

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

John Charles Hinderaker

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.

Pima County Superior Court, Division 25
110 West Congress Street
Tucson, Arizona 85701

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

1968; Indio, California

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.

1993 – 1996, University of Arizona James E. Rogers College of Law, J.D. (*magna cum laude*), 1996

June 1994 – July 1994, University of Houston Law Center, Mexican Legal Studies Program, no degree received (summer program).

1986 – 1991, University of California, Santa Barbara, B.A. (with honors), 1991

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.

2018 – Present

Pima County Superior Court
110 West Congress Street
Tucson, Arizona 85710
Superior Court Judge, Division 25
Family Law Bench (July 2019 – Present)
Criminal Bench (2018 – 2019)

1998 – 2018
Lewis Roca Rothgerber Christie, LLP
One South Church Avenue, Suite 2000
Tucson, Arizona 85701
Partner (2003 – 2018)
Associate (1998 – 2003)

February 1998 – March 1998
International Law Center for Inter-American Free Trade
440 North Bonita Avenue
Tucson, Arizona 85745
Research Attorney

1996 – 1998
Hon. Raymond T. Terlizzi, United States Magistrate Judge
United States District Court, District of Arizona
405 West Congress Street, Suite 1500
Tucson, Arizona 85701
Judicial Clerk

May 1996 – August 1996
Hon. John M. Roll, United States District Judge (Deceased)
United States District Court
405 West Congress Street, Suite 1500
Tucson, Arizona 85701
Judicial Clerk

1995 – 1996 (Approximately)
Mendelsohn, Oseran & Spencer PLC
(formerly known as Mendelsohn, Oseran & Eisner, P.C.)
2730 East Broadway Boulevard
Tucson, Arizona 85716
Part-time Law Clerk (1995 – 1996)
Summer Law Clerk (May 1995 – August 1995)

1994 – 1995 (Approximately)
Professor Mark Ascher
(formerly of the University of Arizona James E. Rogers College of Law)
University of Texas at Austin School of Law

727 East Dean Keeton Street
Austin, Texas 78705
Research Assistant

March 1993 – August 1993 (Approximately)
Jim Click Nissan, Jim Click Automotive Group
800 West Auto Mall Drive
Tucson, Arizona 85705
Salesman

1992 – 1993 (Approximately)
Topdeq
Wener-v.-Siemens-Str.31
W-6102 Pflugstadt, Germany
Warehouse Laborer

1992 – 1992 (Approximately, Intermittent)
Saatchi & Saatchi
Gran Via, 16-20, 5A Planta
l'Hospitalet de Llobregat
08902 Barcelona, Spain
Errand Runner

1991 – 1992 (Approximately)
Desert Sands Unified School District
47-950 Dune Palms Road
La Quinta, California 92253
Substitute Teacher

1991 – 1992 (Approximately)
PGA West
55-955 PGA Boulevard
La Quinta, California 92253
Busboy, Barback and Bartender

June 1991 to August 1991
City of Santa Barbara, Parks & Recreation
735 Anacapa Street
Santa Barbara, California 93101
Junior Lifeguard Instructor

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

I have not served in the military. I registered for selective service when I turned 18.

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.

Land Use Litigation Lawyer of the Year 2018, Tucson Metro Area, Best Lawyers in America (2018)

Best Lawyers in America (2010 – 2018)

Top Lawyers in Tucson, Tucson Lifestyles Magazine (2010 – 2018)

AV “Preeminent” Rating, Martindale-Hubbell, 2005 to 2018

40 Under 40, Tucson Business Edge (2007)

Third Highest Score, Arizona Bar Examination (Winter 1997)

University of Arizona James E. Rogers College of Law
Order of the Coif (1996)

Salesman of the Month, Jim Click Nissan (April 1993)

University of California, Santa Barbara
Men’s Water Polo, NCAA Semi-Finalist (1990)
Golden Eagle Award (Outstanding Student-Athlete) Varsity Men’s
Water Polo (1990)

Eagle Scout, Boy Scouts of America (1985)

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.

Arizona Judges Association (2018 – Present)

Arizona Women Lawyers Association (2018 – Present)

American Bar Association (2016 – Present)

Pima County Bar Association (1999 – Present)

Arizona Judicial Performance Review Commission (2017 – 2018)

Lawyer Member, Pima County Review Team, Arizona Judicial Performance Review

Commission (2012, 2014, and 2016)

Pima County Commission on Trial Court Appointments (2005 – 2015)

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 (1997)

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 Court of Appeals for the Ninth Circuit (2006)

United States District Court for the District of Arizona (1998)

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.

Board Member, Visit Tucson (2016 – 2019)

Executive Committee Member (Secretary) (2017 – 2018)

Law College Association Board Member, University of Arizona James E. Rogers College of Law (2006 – 2018)

Executive Committee Member (2009 – 2013)

Member, City of Tucson Charter Review Committee (2015 – 2016)

Member (Barrister), Morris K. Udall Inn of Court (2003 – 2008)

Member, Cystic Fibrosis Foundation (2004 – 2008)

Chairperson for New Volunteers (2008)

Chairperson for Cystic Fibrosis Tucson Dinner Gala (2005 – 2007)

- 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 in response to 11(a) currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin through formal membership requirements or practical implementation of membership policies at any time as well as during the time I was involved with them.

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.

"Prevailing Party" Clarified by the Arizona Supreme Court, Insights (Lewis Roca), June 2, 2017. Copy supplied.

With Frances J. Haynes and Robert F. Roos, *Recent Court Ruling Affects AZ Subcontractors and Suppliers*, Insights (Lewis Roca), May 19, 2015. Copy supplied.

Nakamura Judicial Workshop: Learn About Merit Selection!, The Writ, February 2012. 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.

Report of Charter Review Committee with Recommendations for Referral to the Voters 2015 – 2016, City of Tucson Charter Review Committee, April 5, 2016. Copy supplied.

Report, International Law Center for Inter-American Free Trade, 1997 or 1998 (Approximately). I worked with the International Law Center for Inter-American

Free Trade on a project to encourage Mexico to adopt laws similar to Article 8 of the Uniform Commercial Code. To my best recollection, there was a bound report on our work generated by the Law Center. I no longer have a copy of the report and I do not know whether the report was ever actually published. The Law Center informed me that it could not locate a copy of any report in its records. The National Law Center for Inter-American Free Trade is located at 440 North Bonita Avenue, Tucson, Arizona 85745.

- 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.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, February 12, 2018. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, January 08, 2018. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, December 11, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, October 11, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, September 11, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, August 14, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, July 10, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, May 08, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, March 10, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, February 13, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, January 09, 2017. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District,

Tucson, Arizona, December 05, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, November 14, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, October 12, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, September 12, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, August 08, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, July 11, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, June 13, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, May 23, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, May 09, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, April 11, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, March 14, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, January 11, 2016. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, December 14, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, November 09, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, October 14, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, September 14, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, August 10, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, July 13, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, June 08, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, May 18, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, May 11, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, April 13, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, March 09, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, January 12, 2015. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, December 08, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, November 10, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, October 15, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, September 29, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, September 08, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, June 09, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, May 12, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, April 14, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, March 10, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, February 10, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, January 13, 2014. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, December 09, 2013. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, October 28, 2013. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, September 09, 2013. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, December 10, 2012. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, November 14, 2011. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, March 8, 2010. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, December 14, 2009. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, July 28, 2009. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, July 13, 2009. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, March 9, 2009. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, October 28, 2008. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District,

Tucson, Arizona, May 12, 2008. Meeting minutes supplied.

Meeting, Board of Directors Metropolitan Domestic Water Improvement District, Tucson, Arizona, November 14, 2007. Meeting minutes supplied.

January 29, 2003: Speaker, Public Meeting, Tucson, Arizona. I spoke at a public meeting against the construction of a new high school in the Tanque Verde School District. I have no notes, transcript, or recording. The Tanque Verde Unified School District is located at 2300 North Tanque Verde Loop Road, Tucson, Arizona 85749.

- 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.

June 27, 2019: Presenter, Tucson Police Department, Basic Recruit Class 19-1 Graduation Ceremony, Tucson, Arizona. I administered the Oath of Office to new officers and made some brief comments. I have no notes, transcript, or recording. The sponsoring organization was the Tucson Police Department, 10001 South Wilmot Road, Tucson, Arizona 85756.

February 15, 2019: Presenter, Discussion on Judicial Clerkships, Arizona Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Along with my co-presenter, the Hon. Scott McDonald, I discussed the virtues of judicial clerkships with a small group of law students. I have no notes, transcript, or recording. The sponsoring organization was the Arizona Minority Bar Association, c/o Jennifer Espino Acting Deputy Attorney General, Tohono O'odham Nation, Post Office Box 830 Sells, Arizona 85634.

July 13, 2018: Presenter, Pima County Sheriff's Department, Basic Corrections Officer Training Academy Class 18-11 Graduation Ceremony, Tucson, Arizona. I administered the Oath of Office and made some brief comments. I have no notes, transcript, or recording. The sponsoring organization was the Pima County Sheriff's Department, 1750 East Benson Highway, Tucson, Arizona 85714.

May 7, 2018: Presenter, "Separation of Powers, Framework of Freedom," ABA Law Day, Pima County Superior Court. I discussed how separation of powers function in our government and why it is important. I have no notes, transcript, or recording. The sponsoring organization was the American Bar Association, 1050

Connecticut Avenue Northwest, Suite 400, Washington, District of Columbia 20036.

April 27, 2018: Speaker, Investiture Ceremony for the Hon. John Hinderaker, Division 25, Pima County Superior Court, Tucson, Arizona. Copy supplied.

January 26, 2018: Presenter, "Dispositive Motions," Arizona Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Copy supplied.

March 10, 2017: Presenter, "Dispositive Motions," Arizona Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Materials are similar to those provided for the January 26, 2018 entry.

February/March 2016 (Approximately): Presenter, "Dispositive Motions," Arizona Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Materials are similar to those provided for the January 26, 2018 entry.

February 12, 2016: Panelist and Presenter, Nakamura Judicial Workshop, Arizona Minority Bar Association, Pima County Bar Association, Lewis Roca Rothgerber Christie LLP, and Kinerk Schmidt & Sethi, PLLC, Tucson, Arizona. Copy supplied.

February/March 2015 (Approximately): Presenter, "Dispositive Motions," Arizona Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Materials are similar to those provided for the January 26, 2018 entry.

January 8, 2015: Presenter, "Still Need a New Year's Resolution?," Lewis Roca Rothgerber, LLP, Tucson, Arizona. Copy supplied.

October 23, 2014: Presenter, "Land Use Laws that Protect Religious Institutions," Lewis Roca Rothgerber, Phoenix, Arizona. Copy supplied.

March 2014 (Approximately): Presenter, "Dispositive Motions," Arizona Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Materials are similar to those provided for the March 2018 entry.

January 8, 2014: Presenter, "The Impact of *Koontz v. St. Johns River Water Management District* on Development and Litigation in Arizona," Arizona State Bar, Real Estate Section, Tucson, Arizona. Copy supplied.

March 2013 (Approximately): Presenter, "Dispositive Motions," Arizona

Minority Bar Association, University of Arizona James E. Rogers Minority Writing Internship Program, Tucson, Arizona. Materials are similar to those provided for the March 2018 entry.

March 2, 2012: Panelist and Presenter, Nakamura Judicial Workshop, Arizona Minority Bar Association, Pima County Bar Association, Lewis Roca Rothgerber Christie LLP, and Kinerk Schmidt & Sethi, PLLC, Tucson, Arizona. Materials are similar to those provided for the February 12, 2016 entry.

2010 to 2012 (Approximately): Speaker, Luncheon, Federal Bar Association, Tucson, Arizona. I spoke about the merit selection process for Arizona judges. I have no notes, transcript or recording, and I cannot recall the date or location of the event. The address of the national office of the Federal Bar Association is 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

October 29, 2010: Panelist and Presenter, Nakamura Judicial Workshop, Arizona Minority Bar Association, Pima County Bar Association, Lewis Roca Rothgerber Christie LLP, and Kinerk Schmidt & Sethi, PLLC, Tucson, Arizona. Materials are similar to those provided for the February 12, 2016 entry.

April 28, 2010: Presenter, "Arizona's Open Meeting Law," Rio Nuevo Board of Directors, Tucson, Arizona. Copy supplied.

November 15, 2008: Panelist and Presenter, Nakamura Judicial Workshop, Arizona Minority Bar Association, Pima County Bar Association, Lewis Roca Rothgerber Christie LLP, and Kinerk Schmidt & Sethi, PLLC, Tucson, Arizona. Materials are similar to those provided for the February 12, 2016 entry.

November 27, 2007: Presenter, "Proposition 207's Impact on Land Use Regulation and Development in Arizona," Lorman Education Services, Tucson Arizona. Copy supplied.

October 13, 2007: Speaker, Cystic Fibrosis Foundation Dinner Gala, Tucson, Arizona. As Chairperson of the gala, I made some introductory comments. I have no notes, transcript, or recording. The sponsoring organization was the Cystic Fibrosis Foundation, Arizona Chapter, Tucson Office, 5215 North Sabino Canyon Road, Tucson, Arizona 85750.

October 21, 2006: Speaker, Cystic Fibrosis Foundation Dinner Gala, Tucson, Arizona. As Chairperson of the gala, I made some introductory comments. I have no notes, transcript, or recording. The sponsoring organization was the Cystic Fibrosis Foundation, Arizona Chapter, Tucson Office, 5215 North Sabino Canyon Road, Tucson, Arizona 85750.

October 13, 2006: Panelist and Presenter, Nakamura Judicial Workshop, Arizona Minority Bar Association, Pima County Bar Association, Lewis Roca Rothgerber

Christie LLP, and Kinerk Schmidt & Sethi, PLLC, Tucson, Arizona. Materials are similar to those provided for the February 12, 2016 entry.

October 7, 2005: Speaker, Cystic Fibrosis Foundation Dinner Gala, Tucson, Arizona. As Chairperson of the gala, I made some introductory comments. I have no notes, transcript, or recording. The sponsoring organization was the Cystic Fibrosis Foundation, Arizona Chapter, Tucson Office, 5215 North Sabino Canyon Road, Tucson, Arizona 85750.

January 29, 2003: Speaker, Public Meeting, Tucson, Arizona. I spoke at a public meeting against the construction of a new high school in the Tanque Verde School District. I have no notes, transcript, or recording. I do not recall the sponsoring organization.

Additionally, prior to 2007, I presented at a few CLE seminars, but I have no record of the dates, locations or the exact subject matter of these classes.

- 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.

Superior Court Welcomes Two Officials, Pima County FY1 External Newsletter, May 4, 2018. Copy supplied.

Tim Steller, *Tim Steller Column*, Arizona Daily Star, March 28, 2016. Copy supplied.

Interview, "Inside Track" with Bruce Ash and Emil Franz, KVOI AM 1030, Tucson, Arizona, January or February 2016. I have no notes, transcript, or recording. I spoke about my work on the City of Tucson Charter Review Committee. KVOI is located at 3222 South Richey Avenue, Tucson, Arizona 85713.

Dana Cole, *Stagecoach Trails Case Used in Mississippi High Court Decision*, Benson News-Sun, June 30, 2015. Copy supplied.

Becky Pallack, *Citizens Group Wants 5 Charter Changes on Ballot*, Arizona Daily Star, April 17, 2015. Copy supplied.

Dana Cole, *McKenzie Questions City's Motive on Stagecoach*, Benson News-Sun, January 28, 2014. Copy supplied.

Dana Cole, *Appellate Court Rules in Favor of Stagecoach Trails*, Benson News-Sun, July 23, 2013. Copy supplied.

Dana Cole, *High Court Rules in Favor of Stagecoach Trails*, San Pedro Valley News-Sun, March 12, 2013. Copy supplied. Reprinted in multiple outlets.

Dana Cole, *Ariz. Supreme Court to Hear Stagecoach Trails-City Case*, Benson News-Sun, December 12, 2012. Copy supplied.

Lawsuit Names City Officials, Spouses, San Pedro Valley News-Sun, June 21, 2011. Copy supplied.

City Files Appeal in Kendrick Matter, San Pedro Valley News-Sun, February 2, 2011. Copy supplied.

Stagecoach Trails, City Feud Ongoing, San Pedro Valley News-Sun, November 4, 2010. Copy supplied.

Business Owners in Uproar over Audit Move, San Pedro Valley News-Sun, October 14, 2010. Copy supplied.

City Attorney Seeks Judge's Recusal, San Pedro Valley News-Sun, October 14, 2010. Copy supplied.

Trailer Park Battle Not Limited to Courtroom, San Pedro Valley News-Sun, September 28, 2010. Copy supplied.

Rhonda Bodfield, *Tucson Asks Judge to Void New State Law Controlling How City Council is Elected*, Arizona Daily Star, January 20, 2010. Copy supplied.

Brain J. Pederson, *Tortolia Trail Deal Set for County Vote, Could Face Challenge*, Arizona Daily Star, November 5, 2007. Copy supplied.

Tom Beal, *Zoning Change Stymies UA-Area 'Mini-Dorms,'* Arizona Daily Star, December 11, 2005. Copy supplied. Reprinted in multiple outlets.

Sherri Lacy, *Showcase Raises More Than \$7K*, Arizona Daily Star, October 16, 2005. Copy supplied.

Lynda Edwards, *Radisson, Aeronautics Institute Settle Room Suit*, Arizona Daily Star, July 14, 2005. Copy supplied.

Mary Bustamante & A.J. Flick, *Tanque Verde H.S. Gets OK from Court*, Tucson Citizen, September 24, 2003. Copy supplied.

A.J. Flick, *Group Asks Judge to Let High School be Built Within Tanque Verde District*, Tucson Citizen, June 5, 2003.

Jennifer Sterba, *Judge Slaps Tanque Verde on School Buy*, Arizona Daily Star,

May 22, 2003. Copy supplied.

Mary Bustamante, *TV Board Rejects Pact by Foes of High School*, Tucson Citizen, May 17, 2003. Copy supplied.

Megan Rutherford, *Statutes on Signs Get OK*, Arizona Daily Star, May 15, 2003. Copy supplied.

Mary Bustamante, *Plants 'Protected' at Tanque Verde Site*, Tucson Citizen, April 19, 2003. Copy supplied.

Mary Bustamante, *Court Order Halts Tanque Verde High School*, Tucson Citizen, April 8, 2003. Copy supplied.

Shella Calamba, *TV District, Coalition Tangle Over High School*, Tucson Citizen, December 24, 2002.

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.

In February 2018, Arizona Governor Doug Ducey appointed me to the Arizona Superior Court for Pima County. From 2018 to 2019, I served on a criminal rotation. From July 2019 to the present, I have served on a family law rotation.

The Arizona Superior Court is a general jurisdiction trial court handling civil, criminal, family, juvenile, and probate matters.

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

19

1. Of these, approximately what percent were:

jury trials:	79 %
bench trials:	21 %
civil proceedings (family law):	21 %
criminal proceedings:	79 % [total 100%]

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

In my position as a trial judge, I rule on appeals from courts of limited jurisdiction, including Tucson City Court and Pima County Justice Court, and petitions for post-conviction relief filed by criminal defendants under Arizona

Rule Criminal Procedure 32. I also make written rulings in the cases over which I preside. I have supplied a list of my rulings and orders.

- 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).

Pima County Superior Court Judges do not issue written opinions except pursuant to A.R.S. § 22-261 and § 22-425 (B), where the Pima County Superior Court acts as the appellate court for lower court appeals from the Pima County Consolidated Justice Court and the Tucson City Municipal Court. The opinions are not published but rather are recorded in the Court's docket. However, not all lower court appeals to the Superior Court result in a written opinion. I did not issue a written opinion in any of the following cases.

- (1) *State v. Corral*, CR2016-3731-001 (Ariz. Super. Ct. 2018).

Defendant allegedly drove a vehicle while intoxicated, struck and killed a bicyclist, and then fled the scene. The State charged Defendant with second degree murder, leaving the scene of an accident, fleeing from law enforcement, driving under the influence, and extreme driving under the influence. The jury convicted Defendant of negligent homicide (a lesser included offense to second-degree murder), leaving the scene of an accident, driving under the influence, and extreme driving under the influence. The jury found Defendant not guilty of count three, fleeing from law enforcement. I sentenced Defendant to a combination of prison terms totaling eight years with a three-year probation term to follow his term of imprisonment. Defendant filed a Notice of Appeal.

Counsel for the State of Arizona:

Robin Schwartz
Pima County Attorney's Office
32 North Stone Avenue, Suite 800
Tucson, Arizona 85701
(520) 724-5600

Nicolette Van Dielen
(formerly of the Pima County Attorney's Office)
Blue Star Provisions
1414 South Alamo Street, Suite 103
San Antonio, Texas 78210
(210) 858-0329

Counsel for Defendant:

Sean Coulter

Pima County Public Defender's Office
33 North Stone Avenue, Suite 2100
Tucson, Arizona 85701
(520) 724-6800

(2) *State v. Mendes*, CR20173632-001 (Ariz. Super. Ct. 2018)

Defendant allegedly pointed a folding knife at the victim, reached into the victim's pocket, and took an envelope containing checks and money. The State charged Defendant with armed robbery, kidnapping, and aggravated assault with a deadly weapon. I presided over pretrial proceedings and a jury trial. The jury convicted Defendant of armed robbery, kidnapping, and aggravated assault with a dangerous weapon, and found all three counts to be of a dangerous nature. Moreover, the jury found the following aggravating factors: (1) the victim suffered emotional or financial harm, (2) the victim was at least 65 years of age; (3) the defendant committed the offense for pecuniary gain; (4) the victim is a person with a disability. On December 5, 2018, the Hon. Danelle Liwski sentenced Defendant to a combination of prison terms totaling nine years. Defendant has filed a Notice of Appeal.

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Counsel for Defendant:

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(3) *State v. Sesma*, CR20150244-001, CR20173132-001 (Consolidated) (Ariz. Super. Ct. 2019)

Both cases involved allegations of domestic violence between the same Defendant and victim, who lived together and shared an intimate partner relationship. The cases were consolidated for trial. I oversaw pretrial proceedings and a jury trial.

In CR2010244, Defendant allegedly assaulted the victim and threatened to kill her with a firearm. In CR20173132, Defendant allegedly strangled and stabbed the victim, then cut her throat and left her to die while he attempted suicide. Both the victim and the Defendant managed to survive. The jury convicted Defendant of Aggravated Assault with a Deadly Weapon (Domestic Violence), Assault (Domestic Violence) in No. CR20150244, and of Aggravated Assault with a Deadly Weapon (Domestic Violence), Aggravated Assault with a Deadly Weapon (Domestic Violence), Aggravated Assault (Domestic Violence), Assault While on Release (Domestic Violence), and Kidnapping (Domestic Violence) in No. CR20173132. The jury found the following aggravating factors beyond a reasonable doubt: the offense was committed in an especially heinous, cruel, or depraved manner; the victim suffered physical or emotional harm; and Defendant committed the offense while on release in another criminal matter. On January 22, 2019, I sentenced Defendant to a combination of consecutive and concurrent prison terms totaling 28 years. Defendant filed a Notice of Appeal in both cases.

Counsel for the State of Arizona:

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Counsel for Defendant:

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Matthew Messmer
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(4) *State v. Cole*, CR20153837-001, CR20154511-001 (Ariz. Super. Ct. 2019)

In CR20153837, Defendant was charged with seven counts ranging from armed robbery to aggravated assault with a deadly weapon. In CR20154511, Defendant was charged with four counts ranging from Aggravated Robbery to First Degree Murder. I handled pretrial motions and oversaw jury selection. Following jury selection but before opening statements, Defendant entered into a plea agreement. In CR20155837, Defendant pleaded guilty to Aggravated Assault with a Deadly Weapon. In CR20154511, Defendant pleaded guilty to Second Degree Murder. On March 18, 2019, I sentenced Defendant to consecutive terms totaling 27.5 years.

Counsel for the State of Arizona:

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Counsel for Defendant:

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(5) *State v. Alvarez*, CR20184923-001/002 (Ariz. Super. Ct. 2019)

Co-Defendants Alvarez and Imperial allegedly sexually assaulted a victim. The State charged each defendant with two counts of sexual assault. I presided over pretrial proceedings and, after a special action appeal, a six-day jury trial. At the conclusion of the State's case, I granted Defendant Imperial's Rule 20 Motion and entered a judgment of acquittal as to one of the two counts of sexual assault against him. On April 9, 2019, the jury found both defendants not guilty on all charges.

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(520) 724-6800
Counsel for Defendant Mario Imperial

(6) *State v. Villavicencio-Estrada*, CR20173482-001 (Ariz. Super. Ct. 2019)

Defendant drove a vehicle and struck another vehicle while intoxicated. The victim sustained injuries. Officers administered a breathalyzer test, which indicated a .145 percent blood alcohol concentration. I presided over pretrial proceedings and, following a special action appeal, a jury trial. The jury convicted Defendant of Aggravated Assault with Serious Physical Injury, Aggravated Assault, Criminal Damage over \$1,000, Driving Under the Influence, and Driving with an Alcohol Concentration of 0.08 or More. On May 21, 2019, I sentenced Defendant to a combination of concurrent terms totaling five years' imprisonment. Defendant filed a Notice of Appeal.

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Counsel for Defendant:
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(7) *State v. Aguirre*, CR20183927-001 (Ariz. Super. Ct. 2019)

Tucson Police initiated a traffic stop on Defendant where a records check revealed that Defendant's driver's license had been revoked. The police conducted field sobriety tests and obtained a search warrant for a blood draw. Lab results showed the presence of carboxy-tetrahydrocannabinol (a metabolite of THC) and methamphetamine in Defendant's blood. The State charged Defendant with one count of aggravated driving under the influence while license is suspended, revoked, or restricted and one count of aggravated driving with an illegal drug or its metabolite while license is suspended, revoked, or restricted. The State proceeded to trial on the single charge of aggravated driving with an illegal drug or its metabolite. I presided over pretrial proceedings and a jury trial.

The jury convicted Defendant of aggravated driving with an illegal drug or its metabolite. I conducted a prior convictions trial and found that the defendant had two historical prior felony convictions. On June 20, 2019, I sentenced Defendant in the instant case, and in CR-20184996, an earlier case in which Defendant had entered a plea agreement under which he would receive no additional prison time

because his sentences would run concurrently, to a combination of prison terms totaling eight years. Defendant filed a Notice of Appeal.

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Counsel for Defendant:

C. Michelle Bowen
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(8) *State v. Noriega*, CR20184292-001 (Ariz. Super. Ct. 2019)

Defendant, while incarcerated in the Pima County Jail, allegedly assaulted a corrections officer and then assaulted another corrections officer later that same day. The first victim suffered injuries. The state charged Defendant with aggravated assault resulting in temporary or substantial disfigurement (Count One) and one count of aggravated assault on a corrections employee (Count Two). I presided over pretrial proceedings and a jury trial. The jury convicted Defendant on Count One but acquitted him on Count Two. I conducted a prior convictions trial and found three historical prior felony convictions. On August 15, 2019, I sentenced Defendant to the presumptive term of 10 years to be served consecutively to the prison sentence imposed in another case, CR20183265.

Counsel for the State of Arizona:

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Counsel for Defendant:

Jack Lansdale, Jr.
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(9) *State v. Noriega*, CR20183265-001 (Ariz. Super. Ct. 2019)

Defendant allegedly stabbed the victim multiple times and killed him. The State charged Defendant with, among other things, second-degree murder. I presided over pretrial proceedings and a jury trial. The jury convicted Defendant of second-degree murder and found the offense to be of a dangerous nature. I conducted a prior convictions trial and determined Defendant had three historical prior felony convictions. On August 15, 2019, I sentenced Defendant to a maximum term of 25 years for second-degree murder to be served consecutive to a 10-year sentence imposed in CR20184292-001.

Counsel for the State of Arizona:

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Counsel for Defendant:

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(10) *State v. Rios*, CR20183083-001 (Ariz. Super. Ct. 2019)

The State alleged that Defendant repeatedly called and texted victim, a former intimate partner with whom Defendant shares a child, and asked her to stop cooperating in Defendant's prosecution in another matter. The State charged Defendant with two counts of aggravated harassment, domestic violence, and one count of tampering with a witness, domestic violence. The jury convicted Defendant of two counts of aggravated harassment, domestic violence. The Jury found Defendant not guilty of witness tampering. On August 26, 2018, I sentenced Defendant to three years of supervised probation for each count, to be served concurrently. Defendant filed a Notice of Appeal.

Counsel for the State of Arizona:

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Counsel for Defendant:

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(520) 724-6800

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

- (1) *State v. Bigger*, CR20043995-001 (Ariz. Super. Ct. Sept. 17, 2018). Copy supplied.

Counsel for the State of Arizona:

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- (2) *State v. Ergonis*, CR20074823-002 (Ariz. Super. Ct. Dec. 21, 2018), *aff'd*, 2 CA-CR 2012-0327 (Ariz. Ct. App. July 30, 2014). Copy supplied.

Counsel for the State of Arizona:

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- (3) *State v. Haugh*, CR20171654 (Ariz. Super. Ct. Dec. 21, 2018), *aff'd*, No. 2 CA-CR 2019-0077-PR, 2019 WL 2724256 (Ariz. Ct. App. June 27, 2019). Copy supplied.

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- (4) *State v. Rivera*, CR20170275-001 (Ariz. Super. Ct. Mar. 27, 2019). Copy supplied.

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- (5) *State v. Conforti*, CR20190705-001 (Ariz. Super. Ct. May 31, 2019). Copy supplied.

Counsel for the State of Arizona:

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- (6) *State v. Hinkle*, CR20183374-001 (Ariz. Super. Ct. Oct. 29, 2018). Copy supplied.

Counsel for the State of Arizona:

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(520) 907-6240

- (7) *State v. Stapleton*, CR20183530-001 (Ariz. Super. Ct. Oct. 29, 2018). Copy supplied.

Counsel for the State of Arizona:

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Counsel for Defendant:

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- (8) *State v. Best*, CR20181960-001 (Ariz. Super. Ct. Sept. 21, 2018). Copy supplied.

Counsel for the State of Arizona:

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(520) 990-2413

- (9) *State v. Beagle*, CR20160670 (Ariz. Super. Ct. Sept. 7, 2018), *aff'd*, No. 2 CA-CR 2018-0287-PR (Ariz. Ct. App. Jan. 3, 2019).

Counsel for the State of Arizona:

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- (10) *State v. Dooley*, CR20150524-001/CR20143756-001 (Ariz. Super. Ct. Mar. 5, 2019). Copy supplied.

Counsel for the State of Arizona:

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Counsel for Defendant:

Erin Duffy
Post Office Box 85746
Tucson, Arizona 85754
(520) 991-1782

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

Certiorari has never been requested or granted in any of my cases.

- 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.

I have not been reversed.

- 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.

Arizona trial judges do not issue written opinions. I do issue written rulings in appeals from limited jurisdiction courts, petitions for post-conviction relief and other substantive matters that come before me. The Clerk of the Arizona Superior Court in Pima County maintains a paper file and an electronic version of the Clerk's files on a system called "Agave." The Clerk's files are public record and my unpublished rulings can be found there.

- 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.

None.

- 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.

None.

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.

Arizona has an automatic notice provision where either party in a civil or criminal case is entitled, as a matter of right, to one automatic change of judge. See Arizona Rule of Civil

Procedure 42.1, Arizona Rules of Criminal Procedure 10.2, and Arizona Rules of Family Law Procedure 6.1. I have been noticed by a party under these provisions on 12 occasions (seven occasions on the Criminal Bench and five occasions on the Family Law Bench) since becoming a judge. A list of these automatic notice cases is supplied. A list of other cases where I recused myself outside of the automatic notice provision is similarly supplied.

I have recused myself when necessary to avoid even the appearance of impropriety. To assess the necessity or propriety of recusal, I follow the Arizona Code of Judicial Conduct, Arizona Supreme Court Rule 81, and Rules 1.2 and 2.11 of the Arizona Code of Judicial Conduct. I am also duty bound to follow Arizona Revised Statute § 12-409, which requires recusal based upon an affidavit of a party alleging certain specified grounds.

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.

Member, Pima County Commission on Trial Court Appointments (2005 – 2015). Gov. Janet Napolitano appointed me in 2005 and Gov. Jan Brewer reappointed me in March 2009.

Committee Member, City of Tucson Charter Review Committee (2015 – 2016). I was appointed by City of Tucson Ward 6 Council Member Steve Kozachik.

Member, Arizona Judicial Performance Review Commission (2017 – 2018). I was appointed by the Arizona Supreme Court on January 1, 2017. I resigned in March of 2018 shortly before I became a Superior Court judge.

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

I have not held membership or office in any political party or on any election committee.

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;

After graduating from law school, I clerked for the Hon. John M. Roll, United States District Court Judge from May 1996 to August 1996. Immediately afterwards I clerked for the Hon. Raymond T. Terlizzi, United States Magistrate Judge for the District of Arizona, from 1996 to 1998.

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

I have never practiced law 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.

Before becoming an Arizona Superior Court judge, I worked in the Tucson office of Lewis Roca Rothgerber Christie, LLP for 20 years. I was always a member of the firm's commercial litigation section.

1998 – 2019

Lewis Roca Rothgerber Christie, LLP
One South Church Avenue, Suite 2000
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Partner (2003 – 2018)
Associate (1998 – 2003)

- 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.

I have not handled mediation or arbitration during my time in private practice.

b. Describe:

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

As an associate at Lewis Roca from 1998 to 2003, I mostly worked on cases with more senior attorneys, but I did have opportunities to handle some basic matters, usually torts or collection matters, on my own. As one of only a few associates in the Tucson office, I assisted with a wide variety of litigation matters. During my time as an associate, I worked on

litigation matters in many different areas, including, but not limited to, matters involving: (1) land use; (2) boundary disputes; (3) real property; (4) contract; (5) commercial torts; (6) motor vehicle torts; (7) collections; (8) employment litigation; (9) election law; (10) municipal governance; and (11) bankruptcy. During this period, much of my work involved research and writing in support of partners. I did, however, have opportunities to take depositions, make oral arguments, second chair trials and take some basic cases to trial myself in justice court and city court.

I became a partner at Lewis Roca in 2003. As a partner, I typically took the lead on the matters on which I worked. Many of the cases I worked on were referred to me by my partners. On some cases, I worked with other partners in a support role, but more often I worked on cases as the sole attorney, or with an associate attorney providing support. As a partner, I continued to work on a wide range of subject matter, including but not limited to the following areas: (1) land use; (2) boundary disputes; (3) real property; (4) contract; (5) condemnation; (6) torts; (7) collections; (8) election law; (9) open meeting laws; (10) construction; (11) municipal governance; and (12) bankruptcy.

When I was a partner, most of my cases involved land use, real estate, condemnation and commercial disputes. For the most part, as a partner, I ran my own cases and handled most aspects of the case. On some cases, however, I supported other partners, or I ran the case in consultation with another partner. I also supervised associates who worked on my cases.

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

My law firm and I represented mostly institutional clients. In real estate and land use cases, we typically represented real property owners and developers. I also represented small business owners and some individuals who were involved in litigation matters. In the years immediately before I became a judge, I also represented a municipality in some litigation matters and worked as general counsel for a water company. To the extent my practice had a focus, it was on land use, real estate and commercial disputes.

- 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.

During my career, I typically handled disputes that were pre-litigation or in litigation. As an associate from 1998 to 2003, I appeared in court infrequently. After I became a partner in 2003, I appeared in court occasionally until I became a judge in 2018.

During the last several years before I became a judge (from approximately 2014 to 2018), I acted as general outside counsel for the Metropolitan Domestic Water Improvement District (MDWID) and the Arizona-Sonora Desert Museum. This work was less than five percent of my total practice during this time. For MDWID I attended board meetings and handled a variety of legal matters, including basic employment matters, open meeting law issues and public records issues, and transactional matters. When I needed a greater depth of expertise to assist these clients, I would consult my partners.

- i. Indicate the percentage of your practice in (estimated):
 - 1. federal courts (including bankruptcy): 12%
 - 2. state courts of record: 85%
 - 3. other courts: 0%
 - 4. administrative agencies: 3%
- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: 100%
 - 2. criminal proceedings: 0%
- 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.

As an attorney, I tried approximately 20 to 25 cases to verdict.

- i. What percentage of these trials were:
 - 1. jury: 20%
 - 2. non-jury: 80%
- 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 practiced before the United States Supreme Court.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

- (1) *City of Tucson v. Han*, No. C20151491 (Ariz. Super. Ct.), before the Hon. Catherine Woods, Pima County Superior Court Judge; 2015 – 2016.

I represented the City of Tucson, which sued to condemn a parcel of real property needed to widen and improve a road. The property owner did not contest the City's right to take but did dispute the City's offer of just compensation. "Just compensation" is equal to the fair market value of the subject property. The case went to trial before a jury. The jury determined the property's fair market value to be \$5,000 more than the opinion of value offered by the City's expert appraiser at trial. The judgment ultimately entered was significantly less than the City's pretrial settlement offer, which the City made early in the case before taking depositions. The case presented several interesting evidentiary issues related to the admissibility in evidence of a prior sale of the subject property and a "regression analysis" used by the property owner's expert appraiser. I handled all aspects of the case, including the trial.

Co-Counsel for Plaintiff City of Tucson:

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Counsel for Defendant Pima County

- (2) *Cemex v. Falcone Bros.*, No. C20121949 (Ariz. Super. Ct. Dec. 13, 2013), *vacated* 349 P.3d 210 (Ariz. Ct. App. 2015), *aff'd*, No. 2 CA-CV 2017-0015, 2017 WL 5054218 (Ariz. Ct. App. Nov. 3, 2017); before the Hon. Carmine Cornelio (retired), Hon. Richard Fields, Hon. Richard Gordon, Pima County Superior Court Judges; Hon. Virginia C. Kelly, Hon. Joseph Howard, Hon. Garye Vasquez, Hon. Peter J. Eckerstrom, and Hon. Karl C. Eppich, Arizona Court of Appeals Judges; 2012 – 2018.

I represented Cemex Construction Materials South (Cemex). This case involved two bench trials, two appeals from those bench trials, and a special action appeal. My client ultimately prevailed. I handled the proceedings before the trial court, including the two trials, with some oversight and assistance from a partner in Phoenix, Frances Haynes. Ms. Haynes did not appear in court. For the appeals, I was second chair to a Phoenix partner, Kim Demarchi, who specializes in appeals. The proceedings leading up to the two trials included extensive discovery and motion practice.

Cemex supplied concrete for a city road construction project and was not paid. Cemex sued the concrete subcontractor, the general contractor (Falcone), and the general contractor's bonding company (GCNA). The subcontractor became insolvent. Default judgment was entered against the subcontractor, but it was unable to pay. Thus, Cemex looked to Falcone and GCNA for payment under the Little Miller Act. Among other things, Falcone defended by claiming that it had never received the preliminary twenty-day notices sent by Cemex through the U.S. Postal Service by first class mail with a certificate of service.

Falcone filed a motion for summary judgment, arguing that the notices Cemex sent did not comply with the statutory mailing requirements. The trial court denied the motion, finding that the notices had, as a matter of law, complied with the statutory mailing requirements. The trial court did not address whether Falcone had actually received the notices. Following a bench trial on damages, the trial court entered judgment in Cemex's favor.

The court of appeals reversed, holding that, as a matter of law, the notices Cemex sent did not comply with the statutory mailing requirements. But the court of appeals also held that if Falcone actually received the notices Cemex sent, then the fact that the notices were sent by a method other than the one dictated by the statute would not preclude Cemex's action on the bond.

On remand, following a three-day bench trial, the trial court found that Cemex had proven by a preponderance of the evidence that Falcone had actually received the 20-day notices Cemex sent. Accordingly, the trial court awarded Cemex damages and attorneys' fees. Falcone appealed. The court of appeals affirmed. Falcone sought review by the Arizona Supreme Court, which was denied.

Co-Counsel for Plaintiff Cemex:

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- (3) *Sklias v. WalMart*, No. C20145321 (Ariz. Super. Ct.), before the Hon. Christopher Staring, Hon. Catherine M. Woods, Pima County Superior Court Judges; 2015 – 2016.

My firm represented Walmart. I handled all aspects of the litigation with minimal oversight by Craig Phillips. Plaintiff owned a restaurant at Tucson Mall. She left her business one evening with approximately \$6,000 in her purse and traveled to a Walmart store where she was robbed in the parking lot by non-party C.K. and an accomplice who was never identified. Plaintiff chased C.K. to the getaway vehicle and got tangled up in the open driver's side door. The car took off and dragged her through the parking lot for over 300 feet. She suffered severe injuries. The state charged C.K., he pled guilty and the court sentenced him to prison. Plaintiff sued Walmart and Securitas, the security company Walmart hired to provide a parking lot patrol. Plaintiff alleged Defendants had failed to provide adequate security and were negligent; she sought punitive damages.

Each party disclosed several expert witnesses, including experts on parking lot security, criminal behavior, vocational rehabilitation and various medical disciplines. There were numerous contested factual disputes. Each side made a significant number of written discovery requests and took a substantial number of depositions. There were substantial discovery disputes over the production of electronically stored information (ESI) and other potentially sensitive company information.

The case went to mediation when there were still several more depositions to take and before dispositive motions were filed. At the first mediation, Plaintiff settled with Walmart, but not with Securitas. Plaintiff later settled with Securitas.

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- (4) *Stagecoach Trails MHC, LLC v. City of Benson*, No. CV-201000395 (Ariz. Super. Ct. Feb. 27, 2012), *rev'd in part*, 278 P.3d 314 (Ariz. Ct. App. 2012), *vacated and remanded*, 295 P.3d 943 (Ariz. 2013), *on remand*, 295 P.3d 943 (Ariz. Ct. App. 2013); before the Hon. Stephen M. Desens, Cochise County Superior Court Judge; Hon. Philip G. Espinosa, Hon. Virginia C. Kelly, and Garye L. Vasquez, Arizona Court of Appeals Judges; Hon. Scott Bales, Hon. Rebecca White Berch, Hon. Ann A. Scott Timmer, Hon. A. John Pelander, and Hon. Robert M. Brutinel, Justice of the Arizona Supreme Court.

Stagecoach Trails MHC, LLC v. City of Benson, 11-CV-0398-TUC-RCC and 11-CV-0508-TUC-RCC, before the Hon. Rainer Collins, United States District Court Judge for the District of Arizona.

2010 – 2014.

In the state court litigation, my firm represented a manufactured home park that had been in operation in Benson, Arizona since the late 1960's. I worked with Jeff

Sklar from my office throughout the litigation in both state and federal court. Kim DeMarchi from our office assisted us during the appellate process in state court.

The City of Benson broke with decades of past practice and started denying my client, a manufactured home park, permits to move new manufactured homes into the park to replace manufactured homes that were removed. The City based its decision upon a reinterpretation of an ordinance that the City had promulgated several years prior and under which the City had previously granted numerous such permits to my client. My client asserted that the manufactured home park was a legal nonconforming use and, therefore, the owner was entitled to install new manufactured homes onto existing home spaces without bringing the entire park into compliance with current zoning code requirements. Following an evidentiary hearing, my client prevailed before the trial court and was awarded attorneys' fees.

This case generated three published state court appellate opinions. The first Court of Appeal's decision overturned the trial court's decision in my client's favor by holding that my client had failed to exhaust its administrative remedies prior to proceeding to court; it also overturned the trial court's award of attorneys' fees to my client. *See Stagecoach Trails MHC, LLC v. City of Benson*, 278 P.3d 314 (Ariz. Ct. App. 2012). The Arizona Supreme Court reversed, in part, holding that further administrative proceedings would have been futile and directed the Court of Appeals to resolve the nonconforming use issue. *See Stagecoach Trails MHC, LLC v. City of Benson*, 295 P.3d 943 (Ariz. 2013). The Court additionally upheld the Court of Appeals determination that Stagecoach Trails was not entitled to recover attorneys' fees under A.R.S. § 12-2030.

On remand, the Court of Appeals held in my client's favor that a space in a manufactured home park does not lose its nonconforming use status simply because a manufactured home is removed from the space. *Stagecoach Trails MHC, LLC v. City of Benson*, 295 P.3d 943 (App. 2013). The Court of Appeals remanded to the trial court for further proceedings to determine whether the park was indeed a nonconforming use. On remand, the trial court granted summary judgment that the manufactured home park was a legal nonconforming use. Thus, my client ultimately prevailed.

This case established legal precedent on three topics: (1) exhaustion of administrative remedies/futility of further administrative proceedings; (2) the recovery of attorneys' fees by a party that prevails against the government on a special action in the nature of a writ of mandamus; and (3) legal nonconforming use rights for manufactured home parks. I handled all aspects of the case, and had significant help throughout the case from an associate on strategy, research, drafting and discovery.

In the federal litigation, my firm represented the plaintiff, Stagecoach Trails, LLC, in asserting a claim under 42 U.S.C. § 1983 against the Defendants. I

handled all aspects of the case with significant associate help. In the federal litigation, my client alleged that the City of Benson and several of its employees and elected officials singled out the manufactured home park for disparate treatment by refusing to issue permits to move new manufactured homes onto existing spaces within the park. My client alleged the City did this to retaliate against my client's mother, a former Benson City Council member. My client's mother filed a separate federal suit that was eventually consolidated with my client's law suit. Once my client prevailed in the state court litigation, we mediated the federal case. The plaintiffs reached a monetary settlement with the City to be paid by the City's insurance carrier. We also reached agreements with the City about how the City would handle future permit applications from my client and how my client would make certain improvements to the park to address concerns raised by the City. The settlement also resolved the state court case.

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Counsel for Michael Massee and Luisa Massee

- (5) *Pima Cty. Human Rights Comm'n v. Ariz. Dep't of Health Serv.*, No. C20121669 (Ariz. Super. Ct.), before the Hon. James E. Marner, Pima County Superior Court Judge, No. 2 CA-CV 2014-0140 (Ariz. Ct. App.); 2013 – 2014.

I represented the Pima County Human Rights Committee (PCHRC) in the last phase of a years-long battle to compel the Arizona Department of Health Services (ADHS) to provide information and medical records regarding the deaths of ADHS's mentally ill clients in Pima County. As a human rights committee established under Arizona law, PCHRC's statutory charge is to provide independent oversight to ADHS in order to protect and promote the rights of Pima County's mentally ill. Arizona law empowers PCHRC to review incidents of possible abuse, neglect and denial of ADHS clients' rights and grants PCHRC access to client information and records maintained by ADHS and its providers to the extent necessary to conduct committee duties.

ADHS's Director invoked Arizona's statutory "peer review" privilege to deny PCHRC access to information and medical records that ADHS and its providers regularly gathered while investigating and reviewing client deaths in Pima County. I took the case over from my former partner and litigated the merits of the case in Superior Court. The Superior Court heard PCHRC's appeal of the Director's decision, overruled ADHS's interpretation of the "peer review" privilege and directed ADHS to provide the information to PCHRC.

ADHS appealed the Superior Court's decision. On appeal, the case settled. PCHRC and ADHS agreed on the information that ADHS would provide to

PCHRC and on an orderly procedure under which PCHRC would request information and ADHS would provide that information. The establishment of an orderly process helped to avoid misunderstandings going forward, which was important because the relationship between PCHRC and ADHS had deteriorated during four years of litigation. Also, ADHS agreed to pay an amount to settle PCHRC's claim for attorneys' fees.

Counsel for Defendant Arizona Department of Health Services:

Joel Rudd, Assistant Attorney General (Retired)

Attorney Generals Office, State of Arizona

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Attorney for the Arizona Department of Health Services.

- (6) *Evolve Sols. Holdings, LLC v. Gross*, No. CV2012-010492 (Ariz. Super. Ct.), before the Hon. Lori Horn Bustamante, Maricopa County Superior Court Judge; 2012 – 2014.

This case included a bench trial in Arizona Superior Court for Maricopa County. I handled all aspects of the case with some limited assistance from an associate with research and briefing. My clients invested in a technology that makes fabrics odor and stain proof. They then worked with the defendants to form a new company to develop the technology and bring it to market. About a year into the venture, a third party that had a prior business relationship with the defendants sent the new company a demand letter, claiming that he had already purchased the same technology and, therefore, my clients were infringing on his rights. He threatened to sue my clients and the new company. My clients shut down the new company and sued the defendants for breach of contract and fraud.

The case involved issues related to trade secrets and intellectual property. There was a substantial amount of written discovery and several depositions. The parties were unable to settle at mediation. Following a three-day bench trial, the court entered judgment for my clients and awarded attorneys' fees. The total award was approximately \$1 million.

Counsel for Defendants:

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- (7) *Pfeiffer v. Morgan Stanley Credit Corp.*, No. 4:12-cv-00117-RCC (D. Ariz.), before the Hon. Rainer Collins, United States District Court Judge; 2012 – 2013.

My firm defended Morgan Stanley Credit Corporation. I handled all aspects of the litigation with limited assistance from an associate. The plaintiff borrowed money to purchase a home with no money down and pledged as security a deed of trust in the home and securities held in his Morgan Stanley brokerage account. Plaintiff defaulted and sought a declaratory judgment that Arizona's anti-deficiency laws prevented Morgan Stanley from holding plaintiff's brokerage account as additional collateral for the loan. The court found that Arizona's anti-deficiency laws did not prevent the arrangement and granted summary judgment to Morgan Stanley. The district court's ruling was published: *Pfeiffer v. Morgan Stanley Credit Corp.*, 922 F. Supp.2d 828 (D. Ariz. 2012).

Plaintiff appealed to the Ninth Circuit Court of Appeals. The parties proceeded to mediation and the case settled.

Counsel for Plaintiff:

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- (8) *City of Tucson v. Arizona*, No. C20097207, 2010 WL 9037437 (Ariz. Super. Ct. Mar. 4, 2010), *rev'd*, 250 P.3d 251 (Ariz. Ct. App. 2011), *vacated*, 273 P.3d 624 (Ariz. 2012), before the Hon. Michael Miller, Pima County Superior Court Judge; Hon. Lawrence Howard, Phillip G. Espinosa, and J. William Brammer, Arizona Court of Appeals Judges; Hon. Scott Bales, Hon. Rebecca White Berch, Hon. Andrew D. Hurwitz, Hon. A. John Pelander, and Hon. Robert M. Brutinel, Justices of the Arizona Supreme Court; 2009 – 2012.

The City of Tucson sued the State of Arizona to challenge the application of a state statute governing city elections. I represented the Southern Arizona Leadership Council (SALC) and a former state senator. The City asserted that, as a charter city, the Arizona Constitution gave it the power to frame its own organic law, including the power to determine how its government officials would be elected. My clients intervened on the side of the State and against the City. We argued that the legislation did not govern matters of strictly local concern. Further, we argued the City's Charter did not conflict with the statute and, therefore, the courts could interpret the Charter and the statute in harmony, meaning the City would be required to follow the statute.

The trial court granted summary judgment for the State and my client. The Court of Appeals reversed and decided the case for the City. The Arizona Supreme Court accepted review and, ultimately, ruled for the City, holding held that the City's method of selecting its council members is an issue of strictly local concern that cannot be preempted by state law.

This case affirmed prior precedent that the method of selecting a charter city's governing officers is a matter of strictly local concern. This is significant because, under Arizona law, charter cities can legislate on matters of strictly local concern without interference from the state legislature. The court's opinion helped to further develop Arizona's jurisprudence regarding a charter city's constitutional authority.

I handled all aspects of the litigation with an associate's help. I argued before both the Arizona Court of Appeals and the Arizona Supreme Court.

Counsel for co-Defendants State of Arizona, Janice K. Brewer and Ken Bennett:

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- (9) *USACM Commercial Mortg. Company Bankr.*, 2:2006BK10725, United States Bankruptcy Court, District of Nevada, before the Hon. Judge Linda B. Riegle, United States Bankruptcy Judge; 2007 – 2011.

I was part of a team at Lewis Roca Rothgerber Christie that represented the USACM Liquidating Trust ("Trust"). The lead attorney was Rob Charles. The Trust was the successor-in-interest to USA Commercial Mortgage Company ("USACM") and USA Capital Diversified Trust Deed Fund, LLC. USACM filed for bankruptcy on April 13, 2006. The Trust was created as the result of a plan of reorganization under Chapter 11, which gave the Trust the right to enforce USACM's causes of action and the responsibility to resolve all claims by creditors against USACM.

Before the bankruptcy, USACM was in the business of originating loans to real

estate borrowers provided by direct lenders and servicing the loans it originated by collecting principal and interest from the borrowers and distributing those payments to the direct lenders. USACM primarily obtained revenue through loan origination and servicing fees. USACM also sometimes invested in development projects, including some that USACM originated and serviced. USACM's original business model consisted of matching direct lenders to borrowers whereby each lender had a partial interest in both the loan and the underlying security for each loan. Later, USACM adopted a second business model which allowed investors to purchase interests in investment funds, and the investment funds then acted as at least one of the lenders in the loan originated and serviced by USACM. USACM's two principals engaged in fraudulent schemes to misappropriate USACM's service fees and funds belonging to USACM's investors. Also, the principals engaged in a "Ponzi-like" scheme by which they used new incoming investor funds to cover interest and principal payments to other investors who owned an interest in non-performing loans. Ultimately, the schemes collapsed and USACM went into bankruptcy.

My role was to work on resolving bankruptcy claims made by creditors, including the direct lenders, against USACM. There were hundreds of claims filed that totaled almost \$1 billion. The creditors who were lenders had rights in direct loans as well as the asserted claims in the USACM bankruptcy. The work on analysis and objections to claims consisted of assessing each investment in USACM portfolio. These are filed in the administrative case, No. BK-S-06-10725. Ultimately, almost \$200 million in claims were allowed.

Additionally, the USACM Liquidating Trust brought adversary proceedings concerning larger transfers that we alleged to be avoidable as preferences or fraudulent transfers. All or most of the adversary proceedings settled. My role on the adversary proceedings was limited and included in the compilation in the prior paragraph.

Co-Counsel:

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- (10) *Button v. City of Tucson*, No. C20086288 (Ariz. Super. Ct.), before the Hon. John F. Kelly, Pima County Superior Court Judge; 2008 – 2009.

I represented Plaintiff, who owned a home that he wished to remodel. The City of Tucson denied him a demolition permit. A local professional association funded the litigation to challenge a building code provision enacted by the City of Tucson. The ordinance imposed significant limitations on a property owner's ability to demolish and redevelop certain structures deemed by the ordinance to be

historic. The City adopted the ordinance without notice to affected property owners or a public hearing. My client, who owned a single family dwelling and was denied a demolition permit, sued to invalidate the ordinance on the theory that it was a *de facto* "zoning ordinance" and the City had failed to comply with the requirements of the Zoning Enabling Act (ZEA) at time of adoption. The ZEA requires a city to provide notice to affected property owners and a public hearing when it adopts a zoning ordinance. The City argued that it properly adopted the ordinance as part of the City's building code and, therefore, did not need to comply with the ZEA.

The trial court granted my client summary judgment and awarded reasonable attorneys' fees. Plaintiff settled with the City over attorneys' fees and the court entered final judgment invalidating the ordinance. The result overturned an ordinance that discouraged and inhibited the redevelopment of certain real property within the City of Tucson. The judgment vindicated the property owners' rights to use their private property without unreasonable government regulation.

Counsel for Defendants:

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Michael W. L. McCrory, Principal Assistant City Attorney (Retired)

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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 was a civil litigator for 20 years. Many of my cases were resolved through motion practice, and the vast majority settled without a trial. Thus, I have considerable experience with motion practice and with negotiating settlement agreements directly with opposing counsel or through mediation.

I also acted as general outside counsel for two organizations in the several years before I became a judge. This was a small part of my practice. Some of the work I did for these organizations involved litigation, but I also provided pre-litigation and business advice.

I have never performed lobbying activities.

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.

I have not held any formal teaching assignments.

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

I receive a monthly principal payment from Lewis Roca Rothgerber Christie in the amount of \$660.90 in repayment of my capital balance. In addition to the principal payment, interest is paid on the unpaid balance at a rate of Prime plus 1%. The final payment is scheduled to occur on or before December 2022.

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.

No.

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).

When my nomination is formally submitted to the Senate and I file my Financial Disclosure Report, I will supplement this Questionnaire with a copy of that Report.

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

See attached Statement of Net Worth.

24. **Potential Conflicts of Interest:**

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

I anticipate few, if any, conflicts of interest if I am confirmed as a United States

District Court Judge. If any family member, close friend, business associate, or former client were to have a case that might come before me, I would make full disclosure and immediately recuse myself from any case or possible case that might be assigned to me.

With respect to my former law firm, Lewis Roca Rothgerber Christie, LLP, I would recuse myself from any case where my prior firm appeared as counsel of record to avoid any appearance of impropriety and because I have a conflict of interest until at least the end of 2022. I worked at Lewis Roca for twenty years. Until about December 2022, Lewis Roca will make monthly payments to me to repay me for my capital balance with the firm.

- 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 would follow the appropriate legal authorities, including the Code of Conduct for the United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. § 455, and other relevant recusal rules and guidelines. If necessary, I would make appropriate disclosures to the parties and, if appropriate, recuse myself from presiding over a case.

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.

While in private practice (1998-2018), I tried to perform at least 50 hours of *pro bono* legal service each year. I did not always reach that goal, but most years I reached or exceeded it. Below is a summary of the most impactful *pro bono* matters I handled during my last several years in private practice.

Between December 2013 and August 2014, I represented the Pima County Human Rights Commission (PCHRC) in the last phase of a years-long battle to compel the Arizona Department of Health Services (ADHS) to provide information and medical records regarding the deaths of ADHS's mentally ill clients in Pima County. As a human rights committee established under Arizona law, PCHRC's charge is to provide independent oversight to ADHS in order to protect and promote the rights of Pima County's mentally ill. State law empowers PCHRC to review incidents of possible abuse, neglect and denial of ADHS clients' rights and grants PCHRC access to client information and records maintained by ADHS and its providers to the extent necessary to conduct committee duties.

ADHS's Director invoked Arizona's statutory "peer review" privilege to deny PCHRC access to information and medical records that ADHS and its providers regularly gathered while investigating and reviewing client deaths in Pima County. I took the case

over from my former partner, the Hon. D. Douglas Metcalf, and litigated the merits of the case in Superior Court. The court heard PCHRC's appeal of the Director's decision, overruled ADHS's interpretation of the "peer review" privilege, and directed ADHS to provide the information to PCHRC.

ADHS appealed the decision. While on appeal, the case settled. PCHRC and ADHS agreed on the information that ADHS would provide to PCHRC and on an orderly procedure under which PCHRC would request information and ADHS would provide that information. The establishment of an orderly process was intended to help avoid misunderstandings going forward, which was important because the relationship between PCHRC and ADHS had deteriorated during the litigation. I spent approximately 140 hours on this case between December 2013 and September 2015. Our firm recovered some attorneys' fees from the State of Arizona at the end of the case.

Between 2013 and 2016, I handled a tax appeal for Catalina Terrace Swim Club, a nonprofit corporation, against the Pima County Assessor. My client ultimately prevailed and obtained a property tax exemption for charitable organizations that serve "indigent" or "afflicted" populations by providing them with recreational and youth programs. In the first case, we lost on a procedural issue. I filed a second appeal for Catalina Terrace and worked with Catalina Terrace to better position it to receive the tax exemption. After some discovery and motion practice, we convinced the Pima County Assessor to settle the case by granting Catalina Terrace the tax exemption. In exchange, Catalina Terrace agreed to waive its claim to recover attorneys' fees. This resulted in a refund of over \$10,000 for tax year 2014 and, to my knowledge, Catalina Terrace has continued to enjoy the tax exemption each year since 2014. I spent 95 hours working on this matter.

Between 2013 and 2017, I defended Compass Affordable Housing ("CAH") against a claim by a general contractor for alleged delays arising out of the construction of a low-income housing project and against several subcontractors who recorded mechanic's liens against the same project. CAH is a nonprofit corporation that develops and manages affordable housing projects in the City of Tucson. During an approximately twelve-month period in 2016 and 2017, I spent almost 200 hours defending CAH and helping it work through various legal problems created for it by this situation. My representation positioned CAH to avoid liability and, as a result, allowed CAH to focus its limited resources to work on providing affordable housing for the community.

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 May or June of 2019, a representative from Senator Kyrsten Sinema's office contacted me and inquired whether I would be interested in interviewing for a vacancy on the United States District Court, to which I replied in the affirmative. I later provided a resume and other background information to Senator Sinema's office. On July 15, 2019, I interviewed with a commission created by Senator Sinema's office. My understanding is that the commission forwarded my name and others to Senator Sinema for further consideration. On July 24, 2019, Senator Sinema interviewed me personally.

On August 1, 2019, I received a telephone call from the Office of White House Counsel asking to arrange a one-hour interview. On August 14, 2019, I interviewed via telephone with attorneys from the Office of White House Counsel and the Department of Justice.

On August 27, 2019, I was informed that I had been preliminarily selected for possible nomination to the United States District Court for the District of Arizona. Since that time, I have been in periodic contact with attorneys from the Department of Justice and the White House Counsel's Office.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		56	142	Notes payable to banks-secured (auto)		15	021
U.S. Government securities				Notes payable to banks-unsecured		30	320
Listed securities – see schedule	1	281	558	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others		25	114	Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		533	021
Real estate owned – see schedule		730	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		67	000	401(k) Loan		16	173
Cash value-life insurance				Auto Loan		20	000
Other assets itemize:							
				Total Liabilities		614	535
				Net Worth	1	545	279
Total Assets	2	159	814	Total Liabilities and Net Worth	2	159	814
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Fidelity Contrafund K6	\$214,695.67
JP Morgan 110% U. S. Tres. Securities Money Market Fund; Capital Shares	\$219,777.76
Target Retirement 2020 Trust II	\$454,260.18
Vanguard Short Term Bond Index Fund, Inst. Shares	\$227,995.69
J Hancock Multi Index 2035 Preservation R6	\$125,068.32
American Funds 2035 Target Date Retirement Fund – Class R6	\$16,718.81
Vanguard 500 Index Fund – Admiral Shares	\$8,801.05
Vanguard (R) Growth Index Fund – Admiral Shares	\$8,942.35
Wells Fargo IRA; Way to Save Retirement Account	\$2,132.41
Bank of America IRA; Money Market IRA	\$3,196.24
Total Listed Securities	<u>\$1,281,588.48</u>

Real Estate Owned

Personal Residence	\$700,000
Vacation Home (20% interest)	<u>\$30,000</u>
Total Real Estate Owned	\$730,000

Real Estate Mortgages Payable

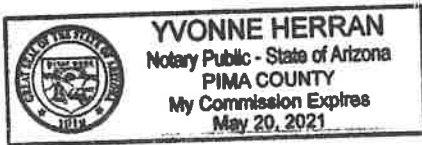
Personal Residence – Mortgage	\$505,179.04
HELOC	<u>\$27,842.26</u>
Total Real Estate Mortgages Payable	\$533,021.30

AFFIDAVIT

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

10/22/2019
(DATE)

John Hinderaker
(NAME)



Yvonne Herran
(NOTARY)

My Commission expires
May 20, 2021