

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Jennifer Guerin Zipps (since marriage August 2008)
Jennifer Christine Guerin
Jennifer Christine Pifer (maiden name)

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

United States District Judge for the District of Arizona

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

United States District Court for the District of Arizona
Evo A. DeConcini United States Courthouse
405 West Congress, Suite 3180
Tucson, Arizona 85705

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

1964; Ashland, Ohio

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.

1987 – 1990, Georgetown University Law Center; J.D., *cum laude*, 1990

1982 – 1986, University of Arizona; B.A. in English, with honors, 1986

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.

2005 – present
United States District Court for the District of Arizona
Evo A. DeConcini United States Courthouse
405 West Congress, Suite 3180
Tucson, Arizona 85705
United States Magistrate Judge

1995 – 2005
United States Attorney’s Office for the District of Arizona
Evo A. DeConcini United States Courthouse
405 West Congress Street, Suite 4800
Tucson, Arizona 85705
Chief Assistant (2002 –2005)
Civil Chief (2002)
Assistant United States Attorney (1995 – 2001)

Spring 2001; Spring 2002
University of Arizona James E. Rogers College of Law
1201 East Speedway
Tucson, Arizona 85721
Adjunct Professor

1991 – 1995
Molloy, Jones & Donahue (no longer in business)
32 North Stone, Suite 2200
Tucson, Arizona 85701
Associate Attorney

1990 – 1991
Honorable William C. Canby
United States Court of Appeals for the Ninth Circuit
Sandra Day O’Connor United States Courthouse
401 West Washington Street, Suite 612, SPC 55
Phoenix, Arizona 85003
Judicial Clerk

Summer 1989
Meyer, Hendricks, Victor, Osborne & Maledon (no longer in business)
2929 North Central, Suite 2100
Phoenix, Arizona 85067
Summer Associate

Summer 1989
Rogers & Wells LLP
607 14th Street, NW
Washington, D.C. 20005
Summer Associate

1988 – 1989
Professor Barry Carter
Georgetown University Law Center
600 New Jersey Avenue, NW
Washington, D.C. 20001
Research Assistant

1987
K-Temp Temporary Agency (no longer in business)
101 North Wilmot, Suite 455
Tucson, Arizona 85711
Temporary Secretary

1987
Desert Sports & Fitness
7315 North Oracle (no longer in business at this location)
Tucson, Arizona 85704
Weekend Receptionist

1983 – 1987
Carl's Jr. Restaurant
615 West Congress Street
Tucson, Arizona 85745
Assistant Manager

Other Affiliations (uncompensated unless otherwise indicated):

2006 – present
St. Cyril School Parent and Alumni Foundation (f/k/a St. Cyril Education Foundation)
No physical address
Member, Board of Directors

2006 – present
Princess Jennifer, LLC
4050 East Camino Montecillo
Tucson, Arizona 85718
Limited Partner (receive investment income)

2004 – 2005
Tucson Defense Bar
No physical address
President

2003 – 2005
Federal Bar Association, Tucson Chapter
No physical address
Executive Committee

1997 – 2000
Pima County Bar Association
177 North Church Avenue #101
Tucson, Arizona 85701
Board of Directors, Young Lawyers Division

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

I have not served in the military. I was not required to register 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.

U.S. Attorney's Office

Time Off Award for leadership, 2004
Special Act Award for performance as Civil Chief, 2002
Time Off Award for work on employment discrimination trial, 2002
Special Act Award for performance, 2001
Time Off Award for work on bankruptcy case, 2000
Employee Volunteer Service Award, Department of Justice, 1999
Time Off Award for work on employment discrimination case, 1998

Lifetime Achievement Award, University of Arizona James E. Rogers College of Law,
2002

Outstanding Service Recognition for Lawyers for Literacy, 1999

Georgetown University Law Center

American Jurisprudence Award in Constitutional Law I
Dean's List
Member, *Georgetown Law Review*

University of Arizona
Dean's List all semesters
Phi Beta Kappa
Golden Key National Honor Society, 1984 – 1986

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.

District of Arizona, Local Rules Committee, 2008 – present
Federal Bar Association, 2003 – present
Executive Committee, 2003 – 2005
Magistrate Reappointment Review Committee, 2003
Ninth Circuit Lawyer Representative, 2003 – 2005
Ninth Circuit Public Information & Community Outreach Committee, 2009 – present
Pima County Bar Association, 1993 – present
Young Lawyer Division, 1993 – 2000
Board of Directors, 1997 – 2000
Chairperson, Lawyers for Literacy, 1995 – 1999
Volunteer, Guardian Ad Litem Program, 1997 – 2000
Pima County Superior Court Judicial Performance Conference Team, 2004
Tucson Defense Bar, 1996 – 2005
President, 2004 – 2005

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, 1990. There have been no lapses in membership.

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

United States Court of Appeals for the Ninth Circuit, 1990
United States District Court for the District of Arizona, 1991
Arizona State Courts, 1990

There have been no lapses in any 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.

Pima County Attorney's Office

Victim Witness Volunteer, 1984 – 1987

St. Cyril School Parent and Alumni Foundation (f/k/a/ St. Cyril Education Foundation)

Board of Directors, 2006 – present

St. Cyril of Alexandria Church, Renew 2000, 1999 – 2000

Women's book club, 2002 – 2004

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

To my knowledge, none of the organizations to which I have belonged 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.

As a second-year law student, I wrote portions of and updated the New Trial and Appeals sections of the *Georgetown Law Journal*, Eighteenth Annual Review of Criminal Procedure, Vol. 77, No. 4, February 1989. Copies supplied.

Senior Editor, *Georgetown Law Journal*, Nineteenth Annual Review of Criminal Procedure, Vol. 78, No. 4, April 1990.

- 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.

To my best recollection, I have not prepared reports, memoranda or policy statements on behalf of a bar association, committee, conference, or organization of which I was or am a member.

- 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.

On January 20, 2010, I testified before the United States Sentencing Commission regarding the Court's procedures for implementing the United States Border Patrol's Arizona Denial Initiative, an initiative also referred to as Operation Streamline. A copy of my statement and a transcript is 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.

I have not maintained a record of my public speaking appearances. To respond to this question, I have reviewed my files and calendars, conducted an extensive Internet search, and contacted court staff to compile a list that is as complete as possible. There may be other speeches or talks I have given that I have been unable to recall or identify.

June 9, 2011: I spoke to two groups of children as part of Take Your Child to Work Day. I explained the roles of the various participants in a criminal case and allowed the children to act in the various roles. I have no notes, transcript or recording. These talks were held at the United States Courthouse located at 405 West Congress, Tucson, Arizona 85705.

February 9, 2011: Speaker, Issue Day, Green Fields Country Day School. The 10-minute presentation was repeated to four groups and focused on immigration proceedings in federal court. One session was recorded, but I have been unable to obtain a copy. Notes supplied.

On the following dates I presided over Naturalization ceremonies and offered congratulatory remarks: April 25, 2008; July 25, 2008; October 23, 2008; January

9, 2009; April 24, 2009; July 10, 2009; February 19, 2010; April 16, 2010; May 14, 2010; May 28, 2010; September 10, 2010; September 17, 2010; December 3, 2010; March 25, 2011; and June 10, 2011. I have no transcripts, notes or recordings of my congratulatory remarks, except for the September 17, 2010 event. From that event, press coverage is supplied and a copy of the KMSB video is supplied. All but two of those ceremonies were held at the United States Courthouse located at 405 West Congress, Tucson, Arizona 85705. The April 16, 2010 ceremony was held at St. Cyril's of Alexandria school, which is located at 4725 East Pima Street, Tucson, Arizona 85712. The September 17, 2010 ceremony was held at Saguaro National Park, Tucson, Arizona.

October 29, 2010 and November 18, 2008: I and other judges of this Court participated in an informal round table discussion regarding United States Courts' procedures and operations. The discussions were with a delegation of judges and lawyers from the Ukraine and Kazakhstan, respectively. I have no notes, transcripts or recordings. The address of the U.S. Courthouse is 405 West Congress, Tucson, Arizona 85705.

September 16, 2010: Panelist, Federal Bar Association, Tucson Chapter, Bench & Bar Luncheon. The topic of my presentation was recent changes in court procedures and proceedings before magistrate judges. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

May 4, 2010, April 23, 2010, July 21, 2008, July 11, 2008, and December 4, 2008: In my courtroom, I spoke to groups about court procedures and defendants' rights in a criminal case. An Assistant United States Attorney, a Federal Public Defender, and I explained the roles of the various participants in a criminal case, presented a mock trial scenario and allowed group members to act as the various participants in a criminal proceeding. I have no notes, transcripts or recordings of these presentations. The groups presented to are as follows:

May 4, 2010 – Fifth and sixth grade students from St. Cyril of Alexandria, 4725 East Pima Street, Tucson, Arizona 85712.

April 23, 2010 – students from Challenger Middle School, 100 East Elvira Road, Tucson, Arizona, 85756.

July 21, 2008 – international exchange students from the Ulster Project. The group contact was Miriam Matz, 4419 North Via Bellas Catalinas, Tucson, Arizona, 85718.

July 11, 2008 – Boy Scout troop. I do not have any information regarding the name of the troop.

December 4, 2008 – Third graders from Manzanita Elementary School, 3000 East Manzanita Avenue, Tucson, Arizona 85718.

November 16, 2009: Panelist, Nuts & Bolts Courtroom Advocacy Series sponsored by the Tucson Chapter of the Federal Bar Association. The topic of the advocacy series was Motions to Suppress Statements. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

October 21, 2009, April 27, 2009 and October 29, 2007: Speaker. I met with international visitors, at the request of the Tucson Council for International Visitors, and spoke about United States Courts' procedures and processes. I have no notes, transcripts or recording. The address of the Council is 3900 Timrod, Tucson, Arizona 85711.

March 6, 2009: Panelist, Ninth Circuit Lawyer Representative District Conference, Arizona Biltmore. The panel of judges answered questions from the audience. I have no notes, transcript or recording. The Lawyer Representative Coordinating Committee that sponsored the event does not have a physical address.

March 3, 2009: Guest speaker, Criminal Fact Investigation and Discovery class at the University of Arizona, James E. Rogers College of Law. A Pretrial Services Officer and I spoke to students about the process for making detention and release decisions in federal court. Notes supplied.

January 26, 2009: Panelist, Federal Bar Association, Tucson Chapter, Detention Nuts and Bolts Training, United States Courthouse, Tucson, Arizona. The topic of the training was Detention Decisions and the Bail Reform Act. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

October 31, 2008: Speaker, Career Day, St. Cyril of Alexandria School, Tucson, Arizona. The topic I spoke about was having career as a judge or in the practice of law and the education and experience required. Notes supplied.

September 20, 2007: Panelist, Federal Bar Association, Tucson Chapter, Bench & Bar Luncheon, Arizona Inn. The topic was practice in the Court from the perspective of a new judge. I have no notes, transcript or recording. The FBA, Tucson Chapter has no physical address.

September 17, 2007: Panelist, University of Arizona College of Law, Ninth Annual Supreme Court Review CLE, Tucson, Arizona. Video supplied.

November 17, 2005: Moderator, Federal Bar Association, Federal Criminal Practice seminar, Manning House. I moderated the panel discussion "Advocacy in Magistrate Court." Notes supplied.

June 24, 2005: Speaker, Investiture Ceremony of United States Magistrate Judge, Jennifer C. Guerin, United States Courthouse, Tucson, Arizona. My remarks and a DVD of the ceremony are supplied.

May 2005: Speaker, eighth grade graduation commencement, St. Joseph Catholic School, Tucson, Arizona. Remarks supplied.

October 22, 2004: Panelist, Arizona Women Lawyers Association's 2004 Statewide Convention, "Advancing Your Career: A Woman's Leadership Conference," Manning House. The topic was advancing one's legal career. I have no notes, transcript or recording. The address of AWLA is P.O. Box 676, Gilbert, Arizona 85299.

October 31, 2003: Speaker, United States District Court, District of Arizona, Open Doors to Federal Courts Program. The topic was the role of an Assistant United States Attorney and career opportunities as an attorney. I have no notes, transcript or recording. The address of the Court is 405 West Congress, Tucson, Arizona 85705.

April 18, 2002: CLE Presentation, "I'm in Federal Court, Now What Do I Do?" sponsored by the State Bar of Arizona, held at the United States Courthouse in Tucson, Arizona. Presentation outline supplied.

2001: Presenter, "Basics of Civil Litigation in Arizona," sponsored by Half Moon LLC, 2001. The course was directed to legal assistants and provided an overview of civil matters, courts, filing a lawsuit, discovery, trial preparation, preparing legal paperwork and notices, and legal writing. I have no transcript or recording, but the written materials are supplied.

November 1993: Presenter, "Small Business Law," sponsored by the People's Law School and held at the University of Arizona College of Law. The topic was business formation and litigation. I have no notes, transcript or recording. The organizer and contact was John Tully, Esq., 4562 North First Avenue, Tucson, Arizona 85718.

- 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.

I have not maintained a record of interviews I have given to newspapers, magazines or other publications, or radio or television stations. To respond to this question, I have reviewed my files and calendars and conducted an extensive Internet search to compile a list that is as complete as possible. In conducting the Internet search, I discovered news sources that repeated statements that I had made in prior interviews. My list includes the original interview and the date of

that interview. It may not include every source that repeated my comments. There may be other interviews I have given that I have been unable to recall or identify.

September 17, 2010: After a naturalization ceremony at Saguaro National Park, in Tucson, Arizona, I spoke with two KOLD media representatives. Video is available at <http://www.kold.com/global/Category.asp?C=179377&clipId=5122860&topVideoCatNo=undefined&autoStart=true>. I also spoke to representatives of KSMB. A copy of that video is supplied.

September 24, 2004: As Chief Assistant of the United States Attorney's Office, I spoke at a press conference regarding criminal charges initiated against Motor Vehicle Division employees for producing or distributing fake Arizona drivers licenses. Related press coverage is listed below:

Eric Swedlund and Barrett Marson, *34 at MVD Charged in Fake-ID Case*, Arizona Daily Star, Sept. 24, 2004. Copy supplied.

Sheryl Kornman and Irene Hsiao, *New Watchdog to Monitor MVD*, Tucson Citizen, Sept. 24, 2004. Copy supplied.

Jennifer Girardin, *Court Workers Honor Late Friend*, Arizona Daily Star, Aug. 6, 2004. Copy supplied.

Tim Vanderpool, *Klump Country Blues*, Tucson Weekly, May 20, 2004 [quotes re-printed in multiple outlets]. Copy supplied.

May 12, 2004: I was interviewed by KOLD news regarding the case of *United States v. Klump*, 00-cv-00432-JMR. I have been unable to obtain a recording, but a news article based on the interview is supplied.

On or about February 11, 2004, I was interviewed by local television station KVOA regarding the case of *United States v. Klump*, 00-cv-00432-JMR. I have been unable to obtain a recording.

Arek Sarkissian II and L. Anne Newell, *Setting Fires No Small Crime*, Arizona Daily Star, May 26, 2002. Copy supplied.

May 4, 1998: I was interviewed by local television station KVOA about the volunteer program Lawyers for Literacy. I have been unable to obtain a recording.

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.

On April 4, 2005, I was appointed a United States Magistrate Judge by the United States District Court for the District of Arizona. The Court is a court of limited jurisdiction. As a magistrate judge in that Court, I am authorized to perform those responsibilities set forth in 28 U.S.C. § 636 and those responsibilities designated to magistrate judges by the District Court judges in the Rules of Practice of the United States District Court for the District of Arizona.

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

I have presided over one jury trial involving a class A misdemeanor and four bench trials involving class A and/or B misdemeanors. By consent of the parties, I have presided over 14 civil cases which have gone to judgment and over the plea and sentencing of approximately 900 Class A misdemeanors. I have presided over the plea and sentencing of approximately 3,800 Class B misdemeanor cases.

- i. Of these, approximately what percent were:

jury trials:	20%
bench trials:	80%
civil proceedings:	1%
criminal proceedings:	99%

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

See attached list of opinions. The attached list, to the best of my knowledge, contains all of the opinions and reports and recommendations I have written as a magistrate judge. The majority of reports and recommendations in criminal cases in this district are forms that are used by the United States District Court in Arizona in proceedings involving a change of plea or admission to violation of condition of supervised release; the attached list includes the non-form reports and recommendations such as those pertaining to motions to dismiss, motions to suppress, motions for summary judgment and pretrial matters.

- 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) *Giles Const., Inc. v. Comm. Fed. Bank*, No. 04-cv-258-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.), *adopted at* 2006 WL 2711501 (D. Ariz. Sept. 21, 2006).

Plaintiff was a general contractor who filed an action against Defendant Commercial Federal Bank in district court on the basis of diversity jurisdiction, alleging claims for fraudulent misrepresentation, negligent misrepresentation, concealment and non-disclosure. Defendant moved for summary judgment; the motion was referred to me for a recommended ruling. I recommended granting the Motion for Summary Judgment; District Judge Cindy K. Jorgenson adopted my Report and Recommendation.

For Plaintiff: Brenda J. Lee & Craig Gerard Travers, Lee & Travers PLC, 2421 East Sixth Street, Suite 1, Tucson, AZ 85719, Tel: (520) 322-5575.

For Defendant: Craig H. Kaufman, Quarles & Brady LLP, 1 South Church Avenue, Suite 1700, Tucson, AZ 85701, Tel: (520) 770-8700.

- 2) *Newport v. Dell, Inc.*, No. 08-cv-96-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.); 2008 WL 4347311 (D. Ariz. Aug. 21, 2008), *adopted at* 2008 WL 4629987 (D. Ariz. Oct. 17, 2008).

Plaintiff filed a class action lawsuit against Dell, Inc., several of its subsidiaries and two computer repair businesses in Pima County Superior Court; the action was removed to federal court on the basis of federal question jurisdiction under the Class Action Fairness Act of 2005. Dell moved to dismiss Plaintiff's Amended Complaint; the motion was referred to me for a recommended ruling. I recommended that Plaintiff's Amended Complaint be dismissed in part; portions of the Amended Complaint were facially barred by the statute of limitations and class actions filed in other jurisdictions did not toll Plaintiff's statute of limitations. The parties did not object to my Report and Recommendation and District Judge Cindy K. Jorgenson adopted my Report and Recommendation. The parties have stipulated to stay the case pending approval of a global settlement in the Northern District of California.

For Plaintiff: Brian Strange & Gretchen Carpenter, Strange & Carpenter, 12100 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90025, Tel: (310) 207-5055; Bruce A. Burke, Law Office of Bruce A. Burke PC, 115 West Washington Street, Tucson, AZ 85701, Tel: (520) 622-3596; Randall Rothschild, Randall S. Rothschild PC, 12100 Wilshire Boulevard, Suite 800, Los Angeles, CA 90025, Tel: (310) 806-9245.

For Defendants: John P. Phillips, Richard Elder, Sean Unger, Christopher Mooney, Paul Hastings, Janofsky & Walker LLP, 55 2nd Street, 24th Floor, San Francisco, CA 94105, Tel: (415) 856-7000; Andrew Jacobs, Snell & Wilmer LLP, 1 South Church Avenue, Suite 1500, Tucson, AZ, 85701, Tel: (520) 882-1200; Kristine Brown, Alston & Bird LLP, 1201 West Peachtree

Street, Atlanta, GA 30309, Tel: (404) 881-7584; Paul W. Schlaud, Reeves & Brightwell LLP, 221 West Sixth Street, Suite 1000, Austin, TX 78701, Tel: (512) 334-4500; Michael S. Blanton, Roberts Raspe & Blanton LLP, 445 South Figueroa Street, Suite 2300, Los Angeles, CA 90071, Tel: (213) 430-0216; Aaron Christopher Gundzik, Cotton & Gundzik LLP, 624 South Grand Avenue, 22nd Floor, Los Angeles, CA 90017, Tel: (213) 312-1335.

- 3) *Valles v. Pima Cnty.*, No. 08-cv-09-FRZ (JCG) (CM/ECF) (D. Ariz.), *adopted at* 642 F. Supp. 2d 936 (D. Ariz. July 31, 2009), and 2011 WL 814974 (D. Ariz. Mar. 4, 2011).

Plaintiffs were purchasers of lots in a failed subdivision. In their Third Amended Complaint, Plaintiffs alleged federal claims against Pima County and state law claims against various subcontractors and real estate agents involved in the subdivision's development. The subcontractors and real estate agents moved to dismiss the complaint, and the motions were referred to me for a recommended ruling. In my Report and Recommendation, I concluded that the federal claims asserted against Pima County involved substantially different factual and legal foundations compared to the state law claims, and therefore the state law claims should be dismissed. District Judge Frank R. Zapata adopted my Report and Recommendation. The remaining defendant Pima County filed a motion for summary judgment, which I recommended granting. Judge Zapata adopted my Report and Recommendation; judgment was entered in favor of Defendant. Plaintiffs appealed the decision to the Ninth Circuit where the case is currently pending.

For Plaintiffs: Joane E. Hallinan, Hallinan Law Firm, 5240 East Pima Street, Tucson, AZ 85712, Tel: (520) 320-5240; Norris L. Ganson, Law Office of Norris L. Ganson, 6700 North Oracle Road, Suite 326, Tucson, AZ 85704, Tel: (520) 544-0608.

For Defendants: Thomas Weaver, Pima County Attorney's Office, 32 North Stone Avenue, Tucson, AZ 85701, Tel: (520) 740-5750; Scott David McDonald, Fennemore Craig PC, 1 South Church, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6827; L. Anthony Fines, Law Office of L. Anthony Fines PC, 33 North Stone Avenue, Suite 1850, Tucson, AZ 85701, Tel: (520) 547-2890; William G. Walker, William G. Walker PC, 177 North Church Avenue, Suite 700, Tucson, AZ 85701, Tel: (520) 622-3330; Howard L. Baldwin, Baldwin Law Office, 22 East University Boulevard, Tucson, AZ 85705, Tel: (520) 624-8527; Neal Allen Eckel, Durazzo & Eckel PC, 45 North Tucson Boulevard, Tucson, AZ 85716, Tel: (520) 792-0448; Richard M. Rollman, Gabroy Rollman & Bosse PC, 3507 North Campbell Avenue, Suite 111, Tucson, AZ 85719, Tel: (520) 320-1300.

- 4) *Morgan v. Ariz.*, No. 06-cv-346-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.), *adopted at* 2007 WL 2808477 (D. Ariz. Sept. 27, 2007).

Plaintiff, an inmate housed by the Arizona Department of Corrections, filed an Amended Complaint in Pima County Superior Court asserting federal and state law claims against the Arizona Department of Corrections and its wardens. Defendants removed the action to the District Court of Arizona on the basis of federal question jurisdiction and filed a Motion to Dismiss; the motion was referred to me for a recommended ruling. I recommended dismissal of Plaintiff's § 1983 claim for failure to exhaust administrative remedies; that Plaintiff be permitted to amend his complaint in order to bring his pendent state law claims into compliance with A.R.S. § 31-201.01(F); that the ADOC be dismissed as a non-jural entity not subject to suit; and that Plaintiff's negligence claim be dismissed pursuant to A.R.S. § 12820.02(A)(4). District Judge Frank R. Zapata adopted my Report and Recommendation. Plaintiff ultimately sought and was granted remand to the state court.

For Plaintiff: G. David DeLozier, DeLozier & Dutton PLLC, 4016 East Forest Pleasant Place, Cave Creek, AZ 85331, Tel: (480) 575-6660.

For Defendant: Paul Edward Carter, Office of the Attorney General Liability Management Section, 177 North Church Street, Suite 1105, Tucson, AZ 85701, Tel: (520) 638-2800.

- 5) *Cox v. Yamaha Motor Corp.*, No. 06-519-TUC-DCB (JCG) (CM/ECF) (D. Ariz.), *adopted at* 2008 WL 2328356 (D. Ariz. June 4, 2008).

Plaintiff was injured in a motocross race and filed an action against Yamaha, the manufacturer of his motorcycle, alleging product liability, breach of warranties and negligence. Yamaha moved for summary judgment on each of Plaintiff's claims; the motion was referred to me for a recommended ruling. I recommended that the motion be granted because Plaintiff's only evidence contradicting expert testimony of no defect was his own non-expert opinion affidavit. The parties did not object to my Report and Recommendation and District Judge David C. Bury adopted the Report and Recommendation.

For Plaintiff: John G. Stompoly, Stompoly & Stroud PC, 3567 East Sunrise Drive, Suite 133, Tucson, AZ 85718, Tel: (520) 628-9824.

For Defendant: Donald Bernard Petrie, Gallagher & Kennedy PA, 2575 East Camelback Road, Suite 1100, Phoenix, AZ 85016, Tel: (602) 530-8000.

- 6) *Autotel v. Qwest Corp.*, No. 05-cv-327-TUC-JCG, Doc. 89 (CM/ECF) (D. Ariz. Sept. 28, 2007); copy of unreported decision supplied.

Plaintiff was a telecommunications carrier that brought an action for declaratory and injunctive relief under § 252(e)(6) of the Telecommunications Act of 1996 and 42 U.S.C. § 1983, against Defendants Qwest, the Arizona Corporation Commission (ACC) and its Commissioners, appealing an arbitration decision of the ACC regarding an interconnection agreement between Autotel and Qwest. The parties consented to the jurisdiction of the magistrate. Autotel filed a Motion for Summary Judgment, challenging the ACC's ruling on 13 grounds. I construed the motion as an appeal of the ACC's decision, and denied the motion; judgment was entered in favor of Defendants. Autotel appealed the decision to the Ninth Circuit, which affirmed. *See* Ninth Circuit Case No. 07-17112, mandate issued August 17, 2009 (unpublished).

For Plaintiff: Marianne G. Dugan, Marianne Dugan Attorney at Law, 259 East 5th Avenue, Suite 200-D, Eugene, OR 97401, Tel: (541) 338-7072.

For Defendants: Christopher P. Staring, Fennemore Craig PC, 1 South Church Avenue, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6800; David L. Elmont, Stoel Rives LLP, 201 South Main, Suite 1100, Salt Lake City, UT 84111, Tel: (801) 578-6972; Maureen Ann Scott, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-6022.

- 7) *Madsen v. Schriro*, No. 04-cv-1452-JWS, Docs. 103, 121 (JCG) (CM/ECF), 2007 WL 2696864 (D. Ariz. July 9, 2007), *adopted at* 2007 WL 2696864 (D. Ariz. Sept. 11, 2007); 2008 WL 4849632 (D. Ariz. Sept. 3, 2008), *adopted at* 2008 WL 4849571 (D. Ariz. Nov. 7, 2008).

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Prior to my assignment, District Judge Sedwick rejected a Report and Recommendation and referred the matter back for an evidentiary hearing on statute of limitations and actual innocence issues. Upon the magistrate judge's retirement, the case was re-referred to me. After an evidentiary hearing, I issued two Reports and Recommendations recommending that Petitioner was not entitled to equitable tolling, that Petitioner had failed to articulate either a "gateway" or a "freestanding" actual innocence claim and that his petition should be denied. District Judge Sedwick adopted my Reports and Recommendations.

For Petitioner: Saul Huerta and Jason Mark Hannan, Federal Public Defenders Office, 407 West Congress Street, Suite 501, Tucson, AZ 85701, Tel: (520) 879-7500.

For Respondent: Aaron Jay Moskowitz, Office of the Attorney General, Criminal Appeals Section, 1275 West Washington, Phoenix, AZ 85007, Tel: (602) 542-4686.

- 8) *Brown v. Tucson Unified Sch. Dist.*, No. 04-586-TUC-RCC (JCG), Doc. 50; adopted at 2007 WL 625923 (D. Ariz. Feb. 27, 2007); copy of unreported Report and Recommendation supplied.

Plaintiff filed an action under Title VII of the Federal Civil Rights Act and the Arizona Civil Rights Act alleging retaliation and racial discrimination as well as state law claims of negligent supervision and intentional/negligent infliction of emotional distress. Defendant moved for summary judgment on all claims; the motion was referred to me for a recommended ruling. I recommended granting the motion with respect to all claims except Plaintiff's claim of retaliation. District Judge Raner C. Collins adopted my Report and Recommendation. The parties ultimately reached a resolution of the case.

For Plaintiff: Stephen M. Weiss, Karp & Weiss PC, 3060 North Swan Road, Suite 100, Tucson, AZ 85712, Tel: (520) 325-4200.

For Defendants: Christopher Robert Houk, Office of the Attorney General, 1275 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-8606; Michelle Lynn Swann, Curtis Goodwin Sullivan Udall & Schwab PLC, 501 East Thomas Road, Phoenix, AZ 85012, Tel: (602) 393-1700; Gordon Lewis, Jones Skelton & Hochuli PLC, 2901 North Central Avenue, Suite 800, Phoenix, AZ 85012, Tel: (602) 263-1700.

- 9) *United States v. Staton*, No. 09-mj-4580-TUC-JCG (CM/ECF) (D. Ariz.); not reported; no written opinion issued.

Defendant was charged by information with one count of knowingly littering, disposing and dumping garbage on the Buenos Aires National Wildlife Refuge in violation of 50 C.F.R. § 27.94(a) and 16 U.S.C. § 668dd(f)(1). Defendant consented to proceed before a magistrate judge and the matter was assigned to me. This case received a great deal of public attention because Defendant argued that he was leaving water for migrants attempting to enter the United States and therefore his actions did not constitute "littering" within the meaning of the applicable regulation and statute. I presided over the trial; the jury convicted Defendant as charged. Defendant appealed. While his appeal was pending, the Ninth Circuit issued a decision in *United States v. Millis*, 621 F.3d 914 (9th Cir. 2010), reversing the district court in a similar case. Following the decision in *Millis*, the parties filed a joint motion for summary reversal and remand, which the Ninth Circuit granted.

For the Government: Lawrence Lee, United States Attorney's Office, 405 West Congress Street, Suite 4800, Tucson, AZ 85701, Tel: (520) 620-7300.

For Defendant: William G. Walker, William G. Walker PC, 177 North Church Avenue, Suite 700, Tucson, AZ 85701, Tel: (520) 622-3330.

- 10) *United States v. Mikels*, No. 10-cr-1589-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.); 2010 WL 5247430(D. Ariz. Nov. 3, 2010), *adopted at* 2010 WL 5247279 (D. Ariz. Dec. 16, 2010).

Defendant was charged with possession with intent to distribute 112 kilograms of marijuana. Defendant moved to suppress the narcotics, contending that her vehicle was stopped without reasonable suspicion. I presided over the hearing on the motion to suppress. After an evidentiary hearing, I recommended that the motion to suppress be granted. Neither party objected to the Report and Recommendation which was subsequently adopted by District Judge Frank R. Zapata. The government dismissed the indictment.

For the Government: Robert A. Fellrath, United States Attorney's Office, 405 West Congress Street, Suite 4800, Tucson, AZ 85701, Tel: (520) 620-7473.

For Defendant: John D. Kaufmann, Law Office of John D. Kaufmann, 177 North Church Avenue, Suite 905, Tucson, AZ 85701, Tel: (520) 623-2016.

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

- 1) *Giles Const., Inc. v. Comm. Fed. Bank*, No. 04-cv-258-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.); *adopted at* 2006 WL 2711501 (D. Ariz. Sept. 21, 2006).

For Plaintiff: Brenda J. Lee & Craig Gerard Travers, Lee & Travers PLC, 2421 East Sixth Street, Suite 1, Tucson, AZ 85719, Tel: (520) 322-5575.

For Defendant: Craig H Kaufman, Quarles & Brady LLP, 1 South Church Avenue, Suite 1700, Tucson, AZ 85701, Tel: (520) 770-8700.

- 2) *Newport v. Dell, Inc.*, No. 08-cv-96-TUC-CKJ (JCG) (CM/ECF) (D. Ariz.); 2008 WL 4347311 (D. Ariz. Aug. 21, 2008), *adopted at* 2008 WL 4629987 (D. Ariz. Oct. 17, 2008).

For Plaintiff: Brian Strange & Gretchen Carpenter, Strange & Carpenter, 12100 Wilshire Boulevard, Suite 1900, Los Angeles, CA 90025, Tel: (310) 207-5055; Bruce A. Burke, Law Office of Bruce A. Burke PC, 115 West Washington Street, Tucson, AZ 85701, Tel: (520) 622-3596; Randall

Rothschild, Randall S. Rothschild PC, 12100 Wilshire Boulevard, Suite 800, Los Angeles, CA, 90025, Tel: (310) 806-9245.

For Defendants: John P. Phillips, Richard Elder, Sean Unger, Christopher Mooney, Paul Hastings, Janofsky & Walker LLP, 55 Second Street, 24th Floor, San Francisco, CA 94105, Tel: (415) 856-7000; Andrew Jacobs, Snell & Wilmer LLP, 1 South Church Avenue, Suite 1500, Tucson, AZ 85701, Tel: (520) 882-1200; Kristine Brown, Alston & Bird LLP, 1201 West Peachtree Street, Atlanta, GA 30309, Tel: (404) 881-7584; Paul W. Schlaud, Reeves & Brightwell LLP, 221 West Sixth Street, Suite 1000, Austin, TX 78701, Tel: (512) 334-4500; Michael S. Blanton, Roberts Raspe & Blanton LLP, 445 South Figueroa Street, Suite 2300, Los Angeles, CA 90071, Tel: (213) 430-0216; Aaron Christopher Gundzik, Cotton & Gundzik LLP, 624 South Grand Avenue, 22nd Floor, Los Angeles, CA 90017, Tel: (213) 312-1335.

- 3) *Valles v. Pima County*, No. 08-cv-09-FRZ (JCG) (CM/ECF) (D. Ariz.); *adopted at* 642 F. Supp. 2d 936 (D. Ariz. July 31, 2009).

For Plaintiffs: Joane E. Hallinan, Hallinan Law Firm, 5240 East Pima Street, Tucson, AZ 85712, Tel: (520) 320-5240; Norris L. Ganson, Law Office of Norris L. Ganson, 6700 North Oracle Road, Suite 326, Tucson, AZ 85704, Tel: (520) 544-0608.

For Defendants: Thomas Weaver, Pima County Attorney's Office, 32 North Stone Avenue, Tucson, AZ 85701, Tel: (520) 740-5750; Scott David McDonald, Fennemore Craig PC, 1 South Church, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6827; L. Anthony Fines, Law Office of L. Anthony Fines PC, 33 North Stone Avenue, Suite 1850, Tucson, AZ 85701, Tel: (520) 547-2890; William G. Walker, William G. Walker PC, 177 North Church Avenue, Suite 700, Tucson, AZ 85701, Tel: (520) 622-3330; Howard L. Baldwin, Baldwin Law Office, 22 East University Boulevard, Tucson, AZ 85705, Tel: (520) 624-8527; Neal Allen Eckel, Durazzo & Eckel PC, 45 North Tucson Boulevard, Tucson, AZ 85716, Tel: (520) 792-0448; Richard M. Rollman, Gabroy Rollman & Bosse PC, 3507 North Campbell Avenue, Suite 111, Tucson, AZ 85719, Tel: (520) 320-1300.

- 4) *Morgan v. Ariz.*, No. 06-cv-346-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.); *adopted at* 2007 WL 2808477 (D. Ariz. Sept. 27, 2007).

For Plaintiff: G. David DeLozier, DeLozier & Dutton PLLC, 4016 East Forest Pleasant Place, Cave Creek, AZ 85331, Tel: (480) 575-6660.

For Defendants: Paul Edward Carter, Office of the Attorney General Liability Management Section, 177 North Church Street, Suite 1105, Tucson, AZ 85701, Tel: (520) 638-2800.

- 5) *Cox v. Yamaha Motor Corp.*, No. 06-519-TUC-DCB (JCG) (CM/ECF) (D. Ariz.); *adopted at* 2008 WL 2328356 (D. Ariz. June 04, 2008).

For Plaintiff: John G. Stompoly, Stompoly & Stroud PC, 3567 East Sunrise Drive, Suite 133, Tucson, AZ 85718, Tel: (520) 628-9824.

For Defendant: Donald Bernard Petrie, Gallagher & Kennedy PA, 2575 East Camelback Road, Suite 1100, Phoenix, AZ 85016, Tel: (602) 530-8000.

- 6) *Autotel v. Qwest Corp.*, No. 05-cv-327-TUC-JCG, Doc. 89 (CM/ECF) (D. Ariz. Sept. 28, 2007); copy of unreported decision supplied in response to 13c.

For Plaintiff: Marianne G. Dugan, Marianne Dugan Attorney at Law, 259 East Fifth Avenue, Suite 200-D, Eugene, OR 97401, Tel: (541) 338-7072.

For Defendant: Christopher P. Staring, Fennemore Craig PC, 1 South Church Avenue, Suite 1000, Tucson, AZ 85701, Tel: (520) 879-6800; David L. Elmont, Stoel Rives LLP, 201 South Main, Suite 1100, Salt Lake City, UT 84111, Tel: (801) 578-6972; Maureen Ann Scott, Arizona Corporation Commission, 1200 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-6022.

- 7) *Madsen v. Schriro*, No. 04-cv-1452-JWS, Docs. 103, 121 (JCG) (CM/ECF) 2007 WL 2696864 (D. Ariz. July 9, 2007), *adopted at* 2007 WL 2696864 (D. Ariz. Sept. 11, 2007); 2008 WL 4849632 (D. Ariz. Sept. 3, 2008), *adopted at* 2008 WL 4849571 (D. Ariz. Nov. 7, 2008).

For Petitioner: Saul Huerta and Jason Mark Hannan, Federal Public Defenders Office, 407 West Congress Street, Suite 501, Tucson, AZ 85701, Tel: (520) 879-7500.

For Respondent: Aaron Jay Moskowitz, Office of the Attorney General, Criminal Appeals Section, 1275 West Washington, Phoenix, AZ 85007, Tel: (602) 542-4686.

- 8) *Brown v. Tucson Unified Sch. Dist.*, No. 04-cv-586-TUC-RCC (JCG), Doc. 50; *adopted at* 2007 WL 625923 (D. Ariz. Feb. 27, 2007); copy of unreported Report and Recommendation supplied in response to 13c.

Plaintiff's Counsel: Stephen M. Weiss, Karp & Weiss PC, 3060 North Swan Road, Suite 100, Tucson, AZ 85712, Tel: (520) 325-4200.

Defendants' Counsel: Christopher Robert Houk, Office of the Attorney General, 1275 West Washington Street, Phoenix, AZ 85007, Tel: (602) 542-8606; Michelle Lynn Swann, Curtis Goodwin Sullivan Udall & Schwab PLC, 501 East Thomas Road, Phoenix, AZ 85012, Tel: (602) 393-1700; Gordon

Lewis, Jones Skelton & Hochuli PLC, 2901 North Central Avenue, Suite 800, Phoenix, AZ 85012, Tel: (602) 263-1700.

- 9) *Martin-Sanchez v. Stebbins*, No. 08-cv-284-TUC-JCG, Doc. 122; copy of unreported opinion supplied.

Plaintiff's Counsel: Miguel Martin-Johnston, 856 West Nelson, Suite 706 Chicago, IL 60657, Tel: (312) 927-6925.

Defendant, proceeding *pro se*.

- 10) *United States v. Mikels*, No. 10-cr-1589-TUC-FRZ (JCG), Doc. 30 (CM/ECF) (D. Ariz.); 2010 WL 5247430(D. Ariz. Nov. 3, 2010), *adopted at* 2010 WL 5247279 (D. Ariz. Dec. 16, 2010).

For the Government: Robert A. Fellrath, United States Attorney's Office, 405 West Congress Street, Suite 4800, Tucson, AZ 85701, Tel: (520) 620-7473.

For Defendant: John D. Kaufmann, Law Office of John D. Kaufmann, 177 North Church Avenue, Suite 905, Tucson, AZ 85701, Tel: (520) 623-2016.

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

To the best of my knowledge, 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.

I have not maintained a list of my opinions or reports and recommendations which were reversed. To respond to this question, I have made an extensive review of my case organizer and made inquiries of my law clerk and court staff. To the best of my recollection, the following cases are responsive to this question.

- 1) *Hodge v. TMC Healthcare*, No. 04-cv-723-TUC-FRZ (JCG) (CM/ECF) (D. Ariz. May 17, 2006); opinions supplied.

I recommended granting four motions for summary judgment filed by Defendant in this employment discrimination case. District Judge Frank R. Zapata adopted my Report and Recommendation with respect to one of the motions (Plaintiff's claim for punitive damages) and rejected my Report and Recommendation with respect to the other three motions (Plaintiff's claims of

retaliation, gender discrimination and breach of contract). The parties ultimately reached a resolution of the case.

- 2) *Haley v. La Paloma Family Serv.*, No. 08-127-TUC-JMR (JCG) (CM/ECF) (D. Ariz. Aug. 16, 2010); opinions supplied.

The parties in this ADA case filed cross motions for summary judgment on the issue of whether Plaintiff was discriminated against on the basis of her disability when Defendant failed to hire her. I recommended denial of both motions. District Judge John M. Roll declined to adopt my Report and Recommendation and awarded summary judgment to Defendant. Plaintiff has appealed; the appeal is pending before the Ninth Circuit.

- 3) *Szalay v. Pima Cnty. Bd. of Sup.*, No. 02-cv-479-TUC-JMR (JCG) (CM/ECF) (D. Ariz. Sept. 5, 2007); copy of unreported Report and Recommendation supplied; district court opinion reported at 2008 WL 880551 (D. Ariz. Mar. 28, 2008).

In this employment case, I recommended granting a motion for summary judgment filed by Defendants on all three of Plaintiff's claims: retaliation, violation of due process and violation of the Family Medical Leave Act. District Judge John M. Roll adopted my Report and Recommendation with respect to Plaintiff's claims for violation of due process and the Family Medical Leave Act, but declined to adopt my recommendation with respect to Plaintiff's retaliation claim. After a four-day jury trial, the jury entered a verdict in favor of Defendants.

- 4) *United States v. Gaeta*, No. 06-cr-1954-TUC-CKJ (JCG) (CM/ECF) (D. Ariz. Nov. 26, 2007); opinions supplied.

Defendant was indicted on charges of concealment and falsifying documents. I recommended that Defendant's motion to dismiss the indictment be granted. District Judge Cindy K. Jorgenson declined to adopt the Report and Recommendation. A mistrial was declared when the jury could not reach a verdict. The government eventually dismissed the indictment.

- 5) *United States v. Martinez-Carrizosa*, No. 08-cr-311-TUC-FRZ (JCG) (CM/ECF) (D. Ariz.); no written opinion issued; district court opinion supplied.

District Judge Frank Zapata reversed the conviction of a defendant charged with illegal entry, who pleaded guilty in a group proceeding over which I presided. The District Court was reversed by the Ninth Circuit in *United States v. Roblero-Solis*, 588 F.3d 692 (9th Cir. 2009). *Roblero-Solis* consolidated five cases from two different hearing dates. The Ninth Circuit agreed with Judge Zapata that the court's method of taking group pleas

violated Rule 11 but affirmed the convictions of the five appealing defendants, in three cases due to my follow up questioning and defendants' failure to specify any additional objection, and in two cases, due to the defendants' waiver of objections.

- 6) *United States v. Alas*, No. 08-cr-874-TUC-CKJ (JCG), No. 65 (CM/ECF) (D. Ariz.); copy of unreported decision supplied; district court opinion reported at 2009 WL 504687 (D. Ariz. Feb. 27, 2009).

I denied a Motion for Production of Work Record of a border patrol agent. District Judge Cindy K. Jorgenson sustained Defendant's objection and ordered production of the records.

- (7) *Catz v. Chalker*, No.03-cv-00091-FRZ (JCG) (CM/ECF) (D. Ariz); 2010 WL 3855198 (D. Ariz. Mar. 18, 2010); district court opinion reported at 2010 WL 3834953 (D. Ariz. Sept. 28, 2010).

After entering judgment in favor of Defendants, Judge Zapata referred the Defendants' motions for attorneys fees to me for calculation. My report recommended awarding the two Defendants fees based on the district court's determination of the merits of the action. Judge Zapata adopted the recommendation. Subsequently, the Ninth Circuit reversed in part Judge Zapata's decision on the merits as to one of the Defendants and the fees calculation associated with that Defendant. After remand, Judge Zapata referred the matter to me for recalculation of attorney's fees consistent with the Ninth Circuit's decision. Judge Zapata adopted my report and recommendation as to these fees.

- 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.

All of my opinions, orders and reports and recommendations are filed electronically in the court's Electronic Case filing system (CM/ECF), making them available to the public. I have not submitted any of my orders or opinions for publication to reporting services such as Westlaw and LEXIS; Westlaw and LEXIS independently decide whether to publish opinions and have published some of my opinions.

- 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.

In the following civil cases, I issued a Report and Recommendation or Order that involved a federal constitutional issue:

- 1) *Ariz. Landlord Research Serv., LLC v. State of Arizona*, No. 04-cv-683-TUC-JCG (CM/ECF) (D. Ariz. July 20, 2006); copy of unreported decision supplied.
- 2) *Warden v. Fell*, No. 05-cv-20-TUC-JCG (CM/ECF) (D. Ariz. June 30, 2008); copy of unreported decision supplied.
- 3) *Jenkins v. Sw. Gas Corp.*, No. 09-cv-382-TUC-JMR (JCG) (CM/ECF) (D. Ariz.); 2009 WL 6302956 (D. Ariz. Oct. 5, 2009).
- 4) *Valles v. Pima Cnty.*, No. 08-cv-09-TUC-FRZ (JCG) (CM/ECF) (D. Ariz. Jan. 20, 2011), *adopted at* 2011 WL 814974 (D. Ariz. Mar. 4, 2011).

In criminal cases, numerous pretrial motions involving constitutional claims have been referred to me for Report and Recommendation, most commonly motions to dismiss indictments or motions to suppress. I also routinely issue reports and recommendations in prisoners' rights cases arising under 42 U.S.C. § 1983 and petitions for habeas corpus relief brought pursuant to 28 U.S.C. § 2254. To the best of my knowledge, each Report and Recommendation that I have issued with respect to these criminal pretrial motions and civil prisoner actions involved application of long-standing and well-settled constitutional principles and did not constitute "significant" opinions on federal issues.

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

I have not 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 follow the federal recusal statutes and the Code of Conduct for United States Judges. I maintain a standing recusal list which requires my recusal consistent with these authorities, including recusal in any case that was pending at the United States Attorney's Office during the time in which I was the supervisor and in cases in which my spouse or a close friend represents a party. Our court does not utilize an "automatic" recusal system. Under our notification system, if a case randomly assigned to me involves a party listed on my standing recusal list, a notice of potential conflict is sent to chambers. After receiving the notice, I determine if I should recuse myself from the case.

Based on my standing recusal guidelines, I have recused myself *sua sponte* in the criminal cases listed in the attachments.

In addition, I recused myself *sua sponte* in the following civil matters based on my prior involvement in the case as an attorney or supervisor:

United States v. Mondragon, No. 97-cv-700-TUC-WFN (D. Ariz.)
Bothwell v. Ashcroft, No. 02-cv-200-TUC-JMR (D. Ariz.)
Apolinar v. Baum, No. 06-cv-560-TUC-FRZ (D. Ariz.)

In *Konarski v. Tucson*, No. 98-cv-528-TUC-CKJ (D. Ariz.), I previously represented Defendants in similar actions brought by Plaintiff. My familiarity with the Plaintiff and his prior lawsuit provided an appropriate ground for recusal.

In *United States v. 423 Camino Brizza Bonell*, No. 07-cv-61-TUC-JMR (D. Ariz.), the government filed a motion for reassignment on the grounds that this forfeiture action was related to criminal charges initiated during the time parameters for my conflicts with the United States Attorney's Office. I granted the motion and recused myself.

On one occasion I denied a motion for recusal: In *Burdon v. Tucson*, No. 09-cv-258-TUC-DCB (D. Ariz. July 17, 2009), Plaintiff's counsel sent a letter to chambers which I construed as a motion for recusal. The letter, which was filed under seal, suggested that my law clerk might be biased against Plaintiff's attorney based on the clerk's involvement in litigation with counsel prior to her employment at my office. As the events did not involve me, I denied the motion for recusal. In order to avoid the appearance of impropriety, my law clerk had no substantive involvement in the case.

Plaintiff's counsel in *Burdon v. Tucson*, No. 09-cv-258-TUC-DCB (D. Ariz. July 17, 2009) also represented the Defendant in *United States v. Hong*, No. 09-cr-17-TUC-DCB (JCG) (July 10, 2009). After District Judge David C. Bury adopted

my Report and Recommendation that Defendant's motion to suppress be denied, defense counsel filed a request for status conference supported by an affidavit under seal. The affidavit alleged that my law clerk might be biased against defense counsel. District Judge Bury denied the request for status conference, concluding that defense counsel's concerns were unfounded.

In *Jebril v. Graber*, 10-002-TUC-FRZ (D. Ariz. May 20, 2010), a petitioner seeking a writ of habeas corpus filed a motion requesting that the Honorable Frank R. Zapata recuse me and strike my Report and Recommendation, which had recommended denial of his petition. Judge Zapata adopted my recommendation, denying the request.

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 public offices other than judicial office. I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

I have never held any office in any political party or held a position or played a role in any political campaign.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
 - i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the Honorable William C. Canby, United States Court of Appeals for the Ninth Circuit, from 1990 to 1991.

- 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.

1991 – 1995

Molloy, Jones & Donahue
32 North Stone, Suite 2200
Tucson, Arizona 85701
Associate Attorney

1995 – 2005

United States Attorney's Office for the District of Arizona
405 West Congress Street, Suite 4800
Tucson, Arizona 85705
Assistant United States Attorney (1995 – 2001)
Civil Chief (2002)
Chief Assistant (2002 – 2005)

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

I have not 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 October 1991 to January 1995, I was an associate attorney at Molloy, Jones & Donahue, a law firm in Tucson, Arizona. As an associate, I represented creditors in bankruptcy and collection matters, prosecuted and defended commercial litigation cases, and represented businesses and individuals in corporate transactional matters. I counseled businesses and individuals on business formation, transactions and compliance with federal and state law.

From February 1995 to February 2005, I served as an Assistant United States Attorney in Tucson, Arizona. From 1995 to 2001, I worked in the Civil Division, representing the United States, its agencies and employees in tort, employment discrimination, bankruptcy and other litigation matters

brought against or by the government. I was promoted to Civil Chief in January 2002; in addition to my own cases, as Civil Chief, I supervised employees of the Division. In 2002, I was promoted to Chief Assistant. As Chief Assistant, I was responsible for the Criminal, Civil and Appeal Divisions and the operations and policies of the United States Attorney's office in Tucson.

In 2005, I was appointed as a Magistrate Judge for the District Court of Arizona in Tucson.

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

At the law firm of Molloy, Jones & Donahue, my typical clients were small businesses, financial institutions, developers and corporations. At the U.S. Attorney's office, my clients were the United States, its agencies and its employees.

- 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.

Approximately 90 percent of my overall law practice was in litigation. While at Molloy, Jones & Donahue, 80 percent of my practice was litigation. I appeared regularly in United States bankruptcy court and infrequently in the state trial court. As an Assistant United States Attorney in the Civil Division, 100 percent of my practice was litigation. I appeared regularly in United States Bankruptcy Court and occasionally in United States District Court. As the Chief Assistant at the United States Attorney's office, approximately 10 percent of my practice involved litigation. I appeared occasionally in United States District Court for trial and to argue motions.

- i. Indicate the percentage of your practice in:

1. federal courts:	97 %
2. state courts of record:	3 %
3. other courts:	0 %
4. administrative agencies:	0 %

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	60 %
2. criminal proceedings:	40 %

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

I have tried six cases to verdict. Two cases were felony jury trials. I was lead counsel in one and co-counsel in the second. One case was a misdemeanor bench trial in which I was sole counsel. Three cases were civil cases. I was sole counsel in one, co-counsel in one, and associate counsel in the third.

- i. What percentage of these trials were:
 - 1. jury: 50 %
 - 2. non-jury: 50 %

- 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. *United States v. Klump*, No. 00-cv-00431-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; July 2000 to June 2004.

On behalf of the United States, I filed a complaint for trespass against two ranchers, a father and son, whose cattle were grazing on federal lands. I filed a motion for summary judgment, seeking removal of the cattle and trespass damages. District Judge John M. Roll granted the motion. The son removed his cattle, but the father refused. Judge Roll found the father in contempt. Counsel was appointed to represent the father and periodic hearings were held to determine whether the father would comply with the court's order. During the subsequent hearings, counsel argued that Judge Roll should require the government to remove the cattle as a lesser alternative to the imprisonment. Given the history of trespass and the defendant's threats of violence, I opposed the motion. Judge Roll denied the motion and the

defendant remained imprisoned until he purged the contempt by agreeing to remove the cattle.

Defendant's Attorney: Heather Williams, Federal Public Defender, 407 West Congress Street, Suite 501, Tucson, Arizona 85701, Tel: (520) 879-7601.

2. *In re Lind*, B-97-00212-TUC-RTB, United States Bankruptcy Court, District of Arizona, Hon. Redfield T. Baum; January 1997 to February 2000.

I represented the United States, on behalf of the Internal Revenue Service, in the personal Chapter 11 bankruptcy proceeding initiated by debtors Mr. and Mrs. Lind. After conducting discovery, which the debtors resisted, I opposed confirmation of the plan of reorganization on the grounds that the debtors acted in bad faith by their post-petition transfer of valuable land and because the plan was not feasible. By order dated February 4, 2000, Bankruptcy Judge Redfield T. Baum denied plan confirmation on both grounds.

Debtors' Attorney: Michael Baldwin, Law Offices of Michael Baldwin PLC, 177 North Church, Suite 913, Tucson, Arizona 85701, Tel: (520) 792-3600.

3. *United States v. Lind*, 01-000035-TUC-JMR (GEE), United States District Court, District of Arizona, Hon. John M. Roll; January 2001 to January 2005.

I referred the Lind bankruptcy matter to the Criminal Division of the United States Attorney's Office. Mr. Lind was subsequently indicted for bankruptcy fraud, perjury and three counts of engaging in a transaction with property derived from unlawful activity. I co-tried the case to a jury in a five-day trial. After disputes with counsel, Lind elected to represent himself. District Judge John M. Roll appointed advisory counsel to assist Lind. The jury found Lind guilty on all charges. I represented the government at sentencing and filed post-conviction motions regarding the calculation and means of distributing restitution to Lind's creditors. Lind appealed to the Ninth Circuit Court of Appeals, which affirmed his conviction and remanded for resentencing in an unpublished decision found at 2005 WL 1899288 (9th Cir. 2005).

Co-counsel: Robert L. Miskell, United States Attorney's Office, 405 West Congress, Suite 4800, Tucson, Arizona, 85701, Tel: (520) 620-7345.

Defendant's advisory counsel at trial: Ralph E. Ellinwood, 177 West Washington Street, Tucson, Arizona 85718, Tel: (520) 545-1665.

Defendant's attorney on appeal: Harriette P. Levitt, Law Offices of Harriette P. Levitt, 1147 North Howard Boulevard, Tucson, Arizona 85716, Tel: (520) 622-3308.

4. *Kolar v. Reno*, No. 96-cv-426-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; June 1996 to June 1998.

I represented the government in an employment discrimination action brought by a teacher at the Federal Correctional Institution in Tucson, Arizona. Plaintiff asserted gender discrimination, retaliation and hostile work environment claims. There were several discovery disputes which were resolved in favor of the government. As a result of the additional information obtained through discovery, the government was able to negotiate a settlement. District Judge John M. Roll dismissed the case with prejudice, each party to bear its own costs.

Plaintiff's counsel: Thabet Khalidi, Khalidi & Ferrier, PLLC, 88 West Cushing Street, Tucson, Arizona 85701, Tel: (520) 629-9909.

5. *Long v. Peters*, No. 97-744-TUC-ACM, United States District Court, District of Arizona, Hon. Alfredo Marquez; November 1997 to December 2002.

Long, a civilian employee of the United States Air Force, alleged race discrimination, retaliation, and violations of the Rehabilitation and Civil Service Reform Acts. I co-wrote a motion for summary judgment. District Judge Alfredo C. Marquez granted the motion in part and dismissed all but the racial discrimination claim. The proceedings were very contentious and numerous motions *in limine* were presented, briefed and argued. I co-tried the case; after a seven-day trial, the jury returned a verdict in favor of the government. The Plaintiff appealed to the Ninth Circuit Court of Appeals, which affirmed the verdict in a decision found at 47 Fed. Appx. 501 (9th Cir. 2002).

Co-counsel: Janet K. Martin, United States Attorney's Office, 405 West Congress, Suite 4800, Tucson, Arizona 85701, Tel: (520) 620-7493.

Plaintiff's counsel: Minnette Burges, Minnette Burges Law Office, 177 North Church Avenue, Suite 808, Tucson, Arizona 85701, Tel: (520) 884-5514; Merle Turchik, 300 North Main Avenue, Suite 106, Tucson, Arizona 85701, Tel: (520) 882-7070.

6. *Wartell v. United States*, No. 95-103-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; February 1995 to September 1997.

Plaintiff brought a malpractice action pursuant to the Federal Tort Claims Act. After discovery, co-counsel and I filed a motion for summary judgment on behalf of the government on the grounds that the statute of limitations had expired and the conduct of the employee was outside the scope of employment. District Judge John M. Roll granted the government's motion on both grounds. The ruling was affirmed on appeal. *Wartell v. United States*, 124 F.3d 215, 1997 WL 599989 (9th Cir. 1997) (unpublished decision). The district court case file has been sealed and the appellate decision removed from Westlaw due to the sensitive nature of the case.

Co-counsel: Cindy K. Jorgenson, United States District Court, Judge Evo A. DeConcini U.S. Courthouse, 405 West Congress Street, Suite 5180, Tucson, Arizona 85701, Tel: (520) 205-4550. Judge Jorgenson left the United States Attorney's Office after the motion for summary judgment was filed.

Plaintiff's counsel: Gregory Muir, Young Wooldridge LLP, 1800 30th Street, 4th Floor, Bakersfield, California 93301, Tel: (661) 327-9661.

7. *Salinas v. United States*, No. 97-cv-00125-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; February 1997 to July 2001.

Plaintiffs brought an action under the Federal Tort Claims Act alleging a United States Border Patrol agent injured their daughter when he fired his weapon negligently or recklessly. I met initially with Plaintiffs' counsel and suggested that Plaintiffs seek compensation through an Attorney General fund for persons inadvertently injured by law enforcement officials. The Plaintiffs declined. After discovery, the government filed a motion for summary judgment on the grounds that the victim was not a foreseeable plaintiff and that the agent acted in self defense. District Judge John M. Roll granted the motion for summary judgment and entered judgment in favor of the government. The Plaintiffs appealed. The Ninth Circuit affirmed the judgment in a decision reported at *Salinas v. United States*, 9 Fed. Appx. 662 (9th Cir. 2001). After appeal, I assisted the Plaintiffs in applying for compensation from the Attorney General, which I believe they received.

Co-counsel: Janet K. Martin, United States Attorney's Office, 405 West Congress, Suite 4800, Tucson, Arizona 85701, Tel: (520) 620-7493.

Plaintiffs' counsel: William Bacon, Goldberg & Osborn, 33 North Stone, Suite 1850, Tucson, Arizona 85701, Tel: (520) 620-3991.

8. *Gainey v. Reno*, No. 93-CV-00809-TUC-JMR, United States District Court, District of Arizona, Hon. John M. Roll; December 1996 to May 1997.

Plaintiff alleged his employer Federal Correctional Institute (FCI) Tucson discriminated and retaliated against him based on race. I was asked to represent the government after the case had been pending three years and court deadlines were impending. I defended depositions, obtained an expert witness, and interviewed numerous employees, co-workers, and supervisors. The parties reached settlement after a lengthy mediation.

Co-counsel: Don B. Overall, 3150 East Camino Miraval, Tucson, Arizona 85718, Tel: (520) 730-4747 or (520) 299-4499.

Plaintiff's counsel: Mark Alan Hubble and Mark David Williamson, Dorsey & Whitney LLP, 50 South Sixth Street, Minneapolis, Minnesota 55402, Tel: (612) 340-2600.

9. *Thompson v. United States*, 01-CV-590-CKJ, United States District Court, District of Arizona, Hon. Cindy K. Jorgenson; November 2001 to April 2003.

Plaintiff brought an action under the Federal Tort Claims Act alleging that government doctors at the Veterans Administration Medical Center in Tucson committed medical malpractice in discharging a mental health patient who was subsequently involved in a car accident. I filed a motion for summary judgment on behalf of the government asserting the discharging physicians were independent contractors for whom the government could not be held liable. District Judge Cindy K. Jorgenson granted the motion for summary judgment and the case against the government was dismissed with prejudice.

Plaintiff's counsel: Kathleen Rogers, Slutcs, Sakrison & Rogers, P.C., 4801 East Broadway, Suite 301, Tucson, Arizona 85711. Tel: (520) 624-6691.

10. *Elmore v. Reno*, 99-CV-00286-ACM, United States District Court, District of Arizona, Hon. Alfredo Marquez; November 1998 to January 2000.

Plaintiff, an employee of the Bureau of Prisons, filed an employment discrimination action. I filed a motion for summary judgment on the pleadings. Plaintiff conducted discovery to respond to the motion. After Plaintiff's response and the government's reply, District Judge Alfredo Marquez granted the motion in favor of the government.

Plaintiff's counsel: Rosemary Stathakis Cook, Law Office of Rosemary Cook, 818 North Fifth Avenue, Phoenix, Arizona 85003, Tel: (602) 271-0589.

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 not performed any lobbying activities on behalf of any client or organization.

As an associate in private practice, I reviewed and edited documents for the purchase and development of a golf course community. I reviewed and prepared employment handbooks; reviewed standard forms to be used by a mail-order business to ensure compliance with state and federal law; and prepared buy-sell agreements, partnership agreements, and documentation for formation of corporations, LLCs, and partnerships. I also prepared an application and supporting documents for the formation of a 501(c)(3) charitable organization.

As an Assistant United States attorney I participated in numerous cases which were resolved by dispositive motion or through settlement negotiations or mediation. Most of these cases involved employment discrimination claims. As the Chief Assistant of the Tucson United States Attorney's Office, my legal responsibilities included oversight of cases and development of policies regarding criminal prosecutions, case dispositions, and case management.

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.

Legal Research and Writing. University of Arizona James E. Rogers College of Law. Spring semester, 2001 and 2002. As an adjunct professor, I taught first year law students how to prepare legal memoranda and motions, legal citation, and general writing skills. Syllabi supplied.

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

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.

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

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

My husband is an Assistant United States Attorney. As is my current practice, I would recuse myself in any case in which he is involved or has had any involvement. I would follow the Judicial Code of Conduct and federal recusal statutes in recusing myself in any matter involving litigants I know personally. I am not aware of any category of litigation or financial arrangement that is likely to present potential conflicts of interest.

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

If I am confirmed, I will continue to follow the federal recusal statutes and the Code of Conduct for United States Judges. If any issue of a potential conflict were to arise, I would consult the applicable statutes and the Code and, if necessary, would seek advice from the Code of Conduct Committee of the Judicial Conference. In cases of uncertainty, I would err on the side of disqualification or recusal.

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

From 1984 to 1987, I was a victim witness volunteer for the Pima County Attorney's Office. I aided crime victims by providing assistance at the time of the crime when called upon by police officers. I also aided victims by providing assistance during the criminal prosecution. I explained to victims the legal process and their rights in that process and accompanied victims to court.

From 1989 to 1990, I was a volunteer tutor at Walker Jones Elementary School in Washington, D.C. I met weekly with several fourth and fifth grade students who needed individualized assistance with school work.

From 1995 to 1999, I was the Chairperson of Lawyers for Literacy, which pairs lawyer tutors with elementary school children who are experiencing difficulty reading. The lawyers met weekly to tutor the students. I coordinated the program at four schools, recruited and trained lawyers to serve as mentors, and worked with the schools to ensure the success of the program and to encourage development of reading skills.

From 1997 to 2000, I was a volunteer for the Guardian Ad Litem program. As a volunteer I represented *pro bono* mentally disadvantaged adults in proceedings for the appointment of guardians and conservators. The program focused on assisting those who could not afford representation and ensuring that developmentally disadvantaged adults would have appropriate guardians.

Since 1997, I have served many summers as a mentor in the Courts-R-Us summer program. Courts-R-Us is an educational work program at the Pima County Superior Court for disadvantaged teens. Each summer students are provided the opportunity to work in various positions at the superior court and are assigned an attorney mentor to talk about their experience and work opportunities in the legal profession.

Since 2006, I have been a board member of the St. Cyril Educational Foundation. The Foundation strives to enrich educational opportunities at the St. Cyril of Alexandria school, including providing access to activities and opportunities for those with financial disadvantages.

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.

On February 19, 2010, I met with Arizona Senators Jon Kyl and John McCain in Tucson, Arizona. On February 23, 2010, I sent letters to all members of the Arizona Congressional Delegation indicating my interest in the judicial vacancy created by Judge Frank R. Zapata's decision to take senior status in August 2010.

On January 25, 2011, I sent a letter application to Representative Ed Pastor in response to the notice on his web site of the procedure which would be used to make recommendations to fill judicial vacancies. I sent a copy of the letter to United States Representatives Raul Grijalva and Gabrielle Giffords, the two United States Representatives which Representative Pastor's website indicated would be involved in the recommendation decision. On February 3, 2011, Representative Grijalva called to inform me that he was recommending me to the President for appointment to the United States District Court.

Since February 10, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 22, 2011, I interviewed with officials from the

White House Counsel's Office and the Department of Justice in Washington, DC. On June 23, 2011, the President submitted my nomination to the Senate.

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

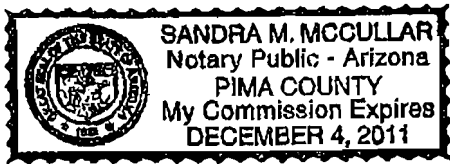
No.

AFFIDAVIT

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

6/21/11
(DATE)

[Signature]
(NAME)



[Signature]
(NOTARY)