

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Scott Hugh Rash

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

United States District Court Judge for the District of Arizona

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

110 West Congress Street
Tucson, Arizona 85701

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

1963; Minneapolis, Minnesota

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.

1988 – 1991, University of Arizona, James E. Rogers College of Law, J.D. (*cum laude*),
1991

1981 – 1985, University of Arizona, B.S., 1985

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.

2013 – Present
OVFP Building LLC
5631 North Paseo Niquel
Tucson, Arizona 85718
Co-Owner

2010 – Present

Judge, Pima County Superior Court

110 West Congress Street

Tucson, Arizona 85710

Family Law Bench (2016 – Present)

Presiding Family Law Judge (2017 – Present)

Criminal Bench (2012 – 2016)

Business Court Advisory Committee (2014)

Civil Bench (2010 – 2012)

Committee on the Impact of Wireless Mobile Technologies and Social Media on

Court Proceedings (2012)

1999 – 2010

Bossé Rollman, P.C.

(formerly known as Gabroy, Rollman & Bossé, P.C.)

3507 North Campbell Avenue, Suite 111

Tucson, Arizona 85719

Shareholder

1992 – 1999

Arizona Attorney General's Office

400 West Congress Street, Suite S315

Tucson, Arizona 85701

Assistant Attorney General

1989 – 1991

Becker C.P.A. Review

500 West Monroe Street

Chicago, Illinois 60661

Instructor

May 1990 – July 1990

Schall, Boudreau & Gore

(no longer extant)

Summer Associate

May 1989 – July 1989

DeConcini, McDonald, Brammer, Yetwin & Lacy, P.C.

2525 East Broadway Boulevard

Tucson, Arizona 85716

Summer Associate

1986 – 1988

The Dial Corporation

(formerly known as The Greyhound Corporation)

15501 North Dial Boulevard
Scottsdale, Arizona 85260
Internal/Forensic Auditor

July 1984 – December 1984
General Dynamics Corporation
2941 Fairview Park Drive, Suite 100
Falls Church, Virginia 22042
Special Investigations Auditor/Internal Labor Auditor

1998 – 1999
Pima Community College
1255 North Stone Avenue
Tucson, Arizona 85709
Paralegal Program Instructor

Other Affiliations (uncompensated):

January 1990 – May 1990
Honorable James C. Caruth
Pima County Superior Court Judge (Retired)
Post Office Box 146
Pinetop, Arizona 85935
Part-time Student Intern

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 registered for Selective Service upon turning eighteen.

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.

Multi Law Enforcement Agency Recognition Award (1999)

Certificate of Recognition, Arizona High School Mock Trial Program (1996)

Department of Public Safety Appreciation Award (1994)

Graduated *cum laude*, University of Arizona, College of Law (1991)

Highest Honors, University of Arizona (1985)

College Distinction List, University of Arizona (1981 – 1985)

University of Arizona Academic Excellence Award (1984)

Beta Alpha Psi, National Accounting Honorary Society (1984)

Beta Gamma Sigma, National Honor Society of Business Colleges (1984)

Golden Key National Honor Society (1984)

Becker C.P.A. Review Scholarship, Becker C.P.A. Review (1984)

Jim Click Academic Scholarship, University of Arizona (1983)

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.

Pima County Superior Court

Business Court Advisory Committee (2014)

Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings (2012)

Arizona Judge's Association (2010 – Present)

Arizona State Bar Association (1992 – Present)

Pima County Bar Association (1994 – 2013)

Nominating Committee (1998)

Habitat for Humanity House Committee (1997)

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.

Colorado (1994)

California (1992)

Arizona (1992)

There have been no lapses in my Arizona bar membership. I have been inactive in California and withdrawn in Colorado since 2011.

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

special admission to practice.

United States District Court of Arizona (1992)

United States Tax Court (2001)

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.

The Federalist Society (2018 – Present)

The Heritage Foundation (2012 – Present)

YMCA of Southern Arizona (2010 – Present)

The Journey Evangelical Free Church (1989 – Present)

Elder (2010 – Present)

Christian Legal Society National (2000 – 2012)

Tucson Chamber of Commerce (1999 – 2010)

Tucson Tax Study Group (1995 - 2010)

Christian Legal Society of Tucson, Inc. (1993 – 2009)

President (1995 – 2009)

The American Institute of Certified Public Accountants (1988 – 2006)

American Judicature Society (1989 – 1992)

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

12. **Published Writings and Public Statements:**

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

None

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

Business Court Advisory Committee: Report to the Arizona Judicial Counsel, December 11, 2014. Copy supplied.

Report of the Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings, December 2012. 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.

July 11, 2018, Addendum to Administrative Order 2015-29. Copy supplied.

March 23, 2018, Memorandum RE: Assistance to Courts of Other States. 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.

May 13, 2019: Panelist, Bench and Bar Spring Program, Tucson Arizona. I provided a brief overview of the local Family Law bench. I have no notes, transcript, or recording. The sponsoring organization was the State Bar of Arizona, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85016.

May 14, 2018: Panelist, Bench and Bar Spring Program, Tucson, Arizona. As part of a panel, I provided an overview of the status of the Family Law bench and recent decided cases on the subject of family law. I have no notes, transcript, or recording. The sponsoring organization was the State Bar of Arizona, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85016.

November 17, 2017: Panelist, "Advanced Family Law Seminar," State Bar of Arizona, Tucson, Arizona. The subject matter was practice tips from the judiciary. I have no notes, transcript, or recording. The sponsoring organization was the State Bar of Arizona, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85016.

October 20, 2017: Speaker, Bench and Bar Dinner, Family and Juvenile Law Association, Tucson, Arizona. I gave introductory comments and an overview of the Family Law Bench. I have no notes, transcript or recording. The sponsoring organization was the Family and Juvenile Law Association, University of Arizona James E. Rogers College of Law, Post Office Box 210176, Tucson, Arizona.

February 10, 2016: Presenter, Pima County Superior Court Employee Recognition Luncheon, Tucson, Arizona. I presented awards to various employees. I have no notes, transcript, or recording. The sponsoring organization was the Pima County Superior Court, 110 West Congress Street, Tucson, Arizona 85710.

May 8, 2015: Speaker, Pusch Ridge Christian Academy, Tucson, Arizona. I spoke as a guest lecturer to a ninth-grade class on the subject of how evidence is presented in a criminal case. I have no notes, transcripts or recordings. The sponsoring organization was Pusch Ridge Christian Academy, 9500 North Oracle Road, Tucson, Arizona 85704.

January 23, 2015: Speaker, "Mobile Devices in Arizona Courtrooms?," First Amendment Coalition of Arizona, Tucson, Arizona. Copy supplied.

December 4, 2014: Panelist, Bench and Bar Winter Program, State Bar of Arizona, Tucson, Arizona. Copy supplied.

April 12, 2013: Presenter, "The Art of Persuasion," State Bar of Arizona, Tucson, Arizona. I spoke about how lawyers could be more persuasive in their arguments to the court. I have no notes, transcript, or recording. The sponsoring

organization was the State Bar of Arizona, 4201 North 24th Street, Suite 100, Phoenix, Arizona 85016.

May 11, 2012: Speaker, "What Does A Judge Do?," Manzanita Elementary School, Tucson, Arizona. Copy supplied.

November 19, 2010: Remarks, Superior Court Judicial Investiture of Hon. Scott Rash, Arizona Superior Court in Pima County, Tucson, Arizona. Copy supplied.

During my tenure as an Assistant Attorney General, I gave several presentations to various law enforcement agencies, including the Arizona Department of Public Safety, Tucson Police Department and Pima County Sheriff's Office. The subjects of these presentations included, but were not limited to, the investigation and prosecution of wiretaps and search and seizure issues. I do not recall the dates of these presentations, nor do I have any notes, transcripts, or recordings.

During my tenure as President of the Christian Legal Society of Tucson from 1995 to 2009, I led discussion groups, made introductions for guest speakers, and spoke on topics of interest on several occasions. I do not recall the dates or locations of these presentations, nor do I have any notes, transcripts, or recordings. The Christian Legal Society of Tucson is located at 11410 North Ingot Loop, Oro Valley, Arizona 85737.

- 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.

Tim Hull, *Ariz. Judges Give 'EBench' Tech High Marks*, CourthouseNews.com, September 8, 2014. Copy supplied.

Paperless Courtroom Pilot System Launches, Inside Tucson Business, September 5, 2014. Copy supplied.

Ex-Teacher Denied Due Process, Tucson Citizen, October 31, 1997. Copy supplied.

During the time I served as an Assistant Attorney General from 1992 to 1999, I periodically gave brief public statements to the media, but did not give any formal interviews. I do not recall the dates when these statements were made or the news outlets to whom these statements were given.

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

In September 2010, I was appointed Judge of the Pima County Superior Court by Arizona Governor Janet Brewer. The Superior Court is the trial court of general jurisdiction, which includes jurisdiction over all matters returnable to the Superior Court to include civil, criminal, family, probate and juvenile matters.

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

208

- i. Of these, approximately what percent were:

| | |
|-----------------------|------------------|
| jury trials: | 44% |
| bench trials: | 56% [total 100%] |
| civil proceedings: | 48% |
| criminal proceedings: | 52% [total 100%] |

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

Pima County Superior Court Judges do not issue written opinions except pursuant to A.R.S. § 22-261 and § 22-425 (B), where the Pima County Superior Court acts as the appellate court for lower court appeals from the Pima County Consolidated Justice Court and the Tucson City Municipal Court. The opinions are not published but rather are recorded in the Court's docket. However, not all lower court appeals to the Superior Court result in a written opinion. As a Superior Court Judge, I have been assigned thirty-four appeals from lower courts. I have provided a list of my opinions and substantive orders.

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

- (1) *State v. Gray*, No. CR20132758-001 (Ariz. Super. Ct.), *aff'd*, 357 P.3d 831 (Ariz. Ct. App. 2015), *vacated*, 372 P.3d 999 (Ariz. 2016).

An undercover police officer approached the defendant and asked if he could help him obtain crack cocaine. Defendant agreed to obtain the drugs for a fee. Defendant was subsequently convicted for the sale of narcotics.

The State admitted into evidence a secretly recorded conversation between Defendant and the undercover officer, where Defendant made statements such as "I'm a good person" and "I don't usually do this." Based on the recorded statements alone, Defendant asked that the jury be instructed on the entrapment

defense recognized in A.R.S. § 13–206. The entrapment defendant requires a defendant “admit by [his] testimony or other evidence the substantial elements of the offense charged.” I held Defendant had not met this standard and denied the requested entrapment defense instruction.

The Court of Appeals affirmed. Defendant sought review by the Arizona Supreme Court, which was granted. The Supreme Court upheld my interpretation of the statute and affirmed Defendant’s conviction and sentence while vacating the Court of Appeals’ opinion.

Counsel for the State of Arizona:

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Counsel for Defendant:

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(2) *State v. Goolsby*, CR20124362-001 (Ariz. Super. Ct.); *aff’d*, No. 2 CA-CR 2013-0375, 2014 WL 2504508 (Ariz. Ct. App. May 30, 2014).

Defendant was convicted by a jury of Burglary in the Second Degree. As the crime occurred, the victim’s neighbor was looking out his kitchen window when he saw three men run out of his neighbor’s backyard into an alley with various suspicious objects. The neighbor followed the men in his car and encountered them again at the end of the alley before they ran off. After notifying police, officers drove with the neighbor through the neighborhood. While driving, the neighbor identified one of the men, he saw in the alley, based on “head shape,” “hairstyle,” and “skin tone.”

On appeal, Defendant challenged the court’s denial of his motion to preclude the in-court identification by the neighbor, arguing the pre-trial identification procedure employed by police was impermissibly suggestive. I denied the motion.

The Court of Appeals upheld my decision and specifically noted I “accurately and methodically applied” the correct law to determine that, although the show-up was unduly suggestive, the proposed in-court identification was admissible based on its reliability.

Counsel for the State of Arizona:

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(formerly of the Pima County Attorney's Office)
Pima County Legal Defender's Office
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Tucson, Arizona 85701
(520) 724-5775

Counsel for Defendant:

Frederick M. Carrillo
The Carrillo Law Firm, PLLC
23 North Stewart Avenue
Tucson, Arizona 85716
(520) 820-2829

- (3) *State v. Bon*, No. CR20123968-001 (Ariz. Super. Ct.), *aff'd*, 338 P.3d 989 (Ariz. Ct. App. 2014).

Counsel for the State of Arizona:

Benjamin Mendola
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Tucson, Arizona 85701
(520) 724-5775

Counsel for Defendant:

John M. Sando
(Suspended from practice. No information available.)

Defendant was convicted by a jury of Burglary in the Third Degree, Theft of Property or Services having a value of \$1,000 or more but less than \$2,000, and Possession of Drug Paraphernalia. Specifically, Defendant reached into the bed of a pick-up truck and took various tools. At the close of evidence, the Defendant moved for a judgment of acquittal on the burglary charge arguing a truck bed does not meet the statutory definition of a structure, and her actions did not amount to entry of a structure. I denied the motion and instructed the jury that "a vehicle includes the bed of a pick-up truck, and a vehicle is a structure." The Court of Appeals affirmed my interpretation of the statute and affirmed all convictions and sentences.

- (4) *State v. Koons*, CR20143960-002 (Ariz. Sup. Ct.), *aff'd*, No. 2 CA-CR 2016-0270, 2017 WL 3381274 (Ariz. Ct. App. Aug. 7, 2017), *review denied* (Ariz. Jan. 9, 2018).

This case involved burglaries of approximately 46 Tucson businesses. While the investigation was active, a Tucson Police Detective obtained a telephonic search warrant to place a GPS tracking device on Defendant's vehicle. Investigators later used the GPS data to catch Defendant during a burglary.

I divided the case into two parts to minimize confusion to the jury and maximize judicial resources. I believed that if Defendant was convicted on the first set of burglaries, it was likely a plea would be reached on the remainder. The parties agreed with this approach. In the first case, Defendant was convicted of nine counts of Burglary in the Third Degree and one count each of Theft of Property of Services and Criminal Damage. He later pled to the other charges.

Prior to trial, Defendant filed a motion to suppress all evidence obtained by the GPS device, alleging the detective's affidavit failed to establish probable cause on several different grounds. I noted the distinction between the detective asking to search the vehicle and asking to track it, and further distinguished between probable cause to place a tracking device for further investigation and probable cause to search a residence and/or a particular vehicle. I acknowledged I was working with limited direction because tracking device warrants were fairly new, but I found probable cause was established to track the vehicle's movement for ongoing investigative purposes. The Court of Appeals stated that it "appreciate[d] the trial court's candor in addressing the lack of guidance on the quantum of evidence needed to support an order authorizing the nonconsensual placement of a GPS tracking device" and affirmed my ruling and the sentence imposed.

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Jennifer Dent
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Counsel for Defendant:

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(formerly of Lingeman and Bock)
Law Office of Richard C. Bock
100 North Stone Avenue, Suite 1003
Tucson, Arizona 85701
(520) 792-4940

- (5) *State v. Buelna*, CR20112701-001 (Ariz. Super. Ct.); *aff'd in part*, No. 2 CA-CR 2013-0018, 2013 WL 5436710 (Ariz. Ct. App. Sept. 26, 2013).

After a jury trial, Defendant was convicted of Second Degree Murder for shooting the victim during a road rage incident. Defendant moved to introduce evidence of cocaine in the victim's blood to establish that the victim was the aggressor. I precluded evidence of cocaine metabolites in the victim's system, finding such evidence was irrelevant under the facts of the case, and even if it was relevant, its probative value was outweighed by the danger of unfair prejudice, jury confusion, and needlessly presenting of cumulative evidence.

The Court of Appeals held that evidence regarding cocaine in the victim's system was relevant; however, the Court of Appeals upheld the preclusion of the evidence because it agreed the probative value was so minimal that it would be substantially outweighed by a danger of unfair prejudice and confusion of the issues.

Counsel for the State of Arizona:

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Counsel for Defendant:

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Louis Fidel
Piccarreta Davis Keenan Fidel, P.C.
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- (6) *R.S. Songbird, LLC v. Songbird Five Lender, LLC*, C20090482 (Consolidated) (Ariz. Super. Ct.); *aff'd*, No. 2 CA-CV 2011-0059, 2 CA-CV 2011-0111, 2012 WL 927723 (Ariz. Ct. App. Mar. 19, 2012).

Plaintiffs owned several companies that held property used in their real estate development business. Defendants entered into a loan agreement with Plaintiffs

whereby Defendants loaned \$2.2 million to Plaintiffs to develop real estate. The agreement provided the funds would only be disbursed upon verification of Plaintiffs' performance of the required work. Plaintiffs defaulted under the agreement, and Defendants sold the property at a trustee's sale for \$1 million. At the time of the trustee's sale, the balance due under the loan was more than two million dollars. Plaintiffs filed a complaint against Defendants, arguing they breached the contract by failing to disburse the draws that Plaintiffs claimed caused the default. Defendants counterclaimed against Plaintiffs for breach of contract and for a deficiency judgment.

Based on the pleadings and oral argument, I found Plaintiffs did not fully complete the construction required by the loan modification agreement, and therefore, Defendants were not obligated to disburse the funds associated with a given draw. I granted summary judgment for Defendants on the breach of contract claim. I also dismissed the Defendants' cross-claim on the personal guaranty finding it was time-barred and denied Defendants' request for attorney's fees.

The summary judgment ruling, and the denial of attorney's fees was appealed. The Court of Appeals affirmed.

Counsel for Plaintiffs RS Songbird, Andrada Marketing, Andrada Financing and Defendants/Cross Defendants Richard Daratony and Stephanie Daratony:

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Counsel for Plaintiffs Humara Group:

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Counsel for Defendants Fidelity National Title Agency, Inc., Ticor Title Agency of Arizona, Inc., Humara Group Incorporated and Chuweng Family Holdings, LLC:

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Gust Rosenfeld
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Phone: 520-628-7070

Robert M. Savage

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Counsel for Cross Defendants Guarantors Daratony:

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Counsel for Defendants/Counterclaimants Songbird 5 Lender LLC and Amy Lynn Winski:

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(7) *State v. Becerra*, No. CR20111519-001, *aff'd*, 366 P.3d 567 (Ariz. Ct. App. 2016), *review denied* (May 19, 2016).

Defendant was convicted by a jury of Possession of Drug Paraphernalia including methamphetamine for sale. An officer stopped Defendant's car for speeding and a cracked windshield. After issuing a written warning, the officer asked Defendant if he could search the vehicle, to which Defendant responded "yes." The officer then gave her a consent-to-search form, which she signed and verbally agreed she understood. The officer then had his K-9 conduct a sniff of Defendant's car. The K-9 alerted to a purse, which contained methamphetamine.

Defendant filed a Motion to Suppress, arguing the seizure of the methamphetamine violated the Fourth Amendment because she did not know the officer would use a K-9 to sniff the interior of the car and the use of a K-9 in such a manner exceeded the scope of her consent.

I determined that under the law and facts in this case, which included Defendant's failure to withdraw consent when she saw the K-9 begin sniffing, the search was not unreasonable, and denied Defendant's Motion to Suppress. The Court of Appeals affirmed.

Counsel for the State of Arizona:

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Gordon R. Bennett (Retired)

Counsel for Defendant:

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(8) *Arizona Med. Bldgs., LLC v. Chasm Invs., LLC*, (Consolidated) No. C20071914, 2012 WL 890146 (Ariz. Super. Ct. Jan 26, 2012); *aff'd*, No. 2 CA-CV 2012-0093, 2013 WL 5026009 (Ariz. Ct. App. Sept. 12, 2013).

This matter is related to ten other cases between the same underlying parties. The cases were filed in three different counties, with Pima County originally having eight of the 11 cases. The cases in Pima County were assigned to four different judges. I worked with the parties, judges and other counties to consolidate all the related cases before me to expedite resolution, promote judicial efficiency and avoid contrary rulings on similar issues.

Plaintiff owned multiple properties and assets in several counties. The assets were titled in the name of multiple entities. In 2007, the real estate market was declining rapidly, and Plaintiff considered filing bankruptcy, so Plaintiff transferred the bulk of his assets to his nephew, the Defendant, through multiple contracts and Quitclaim Deeds. After it appeared Plaintiff would not file bankruptcy, he attempted to undo all the asset transfers. Defendant refused to cooperate, so Plaintiff, on behalf of himself and the various entities, filed multiple lawsuits alleging a wide array of contract, property and fraud claims.

After three years of discovery and multiple motions in the various cases, the parties had yet to resolve any issues. I took over all of the cases in 2011 and held a status conference with all parties. I requested the parties pick the issue ripe for resolution, and we would go forward on that issue and stay all other proceedings. This resulted in my granting summary judgment on several issues.

On appeal, my granting of summary judgment was affirmed. *See Truitt v. Truitt*, 2 CA-CV 2011-0119, 2012 WL 907080 (Ariz. Ct. App. Mar. 16, 2012). I then gave the parties a choice of which case they wanted to try next. This case was the parties' choice for which I set an expedited discovery schedule.

The case was tried before a jury who found for Defendant on claims of negligent misrepresentation and intentional misrepresentation and for the Plaintiff on the *lis pendens* claim. The jury also decided certain facts in special interrogatories from

which I made various rulings as a matter of law. On some claims or cross-claims, the party was not entitled to a jury as a matter of right, so the Court sat as the trier of fact on those claims. After a 15-day trial, I denied both parties' motions for judgment as a matter of law. I ruled on all claims not decided by the jury.

Both parties appealed on a variety of issues. The Court of Appeals affirmed all my rulings. As I prepared to set the next case for trial, one or both parties filed for bankruptcy. Since the filing of bankruptcy, the remaining cases have been stayed.

Counsel for Plaintiffs:

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Counsel for Defendants:

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- (9) *State v. Pesqueira*, No. CR20101039-001 (Ariz. Super. Ct.), *aff'd*, No. 2 CA-CR 2013-0292, 2014 WL 4347772 (Ariz. Ct. App. Sept. 2, 2014).

A grand jury indicted Defendant on First Degree Murder and Child Abuse Intentionally or Knowingly Causing Physical Injury, Likely to Cause Death. Defendant discussed with a friend, about a year prior to the indictment, she was pregnant and living at home with her parents and, after giving birth to the baby in her bathroom, she "got rid of it." The friend reported the conversation to police who then recorded a subsequent phone call between the two, wherein Defendant stated she was 19 when pregnant and living with her parents. She had two "plans" depending on when she went into labor. "Plan A" was to deliver the baby at home and take the newborn to a baby drop off location. "Plan B," assuming her parents were home, was to deliver the baby at an alternative location. Defendant then told her friend that she went into labor while her parents were home but neither option was available, so she put the baby in a trash can outside.

She then stated to the friend “murder cases don’t expire for thirty years ... that’s another twenty-nine years from now that I still can be held responsible.”

At the first trial, Defendant did not testify. The evidence was entirely circumstantial, as no body was found and physical evidence was no longer available. I declared a mistrial after the jury could not reach a verdict. At the second trial, Defendant testified and explained, for the first time, that after giving birth she wrapped the baby in a blanket, took him outside and placed him in the passenger seat of her car. She claimed that she then went back inside the house to clean up the bathroom where she had given birth. When she returned to her car, the baby was not breathing. She claimed that even though she originally planned to take the baby to a safe haven provider, she instead put him in a bag with the bloody towels and then placed him in the trash can.

Based on this new evidence, the State moved to amend the indictment to prove reckless child abuse. I granted the motion. The second jury acquitted Defendant of First Degree Murder but found her guilty of the lesser-included offense of Reckless Child Abuse. The prosecution was prepared to try the case a third time on Second Degree Murder charges when Defendant pled to Negligent Homicide. I sentenced Defendant to a term of probation. On appeal, Defendant challenged my decision to allow the State to amend the indictment at trial and this Court’s imposition of consecutive probation periods. Defendant’s convictions and sentences were affirmed.

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(10) *State v. Drattlo*, No. CR20133391 (Ariz. Super. Ct.). Copy supplied.

This case involved first degree multiple murder case and death penalty allegations against each of the three co-defendants, Drattlo, Terry, and Harding. On July 23, 2013, the defendants traveled to the home of the adoptive grandparents of Drattlo. The three defendants brutally stabbed the elderly victims multiple times, then stole their vehicle and drove to Nevada. There were no independent witnesses to the crimes and each defendant blamed the others for the murders.

On the eve of the third trial setting, Harding agreed to cooperate. She was ultimately sentenced to life in prison without the possibility of parole until after 25 years.

There were multiple pre-trial motions and discovery disputes that are common in capital litigation cases. In the first major issue, Terry moved to dismiss the death penalty allegation as to him because of his low intelligence. Under A.R.S. § 13-753, a person found to have mental retardation shall not be sentenced to death. Although Terry wanted the Court to dismiss the death penalty allegation, he objected, on constitutional grounds, to the appointment of a prescreening psychological expert as required by the statute. I ruled that if Terry declined the psychological exam, the Court would not dismiss the death penalty allegation. Terry ultimately agreed to the exam. After psychological exams by both the court appointed psychologist and the parties' psychologists, I found Terry met the definition of mental retardation under the statute and dismissed the death penalty as to him. Terry then pled and was sentenced to consecutive life sentences.

The second significant issue had to do with the adoptive mother's rights under the Arizona Victims' Rights Statute verses Drattlo's Sixth Amendment Right to obtain mitigation evidence. Under the Arizona Constitution, Drattlo's adoptive mother was a victim and entitled to waive any pre-trial discovery requests. Drattlo claimed his Sixth Amendment Rights were violated when his adoptive mother exercised her rights under the Arizona Constitution to not participate in a pre-trial interview. Drattlo argued he could not prepare his mitigation evidence without the adoptive mother's interview because she, as a single mother, was the only person who could provide necessary medical and mental health information relevant to preparing mitigation. After extensive briefing and argument, I ruled under the facts and circumstances of this case, the victim's rights superseded Drattlo's because Drattlo could obtain mitigation evidence from other sources. After another year of motions and discovery disputes, Drattlo pled to first degree murder and was sentence to life in prison without the possibility of parole.

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- 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.

Pima County Superior Court Judges do not issue written opinions except pursuant to A.R.S. § 22-261 and § 22-425(B), where the Pima County Superior Court acts as the appellate court for lower court appeals from the Pima County Consolidated Justice Court and the Tucson City Municipal Court. The opinions are not published but are recorded in the Court's case docket. Not all lower court appeals to the Superior Court result in a written opinion. As a Superior Court Judge, I have been assigned a total thirty-four lower court appeals.

In addition, the Superior Court is the reviewing court for appeals from administrative agency decisions pursuant to A.R.S. § 12-910(E). I reviewed one administrative appeal to determine whether the action by the administrative agency was "illegal, arbitrary, or capricious or involved an abuse of discretion." I affirmed the agency's decision. The Plaintiff appealed my opinion, and the Court of Appeals reviewed whether my judgment was supported by the record. The Court of Appeals affirmed this Court's ruling.

- (1) *Reed v. Arizona Game & Fish Comm'n*, No. C20111354 (Ariz. Super Ct. Mar. 22, 2012), *aff'd*, No. 2 CA-CV 2012-0081, 2013 WL 268701 (Ariz. Ct. App. Jan. 24, 2013). Copy supplied.

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- (2) *State v. McCraren*, No. CR20152495-001 (Ariz. Sup. Ct. Oct. 8, 2015).
Copy supplied.

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- (3) *Saxon v. State*, No. CR20151067-001 (Ariz. Super. Ct. May 12, 2015).
Copy supplied.

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- (4) *Lennon v. State*, No. CR20143541-001 (Ariz. Super. Ct. Nov. 6, 2014).
Copy supplied.

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- (5) *State v. Robinson*, No. CR20141286-001 (Ariz. Super. Ct. May 27, 2014).
Copy supplied.

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- (6) *State v. Mims*, No. CR20133679-001 (Ariz. Super. Ct. Sept. 1, 2013).
Copy supplied.

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- (7) *Olsen v. State*, No. CR20132848-001 (Ariz. Super. Ct. September 5, 2013). Copy supplied.

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- (8) *Neal v. Hoyt*, No. C20109634, 2011 WL 7462067 (Ariz. Super. Ct. December 15, 2011). Copy supplied.

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Defendant was *pro se*.

- (9) *Tober v. Civano 1: Neighborhood Ass'n 1*, No. C20113384, 2011 WL 12848039 (Ariz. Super. Ct. August 16, 2011).

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- (10) *Ferrera v. Brandon*, No. C20108816, 2011 WL 6148770 (Ariz. Super Ct. April 18, 2011). Copy supplied.

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

Lockerby v. Tucson, 135 S. Ct. 286 (2014) (cert. denied).

- 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.

- (1) *State v. Burbey*, No. CR20144529001 (Ariz. Super. Ct.), *aff'd*, 381 P.3d 290 (Ariz. Ct. App. 2017), *rev'd*, 403 P.3d 145 (Ariz. 2017).

Defendant is a registered sex offender who was convicted of Failure to Give Notice of Change of Address. A.R.S. § 13-3822(A) requires, in part, that a registered sex offender report a change of address within 72 hours. If the person does not have a permanent place of residence, the person shall register as a transient not less than every 90 days. Defendant claimed he was homeless but gave a location where he “resided.” I therefore gave a jury instruction that said defendant was required to notify authorities within 72 hours of release. The Court of Appeals affirmed.

The Arizona Supreme Court subsequently reversed, holding that Defendant was convicted of failing to notify the sheriff of a new residence, which is not required of transient sex offenders. The Court noted: “[a]lthough the statute does not provide clear notice to transient sex offenders about what is required of them, we

need not hold it unconstitutional because there is a plausible way to construe it in a constitutional manner.”

- (2) *State v. Gonzalez*, No. CR20151826001 (Ariz. Super. Ct.), *rev'd*, No. 2 CA-CR 2016-0136, 2016 WL 6678338 (Ariz. Ct. App. Nov. 14, 2016), *review denied* (May 15, 2017).

Here, the State appealed the trial court’s order granting Defendant’s motion to suppress. I ruled that the search warrant at issue was valid in part. Specifically, I held that established probably cause for the search of a vehicle, but failed to establish probable cause to search a residence. The Court of Appeals agreed the issue presented was “a close case,” and agreed with my factual findings, but concluded I did not give appropriate deference to the Magistrate’s probable-cause determination. The matter was remanded back to the trial court for trial.

- (3) *State v. Nuckols*, No. CR20132190001 (Ariz. Super. Ct.), *rev'd*, No. 2 CA-CR 2014-0271, 2015 WL 5084235 (Ariz. Ct. App. Aug. 27, 2015).

Defendant was convicted by a jury of two counts of Forgery, and four other convictions. The defendant raised several issues on appeal, including, for the first time, that the two forgery counts were duplicative. The Court of Appeals held the indictment as to the forgery counts alleged multiple offenses within a single count and was, in fact, duplicative. Accordingly, the Arizona Court of Appeals reversed one of the forgery convictions and affirmed all other convictions. Because I sentenced Defendant to concurrent sentences on the forgery counts, and the Court of Appeals only reversed one count, no further action was necessary.

- (4) *State v. Elem*, No. CR20124581002 (Ariz. Super. Ct.), *rev'd*, No. 2 CA-CR 2014-0437, 2016 WL 2772089 (Ariz. Ct. App. May 12, 2016).

Defendant was convicted by a jury of Endangerment and Discharging a Firearm at a Residential Structure. Just before trial, and after numerous prior continuances, Defendant made a new discovery request that his expert be allowed to test fire the victim’s gun. Defendant proffered that his expert, by test firing the gun, could analyze how the shell casings landed and then opine the likely direction the victim was pointing the gun when she fired. Defendant argued that if his expert opined the victim was pointing the gun in his direction when she fired, such testimony would support his claim of self-defense.

I determined that no expert could reasonably opine as to the direction a gun was pointed based on where shell casings landed given there was no evidence whether the shell casings located on the scene moved, or were moved, after the victim fired. Furthermore, it was undisputed Defendant was shooting at the residence in self-defense of himself and his brother who were being shot at by the victim, who was standing in the doorway of the residence. Therefore, I denied the pre-trial request finding the proposed expert’s testimony was speculative, at best, and such

testimony was cumulative to an undisputed issue and would cause undue delay. The Court of Appeals found the defendant had a right to the discovery and remanded the case for a new trial.

- (5) *State v. Johnson*, No. CR20073173 (Ariz. Super. Ct.), *rev'd in part*, No. 2 CA-CR 2012-0504, 2014 WL 667832 (Ariz. Ct. App. Feb. 18, 2014).

Here, the Court of Appeals reviewed the record for fundamental, reversible error but found none with respect to the trial and the sentences imposed. However, the Court of Appeals noted that I had ordered that upon Defendant's release from incarceration, all "fines, fees, assessments and/or restitution are reduced to a Criminal Restitution Order." The Appellate Court had recently held in another case that A.R.S. § 13-805, as it existed before its 2012 amendment, did not permit such an order, the entry of which is fundamental, reversible error. Therefore, the Court affirmed the convictions and the sentences imposed in all respects, except the Criminal Restitution Order, which was vacated.

- (6) *State v. Ibarra*, No. CR20134015001 (Ariz. Super. Ct.), *rev'd in part*, No. 2 CA-CR 2014-0296, 2015 WL 1577179 (Ariz. Ct. App. Apr. 8, 2015).

After a jury trial, Defendant was convicted of Assault, Aggravated Assault, Domestic Violence and Criminal Damage, all were designated as domestic-violence offenses. At trial, Defendant asked for and received a jury instruction on the lesser-included offense of assault. The assault instruction included all three forms of assault under A.R.S. § 13-1203(A), but the jury was not instructed that they had to agree unanimously on which form of assault Defendant committed. Jurors convicted Defendant of Assault without indicating they all agreed on a single form. Therefore, the Court of Appeals vacated Defendant's conviction for assault, but affirmed in all other respects.

- (7) *Pima Cty. Human Rights Comm'n. v. Arizona Dep't of Health Serv.*, No. C2012166 (Ariz. Super. Ct. June 11, 2012), *rev'd in part*, 303 P.3d 71 (Ariz. Ct. App. May 30, 2013). Copy supplied.

The Pima County Human Rights Committee (PCHRC) appealed from the trial court's order affirming the Arizona Department of Health Services' (ADHS) denial of PCHRC's request for information regarding deaths of persons enrolled in the mental health system and remanding the matter to ADHS for further proceedings. I had found there was insufficient evidence in the record to rule on PCHRC's request for documents.

The Court of Appeals affirmed the trial court's dismissal of PCHRC's petition for special action but found that under the unique review procedure for human rights committee information requests under A.R.S. § 41-3804(J), the trial court should not have remanded the matter back to ADHS for further evidentiary proceedings.

- (8) *Motzer v. Escalante*, No. C20092596 (Ariz. Super. Ct.), *rev'd in part*, 265 P.3d 1094 (Ariz. Ct. App. 2011).

Appellant Robin Motzer appealed the trial court's determination of costs and attorney's fees after a jury trial. The Court of Appeals affirmed my denial of attorney's fees to Motzer but held that I erred in failing to award Motzer \$404.10 for the transcription and photocopies of a deposition. The case was remanded so costs could be imposed.

- (9) *State v. Goodyear*, No. CR20151936002 (Ariz. Super. Ct.), *rev'd in part*, No. 2 CA-CR 2016-0291, 2017 WL 4817354 (Ariz. Ct. App. Oct. 25, 2017), *review denied* (Mar. 15, 2018).

After a jury trial, Defendant was convicted in absentia of Transportation of a Dangerous Drug for Sale, Possession of a Dangerous Drug for Sale, Possession of a Dangerous Drug, and Possession of a Deadly Weapon During the Commission of a Felony Drug Offense. On appeal, Defendant argued – for the first time – that double jeopardy occurred because his convictions for transportation and possession of a dangerous drug for sale were both based on the methamphetamine found in his co-defendant's purse. The Court of Appeals agreed and vacated Defendant's conviction for possession of a Dangerous Drug for Sale. The Court of Appeals affirmed all other convictions and sentences.

- (10) *State v. Dearman*, No. CR20151936001 (Ariz. Super. Ct.), *rev'd in part*, No. 2 CA-CR 2016-0315, 2017 WL 4329711 (Ariz. Ct. App. Sept. 29, 2017), *review denied* (Mar. 15, 2018).

After a jury trial, Defendant was convicted in absentia of Transportation of a Dangerous Drug for Sale, Possession of Drug Paraphernalia, Possession of a Dangerous Drug for Sale, and Possession of a Deadly Weapon during the Commission of a Felony Drug Offense. For the first time on appeal, Defendant argued Double Jeopardy occurred because her convictions for transportation and possession of a dangerous drug for sale were both based on the meth found in her purse. The Court of Appeals held that because the same corpus of drugs constituted the evidence for both the possession of a dangerous drug for sale count and the transportation of a dangerous drug for sale count, the convictions violated Double Jeopardy. Accordingly, the Court of Appeals vacated the conviction and sentence for possession of a dangerous drug for sale but affirmed all other convictions and sentences.

- (11) *Catalina Foothills Unified Sch. Dist. No. 16 v. La Paloma Prop. Owners Ass'n, Inc.*, No. C20075114, 2011 WL 11012529 (Ariz. Super. Ct. Aug. 17, 2011), *rev'd in part*, 363 P.3d 127 (Ariz. Ct. App. 2015). Copy supplied.

The Catalina Foothills Unified School District sought condemnation of a road, “subject to a perpetual easement,” which allowed La Paloma and subdivision property to use the road to enter and leave the subdivision. The court awarded the homeowner’s association fair market value and cost-to-cure severance damages and prejudgment interest at ten percent per annum.

The Court of Appeals held that prejudgment interest should have been calculated at prime-plus-one percent, pursuant to A.R.S. § 44–1201(B), (F). The Court of Appeals affirmed the trial court’s judgment, “except insofar as it specified the amount of prejudgment interest” and remanded the case so that the trial court could recalculate the amount of prejudgment interest at prime plus one percent.

- (12) *Metzler v. BCI Coca-Cola Bottling Co. of Los Angeles, Inc.*, No. C20072433 (Ariz. Super. Ct. June 30, 2011), *rev’d*, 279 P.3d 1188 (Ariz. Ct. App. 2012). Copy supplied.

This case’s procedural history is complex. *See Metzler v. BCI Coca-Cola Bottling Co. of Los Angeles, Inc.*, 329 P.3d 1043 (2014) (wherein the Court lays out the procedural history but granted review on two issues). Here, Plaintiff, a grocery store patron sued a soft drink bottling company for injuries she sustained when she slipped and fell on water leaking from a refrigerator owned and maintained by Defendant. After a jury trial in Plaintiff’s favor, I entered judgment in Plaintiff’s favor and awarded her prejudgment interest from the date of her offer of judgment through entry of judgment. This judgement was later vacated by the granting of Defendant’s motion for a new trial. The Court of Appeals found the trial court erred in determining prejudgment interest terminated with entry of the initial judgment. The issue of prejudgment interest was not appealed to the Arizona Supreme Court.

- (13) *State v. McDuffie*, No. CR20130569002 (Ariz. Super. Ct.), *rev’d in part*, No. 2 CA-CR 2014-0346, 2015 WL 7729793 (Ariz. Ct. App. Nov. 30, 2015).

Defendant was convicted of Participation in a Riot, Aggravated Assault, and Dangerous or Deadly Assault by a Prisoner, the latter two offenses involving a dangerous instrument. Defendant raised several issues on appeal including, for the first time, that his convictions for Assault and Aggravated Assault and Assault with a Dangerous Instrument by a Prisoner, were multiplicative and therefore, violated the prohibition against double jeopardy. The Court of Appeals agreed and vacated Defendant’s conviction and sentence for Aggravated Assault, but otherwise affirmed Defendant’s convictions and sentences.

- (14) *Van Heeswyk v. Jabiru Aircraft Pty., Ltd.*, No. C20104187 (Ariz. Super. Ct. April 14, 2011), *rev’d*, 276 P.3d 46 (Ariz. Ct. App. 2012). Copy supplied.

This case involved a plane engine manufactured in Australia and sold to a distributor in Tennessee. The engine was then sold a company in Phoenix, who put together a kit with all the necessary parts to build a plane. This firm then sold the kit to Plaintiff, who put the plane together incorrectly and crashed during the first flight test. The issue before me was whether the Australian company that manufactured the engine had the requisite minimum contacts with Arizona such that Arizona could exercise personal jurisdiction. I concluded that the suit against the Australian company in Arizona offended the “traditional notions of fair play and substantial justice.” *Int’l Shoe Co. v. Washington*, 326 U.S. 310, 319 (1945). I therefore dismissed the complaint. On appeal, the Court of Appeals concluded Defendant had sufficient minimum contacts with Arizona, and reversed the trial court’s order dismissing the complaint and remanded the case for further proceedings.

- 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.

According to data compiled by the Pima County Superior Court’s Office of Research and Statistics, I have presided over 5800 cases while a judge. This number covers cases during my civil, criminal and family law bench assignments. While Pima County Superior Court judges do not issue opinions except as noted in other questions, I estimate that in approximately 27 percent of the cases, I have issued rulings or orders on pre-trial motions, bench trials, and discovery disputes. These decisions are not published. My decisions are memorialized in Rulings, Orders, or Minute Entries, which are filed and stored at the Clerk of the Superior Court’s Office.

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

Decisions of trial court judges in Arizona are not published. A case that dealt with federal and state constitutional issues that was appealed and wherein the Arizona Court of Appeals issued an opinion is *Van Heeswyk v. Jabiru Aircraft Pty., Ltd.*, 276 P.3d 46 (Ariz. Ct. App. 2012). The underlying trial court opinion, No. C20104187 (Ariz. Super. Ct. April 14, 2011), is provided as an attachment to Question 13(f).

- 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:

Arizona has an automatic notice provision where either party in a civil or criminal case is entitled, as a matter of right, to one automatic change of judge. *See* Arizona Rule of Civil Procedure 42.1, Arizona Rules of Criminal Procedure 10.2, and Arizona Rules of Family Law Procedure 6.1.

- 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*;

I do not recall any formal motions asking that I recuse myself. On approximately 8 to 10 occasions a litigant suggested a conflict may exist. I do not recall the specifics of why one party thought a conflict may exist. On those occasions, after consultation with the parties, I either recused myself or allowed the parties an opportunity to waive any potential conflict after they had time to reflect on the issue. I recall that in most cases the parties agreed to waive any possible conflict either in writing or on the record.

I have, on several occasions, *sua sponte* recused myself. Attached is a listing compiled by the Court's Research and Statics Office that identifies cases where I *sua sponte* recused myself.

The specific reasons for my recusal are not generally noted in the record. The majority of *sua sponte* recusals occurred when I rotated to the family bench on July 1, 2016.

- b. a brief description of the asserted conflict of interest or other ground for recusal;

I do not recall any case for which the parties filed a formal motion for recusal other than under the automatic notice provisions in the Arizona Rules. On those cases where the parties raised a possible conflict or I *sua sponte* recused myself from a matter, it was for such reasons as knowing one of the litigants or a family member, one of the parties is my wife's patient or a member of some organization where I am also a member, I provided legal advice to one of the parties when I was in private practice, or I had personal knowledge of facts about the case from outside of the courtroom. In addition, for the first two years of being on the civil bench, I *sua sponte* recused myself from any case involving my former law firm.

- c. the procedure you followed in determining whether or not to recuse yourself;

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

- 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 have not refused to recuse myself in any case where the parties raised a possible conflict unless the parties agreed to waive any potential conflict. When a possible conflict of interest was raised, and the parties requested I remain on the case, I consulted with the parties. After full disclosure and after the parties have had an opportunity to reflect, if they agreed to waive any potential conflict, I remained on the case.

I have always recused myself from any case required by Arizona Code of Judicial Conduct Rule 2.11(A), or where I thought there was a possibility of the appearance of impropriety except pursuant to Rule 2.11(C) where the parties agreed to waive the potential conflict in the manner set forth above.

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.

From 1994 to 1996, I served as the appointed Precinct Committeeman for Precinct 79, Tucson, Arizona. I received my appointment from the Pima County Board of Supervisors.

- 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 never served in any capacity for a political party or of political campaign other than the services I rendered as a Precinct Committeeman, described above in 15(a).

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

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

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

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

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

I have never practiced alone.

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

1992 – 1999

Arizona Attorney General's Office
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Assistant Attorney General

1999 – 2010

Bossé Rollman
(formerly Gabroy, Rollman & Bossé)
3507 North Campbell Avenue, Suite 111
Tucson, Arizona 85719
Shareholder

2010 – Present

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

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 served as a mediator while practicing as a civil attorney at Gabroy, Rollman & Bossé in approximately three to five cases. I do not have any recollection of those cases in which I was a mediator. If the case had settled, I might have drafted a settlement agreement, but typically the parties drafted the settlement agreement.

Prior to becoming a judge, I was an arbitrator in the following cases:

- (1) *Carlson v. Water Specialist*, Cause No. C20035035 (Ariz. Super. Ct. 2004).

This case involved a contract dispute regarding the installation of an above ground pool. The Plaintiffs also alleged claims for fraudulent misrepresentation and consumer fraud.

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Counsel for Defendant:

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Mark A. Kirkorsky, P.C.
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- (2) *Tucson Federal Credit Union v. Arvizu*, No. C20071758 (Ariz. Super. Ct. 2008).

The issue in this case was whether a commercial lender took reasonable steps to mitigate its damages in regard to debt delinquency from a vehicle loan.

Counsel for Plaintiff:

Michael M. Moore (Deceased)

Counsel for Defendant:

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b. Describe:

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

From 1992 to 1999, I served as an Assistant Attorney General in the Arizona Attorney General's Office, Criminal Division, wherein I managed a diverse criminal caseload that included prosecution of cases involving money laundering, organized crime, narcotics, fraud, racketeering, theft, assault, consumer fraud, and asset forfeiture. I provided oversight and

prosecution in four wiretap cases. The nature of my work remained consistent throughout my tenure at the Attorney General's Office.

From 1999 to 2010, I began as an associate with the firm Gabroy, Rollman & Bossé. I had a broad commercial litigation practice that also involved transactional work, and general business consulting and representation. I also litigated personal injury and employment cases. In 2005, I became a shareholder, but the nature of my practice did not change. Overall, about seventy percent of my caseload involved construction defects, real-estate, contracts, civil rights claims, personal injury (representing both plaintiffs and defendants), corporate disputes and class actions. I represented individuals in homeowner's association disputes and administrative proceedings before the Registrar of Contractors and the Board of Medical Examiners.

The other thirty percent of my practice consisted of transactional work and general business consulting. I have consulted on issues such as tax planning, employment disputes, business formation, administrative matters and corporate governance. I drafted and reviewed documents such as sales agreements, promissory notes, employment contracts and security agreements. I drafted wills, trusts, living wills, and general and specific powers of attorney. I have also negotiated settlement agreements, employment contracts, buy/sell agreements and leases.

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

While an Assistant Attorney General for the Arizona Attorney General's Office, I only represented the State of Arizona. I specialized, to some degree, in prosecuting organized crime cases and wiretaps.

While at Gabroy, Rollman & Bossé, I never had a "typical" client. My clients included CEO's, doctors, missionaries, recovering addicts, professional corporations – such as architectural and engineering firms, small to medium sized businesses, municipalities, school districts and state agencies. I have represented the City of Tucson in a variety of cases and issues. I have represented a few large corporations such as Banner University Medical Center and Ford Motor Credit Company. My small and medium sized business clients included manufacturers, retailers, publishers, mining companies, construction companies, engineering firms, and healthcare entities. I had no area of specialization.

- 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.

At the Arizona Attorney General's Office, from 1992 to 1999, one hundred percent of my practice was in litigation. I appeared in court two to four times a week. While in private practice at Gabroy, Rollman & Bossé, about seventy percent of my caseload was assigned to commercial litigation cases, wherein I appeared in court approximately two to three times a month.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 3% |
| 2. state courts of record: | 72% |
| 3. other courts: | 20% |
| 4. administrative agencies: | 5% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 52% |
| 2. criminal proceedings: | 48% |

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.

To my recollection, I tried at least 32 cases to verdict. I was sole counsel in approximately 26 of those trials, chief counsel in one trial, and associate counsel in five trials.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 68% |
| 2. non-jury: | 32% |

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.

None.

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:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case

was litigated; and

- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

- (1) *City of Tucson v. Clear Channel Outdoor, Inc.*, No. C20003722 (Ariz. Super. Ct.), before the Honorable Carmine Cornelio, Pima County Superior Court Judge (Retired); 2000 – 2008.

The City of Tucson filed claims against Clear Channel alleging over 800 counts of municipal sign code violations involving over 240 billboards. Defendant raised counterclaims alleging violations of the corporation's First, Fifth and Fourteenth Amendment Rights under both the Arizona and United States Constitutions, claims under 42 U.S.C. § 1983, violations of various state statutes, and intentional interference with contract. I, along with co-counsel, represented the City of Tucson. I drafted the complaint, managed the discovery process, and drafted several pre-trial motions. After preliminary summary judgment motions were heard on First and Fourteenth Amendment issues, the case settled with a long-term plan to remove approximately half of the billboards, and bringing the remainder into compliance with the Tucson Sign Code, within five years.

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(2) *Ponce, et. al., and Acosta, et. al., v. Pima County and City of Tucson*, No. CV2003-015486 (Consolidated) (Ariz. Super. Ct.), before the Honorable James Smith, Maricopa County Superior Court Judge; 2003 – 2008.

The *Ponce* case was a class action lawsuit and *Acosta* was a multi-defendant (50+) case both arising from the same event that were consolidated for pre-trial discovery purposes. A third case, *Duron*, was also later consolidated for pre-trial discovery. All three cases arose from a large sewer line break in Tucson that inundated several neighborhoods with raw sewage. The *Ponce* and *Acosta* cases were filed in Maricopa County. The *Duron* case was filed in Tucson but was moved to Maricopa County upon consolidation. I represented the City of Tucson.

These were complex cases involving hundreds of class members who asserted claims of nuisance, trespass, and negligence, and who sought damages for personal injuries, property damage and medical monitoring. Defendants Pima County and the City of Tucson filed cross-claims against each other for indemnification, alleging various theories as to who and what caused the sewer line break. The case involved extensive discovery and a challenge to class certification. The cases were ultimately settled with a non-disclosure agreement.

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- (3) *Plateau Elec. Constructors, Inc. v. W.E. O'Neil Constr. Co. of Ariz.*, No. CV2003-010968 (Consolidated) (Ariz. Super. Ct.), before the Honorable Teresa Sanders, Maricopa County Superior Court Judge; 2005 – 2006.

This was a multi-million dollar construction defect case involving the construction of a juvenile detention building and courthouse complex commonly known as the Durango Juvenile Detention and Courts Facility. W.E. O'Neil Construction Co. was the general contractor. I represented electrical and mechanical subcontractors. The lawsuit started when certain subcontractors made claims for breach of contract against O'Neil. O'Neil countersued for nonperformance and sued Maricopa County, the project's owner, for nonpayment. Maricopa County countersued O'Neil and sued its architect Cannon Dworsky. Cannon Dworsky countersued Maricopa County and sued the mechanical, electrical and plumbing engineers, and my clients, Baltes/Valentino Associates and TMAD. Cannon Dworsky also sued Paul-Koehler Consulting, the structural engineers. The case was complex and far-reaching in scope – at most depositions, there were 20 or more lawyers present. I was able to negotiate a favorable settlement of all claims against my clients.

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- (4) *Verve, L.L.C. v. Hypercom Corp., and Hypercom Corp. v. Verve, L.L.C., Galasso*, No. 05-CV-00365-FJM (D. Ariz.), before the Honorable Frederick J. Martone, United States District Court Judge; 2006.

This was a patent infringement case where the court decided liability on a motion for summary judgment before I was involved with the case. There followed a four-day jury trial on damages. I only handled the trial portion of this case, but it necessitated a “crash course” in patent law. My client was found joint and severally liable for a large damage award.

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- (5) *In re Rehabilitation of: Premier Healthcare, Inc., d.b.a. Premier Healthcare of Arizona*, No. CV2002-021887 (Ariz. Super. Ct.), before the Honorable Hugh Hegyi, Maricopa County Superior Court Judge (Retired); 2001 – 2005.

This case involved Premier Healthcare, an Arizona health insurance provider, and its filing for bankruptcy. The court-appointed receiver for Premier sued Premier's parent corporation, MatureWell, Inc. (also an Arizona health insurance provider), Premier's former shareholders (who had sold Premier to MatureWell), and several other related entities. The former Premier shareholders were eight of the largest independent hospitals located throughout the State of Arizona, including my client, University Medical Center (now Banner University Medical Center). There were numerous counterclaims and cross-claims between the parties based on tort and contract theories. In addition, the individual hospitals brought claims against Premier and MatureWell for reimbursement of unpaid medical claims. Initially, the parties had to sort out which claims could be brought in state court versus those that had to be brought in federal bankruptcy court. Due to my accounting background and ability to understand complex business arrangements, I was able to negotiate a favorable settlement for my client.

Counsel for Premier Healthcare, Charles Cohen, and Receiver of Premier:

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- (6) *Steinkuehler v. Sw. Gas Corp.*, No. C329564 (Ariz. Super. Ct.), before the Honorable Lina Rodriguez, Pima County Superior Court Judge (Retired); 1998 – 1999.

This wrongful death case involved a woman crossing a multi-lane road in a marked crosswalk who was struck by a Southwest Gas vehicle. Plaintiffs originally sued only Southwest Gas, but Southwest Gas alleged the City of Tucson and Pima County were non-parties at fault. The complaint was amended to add as parties Pima County and, my client, the City of Tucson. Southwest Gas and the plaintiffs settled, with no contribution from the other defendants. Southwest Gas proceeded to trial on a cross-claim against the City of Tucson alleging the City was negligent in designing and maintaining the roadway. After a four-day bench trial and several post-trial motions for findings of facts and conclusions of law, the Court issued a verdict in favor of the City of Tucson on all claims and apportioned one hundred percent of fault for the accident to defendants Southwest Gas Corporation and Robert Rench.

Co-Counsel for Defendant City of Tucson:

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(7) *State v. Catt*, No. S-0300-CR-97000805 (Ariz. Super. Ct.), before the Honorable Fred Newton, Coconino County Superior Court Judge (Retired); 1997 – 1998.

Defendant was a popular Marana High School teacher and wrestling coach who was accused by several students of abusing them on school trips over a five-year period. Only one of the victims' case could be filed in the State of Arizona. That case was filed in Coconino County. Defendant was indicted on six-counts of sexual assault and five-counts of sexual abuse by a Coconino County Grand Jury.

During the pendency of the case, the Arizona Supreme Court issued a rule change, adding Rule 404(c) to the Arizona Rules of Evidence that changed the type of character evidence that was admissible in sexual misconduct cases. Also, during the pendency of the case, the Arizona Supreme Court decided *State v. Getz*, which overturned a prior case I relied upon when presenting the case to the Grand Jury. Defendant filed a Motion to Remand to the Grand Jury based upon the *Getz* decision, which was denied by the trial court but reversed by the Court of Appeals. Therefore, the case was remanded back to the Grand Jury two-weeks before trial was to begin.

This case involved extensive interaction with the victims and their families, whom I regularly met with to explain the legal process and to discuss the various rulings and changes in the law that were causing delays in the case. I offered a plea – at the victims’ request – that Defendant accepted, and he was subsequently sentenced to six years’ imprisonment.

Counsel for Defendant:

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- (8) *State v. Miles*, No. CR051840 (Ariz. Super. Ct.), before the Honorable Raner Collins, United States District Court Judge (formerly Pima County Superior Court Judge); 1994 – 1996.

I was the sole prosecutor on this wiretap case involving thirteen defendants. Here, the State of Arizona alleged the defendants operated a criminal enterprise to import marijuana into Arizona and then distribute it to several east coast cities. The grand jury returned a 42-count indictment, including charges for Conducting a Criminal Enterprise, Conspiracy, Possession and Transportation of Narcotic Drugs. Some defendants pled out and at least one agreed to cooperate and provide testimony; however, at trial, the witness recanted his statements to the police and was impeached. The trial involved over 200 exhibits, mostly tapes of recorded conversations. Three defendants went to trial. After a seven-week trial, Defendants were convicted of all charges.

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(9) *State v. White*, No. CR056915 (Ariz. Super. Ct.), before Honorable Leslie Miller, Pima County Superior Court Judge; 1997 – 1998.

This was a first-degree murder case with a death penalty allegation and four counts of armed robbery. The Pima County Attorney's Office issued the case but was removed shortly thereafter due to a conflict of interest, and I was assigned. After a complete case review, and meeting with the victim's family, I withdrew the death penalty allegation, as I believed there was insufficient evidence to support the death penalty in that case. Thereafter, Defendant entered a plea.

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(10) *Zayac v. City of Tucson*, No. C314428, Pima County Superior Court, before the Honorable Deborah Bernini, Pima County Superior Court Judge; 1996 – 2003.

The City of Tucson operated a landfill in southwest Tucson. It was alleged that methane gas, created by the landfill, migrated offsite and contaminated certain mobile home properties. 153 plaintiffs, consisting of mobile home owners and renters near the landfill, brought suit against the City of Tucson, Eliseo Garza, Director of the Solid Waste Department for the City of Tucson and Chris Leverenc, Assistant Director of the Solid Waste Department, under theories of negligence, negligence per se, trespass, nuisance and strict liability.

I deposed over one hundred plaintiffs in this case, and argued several pre-trial motions. The multitude of depositions was necessary because each plaintiff claimed unique damages that had to be investigated. After a ten-day bench trial, a defense verdict was entered on all claims.

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Contact information unknown

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.)

Because of my former profession as a Certified Public Accountant, when I was in private practice I was often hired by corporations or small businesses to provide consulting services that involved both legal and accounting issues, or issues that would impact corporate functions. On one occasion, I was retained by a company that offered counseling services. During a counseling session by one of the providers where the client was the CEO's daughter, the daughter confessed to murdering her husband approximately seven years prior and staging it to look like a suicide. The coroner's report did find the cause of death was a self-inflicted gunshot. I was hired to provide legal advice on whether the provider had a duty to disclose that information and if so, to whom. Since the CEO/father was unaware of this confession, and since he was also Chairman of the Board of Directors, which had to approve any actions, I was given the responsibility of informing the CEO/father/Chairman of his daughter's confession and explain to him the potential ramifications and conflicts that he may be facing as CEO of the organization. I also assisted in drafting press releases and negotiating with other third parties.

On another occasion, between 2007 and 2009, I was hired by several small businesses who received tax deficiency notices from the Arizona Department of Revenue for unpaid use tax. Use Taxes, under the statute, were rarely assessed prior to the economic downturn starting in 2006, but in 2007 through 2009, the State of Arizona began to issue deficiency notices going back six years to several small businesses that purchased products from different states for use in their business. Given the financial downturn in the economy, the businesses could not afford to defend against the assessments, and to pay the assessments would result in bankruptcy. Therefore, I had to negotiate on behalf of the clients a reduction in the tax deficiency, which would allow them to remain in business.

I am presently the Presiding Judge of the Family Law Bench at the Pima County Superior Court. I have several administrative functions to ensure the operational efficiency of the family law bench, which includes oversight of three retained judges and nine Commissioners. I advise on several court projects and resolve disputes between the family bench and other departments of the court. As Presiding Judge, I am responsible for the Conciliation Court, which provides family law court services such as mediation and counseling to the public. The Conciliation Court Director reports to me.

I was a member of the Committee on the Impact of Wireless Mobile Technologies and Social Media on Court Proceedings. Our task was to address the use of wireless mobile technology by lawyers, jurors, media, witnesses and the public in the courthouse. The Committee was responsible for providing direction to judges and court security officers

on the possession and use of photo and video technology in the courtroom and identify ethical questions regarding the use of wireless technology for consideration by the Judicial Ethics Advisory Committee and the Commission on Judicial Conduct. The efforts of the committee resulted in several recommendations that produced a rewrite of Rule 122 of the Arizona Rules of the Supreme Court, and the adoption of a new Rule 122.1.

I served as a member of the Business Court Advisory Committee in 2014. The Committee was to make recommendations on procedural rules, discovery procedures, alternative dispute resolution, judicial staffing, resources, and other issues necessary to implement a business court model. The recommendations were adopted, and a pilot business court model is operating in Maricopa County.

I have never served as a lobbyist.

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.

From 1998 to 1999, I taught as an Associate Professor for the Pima Community College Paralegal Program on Consumer Law. The course addressed issues related to general business law and the Arizona Consumer Fraud Act. I did not retain a syllabus from the class.

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.

As a state employee, I contribute to the Deferred Compensation Plan. I have no anticipated income or benefits from previous business relationships, professional services, firm memberships, former employees, clients or customers. My wife and I are sole and equal members of OVFP LLC, which owns a medical office building leased to a group of physicians.

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 do not have any plans, commitments or agreements to pursue outside employment while serving as a District Court Judge.

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 Statement of Net Worth.

24. **Potential Conflicts of Interest**:

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

My wife is a stockholder and practicing physician employed by Arizona Community Physicians Group (ACP), a large medical provider group in Tucson, Arizona. If confirmed, I would recuse myself from all matters in which ACP or any of its principal officers were a party. If another physician associated with ACP were a party in the litigation, I would evaluate whether a potential conflict or relationship would give rise to an appearance of conflict and determine appropriate action with the advice of parties and counsel. I would recuse myself unless all potential conflicts or appearance of conflicts were resolved, or the parties, after having an opportunity to consider the matter, agreed to waive the potential conflict.

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

In all cases, I will follow the Code of Conduct for the United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. § 455, and other relevant recusal rules and guidelines. Canon 3 (C)(1)(c) of the Code of Conduct for United States Judges requires a judge to disqualify himself if the judge, the judge's spouse or minor child has a financial interest, however small, in the subject matter of the controversy or a party to the action. I am presently governed by a similar, though not identical, provision under Arizona Supreme Court Rule 81, Rules 1.2 and 2.11 of the Arizona Code of Judicial Conduct, and A.R.S. § 12-409.

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.

As a Judge, I am, for the most part, precluded from practicing law. When I served as an Assistant Attorney General for the Arizona Attorney General's Office, my ability to provide pro bono services was also somewhat curtailed. I have, however, been active in pro bono efforts to the extent permitted by my professional obligations.

From 2003 through 2009, I, along with others, started a legal aid clinic for individuals at the Gospel Rescue Mission who were enrolled in the Road to Recovery Program, which is a residential treatment program for homeless individuals. Out of that project, a Special Services Court for Homeless Individuals began with the Tucson City Court. After the homeless court was established, I represented individuals at homeless court in resolving their legal issues. Further, from 2001 to 2003, I represented wards in connection with the Beacon Foundation Guardianship Program.

I have volunteered with the University of Arizona College of Law, both with their Student Mentoring Program (1995 through 1998 and 2008), as well as serving as a Judge for the school's moot court competition from 2008 to 2009. I have also served on the Nominating Committee and the Habitat for Humanity House Committee for the Pima County Bar Association.

In addition, I have volunteered at several different organizations providing non-legal services such as serving meals, building/remodeling houses, cooking at fund raising events, talking with students and parents about law related issues, etc. These organizations include, The Gospel Rescue Mission, Whitmore Elementary School, Manzanita Elementary School, First Evangelical Free Church, El Puente Norte, and Amore Project.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

In January 2018, I was contacted by then-Senator Jeff Flake's office, inquiring if I was interested in the federal district court vacancy in Tucson. Later that same month, I interviewed with representatives from Senator Flake's Office. In March 2018, I was contacted by representatives from then-Senator McCain's office regarding my interest in the federal court vacancy. Shortly thereafter, I had a telephone interview with two representatives from Senator McCain's staff.

In early August, 2018, I was contacted by the White House Counsel's Office requesting that I travel to Washington, D.C. for an interview. This interview took place on August 17, 2018.

On September 12, 2018, I received a call from the White House Counsel's Office informing me that I had been preliminarily selected for nomination. Since September 12, 2018, I have been in periodic contact with attorneys from the White House Counsel's Office and the Department of Justice.

In November and December of 2018, I had contact with Senator Jon Kyl regarding the vacancy, and had periodic contact with members of his staff since that time. In April 2019, I met with Senator Martha McSally and her staff. In July 2019, I met with Senator Kyrsten Sinema and her staff. On October 15, 2019, the White House announced my official nomination.

- 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.