellee's Counsel: Lynelle Hartway (former General Counsel)  
The Washoe Tribe (General Counsel)  
919 Highway 395 South  
Gardnersville, Nevada 89410  
(775) 265-8600

7. *In Re the Order of the Upper Village of Moencopi*, April 5, 2007 (No. 2007AP0001). Opinion supplied.

The Appellate Court affirmed the Trial Court's evidentiary hearing process and certification of the Village of Moencopi's order requiring Appellant to remove a mobile home from the Village. Appellant argued that the Trial Court lacked jurisdiction to hear an internal Village land controversy. The Appellate Court held that the Trial Court's review of the Village Board's decision, the evidence presented at the Village meeting, and the Order to remove Appellant's mobile home were appropriate and necessary to ensure that all parties were provided "minimal fundamental fairness" required by *Honie v. Hopi Tribal Housing Authority*, \_\_\_\_, 1998 (No. 96AP0007), and affirmed the Trial Court's certification of the Village of Moencopi's Order.

Lay Advocate: Ms. Saufkie (Pro Se)

Appellee's Counsel: Franklin J. Hoover  
Magnum, Wall, Stoops and Warden  
100 East Elden Street  
Flagstaff, Arizona 66001  
(928) 779-6951

8. *Day v. Chief Judge of the Hopi Trial Court*, April 19, 2004; November 11, 2004 (No.04AP000003). Opinions supplied.

Appellant appealed an order suspending him from practicing in the Hopi Courts for violating various ethical rules of the American Bar Association and the Model Rules of Professional Conduct, imposing a fine and ordering him to attend an Arizona State Bar course on professionalism. The Appellate Court decided this matter as an Extraordinary Writ to facilitate an immediate resolution. On the merits, Appellant argued that the Trial Court lacked the authority to discipline him as such proceedings are administrative rather than adversarial and that lay counsel are not ministerial officers. As a matter of first impression, the Appellate Court analyzed whether the Trial Court has the authority to discipline Tribal Court practitioners in the absence of approved Hopi tribal ethics or professional rules. The Court found that Hopi Ordinance 21 generally provides the Court with authority to regulate and discipline members of the Hopi Bar so long as the Court's conduct is reasonable and appropriate to restore the conduct of its officers. The Appellate Court held that the Trial Court followed the ABA Model Code for Judicial Conduct by providing Day a fair hearing and ample opportunity to be heard. The Appellate Court affirmed the Trial Court's Order suspending Day from appearing in Hopi Tribal Court.

Lay Advocate: Mr. Day (Pro Se)

Appellee's Counsel: Gary Larance  
Hopi Tribal Court Chief Judge (former)  
7904 East Chaparral Road, Suite A110-146  
Scottsdale, Arizona 85250  
(928) 401-1842

9. *In the Matter of Certified Question of Law Re The First Mesa Consolidated Villages*, November 19, 2004 (No. 4AP00001). Opinion supplied.

The Hopi Tribal Council requested that the Appellate Court answer whether the Tribal Council was required to allocate funding to the Village leader of one of the three First Mesa villages or if it could allocate funds to the First Mesa Consolidated Villages, a cooperative village entity. The question required the Appellate Court to analyze whether a Hopi Tribal Council's Resolution permitting it to disburse funding to the First Mesa Consolidated Villages, rather than to each of the three original villages, violated the Hopi Tribal Constitution. The Appellate Court analyzed the Hopi Tribal Constitution and its provisions that authorize the Tribal Council to provide for the welfare of the Hopi Tribe, generally. The Appellate Court held that nothing in the Tribal Council's Resolution violated the Constitution or the individual villages' governing structure and that payment to the Consolidated Villages was within the discretion

of the Tribal Council under its authority to provide for the health and welfare of the Hopi Tribe.

Petitioner: Scott Canty, Hopi General Counsel (former)  
Law Offices of Scott Canty  
P.O. Box 22353  
Flagstaff, Arizona 86002  
(928) 380-3900

10. *Honyouma v. Nuvamsa*, November 9, 2007 (No. AP0005). Opinions supplied.

The Appellate Court granted Appellee Nuvamsa's Motion to Dismiss an Appeal by the Hopi Tribe and the Hopi Tribal Council of the Trial Court's decision in *Nuvamsa v. Honyouma*, \_\_\_, 2006 (No. CV0068). The Appellate Court held that neither the Tribe nor the Council were parties in the underlying cause of action. Rule 37(b) of the Hopi Indian Rules of Criminal and Civil Procedure governs Hopi Court appellate practice. The Appellate Court interpreted HIRCCP 37(b) to apply to the real parties to an underlying case. Because neither the Tribe nor the Council were parties in *Nuvamsa v. Honyouma*, the Appellate Court concluded that they were not real parties pursuant to HIRCCP 37(b) and could not appeal the Trial Court's judgment.

Appellate/Lay Advocate: Mr. Honyouma (Pro Se)

Appellee's Counsel: Gary Larance  
7904 East Chaparral Road, Suite A110-146  
Scottsdale, Arizona 85250  
(928) 401-1842

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *In the Matter of the Estate of Komaquaptewa*, August 16, 2002 (No. 01AP000013). Opinion supplied in response to 13c.

Appellant: Gary L. Thomas  
723 West Polk Street, Suite Two  
Phoenix, Arizona 85007  
(602) 265-2414

Lay Advocate: Mr. Brandel (no address available)



2. *Monestersky v. Tribe, et al.*, June 24, 2002 (No. 01AP000015). Opinion supplied in response to 13c.

Lay Advocate: Ms. Monestersky (Pro Se)

Appellee: Lynelle Hartway  
Hopi Associate General Counsel (former)  
The Washoe Tribe (General Counsel)  
919 Highway 395 South  
Gardnersville, Nevada 89410  
(775) 265-8600

3. *Thomas v. Hopi Tribe*, November 22, 2002 (No. 02AP000006). Opinion supplied in response to 13c.

Appellant's Counsel: Gary L. Thomas  
723 West Polk Street, Suite Two  
Phoenix, Arizona 85007  
(602) 265-2414

Appellee's Counsel: Scott Canty  
Hopi General Counsel (former)  
Law Offices of Scott Canty  
P.O. Box 22353  
Flagstaff, Arizona 86002  
(928) 380-3900

4. *Laban v. Yu Weh Loo Pah Ki Community I*, November 21, 2003 (No. 03AP000007). Opinion supplied.

Appellant's Lay Advocate: Mr. Brandel (no address available)

Appellee's Lay Advocate: Mr. Day (no address available)

5. *Laban v. Yu Weh Loo Pah Ki Community II*, November 21, 2003 (No. 3AP000012). Opinion supplied.

Appellant's Lay Advocate: Mr. Brandel (no address available)

Appellee's Lay Advocate: Mr. Day (no address available)

6. *Sipaulovi Village Board of Directors v. Sunrise Quoyavema II*, March 30, 2006 (No. 04AP000004). Opinion supplied in response to 13c.

Appellant's Counsel: Franklin Hoover  
Magnum, Wall, Stoops and Warden LLP

100 East Elden Street  
Flagstaff, Arizona 86001  
(928) 779-6951

Appellee's Counsel: Fredrick Aspey  
Aspey, Watkins and Diesel LLP  
123 North San Francisco Street  
Flagstaff, Arizona 86001  
(928) 774-1428

7. *Sipaulovi Village Board of Directors v. Sunrise Quoyavema I*, April 9, 2004 (No. 04AP000004). Opinion supplied in response to 13c.

Appellant's Counsel: Franklin Hoover  
Magnum, Wall, Stoops and Warden LLP  
100 East Elden Street  
Flagstaff, Arizona 86001  
(928) 779-6951

Appellee's Counsel: Fredrick Aspey  
Aspey, Watkins and Diesel LLP  
123 North San Francisco Street  
Flagstaff, Arizona 86001  
(928) 774-1428

8. *In the Matter of Certified Question of Law Re: In the Matter of the Practice of Law of All Persons Admitted to Practice as Lay Counsel in the Hopi Tribal Court*, April 9, 2004 (No. 03AP000005). Opinion supplied in response to 13c.

Petitioner: Gary Larance, Hopi Tribal Court Chief Judge (former)  
7904 East Chaparral Road, Suite A110-146  
Scottsdale, Arizona 85250  
(928) 401-1842

9. *In the Matter of Certified Question of Law: First Mesa Consolidated Villages*, November 19, 2004 (No. 4AP000001). Opinion supplied in response to 13c.

Petitioner: Scott Canty, Hopi General Counsel (former)  
Law Offices of Scott Canty  
P.O. Box 22353  
Flagstaff, Arizona 86002  
(928) 380-3900

10. *Mishongnovi Cultural Preservation Board*, November 19, 2004 (No. 02AP000013). Opinion supplied.

Petitioner: record of petitioner unavailable

e. Provide a list of all cases in which certiorari was requested or granted.

None.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

None.

g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

To the best of my knowledge, only three Hopi Appellate Court decisions that I participated in drafting were ever formally published. Generally, copies of court opinions were mailed to the parties and a copy of the decision is maintained in the Hopi Tribal Court Clerk's Office.

h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

No Hopi Appellate Court matter involved federal or state constitutional issues.

i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not served by designation on any federal court.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I recused myself from all tribal criminal appeals. Tribal criminal violations have a high probability of being referred to the U.S. Attorney's Office for federal prosecution. At the time, I was heavily involved in violent crime prosecutions, many arising in Indian Country, including matters arising on Hopi lands. I sought to avoid future potential conflicts of interest for me and my office. The Hopi Tribal Court Clerk reviewed all cases that were referred to the Appellate Court to ensure that I was not assigned any criminal appeals or writs.

**15. Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

On November 15, 2007, I was nominated by President George W. Bush to the position of United States Attorney for the District of Arizona. I was confirmed by the U.S. Senate and appointed to that position in December 2007.

On November 13, 2006, I was nominated by President George W. Bush to the Board of Trustees for the Udall Foundation. I was confirmed by the U.S. Senate in December 2006 and am currently serving on the Board in an expired hold-over term.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held office in or played a role in a political party or campaign.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I have never served as a law clerk for a judge.

ii. whether you practiced alone, and if so, the addresses and dates;

I have not engaged in the solo practice of law.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1993 – 1996

United States Senate  
Committee on Indian Affairs  
838 Hart Office Building  
Washington, D.C. 20510  
Deputy Counsel

1996 – 1998

United States Department of Justice  
Office of the Deputy Attorney General  
Office of Tribal Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530  
Counsel to the Deputy Attorney General (1996 – 1998)  
Special Assistant U.S. Attorney, District of Arizona (1997 – 1998)

1998 – 2009

U.S. Attorney's Office, District of Arizona  
Two Renaissance Square  
40 North Central Avenue, Suite 1200  
Phoenix, Arizona 85004  
United States Attorney (2007 – 2009)  
Senior Litigation Counsel (2001 – 2007)  
Assistant U.S. Attorney (1998 – 2007)

August – September 2009  
The Hopi Tribe

Hopi Tribal Prosecutor's Office  
P. O. Box 306  
Keams Canyon, Arizona 86034  
Acting Chief Prosecutor

2009 – 2011  
Squire, Sanders & Dempsey (US) LLP  
One East Washington Street, Suite 2700  
Phoenix, Arizona 85004  
Of Counsel and Principal

2011– present  
Arizona State University  
Fulton Center 410  
300 East University Drive  
P.O. Box 877705  
Tempe, Arizona 85287  
Special Advisor to the President (2011 – present)  
Special Counsel, Office of General Counsel (2011 – present)  
Professor of Practice, Sandra Day O'Connor College of Law (2011 – present)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

From approximately 2004 to 2007 I was on a list of Arbitration lawyers for Arizona. I was designated an arbitration judge on at least two matters. However, the matters settled or the parties elected not to use arbitration.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

From 1993 to 1996 as Deputy Counsel to the U.S. Senate Committee on Indian Affairs, I provided research and advice to Committee members and staff. I drafted federal legislation and prepared legal memoranda on pending legislation, staffed hearings, and drafted letters and talking points for the Committee Chairman.

From 1996 to 1998 as counsel to the Deputy Attorney General, I provided legal research and advice to the Director and staff of the Office of Tribal Justice on national issues affecting Indian tribal governments and the Justice Department, including Indian gaming, tribal courts, litigation involving the federal government and Indian tribes and the federal

prosecution of Indian Country crimes and affiliated resource issues. In 1997 I was assigned to the United States Attorney's Office for the District of Arizona as a Special AUSA, where I handled a variety of Indian Country related policy matters and cases.

In 1998 I was hired as a permanent AUSA for the District of Arizona. I was assigned to a general crimes group and later assigned to a violent crimes group. I handled a wide variety of cases from criminal complaint, grand jury proceedings, and trials through sentencing and appeal. In approximately 2001, I transferred to the civil division where I handled claims against the federal government and prosecuted federal bankruptcy claims. I appeared in the Federal Magistrate, District and Bankruptcy Courts and Phoenix City Court.

In approximately 2001, I was elevated to Senior Litigation Counsel to the United States Attorney where I handled a criminal caseload. I also supervised the Victim Witness Program staff and served as the Office's Victim Witness Ombudsman and the Tribal Liaison. As the Tribal Liaison, I provided advice to the U.S. Attorney on issues relating to our work with and for Indian tribes, developed training programs for tribal investigators and prosecutors, and interfaced with tribal government officials to build trust with our federal investigation agencies. I represented the U.S. Attorney on the Arizona State, Tribal and Federal Court forum.

In 2007 I was confirmed as the United States Attorney for the District of Arizona. I oversaw one of the largest offices in the nation with one of the highest caseloads (four offices with over 300 employees). I coordinated major federal investigations with federal, state and tribal law enforcement agencies. I was assigned to the U.S. Attorney General's Southwest Border Crimes Advisory Group and the Native American Issues Advisory Group. As part of my responsibilities, I testified before the U.S. Sentencing Commission on border crimes issues and the United States Senate on Indian Country crime issues. I worked with the Chief Judge of the Arizona District Court to address the high volume of immigration violations and border crimes cases affecting the federal courts in Arizona.

In August 2009 I was hired by the Hopi Tribe on a temporary emergency basis as the Acting Chief Prosecutor while the Tribe attempted to fill the vacant position. I handled a variety of tribal criminal cases from initial charging through disposition in the Hopi Tribal Court. I resigned that position in late September 2009 due to a prior employment commitment.

From 2009 to 2011 I worked in the Squire, Sanders and Dempsey law firm where I was assigned to the Federal Indian law and Environmental Law practices group. I represented clients, tribal and non-tribal, on federal

Indian law, renewable energy development and water law issues. I was responsible for building client relationships with tribal governments or with clients who sought relationships with tribal governments. As the Principal in the Public Advocacy group, I provided a tribal client advice and counsel on federal agency rules, regulations and Tribal consultation.

In private practice, I was retained by Arizona State University (“ASU”) to work for the ASU President. In October 2011, I resigned my position in private practice to work full-time for ASU. As Special Advisor and Special Counsel, I provide research and advice on a variety of higher education law matters, including legal and policy matters affecting ASU and its relationships with Indian tribes.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

As an Indian Affairs Committee Counsel, I interfaced with federal agencies for which the Committee had oversight, including the Bureau of Indian Affairs and the Indian Health Service. I met with tribal, state and local agency representatives on matters affected by federal law, government action or Indian legal issues.

As Deputy Counsel, my client was the Department of Justice. By Executive Order, I was required to consult with federal Indian tribes on matters affecting the Indian tribes and the federal government. As an Assistant U.S. Attorney, Senior Litigation Counsel and U.S. Attorney, I represented federal agencies and the interests of the federal government in the federal courts. As the Acting Chief Prosecutor for the Hopi Tribe, I represented the Hopi Tribe and its interests. I interfaced with the federal and local agencies assigned to investigate and enforce the laws of the Hopi Tribe. As Of Counsel and Principal with Squire, Sanders and Dempsey, I was retained by Indian tribes, private companies and public agencies on specific legal and public policy matters. As Special Advisor and Special Counsel for the ASU President, I represent ASU and its interests in negotiating agreements with Indian tribes, review federal regulation compliance. I represent ASU and its interests in addressing Arizona Indian tribal higher education issues.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

As an Assistant U.S. Attorney and up to the time I was confirmed as the United States Attorney in 2007, I handled the initial stages of criminal cases including presentment of cases to Federal Grand Juries. I appeared regularly in initial court proceedings in U.S. Magistrate Court including representing the United States in



initial appearances, detention and preliminary hearings. I regularly appeared in Federal District Court in pre-trial motion hearings, voluntariness hearings, change of plea hearings and sentencing hearings. I have tried approximately 20 cases to jury or judge verdict. My trial experience ranges from homicides and child sex crimes to defending federal agencies and their interests in City and Federal Courts, including Federal Bankruptcy Court. I have also handled Federal Juvenile Delinquency proceedings, including juvenile to adult transfer proceedings. As necessary, I researched and drafted appellate briefs arising from my cases.

As the Acting Chief Prosecutor for the Hopi Tribe from August to September 2009, I handled misdemeanor tribal court criminal offenses from making the initial charging decision through plea hearing and sentencing. I appeared in Hopi Tribal Court multiple times a day, four out of five days a week for approximately six weeks.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 98% |
| 2. state courts of record:  | 1%  |
| 3. other courts:            | 1%  |
| 4. administrative agencies: | 0%  |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 5 % |
| 2. criminal proceedings: | 95% |

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have handled approximately 255 criminal or civil cases. I was lead counsel in all but approximately 12 cases. I tried approximately 20 cases to judge or jury verdict. I was co-counsel on three of the criminal cases that went to trial. As co-counsel, I generally shared responsibility for pre-trial motion research and motion drafting, witness preparation and an equal division of witness examination and opening and closing arguments. Of the cases that I have solely tried, I handled all aspects of the case from the Federal Grand Jury presentation of charges through pre-trial motion practice, trial preparation, trial and sentencing.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 99% |
| 2. non-jury: | 1%  |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not appeared before the United States Supreme Court.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:
  - a. the date of representation;
  - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
  - c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *United States v. James*, CR 05–00172–PCT–DGC (2006 – 2007).

I obtained a conviction after a jury trial for Aggravated Sexual Abuse of a Minor, Abusive Sexual Contact and Attempted Aggravated Sexual Abuse of a Minor. The defendant was sentenced to thirty-years in federal custody, one of the longest sentences for crimes of this nature. The defendant, a transient tribal member, was an acquaintance of the victim's mother. He was invited to stay the evening with her family on the White Mountain Apache reservation. The minor victim awoke to the defendant sexually assaulting him. The defendant was immediately arrested and the Federal Bureau of Investigation conducted an investigation. The case was transferred to me after the matter was set for trial. Immediately before trial, I discovered that the defendant had a prior state court conviction for similar conduct occurring approximately 15 years prior. Upon motion, I was permitted to introduce the prior conviction. I handled all pre-trial pleadings, witness preparation, trial and sentencing. The presiding judge was David G. Campbell.

Defense Counsel: Gerald Williams  
Federal Defenders Office  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
(602) 382-2700

2. *United States v. Rocc*, CR 99-616-PCT-RGS (1999 – 2000).

I indicted and convicted by plea the defendant on one count of Aggravated Sexual Abuse with a Child Under Twelve for sexually assaulting his step-daughter. The defendant engaged in anal intercourse with an eight-year-old incapacitated victim and was discovered in the act by the victim's older sister. The child witness immediately called the tribal police and the defendant was arrested. The victim was transported to the local Indian Health Service hospital where a medical examination confirmed the sexual assault. In the examination, the victim revealed that the defendant engaged in at least ten sex acts with her. The Navajo Nation Criminal Investigation handled the investigation. I handled all matters from charging through sentencing. The presiding judge was Roger G. Strand. (In a related case, the victim's mother pled guilty to Witness Tampering for causing the victim to recant her statement. The court sentenced her to one year in federal custody. I handled all matters from charging to disposition. See *United States v. Begay*, CR 99-726-PCT-RCB (1999)).

Defense Counsel: Celia M. Rumann (former Assistant Public Defender)  
One North Central Avenue  
Phoenix, Arizona 85004  
(602) 682-6800

3. *United States v. Yazzie*, CR 99-753-PCT-EHC (1999 – 2000).

I obtained a conviction after a jury trial for Involuntary Manslaughter, a lesser-included offense of Second Degree Murder. The defendant and his elderly father were consuming alcohol and driving around the area of Cameron on the Navajo Indian reservation. Sometime during the night, the defendant and his father fought. During the fight, the defendant struck his father on the head with a bottle. The defendant dumped his father's body off on the side of the road where he was later discovered. The victim's cause of death was a result of severe head injuries. The defendant's pick-up truck was found at his home. Evidence of blood spatter was detected in the truck's interior cab. The defendant was sentenced to 20 months in federal custody. I handled all pre-trial motions preparation, pre-trial witness preparation, jury selection, trial and sentencing. The presiding judge was Earl H. Carroll.

Defense Counsel: James S. Park  
Park Law Office  
2702 North Third Street, Suite 4005  
Phoenix, Arizona 85004  
Phone: (602) 462-5700

4. *United States v. Nakai, Yazzie et al*, CR 99-075-PCT-EHC (1999 – 2000).

I prosecuted two adult defendants and two juveniles for Second Degree Murder for

the beating death of their aunt's boyfriend. One of the juveniles was convinced that the victim was a witch who had placed him under a curse resulting in his constant illness. The group lured the victim from the home, beat him and hid his body. I separately filed federal juvenile delinquency violations against the juveniles. I was the attorney of record and handled all matters from the federal grand jury proceedings, pre-trial motion preparation and witness interviews, through plea negotiation and sentencing in both the adult and federal juvenile delinquency proceedings. The Presiding Judge was Earl H. Carroll.

Defense Counsel: Thomas E. Haney  
(Richard Nakai) 101 North First Avenue, Suite 460  
Phoenix, Arizona 85003  
(602) 861-5915

Defense Counsel: Deborah Williams  
(Lewis Yazzie) Federal Defenders Office  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
(602) 382-2700

5. *United States v. Tidwell*, CR 97-93-PCT-EHC (1997 – 1998).

After a two-week jury trial, the defendant was convicted of numerous ARPA, NAGPRA, and Conspiracy and Theft of Government Property crimes involving cultural patrimony and archeological resources of two Indian tribal governments, the Acoma Pueblo and the Hopi Tribe. The case began as an undercover operation with the Bureau of Indian Affairs guided by former AUSA Paul K. Charlton. Charlton sought my assistance as co-counsel prior to the federal grand jury presentation due to my familiarity with the NAGPRA law and Indian Tribal matters. The division of labor was equally divided. We jointly presented witnesses and evidence at trial. The presiding judge was Earl H. Carroll. The trial verdict was affirmed on appeal. I helped to draft the appellate briefing. Charlton argued the appeal before the Ninth Circuit Court of Appeals. The published appellate decision is recorded at *United States v. Rodney Tidwell*, 191 F.3d 976 (1999). This case was one of several cases that led to a new section in the U.S. Sentencing Guidelines for calculating sentences involving national heritage resource and tribal cultural resource crimes.

Co-counsel: Paul K. Charlton (former U.S. Attorney)  
Gallagher & Kennedy  
2572 East Camelback Road, Suite 1100  
Phoenix, Arizona 85016  
(602) 530-8585

Defense Counsel: Arthur E. Lloyd  
113 East Frontier Street

Payson, Arizona 85541  
(928) 474-6727

6. *United States v. Thurman*, CR 98 –005–PCT–EHC (1997–1998).

This case involved the five-year-old unsolved murder of a two-year-old child. There was no physical evidence or witnesses to the crime. The lead counsel, AUSA Wallace H. Kleindienst requested my assistance on the case as co-counsel. Together, we employed two lengthy federal grand jury investigations that spanned the course of one year. We re-interviewed witnesses, called uncooperative witness before the federal grand jury and developed numerous leads. Together, the FBI Special Agent assigned to this case and I identified a critical witness who led to information about prior physical assaults on another child by the suspect. I was also able to build rapport with a critical witness who eventually provided new evidence of the suspect's involvement in the child's murder. This information provided the momentum for other witness to come forward. The suspect later pled guilty to Second Degree Murder resulting in a 22-year sentence. AUSA Kleindienst and I jointly interviewed witnesses and presented federal grand jury testimony and appeared at the plea and sentencing hearing. The presiding judge was Earl H. Carroll.

Co-counsel: Wallace H. Kleindienst  
United States Attorney's Office  
Evo A. DeConcini Courthouse  
405 West Congress Avenue, Room 4800  
Tucson, Arizona 85701  
(520) 620-7300

Defense Counsel: Deborah Williams  
Federal Defenders Office  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
(602) 382-2700

7. *United States v. Youvella*, CR 98–476–PCT–PGR (1998 – 1999).

I directed a joint Federal Bureau of Investigation and Bureau of Indian Affairs Criminal Investigation undercover operation that including telephonic monitoring between the child victim and the defendant. This type of investigation technique is rarely used in Indian Country crime investigations. The investigation resulted in a tribal grade school girls' basketball coach's conviction for two-counts of Sexual Abuse of a Minor. I guided the investigation, presented the case to the federal grand jury and handled all matters through sentencing. The presiding judge was Paul G. Rosenblatt.

Defense Counsel: Deborah Williams  
Federal Defenders Office

850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
(602) 382-2700

8. *United States v. Slowman*, CR 97-496-PCT-PGR (1998).

The defendant pleaded guilty to Second Degree Murder and was sentenced to 216 months in federal custody. The victim was at home repairing his car. The defendant came by and the two men began drinking alcohol. A verbal confrontation took place, followed by a physical fight. The defendant punched the victim, who fell inside an unfinished portion of a home that contained various construction and mechanics tools. While the victim attempted to get up, the defendant heaved a car crank-shaft on his head. Thereafter, he picked up a pick-ax and struck the victim in the chest five times. The defendant fled into the mountains. A federal and tribal law enforcement manhunt located the defendant the next day. I handled this matter from the federal grand jury presentation through sentencing. The presiding judge was Paul G. Rosenblatt.

Defense Counsel: Gerald Williams  
Federal Defenders Office  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
(602) 382-2700

9. *United States v. Zeena*, CR 99-019-PCT-RCB (1999 – 2000).

On April 16, 1999 a federal trial jury convicted the defendant of Aggravated Sexual Abuse of a Child. The defendant was in a brief relationship with the victim's mother. Almost immediately, he moved in with her and her three children, including the eight-year-old victim. The victim's sexual abuse was disclosed as a result of a separate sexual abuse incident involving the defendant and the victim's ten-year-old sister. At trial, the defendant claimed that the children were jealous of his relationship with their mother and fabricated the crimes. The defendant was sentenced to 164 months in federal custody. I handled all matters from the federal grand jury presentation, trial motion preparation, pre-trial witness preparation, trial and sentencing. The presiding judge was Robert C. Broomfield.

Defense Counsel: Gerald Williams  
Federal Defenders Office  
850 West Adams Street, Suite 201  
Phoenix, Arizona 85007  
(602) 382-2700

10. *James, Guardian Ad Litem v. United States*, CR 99-0599-PCT-SLV (2000 – 2001).

The plaintiff filed a Federal Tort Claims Act claim against the United States for

protracted neurological and physical injuries sustained by the fourteen-year-old minor while he was a youth worker for the Bureau of Indian Affairs. The minor claimed that he was no longer able to physically exert himself and complained of constant headaches. Through deposition of witnesses, the plaintiff's physician and detailed evidence collection, I discovered that the plaintiff's injuries were severely overstated. This matter was transferred to me with looming discovery and motions deadlines. I settled this matter for \$16,000. The presiding judge was U.S. Magistrate Judge Stephen L. Verkamp.

Defense Counsel: Dale Itschner  
2482 North Oakmont Drive  
Flagstaff, Arizona 86004-7466  
(928) 774-2708

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

In 2002, as Senior Litigation Counsel, I assisted the U.S. Department of the Interior, Bureau of Indian Affairs Office of Justice Services and the U.S. Attorney Offices in Arizona, Colorado, New Mexico and Utah in developing a law enforcement initiative to recover cultural resources belonging to Indian Tribes from the general public. The "Four-Corners Amnesty Initiative" included a public campaign to educate the public about the Archeological Resource Protection Act and Native American Graves Protection and Repatriation Act laws. The initiative ran for approximately two months and permitted individuals to turn in cultural resources or human remains to partner museums without fear of federal prosecution. The initiative resulted in the return of significant items with cultural importance to numerous Indian Tribes in the southwest.

As the United States Attorney, I instituted an office-wide policy requiring AUSAs to issue a press release on all Indian Country crime convictions or civil verdicts to the affected Indian Tribe. The intent was to inform the tribes of the extent to which violent crimes occurred in their communities, the role of the federal judicial system in addressing those crimes and to share information on the federal and tribal law enforcement resources used to resolve such cases.

As an Advisor to the Education Committee of the National Crime Victim Law Institute, I have been able to integrate Indian tribal jurisdictional elements where appropriate to the Institute's curriculum and initiatives. I have provided education and training to the Committee and Institute conference participants on the interplay between the state, tribal and federal justice systems relative to crime victims.

I have not engaged in lobbying nor have I ever registered as a lobbyist.

In March 2013 ASU Public Advocacy Director Stuart Hadley and I met with various Arizona Congressional members staff and staff in the Bureau of Indian Affairs and U.S. Department of Education to express Arizona State University's support for the Navajo Nation, National Indian Education Association and the American Indian Higher Education Association requests to forward fund the Bureau of Indian Education higher education grants and scholarships.

In March 2010, while in private practice, I accompanied a tribal client to the Inter Tribal Council of Arizona Inc.'s legislative impact week. I accompanied my client, the Hualapai Tribe, and various ITCA members to meet various U.S. Congressional delegation staff on Arizona tribal issues. We met with staff of the following Congressional Members: Cong. Pastor, Cong. Grijalva, Cong. Norton, Senator Inouye and Senator Akaka. We met with Senator Tom Udall. I prepared my clients and I accompanied them to the meetings but they advocated on their own behalf.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

Fall Semester 2012, Cultural Resource Law Seminar, Sandra Day O'Connor College of Law. I have provided a copy of the course syllabus.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have a deferred Thrift Savings Plan and federal retirement benefits from prior federal government service. This information is included in the attached Financial Statement.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no plans, commitments or agreements to pursue outside employment if confirmed.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial



disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See the attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See the attached Statement of Net Worth.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I do not believe any persons, parties, categories of litigation or financial interests will present a conflict of interest for me. As the U.S. Attorney for the District of Arizona and as a lawyer handling matters for the Office, I have handled numerous cases in Arizona federal court. Some matters may still be pending while others may involve defendants whom I previously convicted and who may appear on a violation of release conditions. If confirmed, I will diligently review all parties and cases to identify potential conflicts of interest. At all times, I will adhere to the Code of Conduct for United States Judges Canon 3 and Federal Rule 28 U.S.C. § 455 to avoid, prevent and address any potential conflicts of interest.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will handle all matters through the diligent application of the United States Judicial Code of Conduct, including Canon 3(C) and (D) and Federal Rule 28 U.S.C. § 455.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

From 2009 to the present, I have participated as an advisor to the National Crime Victim Law Institute's Education Committee, a non-profit crime victim legal advocacy organization. I attend conference calls approximately six times a year and when able, provide training during the annual conference. Generally, I provide advice on educational programming designed to foster understanding of victims' rights in tribal, state and federal courts.

I also have been very involved in providing legal services to tribal communities. For example, I agreed to serve as an uncompensated Appellate Court Judge for the Hopi Tribe from 2002 to 2007. During that time, at least twice a year for two to three days I traveled to the Hopi reservation to preside over civil appellate court cases. I also participated in drafting the Hopi Tribal Court rules of practice and in developing standards of conduct for tribal court practitioners. From 2010 to 2011, I chaired a Hopi Tribal Court committee that was responsible for drafting professional practice rules. While in private practice from 2009 to 2011 I provided pro-bono services to the Western Apache NAGPRA Working Group comprised of the San Carlos Apache, Yavapai-Apache, White Mountain Apache and the Tonto Apache Tribes. I provided information and advice to the Working Group on federal agency and museum repatriation practices.

I have also been involved in moot court competitions. From approximately 1997 to 2001, I judged various Arizona State University law student activities such as client counseling, client negotiation and moot court competitions. In February 2013, I judged the National Cultural Heritage Moot Court brief writing competition for the DePaul University.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I submitted a Federal Judicial Candidate Questionnaire to U.S. Senator John S. McCain on March 8, 2013. I interviewed with Senator McCain's Federal Judicial Evaluation Committee in Phoenix, Arizona, on June 11, 2013. On June 28, 2013, the Chairman of the Committee called me stating that Senator McCain approved the Committee's recommendation of me for a federal judge position. He advised that my name would be submitted to the White House for further consideration. Since June 30, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On August 15, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice

in Washington, D.C. On September 19, 2013, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question

in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

**FINANCIAL DISCLOSURE REPORT  
NOMINATION FILING**

*Report Required by the Ethics  
in Government Act of 1978  
(5 U.S.C. app. §§ 101-111)*

<b>1. Person Reporting (last name, first, middle initial)</b> Humetewa, Diane J.	<b>2. Court or Organization</b> U.S. District Court, Arizona	<b>3. Date of Report</b> 09/19/2013
<b>4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time)</b> U.S. District Court Judge	<b>5a. Report Type (check appropriate type)</b> <input checked="" type="checkbox"/> Nomination      Date 9/19/2013 <input type="checkbox"/> Initial <input type="checkbox"/> Annual <input type="checkbox"/> Final	<b>6. Reporting Period</b> 1/1/2012 to 8/31/2013
	<b>5b.</b> <input type="checkbox"/> Amended Report	
<b>7. Chambers or Office Address</b> Arizona State University, Fulton Center 410, 300 E. University Drive P.O. Box 877705 Tempe Arizona 85287-7705		
<b>IMPORTANT NOTES:</b> <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

**I. POSITIONS.** *(Reporting individual only; see pp. 9-13 of filing instructions.)*

NONE *(No reportable positions.)*

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Special Advisor, Special Counsel & Professor of Practice	Arizona State University
2. Member, Board of Trustees	Udall Foundation
3. Member, Board of Trustees	The Nature Conservancy in Arizona
4. Member, Board of Trustees	National Indian Justice Center
5.	

**II. AGREEMENTS.** *(Reporting individual only; see pp. 14-16 of filing instructions.)*

NONE *(No reportable agreements.)*

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	
2.	
3.	

AFFIDAVIT

I, Diane J. Humetewa, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

Sept 20, 2013  
(DATE)

*George J. Hanger*  
(NAME)

Kathy Cook  
(NOTARY)

