

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR NON-JUDICIAL NOMINEES

PUBLIC

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

Gary Michael Restaino

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

United States Attorney, 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 Attorney's Office
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004

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

1968; Edison, New Jersey

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.

University of Virginia School of Law, 1993-1996
J.D. – May 1996

Haverford College, 1986-1990
B.A. – May 1990

University of St. Andrews, Fife, Scotland
Junior Year Abroad, Oct. 1988 – June 1989

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.

July 2017 – Present
Member, Board of Directors; Board Secretary (May 2020 – Present)
Community Legal Services, Inc.
305 South Second Avenue
Phoenix, Arizona 85036
Unpaid

September 2003 – July 2009 and December 2010 – Present
Assistant United States Attorney
United States Attorney's Office
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004
Paid

June 2012 – June 2014
Chair
Legal Services Committee
State Bar of Arizona
4201 North 24th Street
Phoenix, Arizona 85016
Unpaid

July 2009 – December 2010
Trial Attorney (on detail)
Public Integrity Section
United States Department of Justice
1400 New York Avenue, NW
Washington, District of Columbia 20005
Paid

January 2002 – December 2007
Member, Board of Directors
Arizona Bar Foundation
4201 North 24th Street
Phoenix, Arizona 85016
Unpaid

June 2001 – June 2002
Chair
Public Lawyers Section
State Bar of Arizona
4201 North 24th Street
Phoenix, Arizona 85016
Unpaid

July 1999 – September 2003

Assistant Attorney General
Civil Rights Division
Arizona Attorney General's Office
1275 West Washington Street
Phoenix, Arizona 85007
Paid

September 1997 – May 2009
Member, Board of Directors; President (May 2002 – May 2004/May 2007 – May 2009)
Adelante Healthcare
15351 West Bell Road
Surprise, Arizona 85374
Unpaid

August 1996 – July 1999
Staff Attorney
Community Legal Services, Inc.
305 South Second Avenue
Phoenix, Arizona 85036
Paid

June 1995 – August 1995
Law Clerk
Salerno, Cozzarrelli, Mautone, DeSalvo and Nussbaum
155 Pompton Avenue
Verona, New Jersey 07044
Paid

June 1994 – August 1994
Law Clerk
Farmworker Program
Colorado Rural Legal Assistance, Inc.
603 Main Street
Alamosa, Colorado 81101
Paid

February 1991 – May 1993
Peace Corps Volunteer
United States Peace Corps
162 Chaco Boreal
Asuncion, Paraguay
Stipend

June 1990 – August 1990
Waterfront Director
Camp Aquehonga

Ten Mile River Scout Camps
Narrowsburg, New York 12764
Paid

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 U.S. military. I have registered 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.

Exceptional Service Award, Criminal Division, United States Department of Justice, 2014
Foundation for Justice Award, Arizona Bar Foundation, 2012
Distinguished Public Lawyer Award, Arizona State Bar, 2012
Advocate of the Year, Arizona Attorney General's Office, 2001
S.P. Lippincott Prize in History, Haverford College, 1990
Eagle Scout, Boy Scouts of America, 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.

State Bar of Arizona
Legal Services Committee (Chair, June 2012 – June 2014)

State Bar of Arizona
Access to Justice Task Force

Arizona Bar Foundation (formerly known as the Arizona Foundation for Legal Services and Education)
Board of Directors (January 2002– December 2007)

State Bar of Arizona
Landlord Tenant Task Force

State Bar of Arizona
Public Lawyers Section, Executive Council (Chair, June 2001–June 2002)

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, October 1996

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 (November 2003)

United States District Court for the District of Arizona (October 1996)

All state courts in Arizona (October 1996)

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.

Community Legal Services, Inc. (2017 – Present)

Board of Directors

Secretary (May 2020 – Present)

Arizona Road Racers (2014 – Present)

Sandra Day O'Connor Inn of Court (1997 – 2009; 2012 – Present)

Adelante Healthcare formerly known as Clínica Adelante (1997 – 2009)

Board of Directors

President (May 2002 – May 2004; May 2007 – May 2009)

- b. 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 these organizations 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.

I have done my best to identify all books, articles, letters to the editor, editorial pieces and other published material, including through a review of my personal files and searches of publicly available electronic databases. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. I have located the following:

Last Word, ARIZONA ATTORNEY (January 2014). (Article explaining the change to Sup. Ct. R. 45, providing CLE credit for pro bono work.)
Copy supplied.

Letter to the Editor (Regarding Arizona's Minimum Wage), ARIZONA REPUBLIC, February 10, 2007, at B11.
Copy supplied.

Letter to the Editor (Regarding Efforts to Overcome Obstacles to Voter Participation), ARIZONA REPUBLIC, AUGUST 24, 2006, at B6.
Copy supplied.

Letter to the Editor (Regarding the Qualifications for Director Candidates to Lead Arizona's "Clean Elections" Commission), ARIZONA REPUBLIC, June 23, 2005, at B6.
Copy supplied.

Letter to the Editor (Regarding Taxation), ARIZONA REPUBLIC, January 22, 2004, at B10.
Copy supplied.

Letter to the Editor (Regarding Immigration), ARIZONA REPUBLIC, February 19, 2003, at B10.
Copy supplied.

A Voice for the Farmworker (Regarding the Protections of the Agricultural Worker Protection Act), DESERT FARM AND RANCH, April 7, 1999.
Copy supplied.

A Voice for the Farmworker (Regarding H-2A Guestworkers), DESERT FARM AND RANCH, November 18, 1998.

Copy supplied.

Quaker in Canton: Dr. William Warder Cadbury's Mission, 1909-1949, QUAKER HISTORY v. 83 No. 1 (Spring 1994). (Undergraduate thesis.)

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.

I have done my best to identify any reports, memoranda, or policy statements I have prepared or contributed to, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Comments of the Arizona Foundation for Legal Services and Education, In the Matter of a Petition to Amend Rules 43 et. seq., Arizona Supreme Court No. R-06-0035 (May 14, 2007)

Copy supplied.

Comments of Community Legal Services on the 1999-2000 State Plan for Agricultural Services, to the Arizona Department of Economic Security (April 1999).

Copy supplied.

Comments of Community Legal Services pursuant to 64 Fed. Reg. 8140-8141 (on the "Presence" Requirement for Eligibility for Legal Services), to the Legal Services Corporation (March 1999).

Copy supplied.

Comments of Community Legal Services on the 1998-1999 State Plan for Agricultural Services, to the Arizona Department of Economic Security (April 1998).

Copy supplied.

Comments of Community Legal Services on the 1997-1998 State Plan for Agricultural Services, to the Arizona Department of Economic Security (April 1997).

Copy supplied.

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

behalf to public bodies or public officials.

I have done my best to identify any testimony, official statements, or other communications related, in whole or in part, to matters of public policy or legal interpretation, including through a review of my personal files and searches of publicly available electronic databases. I have located the following:

Vote "No" to End Usury (Argument Against Proposition 200), GENERAL ELECTION PUBLICITY PAMPHLET, November 4, 2008, at 61.
Copy supplied.

Respect Arizona's Historic Values – Vote No on English Only (Argument Against Proposition 103), GENERAL ELECTION PUBLICITY PAMPHLET, November 7, 2006, at 27-28.
Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have done my best to identify speeches or talks delivered, including through a review of my personal files and searches of publicly available electronic databases. I frequently speak from a handwritten outline. I did not retain many handwritten outlines. Despite my searches, there may be other materials I have been unable to identify, find, or remember. I have identified the following presentations:

Association of Certified Anti-Money Laundering Specialists
Wells Fargo Conference Center
100 West Washington Street
Phoenix, Arizona
July 2019

I gave a presentation to banking industry professionals on financial frauds targeting the elderly. I used the Department's standard PowerPoint as a guide to the presentation and added several slides on suspicious activity reporting. There was no press coverage or transcript of the discussion of which I am aware.
Copy supplied.

World Elder Abuse Awareness Day
Black Canyon Conference Center

9440 North 25th Avenue
Phoenix, Arizona
June 2019

I participated in a panel discussion on elder fraud. I used the Department's standard PowerPoint as a guide to the presentation, and added several slides on working with elder victims. There was no press coverage or transcript of the panel discussion of which I am aware.
Copy supplied.

Arizona State Bar Convention
Westin La Paloma
3800 East Sunrise Drive
Tucson, Arizona
June 2017

I participated in a panel discussion on criminal fines and fees as barriers to reentry. I did not retain my notes, and there was no press coverage or transcript of the panel discussion of which I am aware.

Investiture of the Hon. Todd F. Lang
Maricopa County Superior Court
205 West Jefferson Street
Phoenix, Arizona
February 2017

I presented remarks at the investiture. I retained an outline.
Copy supplied.

Arizona State Bar Convention
Westin La Paloma
3800 East Sunrise Drive
Tucson, Arizona
June 2014

I moderated a panel discussion on roadblocks to reentry for the incarcerated upon release. I did not retain my notes, and there was no press coverage or transcript of the panel discussion of which I am aware.

Arizona Employment Lawyer's Association
12684 West Gila Bend Highway
Casa Grande, Arizona
February 2006

I gave a presentation on Ethical Rule 4.2 and contact with represented parties. I retained an outline.
Copy supplied.

CLE By the Sea
Hotel Del Coronado
1500 Orange Avenue

Coronado, California

July 2005

I participated in a panel discussion on human trafficking. I retained a PowerPoint. Copy supplied.

Arizona State Bar Convention

Westin La Paloma

3800 East Sunrise Drive

Tucson, Arizona

June 2005

I participated in a panel discussion on predatory mortgage lending. I did not retain my notes, and there was no press coverage or transcript of the panel discussion of which I am aware.

New Home Baptist Church

1144 West Sherman Street

Phoenix, Arizona

February 2002

In my role as an Assistant Attorney General for the State of Arizona, I participated in a community discussion to address racial profiling in law enforcement. I retained a handwritten outline.

Copy supplied.

2nd National Symposium on Racial Profiling

Northwestern University – Center for Public Safety

5555 North River Road

Rosemont, Illinois

October 2001

In my role as an Assistant Attorney General for the State of Arizona, I participated in a panel discussion on best practices to address racial profiling in law enforcement. I retained a handwritten outline.

Copy supplied.

National Criminal Justice Association

State Highway 89A

Sedona, Arizona

July 2001

In my role as an Assistant Attorney General for the State of Arizona, I participated in a panel discussion on best practices to address racial profiling in law enforcement. I retained a handwritten outline.

Copy supplied.

National Association of Hispanic Journalists

Phoenix Convention Center

100 North 3rd Street

Phoenix, Arizona

June 2001

In my role as an Assistant Attorney General for the State of Arizona, I participated in a panel discussion to address racial profiling in law enforcement. I retained a handwritten outline.

Copy 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.

I have done my best to identify all interviews given, including through a review of my personal files, and searches of publicly available electronic databases. I have occasionally given interviews to Spanish-language print and television media over the course of my legal career, particularly while at the Arizona Attorney General's Office, from 1999 to 2003. I do not have copies, clips or transcripts, nor do I have a complete list of interviews. Despite my searches, there may be other materials that I have been unable to identify, find, or remember. After searching my personal files, I have identified the following interview about discrimination facing the Hispanic community in Arizona. During the interview I provided statistics for complaints of employment discrimination in the preceding year, and I discussed the barriers that monolingual Spanish speakers face in asserting their civil rights.

PRENSA HISPANA, August 30, 2000

Copy of article summarizing the interview supplied.

13. 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 run for public 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 am a member of the Democratic Party but have not held a position or played a formal role in a political campaign.

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

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

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

I have not clerked for a judge.

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

I have not 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.

August 1996 – July 1999
Staff Attorney
Community Legal Services, Inc.
305 South Second Avenue
Phoenix, Arizona 85036

July 1999 – September 2003
Assistant Attorney General
Civil Rights Division
Arizona Attorney General's Office
1275 West Washington Street
Phoenix, Arizona 85007

September 2003 – Present
Assistant United States Attorney
United States Attorney's Office
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004

July 2009 – December 2010
Trial Attorney (on detail)
Public Integrity Section
United States Department of Justice
1400 New York Avenue, NW
Washington, District of Columbia 20005

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.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.
- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

In 1996, I became a staff attorney at the Farmworker Program of Community Legal Services, Inc., a non-profit law firm funded in part by the federal Legal Services Corporation. My work included community outreach, mostly in Spanish and often in Yuma County. I also litigated housing, employment, and consumer disputes. My clients were migrant and seasonal farmworkers who irrigated, harvested, and packed the crops grown on Arizona's farms.

In 1999, I was hired as an Assistant Attorney General in the Civil Rights Division of the Arizona Attorney General's Office. My work included community outreach and litigation of discrimination claims arising out of housing, employment, public accommodations, and barriers to access. I also coordinated the Office's efforts to develop statewide protocols and training to address racial profiling in law enforcement. My client was the Attorney General, as the relator for the State.

In 2003, I was hired as an Assistant United States Attorney in the U.S. Attorney's Office for the District of Arizona. My work includes prosecution of federal crimes. I was detailed in 2009-2010 to work on public corruption matters with the Public Integrity Section of the Department of Justice in Washington. I also served as a Supervisory Assistant United States Attorney in 2008-2009, and again from 2012-2016, when I was the Phoenix Criminal Chief. My client is the United States.

- 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.

August 1996–July 1999 (Community Legal Services)

- i. Indicate the percentage of your practice in:
 1. federal courts; 70%
 2. state courts of record; 15%
 3. other courts; 5%
 4. administrative agencies 10%

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings; 100%
 - 2. criminal proceedings. 0%

July 1999–September 2003 (Arizona Attorney General’s Office)

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

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings; 100%
 - 2. criminal proceedings. 0%

September 2003–Present (United States Attorney’s Office)

- i. Indicate the percentage of your practice in:
 - 1. federal courts; 100%
 - 2. state courts of record 0%
 - 3. other courts; 0%
 - 4. administrative agencies 0%

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings; 0%
 - 2. criminal proceedings. 100%

As a lawyer representing farmworkers from 1996-1999, civil litigation was a major part of my practice. I filed complaints on behalf of our clients, appeared in state and federal courts regularly, and handled civil discovery. I also handled several matters in front of administrative law judges, including challenges to the receipt of food stamps, unemployment benefits, and workers’ compensation.

As a civil rights attorney with the State of Arizona from 1999-2003, civil litigation was a major part of my practice. I filed complaints in civil rights cases, appeared in court regularly, handled civil discovery, and tried several cases in state court. I also tried a public accommodations denial-of-service case before an administrative body, the Arizona Civil Rights Advisory Board.

As a prosecutor with the U.S. Attorney’s Office since 2003, prosecution of criminal matters has a been a major part of my practice. I regularly appear before a federal grand jury to seek indictments, and I try cases in federal court and handle appellate matters in the Ninth Circuit.

- 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 24 cases to verdict. (This number includes four administrative hearings). Three of the court cases, in addition to all four of the administrative hearings, were civil in nature, before state tribunals without juries. The remaining seventeen were federal criminal trials. In my seventeen federal criminal trials, I was sole counsel six times; lead counsel in a trial team seven times; and on four occasions I second-chaired other attorneys.

- i. What percentage of these trials were:
- | | |
|--------------|-----|
| 1. jury: | 66% |
| 2. non-jury: | 33% |

- 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.

15. **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. Renzi and Sandlin

Case No. CR08-212-TUC-DCB

United States District Court for the District of Arizona, Tucson Division
The Honorable David C. Bury, Senior District Court Judge

Case No. 10-10088, -10122

United States Court of Appeals for the Ninth Circuit (interlocutory)
651 F.3d 1012 (9th Cir. 2011), *cert. denied* 565 U.S. 1157 (2012)

Case No. 13-10588, -10597
United States Court of Appeals for the Ninth Circuit (merits)
769 F.3d 731 (9th Cir. 2014), *cert. denied* 576 U.S. 1054 (2015)

Case No. 16-10016, -10019
United States Court of Appeals for the Ninth Circuit (denial of new trial)
690 F. App'x 487 (9th Cir. 2017), *cert. denied* 138 S. Ct. 285 (2017)

2006-2017

I was part of the team that investigated and prosecuted former Congressman Richard Renzi and his business partner, Jim Sandlin, for honest services wire fraud, money laundering and extortion, among other crimes, arising out of proposed land exchange legislation for southern Arizona. Following an interlocutory appeal to address the scope of the Speech or Debate Clause, the case proceeded to trial, and the jury returned guilty verdicts against each in the summer of 2013 after a six-week trial. The Court sentenced Mr. Renzi to 36 months' imprisonment, and Mr. Sandlin to 18 months' imprisonment. On January 19, 2021, one of the defendants (Mr. Renzi) received a pardon.

The investigation and prosecution were a partnership between the U.S. Attorney's Office for the District of Arizona and the Public Integrity Section in Washington. I coordinated the efforts of a number of attorneys and law enforcement officers through a lengthy pretrial investigation and trial process. I guided the strategic development of the case, engaged in extensive pretrial motion practice and arguments, presented numerous witnesses at trial, and gave the closing argument. I assisted others in the appellate advocacy by contributing to the briefs and mooted the arguments.

Primary Co-Counsel:

David Harbach (formerly a Trial Attorney at Public Integrity, and in the process of returning from an overseas detail)
(804) 385-5484

James Knapp
Assistant United States Attorney
40 North Central Avenue, Suite 1800
Phoenix, Arizona 85004
(602) 514-7675

Sean Mulryne
Deputy Director, Election Crimes Branch
U.S. Department of Justice
Criminal Division

Public Integrity Section
1301 New York Avenue, NW
Washington, DC 20005
202-598-2816

Opposing Counsel:

As to Mr. Renzi

Chris Niewoehner
Steptoe
227 West Monroe Street
Suite 4700
Chicago, Illinois 60606
(312) 577-1240

Kelly Kramer
Mayer Brown
1999 K Street, NW
Washington, DC 20006
(202) 263-3007

As to Mr. Sandlin

H.S. Bert Garcia
Wynne & Smith Law LLP
707 West Washington Street
Sherman, Texas 75092
(903) 267-9977

2. United States v. Costanzo

Case No. 17-585-PHX-GMS
United States District Court for the District of Arizona, Phoenix Division
The Honorable G. Murray Snow, Chief District Court Judge

Case No. 18-10291
United States Court of Appeals for the Ninth Circuit
956 F.3d 1088 (9th Cir. 2020), *cert. denied* 141 S. Ct. 931 (2020)

2017-2020

I was part of the team that prosecuted Thomas Costanzo for a money laundering sting arising out of the peer-to-peer exchange of bitcoin, and the jury convicted him of the offenses following a two-week trial. Mr. Costanzo came to the attention of law enforcement when he advertised the anonymous exchange of cash for virtual currency on the internet, without following know-your-customer rules

and without regard to the source of the funds. The Court sentenced him to 41 months' imprisonment.

I worked with a team of two other prosecutors and with law enforcement officers from four different agencies. I engaged in substantial pretrial motion practice and argument, helped coordinate the strategic development of the case, presented witnesses at trial, and presented the rebuttal closing argument. On appeal, I wrote the brief and made the oral argument.

Primary Co-Counsel:

Matthew Binford (formerly an Assistant U.S. Attorney)
Counsel
Exxon Mobil Corporation
22777 Springwoods Village Parkway
Spring, Texas 77389
(281) 801-2485

Carolina Escalante (formerly an Assistant U.S. Attorney; not currently practicing)
(480) 708-9641

Opposing Counsel:

Maria Weidner
Zachary Cain
Daniel Kaplan
Assistant Federal Public Defenders
Federal Public Defender's Office
850 West Adams Street
Suite 201
Phoenix, Arizona 85007
(602) 382-2700

3. State ex. rel. Napolitano v. Household Bank, N.A.

Case No. CV2000-003625
Maricopa County Superior Court
The Honorable Margaret Downie, Superior Court Judge

2000-2003

The Attorney General of Arizona sued Household Bank, N.A., a federally-regulated bank, for civil rights and consumer fraud violations arising out of the door-to-door sale of air conditioning systems via a contractor ("Hispanic Air") in minority neighborhoods in south Phoenix, and also based on the financing of the sales through credit cards branded and financed by the defendant bank. After an interlocutory appeal, my colleagues and I tried the case to the Court. The Court

ruled for the Attorney General in finding that the defendant bank violated the Arizona Consumer Fraud Act, but in denying damages, credited the bank's remedial efforts towards the victims during the litigation.

I coordinated the work of a team of attorneys and investigators during the pre-litigation investigation and the development of the complaint. I successfully briefed a response to an interlocutory appeal challenging the State's ability to sue a national bank. Working with the other members of the trial team, I conducted and defended numerous depositions, and over the course of the seven-week bench trial I presented numerous witnesses and I presented the closing argument.

Primary Co-Counsel:

Virginia Herrera-Gonzales
Steven Duplissis
Assistant Attorneys General
Arizona Attorney General's Office
2005 North Central Ave
Phoenix, AZ 85004
(602) 542-5025

Opposing Counsel:

James Belanger
J. Belanger Law PLLC
PO Box 447
Tempe, Arizona 85280
(602) 888-6072

4. United States v. Sutton and Westfall

Case No. CR05-0826-TUC-CKJ
United States District Court for the District of Arizona, Tucson Division
The Honorable Cindy K. Jorgenson, Senior District Court Judge

2007-2008

I was part of the team that prosecuted the former mayor of Marana and his friend for attempting to extort a business regulated by the town. I joined the trial team later in the process. I assisted with pretrial motions, presented witnesses at the seven-week trial (including the undercover employee of the victim business), examined the defense expert and presented the rebuttal closing argument. The jury hung on the charges; the Court declared a mistrial; and each defendant resolved his case on a plea to a deprivation of rights misdemeanor, and received a sentence of probation.

Primary Co-Counsel:

The Honorable John Lopez (formerly an Assistant U.S. Attorney)
Arizona Supreme Court
1501 West Washington Street
Phoenix, Arizona 85007
(602) 452-3396

The Honorable Howard Sukenic (formerly an Assistant U.S. Attorney)
Maricopa County Superior Court
201 West Jefferson Street
Phoenix, Arizona 85003
(602) 506-8214

Opposing Counsel:

As to Mr. Sutton

Michael Piccarreta
Piccarreta Davis Keenan Fidel PC
2 East Congress Street, Suite 1000
Tucson, Arizona 85701
(520) 622-6900

As to Mr. Westfall

Stephen M. Weiss
Karp & Weiss
3060 North Swan Road
Tucson, Arizona 85712
(520) 325-4200

5. United States v. Maldonado
Case No. CR03-1064-PHX-SMM
United States District Court for the District of Arizona, Phoenix Division
The Honorable Stephen M. McNamee, Senior District Court Judge

2004-2006

I was part of the team that prosecuted the defendant, one of the leaders of a drop house where undocumented noncitizens were held pending payment of smuggling fees, and a jury returned a guilty verdict for conspiracy to commit hostage-taking, and alien smuggling. The Court sentenced Ms. Maldonado to 121 months' imprisonment. I assisted a senior attorney on case preparation, presented a cooperating defendant and other witnesses at trial and presented the opening statement.

Primary Co-counsel:

The Honorable Camille Bibles (formerly an Assistant U.S. Attorney)
United States District Court
123 North San Francisco Street
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(928) 774-2566

Opposing Counsel:

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Law Office of Neil LaBarge
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Phoenix, Arizona 85006
(602) 252-4090

6. United States v. Lu

Case No. CR06-676-PHX-DGC
United States District Court for the District of Arizona, Phoenix Division
The Honorable David G. Campbell, Senior United States District Judge

Case No. 06-16438
United States Court of Appeals for the Ninth Circuit
248 F. App'x 806 (9th Cir. 2007)

2005-2009

A colleague and I prosecuted the defendant for structuring the proceeds of her massage parlor business. Prior to trial I successfully litigated an interlocutory appeal arising out of a claim of Fifth Amendment privilege for the act of production of records held by a single-member LLC. At trial the jury convicted the defendant of structuring funds, and at sentencing the Court forfeited approximately \$75,000 of proceeds, and imposed a sentence of probation. I handled the privilege claims in the district court and on appeal, and tried the case with a colleague, dividing witnesses and jury addresses.

Primary Co-counsel:

The Honorable Cassie Woo (formerly an Assistant U.S. Attorney)
Maricopa County Superior Court
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Opposing Counsel:

As to the interlocutory appeal

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As to trial

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7. In re Grand Jury Subpoena No. 16-03-217

Case No. 17-MC-0036-DJH
United States District Court for the District of Arizona, Phoenix Division
The Honorable Diane J. Humetewa, District Court Judge

Case No. 17-16221
United States Court of Appeals for the Ninth Circuit
875 F.3d 1179 (9th Cir. 2017)

2017

I was part of the team that defended the issuance of a subpoena to a third party tech company that hosts anonymous employee reviews of employers, in an effort to identify potential witnesses in an investigation. Both the district court and the court of appeals declined to find a First Amendment privilege to the identities of the persons publicly posting anecdotes. I engaged with the company's lawyers in advance of the litigation, and with prospective *amici* during it, and I took the lead on the advocacy in the district court; I assisted a colleague with the written advocacy on appeal.

Primary Co-counsel:

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Opposing counsel:

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The Honorable Eric Miller (formerly with Perkins Coie)
Ninth Circuit Court of Appeals
William K. Nakamura Courthouse
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8. United States v. Gabler et. al.

Case No. CR18-1420-PHX-SPL
United States District Court for the District of Arizona, Phoenix Division
The Honorable Steven P. Logan, United States District Judge

2017-2020

Mr. Gabler and four co-defendants were charged by the grand jury with mail fraud arising out of telemarketing activities that targeted elderly consumers. Each pleaded to a felony charge and agreed to restitution relative to their role in the scheme. The Court sentenced each defendant to a term of imprisonment, ranging from 12 months to 60 months, and also forfeited nearly \$80,000 in proceeds for restoration to the victims. I developed the case with our agency partners, conducted detention hearings and appeals of detention decisions, and engaged in the plea discussions with counsel. I worked with co-counsel on sentencing and restitution advocacy.

Primary Co-counsel:

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Opposing Counsel:

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9. United States v. Berger et. al.

Case No. CR-18-1124-PHX-JJT
United States District Court for the District of Arizona, Phoenix Division
The Honorable John J. Tuchi, District Court Judge

2017-2021

Mr. Berger and two others were charged by the grand jury with mail and wire fraud arising out of an insurance fraud scheme following warehouse fires at businesses in different states. Each pleaded to a felony charge and agreed to restitution relative to their respective role in the scheme. One defendant received a sentence of 48 months' imprisonment; a second received a sentence of 30 months' imprisonment; and the Court imposed a sentence of probation on the third defendant. I partnered with co-counsel to develop and charge the case and as to sentencing advocacy. We also repatriated from abroad more than \$600,000 in proceeds from the scheme.

Primary Co-counsel:

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Robert Hartmann
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10. United States v. Dziedzic et. al.
Case No. CR-18-1080-PHX-DGC
United States District Court for the District of Arizona, Phoenix Division
The Honorable David G. Campbell, Senior District Court Judge

2016-2019

Mr. Dziedzic and three others were charged by Information, and each pleaded to charges related to a mortgage rescue scheme. I worked with co-counsel and four different law enforcement agencies to develop the case and arrive at plea agreements for each defendant commensurate with their roles. The Court sentenced the lead defendant to 30 months' imprisonment and forfeited \$142,000 arising out of the scheme. Three other defendants were sentenced to terms of probation; one of them also paid a \$110,000 fine.

Primary Co-counsel:

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Opposing Counsel:

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Christopher Rapp
Ryan Rapp Underwood & Pacheco
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16. **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.)

In addition to the trial and appellate litigation and community outreach described in the responses to questions 14b and 15, I have taught grand jury practice several times at the Department of Justice's National Advocacy Center. I have also worked extensively with the Department's Office of Prosecutorial Development, Assistance and Training in Colombia and Mexico, teaching trial advocacy and prosecution of white collar crimes, and engaging with our foreign colleagues on our respective best practices for charging and resolving cases and presenting evidence at trial.

17. **Teaching:** What courses have you taught? For each course, state the title, the institution

at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses on a full time basis. From time to time, I have been asked to serve as a lecturer or panelist at public events on various topics. I have described those lectures in response to Question 12(d) above.

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

I have no arrangements in the future to be compensated for any financial or business interest.

19. **Outside Commitments During 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.

None.

20. **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).

Please see my SF-278 as provided by the Office of Government Ethics.

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

See attached Net Worth Statement.

22. **Potential Conflicts of Interest**:

- a. Identify the family members or other persons, parties, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

During the nomination process, I consulted with the Department of Justice's

ethics office and Designated Ethics Officer to identify any potential conflicts. If I am confirmed, I will continue to consult with that office and will recuse myself from any matter in which recusal is required.

- 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, any potential conflict of interest will be resolved in accordance with the terms of an ethics agreement that I have entered with the Department's designated agency ethics official. If confirmed, I will continue to consult with the Department of Justice's ethics office and will recuse myself from any matter in which recusal is required.

23. **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. If you are not an attorney, please use this opportunity to report significant charitable and volunteer work you may have done.

Throughout my career I have been committed to performing *pro bono* legal service, beyond the public service I perform as part of my day job. I assisted the local Volunteer Lawyer's Program for many years, from approximately 2003-2009, and again from approximately 2012-2014, in providing brief service and advice once a month to victims of consumer fraud and to tenants with housing disputes. I currently serve on the Board of Directors for Community Legal Services, providing strategic direction on its legal services to the indigent in civil matters. I previously served on the Board of the Arizona Bar Foundation, promoting access to justice and civics education. I have regularly worked on law reform activities with or through the State Bar, including rule change petitions to support access to justice. On my personal time, I traveled to Mexico on two occasions to assist in a victims' rights collaboration between Arizona State University and Tecnológico de Monterrey in Mexico.

Most of my charitable work has been legal in nature. I also served for 12 years on the Board of Directors of Adelante Healthcare, a federally-funded Community Health Center that initially focused its services towards farmworkers, and that still provides sliding-fee services for those who are uninsured and unable to pay.