

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Susan Marie Brnovich
Susan Marie Skibba (maiden name)

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

United States District Court Judge for the District of Arizona

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

Maricopa County Superior Court
18380 North 40th Street
Phoenix, Arizona 85032

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

1968; Madison, Wisconsin

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.

1991 – 1994; University of Wisconsin Graduate School; M.S. Business, 1994

1991 – 1994; University of Wisconsin Law School; J.D., 1994

1986 – 1990; University of Wisconsin; Bachelors of Business Administration, Finance; Spanish

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.

December 2003 – present

Maricopa County Superior Court
201 West Jefferson Street
Phoenix, Arizona 85003
Judge (2009 – present)
Commissioner (2003 – 2009)

March 1995 – December 2003
Maricopa County Attorney's Office
301 West Jefferson Street
Phoenix, Arizona 85003
Deputy County Attorney

August 1994 – March 1995
Applebees
Tempe, Arizona
Bartender

Other Affiliations (uncompensated)

June 1993 – August 1993
Marathon County District Attorney's Office
500 Forest Street
Wassau, Wisconsin 54403
Student Intern

June 1992 – August 1992
The Honorable William H. Bristol
Supreme Court of New York
400 Hall of Justice
Rochester, New York 14614
Judicial Extern

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

I did not served in the military. I was exempt from registration for selective service.

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

Arizona Judicial Branch, Honorable Mention Award (2007)

Miss Foundation, Certificate of Appreciation (2002)

Dean's List, University of Wisconsin Law School (Spring and Fall Semesters 1992)

Dean's List, University of Wisconsin (Fall 1986, Spring 1987, Fall 1987, and Fall 1988)

Phi Kappa Phi

I have also received several special recognition awards and/or certificates of appreciation from the Phoenix Police Department and the Maricopa County Attorney's Office for various cases I have handled as a prosecutor.

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 Commission for Judicial Performance Review
Conference Team Member (2007 & 2016)

Arizona Homicide Investigators Association (2000)

Arizona Judges Association (2009 – Present)

Arizona State Bar (1994 – Present)
Family Practice & Procedure Committee (2012 – 2015)

Arizona Women Lawyers Association (2000 – 2014)
Steering Committee member (2006 – 2014)
Social Committee Co-chair (2007 – 2008)
Luncheon Committee (2005 – 2007)
Wine and Cheese Committee (2003 – 2004)

Childhelp Phoenix Chapter (2004)

Federalist Society for Law and Public Policy (2011 – Present)

Maricopa County Superior Court Judicial Education and Training Committee (2010 – 2015)

Maricopa County Superior Court Judicial Education Day Committee (2010 – 2011)
Co-chair (2011)
Civil Breakout Co-chair (2017)

Thurgood Marshall Inn of Court (2005 – 2010)
Treasurer (2008)

Wisconsin Bar Association

Student Liaison to the Criminal Law Section Board (1992 –1994)

Women's Network (1998)
Policy Committee Member

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, 1994. Wisconsin, 1994 – 2008

I did not renew my membership in the Wisconsin Bar in 2008 after being on inactive status for a number of years. I have not sought to practice as a Wisconsin lawyer while inactive or after I discontinued my membership in the Wisconsin Bar. There has been no lapse in my membership in the Arizona Bar.

- 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.

My membership in the Arizona and Wisconsin Bars permitted me to practice before all state courts in those jurisdictions. I have not been admitted to any other court.

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.

Childhelp Wings Volunteer (2016 – 2017)

- 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 above organizations currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

None.

- 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.

During my tenure on the Arizona State Bar's Family Practice and Procedure Committee, the committee submitted eight petitions and one comment to the Supreme Court of Arizona for review. Copies of these petitions and comments are supplied.

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

U.S. House of Representatives, Committee on Financial Services, *Hacked Off: Helping Law Enforcement Protect Private Information*, June 29, 2011. Copy supplied.

- 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.

March 14, 2017: Speaker, Conference of Western Attorneys General, 2017

Chair's Initiative and Western Pacific A.G. Summit, Honolulu, Hawaii. I spoke about handling of a public corruption case from a judge's perspective. I have no notes, transcripts, or recordings. The address for the Conference of Western Attorneys General is 1300 I Street, Sacramento, California 95814.

October 13, 2015: Speaker, Plea Agreements, Conference of Western Attorneys General Alliance Partnership Binational State Attorney General Exchange, Mexico City, Mexico. PowerPoint presentation supplied.

July 22, 2015, Speaker, Prosecuting a Murder Case: "Experience a No Body Homicide by Following the Gun, the Blood, and the Money", Conference of Western Attorneys General, Maui, Hawaii. I spoke about the challenges of trying a murder case when the body of the victim is never found, from a judge's perspective. I have no notes, transcript or recordings. The address for the Conference of Western Attorneys General is 1300 I Street, Sacramento, California 95814.

May 1, 2015: Presenter, National Business Institute Judicial Forum, Phoenix, Arizona. Recording supplied.

October 25, 2013: Presenter, Maricopa County Judicial Education Day, Mesa, Arizona. PowerPoint presentation supplied.

May 3, 2013: Presenter, National Business Institute Judicial Forum, Phoenix, Arizona. As one of several panelists, I participated in a roundtable on family law topics, responding both to a moderator and to questions from the audience. I have no notes, transcripts, or recordings. The address for the National Business Institute is 1218 McCann Drive, Altoona, Wisconsin 54720.

February 2012: Guest Lecturer, Arizona Christian University, Family Law and Public Policy course, Phoenix, Arizona. I spoke about divorce and custody proceedings and how they affect the families. I have no notes, transcripts, or recordings. The address for Arizona Christian University is located at 2625 East Cactus Road, Phoenix, Arizona, 85032.

April 2010 and April 2011: Panelist, Sandra Day O'Connor College of Law, Arizona State University, Phoenix, Arizona. I participated in a panel, along with five other judges, on sentencing issues. I have no notes, transcripts, or recordings. The address for the Sandra Day O'Connor College of Law, Arizona State University is 111 East Taylor Street, Phoenix, Arizona 85004.

November 17, 2006: Speaker, Arizona Family Support Council Fall Conference., Phoenix, Arizona I spoke about child support enforcement and was also a member of panel that answered questions. I have no notes, transcripts, or recordings. The address for the Arizona Family Support Council is Post Office Box 45016, Phoenix, Arizona 85064.

September 15, 2006: Speaker, Arizona State Bar “Parting Shots” CLE program, Phoenix, Arizona. I spoke about orders of protection and procedural issues related to hearings on orders of protection. I have no notes, transcripts, or recordings. The address for the State Bar of Arizona address is 4201 North 24th Street, Suite 200, Phoenix, Arizona 85016.

May 25, 2002: Speaker, Miss Foundation, Phoenix, Arizona. I spoke about prosecuting child fatalities. I have no notes, transcripts, or recordings. The address for the Miss Foundation is Post Office Box 9195, Austin, Texas 78766.

2000 – 2002: Phoenix Police Academy, Phoenix, Arizona. I lectured at the Phoenix Police Academy about investigating domestic violence crimes. I do not recall the precise dates. I have no notes, transcripts or recordings from these events. The address for the Phoenix Police Academy is 1001 South 15th Avenue, Phoenix, Arizona 85041

1999 – 2002: Arizona Prosecuting Attorney’s Advisory Council New Attorney Training Seminars, Phoenix, Arizona. I spoke on various dates about issues related to the training of new attorneys. I do not recall the precise dates. I have no notes, transcripts, or recordings for these events. The address for the Arizona Prosecuting Attorney’s Advisory 1951 West Camelback Road, Suite 202 Phoenix, Arizona 85015

In addition to the above, I also spoke on behalf of the Maricopa County Attorney’s Office at two different high schools regarding domestic violence and its cycle, prevention, and prosecution. I do not recall the dates or locations. I have no notes, transcripts, or recordings.

- 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.

Olivia Fierro, *The Other Half*, KTVK-TV, February 12, 2016. Video available at https://www.youtube.com/watch?v=ZGkDo_9Kq_c.

In 2014, I appeared in a campaign video for my husband’s campaign for Arizona Attorney General. Video available at <https://www.youtube.com/watch?v=ALrAoygmcnY>

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 December 2003, I was appointed Commissioner of the Maricopa County Superior

Court by the Presiding Judge Colin Campbell. In January 2009, I was appointed to be a Judge of the Maricopa County Superior Court by Arizona Governor Janet Napolitano.

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

I have presided over more than 1,400 cases that have gone to verdict or judgment. Approximately 100 were trials.

- i. Of these, approximately what percent were:

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

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

The Maricopa County Courts do not issue written opinions. My rulings are recorded in the minute entries entered on the Court's docket.

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

1. *State v. Manuel*, CR2004-022846-001 (Ariz. Super. Ct.).

Defendant was charged with four counts for shooting of a pawn shop owner to death during an armed robbery. The trial lasted three months and defendant received the death penalty for the murder count. I presided over pretrial motions, jury selection, the three-month trial, and instructing the capital jury.

Prosecuting Attorneys

Ted Duffy
Law Offices of Ted Duffy
Post Office Box 30656
Phoenix, Arizona 85046
(602) 548-1888

David Rodriguez
Pinal County Attorneys' Office
Post Office Box 887
Florence, Arizona 85132

(520) 866-5500

Defense Counsel

Dan Patterson and Alan Tavassoli
Office of Legal Advocate
222 North Central Avenue, Suite 154
Phoenix, Arizona 85004
(602) 506-8800

2. *State v. Hunt*, CR2006-102073-001 (Ariz. Super. Ct.).

Defendant was charged with first degree murder, armed robbery, and related offenses, as part of a robbery scheme. The prosecution sought the death penalty. Defendant was convicted at trial but the jury hung as to the penalty for the murder count. Defendant later entered a plea agreement where he agreed to a life sentence so he would not face the death penalty. I presided over pretrial litigation, as well as the trial on both the liability and penalty phases.

Prosecuting Attorneys

Treena Kay
Manuel Desi Rubalcaba
301 West Jefferson Street, 8th Floor
Phoenix, Arizona, 85003
(602) 506-5780

Defense Counsel

Rebecca Felmly
2733 North Power Road, Suite 102-303
Mesa, Arizona 85215
(480) 629-4013

Rodrick Carter
Law Offices of Rodrick S. Carter PC
45 West Jefferson Street, Suite 501
Phoenix, Arizona 85003
(602) 606-4660

3. *State v. Benson*, CR2008-130121 (Ariz. Super. Ct.).

Defendant was charged with ten counts involving four victims of rape, two of whom were murdered. The State sought the death penalty. I presided over significant pretrial motion practice and other proceedings, as well as the three-month trial. Defendant was convicted and received the death penalty.

Prosecuting Attorneys

Kirsten Valenzuela

Robert Shutts
301 West Jefferson Street
Phoenix, Arizona 85003
(602) 506-5780

Defense Counsel

Tim Agan
Arizona Justice Project
411 North Central Avenue, Suite 600
Phoenix, Arizona 85004
(602) 496-0285

Lynn Burns
Retired

4. *State v. McIntosh*, CR2007-006599-002 (Ariz. Super. Ct.).

Defendants were convicted of Possession of Marijuana for Sale, a Class 2 felony, and Possession of Drug Paraphernalia, a Class 6 felony, after a trial by jury. I presided over pretrial litigation and trial in this case involving five co-defendants and six advisory counsel, including adjusting the courtroom to ensure the appropriate appearance. Additionally, all five co-defendants represented themselves, refused to dress for court, and refused to participate in much of the trial. They were each convicted and received substantial sentences.

Prosecuting Attorney

Jonell Lucca
[formerly with Maricopa County Attorney's Office]
Assistant U.S. Attorney
United States Attorney for the District of Arizona
40 North Central Avenue, Suite 1200
Phoenix, Arizona 85004
(602) 514-7500

Defense Counsel

Each defendant represented himself. Advisory Attorneys were:

Jaime Hindmarch
Office of Legal Advocate
222 North Central Avenue, Suite 154
Phoenix, Arizona 85004
(602) 506-4111

John McBee
3104 East Camelback Road, PMB 851
Phoenix, Arizona 85016

(602) 903-7710

Marvin Davis
[formerly with the Law Offices of Marvin L. Davis, PLLC]
Maricopa County Superior Court
175 West Madison Street
Phoenix, Arizona 85003
(602) 506-3151

Linda Tivorsak
Jones, Skelton & Hochuli PLC
40 North Central Avenue, Suite 2700
Phoenix, Arizona 85004
(602) 263-1700

Christopher Winchell
60 East Rio Salado Parkway, Suite 900
Tempe, Arizona 85281
(480) 917-9977

5. *State v. Valentini*, CR2011-005869 (Ariz. Super. Ct.).

Defendant was charged with Second Degree Murder in the death of his girlfriend, as well as Fraud Schemes for the use of her credit cards and personal assets without permission after he killed her. This trial was challenging because 48 Hours filmed the entire trial and defendant refused to identify himself when asked to do so. Defendant was convicted of both counts by the jury.

Prosecuting Attorney

Juan Martinez
Maricopa County Attorney's Office
301 West Washington Street
Phoenix, Arizona 85003
(602) 506-5780

Defense Counsel

Max Covil
Arizona Department of Transportation
3838 North Central Avenue,
Phoenix, Arizona 85012
(602) 712-7737

Marie Farney
Retired

6. *State v. Jarrell*, CR2007-007505 (Ariz. Super. Ct.).

Defendant was charged with First Degree Felony Murder and Child Abuse in the death of a four-month old child from blunt force trauma. I presided over the trial, which involved significant testimony about injuries consistent with shaken baby syndrome. Defendant was acquitted.

Prosecuting Attorney

Lori Eidemanis
Maricopa County Attorney's Office
301 West Washington Street
Phoenix, Arizona 85003
(602) 506-5999

Defense Counsel

John Price Dewitt
Retired

7. *State v. Kelley*, CR2010-123572 (Ariz. Super. Ct.).

Defendant was charged with Second Degree Murder and Aggravated Assault in the shooting death of one neighbor, and for pointing the gun and threatening another. This was charged as a hate crime. I presided over the pretrial motion practice and the trial. The jury found defendant guilty on both counts, but did not find that the offense was committed because of the victim's race.

Prosecuting Attorney

Heather Livingstone
Maricopa County Attorney
301 West Jefferson Street
Phoenix, Arizona 85003
(602) 506-5780

Defense Counsel

Robert Ditsworth
Maricopa County Public Defender
620 West Jackson Street, Suite 4015
Phoenix, Arizona 85003
(602) 506-7711

8. *State v. Hinkle*, CR2008-159514 (Ariz. Super. Ct.).

Defendant was charged with First Degree Murder, Misconduct Involving Weapons, and Armed Robbery. He was facing the death penalty and had other pending cases. I presided over an eight-day *Atkins* hearing to determine if Defendant was intellectually disabled. I found that he was intellectually disabled

and therefore not eligible for the death penalty. After that ruling, defendant pled guilty to Second Degree Murder and Participating in a Criminal Street Gang.

Prosecuting Attorney

Kristin Sherman
Maricopa County Attorney's Office
301 West Washington Street
Phoenix, Arizona 85003
(602) 506-3411

Defense Counsel

Joel Brown
Lawrence Blieden
Maricopa County Public Defender
620 West Jackson, Suite 4015
Phoenix, Arizona 85003
(602) 506-7711

9. *In Re Marriage of Gersten*, FN2005-051436 (Ariz. Super. Ct.).

This was a divorce case with no children involved. A different judge presided over the trial, but retired without ruling. I was a commissioner and the presiding judge appointed me to preside over the retired judge's calendar until a new judge was appointed. I had to finalize this case without a new trial. I reviewed the electronic recording of the trial and the Court file, and entered a decree of dissolution of marriage. I do not believe this situation had ever occurred in our court. The Court of Appeals ruled that I complied with my obligations under the rule for entering the decree of dissolution, but found that I was obligated to review additional portions of the pretrial record before ruling on the propriety of an attorneys' fee award.

Attorney for Husband

Sonya Underwood
3030 North Third Street, Suite 200
Phoenix, Arizona 85012
(602) 274-2151

Attorney for Wife

Julius Harms III
No contact information available

10. *Jaynes v. McConnell*, CV2011-070613 (Ariz. Super. Ct.).

I was assigned to retry this medical malpractice case alleging negligence in the diagnosis of rectal cancer. It was originally tried before a different judge. I presided over the trial, most of which was presented through deposition

testimony. The jury found for defendant.

Plaintiff's Attorneys:

Timothy Kasperek
Post Office Box 7437
Goodyear, Arizona 85338
(623) 242-8945

Roy A. Hulme
101 West Prospect Avenue
Cleveland, Ohio 44115
(419) 245-3759

Defendant's Attorneys

William Jones, Jr.
Deceased

Kathleen Elder
Jones, Skelton & Hochuli
40 North Central Avenue, Suite 2700
Phoenix, Arizona 85004
(602) 263-1701

- 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.

All of my decisions and recorded by minute entry on the Court's docket, and are publicly available. My decisions are not published. My available significant opinions are attached in response to Question 13(c).

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

I contacted the clerk's office for the Maricopa County Superior Court to determine if there are any cases over which I have presided in which certiorari has been sought. The Maricopa County Superior Court is unable to determine whether certiorari has been sought in any particular case. I contacted the Arizona Supreme Court clerk's office and obtained a list of all cases over which I presided in which review was sought or received in the Arizona Supreme Court or the Arizona Court of Appeals. I then searched the United States Supreme Court's docket for each of those cases, and found no record of certiorari being sought in any case except *Gersten v. Gersten*, 562 U.S. 1004 (2010). Certiorari has not been granted in any case over which I presided.

- f. Provide a brief summary of and citations for all of your opinions where your

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

State v. Stuart, No. 1 CA-CR 12-0340, 2013 WL 4080765 (Ariz. Ct. App. Aug. 13, 2013).

Defendant was charged with illegally conducting an enterprise and money laundering and was convicted after trial. The Court of Appeals found that State's expert improperly testified as to the ultimate issue, and reversed.

State v. Bunting, 250 P.3d 1201 (Ariz. Ct. App. 2011).

Defendant was found guilty of the crime of misconduct involving weapons based on a submitted record. The decision to proceed without a jury on a submitted record was at the request of the counsel for the State and the Defendant. I went through a colloquy with the defendant to determine if her waiver of a jury was knowingly, intelligently, and voluntarily made. I reviewed the police reports submitted and found Defendant guilty for misconduct involving weapons. I then held an evidentiary hearing on the issue of whether defendant was insane at the time of the offense. The Court of Appeals reversed and held that I needed to ask additional questions of defendant to determine whether her agreement to submit her case on the record was knowingly, intelligently, and voluntarily made.

State v. Thomas, No. 1 CA-CR 11-0250, 2012 WL 2864408 (Ariz. Ct. App. July 12, 2012).

Defendant was convicted by a jury of possession of dangerous drugs for sale, possession or use of marijuana, and possession of drug paraphernalia. Arizona had recently passed a new sentencing law regarding drug possession. That law required the trial court to place defendants on probation for convictions for personal possession of drugs. After Mr. Thomas was sentenced, the Court of Appeals ruled that this law would not apply to people convicted of methamphetamine related offenses. Therefore, the Court of Appeals reversed the sentence in this case and remanded for resentencing.

In Re Marriage of Gersten, 219 P.3d 309 (Ariz. Ct. App. 2009).

I was required to render the verdict in a trial presided over by another judge, who resigned without entering the divorce decree. I was still a Commissioner at this time. In a circumstance that I do not believe had previously occurred, I had to utilize Rule 88 of the Arizona Rules of Family Law Procedure to finalize this case without a new trial. I reviewed the electronic recording of the trial and the Court file and entered a decree of dissolution of marriage. The Court of Appeals ruled that I complied with my obligations under the rule for entering the decree of

dissolution, but determined that I was obligated to review additional portions of the pretrial record before ruling on an attorneys' fee award. The Court of Appeals also reversed my ruling on child support for an adult disabled son. I have supplied the substantive ruling that I issued in response to Question 13(c).

- 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.

The decisions of trial court judges in Maricopa County are not published. All of my decisions are memorialized by minute entry on the Court's docket. All minute entries are filed and stored at Clerk of Superior Court's Office.

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

Decisions of the trial court judges in Maricopa County are not published.

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

I have not sat by designation on a federal court of appeals.

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

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

To assess the necessity or propriety of recusal, I follow Arizona's Code of

Judicial Conduct. Specifically, Canon 3 says that a judge shall perform the duties of judicial office impartially and diligently.

I do not recall any cases where a party requested that I recuse myself because of an asserted conflict of interest. Following the election of my husband to serve as Attorney General for Arizona, I have recused myself *sua sponte* on any case involving the Arizona Attorney General's Office. My husband is not the attorney of record in most of these cases; however, I chose to recuse myself to avoid even the appearance of an impropriety. I also recused myself from a civil case where the attorney for one of the parties was the attorney who advised me on ethical issues during my husband's campaign and represented me on a judicial complaint during the campaign. I do not have a list of cases where I have recused myself.

15. Public Office, Political Activities and Affiliations:

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

I have not held any public office other than as a Judge and Commissioner. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

I have not held office or been a member in any political party or election committee.

My husband ran for, and was elected to, serve as Attorney General for Arizona in 2014. I was never directly involved in the campaign. I did not solicit funds or engage in direct campaign activities such as speaking on behalf of my husband or preparing mailers or actively campaigning. My husband's campaign did use family photographs that included myself and our daughters, I appeared in a campaign video, and I accompanied my husband to some events. My role as a judicial officer was never mentioned by his campaign or me during this period. I consulted with ethics counsel throughout the campaign to ensure compliance with judicial ethics.

16. Legal Career: Answer each part separately.

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

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

I have not served as a law clerk to a judge.

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

I have never practiced alone.

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

March 1995 – December 2003
Maricopa County Attorney's Office
301 West Jefferson Street
Phoenix, Arizona 85003
Deputy County Attorney

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 never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From 1995 until 2003, I was as a prosecutor with the Maricopa County Attorney's Office. During that time I worked in various areas within the MCAO. I began my time working in the Preliminary Hearing Bureau, where I handled preliminary hearings at the justice court. I also reviewed files for plea offers and handled plea arraignments. It was also my responsibility to handle misdemeanor trials and traffic violations at the justice courts.

I then began serving as a prosecutor handling a caseload of felony offenses. My responsibilities included preparing and prosecuting various felony cases in Superior Court. During this time, I handled a caseload of 60 cases at one time and conducted six felony jury trials.

In 1996, I moved on to the Family Violence Bureau, where I was responsible for felony prosecution of domestic violence crimes, elder abuse, child abuse, and family homicides. During my time at the MCAO, I also worked in the training division, where I worked as a mentor for new attorneys in the office, and I developed a training program for attorneys moving into a trial position. I also developed a modified training program for those attorneys moving into the juvenile division and a trial advocacy program for more experienced attorneys.

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

As a prosecutor, I did not have clients other than the state of Arizona.

- 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.

From 1995 until I became a judge in 2003, I was a prosecutor with the Maricopa County Attorney's Office. I appeared regularly in Court and tried 50 cases to a verdict in that time, including 49 jury trials.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 0%
- 2. state courts of record: 100%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 0%
- 2. criminal proceedings: 100%

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

I did not keep track of the cases that I tried while in the preliminary hearing bureau. During the rest of my time in the Maricopa County Attorney's Office, I tried 49 felony jury trials and one bench trial.

- i. What percentage of these trials were:

- 1. jury: 98%
- 2. non-jury: 2%

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

I have not practiced before the Supreme Court of the United States.

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

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

1. *State v. Grell*, CR1999-095294 (Ariz. Super. Ct.).

I served as the sole attorney of record for the Maricopa County Attorney's Office from December 1999 to June 2003. The defendant was charged with first degree murder for the death of his two year old daughter, Kristen. Defendant picked Kristen up from day care, drove to Target to buy some gas, and then drove her to a remote part of Apache Junction and lit her on fire. We sought the death penalty. The defendant raised the issue of his mental health in mitigation and we had to clarify the distinction between low intelligence and intellectual disability. Defendant was convicted of first degree murder and sentenced to death. After his conviction and sentence, there were a number of new cases from the United States Supreme Court on mental capacity and the death penalty. This case was remanded back several times for resentencing. The defendant ultimately received a sentence of natural life in prison. Judge Barbara Jarrett presided over the bench trial.

Defense Counsel

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Gerald Gavin
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Kingman, Arizona 86409
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2. *State v. Biskind*, CR1999-000198 (Ariz. Super. Ct.).

I was co-counsel on this case, which was tried from January 18, 2001 to February 20, 2001. Defendants were charged with Manslaughter for the death of Lou Ann Herron, who received an abortion in defendants' clinic. After the procedure was completed, she received almost no medical care and bled to death in the recovery room. Both defendants were convicted at trial. Judge Michael Wilkinson presided over the trial.

Co-counsel

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Defense Counsel for Defendant Biskind

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Defense Counsel for Defendant Stuart-Schadoff

Cameron Morgan
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3. *State v. Thompson*, CR1999-007826 (Ariz. Super. Ct.).

I was the sole attorney of record from June of 1999 to July of 2000. Defendant, who was separated from his wife, broke into her home and shot her five times. The victim was able to call 911 after she was shot the first time and we hear him yelling at her and shooting her four more times. Defendant was convicted of first degree murder and sentenced to life without the possibility of parole. Judge Bernard Dougherty presided over the action.

Defense Counsel

Maria Schaffer
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4. *State v. Rogel*, CR2001-004653 (Ariz. Super. Ct.).

I was counsel of record from March to July of 2002. Defendant was charged in the death of his 11 month old son, Ricardo. Defendant was left alone for the first time to care for his son and he was tired and did not want to do it. By 3:00, the baby was fatally injured with several bruises on his face and body. He had a subdural hematoma, retinal hemorrhages, and antio-occipital separation. The defendant claimed that the baby fell from the bed. The experts said that it was impossible to generate enough force from a short distance fall to kill this baby. The experts put the fatal injury within two hours of the 911 call, and defendant was the only one with the baby during that time. Defendant was convicted by a jury of second degree murder and sentenced to 27 years in the Department of Corrections. Judge Gregory Martin presided over the matter.

Defense Counsel

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(602) 506-8800

Bobbi Falduto
1705 East Elmwood Street
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(602) 510-8042

5. *State v. Gutierrez*, CR1996-12058 (Ariz. Super. Ct.).

I was the sole attorney of record from January of 1997 to June of 1997. After Defendant and his wife of six years split up, he began to call her endlessly at work and threatened her in various ways. As a result, the victim tried to commit suicide and the victim and her children slept on the floor with the window boarded up. Defendant was charged and convicted of stalking. This was the first successful stalking prosecution in the Maricopa County Attorney's Office. Judge Steven Sheldon presided over the action.

Defense Counsel

Charles Vogel
Legal Defender's Office
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Phoenix, Arizona 85004

6. *State v. Washington*, CR2001-007166 (Ariz. Super. Ct.).

I was the sole attorney of record from December of 2001 to April of 2002. Defendant

beat his wife with his hands, a ceramic vase, and a towel bar. Then he made her clean it up and call in sick to work for 1 week. He would not let her leave the house for 2 days. She eventually escaped and called her daughter. She had a subdural hematoma and vision problems because of the beating. Defendant was charged and convicted of Aggravated Assault and Kidnapping. Judge Michael Wilkinson presided over the case.

Defense Counsel

Larry Blieden
Deputy Public Defender
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7. *State v. Hardy*, CR1995-009911 (Ariz. Super. Ct.).

I was the sole attorney of record from May of 1996 to May of 1997. Defendant ran an escort service and was living with one of his employees, Tanya. Tanya left the Defendant after being beaten, and went to live with her mother. She returned to the apartment a couple of days later to get her personal belongings, along with her mother and a male friend. The defendant shot the male friend but the bullet ricocheted off the victim's sunglasses and grazed his scalp. Defendant was charged with attempted first degree murder and aggravated assault. Defendant was convicted of aggravated assault. Judge William Sargeant presided over the action.

Defense Counsel

Bruce Blumberg
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8. *State v. Jernigan*, CR1995-010071 (Ariz. Super. Ct.).

I was the sole attorney of record from November 8, 1995 to June of 1997. Defendant and two others robbed two men at gunpoint. Defendant pistol whipped one victim and kicked him while he was on the ground, resulting in a skull fracture and requiring brain surgery. The two co-defendants entered into plea agreements. Mr. Jernigan was convicted by a jury of two counts of armed robbery and one count of aggravated assault. Judge Bernard Dougherty presided over the action.

Defense Counsel

Steve Rempe
Retired
10830 North 11th Street
Phoenix, AZ, 85020

9. *State v. Salcedo*, CR1999-011509 (Ariz. Super. Ct.).

I was the sole attorney of record from August of 1999 to October of 2000. Defendant was charged with child abuse based on shaking injuries for an infant named Wayde. Defendant said 21-month old Wayde suffered his brain injuries from falling off the bed. Defendant was convicted of a lesser included offense of negligent child abuse, a Class 4 felony. Judge Peter Reinstein presided over the action.

Defense Counsel

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10. *State v. Moseley*, CR2000-006729 (Ariz. Super. Ct.).

I was the attorney of record from June 2000 to November 2000. Defendant was charged with aggravated assault for the stabbing of her ex-husband. She claimed self-defense, but the jury found her guilty as charged. Judge Louis Araneta presided over the action.

Defense Counsel

Elizabeth Flynn
Maricopa County Public Defender
11 West Jefferson, Suite 5
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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 have spent my legal career litigating cases on behalf of victims of crime, focusing on family violence crimes. I was also active in mentoring new prosecutors and creating training programs for new prosecutors.

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 taught any courses.

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 do not anticipate receipt of any such funds, except for money saved in my retirement accounts and any judicial pension from the Maricopa County Superior Court.

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

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

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).

I received my judicial salary from Maricopa County during the last year and minimal interest income from bank accounts. I have not received any dividends, rents, gifts, royalties, licensing fees, honoraria, or any other income exceeding \$500 or more.

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

See the attached financial disclosure.

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.

My husband, Mark Brnovich, is the Attorney General for the State of Arizona. There are likely to be potential conflicts that arise from his job. If a case assigned to me involves the Arizona Attorney General's Office, I would recuse myself.

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

I will continue to consult and follow the judicial ethics rules concerning any potential conflict of interest to determine if I should recuse myself from any particular case, including Canon 3 of the Code of Judicial Conduct for United States Judges and 28 U.S.C. § 455. I will continue to recuse myself from cases involving the Arizona Attorney General's Office until my husband is no longer Arizona's Attorney General.

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

I have been prohibited from doing pro bono legal work during my legal career because of the positions that I have held as both a prosecutor and judge. I make an effort to volunteer in the community to fulfill the type of commitment described above. I have volunteered with St. Mary's Food Bank, Feed My Starving Children, Childhelp, local Christmas angel programs, and at church. I also volunteered on National Adoption day and for the Arizona Veterans Stand Down event.

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.

United States Senators McCain and Flake published notice of and applications for judicial vacancies on their websites. I applied when the application was posted. The Senators created a committee of eight people to screen the applicants. I interviewed with the committee on March 25, 2017. The committee approved a list of six names to be approved by the Senators, including mine. Those names were then forwarded to the White House. The White House Counsel's Office contacted me to schedule an interview in Washington D.C. on April 21, 2017 with attorneys from White House Counsel's Office and the Department of Justice present for the interview. Since that time, I have been in contact with attorneys from the Office of Legal Policy and the Department of Justice. On January 24, 2018, the President submitted my nomination to the United States Senate.

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

No.