

James A. Soto
P.O. Box 627
287 Paseo Contento Loop
Nogales, Arizona 85621

January 6, 2014

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

Dear Mr. Chairman:

I have reviewed the Senate Questionnaire that I previously filed on December 31, 2013, in connection with my nomination to be a United States District Court Judge for the District of Arizona. I certify that the information contained in that document is and remains, to the best of my knowledge, true and accurate.

I am also forwarding an updated Net Worth Statement and Financial Disclosure Report as requested in the Questionnaire. I thank the Committee for its consideration of my nomination.

Very truly yours,

A handwritten signature in black ink, appearing to read 'J. A. Soto', with a stylized flourish at the end.

James A. Soto

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

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

James Alan Soto

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.

Santa Cruz County Superior Court
2160 North Congress Drive
Nogales, Arizona 85621

Residence: Nogales, Arizona

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

1950; Nogales, Arizona

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

1972 – 1975, Arizona State University College of Law; J.D., 1975

1967 – 1971, Arizona State University; B.S., 1971

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.

2001 – present
Superior Court of Arizona, Santa Cruz County
2160 North Congress Drive

Nogales, Arizona 85621
Superior Court Judge

1992 – 2001
Soto, Martin and Coogan, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder and President

1975 – 1993
Town of Patagonia
310 West McKeown Avenue
Patagonia, Arizona 85624
Part-time Town Attorney

1989 – 1992
Larson and Soto, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1985 – 1989
Larson, Soto and Arana, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1981 – 1984
Larson, Soto and Machado, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1975 – 1984
Office of the Nogales City Attorney
777 North Grand Avenue
Nogales, Arizona 85621
Part-time Deputy City Attorney

1979 – 1981
Larson and Soto, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

September 1977 – May 1980
Pima Community College, Nogales branch
4905 East Broadway Boulevard
Tucson, Arizona 85709
Lecturer, Law-Related Courses

1976 – 1979
Law Offices of James A. Soto
477 North Grand Avenue
Nogales, Arizona 85621
Solo practitioner

March – June 1979
Santa Cruz County Attorney's Office
2150 North Congress Drive
Nogales, Arizona 85621
Part-time Deputy County Attorney

1971 – 1977
Arizona National Guard
Nogales, Arizona and Phoenix, Arizona
Specialist 4

1975 – 1976
Law Offices of Nasib Karam
North Grand Avenue
Nogales, Arizona 85621
Associate

June – September 1971
Soto's Western Auto Store
(no longer in operation)
Nogales, Arizona
Store Clerk

Other affiliations (uncompensated unless otherwise indicated):

2012 – present
SoBros, LLC
P.O. Box 25405
Tempe, Arizona 85285
Member (33% profit share)

1985 – 2012
L. & G. International Inc.
(no longer in operation)
Stock holder, director, officer (50% profit share)

1980 – present
Baffert-Soto Partnership
545 North Grand Avenue
Nogales, Arizona 85621
Partner (50% profit share)

1997 – present
Mariposa Community Health Center
1852 North Mastick Way
Nogales, Arizona 85621
Board of Directors

1983 – present
Efraim Canyon Properties, LLC
P.O. Box 627
Amado, Arizona 85645

2000 – 2006
825 North Grand Avenue
Nogales, Arizona 85621
Santa Cruz Community Foundation
Board of Directors

Approximately 1981 – 1987
Holy Cross Hospital
1171 West Target Range Road
Nogales, Arizona 85621
Board of Directors

1977 – 1978
Santa Cruz County Bar Association
571 North Grand Avenue
Nogales, Arizona 85621
President

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

1971 – 1977
Arizona National Guard
Honorable Discharge

I registered for the selective service upon turning 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.

Appreciation Award from Santa Cruz County Victim's Services Division (2013)

Appreciation Award from Mariposa Community Health Center (2012)

Appreciation Award from Arizona Supreme Court Leadership Conference (2012)

Appreciation Award from Nogales Boys and Girls Club (2012)

Appreciation Award from the City of Nogales (2011)

Appreciation Award from Nogales Boys and Girls Club (2009)

Appreciation Award from Fresh Produce Association of the Americas (2001)

Graduation with honors from Arizona State University (1971)

Academic scholarship to Arizona State University (1967 – 1971)

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 Judicial Council (2006 – 2011)

Arizona Supreme Court Advisory Committee on Rules of Evidence (2012 – present)

Arizona Supreme Court Commission on Technology (2003 – 2005)

Arizona Supreme Court Committee on Superior Court (2003 – 2011)
Chairman (2006 – 2011)

International Dispute Study Committee (1992)

Santa Cruz County Bar Association (1975 – present)
President (1977 – 1978)

State Bar of Arizona (1975 – present)

Superior Court Presiding Judges Committee (2001 – present)

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, 1975

There has not been any lapse in membership.

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

United States District Court for the District of Arizona, 1976

Supreme Court of Arizona, 1975

There have been no lapses in membership.

11. **Memberships:**

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

Arizona Department of Transportation, State Transportation Board (1989 – 1995)
Chairman (1994 – 1995)

Arizona-Sonora Governors' Border Infrastructure Commission (approximately 1992)

Joint Legislative Review Committee on Transportation Between Sonora, Mexico and Arizona (approximately 1999)

Governor's Task Force for the CANAMEX Trade Corridor (1999 – 2001)

Carondelet Holy Cross Hospital
Board of Directors (approximately 1981 – 1987)

Mariposa Community Health Center
Board of Directors (1997 – present)

Santa Cruz Community Foundation
Board of Directors (2000 – 2006)

Elks Lodge No. 1387 (1976 – 1980)

- 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.

During my period of membership in the Elks Lodge, from 1976 to 1980, membership was restricted to male citizens of at least 21 years of age who believed in a Supreme Being. Prior to my joining, membership was further restricted on the basis of race. To the best of my knowledge, none of the other organizations listed in response to 11a above currently discriminates or has ever previously discriminated on the basis of race, sex, religion, or national origin.

12. Published Writings and Public Statements:

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

Celebrating Equality For All On Law Day, Nogales International, May 1, 2013.
Copy supplied.

With Honorable Ruth V. McGregor, *Let's Keep Politics Out Of The Judiciary*,
Nogales International, Oct. 24, 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.

As a member of the Arizona Superior Court Commission on Technology on Technology between 2003 and 2005, I voted to approve the 2005 – 2007

Information Strategic Plan and the 2006 –2008 Information Technology Strategic Plan. Copies supplied.

In my role as the presiding judge, I also participated in the creation of the 2013 – 2015 Santa Cruz Information Technology Strategic Plan. Copy supplied.

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

As the Presiding Judge in Santa Cruz County, I appear before the Santa Cruz County Board of Supervisors on occasion and introduce them to new court managers, recognize employees after numerous years of service, introduce visiting state court officials, and present major budgetary requests to the Board of Supervisors. Minutes supplied where available.

As a member of the Arizona Judicial Council between 2006 and 2011, I made statements and comments on a regular basis at the quarterly board meetings. Minutes supplied where available.

As a member of the Committee of the Superior Court between 2003 and 2011, I made statements and comments on a regular basis at the quarterly board meetings. Minutes supplied where available.

As a member of the Joint Legislative Review Committee on Transportation Between Sonora, Mexico and Arizona in 1999, I made statements and comments at committee meetings. Minutes supplied where available.

As a member of the Arizona State and Transportation Board from 1989 – 1995, I recall making statements and comments on a regular basis at the monthly board meetings. I have notes, transcripts, or recordings.

- 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.

January 2, 2013: I gave brief remarks and administration of oath of office at swearing-in ceremony for Santa Cruz County elected officials in Nogales,

Arizona. I have no notes, transcript, or recording. There was no sponsorship organization.

August 29, 2012: I gave the keynote speech at a Boys and Girls Club public awareness event in Nogales, Arizona. Outline supplied.

November 18, 2010: I provided the welcoming remarks made at a presentation to the Statewide Elder Abuse Task Force Conference in Rio Rico, Arizona. Outline supplied.

October 14, 2010: I provided remarks at a dedication ceremony for the new Santa Cruz County court and detention complex in Nogales, Arizona. Outline supplied.

May 26, 2010: I delivered a speech at the Wade Carpenter Middle School Transition Ceremony in Nogales, Arizona. Outline supplied.

October 26, 2009: I delivered the keynote speech at the Nogales Boys and Girls Club Annual Red Ribbon Ceremony, which was an event for drug education and prevention of drug abuse program in Nogales, Arizona. Outline supplied.

January 2, 2009: I gave brief remarks and administration of oath of office at swearing-in ceremony for Santa Cruz County elected officials in Nogales, Arizona. I have no notes, transcript, or recording. There was no sponsorship organization.

October 26, 2008: I gave a dedication speech at a ceremony naming a high school gymnasium in Nogales, Arizona, in honor of a deceased teacher and coach. Outline supplied.

May 21, 2008: I gave a commencement speech at the Rio Rico High School graduation ceremony. Outline supplied.

January 2, 2007: I gave brief remarks and administration of oath of office at swearing-in ceremony for Santa Cruz County elected officials in Nogales, Arizona. I have no notes, transcript, or recording. There was no sponsorship organization.

January 25, 2005: I delivered remarks concerning the state of the judiciary in Santa Cruz County at a presentation by the Santa Cruz County Judiciary to Santa Cruz County Board of Supervisors. Outline supplied.

January 2, 2005: I gave brief remarks and administration of oath of office at swearing-in ceremony for Santa Cruz County elected officials in Nogales, Arizona. I have no notes, transcript, or recording. There was no sponsorship organization.

January 4, 2002: I delivered remarks at my swearing-in ceremony as Superior Court Judge. Outline supplied.

- 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.

Curt Prendergast, "Santa Cruz County Raises Property Taxes 60 Cents," *The Bulletin*, August 14, 2013. Copy supplied.

Jonathan Clark, "Nogales Woman Named One of State's 'Intriguing,'" *The Arizona Republic*, January 22, 2012. Copy supplied.

Manuel C. Coppola, "Santa Cruz County Leaders Addressing Budget Crisis," *Nogales International*, November 12, 2009. Copy supplied.

Manuel C. Coppola, "Judge Soto Still the Boss," *Nogales International*, September 25, 2008. Copy supplied.

Manuel C. Coppola, "Guzman Appointed the New Court Clerk," *Nogales International*, December 21, 2007. Copy available at https://groups.google.com/forum/#!msg/aavia/Ktz35zWTSAw/WcOu7RJAA_UJ.

Manuel C. Coppola, "Santa Cruz County Talks About Growing Pains," *Inside Tucson Business*, April 21, 2005. Copy supplied.

Jerry Smith, "Pete Drakulich's Legacy in His Work to Provide Scholarships Must Be Carried On," *Nogales International*, May 21, 2003. Copy supplied.

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

I have served as a Superior Court Judge for the Superior Court of Arizona, County of Santa Cruz from December 2001 to the present. I was initially appointed by Governor Jane Dee Hull in November 2001 to complete the remaining term of a retiring judge. In 2002, 2006, and 2010 I was elected and then re-elected without opposition as a Superior Court judge to new four-year terms. The Superior Court in Arizona is a general jurisdiction trial court handling criminal, civil, family, probate, juvenile, mental health, and other types of cases.

I was appointed as the Presiding Judge in Santa Cruz County in December 2001 by the Chief Justice of the Arizona Supreme Court and have been re-appointed to successive terms as Presiding Judge for Santa Cruz County in 2004, 2008, and 2013.

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

I have presided over approximately 1,152 cases, based upon estimated average of eight cases per month over an almost twelve-year period.

- i. Of these, approximately what percent were:

jury trials:	5%
bench trials:	95%
civil proceedings:	70%
criminal proceedings:	30%

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

As a state court trial judge, I have not written or issued any published opinions. The written rulings and orders I have issued are available in individual case files and the more recent rulings and orders have been scanned to the court's case management system.

- 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. *Contreras v. Morgan and Cochise County*, Case No. CV-201200327 (Cochise Cty. Super Court); 2012. Decision supplied.

This case was assigned to me as a visiting judge. The complaint was filed by a Deputy Cochise County Attorney alleging invasion of privacy and sought injunctive relief to prevent the release of certain records in plaintiff's personnel files by Cochise County and the Cochise County Attorney's Office sought by an online publisher under a public records request. The plaintiff, who at the time was also a candidate for Superior Court judge in Cochise County, sought to prevent the release of certain written information in plaintiff's personnel file sent to the Cochise County Attorney by the plaintiff's ex-wife alleging wrongdoing by the plaintiff during his period of employment as a deputy county attorney. The issue before this court was whether all, some, or none of the records in question fell under the Arizona Public Records Act. I found that with one exception, the records in question fell under the Act and ordered the release of said records to the publisher.

Counsel for Plaintiff: Roger H. Contreras (representing himself)
Deputy Cochise County Attorney

Post Office Drawer CA
Bisbee, AZ 85603
(520) 432-8700

Counsel for Defendant: David M. Morgan
David M. Morgan d/b/a Cochise County Record,
112 North Seventh Street
Sierra Vista, AZ 85635
(520) 236-4051

Counsel for Defendant: Terry L. Bannon
Deputy Cochise County Attorney
Post Office Drawer CA
Bisbee, AZ 85603
(520) 432-8700

2. *State of Arizona v. Villa*, Case No. CR-11-044 (Santa Cruz Cty. Super. Ct.); 2012. Decisions supplied.

Villa was a criminal case in which the defendant was originally charged with first degree murder and ultimately pled guilty to second degree murder. He was sentenced to 22 years in prison. Numerous evidentiary issues concerning other acts under Rule 404(b) of the Arizona Rules of Evidence as well as the defendant's state of mind were presented in the case. Post-conviction relief proceedings are pending. There are no appellate decisions or citations to the case at the present time.

Counsel for Plaintiff: Charlene A. LaPlante
Kimberly J. Hunley
Deputy Santa Cruz County Attorneys
2150 North Congress Drive, Suite 201
Nogales, AZ 85621
(520) 375-7780

Counsel for Defendant: Thomas L. Fink
825 North Grand Ave., Suite 200
Nogales, AZ 85621
(520) 281-1338

3. *State of Arizona v. Granados*, Case No. CR-10-209 (Santa Cruz Cty. Super. Ct.); 2013.

Granados was a criminal case in which the defendant was charged with and convicted by a jury of sexual assault, aggravated assault, burglary, kidnapping, and other related crimes. The defendant was sentenced to a series of prison terms totaling 20 years. This case is currently on appeal. Significant

issues as to the defendant's mental health, competency, possible malingering, disruptive behavior by the defendant during courtroom proceedings, and lack of cooperation with the court and his appointed counsel were presented during the course of the case.

Counsel for Plaintiff: Charlene A. LaPlante
Deputy Santa Cruz County
2150 North Congress Drive, Suite 201
Nogales, AZ 85621
(520) 375-7780

Counsel for Defendant: James F. Miller (counsel at trial)
1859 North Grand Avenue, Suite Five
Nogales, AZ 85621
(520) 377-9936

Jose M. Lerma (counsel at trial)
1859 North Grand Ave., Suite Three
Nogales, AZ 85621
(520) 281-4483

4. *State of Arizona v. Sexton*, Case No. CR-20100851-001 (Pima Cty Super. Ct.); 2010. Court of Appeals Opinion supplied.

This was a criminal case over which I presided as a visiting judge in which the defendant was charged with sexual conduct with a minor under 15, molestation of a child, and burglary. The defendant was convicted on all counts and was sentenced to a series of prison terms totaling over 50 years. His conviction was affirmed on appeal in an unreported Memorandum Decision. Numerous evidentiary issues arose during the course of the case and most were resolved by the court in pre-trial motions. The Court of Appeals affirmed.

Counsel for Plaintiff: Frances M. Kreamer Hope
Deputy Pima County Attorney
32 North Stone Avenue, Suite 1400
Tucson, AZ 85701
(520) 740-5600

Counsel for Defendant: John M. Sando
Pima County Public Defender's Office
33 North Stone Avenue
Tucson, AZ 85701
(520) 243-6886

5. *Ruiz v. Poggiali*, Case No. DR-09-109 (Santa Cruz Cty. Super. Ct.); 2010. Decision supplied.

This was a family law case concerning child custody between a mother residing in Mexico and a father residing in Italy. At various times during their marriage the parties had lived in the United States, Italy, and Mexico. The case raised issues of jurisdiction, full faith and credit to orders from both Italy and Mexico, the Uniform Child Custody and Jurisdiction Act and the Hague Convention on the Civil Aspects of International Child Abduction. I ultimately gave full faith and credit to an order from an Italian court but retained jurisdiction in the case.

Counsel for Petitioner (mother): Shannon Bradley
Law Office of Shannon S. Bradley, L.L.C.
2151 East Broadway Road, Suite 116
Tempe, AZ 85282
(480) 967-7311

Counsel for Respondent (father): Craig Mehrens
Mehrens & Wilemon, P.A.
99 East Virginia Avenue, Suite 220
Phoenix, AZ 85004
(602) 258-5151

6. *State of Arizona v. Gilliland*, Case No. CR-05-276 (Santa Cruz Cty. Superior Ct.); 2011. Decisions and Court of Appeals opinion supplied.

This criminal case involved a United States Customs Officer who was found guilty by a jury of 317 counts of sexual conduct with a minor, molestation of a child, sexual exploitation of a child, and child abuse. The victim was the defendant's then five-year-old daughter. I ultimately dismissed 33 of the counts. Based upon the nature of the offenses and Arizona's sentencing laws, I sentenced the defendant to prison terms totaling over 6,000 years. The most significant issues in the case dealt with the constitutionality of a series of search warrants issued by a federal magistrate and by this court, whether the evidence seized should have been suppressed, and the issue of whether the 317 counts in the charging Information were multiplicitous in nature. The Arizona Court of Appeals affirmed the defendant's convictions and review was denied by the Arizona Supreme Court.

Counsel for Plaintiff: Thomas C. O'Sullivan
Deputy Santa Cruz County Attorney
2150 North Grand Avenue, Suite 201
Nogales, AZ 85621
(520) 375-7780

Counsel for Defendant: Charles N. Kendall Jr.
Kendall Law Firm, P.C.
1857 Paseo San Luis
Sierra Vista, AZ 85635
(520) 452-9022

7. *Desarrollo Inmobiliario v. Kader Holding Co.*, Case No. CV-03-047 (Santa Cruz Cty. Super. Ct.); 2012. Decisions and Court of Appeals Opinion supplied.

This was a civil case involving a lease agreement, a guaranty agreement, and lease renewal agreements between a Mexican real estate corporation and a Hong Kong based multi-national corporation for a large commercial property located in Hermosillo, Sonora, Mexico. Among the numerous legal issues litigated were issues as to jurisdiction, choice of forum, choice of law, contract law, and guaranty law. The court found that it had jurisdiction, that Arizona law was controlling in the case, and that the defendant was liable as a guarantor of the lease obligations. The Arizona Court of Appeals, Division Two, affirmed in *Desarrollo Inmobiliario v. Kader Holding Company*, 229 Ariz. 367, 276 P.3d 1 (App.). Review was denied by the Arizona Supreme Court.

Counsel for Plaintiff: James O. Ehinger
Jennings, Strauss & Salmon P.L.C.
One East Washington Street, Suite 1900
Phoenix, AZ 85004
(602) 262-5943

Counsel for Defendant: Ralph D. Harris
Burch & Cracchiolo, P.A.
702 East Osborn Road, Suite 200
Phoenix, AZ 85011
(602) 234-9924

Jeffrey Willis
Snell & Wilmer, L.L.P.
One South Church Avenue, Suite 1500
Tucson, AZ 85701
(520) 882-1231

8. *White v. State of Arizona and Greater Arizona Bicycling Ass'n*, Case No. CV-02-235 (Santa Cruz Cty. Super. Ct.); 2007. Decisions supplied.

This civil case involved wrongful death claims filed by the wife and children of a bicyclist who was killed in a bicycle accident on the Arizona state highway system in a bicycle tour sponsored by the Greater Arizona Bicycling

Association (“GABA”). The plaintiffs and the State of Arizona settled plaintiffs’ claims against the State of Arizona prior to trial and the case proceeded to a jury trial against GABA. At the conclusion of the trial, the jury apportioned comparative fault among the plaintiff and both defendants. The jury awarded damages to the surviving spouse but awarded no damages to the children. I ruled that it was within the province of the jury not to award damages to the children and denied plaintiffs’ motions for additur or a new trial. The Arizona Court of Appeals, Division Two, in *White v. Greater Arizona Bicycling Association*, 216 Ariz. 133, 163 P.3d 1083 (App. 2007) reversed. The holding of the Court of Appeals has since been overruled by the Arizona Supreme Court in *Walsh v. Advanced Cardiac Specialists Chartered*, 229 Ariz. 193, 273 P. 3d 645 (2012).

Counsel for Plaintiff: Gary S. Grynkewich
Showard Law Firm
2990 North Campbell Avenue, Suite 230
Tucson, AZ 85719
(520) 622-3344

Steven D. Copple
Copple and Copple, P.C.
300 North Main Avenue, Suite 104
Tucson, AZ 85701
(520) 884-7600

Counsel for Defendant: Scott Goering
William L. Rubin
Goering, Roberts, Rubin, Brogna, Enos &
Treadwell-Rubin, P.C.
3567 East Sunrise Drive, Suite 101
Tucson, AZ 85718
(520) 577-9300

9. *State of Arizona v. Garcia*, Case No. CR-9302680 (Greenlee County Super. Court.); 2005. Decisions supplied.

This was a criminal case over which I presided as a visiting judge many years after the trial and conviction of the defendant. While the defendant was serving a 20-year-prison sentence imposed by a judge previously assigned to the case, he filed a series of Petitions for Post-Conviction Relief including a Petition For Post-Conviction Relief seeking DNA testing of certain items of evidence. I ordered DNA testing of the items in question. Ultimately, the test results did not exonerate the defendant.

Counsel for Plaintiff: Derek D. Rapier
Greenlee County Attorney

Post Office Box 1717
Clifton, AZ 85533
(928) 865-4108

Counsel for Defendant: Self-represented.

10. *State of Arizona v. Martinez-Villareal*, Case No. 4641-A (Santa Cruz Cty. Super. Ct.); 2005. Decision supplied.

Martinez-Villareal was a criminal case in which the defendant was convicted of various charges, including two counts of first degree murder. He was originally sentenced to death on the murder charges. His convictions were affirmed in both state and federal appeals. His case was eventually returned to the trial court for re-sentencing due to a finding of ineffective assistance of counsel at sentencing. It was at this point that the case was assigned to me after previously being handled by at least two judges over the span of many years. Prior to re-sentencing the defendant, the issue of the defendant's competency to be re-sentenced was raised. After numerous evaluations and an evidentiary hearing, I found that the defendant was not competent to be re-sentenced. The defendant remains at the Arizona State Hospital in Phoenix undergoing restoration to competency treatment. There are no appellate decisions or citations to the case since this case was assigned to me.

Counsel for Plaintiff: Joel Rudd
Assistant Arizona Attorney General
1275 West Washington Street
Phoenix, AZ 85007
(602) 542-8329

Counsel for Defendant: Denise I. Young
2930 North Santa Rosa Place
Tucson, AZ 85712
(520) 322-5344

Sean D. O'Brien
500 East 52nd Street
Kansas City, MO 64110
(816) 235-6152

- 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.

Due to the nature of my caseload, I generally preside over juries, rule from the bench, or issue shorter written rulings, rather than issuing significant written

opinions. To respond to this question, I have reviewed my files and provided my written decisions in the following ten cases.

1. *State of Arizona v. Garcia*, Case No. CR-13-063 (Santa Cruz Cty. Super. Ct.); 2013. Decision supplied.

Counsel for Plaintiff: Vanessa Cartwright
Deputy Santa Cruz County Attorney
2150 North Grand Avenue, Suite 201
Nogales, AZ 85621
(520) 375-7780

Counsel for Defendant: Matthew C. Davison
1859 North Grand Avenue, Suite One
Nogales, AZ 85621
(520) 281-0433

2. *Contreras v. Morgan and Cochise County*, Case No. CV-201200327 (Cochise Cty. Super Court); 2012. Decision supplied in response to 13(c).

Counsel for Plaintiff: Roger H. Contreras (representing himself)
Deputy Cochise County Attorney
Post Office Drawer CA
Bisbee, AZ 85603
(520) 432-8700

Counsel for Defendant: David M. Morgan
David M. Morgan d/b/a Cochise County Record,
112 North Seventh Street
Sierra Vista, AZ 85635
(520) 236-4051

Counsel for Defendant: Terry L. Bannon
Deputy Cochise County Attorney
Post Office Drawer CA
Bisbee, AZ 85603
(520) 432-8700

3. *State of Arizona v. Villa*, Case No. CR-11-044 (Santa Cruz Cty. Super. Ct.); 2012. Decision supplied in response to 13(c).

Counsel for Plaintiff: Charlene A. LaPlante
Kimberly J. Hunley
Deputy Santa Cruz County Attorneys
2150 North Congress Drive, Suite 201

Nogales, AZ 85621
(520) 375-7780

Counsel for Defendant: Thomas L. Fink
825 North Grand Ave., Suite 200
Nogales, AZ 85621
(520) 281-1338

4. *Araujo v. Wal-Mart Stores, Inc.*, Case No. CV-10-857 (Santa Cruz County Super. Ct.); 2012. Decision supplied.

Counsel for Plaintiff: James W. Stuehringer
D. Michael Mandig
Waterfall, Economidis, Caldwell,
Hanshaw & Villamana, P.C.
Williams Center, Eighth Floor
5210 East Williams Circle
Tucson, AZ 85711
(520) 745-7807

Counsel for Defendant: Craig W. Phillips
Georgia L. Hamann
Lewis and Roca LLP
40 North Central Avenue, 19th Floor
Phoenix, AZ 85004
(602) 262-5345

5. *Umberger v. First American Title Insurance Company*, Case No. CV-08-572 (Super. Ct.); 2011. Decision supplied.

Counsel for Plaintiff: Gregory L. Droeger
274 West View Point Drive
Nogales, AZ 85621
(520) 281-1886

Counsel for Defendant: Andrew Abraham
R. Aaron Edens
Burch & Cracchiolo
702 East Osborn, Suite 200
P.O. Box 16882
Phoenix, AZ 85014
(602) 234-9917

6. *State of Arizona v. Gilliland*, Case No. CR-05-276 (Santa Cruz Cty. Superior Ct.); 2011. Decisions and Court of Appeals opinion supplied in response to 13(c).

Counsel for Plaintiff: Thomas C. O'Sullivan
Deputy Santa Cruz County Attorney
2150 North Grand Avenue, Suite 201
Nogales, AZ 85621
(520) 375-7780

Counsel for Defendant: Charles N. Kendall Jr.
Kendall Law Firm, P.C.
1857 Paseo San Luis
Sierra Vista, AZ 85635
(520) 452-9022

7. *Desarrollo Inmobiliario v. Kader Holding Co.*, Case No. CV-03-047 (Santa Cruz Cty. Super. Ct.); 2012. Decisions and Court of Appeals Opinion supplied in response to 13(c).

Counsel for Plaintiff: James O. Ehinger
Jennings, Strauss & Salmon P.L.C.
One East Washington Street, Suite 1900
Phoenix, AZ 85004
(602) 262-5943

Counsel for Defendant: Ralph D. Harris
Burch & Cracchiolo, P.A.
702 East Osborn Road, Suite 200
Phoenix, AZ 85011
(602) 234-9924

Jeffrey Willis
Snell & Wilmer, L.L.P.
One South Church Avenue, Suite 1500
Tucson, AZ 85701
(520) 882-1231

8. *White v. State of Arizona and Greater Arizona Bicycling Ass'n*, Case No. CV-02-235 (Santa Cruz Cty. Super. Ct.); 2007. Decisions supplied in response to 13(c).

Counsel for Plaintiff: Gary S. Grynkewich
Showard Law Firm
2990 North Campbell Avenue, Suite 230
Tucson, AZ 85719
(520) 622-3344

Steven D. Copple
Copple and Copple, P.C.
300 North Main Avenue, Suite 104
Tucson, AZ 85701
(520) 884-7600

Counsel for Defendant: Scott Goering
William L. Rubin
Goering, Roberts, Rubin, Brogna, Enos &
Treadwell-Rubin, P.C.
3567 East Sunrise Drive, Suite 101
Tucson, AZ 85718
(520) 577-9300

9. *State of Arizona v. Garcia*, Case No. CR-9302680 (Greenlee County Super. Court.); 2005. Decisions supplied in response to 13(c).

Counsel for Plaintiff: Derek D. Rapier
Greenlee County Attorney
Post Office Box 1717
Clifton, AZ 85533
(928) 865-4108

Counsel for Defendant: Self-represented.

10. *State of Arizona v. Martinez-Villareal*, Case No. 4641-A (Santa Cruz Cty. Super. Ct.); 2005. Decision supplied in response to 13(c).

Counsel for Plaintiff: Joel Rudd
Assistant Arizona Attorney General
1275 West Washington St.
Phoenix, AZ 85007
(602) 542-8329

Counsel for Defendant: Denise I. Young
2930 North Santa Rosa Place
Tucson, AZ 85712
(520) 322-5344

Sean D. O'Brien
500 East 52nd St.
Kansas City, MO 64110
(816) 235-6152

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

Certiorari has not 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.

No decisions issued by me have been reversed or criticized by the Arizona Supreme Court.

The following decisions, under advisement rulings, or orders issued by me were reversed by the Arizona Court of Appeals, Division Two:

Kelly v. Kino Springs Golf, L.L.C., Case No. CV-08-044 (Santa Cruz Cty Super. Ct.). Decision and opinion by Court of Appeals opinion supplied.

After a jury had returned a verdict in favor of plaintiffs and awarded damages in the amount of \$2 million, I set aside the jury award of damages and ordered a new trial solely on the issue of damages. On appeal, the appellate court affirmed the granting of a new trial but expanded the scope of the new trial to also include the issue of liability. The appellate court found that the issues of liability and damages were so intertwined that a new trial on both issues was required. In addition, the appellate decision discussed the various elements of damages that could properly be considered at a new trial.

White v. State of Arizona and Greater Arizona Bicycling Ass'n, Case No. CV-02-235 (Santa Cruz Cty. Super. Ct.) Decisions supplied in response to 13(c).

The Arizona Court of Appeals, Division Two, in *White v. Greater Arizona Bicycling Association*, 216 Ariz. 133, 163 P.3d 1083 (App. 2007), in a two to one decision, reversed my ruling denying plaintiffs' motion for additur or in the alternative a new trial after a jury had awarded no damages to the children of the deceased bicyclist. The holding of the Court of Appeals in *White* has since been overruled by the Arizona Supreme Court in *Walsh v. Advanced Cardiac Specialists Chartered*, 229 Ariz. 193, 273 P.3d 645 (2012).

Miidas Greenhouses, L.L.C., et.al. v. Global Horticultural, Inc. Case No. CV-2005-323 (Santa Cruz Cty. Super. Ct.). Decision supplied.

I granted defendants' motions for summary judgment on all of plaintiffs' tort claims based upon application of the Arizona economic loss rule to the facts of the case as found by the court. The Arizona Court of Appeals, Division Two, in *Miidas Greenhouses v. Global Horticultural*, 226 Ariz. 142, 244 P.3d 579 (App. 2010) vacated the entry of summary judgment and remanded the case back to this

court finding that the plaintiffs' tort claims were not precluded under the economic loss rule.

Holm v. Lincoln & Continental Owners Club, Case No. CV-04-033 (Santa Cruz Cty. Super. Ct.). Decision and Court of Appeals opinions supplied.

In this civil case involving claims for defamation and invasion of privacy, I granted in part defendants' motion for summary judgment by dismissing claims against two of the defendants. The Arizona Court of Appeals, Division Two, in an unpublished Memorandum Decision reversed this court's ruling, finding that the two defendants at issue had a duty to use reasonable care to ensure that a published statement was not false and defamatory.

State of Arizona v. Nicholas Anthony Stemper and Susan Mae Stemper, Case No. CR-09-027 (Santa Cruz Cty. Super. Ct.). Decision and Court of Appeals opinion supplied.

This was a criminal case alleging child abuse. The defendants were the mother and stepfather of the minor victim. Counsel had been appointed for the minor victim. The minor victim's father, not a defendant in the case, petitioned the trial court to substitute new counsel for his minor daughter. This court denied the request for substitution of counsel, finding that due to the professional arrangement between the attorney proposed for substitution and counsel for defendant mother, it was inappropriate to appoint that particular attorney as new counsel for the minor victim. The attorneys shared office space, including reception areas, filing rooms and other facilities. In addition, the attorneys often covered cases for each other and served as co-counsel in cases. The Arizona Court of Appeals, Division Two, in a Memorandum Decision, found that this court had abused its discretion and directed this court to grant the request for substitution of counsel for the minor victim.

- 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.

As a state court trial judge, my decisions are not published. I rule from the bench at the conclusion of a hearing or trial in approximately 60 to 70 percent of the cases that I preside over and estimate the number of decisions made from the bench to be 600 to 700. In those cases, the findings and orders of the court are reflected in a minute entry prepared and signed by a court clerk and found in the court file maintained by the clerk of the court. In the 30 to 40 percent of the other cases where I do not rule from the bench, the matter is taken under advisement and a written order, ruling, or under advisement ruling is issued and signed by the court. I estimate the number of those cases to be 400 to 500 cases. In those cases, the ruling is filed in the court file maintained by the clerk of the court. Under the current case management system, all documents are scanned and available for

viewing electronically by courts and court staff. Electronic access to court files by attorneys, parties, the media and the public is still being developed.

- 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.

State of Arizona v. Villa, Case No. CR-11-044 (Santa Cruz Cty. Super. Ct.); 2012. Decision supplied in response to 13(c).

State of Arizona v. Garcia, Case No. CR-13-063 (Santa Cruz Cty. Superior Ct.); 2013. Decision supplied in response to 13(d).

- 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.

I recuse myself from all cases where my former law partners are representing one or more of the parties in the case. Although I have not been their partner for almost twelve years, I socialize with them on a regular basis and have a financial interest with them in a parcel of real property. I also recuse myself from all cases where I formerly represented one of the parties in the case. In addition, I recuse myself from cases where one or more of the parties is a friend or acquaintance. In addition because Santa Cruz County is a small county, both in size and population, I recuse myself in any cases where I may have inadvertently heard

about the case or someone I may have had contact with has expressed an opinion about one of the parties to the case.

Under the Arizona Rules of Civil Procedure, the Arizona Rules of Criminal Procedure, and the Arizona Rules of Family Law Procedure each party to a case has the right to one peremptory challenge to a judge assigned to a case without showing cause. Based upon the automated case management system in our court, I estimate that a peremptory challenge to my presiding over a case assigned to me to be approximately 10 to 15 cases over the last 12 years, predominately in the area of family law. A list of cases where a party has exercised his or her right to a peremptory challenge to a judge is not maintained by the court.

In *State of Arizona v. Villa*, Santa Cruz County Superior Court case number CR-11-044, discussed in response to 13(c) above, defense counsel did not file a motion for recusal or exercise a peremptory challenge, but asked the court to consider recusing itself from the case due to the court's knowledge of the victim's father in a murder case. I reviewed the applicable canons under the Arizona Code of Judicial Conduct and found that recusal was not required.

In *Guzman-Velez v. Pesqueira-Tapia*, Santa Cruz County Superior Court case number DO-12-158, a family law case, the attorney for respondent asked that all judges in Santa Cruz County be disqualified from hearing the case based upon the fact that the attorney for petitioner was formerly a Superior Court judge in the county. The former judge had retired as a judge prior to my becoming a judge in 2001. The case was referred to the Presiding Judge in an adjoining county and in a written ruling by said judge, respondent's motion was denied.

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 was appointed as Town Attorney for the Town of Patagonia in 1975 and served until approximately 1992. The position was part-time. I was appointed by Mayor V.J. Smith and confirmed by the Town Council of the Town of Patagonia.

I was appointed as Deputy City Attorney for the City of Nogales in 1975 and served until approximately 1983. The position was part-time. I was appointed by Mayor Arthur Doan and confirmed by the Nogales City Council.

I was appointed as a Deputy County Attorney for Santa Cruz County in 1979 and served for only a few months. The position was part-time. I was appointed by the Santa Cruz County Board of Supervisors.

I have never been an unsuccessful candidate for elected or 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 served as the Santa Cruz County Chairman for three candidates: Eddie Basha for Governor (1994); Ed Pastor for Congress (1992 and 1994); and Morris K. Udall for Congress (1980 and 1982). In this capacity, I organized and coordinated the candidates' visits and events in Santa Cruz County, including fund raising events.

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

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

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

I have never served as a law clerk.

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

1976 – 1979

Law Offices of James A. Soto
477 North Grand Avenue
Nogales, Arizona 85621

- 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.

1975 – 1976

Law Offices of Nasib Karam
North Grand Avenue
Nogales, Arizona 85621
Associate Attorney

March – June 1979

Santa Cruz County Attorney's Office
2150 North Congress Drive

Nogales, Arizona 85621
Part-time Deputy County Attorney

1976 – 1979
Law Offices of James A. Soto
477 North Grand Avenue
Nogales, Arizona 85621
Solo practitioner

1979 – 1981
Larson and Soto, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1975 – 1984
Office of the Nogales City Attorney
777 North Grand Avenue
Nogales, Arizona 85621
Part-time Deputy City Attorney

1981 – 1984
Larson, Soto and Machado, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1985 – 1989
Larson, Soto and Arana, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1989 – 1992
Larson and Soto, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder

1975 – 1993
Town of Patagonia
310 West McKeown Avenue
Patagonia, Arizona 85624
Part-time Town Attorney

1992 – 2001

Soto, Martin and Coogan, P.C.
441 North Grand Avenue, Suite 13
Nogales, Arizona 85621
Shareholder and President

- 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.

None.

b. Describe:

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

I practiced law from October 1975 to November 2001. Initially my practice focused on criminal defense, family law, and probate with frequent trial work. Over time, my practice evolved into a civil practice with a focus on representing local businesses and agricultural entities in both the United States and Mexico, although I continued to do frequent trial work in family law matters. The law firms I was associated with represented numerous Mexican growing entities that grew perishable commodities in Mexico and shipped their products to the United States for distribution and sales in Nogales, Arizona and McAllen, Texas. We also represented numerous U.S. based distributors of the produce who received and marketed the produce throughout the United States and Canada. I continued to represent clients in family law and probate cases with some limited estate planning.

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

I initially served as a court-appointed attorney for indigent criminal defendants, while at the same time developing a base of business clients who were located along the U.S.-Mexico border. Eventually my criminal practice ceased and I maintained a civil practice representing businesses located along the border who sold goods into Mexico or to Mexican customers who came across the border as well as U.S. based distributors of Mexican produce. Representative clients would be the Fresh Produce Association of the Americas, a local trade association representing over 100 produce distributors and affiliates, many U.S. and Mexican customhouse brokers who facilitate the flow of goods and commerce across the border, 30 to 40 produce distributors based in Santa Cruz County, and 20 to 30 local businesses located along the border focusing on

retail sales. As part of the representation of these business entities, I would provide legal services in the areas of family law, probate law, and estate planning.

- 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.

Early in my legal career, over 80% of my practice involved trial work. As my practice evolved, I appeared in court less frequently. Prior to becoming a judge in 2001, I estimate that my practice was 25% trial work and 75% non-trial legal services. The non-trial legal services included such services as drafting contracts and agreements, business planning documents, wills, trusts and other testamentary documents.

- i. Indicate the percentage of your practice in:

1. federal courts:	10%
2. state courts of record:	80%
3. other courts:	0%
4. administrative agencies:	10%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	90%
2. criminal proceedings:	10%

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

I estimate that I tried 250 to 300 cases that resulted in a judgment, decree, or final decision. In most cases I was sole counsel, although in larger more complex cases, I provided legal services in conjunction with one or more of my law partners or associates.

- i. What percentage of these trials were:

1. jury:	10%
2. non-jury:	90%

- 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. *Triple E Produce Corp. v. Soto, et al.*, Case No. 9881; Santa Cruz County Superior Court; Honorable J. Richard Hannah (deceased); 1980-1992.

I served as co-counsel for the plaintiff in the case. The case involved a civil contract dispute between a United States produce distributor based in Florida with numerous offices throughout the United States, including Nogales, Arizona and two Mexican farmers in Sinaloa, Mexico. A second produce distributor in Nogales, Arizona was also named as a defendant because it received produce from the Mexican farmers in violation of the exclusive distribution agreement entered into between the plaintiff and the two growers. The legal issues involved jurisdiction, choice of law, choice of forum, contract law as well as other issues. Although the case was based in the Superior Court in Santa Cruz County, discovery was conducted in Arizona, California, and Mexico. Ultimately, plaintiff obtained a judgment against the defendant growers for over two million dollars. The plaintiff proceeded against the second distributor as defendant garnishee for damages as a result of improper disbursements of money to the Mexican growers in violation of Writs of Garnishment that has been served upon the second distributor. Judgment was obtained against the second distributor. The second distributor appealed the trial court's entry of judgment and the Arizona Court of Appeals, Division Two, in *Triple E Produce Corp. v. Valencia dba Engebretson-Grupe, Co.*, 170 Ariz. 375, 824 P.2d 771 (1991) affirmed the trial court's decision. My co-counsel and I both actively participated in the pre-trial discovery and other proceedings, the two trials conducted in the case, and the appeal.

Co-counsel for Plaintiff:

E. Leigh Larson (deceased)

Counsel for Defendant:
(Defendants Castro and Perez)

Thomas A. Zlaket, Sr.
310 South Williams Boulevard
Suite 170

Tucson, AZ 85711
(520) 750-0250

Counsel for Defendant:
(Defendant Valencia)

Richard J. Dowdall (deceased)

2. *Babnew v. Linneman and Santa Cruz County Board of Supervisors*; Case No. 12486; Santa Cruz County Superior Court; Honorable Roberto C. Montiel; 1986 – 1987).

I served as lead counsel for plaintiff in an election contest for the position of Chief of the Rio Rico Fire District. The complaint challenged the accuracy of the tally of votes by the election board. Numerous election law issues were litigated including the propriety of including or excluding certain votes that were cast or attempted to be cast in the election contest as well as the legal effect of a recount that was conducted on the initial election results. The trial court ultimately adjusted the vote totals and found for the defendants. On appeal, the appellate court affirmed the decision of the trial court, but on other grounds, in *Babnew v. Linneman*, 154 Ariz. 90, 740 P.2d 511 (1987).

Co-counsel for Plaintiff:

Robert C. Martin
825 North Grand Avenue, Suite 200
Nogales, AZ 85621
(520) 287-2110

Counsel for Defendant:
(Linneman)

James F. Haythornewhite (deceased)

Counsel for Defendant:
(Santa Cruz County)

Jose Luis Machado
215 North Court Avenue
Floor Two
Tucson, AZ 85701
(520) 320-1007

3. *Big Tower Produce v. Fontes, et.al.*, Case No. 13453, Santa Cruz County Superior Court; Honorable Jose L. Lerma; early 1990s – mid 1990s.

I served as lead counsel for plaintiff in a civil contract case between a United States produce distributor and a Mexican farmer. The Mexican farmer claimed that the distributor had failed to handle and market his produce properly and had violated his obligations to the grower under the Federal Perishable Agricultural Commodities Act (“PACA”), claiming millions of dollars in damages. The distributor denied the claim and alleged that at the conclusion of the applicable growing season, the grower owed a small balance to the distributor. Significant legal issues litigated included jurisdiction, choice of law, trade practices in the industry, PACA regulations promulgated

by the United States Department of Agriculture, and a series of contract law issues. After a lengthy bench trial, the trial court found in favor of our client and awarded damages.

Co-counsel for Plaintiff: Robert C. Martin
825 North Grand Avenue, Suite 200
Nogales, AZ 85621
(520) 287-2110

Counsel for Defendant: Mark L. Collins
Gust Rosenfeld PLC
One South Church Avenue
Suite 1900
Tucson, AZ 85701
(520) 388-4780

4. *Hockersmith v. City of Patagonia*, Case No. 9179; Santa Cruz County Superior Court; Honorable Roberto C. Montiel; 1978-1980.

I served as counsel for the Town of Patagonia, a municipal corporation. A former Deputy Town Marshall brought a civil action against the town alleging that he was due overtime wages for his “on call” time based upon a state statute that mandates overtime compensation under certain circumstances. The case had significant statewide implications for other law enforcement agencies in smaller jurisdictions. Because the plaintiff could not establish how many hours he actually worked in any particular week as opposed to merely being on call, the trial court found that under the statute he was not entitled to overtime compensation. The decision by the trial court was affirmed in *Hockersmith v. City of Patagonia*, 123 Ariz. 559, 601 P.2d 322 (1979).

Counsel for Plaintiff: L. B. Solsberry (deceased)

5. *Ritclo Produce, Inc. v. Livacich Produce*, an administrative hearing before the United States Department of Agriculture. Because this case was litigated from approximately 1982 to 1984 all client files have been destroyed and I do not have the case number or name of the hearing officer who presided over the hearing.

I served as sole counsel for the plaintiff in an administrative proceeding brought under the Federal Perishable Agricultural Commodities Act (“PACA”) seeking to collect an amount due the plaintiff for a series of shipments of produce from a distributor in Nogales, Arizona to a purchaser of the produce in California. The defendant in the action had not directly purchased the produce but had agreed to guarantee the obligation of the purchaser by having the plaintiff directly invoice defendant for said produce.

Significant legal issues litigated in the action included the statute of frauds, contract and guaranty law, industry practices, and the applicability of PACA rules and regulations to the case. The hearing officer found in favor of the plaintiff in the case.

Counsel for Defendant:

Patricia Rynn
Rynn & Janowsky, LLP
4100 Newport Place Drive, Suite 700
Newport Beach, CA 92660
(949) 752-2911

6. *Cathey v. Cathey*, Case No. D82826; Pima County Superior Court; Honorable Bernardo Velasco; 1989 – 1991.

I served as counsel for the defendant in this case, a dissolution of marriage proceeding involving significant assets and a variety of legal issues, including spousal maintenance, equitable division of community assets and debts, separate property as opposed to community property issues, and business valuation issues. Because of the nature of the produce business, including great risk factors and sometimes extreme variation in annual income amounts, numerous expert witnesses were retained. During the first day of trial, the parties were able to arrive at a settlement of the matter.

Counsel for Plaintiff:

Honorable Deborah Pratte
Pima County Superior Court
110 West Congress Street
Tucson, AZ 85701
(520) 724-9376

7. *Clifton v. DeCillis, Santa Cruz County Board of Supervisors and Damon*, Case No. CV-96-129; Honorable Gilbert Veliz.

I served as lead counsel for Damon, a long time member of the Santa Cruz County Board of Supervisors in an election contest case in which the plaintiff sought to enjoin the clerk of the board from allowing the names of Damon and another candidate to appear on the ballot in a contested election. The parties litigated numerous issues including the propriety of signatures on the nominating petitions, the propriety of the actions by circulators of the petitions, and the legal sufficiency of the nominating petitions. After a hearing over a number of days, the court ruled in our client's favor, and he was successfully re-elected and served many years thereafter.

Co-counsel:

Robert C. Martin
Coogan & Martin, P.C.,
825 North Grand Avenue, Suite 200

Nogales, AZ 85621
(520) 287-2110

Counsel for Defendant: Santa Cruz County Attorney's Office
2150 North Congress Drive, Suite 201
Nogales, AZ 85621
(520) 375-7780

8. *Terpening v. Triad Transportation and Scarborough*, Case No. CV-91-V-427; Santa Cruz County Superior Court; Honorable Jose L. Lerma.

I served as co-counsel for the defendant in this case, which involved significant sums of money and a series of complex financing arrangements for commercial trucks and trailers purchased by the defendants from the plaintiff. Numerous contract issues were litigated, including the applicability of Arizona's version of the Uniform Commercial Code. After a lengthy civil bench trial, the plaintiff was successful in recovering most, but not all of the amounts being sought for damages.

Counsel for Plaintiff: Mark L. Collins
Gust Rosenfeld PLC
One South Church Avenue, Suite 1900
Tucson, AZ 85701
(520) 388-4780

Co-counsel for Defendant: Robert C. Martin
Coogan & Martin, P.C.
825 North Grand Avenue, Suite 200
Nogales, AZ 85621
(520) 287-2110

9. *Ramos Cabeiro v. Valencia*, Case No. CV-93-184; Santa Cruz County Superior Court; Honorable Jose L. Lerma.

I represented the defendant in a civil jury trial involving a contract dispute between a resident of southern Mexico and a resident of Arizona. Issues litigated included jurisdiction, choice of law, contract law, and a number of equitable defenses to the plaintiff's claims. Although the jury rendered a verdict in favor of plaintiff, the court ultimately granted a defense motion for judgment notwithstanding the verdict.

Counsel for Plaintiff: Jesus R. Romo Vejar
177 North Church Avenue, Suite 200
Tucson, AZ 85701
(520) 628-7777

10. *Ace Produce v. Loden Produce and Loden*, an administrative hearing before the United States Department of Agriculture under the Perishable Agricultural Commodities Act. These were two cases consolidated for hearing purposes that were litigated in approximately 1977. I do not have the case numbers or the name of the hearing officer who presided over the cases.

I served as counsel for the plaintiff, a produce distributing company located in Nogales, Arizona that filed two cases against defendant brothers seeking to recover damages for a series of loads of produce sold to the defendants but shipped to another receiver. The applicability of the Uniform Commercial Code to the transactions was litigated as well as who bore the risk of loss when shipments did not arrive at destination on a timely basis due to delays by the railroad company in delivery of the produce in question to its destination. Ultimately, the hearing officer found in favor of the plaintiff against Morris Loden, but not against Lou Loden Produce.

Counsel for Defendants: E. Leigh Larson (deceased)

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.)

While a practicing attorney, I represented the Fresh Produce Association of the Americas, a local trade association of U.S.-based produce distributors and affiliated businesses. As counsel for the Association, our firm dealt with significant legal issues, both domestic and international, seeking to promote the free trade of produce across the U.S.-Mexico border. In addition, we represented the Association in dealing with federal, state, and local governmental regulatory agencies, both in the United States and in Mexico, in representing the interests of U.S. produce distributors and Mexican farming entities that shipped their produce to these distributors. I was not required to register as a lobbyist.

We also practiced law in both federal and state courts, as well as before the United States Department of Agriculture regulatory offices, in representing produce clients seeking to collect on amounts owed to them for produce sold by produce client, in defending produce clients against claims for defective produce, and related issues.

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.

Between approximately 1977 and 1980, I taught law related classes in the evenings at the Nogales branch of Pima Community College, which is based in Tucson, Arizona. I taught substantive criminal law, criminal procedure, immigration law, and business law. No syllabuses for the courses are available.

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.

None.

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

If confirmed, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I do not anticipate any potential conflicts of interest if I am confirmed as a United States District Court Judge. If any family member, 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.

- 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 refer to the appropriate legal authorities, including 28 U.S.C. §144 and 455a, as well as the Code of Conduct for United States Judges, and 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.

During the twenty-six years that I practiced law, I represented a number of civic organizations in the community as their attorney. My policy, and that of the law firms that I was a member of or partner in, was never to charge the client a fee for any legal services performed on their behalf. This would include formation of legal entities for non-profit groups, assuring that all of the legal reporting requirements were complied with, referring them to other professionals such as accountants and financial advisors who we would recruit and who would also not charge for their services, assisting them in resolving personnel or other legal matters, and in general looking out for their legal interests.

A representative organization would be the Santa Cruz Training Programs, Inc. This organization provides job training, educational opportunities, health services, and housing assistance to both adults and children who are developmentally disabled. Another representative organization would be the Nogales Boys & Girls Club, which provides educational and recreational opportunities for hundreds of young people in our community.

In addition, because there is no legal aid office or other legal assistance organization in the community, my law office and its members would regularly provide *pro bono* legal assistance to persons unable to pay for those services, including drafting wills, probating estates, seeking to obtain child support orders or collect on previously issued child support orders, establishing guardianships and conservatorships, and initiating divorce proceedings or enforcing provisions of an existing divorce decree. From time to time, at the request of local judges, we would also provide legal services without charge in especially difficult cases where the welfare of a child, elderly adult, or other person was at risk.

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 June 2013, a Senate Judiciary Committee staff person for Senator Jeff Flake called me to discuss a vacant position in the United State District Court for Arizona in Tucson. Since late September 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On December 4, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On December 19, 2013, the President submitted my nomination to the Senate.

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

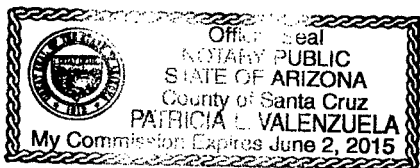
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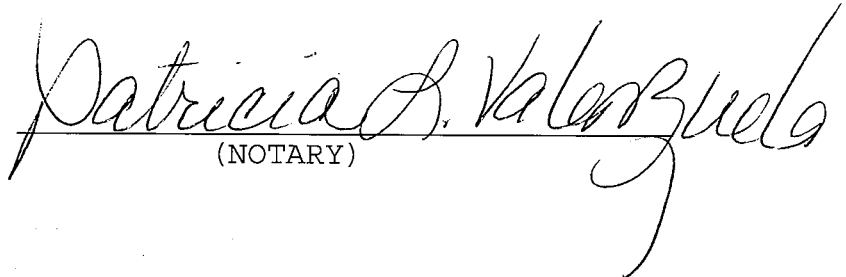
AFFIDAVIT

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

12-24-2013
(DATE)


JAMES A. SOTO




(NOTARY)