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

January 6, 2014

Dear Mr. Chairman:

I have reviewed the questionnaire I submitted to the Senate Judiciary Committee on October 22, 2013, in connection with my nomination to the United States District Court for the District of Arizona. Incorporating the additional information listed below, I certify that the information contained in these documents is, to the best of my knowledge, true and accurate.

Q. 12(c)

As a member of the Arizona Commission on Judicial Performance review, I participated in a public meeting on November 22, 2013. I have no notes, transcripts or recording.

Q. 12(d)

Since my previously-submitted questionnaire, I have given the following presentations:

December 10, 2013: Panelist in a discussion for a group of approximately 30 people who were interested in the judicial selection process. A moderator led the panel of five active and retired judges and three attorneys in a general discussion of the merit selection and application procedures for the Arizona Superior Court, Arizona Supreme Court and the Federal District Court. I have no notes, transcripts or recording. The address of the sponsoring organization is Spirit of the Senses, Post Office Box 44273 Phoenix, Arizona 85064.

December 6, 2013: Guest speaker for the introduction of Judge Craig Blakey, the 2013 American Board of Trial Advocates' (ABOTA) Judge of the Year, at ABOTA's dinner to honor the Judge of the Year. I have no notes, transcripts or recording. The address of the Phoenix Chapter of the American Board of Trial Advocates is c/o Thomas K. Slack, Beale, Michaels & Slack PC, 7012 North 18th Street, Phoenix, Arizona 85020.

November 19, 2013: Moderator at a joint meeting of the Sandra Day O'Connor, Horace Rumpole and Thurgood Marshall Inns of Court using movie scene re-enactments from A Few Good Men to identify and discuss ethical issues. Outline supplied.

Q. 13(a)

I have presided over one civil bench trial that went to judgment and one civil jury trial that went to trial.

Q. 13(f)

Brimet II, L.L.C. v. Destiny Homes Marketing, L.L.C., No. CV2009-015587 Maricopa County Superior Court, Oct. 4, 2013), *rev'd sub nom. Brimet II, L.L.C. v. Rayes*, (mandate has not issued). Decision and Court of Appeals opinion supplied.

In this case, a developer, with a loan from First Horizon Loan Corporation (First Horizon) purchased land for a construction project using an acquisition loan. After the acquisition loan was recorded, an Option contract involving Destiny Holdings II ("Destiny") was recorded. First Horizon later made a second loan on the project. From the second loan, the acquisition loan was paid off. Later, a new lender, Northern Trust (Northern) made a third loan from which the First Horizon was paid off entirely. Ultimately, Northern foreclosed and purchased the property at a trustee's sale. Northern filed a quiet title suit , seeking a ruling that Destiny's Option was extinguished when the property was foreclosed and purchased by Northern. While the quiet title action was pending, Northern sold the property to Brimet II, LLC (Brimet). The original trial court judge granted Brimet's motion for summary judgment, finding that the Option had been extinguished. The Court of Appeals reversed and remanded the case to the trial court with instructions "that summary judgment be entered in favor of Destiny." After the original trial court judge retired, the case was assigned to me. Destiny's counsel submitted a form of judgment, and, after objection and briefing by the parties, I found that the proposed form of judgment complied with the Court of Appeals' order and entered summary judgment in favor of Destiny. Brimet then brought a special action. The Court of Appeals granted relief, stating that in reversing the original trial court judge, it had not addressed the enforceability of the Option and that although Destiny's Option is an encumbrance, Destiny cannot maintain an action for quiet title. As a result, the Court of Appeals deleted paragraphs 2(a) and 2(f) from the judgment that I had entered.

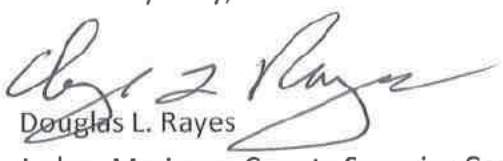
T.P. Racing v. Simms, No. CV2010-022308 (Maricopa County Superior Court 04/04/2013) special action relief was granted by the Arizona Court of Appeals, No. 1 CA-SA 13-0123, *sub nom.*

Simms v. Rayes. Court of Appeals opinion supplied.

Since I filed my questionnaire, the Court of Appeals has issued its opinion explaining the basis for its ruling, finding that no conflict of interests exists with defendants' counsel by bringing a derivative action on behalf of the minority shareholder.

I am also forwarding an updated net worth statement and financial disclosure report as requested in the questionnaire. I thank the Committee for its consideration of my nomination.

Yours very truly,



Douglas L. Rayes
Judge, Maricopa County Superior Court

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

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

   Douglas Leroy Rayes

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

   United States District Court 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.

   Maricopa County Superior Court
   201 West Jefferson, Suite 704
   Phoenix, Arizona 85003

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

   1952; Globe, 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.

   1975 – 1978, Arizona State University College of Law; J.D. (*cum laude*), 1978

   1970 – 1975, Arizona State University; BSE (*summa cum laude*), 1975

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.

   2000 – present
   Maricopa County Superior Court
   201 West Jefferson
   Phoenix, Arizona 85003

Judge, Complex Civil (January, 2013 - present)
Presiding Criminal Judge (2010 – January, 2013)
Associate Presiding Civil Judge / Complex Civil (2008 – 2010)
Judge, Civil Special Assignment (2005 – 2008)
Judge, Criminal (2002 – 2005)
Judge, Family (2000 – 2002)

1989 – 2000
Tryon, Heller & Rayes
(Firm Defunct)
6611 North Scottsdale Road
Scottsdale, Arizona 85250
Partner

1986 – 1989
McGroder, Tryon, Heller & Rayes
(Firm Defunct)
3020 East Camelback Road
Phoenix, Arizona 85016
Partner

1984 – 1986
McGroder, Tryon, Heller, Rayes & Berch
(Firm Defunct)
3020 East Camelback Road
Phoenix, Arizona 85016
Partner

1982 – 1984
McGroder, Pearlstein, Peppler & Tryon
(Firm Defunct)
3020 East Camelback Road
Phoenix, Arizona 85016
Associate

1979 – 1982
U.S. Army JAGC
Third Armored Division
Hanau, FRG
Captain
Judge Advocate General

October – December 1978
McGroder & Tryon
(Firm Defunct)
111 South Third Street

Phoenix, Arizona 85007
Attorney

April – September 1978
McGroder & Tryon
(Firm Defunct)
111 South Third Street
Phoenix, Arizona 85007
Law Clerk

Summer 1977
Arizona State Attorney General's Office
1275 West Washington
Phoenix, Arizona 85007
Law Clerk, Contractor

1976
United States Forest Service
Tonto National Forest, Roosevelt Lake Ranger Station
Tonto Basin, Arizona
2324 East McDowell Road
Phoenix, Arizona 85004
Patrol Fireman

1975
United States Forest Service
Tonto National Forest, Globe Ranger Station
Globe, Arizona
2324 East McDowell Road
Phoenix, Arizona 85004
Tanker Crew Fireman

Other affiliations (uncompensated)

2011 – present
Sandra Day O'Connor College of Law
Arizona State University
1100 South McAllister Avenue
Tempe, Arizona 852871
Adjunct Professor of Law

2002 – 2003, 1989 – 1991
Prince of Peace Lutheran Church
3641 North 56th Street
Phoenix, Arizona 85018

Church Council, Vice President (2002 – 2003)
Church Council, Member (1989 – 1991)

1995 – present
Calle Tuberia Trust
(no physical address)
Trustee

1995 – present
Charlottesville Trust
(no physical address)
Trustee

1995 – present
KJET Limited Partnership
(no physical address)
Manager

1982 – present
Rayes Properties Inc.
477 West Baseline Spur
Globe, Arizona 85001
Secretary/Vice President

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.

   1970 – 1974: Army ROTC, Arizona State University
   1975: Commissioned Second Lieutenant, U.S. Army
   1979 – 1982: Army JAG Corps
   1982 – 1985: Army Reserve
   Honorable Discharge/Captain

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.

   Judge of the Year, American Board of Trial Advocates, Phoenix Chapter (2011)
   Army Commendation Medal, United States Army, Europe, (1982)
   Distinguished Graduate, Army JAGC Basic Class (1979)
   Distinguished Military Graduate, Arizona State University (1975)
   Tau Beta Pi, Engineering Honors Fraternity, Arizona State University (1974)

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.

American Bar Association (approximately 1988 – 2000)
Arizona Commission on Judicial Performance Review (2013 – present)
Arizona State Bar, Civil Practice and Procedure Committee (1994 – 1997)
Arizona Supreme Court Judicial College (2004 – 2006)
Arizona Trial Lawyers Association (1990 – 2000)
ASTAR Resources Judge Scientific Evidence Program (2010 – present)
Capital Case Oversight Committee of the Arizona Supreme Court (2010 – 2012)
Court Leadership Institute of Arizona (2011 – present)
City of Phoenix, Judicial Selection Advisory Board (2008 – present)
Vice Chairman (2012 – present)
General Jurisdiction New Judge Orientation Committee of the Arizona Supreme Court (2004 – 2010)
Co-Chairperson (2007 – 2010)
Instructor and mentor (2004 – present)
Gila County Bar Association (approximately 1987 – 2000)
Town of El Mirage Judicial Selection Advisory Board (2006 – 2013)
Chairman (2006 – 2012)
Maricopa County Superior Court Mental Health Committee
Chairman (2001 – 2012)
Maricopa County Bar Association (Approximately 2002 – 2008) (2013)
State Bar of Arizona, Continuing Legal Education Presenter (2001 –present)
Veterans' Court Committee, Maricopa County (2010 – 2012)
Co-Chairperson (2010 – 2012)

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, 1978

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.

United States District Court for the District of Arizona, 1982

United States Military Courts, certified in accordance with Article 27(b) and sworn in accordance with Article 42(a) of the Uniform Code of Military Justice, 1979

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.

Arcadia Little League (1990 – 2001)
Managed, coached and umpired Boys' T-Ball, Farm, Minor and Major league teams (1990 – 2001)
Arcadia Girls' Little League (1996 – 1998)
Managed and coached girls' softball teams (1996 – 1998)
Arizona Supreme Court Commission on Victims in the Courts member (2010 – 2013)
Maricopa County Superior Court Security Committee, member (2002-2005)
Weapons and Exhibits Subcommittee, chairman (2003 – 2005)
Arizona Supreme Court's General Jurisdiction New Judge Orientation Committee
Co-Chair (2006-2010)
Prince of Peace Lutheran Church (1984 – 2011)
Member, Church Council (1989 – 1991)
Vice President, Church Council (2002 – 2003)
Nominating Committee member (2002 – 2003)
Task Force to update constitution and bylaws (2004-2005)
KJET Limited Partnership (1995 – present)
Manager (1995 – present)
Rayes Properties Inc. (1982 – present)
Secretary/Vice President (1982 – present)

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 the best of my knowledge, none of the organizations listed above currently discriminates 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.

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.

The Mayor of the Courthouse is Retiring, The Judicial Branch News, Jan. 2013. Copy supplied.

Probation, Parole, and Community Supervision Week, The Chronicle, Newsletter of the Maricopa County Adult Probation Department, July, 2012. Copy supplied.

Letter to the Editor. *Soundoff. Noteworthy Lawyering in Historic Cases,* Arizona Attorney, April 2012. Copy supplied.

With Robert L. Gottsfield and Patricia Starr, *A Court's Remarkable Recovery From a Capital Case Crisis,* Arizona Attorney, Nov. 2011. Copy supplied.

Celebrating and Honoring Probation Employees, The Chronicle, Newsletter of the Maricopa County Adult Probation Department, July, 2011. Copy supplied.

Packing Heat in Arizona, Arizona Republic, May 31, 2010. Copy supplied.

Globe Boy Changes the Law of the Land, The Judicial Branch News, Nov. 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.

Five Year Strategic Plan for the Criminal Department, Superior Court of Arizona in Maricopa County, October 7, 2010. Copy supplied.

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.

I addressed the Maricopa County Commission on Trial Court Appointments, recommending a Court Commissioner be considered by the Commission for referral to Governor Brewer as a candidate for Superior Court Judge on July 22, 2013 and March 27, 2013. Minutes supplied.

As a member of the Court Leadership Institute of Arizona, since 2011, I have provided meeting minutes of meetings in which I participated where available.

I was interviewed by the Commission on Appellate Court Appointments, regarding my application to fill a vacancy on the Arizona Supreme Court on August 20, 2012. Video listed under the "Archived '2012' Videos" menu available at: http://www.azcourts.gov/AZSupremeCourt/LiveArchivedVideo.aspx.

As a member of the Arizona Supreme Court's Capital Case Oversight Committee, I participated in public meetings involving the oversight of the capital cases in Superior Court. I reported on the progress the court was making in resolving a capital case crisis, the numbers of pending and resolved capital cases, what the court was doing to facilitate resolution, the issues that were developing in timely resolution of pending cases and the developing backlog of petitions for post-conviction relief. I participated in public meetings on the following dates:

September 24, 2012, Meeting. Minutes supplied.

February 29, 2012, Meeting. Minutes supplied.

October 5, 2011, Meeting. Minutes supplied.

May 16, 2011, Meeting. Minutes supplied.

January 18, 2011, Meeting. Minutes supplied.

September 23, 2010, Meeting. Minutes supplied.

August 30, 2010, Meeting. Minutes supplied.

April 28, 2010, Meeting. Minutes supplied.

As a member of the Commission on Victims in the Courts, I made a presentation at a public meeting to the Commission on the innovative features of the new Criminal Court Tower that were specifically designed to facilitate victims when they came to the courthouse on January 20, 2012. Minutes supplied.

I made an oral report to the Maricopa County Superior Court Executive Committee on the five year strategic plan for the criminal department in October 2010. Copy of the written plan is supplied in response to 12b.

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.

Throughout my career I have presented on many legal topics. I have listed all those that I can recall here after searching through my files and the Internet.

October 11, 2013: Panelist, "Bench Bar Conference" Maricopa County Bar Association, Phoenix, Arizona. As a panel member I discussed oral arguments on motions. I discussed what is effective and what is ineffective. I have no notes, transcripts or recording. The address of the Maricopa County Bar Association is Maricopa County Bar Association, 303 East Palm Lane, Phoenix, Arizona 85004.

October 4, 2013: Panelist, "The Civil Procedure Game," Arizona State Bar, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015. PowerPoint supplied.

July 30 – August 2, 2013, July 31 – August 1, 2012 and August 2 – 3, 2011: Panelist "Arizona College of Trial Advocacy" Arizona State Bar, Phoenix, Arizona. This was an intense week of trial training limited to 48 lawyers. A civil case is worked up by the students starting from discovery through trial, under the direction and tutelage of experienced trial lawyers and judges. I worked all three years with the students on cross examination of expert witnesses and opening statements. I have no notes, transcripts or recording. The address of the Arizona State Bar's Continuing Legal Education program is, Arizona State Bar, Continuing Legal Education, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015.

April 12, 2013: Guest Lecturer, Mock Trial Program, Seventh Grade Social Studies Class, Ingleside Middle School. The presentation described the trial process, the important legal issues the students faced in their mock trial scenario and responded to questions from the class. I have no notes, transcript, or recording. The address is Ingleside Middle School is 5402 East Osborn Road, Phoenix, Arizona 85018.

March 5, 2013: Speaker, Presentation for New Judges, "Case Management," General Jurisdiction, New Judge Orientation, Arizona Supreme Court Judicial

Education Center, Phoenix, Arizona. PowerPoint supplied.

December 13, 2012: Panelist, "Civil Procedure and Pretrial Discovery," Arizona State Bar, Phoenix. Outline supplied.

November 15, 2012: Speaker, Mesa Community College class on Corrections Functions. The presentation discussed interesting criminal cases and sentencing laws and responded to questions from the class. I have no notes, transcripts or recordings. The address of Mesa Community College is 1833 West Southern Avenue, Mesa, Arizona 85202.

November 2, 2012: Panelist, "Putting the Evidence Rules to Work for You," Arizona State Bar, Phoenix, Arizona. PowerPoint supplied.

October 10, 2012: Speaker, "Bench and Bar Luncheon." The presentation, by the presiding judges of Maricopa County Superior Court, described and explained the new programs of their departments. The luncheon was presented by the Arizona State Bar. I discussed the programs I oversaw in the criminal department including the creation of the Veterans' Court, the development of a quality assurance program for indigent defense counsel, the reduction in capital cases and the training program implemented to train judge pro tems in the criminal department. I have no notes, transcripts or recording. The address of the Arizona State Bar's Continuing Legal Education program is, Arizona State Bar, Continuing Legal Education, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015.

October 5, 2012: Panelist, "Capital Case Training for Judges," Criminal Department, Maricopa County Superior Court, Phoenix, Arizona. The nuts and bolts of managing a capital trial were taught, including pre-trial motions and jury selection. I have no notes, transcripts or recording. The address of the Maricopa County Superior Court is 175 West Madison, Phoenix, Arizona, 85003.

September 15, 2012: Speaker, discussion of my background growing up in Globe and my interest on serving on the Arizona Supreme Court, Gila County Republican Party. I have no notes, transcripts or recording. The address of the Gila County Republican Party Globe Headquarters is 424 Broad Street, Globe, Arizona 85501.

September 4, 2012: Speaker, "Adult Probation Officer Class Graduation Ceremonies," Maricopa County Adult Probation Department, Phoenix, Arizona. From June 2010 through September 2012, approximately three times per year, I addressed the new employees and their families who had successfully completed the Maricopa County Adult Probation department training. I congratulated them for being selected for the job and enduring the rigorous training program. I reminded them of the importance of their job to the community and to the judges who rely on them. I have no notes, transcripts or recording. The address of the

Maricopa County Adult Probation Department, 620 West Jackson Street, Phoenix, Arizona 85003.

April 17, 2012; November 10, 2009; and February 22, 2006: Panelist, "Arizona State Bar Attorney Professionalism Course," Phoenix, Arizona. This is a mandatory continuing legal education course. The section my panel covered was "Criminal Litigation, Small Firm." The State Bar has a prepared course curriculum which includes hypotheticals. My co-panelists presented the course material and I responded to questions, from a judicial perspective, about attorney behavior in the hypothetical situations of lawyers acting badly toward one another and toward other third parties. I have no notes, transcripts or recording. The address of the Arizona State Bar's Continuing Legal Education program is, Arizona State Bar, Continuing Legal Education, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015.

April 16, 2012: Speaker, "Veterans' Court Celebration of Progress," Maricopa County Superior Court, Phoenix, Arizona. Maricopa County Superior Court publicly celebrated the first anniversary of the Veterans' Court with a presentation of the successes. I was one of the speakers to discuss the plight of the veterans and how our Veterans' Court successfully addresses issues of veterans with mental health and/or substance abuse issues. Video available at: http://www.youtube.com/watch?v=KirGQmNl0ik

April 13, 2012: Panelist, "Sandra Day O'Connor College of Law, Arizona State University, Sentencing Workshop," Tempe, Arizona. Law students and Superior Court judges were provided with the information a sentencing judge had available before imposing sentence. Professor Popko moderated a discussion between the students and judges about the legal requirements and the considerations that are made when a sentence is handed down. My remarks focused on the statutory factors a judge must consider when imposing a sentence. I have no notes, transcripts or recording. The address for Sandra Day O'Connor College of Law is 1100 South McAllister Avenue, Tempe, Arizona 85287.

April 12, 2012 and February 24, 2011: Guest Lecturer, "Death Penalty in America," Arizona State University Justice Studies Program class, Tempe, Arizona. . I described the process of a death penalty case working its way through the courts, gave a description of the death protocol at the prison and responded to questions from the students. I have no notes, transcripts or recording. The class was taught at Arizona State University, Tempe Arizona, 85287.

February 22, 2012: Speaker, "Legal Competency and Restoration Training for Mental Health Professionals," Arizona Supreme Court, Phoenix, Arizona. This is training that is required by the Arizona Supreme Court for mental health professionals to be qualified for court appointment to evaluate and or restore

criminal defendants. I gave a presentation on the overview of our competency rules and the cases interpreting them. PowerPoint and handout supplied.

January 20, 2012: Speaker, Commission on Victims in the Court, "Courthouse Design with Victims in Mind," Phoenix, Arizona. PowerPoint supplied.

January 18, 2012: Speaker, American Academy of Professional Coders on "Medical Malpractice Suits and How to Avoid Them," Mesa, Arizona. PowerPoint supplied.

December 8, 2011 and December 2, 2010: Speaker, "Death Penalty Annual Conference" Maricopa County Public Defender, Legal Defender, Legal Advocate and Federal Public Defender-Capital Habeas Unit, Phoenix, Arizona. I, along with the County Attorney, was asked to speak on "Different Perspectives." I discussed the expectations I had about the level of competency of indigent defense counsel in capital cases and statistics on the capital cases in Maricopa County's recent past. I have no notes, transcripts or recording. The address of the Maricopa County Public Defender is 620 West Jackson Street, Phoenix, Arizona 85003.

Approximately October, 2011: Panelist at a meeting of Parents of Murdered Children, Phoenix, Arizona. This was an opportunity for parents of murdered to children to describe their court experiences and to make suggestions about how judges could help parent victims understand the criminal process in court. I have no notes, transcript, or recording. The address of the president of the organization is PO Box 39603, Phoenix, Arizona 85069.

September 9, 2011: Panelist, "Nuts and Bolts of Trial Practice" seminar presented by the Arizona State Bar. The moderator discussed trial issues and tactics using the panelists, two trial lawyers and me, a trial judge, to explain how they actually play out in the courtroom. I discussed trial techniques that I have seen work in the courtroom and some that have failed. PowerPoint supplied.

March 30, 2011: Panelist, "Criminal Implications of Prop 203 (Medical Marijuana)" Maricopa County Bar Association, Phoenix, Arizona. As a panel member I discussed the recently enacted medical marijuana law and the potential legal pitfalls that lay ahead for medical marijuana users and dispensaries. I have no notes, transcripts or recording. The address of the Maricopa County Bar Association is Maricopa County Bar Association, 303 East Palm Lane, Phoenix, Arizona 85004.

January 19, 2011: Panelist, statewide webcast for Arizona Courts "Proposition 203: Arizona Medical Marijuana Act," Arizona Supreme Court, Phoenix, Arizona. I was on a panel that presented an overview of recently enacted medical marijuana laws. This was a presentation for the Arizona Supreme court.

PowerPoint supplied and video available at: http://www.azcourts.gov/educationservices/COJETClassroom/VideoCenter/Broadcasts.aspx#BC_P203.

September 9, 2010: Panelist, "Bench and Bar, Updates and Views from the Bench," Arizona State Bar, Phoenix, Arizona. I was one of the presiding judges that spoke on the new programs and developments in our departments. I discussed our recent undertaking regarding juveniles who were on adult probation, our highest risk re-offenders, modeled after a successful program in Hawaii that provided for swift and constant penalties for probation violations. I have no notes, transcripts or recording. The address of the Arizona State Bar's Continuing Legal Education program is, Arizona State Bar, Continuing Legal Education, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015.

June 3, 2010: Panelist, "Complex Civil Litigation," Arizona State Bar, Phoenix, Arizona. This was a program to introduce attorneys to the Supreme Court's pilot project in Maricopa County. We discussed how cases are designated complex, what that means to the case process, introduced the three judges assigned to that calendar and discussed how the calendars differ from regular civil calendars. I have no notes, transcripts or recording. The address of the Arizona State Bar's Continuing Legal Education program is, Arizona State Bar, Continuing Legal Education, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015.

April 23, 2010: Panelist, "What Civil Judges Want You to Know," National Business Institute, Tucson, Arizona. This seminar included seven judges from across the state on civil calendars. It covered a wide range of issues in civil litigation. We discussed discovery, pre-trial conferences, scheduling orders, motions, technology in the courtroom, voir dire, opening statements and closing arguments. I have no notes, transcripts or recording. This seminar was put on by the National Business Institute, P.O. Box 3067 Eau Claire, Wisconsin 54702.

October 28, 2009: Speaker "Condemnation Summit VI," Phoenix, Arizona. This was an annual all day seminar put on by a group of attorneys who practice in the area of condemnation. PowerPoint supplied.

October 16, 2009: Panelist, "The Evidence Game: Rules and Trial Objections," Arizona State Bar, Phoenix, Arizona. The moderator showed short clips from movies and gave other trial hypotheticals covering nearly all of the rules of evidence in a game format. I addressed objections and rulings on some of the hypotheticals. I have no notes, transcripts or recording. The address is Arizona State Bar, Continuing Legal Education, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85015.

March 20, 2009: Panelist, "Civil Court Judicial Forum: Practice Tips, Evidence and Expert Testimony," National Business Institute, Phoenix, Arizona. I was one of six judges on the panel. The discussion included using expert depositions at trial, impeachment, objections and side bars. I have no notes, transcripts or

recording. The address of the National Business Institute is National Business Institute, P.O. Box 3067 Eau Claire, Wisconsin 54702.

December 17, 2008: Panelist, "View From the Bench: Complex Civil Litigation," Maricopa County Bar Association, Phoenix, Arizona. This program introduced attorneys to the Supreme Court's pilot project in Maricopa County. We discussed how cases are designated complex, what that means to the case process, introduced the three judges assigned to that calendar and discussed how the calendars differ from regular civil calendars. I have no notes, transcripts or recording. The address of the Maricopa County Bar Association is Maricopa County Bar Association, 303 East Palm Lane, Phoenix, Arizona 85004.

January 11, 2002: Moderator and Panelist, "Mental Health Providers Annual Training Family Court Department," Maricopa County Superior Court, Phoenix, Arizona. This was an annual training put on by the Maricopa County Superior Court Family Department. I gave the opening remarks and introduced the speakers. I have no notes, transcripts or recording. The address of the Maricopa County Superior Court is Maricopa County Superior Court, 201 West Jefferson Phoenix, Arizona 85003.

November 19, 1999: Speaker, "Damages: Understand Them Prove Them and Maximize Them," Arizona Trial Lawyers Association, Phoenix, Arizona. I spoke on proving general damages in personal injury cases. I have no notes, transcripts or recording. The address of the Arizona Trial Lawyers Association is Arizona Trial Lawyers Association, 1661 East Camelback, Suite 204, Phoenix, Arizona 85016.

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.

SuperiorCourtAZ, *An Introduction to Veterans' Court*, Maricopa County Superior Court, Feb. 3, 2012. Video available at: http://www.youtube.com/watch?v=X2r05iMW34I&list=PLh-xFB5ObJz4AmZ87tdQlN9LH3N4UMGtQ&index=1

Veterans Court: Arizona StandDown, Judicial Branch News, Feb. 2012. Copy supplied.

Office of Victims of Crimes of the Office of Justice Program, Maricopa County Probation Department's Financial Compliance Program (FINCOM), Crime Victims Financial Restoration Award, 2012. The link to the video created by the Office of Justice Program is below. Go to Award Year and click on 2012 and then click on the group photo that will show "Maricopa County Adult Probation Department Financial Compliance Unit" and then click on the video: https://ovcncvrw.ncjrs.gov/Awards/AwardGallery/gallerysearch.html.

Blog, ABOTA Names Douglas Rayes Judge of the Year, Arizona Attorney Magazine, Dec. 9, 2011. Copy supplied.

Judicial Officers Volunteer for Arizona StandDown, Judicial Branch of Arizona, Maricopa County, Jan. 27, 2011. Copy supplied.

Glen Creno, *Court program helps veterans get back on their feet*, The Arizona Republic, Jan. 24, 2011. Copy supplied.

Angie Hollsworth, *Valley Veterans Get Help from New Court Program*, ABC 15 News, Jan. 20, 2011. Copy supplied.

13. **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.

Since 2000, I have served as a judge on the Maricopa County Superior Court.

I was appointed by the Governor through a merit selection process. A nonpartisan Trial Court Commission screened the applications and sent the finalists to the governor who made the final selection. I have been retained in the required periodic, nonpartisan retention elections in 2002, 2006 and 2010. The Maricopa County Superior Court is a court of general jurisdiction with jurisdiction over cases and proceedings in which exclusive jurisdiction is not vested by law in another court. It has jurisdiction over civil cases involving disputes of more than $10,000, equity cases that involve title of possession of real property; the legality of any tax, assessment, toll or municipal ordinance; criminal cases amounting to a felony, forcible entry and detainer actions; actions to prevent or stop nuisances; matters of probate and dissolution of marriages. It also acts as an appellate court for justice and municipal courts.

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

I have presided over thousands of cases that have gone to judgment by settlement, plea agreement, summary judgment or dismissal. I have presided over approximately 250 cases that have gone to verdict through a trial. I have estimated the relative percentages of the cases that went to verdict through trial below.

i. Of these, approximately what percent were:

jury trials:	60%
bench trials:	40%
civil proceedings:	30%
criminal proceedings:	70%

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

As a trial judge I make tens of rulings per week ranging from motions to extend time for service to summary judgments in multi-million dollar cases. Most of the rulings are two pages or less but some are lengthy. These rulings are found in the individual case files within the Maricopa County Superior Court and therefore are not readily searchable. On occasion I have sat as a judge pro tempore on the Arizona Court of Appeals and in that capacity I authored one opinion, *Collette v. Tolleson Unified School District, No. 214*, 203 Ariz. 359, 54 P.3d 828 (App. 2002).

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. *State v. Lemke*, No. CR 2002-019002 (Maricopa County Superior Court, April 10, 2006), *aff'd sub nom. Lemke v. Rayes*, 141 P.3d 407 (2006). Decision supplied.

This was a capital murder trial stemming from the death of a television auto-glass mogul. The defendant was charged with, among other things, felony murder. The predicate offense for the felony murder charge was a charge of armed robbery. The jury hung on the felony murder charge but convicted the defendant of theft, a lesser offense of the armed robbery charge. Because under Arizona law a felony murder charge cannot rest on a predicate offense of theft, the defense moved to dismiss the murder charge. I denied the motion ruling that double jeopardy did not bar a retrial of the murder charge. My ruling was affirmed.

State's Counsel:
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Phoenix, Arizona 85003
602-372-2940

Defendant's Counsel:
Bruce Peterson
Timothy Agan
Office of Legal Advocate
3800 North Central Avenue, Suite 1500
Phoenix, Arizona 85012
602-506-4611

2. *State v. Al-Tarrah*, No. CR2005-129547 (Maricopa County Superior Court, trial to the court, August 21, 2006 – August 23, 2006).

This case involved a foreign college student charged with leaving the scene of vehicular accident involving a death. She was ordered by the trial judge to surrender her passport to her attorney, David Cantor, and he was ordered to file an affidavit of her compliance with the court. The defendant did not surrender her passport to Cantor. The defendant left the country before trial and a criminal contempt action was brought against Cantor. I was specially assigned to try the contempt charges. I was required to weigh the evidence of Cantor's willfulness and clarity of the order. After three days of trial I found Cantor not guilty.

State's Counsel:
Ed Noyes, Jr., specially assigned to try the contempt charge against Cantor. (Formerly Assistant Attorney General, Arizona Attorney General's Office, but I am unable to locate current contact information on him.)

Cantor's Counsel:
Larry Hammond
Osborn Maledon, PA
2929 North Central Avenue Suite 2100
Phoenix, Arizona 85012
602-640-9361

Mark Harrison
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2929 North Central Avenue Suite 2100
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602-640 9324

3. *Home Builders Association of Central Arizona v. City of Mesa*, No. LC2007-000559 (Maricopa County Superior Court, July 15, 2009), *aff'd* 226 Ariz. 7, 243 P.3d 610 (App. 2010). Decision supplied.

This case came to me as a special action. The Home Builders Association of Central Arizona brought suit to challenge the lawfulness of the City of Mesa's cultural facilities development fee. I found the City's cultural facilities development facilities to be "necessary" public services within the meaning of the applicable statute and granted summary judgment for the City of Mesa. The ruling was affirmed on appeal.

Plaintiffs' Counsel:
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602-462-5000

Defendant's Counsel:
Gary Birnbaum
Mariscal Weeks McIntyre & Friedlander PA
2901 North Central Avenue, Suite 200
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602-285-5000

4. *State v. Vega*, No. CR2004-134908 (Maricopa County Superior Court, jury trial, January 4, 2006 – January 26, 2006), *aff'd* 2008 WL 3845456 (Ariz. App. 2008).

In this case the defendant was charged with murder. As the defendant, a gang member, stood near his vehicle holding an AK-47, a number of rival gang members stood nearby. Both sets of gangs had been at a birthday celebration. One of the rival gang members, unarmed, walked toward the defendant with his hands in the air daring the defendant to shoot him. Both rounds went into the victim's chest. Despite the defendant's claim of self-defense, he was found guilty by a jury of manslaughter. I sentenced him to fifteen years in prison. The conviction and sentence were affirmed.

State's Counsel:
Susie Charbel
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301 West Jefferson Eighth Floor
Phoenix, Arizona 85003
602-506-5780

Defendant's Counsel:
John Napper
Napper Law Firm
141 South McCormick, Suite 211
Prescott, Arizona 86303
928-778-5554

5. *State v. Mohamad,* No. CR 2004-015083 (Maricopa County Superior Court, jury trial December 5, 2005 - December 15, 2005), *aff'd* 2008 WL 3855851(Ariz. App.).

The defendant was a clerk at a convenience store who had repeatedly been the victim of armed robberies and had observed his brother shot to death in an armed robbery. Despite his experience and despite being diagnosed and treated for post-traumatic stress, he continued to work as a store clerk. On the evening in question he observed a person take beer without paying for it. He chased the culprit down and after a confrontation, shot him as he drove away with the beer. The victim died. The defendant was found guilty by the jury of manslaughter and I sentenced

him to a mitigated sentence of seven years. The verdict and sentence were affirmed.

State's Counsel:
Sam Myers
Maricopa County Superior Court
201 West Jefferson
Phoenix, Arizona 85003
602-372-2940

Defendant's Counsel:
Andrew Alex
Richard Gaxiola
Alex & Gaxiola
1717 East Bell Road, Suite One
Phoenix, Arizona 85022
602-971-1775

6. *Martinez v. Desert Sky Esplanade*, No. CV2006-014888 (Maricopa County Superior Court, jury trial January 28, 2009 – February 4, 2009), *aff'd* 2010 WL 3597255 (Ariz. App.)

This was a wrongful death trial. Plaintiffs' decedent, their teenage daughter, a back seat passenger, was killed when the vehicle lost control after hitting a speed bump. Plaintiffs brought suit against the owner of the roadway claiming defendants were negligent for the roadway design and maintenance. The jury returned a verdict for plaintiffs in the amount of $2.5 million, finding the defendants 50% at fault and the non-party driver 50% at fault. The verdict was affirmed on appeal.

Plaintiffs' Counsel:
Charles Slack-Mendez
Slack-Mendez and Garcia
2710 South Rural Road
Tempe, Arizona 85282
480-829-1166

Defendants' Counsel:
Steven Bartell (Unable to locate contact information)

7. *Fushek v. State of Arizona*, No. LC2006-000371 (Maricopa County Superior Court, August 16, 2006), rev'd 215 Ariz. 274, 159 P.3d 584 (App. 2007), *aff'd* 218 Ariz. 285, 183 P.3d 536 (2008). Decision supplied.

This was a special action brought by the defendant, a Catholic priest charged with misdemeanor sex offenses, to challenge the justice court's denial of a jury trial. I found that sex registration is an "additional, direct, uniformly applied statutory

consequence that reflects the legislature's judgment that the offense is serious." I ruled that because of that, the Arizona Constitution guarantees the defendant a jury trial. My ruling was reversed by the Court of Appeals, but affirmed by the Supreme Court.

State's Counsel:
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602-962-8002

Defendant's Counsel:
Thomas Hoidal
Law offices of Thomas Hoidal PLC
7227 North 16th Street
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602-254-0202

8. *Arizona Together v. Brewer*, No. CV2006-010505 (Maricopa County Superior Court, August 11, 2006), *aff'd* 214 Ariz. 118, 149 P.3d 742 (2007). Decision supplied.

This was an election law case that required me to consider whether a constitutional amendment proposed by voter initiative to define marriage complied with the separate amendment rule of the Arizona Constitution. After a hearing I found that the proposition constituted a single amendment pursuant to the test established by prior decisions of the Arizona Supreme Court. I ruled that the proposition would be placed on the ballot. My ruling was affirmed by the Arizona Supreme Court.

Plaintiffs' Counsel:
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Defendants' Counsel:
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9. *Cuppy et al. v. Gray et al.,* No. CV 2003-019984 (Maricopa County Superior Court, jury trials March 2, 2006 – March 22, 2006, and May 11, 2009 – May 28, 2009). *aff'd* 2008 WL 4061071 (Ariz. App.).

This was a medical negligence, wrongful death trial. It involved claims that a surgeon caused and then ignored internal bleeding that resulted in the death of a high school teacher survived by a wife and five children. The case involved many thorny legal and medical issues. The jury found for the defendant. I granted plaintiffs' motion for mistrial on the grounds that I had erred in allowing in certain evidence and for not granting plaintiffs' motion for judgment as a matter of law on Dr. Gray's claim that the hospital was a non-party at fault. The jury found in favor of the defendant in the second trial.

Plaintiffs' Counsel:
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Defendants' Counsel:
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Broening Oberg Woods & Wilson PC
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Phoenix, Arizona 85036
602-271-7700

10. *Solimeno et al. v. Dickson*, No. CV 2004 005593 (Maricopa County Superior Court, jury trial April 20, 2009 – May 4, 2009).

This was a medical negligence wrongful death trial. The decedent, a 42 year old woman died of a pulmonary embolism while under the care of the defendants. Plaintiffs claimed that the defendants fell below the standard of care in their treatment of the decedent by failing to take appropriate medical action to prevent the blood clot from traveling to her lungs. The case involved complex medical and legal issues and was tried by two lawyers experienced in medical negligence. The jury found in favor of the defendant.

Plaintiffs' Counsel:
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Defendants' Counsel:
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602-263-1700

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.

As a trial judge I technically do not write opinions, other than when I sit on the Court of Appeals as a Judge pro tempore. As a trial judge I have made thousands of rulings. Most of my rulings contain an explanation for the legal basis of my ruling.

1. *Collette v. Tolleson Unified School District, No. 214*, 203 Ariz. 359, 54 P.3d 828 (App. 2002).

Appellants' Counsel:
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602 530-8377

Appellees' Counsel:
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602 235-7189

2. *Fushek v. State of Arizona*, No. LC2006-000371 (Maricopa County Superior Court, Aug. 14, 2006), rev'd 215 Ariz. 274, 159 P.3d 584 (App. 2007), *aff'd* 218 Ariz. 285, 183 P.3d 536 (2008). Decision supplied in response to 13c.

State's Counsel:
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Defendant's Counsel:
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3. *M.S. Carriers, et al. v. Ernst & Young, et al.,* No. CV 2003-013993 (Maricopa County Superior Court, Aug.13, 2009). Decision supplied.

Plaintiffs' Counsel:
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Ronald Cohen
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Defendants' Counsel:
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Andrew K. Polovin
Brian K. Swanson
Bartlit Beck Palenchar & Scott LLP
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54 West Hubbard Street, Suite 300
Chicago, Illinois 60654
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4. *Sell v. Sewell, et al.,* No. CV 2007-005734 (Maricopa County Superior Court, Nov. 3, 2009). Decision supplied.

Plaintiffs' Counsel:
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602-240-3000

Defendants' Counsel:
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Todd Kerr
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602-351-8000

5. *Chompies Best at University, Inc. v. Roy S. Ludlow Investment Co.*, No. CV 2008-017142 (Maricopa County Superior Court, Dec. 21, 2009), *aff'd* 2012 WL 3760968 (Ariz. App.). Decision supplied.

Plaintiff's Counsel:
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602-248-8203

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Tucson, Arizona 85701
520-628-6504

6. *Harding, et al. v. Hayes, et al.* No. CV 2007-018547 (Maricopa County Superior Court, June 1, 2009). Decision supplied.

Plaintiffs' Counsel:
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Defendants' Counsel:
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Garvey Biggers
Penilla Metzger
3550 North Central Avenue Suite 1800
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602-264-4500

7. *State v. Springer*, No. CR 2006-173781 (Maricopa County Superior Court, May 9, 2011). Decision supplied.

State's Counsel:
Diane Meloche
Maricopa County Attorney's Office Appeals Bureau
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602-506-7422

Defendant's Counsel:
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Two Renaissance Square
40 North Central Avenue
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602-258-2928

8. *State v. White*, No. CR 2010-113971 (Maricopa County Superior Court, June 22, 2012). Decision supplied.

State's Counsel:
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602-506-5780

Defendant's Counsel:
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9. *Arizona Together v. Brewer*, No. CV 2006-010505 (Maricopa County Superior Court, Aug. 10, 2006), *aff'd* 214 Ariz. 118, 149 P.3d 742 (2007). Decision supplied in 13c.

Plaintiffs' Counsel:
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Defendants' Counsel:
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United States Attorney's Office

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10. *Home Builders Association of Central Arizona v. City of Mesa*, No. LC2007-000559 (Maricopa County Superior Court, July 13, 2009), *aff'd* 226 Ariz. 7, 243 P.3d 610 (App. 2010). Decision supplied.

Plaintiffs' Counsel:
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Goldwater Institute
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602-462-5000

Defendants' Counsel:
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Mariscal Weeks McIntyre & Friedlander PA
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e. Provide a list of all cases in which certiorari was requested or granted.

I am unaware of any cases in which certiorari to the United States Supreme Court was requested or granted.

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.

State of Arizona v. Falth, No. CR 2003-012660 (Maricopa County Superior Court June 23, 2003), *rev'd sub nom. Romley v. Rayes,* 206 Ariz. 58, 75 P.3d 148 (App. 2003). I found that an amendment to the Arizona constitution denying the defendant bail, which was adopted after the date of the offenses for which defendant was charged, was a violation of the ex post facto doctrine. The Arizona Court of Appeals reversed finding that the constitutional change allowing the denial of bail to certain classes of offenses when "the proof is evident and the presumption great" merely procedural. Decision supplied.

State of Arizona v. Reynaga, No. CR 2004-012417 and CR 2005-119508 (Maricopa County Superior Court, 12/07/2005), *rev'd sub nom. Andrew Thomas v. Rayes*, 214 Ariz. 411, 153 P.2d 1040 (2007). In this case the State's plea offer was not communicated to the defendant before it expired. The defense attorney was unaware of

the offer because the office staffed had mishandled the offer. I found that counsel did not have actual knowledge of the offer and had no reason to know the plea offer was in her file. I did not find counsel ineffective but rather classified her conduct as excusable neglect. Because defendant had not been informed of the offer and never had the opportunity to choose to accept it, I ordered the state to re-open the offer. The Arizona Supreme Court reversed, holding that "a defendant may bring ineffective assistance of counsel claims only in a Rule 32 post-conviction proceeding - not before trial." Decision supplied.

State v. Levens, No. CR 2005-108790 (Maricopa County Superior Court Aug. 15, 2005), *rev'd* 214 Ariz. 339, 152 P.3d 1222 (App. 2007). Pursuant to the conditions of his probation, the defendant, a sex offender, was required to submit to a polygraph. During the pre-test of a polygraph examination ordered by his probation officer, the defendant admitted to having firearms in his home. A petition was filed to revoke his probation. I granted a motion to suppress the evidence found in the defendant's home, finding the statement to the polygraph examiner to be involuntary. The Arizona Court of Appeals reversed finding that his statements were not compelled. Decision supplied.

Neal v. Brown, No. CV 2006-001526 (Maricopa County Superior Court, Aug. 16, 2006), *rev'd* 219 Ariz. 14, 191 P.3d 1030 (App. 2008). Pursuant to the Small Tract Act, 43 U.S.C. Section 682a (repealed 1976), defendant's property was patented by the federal government to defendant's predecessors in interest in 1959. The patent included the reservation that it was subject to a 33 foot right-of-way for roadway along the east and south boundaries. Plaintiffs brought suit to require defendant to remove a fence she had erected blocking access to the right-of-way. I granted plaintiffs' motion for summary judgment. The Arizona Court of Appeals reversed in a two-to-one decision, holding that because plaintiffs had other access to their property they were not entitled to enforce the right-of-way over defendant's property. The dissent pointed out that the majority created a new rule governing express easements reserved in federal land patents that changes the settled law. Decision supplied.

Fushek v. State of Arizona, No. LC2006-000371 (Maricopa County Superior Court, Aug. 14, 2006), *rev'd* 215 Ariz. 274, 159 P.3d 584 (App. 2007), *aff'd* 218 Ariz. 285, 183 P.3d 536 (2008). This was a special action brought by the defendant, a Catholic priest charged with misdemeanor sex offenses, to challenge the justice court's denial of a jury trial. I found that sex registration is an "additional, direct, uniformly applied statutory consequence that reflects the legislature's judgment that the offense is serious." I ruled that because of that, the Arizona Constitution guarantees the defendant a jury trial. My ruling was reversed by the Court of Appeals, but affirmed by the Supreme Court. Decision supplied in response to 13c.

Royal Palm Neighborhood Council v. City of Phoenix, No. LC 2006-000725 (Maricopa County Superior Court April 5, 2007), *rev'd* 2008 WL 2842072 (Ariz. App. July 17, 2008). This was a special action brought by a neighborhood to challenge the actions of the City Zoning Administrator and the City Board of Adjustment concerning the subdivision's option requirements. I denied the petitioners' request for special action

relief, finding among other things that petitioners lacked standing and had failed to exhaust their administrative remedies. The Court of Appeals reversed finding that the assertions of the homeowners of particularized harm was sufficient to support their standing. The Court of Appeals further found that the petitioners had not been given adequate notice of the administrative decision and therefore did not have an opportunity to exhaust their administrative remedies. The matter was remanded to me for further proceedings. Decision supplied.

Carter v. Sun Health Corp., No. CV 2008-070031(Maricopa County Superior Court October 27,2008) *rev'd sub nom. Jilly v. Rayes,* 221 Ariz. 40, 209 P.3d 176 (2009). Plaintiffs, in a medical negligence case, challenged the constitutionality of the recently enacted statute as infringing on the Arizona Supreme Court's rulemaking authority. I ruled that the statute created requirements for preliminary disclosure of experts that were in direct conflict with rules enacted by the Arizona Supreme Court regarding expert disclosure in medical negligence. The Court of Appeals reversed holding that because the expert disclosure required by the statute was preliminary, the statute could be harmonized with the Supreme Court's rule and was therefore constitutional. Decision supplied.

Volpe v. Yavapai County, No. CV 2007-0392 (Yavapai County Superior Court Sep. 24. 2007 and Nov. 29, 2007), *rev'd* 2008 WL 4814362 (Ariz. App. October 23, 2008). This was an administrative appeal of employment termination brought by a deputy of the Yavapai Sheriff's Office. After briefing and oral argument by the parties and after reviewing the record, I found there was no substantial evidence to uphold the termination. After considering additional briefing I denied the defendant's motion for reconsideration. The Court of Appeals disagreed and reversed. Decision supplied.

State v. Moore, No. CR 1999-016742 (Maricopa County Superior Court June 7, 2012) *rev'd sub nom. State v. Rayes* 2012 WL 2929436 (Ariz. App. July 19, 2012) . In this capital Petition for Post-Conviction Relief (PCR), defendant sought to investigate possible juror misconduct. The state moved to prohibit defense contact with trial jurors. I ruled that such conduct could occur through a written questionnaire which required court approval before being sent. The Court of Appeals reversed ruling that until the PCR was filed, there is no right to seek discovery. In making its ruling the Court of Appeals noted that "neither party focused on *Canion* when arguing to the superior court. Accordingly, the superior court did not have the benefit of the parties' views on an opinion we find dispositive." Decision supplied.

State v. Chappell, No. CR 2004-037319 (Maricopa County Superior Court June 6, 2012) *reversed sub nom.* State v. Rayes, 2012 WL 2929434 (Ariz. App. July 19, 2012). As the presiding criminal judge I carried a calendar of approximately thirty capital case PCR proceedings which I managed through the briefing stage. The special action in this matter was brought by the State at the same time as the case above. The Court of Appeals ruled on these two cases on the same day. I granted the defense motion for the release of juror contact information, limiting initial defense contact to a letter attached to my order. The Court of Appeals reversed ruling that until the PCR was filed, there is

no right to seek discovery. In making its ruling the Court of Appeals noted that "neither party appears to have cited *Canion* to the superior court. Accordingly, the superior court did not have the benefit of the opinion we find dispositive." Decision supplied.

T.P. Racing v. Simms, No. CV2010-022308 (Maricopa County Superior Court 04/04/2013) special action relief was granted by the Arizona Court of Appeals, No. 1 CA-SA 13-0123, *sub nom. Simms v. Rayes*, in an order dated June 7, 2013, with a comment that a written decision will follow. I had found that defendants' counsel had a conflict in interest in asserting derivative claims on behalf of an LLP against one of the limited partners while at the same time asserting individual claims against the LLP and defending the LLP's claims against the defendant. The Court of Appeals' written decision has not been released as of the date of this questionnaire. Decision supplied.

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.

When I sit as a Superior Court Judge, 100% of the decisions I issue are unpublished. They are stored in the individual files for the Maricopa County Superior Court Clerk's docket and therefore are not readily available.

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.

I routinely rule on federal or state or constitutional issues, especially in criminal cases. I estimate I have ruled on over 200 cases where constitutional issues were raised including the right to counsel, the right to be free from unreasonable searches and seizures, the right against self-incrimination, the right to due process and the right not to be placed in jeopardy twice for the same crime.

Cases where I have ruled on state constitutional issues include the following:

State v. Vitasek, No. CR 2005-030514 (Maricopa County Superior Court, 09/24/2010). Decision supplied.

Hall v. Elected Officials Retirement Plan, No. CV 2011-021234 (Maricopa County Superior Court, 03/21/2013). Decision supplied.

Arizona Together v. Brewer, No. CV 2006-010505 (Maricopa County Superior Court, 08/10/2006), *aff'd* 214 Ariz. 118, 149 P.3d 742 (2007). Decision supplied in 13c.

Cases where I have ruled on federal constitutional issues include the following:

State v. Lemke, No. CR 2002-019002 (Maricopa County Superior Court, April 10, 2006), *aff'd sub nom. Lemke v. Rayes*, 213 Ariz. 232, 141 P.3d 407 (2006). Decision supplied in 13c.

Fushek v. State of Arizona, No. LC2006-000371 (Maricopa County Superior Court, Aug. 14, 2006), *rev'd* 215 Ariz. 274, 159 P,3d 584 (App. 2007), *aff'd* 218 Ariz. 285, 183 P.3d 536 (2008). Decision supplied in 13c.

State v. Moss, No. CR 2003-017379 (Maricopa County Superior Court, Feb. 5, 2005), *aff'd*, 215 Ariz. 385, 160 P.3d 1143 (App. 2007), *depublished by*, 217 Ariz. 320, 173 P.3d. 1021 (2007). Decision supplied.

State v. Quinn, No. CR 2005-007496 (Maricopa County Superior Court, Sep. 19, 2005), *aff'd* 218 Ariz.66, 178 P.3d 1190 (App. 2008). Decision supplied.

State v. Springer, No. CR 2006-173781 (Maricopa County Superior Court, May 9, 2011). Decision supplied.

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 never sat by designation on a federal court of appeals.

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.

The Maricopa County Superior Court employs an automatic recusal system that compares a recusal list provided by each judge to the captions and appearances of counsel on the briefs. If a judge has listed a person or entity involved in a case on

his or her recusal list, the court administrator automatically eliminates that judge from that case. I do not keep a record of my recusals. The recusals occur automatically but occasionally when an attorney on my recusal list was overlooked by the court administrator I recused myself. I recuse myself if either (1) my relationship with any person involved in the case would affect my ability to be impartial or (2) if there could be a perception or appearance that my relationship with any person involved in the case would affect my ability to be impartial. As to the first factor, if I feel that my association with that person would be relevant or if I feel that I would have any hesitancy or discomfort ruling in favor or against the person, I recuse. As to the second factor, if I feel that any attorney or party in the case would have a concern that the relationship would affect my impartiality, I recuse, even if I believe the relationship would not actually affect my impartiality. When I discover grounds for recusal after assignment, I return the case to the court administrator who re-assigns it to a different judge. I did so in June 2013, in the case of *Mary Rose Wilcox v. William Montgomery*. I did so because the defendant, Mr. Montgomery, was a member of the panel of attorneys Senator McCain had assembled to review applicants for the district court and I was one of the parties interviewed by that panel. To the best of my memory, I can recall recusing myself from two other cases that were not on my automatic recusal list. One case involved the divorce of my dentist and the other the divorce of my neighbor's daughter. To the best of my memory, no party or litigant has asked that I recuse myself or filed a motion to have me removed for cause. However, the Arizona Rules of Civil Procedure and the Rules of Criminal Procedure provide both sides one opportunity to strike a judge for no cause. There have been occasions where I have been struck under those rules.

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.

I have never held public office other than judicial office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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 never held an office in or rendered services to any political party or election committee. I have never played a role in a political campaign nor have I volunteered for a political 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 never served as clerk to a judge.

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

I never practiced alone.

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.

October – December 1978
McGroder & Tryon
(Firm Defunct)
111 South Third Street
Phoenix, Arizona 85007
Associate

1979 - 1982
US Army Judge Advocate General Corps
Third Armored Division,
Hanau, Federal Republic of Germany
APO 09091
New York, New York 09091
Trial counsel/trial defense counsel

1982 – 1984
McGroder Pearlstein Peppler & Tryon
(Firm Defunct)
3020 East Camelback Road
Phoenix, Arizona 85016
Associate

1984 – 1986
McGroder Tryon Heller Rayes & Berch

(Firm Defunct)
3020 East Camelback Road
Phoenix, Arizona 85016
Partner

1986 – 1989
McGroder Tryon Heller & Rayes
(Firm Defunct)
3020 East Camelback Road
Phoenix, Arizona 85016
Partner

1989 – 2000
Tryon Heller & Rayes
(Firm Defunct)
6611 North Scottsdale Road
Scottsdale, Arizona 85250
Partner

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.

Maricopa County has mandatory arbitration for cases where the amount in dispute is less than $50,000. I was appointed as an arbitrator one time that I can recall, but I have no memory of the case and no means of locating it. I was selected on a few occasions as an arbitrator by attorneys pursuant to the uninsured or underinsured arbitration provisions of the insurance contract. Those occurred in the 1980's and 1990's. These were personal injury cases. I have no memory and no file to allow me to describe the cases with any more detail.

b. Describe:

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

During my three years in the Army JAG Corps I prosecuted and later defended soldiers charged with felony offenses in military court martials.

During my private practice years, I practiced primarily in the fields of personal injury and medical malpractice. I represented both plaintiffs and defendants. I also represented police officers for disciplinary matters in administrative hearings. I had a wide range of jury trials including car accidents, slip and falls, medical malpractice, road design and helicopter

crash cases. I tried police discipline and retirement cases before several administrative bodies.

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

During my JAG Corps years I represented the United States in the prosecution of felonies, and later represented soldiers in the defense of felony offenses. I also represented soldiers who were contesting administrative discharges before military administrative boards.

During my private practice the plaintiffs I represented were often seriously injured individuals with no previous contact with attorneys or the legal system and who were often economically stressed due to their injuries, medical expenses and loss of income. My insurance defense clients were typically businesses, corporations and insurance companies. My clients in administrative matters were police officers appealing disciplinary actions for violating departmental rules or officers seeking medical retirements.

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.

Almost 100% of my practice was in litigation. In the Army JAG Corps, trials to a military court martial panel (the military's version of jury trials) were usually one day trials. Because of the military's sentencing system, even cases where there was a guilty plea could be a jury trial on sentencing. It was not unusual to try at least one case per month. In private practice I appeared in court regularly. I argued motions to dismiss, discovery motions, motions in limine, motions on jury instructions, motions for summary judgment and post-trial motions. Most of my trials were to a jury. I was first chair in most of my trials.

i. Indicate the percentage of your practice in:
   1. federal courts: 0%
   2. state courts of record: 85%
   3. other courts: 5%
   4. administrative agencies: 10%

ii. Indicate the percentage of your practice in:
   1. civil proceedings: 90%
   2. criminal proceedings: 10%

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.

To the best of my recollection, I tried approximate 30 courts martials to verdict before military panels as sole or lead counsel. After the military, to the best of my memory, I tried 20 civil cases to verdict. In approximately 15 of those cases, I was sole or lead counsel; in the others I was associate counsel.

i. What percentage of these trials were:
   1. jury: 90%
   2. non-jury: 10%

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 never appeared before the Supreme Court of the United States.

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.

Pursuant to my former law firms' document retention policy, my practice files have been destroyed. The following list of litigation matters is based on a search of available data bases and my best recollection. Accordingly, this list is not exhaustive and some requested information is not available.

1. *McGarvey v. State of Arizona*, No. CV 303542 (Pima County Superior Court, Judge Raner C. Collins).

I was counsel for plaintiffs, the three adult children of a 55 year old truck driver killed in a single vehicle accident. I was significantly involved in the case, with my partner David Heller, from the assessment of whether the firm should accept it on a contingent fee basis, through discovery, settlement negotiations, pre-trial motions, jury instructions, trial and post-trial motions. The jury trial occurred in 1998. The jury found that the state had negligently designed a detour in a road

construction project causing the truck operated by my clients' father to crash into a barrier, resulting in his death. The jury awarded each of the three surviving children $890,550 in compensatory damages for a total of $2,671,650, reduced by the decedent's fault of 19%.

Plaintiffs' Counsel:
David Heller, co-counsel
Law Offices of David Heller
3420 East Shea Boulevard, Suite 200
Phoenix, Arizona 85028
602-765-2106

Defendants' Counsel:
Honorable David Bury
U.S. District Court of Arizona
405 West Congress Street, Suite 6170
Tucson, Arizona 85071
520-205-4560

2. *Escobedo v. Southwest Helicopters*, No. CV 94- 165/CV 95-236(consolidated) (Gila County Superior Court, Judge *Pro Tem*, Stanley Goodfarb)

I was counsel for the mother of a game and fish officer. He was killed when the helicopter in which he was a passenger during an animal count, hit transmission wires and crashed in the rugged hills of Central Arizona. I was significantly involved in the case, with an associate in my firm, Michael Gaughn, from the assessment of whether the firm should accept it on a contingent fee basis, through discovery, settlement negotiations, pre-trial motions, jury instructions, trial and post-trial motions. The jury trial occurred in 1997. The jury found that the accident occurred as the result of pilot error and declined to assess fault to the United States for not marking the wires. Damages were awarded in the amount of $800,000.

Plaintiff Escobedo's Counsel:
Michael Gaughn, co-counsel
Office of the Attorney General
1275 West Washington
Phoenix, Arizona 85007
602-542-8057

Plaintiff Cooper's Counsel:
Patrick McGroder III
Gallagher & Kennedy
2575 East Camelback Road
Phoenix, Arizona 85016-9225
602-530-8181

Defendants' Counsel:
Robert Greer
Baird Williams & Greer
6225 North 24th Street Suite 125
Phoenix, Arizona 85016
602-256-9400

3. *Digirolamo v. Westfield*, No. 31802 (Mohave Superior Court, Judge Leonard Langford).

I represented the plaintiffs in this malpractice trial. The jury trial occurred in 1991. Plaintiff, a 75-year-old man had been treated by his family doctor (Mastakas) and an ophthalmologist (Westfield) for headaches. The doctors failed to correctly diagnosis his underlying condition and he went blind. I was significantly involved in the case, with my partner, David Heller, from the assessment of whether the firm should accept it on a contingent fee basis, through discovery, settlement negotiations, pre-trial motions, jury instructions, trial and post-trial motions. After a three week trial, the jury awarded plaintiff $1,250,000 accessing Westfield 63% at fault, Mastakas 24% at fault and plaintiff 13% at fault.

Plaintiffs' Counsel:
David Heller, co-counsel
Law Offices of David Heller
3420 East Shea Boulevard, Suite 200
Phoenix, Arizona 85028
602-765-2106

Defendant Mastakas' Counsel:
Duane Olson
7243 North 16th Street
Phoenix, Arizona 85020
602-861-2705

Defendant Westfield's Counsel:
John Westover, deceased.

4. *Fletcher, Talamante et al. v. Cobre Valley Hospital et al.*, No. CV 98-0054 (Gila County Superior Court 1998).

This was a medical malpractice action stemming from a premature birth. I was significantly involved in the case, with my partner, David Heller, from the assessment of whether the firm should accept it on a contingent fee basis, through discovery, pre-trial motions, and settlement negotiations. After lengthy litigation

and discovery the case settled through a confidential settlement agreement in 1998.

Plaintiffs' Counsel:
David Heller, co-counsel
Law Offices of David Heller
3420 East Shea Boulevard, Suite 200
Phoenix, Arizona 85028
602-765-2106

Defendant Cobre Valley Hospital's Counsel:
J. Gregory Osborne
Tolman Osborne & Keenan
1920 East Southern Avenue Suite 104
Tempe, Arizona 85282
480-897-1020

Defendant Pineras' Counsel:
Winn L. Sammons
Sanders and Parks,
3030 North Third Street, Suite 1300
Phoenix, Arizona 85012
602-532-5786

5. *Beal et al. v. Capek et al.*, No. 87-018544 (Maricopa County Superior Court, Judge Mark Armstrong)

This was a motor vehicle personal injury case where the plaintiff claimed serious injury resulting from a rear-end collision when the defendants' vehicle collided with hers at a traffic intersection. I represented the defendant and was significantly involved in the case from the filing of an answer through discovery, settlement negotiations, pre-trial motions, jury instructions, trial and post-trial motions. I tried the case with my partner Patrick McGroder III. After a ten day jury trial in in 1989, in which plaintiff's counsel asked the jury to award $1,200,000, the jury unanimously found for the defendant and awarded no damages. On plaintiffs' appeal, I prepared the appellate brief and argued in the Arizona Court of Appeals. The verdict was affirmed.

Plaintiffs' Counsel:
William E. Morga, deceased.

Defendants' Counsel:
Patrick J. McGroder III, co-counsel
Gallagher & Kennedy
2575 East Camelback Road

Phoenix, Arizona 85016
602-530-8181

6. *Amsted Associates dba Alta Vista Plaza, Ltd, and Wasau Insurance Company and Exchange Insurance Company v. Insulation Specialists Company, Inc.* No. CV 91-016050 (Maricopa County Superior Court, Judge Daniel E. Nastro)

This was an insurance subrogation case stemming from a fire in a shopping center. I represented the plaintiff, Exchange Insurance Company. I was significantly involved in the case through discovery, settlement negotiations, pre-trial motions, jury instructions, and trial. The case was tried as a binding four day summary jury trial in 1994. The jury found defendant to be 100% at fault and awarded my client its full damages of $176,000.

Plaintiff Wasau Insurance's Counsel:
George Mitchell
The Cavanaugh Law Firm
1850 North Central Suite 2400
Phoenix, Arizona 85004
602-322-4033

Defendant's Counsel:
Kevin Sweeney
(retired)

7. *McFarland v. The Town of Paradise Valley*, Maricopa County Superior Court Cause number and presiding judge is unknown and cannot be located.

Officer McFarland had been terminated for falling asleep while operating a city vehicle on the freeway causing a serious injury accident and for a separate incident when he drove his police vehicle into a flooded wash causing the vehicle to be damaged. I represented Officer McFarland in approximately 1985 through 1986 in an administrative hearing, on appeal to Superior Court and at a second administrative hearing. At the first administrative hearing the termination was sustained. On appeal to Superior Court the parties agreed to settle by having a second administrative hearing before a new administrative body. At the second hearing, the personal board overturned the termination and reinstated Officer McFarland.

Defendant's Counsel:
Honorable Robert Oberbillig
Maricopa County Superior Court
125 West Washington
Phoenix, Arizona 85003
602-506-2194

8. *Beltram v. Smith's Food & Drug Centers*, No. CV 93-0693 (Yavapai Superior Court, Judge Robert Brutinel).

This was a personal injury case where plaintiff fell in the defendant's grocery store. I was retained by the plaintiff, at the request of her counsel to complete discovery, attempt settlement and if necessary try the case. With my partner, David Heller, the case was tried to a jury in 1994. The jury found plaintiff's damages to be $142,640 and defendant to be 85% at fault.

Plaintiff's Counsel:
David Heller, co-counsel
Law Offices of David Heller
3420 East Shea Boulevard, Suite 200
Phoenix, Arizona 85028-
602-765-2106

Defendant's Counsel:
Paul McGoldrick
Shorall McGoldrick Brinkmann
1232 East Missouri Avenue
Phoenix, Arizona 85014
602-230-5400

9. *Didio v. Orchard Partners Limited, et al.*, No. CV 018008, (Maricopa Superior Court, Judge Paul Katz).

This was a personal injury trial where plaintiff, a K-9 officer with the Phoenix Police Department, stepped into a hole, tearing his knee while walking the perimeter of defendant's building with his police dog in response to a silent alarm. I was significantly involved in the case, with my partner, David Heller, from the assessment of whether the firm should accept it on a contingent fee basis, through discovery, settlement negotiations, pre-trial motions, jury instructions, trial and post-trial motions. After a four day trial in 1994, the jury awarded plaintiff $250,000 and found defendants to be 90% at fault.

Plaintiff's Counsel:
David Heller, co-counsel
Law Offices of David Heller
3420 East Shea Boulevard, Suite 200
Phoenix, Arizona 85028
602-765-2106

Defendants' Counsel:
Don Stevens
Shughart Thompson & Kilroy
3636 North Central Avenue, Suite 1200

Phoenix, Arizona 85012
602-650-2089

10. *U.S. v. Balance,* General Court Martial Convening Order #119, April 13, 1981, HQ, 3rd Armored Division, APO New York 09039, Major General Ulmer, Convening Authority. (Judge LTC Joe L. Woodward, US Army Legal Services Agency).

In this case my client was charged with aggravated assault and first degree murder. He stabbed a barracks roommate in the face and in the chest with a switch blade in a dispute over the volume of the decedent's stereo. I and co-counsel, Captain Larry McPherson, were involved in the case from the initial charges, the Rule 32 investigation and the trial. The case was tried to a military panel (the military's equivalent of a jury) in Frankfurt, Germany in 1981. The military judge granted the defense motion to enter a judgment of acquittal on the aggravated assault charge at the close of the prosecution's case. The military panel found the defendant not guilty of murder.

Government's Counsel:
Captain John Jones (address unknown)

Defendant's Counsel:
Larry G. McPherson, Jr., co-counsel
3980 Grove Park Drive
Tallahassee, Florida 32311
850-877-3801

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.)

I litigated many matters in state courts involving civil disputes that were resolved before trial. Examples of my cases include medical malpractice actions, motor vehicle accidents, dram shop actions, insurance subrogation claims, negligent road design actions, aircraft accidents, legal malpractice and construction defect claims. As a judge I have held leadership positions and have been active in the training of judges and creation of innovative processes in the court. I was co-chair of the Veterans' Court Committee that created the Veterans' Court in Maricopa County. I was responsible for the creation of a program in the criminal department called "Settlement Conference on Demand" which received a National Association of Counties Achievement Award. I created formal procedures for quality assurance review of attorneys hired to defend major felonies and capital murder cases. I have been active in the New Judge Orientation program,

mandatory two-week training for all Arizona judges in the first year of their appointment or election. As the co-chairman of that program, I helped create the curriculum, recruit presenters and mentors. I have taught classes and been a mentor at the New Judge Orientation training. I currently serve on the Phoenix Municipal Court Judicial Selection Advisory Board, one of the ten largest municipal courts in the country, averaging over 300,000 case filings per year. I was instrumental in developing the first electronic applications for search warrants program in Arizona. I submitted a proposal to the Arizona Supreme Court, through my presiding judge, which resulted in a Supreme Court Administrative Order for the electronic search warrant program on a trial basis, which has substantially decreased processing times. I have recently been appointed to serve on the Arizona Commission on Judicial Performance Review. This commission reviews the election year performance evaluations of the judges in the state who are appointed by the governor and makes recommendations that appear on the Secretary of State's Voter Publicity Pamphlets on which judges should be retained. I sit on the Arizona Supreme Court Judicial Leadership Council.

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.

    Summer 2005: Professor, Sandra Day O'Connor College of Law, class entitled "Lawyering Theory and Practice." I taught the class on how to prepare and try a civil case. The school provided a written scenario of facts and actors that allowed the class to role play. During the course of the semester the class experienced the entire litigation process: meeting the client, drafting a complaint, drafting written discovery, taking depositions and trying the case with a mock judge and jury. I am unable to locate a syllabus.

    Fall semester 2011 and 2012: Professor, Sandra Day O'Connor College of Law, class entitled, "Professional Liability Litigation." I co-teach a law school class on litigating negligence cases against professionals such as doctors, lawyers and engineers. Syllabus is supplied.

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.

    As the result of a structured personal injury settlement in approximately 1986, when I was in private practice, I have an annuity with Aviva Insurance that began paying $3100 monthly on my 60th birthday.

    I became vested in the Arizona Elected Officials Retirement plan after five years of

service. Therefore, I will receive a pension upon retirement that will be calculated based on my years of service and the average of my three highest years of salary.

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.

    If confirmed, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation during my service with the court.

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 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 attached Net Worth Statement.

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 am not aware of any family members or parties, categories of litigation, and financial arrangements that are likely to present 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 consult and abide by the rules and decisions that govern conflicts of interest for federal judges, including 28 U.S.C. Section 455 and the Code of Conduct for United States Judges.

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.

I arranged for volunteer judges and court staff to set up Maricopa County Superior Court mobile court rooms at the Homeless Veterans Stand-Down in 2011 and 2012. I worked as a volunteer judicial officer and oversaw the operation of courts at the 2011 and 2012 Homeless Veterans Stand-Down.

I have also served the community in a non-legal capacity. I assisted boy scouts in the completion of their eagle projects. I teach courses on professional negligence at the Sandra Day O'Connor College of Law without compensation. I guest-speak in courses on the death penalty and criminal justice at Arizona State University and Mesa Community College without compensation. I have served on City of Phoenix, Judicial Selection Advisory Board since 2008. I served as the chairman of the Town of El Mirage Judicial Selection Advisory Board from 2006 through 2012. These two boards make recommendations to the City Council after screening applicants for Municipal Court judgeships and reviewing judges whose terms are up for renewal.

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.

In April 2013, I submitted an application to the Federal Judicial Evaluation Committee established by Senator John McCain. On June 8, 2013, I was interviewed by the Committee in Phoenix, Arizona. On approximately June 24, 2013, I was notified by one of the members of the Committee that Senator McCain was recommending me to the White House for 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 6, 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.

AFFIDAVIT

I, Douglas L. Rayes, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

October 9, 2013
(DATE)

(NAME)

OFFICIAL SEAL
JOHN MARSHALL
NOTARY PUBLIC - STATE OF ARIZONA
MARICOPA COUNTY
My Comm. Expires August 25, 2017

(NOTARY)