

**APPLICATION FOR NOMINATION TO
JUDICIAL OFFICE**

**SECTION I: PUBLIC INFORMATION
(QUESTIONS 1 THROUGH 65)**

PERSONAL INFORMATION

1. Full Name: Patricia Ann Starr
2. Have you ever used or been known by any other name? Yes If so, state name:
Patricia Ann Nigro
3. Office Address: 101 W. Jefferson, Phoenix, AZ 85003
4. How long have you lived in Arizona? 38 years. What is your home zip code? .
85044
5. Identify the county you reside in and the years of your residency. Maricopa
County resident since 1992.
6. If nominated, will you be 30 years old before taking office? yes no

If nominated, will you be younger than age 65 at the time the nomination is sent
to the Governor? yes no
7. List your present and any former political party registrations and approximate
dates of each:

Present: Independent (1999-present)

Former: Democrat (1983-1999)

(The Arizona Constitution, Article VI, § 37, requires that not all nominees sent to
the Governor be of the same political affiliation.)

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8. Gender: Female

Race/Ethnicity: White

EDUCATIONAL BACKGROUND

9. List names and locations of all post-secondary schools attended and any degrees received.

University of Arizona, Tucson, Arizona, 1983-1987
Bachelor of Science in Health Sciences, magna cum laude

University of Arizona College of Law, Tucson, Arizona, 1989-1992
Juris Doctor, magna cum laude

10. List major and minor fields of study and extracurricular activities.

As an undergraduate, I earned a Bachelor of Science in Health Sciences, majoring in Health Education. My studies concentrated on the hard sciences, such as biology and chemistry, as well as social sciences such as psychology, sociology and anthropology.

During law school, I participated in student government as second-year representative and Chair of the Board of Governors of the Student Bar Association. I also participated in the student Public Interest Law Organization, and served as Vice-President. During my third year of law school, I was a student member of the Law School Admissions Committee.

11. List scholarships, awards, honors, citations and any other factors (e.g., employment) you consider relevant to your performance during college and law school.

As an undergraduate, I was awarded the Thomas J. Watson Memorial Scholarship through the National Merit Scholarship Program. I was also awarded the Sophomore Scholarship Award from the University of Arizona, and the Phi Kappa Phi Certificate of Merit. I was a member of the Golden Key National Honor Society and Phi Kappa Phi.

During law school, I received the Dean's Achievement Award, and was named to the Dean's List. In first year Moot Court, I was named Outstanding Oral Advocate. During my second year, I served as an "Ares Fellow," or teaching assistant, for first year moot court and research students. During my first summer, I worked as a Public Interest Law Organization Fellow at the Tucson

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AIDS Project. I continued to work as a volunteer at the Tucson AIDS Project for the remainder of my law school career. I worked the next summer at the Arizona Center for Law in the Public Interest, as a Paul Marcus Public Interest Fellow.

PROFESSIONAL BACKGROUND AND EXPERIENCE

12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for any administrative bodies that require special admission to practice.

Arizona State Bar, admitted 1992
 United States District Court, District of Arizona Bar, admitted 1992
 United States Court of Appeals for the Ninth Circuit Bar, admitted 2001
 United States Supreme Court Bar, admitted 2003

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening? No If so, explain.
- b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state? No If so, explain any circumstances that may have hindered your performance.

14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

EMPLOYER	DATES	LOCATION
Judge, Maricopa County Superior Court	3/2014-present	Phoenix, Arizona
Commissioner, Maricopa County Superior Court	7/2011-3/2014	Phoenix, Arizona
Arizona Death Penalty Judicial Assistance Project - Capital Staff Attorney	2008-2011	Phoenix, Arizona

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Office of the Arizona Attorney General	2005-2008	Phoenix, Arizona
Maricopa County Attorney's Office	2003-2005	Phoenix, Arizona
Office of the Arizona Attorney General	2002-2003	Phoenix, Arizona
Maricopa County Attorney's Office	1993-2002	Phoenix, Arizona
Hon. Jefferson L. Lankford Arizona Court of Appeals	1992-1993	Phoenix, Arizona
Univest Enterprises	1988-1989	Tucson, Arizona

15. List your law partners and associates, if any, within the last five years. You may attach a firm letterhead or other printed list. Applicants who are judges or commissioners should additionally attach a list of judges or commissioners currently on the bench in the court in which they serve.

Please see Attachment A.

16. Describe the nature of your law practice over the last five years, listing the major areas of law in which you practiced and the percentage each constituted of your total practice. If you have been a judge or commissioner for the last five years, describe the nature of your law practice before your appointment to the bench.

Since July of 2011, I have been a judicial officer. I became a commissioner in 2011; in March of 2014 Governor Jan Brewer appointed me to the bench as a superior court judge. Voters retained me for a four-year term in November of 2016, and again in November of 2020. I currently serve as the Presiding Judge for the Criminal Department of the Maricopa County Superior Court.

For three years prior to my appointment to the bench, I was a Capital Staff Attorney with the Arizona Death Penalty Judicial Assistance Project, funded by the Arizona Supreme Court. I assisted trial judges statewide with death penalty cases, conducting research, attending hearings and trials, drafting proposed orders, drafting jury instructions, offering advice on capital issues, and presenting training on various issues affecting capital cases.

I spent the majority of my career as a prosecutor, at the Maricopa County Attorney's Office and the Office of the Arizona Attorney General. I took part in trials, including two capital jury trials, and handled post-conviction matters and appeals, including appearances before both federal and state appellate courts. At the Maricopa County Attorney's Office, my appellate caseload included criminal, juvenile, sexually violent person appeals and lower court appeals. At

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the Attorney General's Office, I prosecuted insurance fraud cases while in the trial division, and handled capital appeals, post-conviction relief petitions, and habeas matters while in the appellate division. I also worked on federal civil litigation regarding a challenge to Arizona's lethal injection protocol.

17. List other areas of law in which you have practiced.

At the Maricopa County Attorney's Office, I worked in the Civil Division, representing Maricopa County, and in particular the Maricopa County Sheriff's Office. While in the Civil Division, I took part in civil commitment hearings at Desert Vista Hospital. While at the Maricopa County Attorney's Office I also worked in the Juvenile Division, representing the State in juvenile delinquency matters. During that time I served both as a charging attorney and as a sex crimes prosecutor.

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state.

Not applicable.

19. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

As an appellate lawyer, I drafted hundreds of briefs and pleadings, which were filed in courts including the Maricopa County Superior Court, Arizona Court of Appeals, Arizona Supreme Court, Ninth Circuit Court of Appeals and United States Supreme Court. While in the Appellate Division of the Maricopa County Attorney's Office, I was assigned to assist the Homicide Bureau with motion work after the *Ring v. Arizona* decision led to jury sentencing in death penalty cases. In that position, I drafted capital jury instructions before there were standard instructions, and briefed numerous novel legal issues in death penalty cases.

As a Capital Staff Attorney, I drafted jury instructions and minute entry rulings in capital cases. Working with another Staff Attorney, I drafted a Capital Case Bench book, which continues to be used (as updated by current staff attorneys) and which provides direction for trial judges handling capital cases in Arizona.

As a Commissioner, I drafted standard criminal Minute Entries as part of a project to update the Court's standard minute entries, as well as a training guide for pro tem judges regarding criminal competency procedures.

As a Judge, I have drafted numerous rulings, including rulings on complex civil pretrial and trial issues, administrative, civil, and criminal appeals, and criminal matters such as jury pool challenges and criminal competency and restoration issues. When I served as a pro tem Judge at the Court of Appeals, Division One, I drafted two memorandum decisions. I also served on a State Bar Study Group which drafted and submitted proposed revisions to the Rules for Judicial

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Review of Administrative Decisions, and I am currently the Chair of the State Bar Committee on Criminal Jury Instructions.

20. Have you practiced in adversary proceedings before administrative boards or commissions? No If so, state:

a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency.

b. The approximate number of these matters in which you appeared as:

Sole Counsel: Not applicable

Chief Counsel: Not applicable

Associate Counsel: Not applicable

21. Have you handled any matters that have been arbitrated or mediated? Yes
If so, state the approximate number of these matters in which you were involved as:

Sole Counsel: 0

Chief Counsel: 0

Associate Counsel: 2

22. List at least three but no more than five contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case; and (4) a statement of any particular significance of the case.

A. *State v. CD* (case name and number provided in confidential section)

1. Date or Period of the proceedings: Approximately February through June of 2000.

2. Counsel:

Anne Phillips represented the defendant.
Maricopa County Legal Defenders Office
602-506-0344

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anne.phillips@old.maricopa.gov

3. Summary of the substance of the case: In 1991, the defendant was convicted of two counts of child abuse after she attempted to commit suicide by running her vehicle in her closed garage with her two children inside the car. The trial court sentenced her to 34 years imprisonment; the Arizona Supreme Court later reduced that sentence to 24 years imprisonment. Years later, I was assigned to respond to Defendant's petition for post-conviction relief. Rick Romley, the Maricopa County Attorney, asked me to negotiate a settlement in the case. Over several months, I explored a settlement with defense counsel. Before I could settle the case, I had to find and contact the victims' representatives. Ultimately, Defendant pleaded guilty to two counts of Attempted Child Abuse and was sentenced to ten years imprisonment followed by a term of lifetime probation.
4. Statement of particular significance: Negotiating a settlement in this high-profile case required me to balance the interests of the victims and their representatives, the value of finality of judgments, and simple fairness and justice. I was impressed with Defendant's efforts to better herself while incarcerated, and I became convinced that she was truly remorseful for her actions and sought to lead a productive life. The ultimate duty of a prosecutor is to do justice; I believe that result was ultimately reached in this case through the post-conviction plea negotiations.

B. *State v. FM* (case name and number provided in confidential section)

1. Date or period of the proceedings: August of 2000 through May of 2001.
2. Counsel:

Robert Doyle represented the defendant.
602-506-7711
rdoylezlawyer@gmail.com

3. Summary of the substance of the case: A jury convicted the defendant of second-degree murder, and he subsequently filed a petition for post-conviction relief, claiming ineffective assistance of counsel. After the parties briefed the issue, the trial judge, the Honorable Jeffrey Hotham, called the parties in for an informal conference. Judge Hotham made clear his opinion that the defendant had not received effective assistance of counsel at trial, and that it was highly likely that he would prevail if we proceeded to an evidentiary hearing. After considering the facts of the case, the great difficulties inherent in a retrial, and the interests of all involved, I negotiated a plea agreement. The defendant pleaded guilty to Manslaughter and Judge Hotham sentenced him to twelve years imprisonment.

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4. Statement of particular significance: This case stands out in my mind because Judge Hotham was so clearly disturbed by the inadequate defense received by the defendant. In fact, after the change of plea and sentencing, Judge Hotham referred trial defense counsel to the State Bar and ordered him to repay his fees to the defendant and his family. For me, this case underscores the importance of a constitutionally adequate defense for all defendants, as well as the duty of all judicial officers to ensure that every party is treated fairly.

C. Various Matters

In the course of my career, I settled many criminal and juvenile cases from misdemeanor driving under the influence cases to complex fraud schemes, sex crimes and murder cases. I did not keep records, however, and no longer have access to either MCAO or AG records to research the cases. My experience settling cases taught me to consider the strengths and weaknesses of each case, the interests of victims, and the risk inherent in trial versus the certainty of a plea agreement, before attempting to reach a just resolution.

23. Have you represented clients in litigation in Federal or state trial courts? Yes If so, state:

The approximate number of cases in which you appeared before:

Federal Courts: 5
State Courts of Record: over 1,000
Municipal/Justice Courts: over 500

The approximate percentage of those cases which have been:

Civil: 10
Criminal: 90

The approximate number of those cases in which you were:

Sole Counsel: 1495
Chief Counsel: 0
Associate Counsel: 10

The approximate percentage of those cases in which:

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You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion: 10

You argued a motion described above 5

You made a contested court appearance (other than as set forth in the above response) 50

You negotiated a settlement: 80

The court rendered judgment after trial: 5

A jury rendered a verdict: 2.5

The number of cases you have taken to trial:

Limited jurisdiction court 3

Superior court 55

Federal district court 0

Jury 8

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible.

I have approximated the number of cases taken to trial because I did not keep records and no longer have access to any records

24. Have you practiced in the Federal or state appellate courts? Yes If so, state:

The approximate number of your appeals which have been:

Civil: 15

Criminal: 70

Other: 20

The approximate number of matters in which you appeared:

As counsel of record on the brief: 100

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Personally in oral argument: 18

25. Have you served as a judicial law clerk or staff attorney to a court? Yes If so, identify the court, judge, and the dates of service and describe your role.

Hon. Jefferson L. Lankford, Court of Appeals, Div. One
Law Clerk, 1992-1993

I began my legal career clerking for the Honorable Jefferson L. Lankford of the Arizona Court of Appeals, where I refined my research skills, learned to write effectively and efficiently, and gained confidence from presenting cases at conference to three-judge panels. I also had the invaluable opportunity to read numerous briefs and watch many oral arguments, and learn from example what constituted effective advocacy and what did not.

Arizona Trial Courts, Arizona Death Penalty Judicial Assistance Project
Capital Staff Attorney, 2008-2011

As a Capital Staff Attorney, I worked with trial judges statewide, providing assistance in capital cases. My work ranged from responding to queries for procedural or case law to drafting minute entries ruling on complex legal issues. I also drafted jury instructions, verdict forms, and a jury questionnaire, and provided training on issues related to capital cases.

26. List at least three but no more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts that were not negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the judge or officer before whom the case was heard; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

A. *State v. Steven Ray Newell*, Maricopa County CR 2001-009124

1. Date or period of proceedings: The trial began on January 20, 2004 and concluded on February 25, 2004.
2. Court: Maricopa County Superior Court
Judge: Honorable Barry C. Schneider
3. Counsel:

I represented the State of Arizona, along with Cleve Lynch.
Maricopa County Attorney
602-506-5780

lynch@mcao.maricopa.gov

Bruce Peterson and Timothy Agan represented Mr. Newell. Mr. Peterson has retired and the State Bar of Arizona website has no contact information for him.

Timothy Agan
Office of the Legal Advocate
tagan@mail.maricopa.gov

4. Summary of the substance of the case: In August of 2001, eight-year-old EB disappeared while walking to school. After an extensive search, police recovered her body in a drainage canal. Steven Newell was tried for her murder and convicted of kidnapping, sexual conduct with a minor and first-degree murder, and sentenced to death. At the time, I served as the “*Ring* attorney” in the Maricopa County Attorney’s Office Appeals and Research Division, tasked with assisting trial prosecutors with adjusting to the new world of capital jury trials. The Office teamed me up with veteran homicide prosecutor Cleve Lynch to present this case to a jury. I handled various aspects of the case, including substantive motions, drafting of jury instructions and a jury questionnaire, responding to a petition for special action in the Arizona Court of Appeals, and presenting evidence and witnesses at trial, including DNA evidence linking Newell to the sexual assault and murder. I was also responsible for developing much of the rebuttal to mitigation evidence in anticipation of the penalty phase, and interviewing and cross-examining many of the defense penalty phase witnesses.

5. Statement of particular significance: This case was one of the first capital cases tried to a jury in Maricopa County after the United States Supreme Court decision in *Ring v. Arizona*. Trial courts, prosecutors, and defense counsel were faced with figuring out how to present aggravating and mitigating circumstances to a jury, as well as how to best instruct that jury. Many issues were unresolved at the time, including what constituted proper rebuttal to mitigation, whether a defendant could be forced to undergo a mental health evaluation by the State’s doctor, and the proper limits of victim impact statements. In fact, in this case, I responded to a petition for special action regarding whether Mr. Newell would be required to submit to an examination by the State’s mental health expert. On a personal level, I was impressed by the dedication of all the parties, and the professionalism displayed by my co-counsel and defense counsel when dealing with a case that involved such tragic facts. In particular, I greatly appreciated the mutual respect I observed between defense counsel and the victim’s survivors. Although this was one of the most challenging cases of my career, given the facts and the stakes for all involved, it was also one of the most satisfying experiences due to the high level of skill and professionalism exhibited by the parties and the trial court.

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B. *Simpson v. Owens*, 207 Ariz. 261 (App. 2004)

1. Date or period of the proceedings: The Court of Appeals issued its opinion on February 26, 2004.

2. Court: The Arizona Court of Appeals, Division One.
Judges: Judge Susan Ehrlich authored the opinion, which Judge Patrick Irvine joined. Judge Pro Tempore John Foreman authored a special concurrence.

3. Counsel:

Darrow J. Soll, John R. Sandweg, and Barry D. Mitchell represented Mr. Simpson. Michele Lawson represented the Maricopa County Public Defender, Amicus Curiae.

Darrow Soll (deceased).

John R. Sandweg
202-585-8189
jsandweg@nixonpeabody.com

Barry D. Mitchell
602-358-0293
barry@MSCCLaw.com

Michele Lawson
602-372-2038
michele.lawson@jbazmc.maricopa.gov

4. Summary of the substance of the case: In November of 2002, Arizona voters passed Proposition 103, amending the Arizona Constitution to make certain sexual offenses non-bailable when “the proof is evident or the presumption great.” In *Simpson v. Owens*, the Court of Appeals considered what kind of hearing a defendant charged with one of those offenses was entitled to before being denied bail, and what the phrase “proof evident presumption great” meant in this context. The Court determined that a defendant is entitled to a bail hearing as soon as practicable, and that at the hearing, the State must present evidence of the qualifying evidence that is substantial, but not necessarily beyond a reasonable doubt.

5. Statement of particular significance: The opinion in *Simpson v. Owens* instructed trial courts how to conduct what is now known as a “*Simpson* hearing,” in order to determine if defendants charged with certain offenses are entitled to bail pending trial. The Court also defined the phrase “the proof is evident or the presumption great,” which had not previously been clearly defined in Arizona law. On a personal note, this case is significant

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because I had the pleasure of participating in oral argument against Mr. Darrow Soll, a law school classmate and exceptional advocate, who later passed away. And as a Superior Court Commissioner, I was later assigned to conduct *Simpson* hearings for the Court, and presided over many such hearings while assigned to the Criminal bench.

C. *State v. Hampton*, 213 Ariz.167 (2006)

1. Date of the proceedings: The Arizona Supreme Court issued its opinion on August 15, 2006.
2. Court: Arizona Supreme Court.
Judges: Justice Andrew Hurwitz authored the opinion, joined by Chief Justice Ruth McGregor, Vice Chief Justice Rebecca White Berch, and Justices Michael D. Ryan and W. Scott Bales.
3. Counsel:

Michael Reeves represented Mr. Hampton.
602-604-7577
sportclips1212@yahoo.com
4. Summary of the substance of the case: A jury convicted Mr. Hampton of two counts of murder and one count of manslaughter for the May 2001 murders of CF, TR, and TR's unborn child. After finding aggravating factors and considering mitigation, the jury determined that the mitigating circumstances were not sufficiently substantial to call for leniency, and sentenced Mr. Hampton to death for the two murder convictions. On appeal, he raised eighteen issues, including issues relating to death qualification of the jury, the applicability of the fetal manslaughter statute to his case, and the scope of rebuttal evidence that the State may introduce in the penalty phase of a capital trial. The Arizona Supreme Court rejected his arguments and affirmed his convictions and sentences.
5. Statement of particular significance: This case dealt with several important legal issues, including the application of the fetal manslaughter statute and the limits of rebuttal to mitigation evidence in capital cases. First, the Arizona Supreme Court held that the fetal manslaughter statute applies when the mother dies along with the fetus, rejecting Hampton's argument that the manslaughter "is consumed in the mother's death." The Court also explored the limits of rebuttal to mitigation evidence in capital cases, holding that the admission of rebuttal testimony in the penalty phase is "ultimately constrained" by due process, and cautioning trial courts that they "can and should" exclude irrelevant or otherwise unfairly prejudicial rebuttal evidence.

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- D. *State v. Cory Morris*, 215 Ariz. 324 (2007)
1. Date of the proceedings: The Arizona Supreme Court issued its opinion on June 18, 2007.
 2. Court: Arizona Supreme Court
Judges: Chief Justice Ruth McGregor authored the opinion, joined by Vice Chief Justice Rebecca White Berch, and Justices Michael Ryan, Andrew Hurwitz and W. Scott Bales.
 3. Counsel:

Consuelo Ohanesian represented Mr. Morris.
Office of the Legal Advocate
602-506-1333
cohanesi@mail.maricopa.gov
 4. Summary of the substance of the case: A jury convicted Mr. Morris of five counts of first-degree murder for the deaths of five women, and sentenced him to death on each count. Police discovered the body of the first victim in an alleyway on September 11, 2002, and discovered the body of the last victim in Mr. Morris's trailer on April 12, 2003. Evidence linking Mr. Morris to the deaths included DNA, items that belonged to the victims found in his possession or in his trailer, and Mr. Morris's own statements. On appeal, he raised several issues, including whether there was sufficient corpus delicti of the crimes to admit his statements at trial.
 5. Statement of particular significance: Although Mr. Morris raised several issues on appeal, this case is most significant for two of those issues. First, the Arizona Supreme Court held that Mr. Morris's absence during a prescreen for time by the Jury Commissioner did not violate his right to a fair and impartial jury. This holding has significant implications for jury management. Second, this case was the first capital case reviewed under the new "abuse of discretion" standard for reviewing a death sentence. Previously, the Arizona Supreme Court independently reviewed all death sentences to determine whether that sentence was appropriate. Because Mr. Morris committed his crimes after August 1, 2002, the Court reviewed the death sentences only for an abuse of the jury's discretion. Because this was the first case that fell under the new standard, the Court spent quite some time at oral argument discussing what that phrase meant in this context. The Court determined that it would not reverse a jury's decision to impose the death penalty if any reasonable jury could have concluded that the mitigation was not sufficiently substantial to call for leniency.
- E. *Adams v. Schriro*, No. CV 04-1359-MHM
1. Date or period of the proceedings: The United States District Court

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issued its Order denying thirteen of Adams's fourteen claims for habeas corpus relief on March 30, 2007; it denied his remaining claim for relief on August 28, 2007.

2. Court: United States District Court, District of Arizona
Judge: Honorable Mary H. Murguia

3. Counsel:

Amy Krauss and Sean Chapman represented Mr. Adams.

Amy Krauss
520-400-6170
amy.krauss@azbar.org

Sean Chapman
(Deceased)

4. Summary of the substance of the case: A jury convicted James Van Adams of first-degree murder, kidnapping, attempted sexual assault, and burglary. Mr. Adams waived the presentation of mitigation evidence both at the presentence hearing and at sentencing, and the trial court subsequently sentenced Mr. Adams to death. On appeal, the Arizona Supreme Court affirmed his convictions and sentences. Mr. Adams sought relief through a state post-conviction relief proceeding; the trial court denied relief and dismissed the petition. Mr. Adams then sought federal habeas corpus relief, raising fourteen claims for relief. The federal district court first rejected thirteen of his claims, either on procedural grounds or on the merits. The Court later rejected the last claim, that Mr. Adams received ineffective assistance at sentencing when his attorneys failed to investigate mitigation evidence, based on the opinion in *Schriro v. Landrigan*, 127 S.Ct. 1933 (2007). The Court found that the trial court's conclusion in the post-conviction relief proceedings that Mr. Adams refused to allow the presentation of mitigation evidence was a reasonable determination of facts entitled to deference on federal review.

5. Statement of particular significance: This decision was one of the first applying the holding in *Schriro v. Landrigan* – in fact, the district court deferred ruling on the ineffective assistance of counsel at sentencing claim pending issuance of that opinion. After serving as second-chair at the United States Supreme Court in *Schriro v. Landrigan*, I participated in briefing in *Adams* dealing with the impact of *Landrigan* on the pending claim. Key to the district court's decision was the detailed fact-finding made by the state trial court. This case underscored the importance of reasoned, detailed and well-supported trial court decisions. Because the trial court issued such a ruling, the district court upheld its finding on federal habeas corpus review. As a capital staff attorney, I later used the trial court's minute entries in this case in several trainings for superior

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court judges to illustrate how to write a minute entry that would stand up to appellate review in both state and federal court.

27. If you now serve or have previously served as a mediator, arbitrator, part-time or full-time judicial officer, or quasi-judicial officer (e.g., administrative law judge, hearing officer, member of state agency tribunal, member of State Bar professionalism tribunal, member of military tribunal, etc.), give dates and details, including the courts or agencies involved, whether elected or appointed, periods of service and a thorough description of your assignments at each court or agency. Include information about the number and kinds of cases or duties you handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.).

March, 2017

Judge Pro Tem, Arizona Court of Appeals, Division One

Chief Justice Scott Bales appointed me to serve as a Judge Pro Tem on Division One of the Court of Appeals for a calendar in March of 2017. I served on a panel with Chief Judge Michael Brown and Vice Chief Judge Samuel Thumma, considering a slate of cases involving civil, family, and probate matters. I participated in oral argument and authored two memorandum decisions.

March, 2014 – present

Superior Court Judge, Maricopa County Superior Court

In March of 2014, Governor Jan Brewer appointed me as a judge of the Maricopa County Superior Court. I was assigned to the civil bench, presiding over civil bench and jury trials, hearing and deciding dispositive motions, such as motions to dismiss and motions for summary judgment, and conducting settlement conferences as requested by other judicial officers. I presided over eight bench trials and seventeen jury trials. As a civil judge, I also heard petitions to approve structured settlement assignments, election challenges, and lower court special actions. As does every civil judge, I also handled numerous discovery disputes between parties to civil litigation.

In August of 2016, I took on a special assignment in Lower Court Appeals (“LCA”). As the LCA Judge, I heard appeals from 26 justice courts and 23 municipal courts. I also heard administrative appeals, the great majority of which are filed in Maricopa County. Issues I decided included complex criminal constitutional issues, appeals from agency decisions over a wide range of subjects, including discipline of health care professionals, review of disciplinary action of law enforcement officers, appeals from determinations made by retirement boards, and water law cases. As the LCA Judge, I worked with a team which included a court commissioner, senior law researcher, and administrative court staff. As LCA judge, I engaged in extensive outreach to both the bench and bar to promote a better understanding of this practice area.

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When I was LCA judge, as part of the effort to reduce the backlog of juvenile severance cases, I presided over seven juvenile severance trials. I also regularly volunteered to conduct criminal settlement conferences and any accompanying changes of plea and sentencing hearings.

In late June of 2019, I became the Presiding Judge of the Criminal Department of the Maricopa County Superior Court. In that role, I preside over the largest department of our court. I work with my associate presiding judge and presiding commissioner to administer the master calendar jury trial system, early disposition courts, criminal competency courts, therapeutic courts such as mental health court and veterans' court, and initial appearance court. In my role, I regularly meet with stakeholders to share information, discuss proposed changes, and gather feedback about the department's performance. I recently headed a Judicial Performance team to evaluate 24 commissioners assigned to my department.

In addition to my administrative duties, I handle hearings to determine whether a defendant should be force-medicated to restore his competency to stand trial (known as *Sell* hearings), consider petitions for confidential wiretaps and supervise those that are authorized, oversee grand jury operations, preside over capital post-conviction relief petitions until they are fully briefed and ready to be assigned for ruling, rule on motions to continue in capital cases, and handle high-profile and complex search warrant and seizure warrant applications. I also conduct preliminary hearings in complex matters.

As Criminal Presiding Judge, I faced the daunting task of guiding our department through changes necessitated by the COVID-19 pandemic. Those changes included determining which hearings could be held in person and which would be changed to paper "review" hearings, transitioning to virtual hearings, restructuring the criminal bench to optimize our trial resources, working to reduce the backlog caused by the pandemic, and addressing concerns of the bench, staff, public, and stakeholders regarding court operations and safety.

July, 2011 – March, 2014
Commissioner, Maricopa County Superior Court

Presiding Judge Norman Davis appointed me as a commissioner of the Maricopa County Superior Court in July of 2011. Upon my appointment, Judge Davis assigned me to the Criminal Department, Master Calendar assignment. During my two years on that assignment, I presided over thirteen jury trials and ten bench trials. I handled approximately ten to twenty settlement conferences a month, and presided over a busy calendar of initial pretrial conferences, comprehensive pretrial conferences, changes of plea, sentencings, and release hearings. I also empaneled County Grand Jury panels, a responsibility I shared with the Criminal Presiding Judge, and presided over *Simpson* (bond) hearings.

In June of 2013, I was assigned to the Comprehensive Mental Health Court. I handled a varied calendar, presiding over Rule 11 competency hearings, probate

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hearings such as petitions for guardianship and conservatorship, civil commitment hearings at the Arizona State Hospital, and review hearings for seriously mentally ill probationers. I also conducted settlement conferences in cases where the defendant was a military veteran, and conducted many other criminal settlement conferences as well as any related changes of plea and sentencing hearings.

28. List at least three but no more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, e-mail addresses, and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case.

A. *TS v. State of Arizona* (case name and number provided in confidential section)

1. Date of the proceedings: December 8, 2014 – December 18, 2014
2. Name of the court or agency: Maricopa County Superior Court
3. Counsel:

Anne Findling and David Don represented Plaintiffs.

Anne Findling
602-371-8736
anne@robbinsandcurtin.com

David Don
480-948-1212
david.don@azbar.org

Thomas Shorall, Jr. & Scott Zerlaut represented Defendants.

Thomas Shorall, Jr.
602-230-5412
tomshorall@smbattorneys.com

Scott Zerlaut
602-230-5421
scottzerlaut@smbattorneys.com

4. Summary of substance of case: RM died by suicide while in the custody of the Arizona Department of Corrections. His family sued the Department, alleging that Department staff failed to document a suicide risk-assessment, and failed to comply with its own policies regarding suicidal inmates. The Department argued that RM was solely responsible

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for his own death. A jury awarded 1 million dollars to each of RM's four surviving children, finding RM 95% at fault and the Department 5% at fault.

5. Significance of case: This case resulted in one of the top 10 Arizona civil verdicts of 2014, as documented in the June 2015 issue of the Arizona Attorney. During trial, the jury heard testimony from expert witnesses, Department of Corrections personnel, and in sometimes emotional testimony, RM's surviving family members, including his children. The jurors asked numerous questions both during trial and during deliberations, and clearly took their responsibilities seriously. As judges, we ask citizens to decide vitally important questions every day, whether it be assigning responsibility in civil cases or deciding guilt or innocence in criminal cases. This case illustrates the dedication of jurors to their vitally important role in our justice system.

B. *DD v. ASBE, et. al* (case name and number provided in confidential section)

1. Date of proceedings: May, 2015 – September, 2015
2. Name of the court or agency: Maricopa County Superior Court
3. Counsel:

Stephen Tully and Randy Aoyama represented Plaintiff.

Stephen Tully
602-337-5524
stully@hinshawlaw.com

Randy Aoyama
602-337-5530
raoyama@hinshawlaw.com

Colin Campbell, Mary O'Grady and Joseph Roth represented the Defendants.

Colin Campbell
602-640-9343
ccampbell@omlaw.com

Mary O'Grady
602-640-9352
mogradyl@omlaw.com

Joseph Roth
602-640-9320

iroth@omlaw.com

4. Summary of the substance of the case: Arizona's Superintendent of Public Instruction brought a complaint for special action seeking declaratory and injunctive relief. The Superintendent sought a declaration that she had the power and right to terminate employees of the Arizona Department of Education assigned to the State Board of Education, and to direct the work of the Board's employees. She also sought an order finding certain actions by the Board to illegal, and an order requiring Board employees to return to their offices at the Board of Education. The defendants sought dismissal of the matter. After considering briefing and oral argument by the parties, I granted the motion to dismiss, finding that the questions presented by the complaint were nonjusticiable political questions.

5. Significance of the case: This matter was one of the most high-profile cases I have handled to date. I was called on to decide complex legal questions in a relatively short period of time (given the nature of special actions) in a case closely followed by the media. For me, it reaffirmed the bedrock principle that as a judge, one must simply decide the case on the facts and the law, without regard to public opinion.

C. *State v. BO* (case number and number provided in confidential section)

1. Date of proceedings: Trial: December 9, 2015 – December 15, 2015;
Sentencing: January 15, 2016

2. Name of court or agency: Maricopa County Superior Court

3. Counsel:

James Seeger represented the State of Arizona.
602-506-5999
seegerj@mcao.maricopa.gov

W. Michael Atkins represented the Defendant.
480-284-8199
Michael@atkinslawgrp.com

4. Summary of substance of the case: After the Defendant and his then-girlfriend were involved in an altercation in a parking lot, the State charged the Defendant with Kidnapping, a class 2 felony, and Assault and Disorderly Conduct, both misdemeanor offenses. The jury convicted Defendant of a lesser-included offense of Unlawful Imprisonment, a class 1 misdemeanor, and the Assault and Disorderly Conduct charges. I sentenced Defendant to probation with domestic violence terms, as well as an initial jail term.

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5. Significance of the case: I was assigned to try this criminal case when the criminal presiding judge asked for volunteers from the civil bench to take a criminal trial because of a lack of available criminal judicial officers. Because the Defendant was facing serious consequences if convicted at trial, the parties asked me to conduct a settlement conference the morning of trial. With the Defendant's agreement, I conducted that settlement conference; ultimately the Defendant decided to proceed to trial. At trial, a key witness for the State failed to appear, and the Defendant was convicted of lesser charges. This case illustrates the principle that anything can happen when a case goes to trial. While both the attorneys and I believed it would be in the defendant's best interest to accept the State's plea offer, the Defendant obtained a better result by going to trial.

D. *AC & B, LLC v. SBFDE* (case name and number provided in confidential section)

1. Date of proceedings: Decision issued June 7, 2018

2. Name of court of agency: Maricopa County Superior Court

3. Counsel:

Charles Buri represented Appellant
602-977-2874
cburi@icloud.com

Thomas Raine represented Appellee
602-566-6124
thomasraine@gmail.com

4. Summary of substance of case: The Arizona Board of Funeral Directors and Embalmers disciplined the license of a funeral establishment, imposing fines and costs. The Board found that the establishment "routinely stacked containers" of human remains, in violation of prevailing standards. The funeral establishment appealed, arguing that the applicable regulations were unconstitutionally vague, the Board did not present substantial evidence to support its findings, abused its discretion by imposing a fine, and imposed excessive discipline. After hearing oral argument and considering the record and briefs, I affirmed the Board's findings.

5. Significance of the case: After considering the record, briefs, law, and argument, I concluded that the establishment "repeatedly engaged in a practice that is disrespectful to the deceased in its care, presented a foreseeable risk of infliction of emotional distress to family members of the deceased, and was incompetent and not careful." The appeal presented both constitutional and evidentiary issues, which the parties briefed and

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argued well. This case also illustrated that while there is a justified debate about the extent of government regulation of businesses, in some industries, regulation acts to protect the public.

E. *State v. JH* (case name and number provided in confidential section)

1. Date of proceedings: December, 2019-October, 2020
2. Name of court or agency: Maricopa County Superior Court
3. Counsel:

Juli Waryznski represented the State of Arizona
602-506-5780
Warzynsk@mcao.maricopa.gov

Kevin Brady represented the Defendant
602-506-7711
bradyk@mail.maricopa.gov

4. Summary of substance of case: After the Defendant, JH, was found incompetent to stand trial, the State requested a hearing to determine whether JH should be ordered to take psychoactive medication to restore him to competency (known as a *Sell* hearing). After an evidentiary hearing, I determined that the State had established that JH should be required to take medication. JH's attorney sought special action relief from the Court of Appeals. After the Court of Appeals declined to intervene, I oversaw restoration efforts, including the submission of treatment plans from Correctional Health Services. JH was restored to competency and the matter was reset for trial.
5. Significance of the case: A court should force medicate a defendant to restore competency only in rare situations. In Maricopa County, *Sell* hearings have only been recently requested by the State. Important interests were at stake for all parties, including the Defendant, State, and victims. I took my responsibility to all parties very seriously, and educated myself about the issues involved before the evidentiary hearing, so that I could issue the best decision possible. All parties were navigating a new type of hearing in Maricopa County, and did so with appropriate concern for the constitutional rights of both the defendant and the victims.

29. Describe any additional professional experience you would like to bring to the Commission's attention.

As a judicial officer, I have had the opportunity preside over several different practice areas, including criminal, probate, mental health, civil, juvenile severance trials, and lower court appeals, which includes criminal appeals, civil

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appeals, and administrative appeals. As Criminal Presiding Judge since June of 2019, I have gained valuable administrative experience, overseeing a Department that includes over 50 judicial officers.

During my fifteen years as a prosecutor, I handled all aspects of a criminal case, from investigation and charging to preliminary hearings, grand jury, trial, appeals and post-conviction evidentiary hearings. I filed briefs and participated in oral argument in the Arizona Court of Appeals and Arizona Supreme Court, and handled numerous post-conviction matters in the Superior Court. In post-conviction matters, I filed written pleadings, conducted evidentiary hearings, and participated in oral argument.

My experience in capital cases includes serving as co-counsel for two capital jury trials, handling motions, special actions, direct appeals, petitions for post-conviction relief, habeas actions, and appeals to the Ninth Circuit Court of Appeals and United States Supreme Court.

I have presented at continuing legal education seminars, and provided training to various groups, including victims, victim advocates, law enforcement personnel, lawyers, judges, and psychologists and psychiatrists. I have also served on several State Bar committees, Maricopa County Superior Court committees, and Administrative Office of the Courts Committees. I previously served as chair of the Maricopa County Superior Court Jury Advisory Committee, a group of judicial officers who provide support and advice to the Jury Office. As chair, I conducted quarterly juror show cause hearings, at which jurors who are alleged to have failed to appear for jury duty without cause are brought before the court to determine whether they should be held in contempt of court. I also spearheaded a successful effort to make counseling available as requested to trial jurors after their service.

Throughout my career, I have welcomed new challenges and sought to continually learn new skills, while refining those I already possess.

BUSINESS AND FINANCIAL INFORMATION

30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14? Yes If so, give details, including dates.

From 1988 through 1989, I worked as an office manager for Univest Enterprises, a mortgage brokerage. Prior to starting law school in 1989, I worked for various employers through a temporary agency, doing mostly secretarial and administrative work. As an undergraduate, I worked one summer for the IBM

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Corporation, packing computer parts at the Tucson IBM plant.

31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise? No If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.

Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are nominated and appointed? Not applicable. If not, explain your decision.

32. Have you filed your state and federal income tax returns for all years you were legally required to file them? Yes If not, explain.

33. Have you paid all state, federal and local taxes when due? No If not, explain.

I have paid my personal state, federal, and local taxes when due. In 2016, my husband's business made an unexpectedly high profit in the 4th quarter, leading to an unanticipated amount of business federal taxes due, which had not been accounted for in quarterly payments. As provided for in federal law, we entered into an agreement with the IRS to make payments over the course of the year to pay the full amount. We learned the next year that our accountant had miscalculated the amount owed, and we did not owe nearly as much as originally determined. We paid off the amount owed early, and filed an amended return after the mistake was discovered.

34. Are there currently any judgments or tax liens outstanding against you? No If so, explain.

35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support? No If so, explain.

36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce? No If so, identify the nature of the case, your role, the court, and the ultimate disposition.

37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest? No If so, explain.

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38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties? No If so, explain.

CONDUCT AND ETHICS

39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other “cause” that might reflect in any way on your integrity? No If so, provide details.
40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation? No
If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition.
41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain. Not applicable.
42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice. Not applicable.
43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42. Not applicable.
44. List and describe any sanctions imposed upon you by any court. Not applicable.
45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction? No. If so, in each case, state in detail the circumstances and the outcome.

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46. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law? No. If your answer is "Yes," explain in detail.
47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency? No. If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) and contact information of any persons who took such action, and the background and resolution of such action.
48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? No. If so, state the date you were requested to submit to such a test, type of test requested, the name and contact information of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.
49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings? No. If so, explain the circumstances of the litigation, including the background and resolution of the case, and provide the dates litigation was commenced and concluded, and the name(s) and contact information of the parties.

PROFESSIONAL AND PUBLIC SERVICE

50. Have you published or posted any legal or non-legal books or articles? Yes. If so, list with the citations and dates.

A Court's Remarkable Recovery from a Capital Case Crisis," with R. Gottsfield and D. Rayes, 95 Judicature 221 (March/April 2012); Arizona Attorney magazine, (November, 2011).

"Capital Cases," (update on capital case law), Association of Government Attorneys in Capital Litigation, ongoing publication, approximately 2003-2005.

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51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? Yes If not, explain.
52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars? Yes If so, describe.

For over 25 years, I have instructed judicial officers, lawyers, police officers, mental health professionals, law students, and support staff.

I regularly teach at General Jurisdiction New Judge Orientation and Maricopa County Superior Court Rotation Training. Topics I have lectured on include: the Court's response to the COVID-19 pandemic, jury management, judicial performance review, jury selection, jury trials, lower court appeals, administrative appeals, the *Chevron* doctrine, ethical issues in appeals, post-conviction relief, criminal competency, mental health issues in the criminal justice system, civil commitment, and search and seizure. Below is a list of classes, lectures, continuing legal education, and the like.

"Careers in the Judiciary," Arizona State University College of Law Women Law Students' Association, April, 2021 (with Hon. Ann Timmer, Hon. Maria Elena Cruz, Hon. Pamela Gates, and Hon. Marianne Bayardi)

"Practicing in the Depths of a Pandemic – State Court Perspective," State Bar of Arizona CLE, October, 2020

"Mental Health and the Criminal Justice System," Arizona State University Health Law Class, September, 2020

Maricopa County Bar Association Bench Bar Conference Panelist, Criminal Department Breakout, September, 2020

"Rule 11 and Competency," General New Judge Orientation, September, 2020

"The Justice System," Guest Speaker, Real Estate Law, Arizona State University (Adjunct Professor Maria Baier), August, 2020

"MCBA Virtual Town Hall about COVID-19 and its Impact on the Criminal Court," April, 2020

"Case Management," Maricopa County Superior Court Training, February, 2020

"Courtroom Advocacy," Maricopa County Bar Association Bench Bar Conference, October, 2019 (with Hon. Tim Thomason and Hon. George Foster)

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Speaker, Arizona State University Voz de las Victimas Program, September, 2019

“Rule 11 and Competency,” General New Judge Orientation, September, 2019

“Appeals and Administrative Decisions,” State Bar Appellate Practice Section, March, 2019 (with Greg Harris)

“What are the Pros and Cons of the Arizona Rules of Civil Procedure Playing a More Prominent Role in Administrative Proceedings,” March, 2019 (with Hon. Thomas Shedden and Hon. Kay Abramson)

“Jury Selection,” Arizona State University College of Law, October, 2018 (with Hon. Tim Thomason)

“Competency and Rule 11,” General New Judge Orientation, September, 2018

“The Overdue Process of Administrative Law,” Arizona State University Law School Federalist Society, September, 2018 (with Paul Avelar, Scott Cooley, and Ilan Wurman)

“Mentally Ill Litigants: Best Practices,” Judicial Conference, June, 2018 (with Hon. Rob Krombeen, Hon. Michael Hintze, and Hon. Nicole Brickner)

“Jury Trials,” Maricopa County Superior Court Criminal Rotation Training, June, 2018 (with Hon. Pam Gates, Hon. Dean Fink, and Hon. Warren Granville)

“Jury Issues,” (with Nicole Garcia) and “Special Actions and Lower Court Appeals, Maricopa County Superior Court Civil Department Rotation Training, May, 2018

“The Death of *Chevron*,” Federalist Society Event, May, 2018 (with Dominic Draye, Professor William Esdkridge, and Tom Collins)

Career Day Speaker, Garden Lakes Elementary School, March, 2018

“Revisions to JRAD Rules,” State Bar Administrative Law & Regulatory Practice Section Brown Bag, February, 2018 (with Greg Harris and Patricia Seguin)

“Appeals and PCRs,” Limited Jurisdiction New Judge Orientation, January, 2018 (with Hon. Jim Sampanes)

“Search & Seizure,” Limited Jurisdiction New Judge Orientation, January, 2018 (with Hon. Craig Jennings)

State Bar Administrative Law Section Bench-Bar Event, December, 2017 (with Hon. Ronda Fisk)

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“Legislative Interpretation,” Maricopa County Superior Court Legislative Staff Day, October, 2017 (with Hon. Michael Mandell, Hon. Doug Gerlach, and Hon. John Rea).

“Jury Management,” Maricopa County Superior Court, October, 2017

“Appeals,” Civil Traffic Hearing Officer Training, October, 2017

“Trial Practice Tips,” Arizona Women Lawyers’ Association, Maricopa County Chapter, September, 2017 (with Hon. David Gass)

“Rule 11 and Competency,” General New Judge Orientation, September, 2017

Maricopa County Bar Association Bench Bar Conference, September, 2017

“Rule 32, Appellate Issues and Trends,” Maricopa County Justice Courts, August, 2017

“How Judges Are Held Accountable,” Phoenix, AZ June, 2017, Arizona Mandela Fellow Public Management Institute (with Hon. David Gass and Hon. Kevin Wein)

“As Judges See It: Best (and Worst) Practices in Civil Litigation,” Phoenix, AZ, June, 2017 (with Hon. K. LeMaire, Hon. D. Kiley, Hon. J. Rogers and Hon. R. Warner)

“Jury Trials,” Maricopa County Superior Court Criminal Rotation Training, Phoenix, AZ, June, 2017 (with Hon. Sam Myers, Hon. Dean Fink, and Hon. David Cunanan)

“Rule 11,” Maricopa County Superior Court Criminal Rotation Training, Phoenix, AZ, June, 2017

“Lower Court Appeals, Civil Trials and Trial Management Conferences,” Maricopa County Superior Court Civil Rotation Training, Phoenix, AZ, June, 2017 (with Hon. Randall Warner)

“Appeals,” Civil Traffic Hearing Officer Training, Phoenix, AZ, May, 2017

“Addressing Mental Illness in the Criminal Justice System – Competency, Comprehensive Mental Health Courts, and Civil Commitment,” University of Arizona, James E. Rogers College of Law, Criminal Law & Policy Weekly Wednesday Speaker Series, Tucson, AZ, April, 2017

“Appeals and PCRs,” Limited Jurisdiction New Judge Orientation, Phoenix, AZ,

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January, 2017 (with Hon. James Sampanes)

“Search and Seizure,” Limited Jurisdiction New Judge Orientation, Phoenix, AZ, January, 2017 (with Hon. Craig Jennings)

“Lower Court Administrative Appeals,” Arizona State Bar Administrative Law Section Bench and Bar, Phoenix, AZ, December, 2016 (with Hon. Margaret Downie)

“Lower Court Appeals,” Governor’s Office of Highway Safety Conference, Tempe, AZ, December, 2016

“Ethics Issues in Appeals,” Working with the Court of Appeals program, State Bar of Arizona, Scottsdale, AZ, November, 2016 (with Eileen Dennis Gilbride)

State Bar of Arizona Professionalism Course, faculty, Phoenix, AZ, October, 2016

Arizona Trial College Judicial Roundtable, Phoenix, AZ, August, 2016 (with Hon. Susan Brnovich, Hon. Lori Bustamante, Hon. Daniel Kiley, & Hon. Joseph Kreamer)

“Arizona Judges Speak: Evidence, E-Discovery and Changes You Need to Know!” Phoenix, AZ, June, 2016, National Business Institute (with Hon. Karen Mullins, Hon. Joshua Rogers, and Hon. Greg Como)

“Rule 11,” Maricopa County Superior Court Criminal Bench Rotation Training, Phoenix, AZ, June, 2016

“Mental Illness and the Criminal Justice System,” Maricopa County Superior Court Criminal Bench brown bag presentation, Phoenix, AZ, February, 2016

“Criminal Mental Health Issues,” Maricopa County Superior Court Criminal Bench Brown Bag, Phoenix, AZ, November, 2015 (with Erin Cohen, Frederica Strumpf & Juli Warzynski)

“Competency and Rule 11,” General Jurisdiction New Judge Orientation, Phoenix, AZ, September, 2015

“Competency and Rule 11 Evaluations,” Maricopa County Superior Court Criminal Bench Rotation Training, Phoenix, AZ, June, 2015

“Probate/Mental Health,” General Jurisdiction New Judge Orientation, Phoenix, AZ, September, 2014

“Competency and Rule 11 Evaluations,” Maricopa County Superior Court

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Criminal Bench Rotation Training, Phoenix, AZ, June, 2014

"Rule 11", Maricopa County Superior Court Criminal Bench Brown Bag, Phoenix, AZ, December, 2013

"Guilty Except Insane," (with Joel Parker, M.D.), Legal Competency and Restoration Training for Mental Health Professionals; Arizona Supreme Court, Tucson, AZ and Phoenix, AZ, November, 2013, February, 2012 & October, 2010

"Legal Criteria for Competency & Rule 11 Evaluations," (with Fredrica Strumpf), Legal Competency and Restoration Training for Mental Health Professionals; Arizona Supreme Court, Phoenix, AZ, November, 2013

"Presentence Reports," Maricopa County Superior Court Criminal Bench Rotation Training, Phoenix, AZ, June, 2013 & June, 2012

"Capital Case Pretrial Motions," Maricopa County Superior Court Capital Case Training, October, 2012

"Capital Case Settlement Conferences," (with Hon. Warren J. Granville), Maricopa County Superior Court Capital Case Training, October, 2012

"Rule 32 Postconviction Relief," (with Hon. Paul McMurdie & Diane Alessi), Maricopa County Superior Court, March, 2011

"Capital Update," (with Diane Alessi), Pima County Superior Court, February, 2011

"*Chronis* Hearings," Maricopa County Superior Court, July, 2009

"Federal Habeas Corpus," Maricopa and Pima County Superior Courts, February, 2009

"Jury Instructions," APAAC Capital Litigation Seminar, October, 2007

"Capital Jury Instructions," APAAC Capital Litigation Seminar, October, 2006

"Waiving Mitigation," APAAC Capital Litigation Seminar, October, 2005

"Adult Trials Training," "Juvenile Trials Training," "Paralegal Writing," "Paralegal Criminal Research Essentials," and "Business Writing Essentials," Maricopa County Attorney's Office, Various Dates 2000-2003

"Effective Courtroom Testimony," Phoenix Police Department Post-Academy, Various Dates, 1996-2000

“Search and Seizure,” Phoenix Police Academy, 1994-1995

53. List memberships and activities in professional organizations, including offices held and dates.

Arizona State Bar, 1992-present

Arizona Judges Association, 2011-present

Arizona Women Lawyers Association, 2012-present

National Association of Women Judges, 2014-present

Thurgood Marshall Inn of Court, 2017-present

Have you served on any committees of any bar association (local, state or national) or have you performed any other significant service to the bar? Yes.

List offices held in bar associations or on bar committees. Provide information about any activities in connection with pro bono legal services (defined as services to the indigent for no fee), legal related volunteer community activities or the like.

Judicial College of Arizona, Dean (February 27, 2019 – June 30, 2021)

Chair, State Bar Committee on Criminal Jury Instructions, 2019-present

Committee on the Superior Court, 2019-present

Committee on Victims in the Courts, 2019-present

Capital Case Oversight Committee, 2019-present

Committee on Criminal Rules Regarding Victims, 2020-present

City of Tempe Judicial Advisory Board, Chair, 2015-2018

Arizona Commission on Judicial Performance Review, (Commission Member)
2008-2011

Wendell Editorial Advisory Board, 2009-2012

State Bar Committee on Legal Services, 2012-2015; 1997-1999

Editorial Board, Arizona Attorney Magazine, 2000-2009

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State Bar Conflict Case Committee, 2002-2003

Rules for Judicial Review of Administrative Decisions, State Bar Study Group, 2016-2017

Judicial Performance Review Conference Team, 2020

Maricopa County Bar Association Law Day: Separation of Powers – Framework of Freedom, co-chair with Justice Clint Bolick, May, 2018

Volunteer Judicial Officer, National Adoption Day, 2011, 2014, 2015, 2016, 2017

Volunteer Judicial Officer, Veterans' StandDown, 2012, 2014, 2016

I made several presentations through the "Our Courts" program, including a presentation on "Rule of Law" to the Mandela Fellows, as part of the Mandela Washington Fellowship for Young African Leaders, on July 19, 2016, with Commissioner Kevin Wein, and a presentation on "How Judges are Accountable" to the Foundation for Senior Living in Glendale, Arizona on October 28, 2015.

I volunteered to be a judge for the Sun Devil Mock Trial Regional Competition, the Arizona High School Mock Trial Program at the Regional and State Competition, as well as at the Xavier Mock Trial Invitational. I most recently served as a judge for the Arizona High School Mock Trial Program in March of 2021.

In 2011, I served on a Blue Ribbon Taskforce chaired by retired Arizona Supreme Court Justice Michael D. Ryan, which worked to provide training for both the bench and bar regarding capital case litigation, as well as to develop a Capital Bench Book for judicial officers.

54. Describe the nature and dates of any relevant community or public service you have performed.

Along with my voice teacher and other voice students, I performed at Brookdale Alzheimer's and Dementia Care Unit in Tempe. I saw several residents singing along while another conducted me as I sang "Summertime."

For four years, I volunteered at the Arizona Animal Welfare League, Arizona's largest and oldest no-kill shelter. I walked shelter dogs, worked with dogs with behavioral issues, and worked at adoption and fundraising events. I also volunteered at Lost Our Home Animal Rescue, an animal shelter that focuses on dogs and cats that have been abandoned or are at risk due to foreclosure,

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eviction, or financial hardship.

I have made presentations in several schools, including a presentation at Dobson High School in October, 2013, on legal careers and "Anatomy of a Criminal Case," and at Marcos de Niza High School on "Rights of the Accused," as part of Law Day on May 1, 2015. I regularly speak to Lane Waddell's AP Government Class at Mountain Pointe High School.

At various times in the past I taught self-defense classes for women in the community, using my training in martial arts to help women become more self-aware and able to stay safe. I have also participated in running races for charity, such as the Susan G. Komen Race and Pat's Run.

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received.

Arizona Attorney General's Office Victim Services Award, 2007

Nominee for David R. White Excellence in Victim Advocacy Award, Arizona Prosecuting Attorney's Advisory Council, 2006-2007

Maricopa County Attorney's Office Appeals and Research Division Attorney of the Year, 2004

Maricopa County Attorney's Office Special Recognition Award, *State v. Newell*, 2004

Maricopa County Attorney's Office Pretrial Division Attorney of the Year, 2000

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates.

I was appointed as a Superior Court Judge in March of 2014, and retained for a four-year term in November of 2016 and November of 2020.

Have you ever been removed or resigned from office before your term expired? No If so, explain.

Have you voted in all general elections held during the last 10 years? Yes If not, explain.

57. Describe any interests outside the practice of law that you would like to bring to the Commission's attention.

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My biggest interest outside of law is music. I study piano, guitar, voice, and music theory, and perform when the opportunity arises. I am an original member of the Community Choir of Arizona, and have performed at several concerts with the choir. My husband and I hosted a voice recital at our home at which I performed. I recently participated in the National Association of Teachers of Singing Valley of the Sun Chapter auditions, achieving first place in the category of Contemporary and Commercial Music, Adult. I also compose and record original music. My other life-long interest has been martial arts, which I began studying at the age of eighteen. I have trained in Hapkido, Muay Thai (Thai Boxing), Brazilian Jiu Jitsu and Taekwondo. In the past, I competed in self-defense, kickboxing, and grappling. I also enjoy hiking, particularly South Mountain. Through these pursuits I have found a way to challenge myself, deal with stress, and continue to learn new things. I have also made life-long friends.

HEALTH

58. Are you physically and mentally able to perform the essential duties of a judge with or without a reasonable accommodation in the court for which you are applying? Yes.

ADDITIONAL INFORMATION

59. The Arizona Constitution requires the Commission to consider the diversity of the state's population in making its nominations. Provide any information about yourself (your heritage, background, life experiences, etc.) that may be relevant to this consideration.

I come from a family of relatively modest means where hard work and responsibility were prized. My paternal grandfather emigrated from Italy as a teenager, and my paternal grandmother was the child of Italian immigrants. My maternal grandparents grew up poor in rural Georgia. Only one of my grandparents was able to finish high school. I was the first person in my family to obtain a bachelor's degree, and I am the only person in my family with a professional degree. I put myself through college and law school with the assistance of scholarships and loans. My family taught me that every job in society is an important job, and should be done well and with pride. I learned at an early age to value people based on what they contribute to the community, and was encouraged to be of service to others.

Patricia Starr

Applicant Name: _____

As a prosecutor I worked with a wide variety of people, including law enforcement officers, victims, opposing counsel, court staff and judges. I particularly enjoyed and valued working with victims of crime, who came from all walks of life and varied cultural backgrounds. As a judicial officer, I have had the opportunity to handle matters in our comprehensive mental health court, a specialty court serving those with serious mental illness. All of these experiences have taught me how vital it is to try my best to realize that every person has a different perspective and view of the world, shaped by each person's unique life experience.

60. Provide any additional information relative to your qualifications you would like to bring to the Commission's attention.

As both a lawyer and now a judge, I have had the fortune to gain a wide range of experience in the law. I have worked as both a trial and an appellate attorney, handling matters in courts ranging from justice courts to the United States Supreme Court. While much of my career was spent as a prosecutor, I quickly learned other areas of law when required. For example, while at the Attorney General's Office, I was assigned to respond to a lawsuit brought by several death row inmates challenging Arizona's lethal injection protocol. Doing so required me to become familiar with the Federal Rules of Civil Procedure, and to conduct civil discovery in a complex and high-profile case.

As a judicial officer, I have presided over trials, including medical malpractice, commercial, personal injury, and wrongful death matters, as well as all types of felony criminal matters. For three years, I handled lower court and administrative appeals, with issues as varied as a criminal defendant's right to confrontation to the regulation of the insurance market in Arizona. As Presiding Criminal Judge for the past two years, I have taken on administrative responsibilities, and learned how to manage the largest department of our court through the pandemic.

My experience provides me with the experience, skills, and abilities required to take on the varied work of the Arizona Supreme Court.

61. If selected for this position, do you intend to serve a full term and would you accept rotation to benches outside your areas of practice or interest and accept assignment to any court location? Yes If not, explain.
62. Attach a brief statement explaining why you are seeking this position.

See Attachment B.

63. Attach two professional writing samples, which you personally drafted (e.g., brief or motion). **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing samples. Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website.

See Attachment C.

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than three written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than ten pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing sample(s). Please redact any personal, identifying information regarding the case at issue, unless it is a published opinion, bearing in mind that the writing sample may be made available to the public on the commission's website.

See Attachment D.

65. If you are currently serving as a judicial officer in any court and are subject to a system of judicial performance review, please attach the public data reports and commission vote reports from your last three performance reviews.

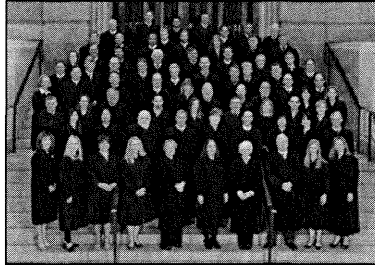
See Attachment E.

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ATTACHMENT A

Current Judicial Officers

Superior Court Judicial Officers



Judges are appointed through a merit process. Judicial candidates are selected for their legal ability and professional and personal achievements rather than their mastery of political campaigns.



Commissioners are appointed by the Court's Presiding Judge from attorneys who apply and are recommended by a selection committee made up of judges, lawyers and others. Commissioners handle specific assigned cases and uncontested matters.

Judicial Officer Department:

Judicial Officer	Phone	Location	Protocol	Department
ABRAMSON, Lindsay Court Commissioner	602 506 6081	Durango Facility-3280/10		All Departments
ADLEMAN, Jay Superior Court Judge	602 372 5497	South Court Tower-13115/8C		All Departments
AGNE, Sara Superior Court Judge	602 506 8288	Northeast Court-J/108	View	All Departments
ALBRECHT, Richard Court Commissioner	602.506 7822	Northeast Court-A/101	View	All Departments
ALLEN, Glenn Court Commissioner	602 506 3151	South Court Tower-13303/6C	View	All Departments
ANDERSON, Arthur Superior Court Judge	602.506 0341	Central Court Building-8A/801	View	All Departments
ASH, Lori Court Commissioner	602.372 2961	Northeast Court-K/110		All Departments
ASTROWSKY, Brad Superior Court Judge	602.372.2048	Old Court House-102/104	View	All Departments
BACHUS, Alison Superior Court Judge	602 506 7569	Northeast Court-F/111		All Departments
BARTH, Michael Court Commissioner	602 506 0616	Southeast Facility-2B/202	View	All Departments
BELL, Christian Court Commissioner	480.344.2006	Desert Vista		All Departments
BERESKY, Justin Superior Court Judge	602 372 5074	Central Court Building-9D/904		All Departments
BERGIN, Dawn Superior Court Judge	602 372 2961	Northeast Court-K/110	View	All Departments
BERNICK, Harriet Court Commissioner	602.506.4203	Southeast Facility-3E/305		All Departments
BLAIR, Michael Superior Court Judge	602.372 0305	Central Court Building-8C/803		All Departments
BLANCHARD, John Superior Court Judge	602 506 3005	Southeast Facility-4C/403	View	All Departments
BLANEY, Scott Superior Court Judge	602.372 1095	Northeast Court-D/107	View	All Departments
BODOW, Keelan Court Commissioner	602 372 1232	Southeast Juvenile-1105/5	View	All Departments
BRAIN, Mark H. Superior Court Judge	602.372.1141	Old Court House-002/002	View	All Departments
BRAME, Veronica Court Commissioner	602 372 0268	Southeast Juvenile-1064/1		All Departments
BRICKNER, Nicole Court Commissioner	602.506.3366	Central Court Building-5G/507		All Departments
BRODMAN, Roger Superior Court Judge	602 372 2943	East Court Building-413	View	All Departments
BROOKS, Robert Superior Court Judge	602.372.3367	Durango Facility-2280/4		All Departments

BUSTAMANTE, Lori Superior Court Judge	602.506.0423	Durango Facility-2250/5	View	All Departments
CAMPAGNOLO, Theodore Superior Court Judge	602.372.0537	Northeast Court-G/102	View	All Departments
CARSON, Michelle Court Commissioner	602.506.7860	Northeast Court-B/103		All Departments
CLARKE, Terri Court Commissioner	602.372.1878	South Court Tower-13309/3C		All Departments
COATES, Lindsey Court Commissioner	602.372.2017	Central Court Building-10E/1004	View	All Departments
COFFEY, Rodrick Superior Court Judge	602.372.1783	Southeast Facility-4D/404	View	All Departments
COHEN, Bruce Superior Court Judge	602.372.0686	Old Court House-101/103	View	All Departments
COHEN, Suzanne Superior Court Judge	602.372.1916	South Court Tower-13104/5D		All Departments
COMO, Gregory Superior Court Judge	602.372.0754	Central Court Building-6E/606		All Departments
CONTES, Connie Superior Court Judge	602.506.7768	Southeast Juvenile-1076-8/3	View	All Departments
COOPER, Katherine Superior Court Judge	602.506.8311	South Court Tower-13109/7D		All Departments
COURY, Christopher Superior Court Judge	602.372.3876	East Court Building-914	View	All Departments
COVIL, Max Superior Court Judge	602.372.0394	Old Court House-106		All Departments
CRANDELL, Rusty Superior Court Judge	602.372.3140	Southeast Facility-2D/204		All Departments
CRAWFORD, Janice Superior Court Judge	602.372.0844	Southeast Facility-2E/205	View	All Departments
CULBERTSON, Kristin Superior Court Judge	602.372.4762	Southeast Juvenile-1003/7		All Departments
CUNANAN, David O. Superior Court Judge	602.372.1710	Old Court House-301/301		All Departments
DAVIS, Marvin Superior Court Judge	602.506.0306	Southeast Facility-4B/402		All Departments
DAVISON, Harla Court Commissioner	602.506.1190	Southeast Facility-3D/304		All Departments
DONNADIEU, Elisa Court Commissioner	602.655.1232	Maryvale (Mental Health Building)		All Departments
DOODY, John Court Commissioner	602.506.1746	South Court Tower-13310/2A	View	All Departments
DRIGGS, Adam Superior Court Judge	602.372.1083	Central Court Building-9C/903		All Departments
DUNCAN, Sally Schneider Superior Court Judge	602.506.9042	Old Court House-201	View	All Departments
EDELSTEIN, Monica Superior Court Judge	602.372.0219	Central Court Building-6C/603		All Departments
FINK, Dean M. Superior Court Judge	602.506.3776	East Court Building-611		All Departments
FISH, Geoffrey Superior Court Judge	602.372.1771	South Court Tower-13110/7B	View	All Departments
FISK, Ronda Superior Court Judge	602.372.1011	Central Court Building-9B/902		All Departments
FOX, Dewain Superior Court Judge	602.372.2260	South Court Tower-13111/7C		All Departments
GARBARINO, David Court Commissioner	602.372.2403	East Court Building-813		All Departments
GARFINKEL, Monica Court Commissioner	602.372.0001	Central Court Building-4C/402		All Departments
GATES, Pamela Superior Court Judge	602.506.6391	East Court Building-912		All Departments
GENTRY, Jo Superior Court Judge	602.372.3091	Central Court Building-7D/704		All Departments
GIALKETSIS, Cynthia Court Commissioner	602.372.0778	Southeast Juvenile-1068/2		All Departments
GIAQUINTO, Laura Court Commissioner	602.372.0555	South Court Tower-13302/6D		All Departments
GILLA, Marischa Court Commissioner	602.506.0959	South Court Tower-13315/2B		All Departments
GNEPPER, Gregory Court Commissioner	602.372.9432	Intake, Transfer and Release Facility		All Departments
GORDON, Michael Superior Court Judge	602.372.0762	Durango Facility-2290/2	View	All Departments
GREEN, Jennifer E. Superior Court Judge	602.506.0438	Southeast Juvenile-1113/9	View	All Departments
GUYTON, Lauren Court Commissioner	602.372.3192	Central Court Building-4B/401		All Departments
HANNAH, John Superior Court Judge	602.372.0759	East Court Building-811	View	All Departments
HARMON, Melody Court Commissioner	602.372.3135	Durango Facility-3290/8	View	All Departments
HARRIS, Susan Special Master	602.372.4115	Central Court Building-3A		All Departments
HARTSELL, Roger Court Commissioner	602.506.4185	Central Court Building-8B/802		All Departments
HERROD, Michael Superior Court Judge	602.372.0359	Durango Facility-2295/1	View	All Departments

HINZ, Richard Court Commissioner	602.506.0059	South Court Tower-13305/3B		All Departments
HOPKINS, Stephen Superior Court Judge	602.372.5561	South Court Tower-13108/7A		All Departments
HOSKINS, Nicolas Court Commissioner	602.372.0969	South Court Tower-13314/2D		All Departments
IRELAND, Jacki Court Commissioner	602.372.0610	Central Court Building-5A/501		All Departments
JULIAN, Melissa Superior Court Judge	602.372.0935	Northeast Court-II/106	View	All Departments
KAIPIO, Thomas Court Commissioner	602.506.1117	Southeast Facility-2A/201	View	All Departments
KAISER, Brian Court Commissioner	602.506.3915	Southeast Facility-3C/303		All Departments
KALMAN, Amy Court Commissioner	602.506.3381	East Court Building-512		All Departments
KEMP, Michael Superior Court Judge	602.372.0608	East Court Building-711/711	View	All Departments
KIEFER, Joseph Superior Court Judge	602.372.6553	Northwest Regional Center-B/122		All Departments
KILEY, Daniel Superior Court Judge	602.372.3839	East Court Building-613	View	All Departments
KORBIN STEINER, Ronee Superior Court Judge	602.506.1927	South Court Tower-13102/6B	View	All Departments
KREAMER, Joseph Superior Court Judge	602.372.1764	Old Court House-205/207	View	All Departments
LABIANCA, Margaret B. Superior Court Judge	602.372.1694	Central Court Building-6D/604	View	All Departments
LAFAVE, Julie Court Commissioner	602.372.0986	Central Court Building-8D/804		All Departments
LAING, Utiki Spurling Court Commissioner	602.372.3021	Central Court Building-5B/503		All Departments
LANG, Todd Superior Court Judge	602.372.2322	Durango Facility-3285/9	View	All Departments
LEMAIRE, Kerstin Superior Court Judge	602.506.8245	Central Court Building-6F/605		All Departments
MAHONEY, Margaret R. Superior Court Judge	602.506.0387	East Court Building-411	View	All Departments
MANDELL, Michael Superior Court Judge	602.372.5052	Central Court Building-10A/1001		All Departments
MARQUOIT, Thomas Court Commissioner	602.372.0756	East Court Building-514		All Departments
MARTIN, Daniel Superior Court Judge	602.372.2925	East Court Building-412	View	All Departments
MARWIL, Suzanne Superior Court Judge	602.372.1828	Southeast Facility-4A/401		All Departments
MATA, Julie Superior Court Judge	602.372.0825	Durango Facility-2285/3		All Departments
MCCARTHY, Steve Court Commissioner	602.372.9432	Intake, Transfer and Release Facility		All Departments
MCCOY, Scott Superior Court Judge	602.372.3603	East Court Building-612		All Departments
MCDOWELL, David Superior Court Judge		Southeast Facility-4E/405		All Departments
MCGUIRE, J. Justin Court Commissioner	602.506.3809	Northwest Regional Center-C/123		All Departments
MCLAUGHLIN, Jane Court Commissioner	602.506.6086	Northeast Court-E/109	View	All Departments
MEAD, Kathleen Superior Court Judge	602.506.2500	Central Court Building-11C/1103		All Departments
MIKITISH, Joseph Superior Court Judge	602.372.1547	East Court Building-913		All Departments
MILLER, Phemonia Court Commissioner	602.506.4572	South Court Tower-13311/2C		All Departments
MINDER, Scott Superior Court Judge	602.506.0221	Central Court Building-7A/701		All Departments
MITCHELL, Rodney Court Commissioner	602.372.9432	Intake, Transfer and Release Facility		All Departments
MORTON, Wendy Court Commissioner	602.506.2040	Durango West Facility/Cradle to Crayons-C2C 132A	View	All Departments
MOSKOWITZ, Frank Superior Court Judge	602.506.7140	South Court Tower-13314/8A		All Departments
MROZ, Rosa Superior Court Judge	602.372.0384	South Court Tower-13103/6A	View	All Departments
MULLENEAUX, Christine Court Commissioner	602.506.1767	Central Court Building-LL201/2	View	All Departments
MULLINS, Karen Superior Court Judge	602.372.1160	Durango Facility-2245/6	View	All Departments
MYERS, Sam Superior Court Judge	602.372.2940	Old Court House-202/202	View	All Departments
NADZIEJA, Tracy Court Commissioner	602.372.9432	Intake, Transfer and Release Facility		All Departments
NEWCOMB, Casey Court Commissioner	602.506.0862	Central Court Building-5F/506		All Departments
NICHOLLS, Suzanne Superior Court Judge	602.372.0901	Central Court Building-6B/602		All Departments
NOTHWEHR, Richard L. (Rick) Court Commissioner	602.372.2490	Central Court Building-5C/502	View	All Departments

OWENS, Bernard C. Court Commissioner	602.506.6452	Durango Facility-3250/11	View	All Departments
PALMER, David Superior Court Judge	602.372.3980	Southeast Facility-2F/206	View	All Departments
PALMER, Brian Court Commissioner	602.372.0270	East Court Building-513		All Departments
PINEDA, Susanna C. Superior Court Judge	602.372.2958	Northwest Regional Center-D/124	View	All Departments
POLK, Jay Superior Court Judge	602.372.0879	East Court Building-511	View	All Departments
PONCE, Adele Superior Court Judge	602.372.2168	Southeast Facility-2C/203		All Departments
POPHAM, Gary Court Commissioner	602.372.3131	Northeast Court-C/105		All Departments
POPKO, Sigmund Court Commissioner	602.372.3839	East Court Building-613		All Departments
RAHAMAN, Ashley Court Commissioner	602.372.3707	Southeast Facility-1A/101		All Departments
RASSAS, Michael Superior Court Judge	602.506.0428	Central Court Building-6A/601		All Departments
REA, John Superior Court Judge	602.372.0382	Northeast Court-H/104		All Departments
RECKART, Laura Superior Court Judge	602.506.5861	Central Court Building-11E/1104		All Departments
RICHTER, Virginia Court Commissioner	602.372.1979	Durango Facility-3295/7	View	All Departments
ROGERS, Joshua Superior Court Judge	602.506.1603	Southeast Facility-3A/301		All Departments
RUTER, Jeffrey Superior Court Judge	602.372.5465	Southeast Juvenile-1079-1081/4	View	All Departments
RUSSELL, Andrew Court Commissioner	602.506.0039	Old Court House-309		All Departments
RYAN, Timothy J. Superior Court Judge	602.372.3081	South Court Tower-13201/5A	View	All Departments
RYAN-TOUHILL, Jennifer Superior Court Judge	602.372.0920	South Court Tower-13105/5C	View	All Departments
SACCONE, Nicholas Court Commissioner	602.506.4527	South Court Tower-13304/3D		All Departments
SANDERS, Teresa A. Superior Court Judge	602.506.4791	South Court Tower-13400/5B		All Departments
SCHWARTZ, Aryeh D. Superior Court Judge	602.506.3892	Northeast Court-L/112	View	All Departments
SELZER, Sarah Court Commissioner	602.372.8852	MIHS Campus Annex		All Departments
SEYER, David Court Commissioner	602.372.9432	Intake, Transfer and Release Facility		All Departments
SINCLAIR, Joan Superior Court Judge	602.372.4553	East Court Building-911	View	All Departments
SMITH, Shellie Court Commissioner	602.506.4067	Central Court Building-5D/505		All Departments
SMITH, James D. Superior Court Judge	602.372.5945	East Court Building-814	View	All Departments
SPENCER, Barbara L. Court Commissioner	602.372.0987	Central Court Building-10D/1002		All Departments
STARR, Patricia Superior Court Judge	602.506.4164	Central Court Building-11A/1101	View	All Departments
STEPHENS, Sherry K. Superior Court Judge	602.506.4818	East Court Building-712		All Departments
STOUTNER, Nicole Court Commissioner	602.372.2053	Durango Facility-1214/A1215		All Departments
SUKENIC, Howard Superior Court Judge	602.506.8214	Central Court Building-9A/901	View	All Departments
SVOBODA, Pamela Superior Court Judge	602.372.1983	Durango Facility-3245/12		All Departments
TEM, Pro Special Master		Central Court Building-		All Departments
THOMASON, Timothy Superior Court Judge	602.506.0573	East Court Building-713	View	All Departments
THOMPSON, Peter Superior Court Judge	602.372.3579	Central Court Building-7B/702		All Departments
UDALL, David K. Superior Court Judge	602.506.5514	Southeast Juvenile-1090-1092/6		All Departments
VAN WIE, Annielaurie Court Commissioner	602.372.2471	Old Court House-007/005		All Departments
VANDENBERG, Lisa Ann Superior Court Judge	602.372.6595	Northwest Regional Center-A/121	View	All Departments
VIOLA, Danielle Superior Court Judge	602.506.3442	East Court Building-714	View	All Departments
WALTON, Dawn Court Commissioner	602.372.9432	Intake, Transfer and Release Facility		All Departments
WARNER, Randall Superior Court Judge	602.372.2966	East Court Building-414	View	All Departments
WASHINGTON, Eartha K. Court Commissioner	602.506.5349	Central Court Building-LL200/3	View	All Departments
WEIN, Kevin Superior Court Judge	602.506.7618	Old Court House-001/001	View	All Departments
WELTY, Joseph C. Superior Court Judge	602.372.2537	Old Court House-5th Floor		All Departments

WESTERHAUSEN, Tracey Superior Court Judge	602.506.6251 Southeast Facility-2G/207		All Departments
WHITE, Susan Court Commissioner	602.506.3857 East Court Building-812		All Departments
WHITEHEAD, Chuck Superior Court Judge	602.372.8496 Central Court Building-7C/703		All Departments
WHITTEN, Christopher Superior Court Judge	602.372.1164 Old Court House-303	View	All Departments
WILLIAMS, Paula Court Commissioner	602.372.0425 Southeast Facility-3B/302		All Departments
WINGARD, William Court Commissioner	602.506.4569 Central Court Building-11D/1102		All Departments
WOO, Cassie Superior Court Judge	602.372.3592 Southeast Juvenile-1093/8	View	All Departments
YOST, Joshua Court Commissioner	602.372.0740 South Court Tower-13308/3A	View	All Departments
ZABOR, Melissa Court Commissioner	602.372.4516 Central Court Building-10C1003		All Departments
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Attachment B – Why I am Seeking this Position

I started my legal career clerking for Judge Jefferson Lankford at the Court of Appeals. After my clerkship, I continued my career in public service by spending fifteen years as a prosecutor at the Maricopa County Attorney's Office and the Office of the Arizona Attorney General. As a prosecutor, I worked to achieve justice for both victims of crime and the community at large. I learned to assess the strengths and weaknesses of my cases, conduct evidentiary hearings, try cases to a court and to a jury, write persuasive motions and appellate briefs, and provide helpful oral argument to trial and appellate courts. I also honed the personal skills required to effectively interact with crime victims, law enforcement, opposing counsel, witnesses, judges, court staff, and my colleagues.

I then spent three years working as a capital staff attorney, working closely with trial judges statewide on death penalty cases. In that role, I strived to ensure that trial judges had all the information and tools required to effectively and fairly manage cases where the stakes are high and the scrutiny is intense.

It was at that time that I began to think about a career as a judicial officer. I first served as a Commissioner, and was later appointed to be a Superior Court Judge. Over the last ten years, I have handled a number of case types, including criminal, civil, probate, mental health, juvenile, and appellate matters. I have worked hard to learn from each assignment, improving both my knowledge of substantive law and my case management skills. Since June of 2019, I have served as Presiding Judge of the Criminal Department of the Maricopa County Superior Court. Starting in March of 2020, I led the Criminal Department's response to and navigation of the COVID-19 pandemic. I have honed my administrative and managerial skills, and gained a broader perspective of the work of the Arizona judicial system.

I now wish to apply my skills to a position on the Arizona Supreme Court. With my background as both a trial and appellate attorney and judge, I could make an immediate contribution to the Court. When I served as a pro tem Judge on the Court of Appeals, I greatly enjoyed exchanging ideas with my fellow judges, as well as the Court's staff attorneys and law clerks. A position on Arizona Supreme Court would give me the opportunity to contribute to the law, discuss and debate the law with other judges, and mentor attorneys serving as law clerks, just as Judge Lankford mentored me. My recent experience as Criminal Presiding Judge would allow me to immediately dive into the administrative functions of the Arizona Supreme Court, which are many and varied.

My career as a lawyer and judicial officer in Arizona has been rewarding and exciting, and allowed me to contribute to my community. I am seeking this position to take on new challenges while continuing my career of public service.

ATTACHMENT C – WRITING SAMPLES

mitigation; and ██████ has provided no authority to the contrary.

5. Arizona's lethal injection protocol is constitutional.

██████ next claims that Arizona's lethal injection protocol "entails a substantial risk of gratuitous, torturous pain and prolonged suffering and thus violates the Eighth Amendment." Second Amended Petition for Post-Conviction Relief at 28. This claim fails for two reasons: first, it is not ripe for review, and second, Arizona's lethal injection protocol meets the standard set forth in *Baze v. Rees*, ___ U.S. ___, 128 S.Ct. 1520 (2008).

First, ██████ lethal injection protocol claim is premature because his execution is far from imminent, and the method in which lethal injection is currently administered is not determinative of the way it will be administered at the time of his execution.² Arizona's execution protocol is subject to change and, because ██████ execution is not imminent, he is free to challenge the procedures applicable to his execution by lethal injection under 42 U.S.C. § 1983

² In fact, the lethal injection protocol referenced by ██████ in his Second Amended Petition for Post-Conviction Relief is not the lethal injection protocol currently in place.

when such a challenge is more timely.³ As long as ██████ raises such a claim with sufficient time to address its merits prior to a scheduled execution, there is no danger that he will be denied an opportunity to pursue the claim. At this time, however, ██████ claim is premature and not ripe for review.

The ripeness doctrine prevents a court from rendering a premature judgment or opinion on a situation that may never occur. *See Poland v. Stewart*, 117 F.3d 1094, 1104 (9th Cir. 1997) (issue had not sufficiently matured to warrant judicial intervention where there was no danger of imminent and certain injury to a party); *Winkle v. City of Tucson*, 190 Ariz. 413, 415, 949 P.2d 502, 504 (1997) (an issue is not ripe for review if it is based on future situations that may never occur). *See also Citibank (Arizona) v. Miller & Schroeder Financial, Inc.*, 168 Ariz. 178, 182, 812 P.2d 996, 1000 (App. 1991) (“A declaratory judgment will not be rendered as to future rights in anticipation of an event which may never happen.”); *Arizona Downs v. Turf Paradise, Inc.*, 140 Ariz. 438, 444, 682 P.2d

³ The State acknowledges that the Arizona Supreme Court stated that “objections to the protocol to be used” may be raised in a Rule 32 proceeding in *State v. Andriano*, 215 Ariz. 497, 510, ¶ 62, n. 9, 161 P.3d 540, 553 (2007). But the Court did not state when that Rule 32 action should be brought. Moreover, it is far from clear that the “protocol to be used” in ██████ execution will be the one currently in place. It is far more likely that a different protocol will be in effect at that time.

443, 449 (App. 1984) (the ripeness doctrine arises from a reluctance of courts to become involved in the resolution of questions of a hypothetical or abstract nature). Indeed, ██████ could prevail in state or federal post-conviction proceedings, have his case remanded for resentencing, and ultimately avoid the death penalty altogether.

██████ is not under a warrant of execution, so a court cannot know whether ██████ ultimately will face execution or, if his death sentence survives state and federal appeals, whether the same lethal injection protocol will apply. Moreover, to address the claim prematurely and to proceed with discovery would be a waste of judicial resources.

Alternatively, the claim is meritless. The Arizona Supreme Court has consistently held that execution by lethal injection does not violate the Eighth Amendment. *See, e.g., Andriano*, 215 Ariz. at 510, ¶ 62, 161 P.3d at 553; *State v. Hinchey*, 181 Ariz. 307, 315, 890 P.2d 602, 610 (1995). And the United States Supreme Court recently affirmed in *Baze* that lethal injection is a constitutional means of execution. Analyzing the three—chemical combination used by Kentucky⁴, the plurality found that the risk of improper administration of the

⁴ Arizona uses the same chemicals in its execution protocol.

chemicals, leading to a painful execution, were not “so substantial or imminent as to amount to an Eighth Amendment violation.” 128 S.Ct. at 1534. The plurality went on to find that Kentucky’s refusal to adopt alternative lethal injection procedures did not constitute cruel and unusual punishment. *Id.* Nor was the “possibility of pain” during a lethal injection sufficient to state an Eighth Amendment claim:

State efforts to implement capital punishment must certainly comply with the Eighth Amendment, but what the Amendment prohibits is wanton exposure to “objectively intolerable risk,” *Farmer*, 511 U.S. at 846, and n. 9, 114 S.Ct. 1970,⁵ not simply the possibility of pain.

Id. at 1537.

██████████ reliance on the AVMA guidelines is misplaced. As the plurality noted in *Baze*, “veterinary practice for animals is not an appropriate guide to humane practices for humans.” 128 S.Ct. at 1520.⁶

⁵ *Farmer v. Brennan*, 511 U.S. 825 (1994).

⁶ In fact, the AVMA specifically states that its guidelines “have been widely misinterpreted.” Those guidelines “are in no way intended to be used for human lethal injection.” Moreover, “the use of a barbiturate, paralyzing agent, and potassium chloride delivered in separate syringes or stages (the common method used for human lethal injection) is not cited in the report.” Finally, the AVMA Guidelines “never mention[] pancuronium bromide or Pavulon, the paralyzing agent used in human lethal injection.” *AVMA Guidelines on Euthanasia, (Formerly Report of the AVMA Panel on Euthanasia)* (June 2007), http://www.avma.org/issues/animal_welfare/euthanasia.pdf.

Accidental infliction of pain during an execution does not constitute cruel and unusual punishment: “[s]imply because an execution method may result in pain, either by accident or as an inescapable consequence of death, does not establish the sort of ‘objectively intolerable risk of harm’ that qualifies as cruel and unusual.” *Baze*, 128 S.Ct. at 1531. “[A]n isolated mishap alone does not give rise to an Eighth Amendment violation, . . .” *Id.* Thus, any difficulties experience with the administration of lethal injection do not constitute a constitutional violation.

In *Baze*, the Court found that any lethal injection protocol “substantially similar” to Kentucky’s protocol would not violate the Eighth Amendment:

A stay of execution may not be granted on grounds such as those asserted here unless the condemned prisoner establishes that the State’s lethal injection protocol creates a demonstrated risk of severe pain. He must show that the risk is substantial when compared to the known and available alternatives. A State with a lethal injection protocol substantially similar to the protocol we uphold today would not create a risk that meets this standard.

Id. at 1537.

Under this test, to bring their future claim, ██████████ must demonstrate that there is a known available alternative to the State’s protocol that would create substantially less risk of pain than what results from the Arizona protocol. He has not met this extremely high hurdle, particularly given the fact that the Supreme Court specifically noted that a protocol that is “substantially similar” to Kentucky’s

EXCERPT FROM PETITION FOR WRIT OF CERTIORARI,
SUPREME COURT OF THE UNITED STATES, *SCHRIRO V. JLL*

REASONS WHY THE WRIT SHOULD BE GRANTED

1. The Ninth Circuit's ruling misapplies this Court's Eighth Amendment jurisprudence, including *Eddings v. Oklahoma*, 455 U.S. 104 (1982), and *Tennard v. Dretke*, 542 U.S. 274 (2004), and directly conflicts with decisions by the Arizona Supreme Court regarding whether the sentencer in a capital case may consider the "causal nexus" between the crime committed and the proffered mitigation evidence and give diminished weight to mitigation evidence with no nexus to the crime. In *Tennard*, this Court found that Texas' former capital sentencing scheme improperly restricted defendants from *presenting* evidence to the factfinder absent a causal nexus to specific sentencing factors. 542 U.S. at 283-84. The Ninth Circuit erred by concluding that *Tennard* not only requires a state to allow presentation and consideration of proffered mitigation evidence that may not have a nexus to the crime, but that it restricts the sentencer from taking the absence of a "causal nexus" into account when assessing the value of that evidence.

In direct contrast to the Ninth Circuit's analysis, the Arizona Supreme Court has interpreted *Tennard* as requiring only that a defendant be allowed to present for *consideration* any evidence the defendant or counsel believes

to be mitigating, without restricting the sentencer's discretion in assessing the weight to be given the proffered evidence. See *State v. Pandeli*, 215 Ariz. 514, ¶ 72, 161 P.3d 557 (2007) (“Although ‘[w]e do not require that a nexus between the mitigating factors and the crime be established before we *consider* the mitigation evidence . . . the failure to establish such a causal connection may be considered in assessing the quality and strength of the mitigation evidence.’”) (citing *State v. Newell*, 212 Ariz. 389, 405, ¶ 82, 132 P.3d 833, 849 (2006) (emphasis added)).

In the instant case, the district court applied a “causal nexus” test in precisely the same manner that the Arizona Supreme Court has repeatedly applied that test. Thus, the Ninth Circuit’s rejection of the district court’s “causal nexus” analysis affects not only this case, but every other Arizona capital case in which a defendant has presented mitigation evidence that has been given de minimus weight based on the absence of a causal nexus to the crime. The Ninth Circuit’s analysis erroneously interprets *Tennard*, and this Court should grant review to correct that error and to resolve the conflict between the Ninth Circuit’s and the Arizona Supreme Court’s interpretation of *Tennard*.

2. The Ninth Circuit failed to properly defer to specific factual findings by a district court judge who carefully considered the evidence and

assessed the credibility of witnesses during a 6-day evidentiary hearing. In doing so, the Ninth Circuit directly violated this Court's mandate that a reviewing court not substitute its judgment for that of a judge who has made credibility assessments and findings following an evidentiary hearing.

3. The Ninth Circuit's ruling interferes with the State of Arizona's and crime victims' interest in the finality of state court convictions and sentences. [Defendant] was convicted and sentenced more than two decades ago, and his case has been pending in federal court since 1987. Notwithstanding a full-blown evidentiary hearing in which the district court thoroughly reviewed [Defendant]'s ineffective assistance of counsel claim and rejected it in a meticulously supported opinion, [Defendant]'s sentence has been set aside. Absent intervention by this Court to correct the Ninth Circuit's overreaching, public confidence in the judiciary will be undermined and the interests of justice will be thwarted.

ATTACHMENT D – SAMPLE RULINGS

2017 WL 1740230 Only the
Westlaw citation is currently available.

NOTICE: NOT FOR OFFICIAL
PUBLICATION.

UNDER ARIZONA RULE OF THE SUPREME
COURT 111(c), THIS DECISION IS NOT
PRECEDENTIAL AND MAY BE CITED ONLY AS
AUTHORIZED BY RULE.

Court of Appeals of Arizona,
Division 1.

Roy MAXTED, et al.,
Plaintiffs/Counter-Defendants/Appellees,
v.
TWS INC., et al.,
Defendants/Counter-Claimants/Appellants.

No. 1 CA-CV 16-0408

|
FILED 5/4/2017

Appeal from the Superior Court in Maricopa County, Nos.
CV2014-094400, CV2014-095474 (Consolidated),
The Honorable Robert H. Oberbillig, Judge. **AFFIRMED**

Attorneys and Law Firms

J. Kent Mackinlay, P.C., Mesa, By J. Kent Mackinlay,
Counsel for Defendants/Counter-Claimants/Appellants

David Vandeventer, Paradise Valley, Counsel for
Plaintiffs/Counter-Defendants/Appellees

Judge Patricia Starr¹ delivered the decision of the Court, in
which Presiding Judge Samuel A. Thumma and Chief
Judge Michael J. Brown joined.

MEMORANDUM DECISION

STARR, Judge:

*1 ¶ 1 Defendant TWS, Inc. (“TWS”) challenges the grant
of summary judgment in favor of plaintiffs Roy and Dottie
Maxted (collectively “Maxted”) finding TWS was not
entitled to receive excess proceeds from a credit bid
following a trustee’s sale of real property. TWS also

challenges the award of attorneys’ fees to Maxted. For the
following reasons, both orders are affirmed.

BACKGROUND

¶ 2 In early 2013, TWS purchased a restaurant/bar and
associated real property (“Property”) from Maxted for
\$580,000. TWS paid Maxted \$170,000 in cash and
borrowed the balance of \$410,000 from Maxted, evidenced
by a promissory note and secured by a deed of trust. Later
in 2013, TWS defaulted and Maxted instituted sale
proceedings. The Property was sold at public auction
through a trustee’s sale in May 2014. Maxted was the
successful bidder for a credit bid of \$560,180.44.

¶ 3 In August 2014, Maxted sued TWS seeking a deficiency
judgment for the difference between the credit bid and the
fair market value of the Property. TWS then sued Maxted
for breach of contract claiming it was entitled to excess
proceeds from the trustee’s sale totaling \$150,180.44
(representing the difference between the credit bid and the
amount of the note), conversion of items remaining in the
Property, and fraudulent concealment. The cases were
consolidated, and both parties moved for summary
judgment.

¶ 4 The court granted each motion in part finding (1) in
favor of TWS that “there is no prepayment penalty or
interest due following the sale and there is no deficiency
owed”; and (2) in favor of Maxted that “there are no excess
proceeds as a matter of law.” The court denied the balance
of both motions. TWS unsuccessfully moved for
reconsideration, arguing it was entitled to the excess
proceeds. After a bench trial, the court found for Maxted on
TWS’ conversion claim (the only remaining claim), and
awarded Maxted attorneys’ fees and costs in the amount of
\$17,521.40. After entry of final judgment, *see* Ariz. R. Civ.
Pro. 54(c),² TWS timely appealed. We have jurisdiction
pursuant to Article VI, Section 9, of the Arizona
Constitution, and Arizona Revised Statutes
 (“A.R.S.”) sections 12-120.21(A)(1) and -2101(A)(1).

DISCUSSION

I. No Excess Proceeds Existed from the Credit Bid ¶ 5
 TWS argues the court erred in granting summary judgment

¶ 6 Summary judgment is appropriate “if the moving party shows that there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law.” Ariz. R. Civ. P. 56(a). Summary judgment “should be granted if the facts produced in support of the claim or defense have so little probative value, given the quantum of evidence required, that reasonable people could not agree with the conclusion advanced by the proponent of the claim or defense.” *Orme Sch. v. Reeves*, 166 Ariz. 301, 309 (1990). We determine de novo whether any genuine issue of material fact exists and whether the trial court erred in application of the law. *Logerquist v. Danforth*, 188 Ariz. 16, 18 (App. 1996). We construe the evidence and reasonable

for Maxted finding no excess proceeds existed as a matter of law.

inferences in the light most favorable to the non-moving party. *Wells Fargo Bank v. Ariz. Laborers, Teamsters & Cement Masons Local No. 395 Pension Trust Fund*, 201 Ariz. 474, 482, ¶ 13 (2002). And we will uphold the trial court’s ruling if it is correct for any reason. *Logerquist*, 188 Ariz. at 18.

*2 ¶ 7 The breakdown of Maxted’s credit bid to purchase the Property at the trustee’s sale is as follows:

Principal balance	\$ 398,698.04
Interest Through 4/25/19	131,238.10
Penalties	1,200.30
Prepayment [Penalty]	24,006.00
Funds Advanced for Insurance	1,015.00
Interest on Funds 4/15/14–5/15/14	5.27
Trustee/Account Servicing Fees & Costs	4,017.73
Credit Bid Total	\$ 560,180.44

¶ 8 Pursuant to A.R.S. § 33–801(5), a credit bid is “a bid made by the beneficiary in full or partial satisfaction of the contract or contracts which are secured by the trust deed.” It

may only include an amount up to the full amount of the contract or contracts secured by the trust deed ... together with the amount of

is authorized to make a credit bid in lieu of cash. A.R.S. § 33–810(A).

¶ 9 As relevant here, a trustee shall apply the proceeds of a trustee’s sale in the following order of priority:

1. To the costs and expenses of exercising the power of sale and the sale, including the payment of the trustee’s fees and reasonable attorney fees actually incurred.
2. To the payment of the contract or contracts secured by the trust deed.
3. To the payment of all other obligations provided in or secured by the trust deed and actually paid by the beneficiary before the trustee’s sale.

....

5. ... After payment in full of all sums due ... payment shall be made to the trustor [“excess proceeds”].

A.R.S. § 33–812(A).

¶ 10 As defined in the statutory scheme, a credit bid cannot result in excess proceeds. Such a bid may only include the amount necessary to pay the contract or contracts secured by the trust deed, along with the other obligations provided in or secured by the trust deed, and costs and expenses. Once those amounts are taken out of the credit bid, nothing remains that would constitute excess proceeds.

¶ 11 Here, TWS contends that under the note and deed of trust, Maxted could not recover (1) the unaccrued, post-sale interest calculated from the sale date through April 25, 2019 (six-year anniversary of the note as determined by the prohibition against prepayment within the first six years) or (2) the prepayment penalty because TWS did not voluntarily repay the note. TWS argues it was entitled to those amounts as excess proceeds from the credit bid following the trustee sale.

other obligations provided in or secured by the trust deed and the costs and expenses of exercising the power of sale and the sale, including the trustee’s fees and reasonable attorney fees actually incurred.

Id. At a trustee’s sale, only the beneficiary, here Maxted,

¶ 12 We agree, as did the superior court, that Maxted was prohibited from collecting a prepayment penalty and unaccrued interest from TWS, and those amounts were wrongly included in the amount of the credit bid. *See Florida Nat’l Bank of Miami v. Bankatlantic*, 557 So. 2d 596, 598 (Fla. 4th Dist. Ct. App. 1990) (stating the general rule is that “unless otherwise specifically provided for in the note, the lender cannot upon the lender’s acceleration also collect the prepayment penalty.”); *cf. Camelot Ltd. v. Union Mut. Life Ins. Co.*, 154 Ariz. 330, 331 (App. 1987) (finding deed of trust gave lender, by its terms, the right to accelerate payment and the right to recover a prepayment penalty). The inclusion of the prepayment penalty and unaccrued interest in the credit bid, however, did not result in excess proceeds. There were no cash proceeds for the trustee to distribute or deposit with the county treasurer pursuant to

A.R.S. § 33–812. *See also Passanisi v. Merit–Mcbride Realtors, Inc.*, 190 Cal. App. 3d 1496, 1503 (Ct. App. 1987) (stating no deficiency and no surplus results from successful creditor-beneficiary’s “full credit bid”).

*3 ¶ 13 In support of its argument that it is entitled to excess proceeds from the credit bid, TWS relies in large part on two cases: *M & I Bank FSB v. Coughlin*, 805 F. Supp. 2d 858 (D. Ariz. 2011) and *Nussbaumer v. Superior Court*, 107 Ariz. 504 (1971). In *M & I Bank*, the District Court did not reach the issue presented here, but decided whether A.R.S. § 33–814(D) bars an action by a lender against third parties if the action is brought more than 90 days after the trustee’s sale. 805 F. Supp. 2d at 860. The court noted that “[a] beneficiary who bids high, drives out other bidders, and takes the property for the amount of its bid may not then say it was not really paid because it paid itself too much.” *Id.* at 868. But here, there is no evidence that Maxted bid high to drive out other bidders, only that it mistakenly included the unaccrued interest and prepayment penalty in the bid.

¶ 14 TWS cites to *Nussbaumer* for the proposition that an accepted bid at a trustee’s sale forms a contract, which a court may not reform. But again, that case does not reach

the issue before us—whether a credit bid can result in excess proceeds. Instead, the court held that when a mortgagee, through its own negligence or inadvertence, bid the full amount of the judgment at a foreclosure sale, it was bound by that bid. 107 Ariz. at 508. The court did not, however, reach the issue of whether excess proceeds would exist if the credit bid exceeded the amount of the full judgment.

¶ 15 In short, because the unaccrued interest and prepayment penalty were wrongly included in the credit bid, the credit bid exceeded the amount actually owed. But nothing in the statutory scheme converted the erroneous credit bid into excess proceeds because of that mistake. Thus, under these particular facts, and leaving for another day whether any set of facts could result in excess proceeds from a credit bid, no excess proceeds existed. Because there was no genuine issue of material fact, the superior court correctly found that the credit bid did not result in excess proceeds.

II. Award of Attorneys' Fees to Maxted

¶ 16 TWS argues the superior court erred in awarding attorneys' fees to Maxted under A.R.S. § 12-341.01, claiming (without any supporting authority) Maxted was not the successful party because the court denied its deficiency judgment claim. The superior court has substantial discretion in making the successful-party determination under A.R.S. § 12-341.01. *See Summers v. Gloor*, 239 Ariz. 222, 228, ¶ 21 (App. 2012) (citing cases). We review an award for attorneys' fees for abuse of discretion. *Bennett Blum, M.D., Inc. v. Cowan*, 235 Ariz. 204, 205, ¶ 5 (App. 2014).

¶ 17 “In any contested action arising out of a contract, ... the court may award the successful party reasonable attorney fees.” A.R.S. § 12-341.01(A). The factors relevant in determining whether attorneys' fees should be awarded under the statute are:

1. The merits of the claim or defense presented by the unsuccessful party.
2. The litigation could have been avoided or settled and the successful party's efforts were completely superfluous in achieving the result.
3. Assessing fees against the unsuccessful party would cause an extreme hardship.
4. The successful party did not prevail with respect to all of the relief sought.

....

[5. T]he novelty of the legal question presented, and whether such claim or defense had previously been adjudicated in this jurisdiction.

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[6. W]hether the award in any particular case would discourage other parties with tenable claims or defenses from litigating or defending legitimate contract issues for fear of incurring liability for substantial amounts of attorney's fees.

Footnotes

Associated Indem. Corp. v. Warner, 143 Ariz. 567, 570 (1985).

*4 ¶ 18 Here, the superior court concluded the litigation arose out of contract and the contract issues predominated; findings TWS does not challenge on appeal. The court also gave some weight to its conclusion that awarding fees would cause a hardship to TWS, but added that there was “no dispute” that “an early walk away settlement [offer by Maxted] was rejected” by TWS and had TWS accepted that offer “most of the fees could have been avoided.” Although TWS is correct in stating that Maxted did not prevail on its deficiency claim, TWS has not shown that the court abused its discretion in finding Maxted was the successful party and awarding Maxted reasonable attorneys' fees.

III. Attorneys' Fees on Appeal

¶ 19 Both parties request attorneys' fees on appeal under A.R.S. § 12-341.01. Maxted also requests fees as a sanction pursuant to A.R.S. § 12-349 and its taxable costs on appeal pursuant to A.R.S. § 12-341. In the exercise of our discretion, we deny the requests for attorneys' fees. Because Maxted is the successful party on appeal, we award it costs incurred on appeal under § 12-341 upon compliance with ARCAP 21.

CONCLUSION

¶ 20 For the foregoing reasons, we affirm the superior court's orders.

All Citations

Not Reported in P.3d, 2017 WL 1740230

¹ The Honorable Patricia Starr, Judge of the Arizona Superior Court, has been authorized to sit in this matter pursuant to Article VI, Section 3 of the Arizona Constitution. ² Absent material revisions, we cite to the current version of statutes and rules unless otherwise indicated.

End of Document

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No. 1 CA-CV 16-0408
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Footnotes

Associated Indem. Corp. v. Warner, 143 Ariz. 567, 570 (1985).

*4 ¶ 18 Here, the superior court concluded the litigation arose out of contract and the contract issues predominated; findings TWS does not challenge on appeal. The court also gave some weight to its conclusion that awarding fees would cause a hardship to TWS, but added that there was “no dispute” that “an early walk away settlement [offer by Maxted] was rejected” by TWS and had TWS accepted that offer “most of the fees could have been avoided.” Although TWS is correct in stating that Maxted did not prevail on its deficiency claim, TWS has not shown that the court abused its discretion in finding Maxted was the successful party and awarding Maxted reasonable attorneys' fees.

III. Attorneys' Fees on Appeal

¶ 19 Both parties request attorneys' fees on appeal under A.R.S. § 12–341.01. Maxted also requests fees as a sanction pursuant to A.R.S. § 12–349 and its taxable costs on appeal pursuant to A.R.S. § 12–341. In the exercise of our discretion, we deny the requests for attorneys' fees. Because Maxted is the successful party on appeal, we award it costs incurred on appeal under § 12–341 upon compliance with ARCAP 21.

CONCLUSION

¶ 20 For the foregoing reasons, we affirm the superior court's orders.

All Citations

Not Reported in P.3d, 2017 WL 1740230

¹ The Honorable Patricia Starr, Judge of the Arizona Superior Court, has been authorized to sit in this matter pursuant to Article VI, Section 3 of the Arizona Constitution. ² Absent material revisions, we cite to the current version of statutes and rules unless otherwise indicated.

End of Document

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SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

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12/18/2018

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT
C. Avena
Deputy

THE TOWN OF FLORENCE
S W V P - G T I S M R L C
PULTE HOME COMPANY L C

BARBARA U PASHKOWSKI
RONNIE P HAWKS
D CHRISTOPHER WARD

v.

ARIZONA DEPARTMENT OF
ENVIRONMENTAL QUALITY (001)
MISAEEL CABRERA (001)
WATER QUALITY APPEALS BOARD (001)
FLORENCE COPPER INC (001)
PINAL COUNTY SUPERIOR COURT

JEFFREY D CANTRELL
DAVID L DECKER

JUDGE STARR
OFFICE OF ADMINISTRATIVE
HEARINGS
REMAND DESK-LCA-CCC

MINUTE ENTRY

Appellants the Town of Florence, SWVP-GTIS MR, LLCX, and Pulte Home Company, LLC (“Appellants”) seeks reversal of the May 17, 2017 Decision of the Water Quality Appeals Board (“the Board”) upholding a Temporary Aquifer Protection Permit (“APP”) issued by the Arizona Department of Environmental Quality (“ADEQ”). For the following reasons, the Court affirms the Decision of the Board.

I. FACTS AND PROCEDURAL BACKGROUND

In March of 2012, Curic Resources, Inc. (“Curic”), now known as Florence Copper, Inc. (“Florence Copper”) applied for a Temporary Individual Aquifer Protection Permit (“APP”) with

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ADEQ to operate a short-term, small-scale production test facility (“PTF”). Curic sought to gather data for an APP application for a full-scale in situ copper recovery commercial mine.

ADEQ issued the temporary APP in July of 2013. Appellants in this action (joined at the time by Johnson Utilities, LLC) appealed that Decision. The Board remanded the matter to ADEQ for further proceedings.

In January of 2015, ADEQ directed Florence Copper to prepare and submit an application for amendment to the 2013 Temporary APP to address the five issues presented on remand. Florence Copper submitted its Application for Significant Amendment to the Temporary APP in April of 2015. After a public process, ADEQ issued the Significant Amendment to the 2013 Temporary APP in August of 2016.

The Significant Amendment authorized Florence Copper to operate the Florence Copper Project-Pilot Test Facility Florence, over groundwater of the Pinal Active Management Area. (Significant Amendment at 1.) The Temporary APP is for a PTF on approximately 160 acres of Arizona State Land; the PTF will occupy approximately 13.8 contiguous acres and the PTF well field will occupy approximately 2.2 acres. (*Id.* at 2.)

The In-Situ Copper Recovery process proposed by Florence Cooper “involves injecting a lixiviant (99.5% water mixed with 0.5% sulfuric acid) through injection wells into the oxide zone of the bedrock beneath the site for the purposes of dissolving copper minerals from the ore body. (*Id.*)

Appellants filed an appeal in September of 2016 and Florence Copper intervened.

The Board considered written testimony, as well as written and oral argument of the parties. The Board conducted a hearing and took testimony in March of 2017. The Board subsequently reached the following conclusions of law.

1. Appellants did not establish that ADEQ’s consideration of the BHP (BHP Copper, Inc.) draft reports was arbitrary, unreasonable, unlawful, or based upon a technical judgment that was clearly invalid.
2. Appellants did not establish that the alert level established for fluid electrical conductivity shown in Table 4.1-8 of the 2016 Significant Amendment was arbitrary, unreasonable, unlawful, or based upon a technical judgment that was clearly invalid.

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3. Appellants did not establish that the revised PTF (Production Test Facility) PMA in the 2016 Significant Amendment was arbitrary, unreasonable, unlawful, or based upon a technical judgment that was clearly invalid.
4. ADEQ and Florence Copper established that the Point of Compliance Wells (“POCs”) in the 2016 Significant Amendment comply with Arizona law and were rational, reasonable, lawful, and based upon sound technical judgment. Therefore, Appellants did not establish that the POCs in the 2016 Significant Amendment was arbitrary, unreasonable, unlawful, or based upon a technical judgment that was clearly invalid.
5. Appellants did not establish that ADEQ’s decision to issue the 2016 Significant Amendment after receiving and considering the revised geochemical model report and revised rinsing flow sheet from Florence Copper was arbitrary, unreasonable, unlawful, or based upon a technical judgment that was clearly invalid.
6. As to all other issues raised in the appeal, including public participation issues, Appellants did not establish that ADEQ’s actions were arbitrary, unreasonable, unlawful, or based upon a technical judgment that was clearly invalid.

Appellants sought rehearing, and the Board denied the request. Appellants filed a timely notice of appeal from the order denying rehearing. This Court has jurisdiction to hear this appeal pursuant to A.R.S. §§ 12-124(A) and 12-905(A).

II. STANDARD OF REVIEW

A reviewing court shall affirm the action of an agency unless, after reviewing the record, the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion. A.R.S. § 13-910(E).

If an agency’s factual conclusions can be supported by the record, then there is substantial evidence to support the agency’s decision, even if an inconsistent factual conclusion could also be supported by the record. *DeGroot v. Arizona Racing Comm'n*, 141 Ariz. 331, 336 (App. 1984).

When reviewing an agency action, the superior court makes its own determinations on questions of law. *Smith v. Arizona Long Term Care Sys.*, 207 Ariz. 217, 220, ¶ 14 (App. 2004).

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III. ISSUES

Appellants raise the following issues:

1. Did the Board err when it approved the temporary APP?
2. Did the Board err when it upheld the Pollution Management Area?
3. Did the Board err when it upheld the Point of Compliance Well locations?
4. Did the Board err when it upheld a particular permit Alert Level for fluid electrical conductivity at Florence Copper's Observation Wells?
5. Did the Board err when it dismissed certain claims without presentation of evidence or a hearing?

IV. LEGAL ANALYSIS

1. Temporary APP

Appellants first argue that the Board wrongly approved a temporary permit that violates its own prior 2014 decision, which no party appealed.

First, the record establishes that the Significant Amendment addressed the lack of Best Available Demonstrated Control Technology ("BADCT")/operational monitoring in the prior permit. The Significant Amendment identifies two different PMAs, as well as a cone of depression BADCT barrier. The Significant Amendment also includes enhanced BADCT/operation monitoring including expanded aquifer pump testing, monitoring from supplemental monitoring wells, expanded groundwater elevation monitoring, and electrical conductivity monitoring. Given these changes, the Board's current order does not violate the 2014 Decision.

Moreover, because the facts, issues, and evidence changed between the 2014 Decision and the one at issue here, the law of the case doctrine does not apply. The doctrine of the "law of the case" is not applied when there has been a change of essential facts or substantial change of evidence, or if "the issue was not actually decided in the first decision." *Dancing Sunshines Lounge v. Indus. Comm'n of Arizona*, 149 Ariz. 480, 483 (1986). Here, the Board took new evidence and considered substantial changes to Florence's Copper's proposal before determining

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whether the Significant Amendment complied with its previous orders. Thus, law of the case does not apply, and Appellants arguments based on the law of the case are unavailing.

2. Pollution Management Area

Appellants next argue that the Board approved a PMA that was unlawful, unreasonable, and technically indefensible. A Pollution Management Area is defined by statute:

for a pollutant that is a hazardous substance the point of compliance is the limit of the pollutant management area. The pollutant management area is the limit projected in the horizontal plane of the area on which pollutants are or will be placed. The pollutant management area includes horizontal space taken up by any liner, dike or other barrier designed to contain pollutants in the facility.

A.R.S. § 49-244(1).

Here, the Significant Amendment requires a 550-foot cone of depression to be established, maintained, and monitored as a barrier. The Board found that the “cone of depression will operate as the primary hydraulic barrier for the in-situ copper recovery operation,” based on Arizona’s Mining BADCT Guidance Manual. (Decision at 4.) Thus, the PMA complies with Arizona law.

There is substantial evidence in the record to support the Board’s determinations regarding the PMA, including testimony provided by two different witnesses, Maribeth Greenslade and Phil Lagas. Appellants’ witness, Dr. Lee Wilson, disagreed. But that does not mean that the Board’s Decision is not supported by substantial evidence. Instead, as noted above, as long as substantial evidence supports the Board’s conclusion, it must stand, even if other evidence supports an inconsistent conclusion.

3. Point of Compliance Well Locations

Appellants next challenge the POC well locations. The Board found that the 2016 Significant Amendment establishes two new POC wells and uses four existing POC wells for the PTF PMA. (Decision at 4.) The two new wells are in the PTF PMA boundary, and the four existing wells are within 350 feet of the PTF PMA boundary, “between the nearest sources of drinking water and the PTF well block.” (*Id.*)

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Point of compliance is defined by statute:

the point of compliance is the point at which compliance must be determined for either the aquifer water quality standards or, if an aquifer water quality standard is exceeded at the time the aquifer protection permit is issued, the requirement that there be no further degradation of the aquifer as provided in § 49-243, subsection B, paragraph 3. The point of compliance shall be a vertical plane downgradient of the facility that extends through the uppermost aquifers underlying that facility.

A.R.S. § 49-244.

Here, Appellants argue that the POC wells are not located in a reasonable or lawful location, because they do not allow for meaningful monitoring of pollutants during Florence Copper's pilot test. But the record supports the Board's finding that the enhanced BADCT/operational monitoring included in the Significant Amendment along with the monitoring of the POC wells provides meaningful monitoring of groundwater. For example, Greenslade testified that the monitoring is "very comprehensive," and includes both horizontal and vertical monitoring. (Reporter's Transcript, March 6, 2017, at 110.) According to Greenslade, the project is "probably the most monitored 20 acres" she has "ever seen in the APP program." (*Id.*)

The record also shows that the two new POC wells are at the PMA boundary, which comports with A.R.S. § 49-244(1). The other four wells are not located at the PMA boundary, but the evidence showed that they comply with Arizona law because they are substantially less costly. When certain conditions are met, "[t]he alternative point of compliance will allow installation and operation of the monitoring facilities that are substantially less costly." A.R.S. § 49-244(b). Here, the record supports the conclusion that those wells comply with A.R.S. § 49-244 because they are protective of down gradient drinking water sources, and because Florence Copper established that the conditions set forth in A.R.S. A.R.S. § 49-244(b) were met.

Thus, the Board did not err by approving the location of the POC wells.

4. Alert Level – Fluid Electrical Conductivity

Appellants argue that the Board wrongly concluded that the 2016 Significant Amendment properly set the alert level for Fluid Electrical Conductivity.

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In the 2014 Decision, the Board found that Appellants showed “that the Temporary APP does not require meaningful monitoring of possible vertical migration through electric conductivity sensors or a hydrosleeve . . . or require any contingency action if such migration is identified.” (Decision at 9.) In the 2014 Decision, the Board further found that “ADEQ’s issuance of the Temporary APP that required only a single monitoring well downgradient to detect vertical and horizontal migration of in-situ solution” was unreasonable, and based on a technical judgment that was clearly invalid. (*Id.*)

After considering the record, the Board concluded that the 2016 Significant Amendment appropriately set the alert level for Fluid Electrical Conductivity. (*Id.* at 10.) Substantial evidence supports that conclusion. That evidence includes cross-examination of the expert witnesses, as well as technical briefs.

Under the Significant Amendment, conductivity data equal to or greater than the injection well conductivity data triggers an alert and requires a contingency action by Florence Copper. The evidence supports a finding that such a level would indicate a failure to maintain capture of the lixiviant, despite the fact that Appellants argued for a different level.

Moreover, Appellants have failed to establish that requiring contingency action, and not an immediate permit violation, was an abuse of the Board’s discretion.

5. Dismissal of Claims

Finally, Appellants argue that the Board erred by dismissing their due process claims without taking evidence at the hearing. After considering the appeal and pending motions, the Board asked the parties to submit technical memoranda to assist it in identifying the issues for which a hearing would be required. (Decision at 5.) The Board issued a Procedural Order permitting additional written testimony, additional legal argument, and setting a hearing to develop a factual record on the issues of Monitoring and the PMA and POCs. (Decision at 6.) All parties consented to that order. (*Id.*)

Appellants fail to establish that the Board wrongly failed to consider their claim that the public participation requirements were not complied with.

The record shows that ADEQ published notice of its preliminary decision to issue the Significant Amendment, accepted written public comment, noticed and conducted a public

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hearing, and responded in writing to comments. ADEQ thus complied with A.R.S. § 49-208, A.A.C. A.A.C. R18-9-109 and R18-9-A210(D).

Absent a requirement that any public hearing be reported by a court reporter, Appellants cannot establish that the recording of a hearing by video instead of a court reporter violated Arizona law. The applicable regulation requires that a general public hearing “shall be recorded by means of an electronic device or stenographically.” A.A.C. R18-1-402(F). Here, the public hearing was recorded by an electronic device, and ADEQ thus complied with the regulation. Moreover, Appellants fail to show any prejudice from the lack of a court reporter at the public hearing.

Nor have Appellants established that ADEQ prejudged the issues by sending document preservation letters. Moreover, because the letters were not properly made part of the record, this Court declines to review them.

V. CONCLUSION

Based on the foregoing, this Court concludes there was substantial evidence to support the Board’s Decision, and the Decision was not contrary to law, was not arbitrary or capricious, and was not an abuse of discretion.

If any party wishes to appeal this decision, that party must do so pursuant to A.R.S. § 12-913 and Rule 9(a), Ariz. R. Civ. App. Proc.

IT IS THEREFORE ORDERED the affirming the Decision of the Board.

IT IS FURTHER ORDERED denying Appellants’ request for attorneys’ fees and costs.

IT IS FURTHER ORDERED this is a final order for purposes of appeal, as no further matters remain pending. See Rule 54(c), Ariz. R. Civ. P.

IT IS FURTHER ORDERED signing this minute entry as a formal order of the Court.

THE HON. PATRICIA A. STARR
JUDGE OF THE SUPERIOR COURT

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MARICOPA COUNTY

CV 2011-014515
CV 2012-053571
CV 2012-053572
CV 2013-012882

09/12/2014

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT
S. Brown
Deputy

JOHN R NORTON, et al.

K LAYNE MORRILL

v.

PHONEJOCKEY L L C, et al.

F THOMAS HOVORE

ROBERT R BERK
BRIAN HOLOHAN
PAUL J MCGOLDRICK
MICHAEL N POLI
JAMES S RIGBERG
WADE R CAUSEY

UNDER ADVISEMENT RULINGS

On August 28, 2014, the Court heard oral argument on the motions for summary judgment listed below. The Court has considered the parties' papers related to the motions, as well as argument of counsel.

Summary Judgment Standard

A court may enter summary judgment only if "there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law." Rule 56(a), Ariz. R. Civ. P. See also *Delmastro & Eells v. Taco Bell Corp*, 228 Ariz. 134, 137-38, ¶ 7, 263 P. 3d 683, 686-87 (App. 2011). In other words, a motion for summary judgment should be granted "if the facts produced in support of the claim or defense have so little probative value, given the

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quantum of evidence required, that reasonable people could not agree with the conclusion advanced by the proponent of the claim or defense.” *Orme School v. Reeves*, 166 Ariz. 301, 309, 802 P.2d 1000, 1008 (1990).

In deciding a motion for summary judgment, the Court must view the facts and the reasonable inferences to be drawn from those facts in the light most favorable to the non-moving party. See, e.g., *Espinoza v. Schulenburg*, 212 Ariz. 215, 216, ¶ 6, 129 P.3d 937, 938 (2006). “[W]here the evidence or inferences would permit a jury to resolve a material issue in favor of either party, summary judgment is improper.” *National Bank of Arizona v. Thurston*, 218 Ariz. 112, 116, ¶ 17, 180 P.3d 977, 981 (App. 2008), quoting *United Bank of Arizona v. Allyn*, 167 Ariz. 191, 195, 805 P.2d 1012, 1016 (App. 1990).

Collateral Estoppel Ruling

On December 13, 2013, Judge Lisa Flores, to whom these cases were previously assigned, issued a ruling referred to by the parties as “the Collateral Estoppel ruling.” Judge Flores determined that “the arbitration panel’s decision should be given collateral estoppel effect.” (December 13, 2013 Minute Entry, filed December 16, 2013, at 2.) Judge Flores specifically found that the arbitration panel’s lack of jurisdiction over PJI-2 did not prevent collateral estoppel or issue preclusion. (*Id.* at 4.)

CV 2011-014515 – Plaintiff’s Motion for Summary Judgment on Breach of Fiduciary Duty (First Claim for Relief), filed May 1, 2014

In this Motion for Summary Judgment, the Norton Trusts seeks partial summary judgment in favor of Phone Jockey Investors No. 2, LLC (“PJI-2”) and against Defendants on all of the elements of PJI-2’s claim for breach of fiduciary duty.

Fiduciary Duty of Loyalty

In its Collateral Estoppel ruling, the Court found several issues had been conclusively determined by the arbitration panel. As to whether Defendants owed a fiduciary duty of loyalty to PJI-2, the Court specifically found that “[v]iewed through the lens of the governing documents of the ADR Companies [including PJI-2] the Defendants owed the fiduciary duty of loyalty to the ADR Companies and their members.” (Collateral Estoppel Ruling at 5.) Defendants do not dispute this ruling.

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Based on this language, the Court finds that the issue of whether Defendants owed a fiduciary duty of loyalty to PJI-2 has already been determined. The Court's previously ruling clearly and expressly found that Defendants owed such a duty to PJI-2.

Breach of the Duty

The next question is whether Defendants breached the fiduciary duty of loyalty owed to PJI-2. In the Collateral Estoppel ruling, the Court found one breach of the duty, i.e., that "Defendants breached their fiduciary duty of loyalty . . . by failing to exercise a unilateral lease termination provision . . ." (Collateral Estoppel Ruling at 5.) While there were certainly findings that Ball engaged in inappropriate conduct, no other breaches of the fiduciary duty of loyalty were established by that ruling. The Arbitration Panel also rejected many of the Claimants' individual claims, including claims for breach of fiduciary duty.

Viewing the facts and the reasonable inferences to be drawn from those facts in the light most favorable to the non-moving party, the Court finds that the evidence or inferences would permit a jury to resolve genuine material issues of fact in favor of either party. Those issues include whether, considering the broad language in the governing documents, Defendants' decision to go ahead with construction in the face of changing conditions constituted a breach of the fiduciary duty of loyalty, as well as whether Defendants taking of fees constituted a breach of that duty.

IT IS ORDERED granting Plaintiff's Motion for Judgment on Fiduciary Duty, filed May 1, 2014, in part. The Court finds that Defendants owed a fiduciary duty of loyalty to Plaintiff.

In all other respects, the Motion is denied.

Any request for attorneys' fees and costs should be submitted by October 13, 2014.

CV 2012-0153571 – Motion for Summary Judgment filed April 15, 2014

Richard Rinella, Jr. ("Rinella, Jr.") seeks summary judgment dismissing Ball's claims of defamation, "false light," and intentional interference with contract, on two bases: (1) collateral estoppel; and (2) Rinella, Jr.'s statements are subject to the "common interest" qualified privilege.

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Collateral Estoppel

In the previous Collateral Estoppel ruling, the Court found that, based on the effect of the arbitration award, Norton and Stevenson had no liability on the counterclaims for tortious interference and defamation, and that even if those actions had been established, and no qualified privilege existed, there were no quantifiable financial losses proximately caused by any of the alleged wrongful acts. (Collateral Estoppel Ruling at 5.)

Rinella, Jr. argues that through the application of defensive collateral estoppel, those rulings apply to him, and mandate dismissal of the claims.

Defensive collateral estoppel “occurs when a defendant seeks to prevent a plaintiff from asserting a claim the plaintiff previously litigated unsuccessfully against another party.” *Campbell v. SZL Properties, Ltd.*, 204 Ariz. 221, 223, ¶ 10, 62 P.3d 966, 968 (App. 2003). Defensive collateral estoppel may be used when: (1) the issue was actually litigated in the previous proceeding, (2) the parties had a full and fair opportunity and motive to litigate the issue, (3) there was a valid and final decision on the merits, and (4) resolution of the issue was essential to the decision. *Id.* at ¶ 9.

While Ball argues that defensive collateral estoppel cannot be used, because Richard, Jr. was not a party to the arbitration, and the claims are not the same, the Court agrees with Richard, Jr. that identity of parties is not required, nor is identity of claims. For collateral estoppel to apply, whether the issues were the same is the appropriate inquiry. Here, the Court finds that all four elements of defensive collateral estoppel have been established: the issue was actually litigated, the parties had both a full and fair opportunity and a motive to litigate the issue, a valid and final decision on the merits has been made, and the resolution of the issue was essential to that decision.

Because the arbitration panel found that no damages resulted from Norton and Stevenson’s actions, actions which were taken based on Richard Jr.’s statements, Richard Jr. cannot be held liable for damages in this action.

Common Interest Qualified Privilege

Richard, Jr. further argues that he is protected by the common interest qualified privilege. Under this privilege, statements that would otherwise be defamatory are protected when one is

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entitled to learn information regarding a common interest, thus facilitating the exchange of information about matters affecting the goals of the organization or group. *Green Acres Trust v. London*, 141 Ariz. 609, 617, 699 P.2d 617, 624 (1984). The privilege applies in various contexts, including associates in a commercial enterprise. *Id.* The privilege may be lost by the publisher's knowledge or reckless disregard for the falsity of the statements, publication for some improper purpose, excessive publication, or publication of a defamatory matter not reasonably believed necessary to accomplish the purpose. Restatement (Second) of Torts § 596, (a) Nature of Privilege.

As a financial advisor to his father, Rinella, Jr. was entitled to share his opinions about Rinella Sr.'s investments with him, and with his fellow investor and advisor. Although the common interest privilege may be lost through malice or excessive publication, neither occurred here. Therefore,

IT IS ORDERED granting the Motion for Summary Judgment.

CV 2012-053572 – Motion for Summary Judgment filed April 15, 2014

The issues raised are identical to those raised in the Motion for Summary Judgment in CV 2012-053571. Therefore, for the reasons stated above,

IT IS ORDERED granting the Motion for Summary Judgment.

CV 2013-012882 – Motion for Summary Judgment filed April 15, 2014

Defendants¹ seek an order finding that they have no liability on Plaintiffs' claims for tortious interference with contract and negligent misrepresentation arising from Defendants' communications with First Interstate Bank.

In their Response, and again at oral argument, the Ball Plaintiffs concurred that their claim for negligent misrepresentation alleged in the Fifth Claim for Relief is not viable.

As to the remaining claims, the evidence is unambiguous that Mr. Begger, who had decision-making authority regarding the PJI-2 Loans from 2011 until May 15, 2013, made his

¹ Defendants Morrill & Aronson, P.L.C., Kenneth Layne Morrill and Elizabeth Morrill, joined in the Norton Defendants' Motion for Summary Judgment filed April 15, 2014.
Docket Code 926

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decisions regarding the loans uninfluenced by Mr. Morrill or any of the other Defendants. While Plaintiffs speculate that communications to others at the bank may have affected the loans and foreclosure decisions, no competent evidence supports that speculation. Instead, Mr. Begger has stated that any contacts Mr. Morrill or others made with Jonathan Scott “had no effect on the decisions made by the Bank concerning enforcement of the PJI-2 Loans or the Ball Loan.” (Declaration of Darrell Begger, at ¶ 4.)

Thus, no evidence supports the claim for tortious interference with contract. If the underlying tort claim fails, the secondary claims must necessarily fail as well.

For those reasons,

IT IS ORDERED granting the Motion for Summary Judgment.

Motion for Protective Order – CV 2011-014515

On July 24, 2014, Plaintiff filed a Motion for Protective Order and to Quash Notice of Deposition of Roger Stevenson in CV 2011-014515, to which Defendants responded, and Plaintiff replied. The Court has considered the Motion without oral argument.

Plaintiff asks the Court to issue a protective order and quash the notice of deposition of Roger L. Stevenson, who has already been deposed, and who has given over 10 hours of testimony in the related Arbitration proceedings. Defendants seek an additional deposition of Mr. Stevenson, lasting no more than 2 hours, arguing that because PJI-2 was not subject to the Arbitration Hearing, additional questions must be asked of Mr. Stevenson.

As set forth in Exhibit A to the Motion, the parties clearly agreed that “there will not be duplicate depositions of individual witnesses.” (Deposition Transcript of Kevin P. Ball, at 8.)

The Court finds that Defendants are bound by the agreement.

IT IS ORDERED granting the Motion for Protective Order and to Quash notice of Deposition of Roger Stevenson.

ATTACHMENT E – JPR INFORMATION



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Legal Ability	95%	n/a	n/a
Integrity	100%	100%	99%
Communication	97%	100%	100%
Temperament	100%	100%	100%
Admin Performance	98%	100%	100%
Settlement Activities	100%	n/a	n/a

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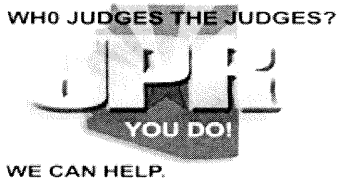
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Hon. Patricia Starr

2020 Attorney Survey Responses

Key: SU = Superior VG = Very Good SA = Satisfactory PO = Poor UN = Unsatisfactory

	SU		VG		SA		PO		UN		Mean	Total	No Resp
	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.			
1. Legal Ability													
1. Legal reasoning ability	6	55%	3	27%	1	9%	1	9%	0	0%	3.27	11	0
2. Knowledge of substantive law	6	55%	3	27%	1	9%	1	9%	0	0%	3.27	11	0
3. Knowledge of rules of evidence	6	67%	3	33%	0	0%	0	0%	0	0%	3.67	9	0
4. Knowledge of rules of procedure	7	58%	4	33%	1	8%	0	0%	0	0%	3.50	12	0
Category Total	25	58%	13	30%	3	7%	2	5%	0	0%	3.42	43	
2. Integrity													
5. Basic fairness and impartiality	7	64%	3	27%	1	9%	0	0%	0	0%	3.55	11	0
6. Equal treatment regardless of race	5	83%	1	17%	0	0%	0	0%	0	0%	3.83	6	0
7. Equal treatment regardless of gender	5	71%	2	29%	0	0%	0	0%	0	0%	3.71	7	0
8. Equal treatment regardless of religion	3	75%	1	25%	0	0%	0	0%	0	0%	3.75	4	0
9. Equal treatment regardless of national origin	3	75%	1	25%	0	0%	0	0%	0	0%	3.75	4	0
10. Equal treatment regardless of disability	3	75%	1	25%	0	0%	0	0%	0	0%	3.75	4	0
11. Equal treatment regardless of age	5	71%	2	29%	0	0%	0	0%	0	0%	3.71	7	0
12. Equal treatment regardless of sexual orientation	3	75%	1	25%	0	0%	0	0%	0	0%	3.75	4	0
13. Equal treatment regardless of economic status	5	83%	1	17%	0	0%	0	0%	0	0%	3.83	6	0
Category Total	39	74%	13	25%	1	2%	0	0%	0	0%	3.72	53	
3. Communication													
14. Clear and logical oral communications and directions	7	64%	2	18%	2	18%	0	0%	0	0%	3.45	11	0
15. Clear and logical written decisions	6	55%	4	36%	0	0%	1	9%	0	0%	3.36	11	0
16. Gave all parties an adequate opportunity to be heard	6	55%	5	45%	0	0%	0	0%	0	0%	3.55	11	0
Category Total	19	58%	11	33%	2	6%	1	3%	0	0%	3.45	33	
4. Temperament													
17. Understanding and compassion	5	50%	5	50%	0	0%	0	0%	0	0%	3.50	10	0
18. Dignified	7	64%	3	27%	1	9%	0	0%	0	0%	3.55	11	0
19. Courteous	7	64%	3	27%	1	9%	0	0%	0	0%	3.55	11	0
20. Conduct that promoted public confidence in the court and judge's ability	7	64%	3	27%	1	9%	0	0%	0	0%	3.55	11	0
21. Patient	6	55%	4	36%	1	9%	0	0%	0	0%	3.45	11	0

Category Total	32	59%	18	33%	4	7%	0	0%	0	0%	3.52	54	
5. Admin Performance													
22. Punctual in conducting proceedings	6	55%	5	45%	0	0%	0	0%	0	0%	3.55	11	0
23. Maintained proper control over courtroom	6	55%	5	45%	0	0%	0	0%	0	0%	3.55	11	0
24. Prompt in making rulings and rendering decisions	5	50%	5	50%	0	0%	0	0%	0	0%	3.50	10	0
25. Was prepared for the proceedings	7	70%	2	20%	0	0%	1	10%	0	0%	3.50	10	0
26. Efficient management of the calendar	7	64%	3	27%	1	9%	0	0%	0	0%	3.55	11	0
Category Total	31	58%	20	38%	1	2%	1	2%	0	0%	3.53	53	
6. Settlement Activities													
27. Appropriately promoted or conducted settlement	2	100%	0	0%	0	0%	0	0%	0	0%	4.00	2	0
Category Total	2	100%	0	0%	0	0%	0	0%	0	0%	4.00	2	

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WHO JUDGES THE JUDGES?



Arizona Commission on Judicial Performance Review

WE CAN HELP.

Hon. Patricia Starr

2020 Juror Survey Responses

Key: SU = Superior VG = Very Good SA = Satisfactory PO = Poor UN = Unsatisfactory

	SU		VG		SA		PO		UN		Mean	Total	No Resp
	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.			
1. Integrity													
1. Basic fairness and impartiality	14	93%	1	7%	0	0%	0	0%	0	0%	3.93	15	0
2. Equal treatment regardless of race	14	93%	1	7%	0	0%	0	0%	0	0%	3.93	15	0
3. Equal treatment regardless of gender	14	93%	1	7%	0	0%	0	0%	0	0%	3.93	15	0
4. Equal treatment regardless of religion	13	93%	1	7%	0	0%	0	0%	0	0%	3.93	14	0
5. Equal treatment regardless of national origin	13	93%	1	7%	0	0%	0	0%	0	0%	3.93	14	0
6. Equal treatment regardless of disability	14	93%	1	7%	0	0%	0	0%	0	0%	3.93	15	0
7. Equal treatment regardless of age	14	93%	1	7%	0	0%	0	0%	0	0%	3.93	15	0
8. Equal treatment regardless of sexual orientation	12	92%	1	8%	0	0%	0	0%	0	0%	3.92	13	0
9. Equal treatment regardless of economic status	14	93%	1	7%	0	0%	0	0%	0	0%	3.93	15	0
Category Total	122	93%	9	7%	0	0%	0	0%	0	0%	3.93	131	
2. Communication													
10. Explained proceedings to the jury	13	87%	2	13%	0	0%	0	0%	0	0%	3.87	15	0
11. Explained reasons for delays	13	93%	1	7%	0	0%	0	0%	0	0%	3.93	14	0
12. Clearly explained the juror's responsibilities	12	80%	1	7%	2	13%	0	0%	0	0%	3.67	15	0
Category Total	38	86%	4	9%	2	5%	0	0%	0	0%	3.82	44	
3. Temperament													
13. Understanding and Compassion	15	100%	0	0%	0	0%	0	0%	0	0%	4.00	15	0
14. Dignified	15	100%	0	0%	0	0%	0	0%	0	0%	4.00	15	0
15. Courteous	15	100%	0	0%	0	0%	0	0%	0	0%	4.00	15	0
16. Conduct that promotes public confidence in the court and judge's ability	15	100%	0	0%	0	0%	0	0%	0	0%	4.00	15	0
17. Patient	15	100%	0	0%	0	0%	0	0%	0	0%	4.00	15	0
Category Total	75	100%	0	0%	0	0%	0	0%	0	0%	4.00	75	
4. Admin Performance													
18. Punctuality in conducting proceedings	14	100%	0	0%	0	0%	0	0%	0	0%	4.00	14	0
19. Maintained proper control of courtroom	14	100%	0	0%	0	0%	0	0%	0	0%	4.00	14	0
20. Was prepared for the proceedings	14	100%	0	0%	0	0%	0	0%	0	0%	4.00	14	0
Category Total	42	100%	0	0%	0	0%	0	0%	0	0%	4.00	42	

WHO JUDGES THE JUDGES?



Arizona Commission on Judicial Performance Review

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Hon. Patricia Starr

2020 Litigant Witness Survey Responses

Key: SU = Superior VG = Very Good SA = Satisfactory PO = Poor UN = Unsatisfactory

	SU		VG		SA		PO		UN		Mean	Total	No Resp
	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.			
1. Integrity													
1. Basic fairness and impartiality	4	44%	4	44%	0	0%	1	11%	0	0%	3.22	9	0
2. Equal treatment regardless of race	3	38%	3	38%	2	25%	0	0%	0	0%	3.12	8	0
3. Equal treatment regardless of gender	3	38%	3	38%	2	25%	0	0%	0	0%	3.12	8	0
4. Equal treatment regardless of religion	3	38%	3	38%	2	25%	0	0%	0	0%	3.12	8	0
5. Equal treatment regardless of national origin	3	38%	3	38%	2	25%	0	0%	0	0%	3.12	8	0
6. Equal treatment regardless of disability	3	43%	3	43%	1	14%	0	0%	0	0%	3.29	7	0
7. Equal treatment regardless of age	3	38%	4	50%	1	13%	0	0%	0	0%	3.25	8	0
8. Equal treatment regardless of sexual orientation	3	38%	3	38%	2	25%	0	0%	0	0%	3.12	8	0
9. Equal treatment regardless of economic status	3	38%	4	50%	1	13%	0	0%	0	0%	3.25	8	0
Category Total	28	39%	30	42%	13	18%	1	1%	0	0%	3.18	72	
2. Communication													
10. Explained proceedings	5	56%	3	33%	1	11%	0	0%	0	0%	3.44	9	0
11. Explained reasons for delays	4	50%	3	38%	1	13%	0	0%	0	0%	3.38	8	0
Category Total	9	53%	6	35%	2	12%	0	0%	0	0%	3.41	17	
3. Temperament													
12. Understanding and compassion	3	38%	3	38%	2	25%	0	0%	0	0%	3.12	8	0
13. Dignified	4	44%	3	33%	2	22%	0	0%	0	0%	3.22	9	0
14. Courteous	4	44%	3	33%	2	22%	0	0%	0	0%	3.22	9	0
15. Conduct that promotes public confidence in the court	4	44%	4	44%	1	11%	0	0%	0	0%	3.33	9	0
16. Patient	4	44%	3	33%	2	22%	0	0%	0	0%	3.22	9	0
Category Total	19	43%	16	36%	9	20%	0	0%	0	0%	3.23	44	
4. Admin Performance													
17. Punctual in conducting proceedings	4	44%	3	33%	2	22%	0	0%	0	0%	3.22	9	0
18. Maintained proper control of courtroom	4	44%	4	44%	1	11%	0	0%	0	0%	3.33	9	0
19. Was prepared for the proceedings	5	56%	2	22%	2	22%	0	0%	0	0%	3.33	9	0
Category Total	13	48%	9	33%	5	19%	0	0%	0	0%	3.30	27	

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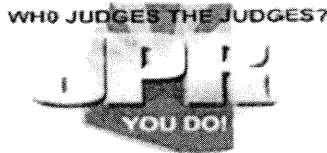
Hon. Patricia Starr

Maricopa County Superior Court
 Bench - Civil
 Appointed 2014

100% of the Commission Voted Judge Starr
MEETS Judicial Performance Standards
 32 Commissioners Voted 'Meets'
 0 Commissioners Voted 'Does Not Meet'

2016	Attorney Surveys	Juror Surveys	Litigant Witness Surveys
	Distributed: 199 Returned: 45 Score (See Footnote)	Distributed: 51 Returned: 11 Score (See Footnote)	Distributed: 49 Returned: 7 Score (See Footnote)
Legal Ability	93%	n/a	n/a
Integrity	98%	100%	100%
Communication	94%	100%	100%
Temperament	96%	100%	100%
Admin Performance	97%	100%	100%
Settlement Activities	100%	n/a	n/a

FOOTNOTE: The score is the percentage of all evaluators who rated the judge "satisfactory", "very good", or "superior" in each of the Commission's evaluation categories. Depending on the assignment, a judge may not have responses in certain categories, indicated by N/A (for example, some judicial assignments do not require jury trials). The JPR Commission votes "Yes" or "No" on whether a judge "MEETS" Judicial Performance Standards, based on the statistical information, as well as any other information submitted by the public or the judge. Further information on the judges and justices can be found at each court's website.



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Hon. Patricia Starr

2016 Attorney Survey Responses

Key: UN = Unsatisfactory PO = Poor SA = Satisfactory VG = Very Good SU = Superior

	UN		PO		SA		VG		SU		Mean	Total	No Resp
	Num	Pct	Num	Pct	Num	Pct	Num	Pct	Num	Pct			
1. Legal Ability													
1 Legal reasoning ability	1	2%	2	5%	3	7%	14	33%	22	52%	3.29	42	0
2 Knowledge of substantive law	1	3%	2	5%	4	10%	15	38%	17	44%	3.15	39	0
3 Knowledge of rules of evidence	0	0%	2	6%	4	13%	11	35%	14	45%	3.19	31	0
4 Knowledge of rules of procedure	1	3%	2	5%	2	5%	14	36%	20	51%	3.28	39	0
Category Total	3	2%	8	5%	13	9%	54	36%	73	48%	3.23	151	
2. Integrity													
5 Basic fairness and impartiality	2	5%	1	2%	3	7%	12	29%	24	57%	3.31	42	0
6 Equal treatment regardless of race	0	0%	0	0%	2	7%	8	30%	17	63%	3.56	27	0
7 Equal treatment regardless of gender	1	3%	0	0%	2	6%	8	26%	20	65%	3.48	31	0
8 Equal treatment regardless of religion	0	0%	0	0%	2	8%	8	32%	15	60%	3.52	25	0
9 Equal treatment regardless of national origin	0	0%	0	0%	2	8%	9	35%	15	58%	3.50	26	0
10 Equal treatment regardless of disability	0	0%	0	0%	2	8%	8	32%	15	60%	3.52	25	0
11 Equal treatment regardless of age	0	0%	0	0%	2	7%	9	30%	19	63%	3.57	30	0
12 Equal treatment regardless of sexual orientation	0	0%	0	0%	2	8%	8	33%	14	58%	3.50	24	0
13 Equal treatment regardless of economic status	0	0%	0	0%	2	8%	8	31%	16	62%	3.54	26	0
Category Total	3	1%	1	0%	19	7%	78	30%	155	61%	3.49	256	
3. Communication													
14 Clear and logical oral communications and directions	1	2%	1	2%	5	12%	11	26%	24	57%	3.33	42	0
15 Clear and logical written decisions	2	5%	1	3%	2	5%	12	32%	21	55%	3.29	38	0
16 Gave all parties an adequate opportunity to be heard	1	2%	1	2%	3	7%	11	26%	27	63%	3.44	43	0
Category Total	4	3%	3	2%	10	8%	34	28%	72	59%	3.36	123	
4. Temperament													
17 Understanding and compassion	2	5%	1	2%	2	5%	13	31%	24	57%	3.33	42	0
18 Dignified	0	0%	0	0%	5	12%	10	23%	28	65%	3.53	43	0
19 Courteous	0	0%	1	2%	4	10%	11	26%	26	62%	3.48	42	0
20 Conduct that promoted public confidence in the court and judge's ability	2	5%	1	2%	2	5%	12	28%	26	60%	3.37	43	0
21 Patient	0	0%	1	2%	4	9%	10	23%	28	65%	3.51	43	0

Category Total	4	2%	4	2%	17	8%	56	26%	132	62%	3.45	213	
5. Admin Performance													
22 Punctual in conducting proceedings	0	0%	0	0%	6	14%	11	26%	26	60%	3.47	43	0
23 Maintained proper control over courtroom	1	2%	0	0%	4	10%	12	29%	24	59%	3.41	41	0
24 Prompt in making rulings and rendering decisions	0	0%	2	5%	3	7%	12	29%	25	60%	3.43	42	0
25 Was prepared for the proceedings	0	0%	1	2%	4	10%	10	24%	26	63%	3.49	41	0
26 Efficient management of the calendar	0	0%	3	7%	2	5%	11	26%	26	62%	3.43	42	0
Category Total	1	0%	6	3%	19	9%	56	27%	127	61%	3.44	209	
6. Settlement Activities													
27 Appropriately promoted or conducted settlement	0	0%	0	0%	2	13%	7	44%	7	44%	3.31	16	0
Category Total	0	0%	0	0%	2	12%	7	44%	7	44%	3.31	16	



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Hon. Patricia Starr

2016 Juror Survey Responses

Key: UN = Unsatisfactory PO = Poor SA = Satisfactory VG = Very Good SU = Superior

	UN		PO		SA		VG		SU		Mean	Total	No Resp
	Num	Pct	Num	Pct	Num	Pct	Num	Pct	Num	Pct			
1. Integrity													
1 Basic fairness and impartiality	0	0%	0	0%	1	9%	0	0%	10	91%	3.82	11	0
2 Equal treatment regardless of race	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
3 Equal treatment regardless of gender	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
4 Equal treatment regardless of religion	0	0%	0	0%	0	0%	0	0%	9	100%	4.00	9	0
5 Equal treatment regardless of national origin	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
6 Equal treatment regardless of disability	0	0%	0	0%	0	0%	0	0%	10	100%	4.00	10	0
7 Equal treatment regardless of age	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
8 Equal treatment regardless of sexual orientation	0	0%	0	0%	0	0%	0	0%	8	100%	4.00	8	0
9 Equal treatment regardless of economic status	0	0%	0	0%	0	0%	0	0%	10	100%	4.00	10	0
Category Total	0	0%	0	0%	1	1%	0	0%	91	99%	3.98	92	
2. Communication													
10 Explained proceedings to the jury	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
11 Explained reasons for delays	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
12 Clearly explained the juror's responsibilities	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
Category Total	0	0%	0	0%	0	0%	0	0%	33	100%	4.00	33	
3. Temperament													
13 Understanding and Compassion	0	0%	0	0%	0	0%	0	0%	10	100%	4.00	10	0
14 Dignified	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
15 Courteous	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
16 Conduct that promotes public confidence in the court and judge's ability	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
17 Patient	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
Category Total	0	0%	0	0%	0	0%	0	0%	54	100%	4.00	54	
4. Admin Performance													
18 Punctuality in conducting proceedings	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
19 Maintained proper control of courtroom	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
20 Was prepared for the proceedings	0	0%	0	0%	0	0%	0	0%	11	100%	4.00	11	0
Category Total	0	0%	0	0%	0	0%	0	0%	33	100%	4.00	33	

WHO JUDGES THE JUDGES?



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Key UN = Unsatisfactory PO = Poor SA = Satisfactory VG = Very Good SU = Superior

	UN		PO		SA		VG		SU		Mean	Total	No Resp
	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.	Num.	Pct.			
1. Integrity													
1 Basic fairness and impartiality	0	0%	0	0%	0	0%	1	14%	6	86%	3.86	7	0
2 Equal treatment regardless of race	0	0%	0	0%	0	0%	1	14%	6	86%	3.86	7	0
3 Equal treatment regardless of gender	0	0%	0	0%	0	0%	0	0%	7	100%	4.00	7	0
4 Equal treatment regardless of religion	0	0%	0	0%	0	0%	1	25%	3	75%	3.75	4	0
5 Equal treatment regardless of national origin	0	0%	0	0%	0	0%	2	33%	4	67%	3.67	6	0
6 Equal treatment regardless of disability	0	0%	0	0%	0	0%	1	17%	5	83%	3.83	6	0
7 Equal treatment regardless of age	0	0%	0	0%	0	0%	0	0%	7	100%	4.00	7	0
8 Equal treatment regardless of sexual orientation	0	0%	0	0%	0	0%	1	17%	5	83%	3.83	6	0
9 Equal treatment regardless of economic status	0	0%	0	0%	0	0%	2	33%	4	67%	3.67	6	0
Category Total	0	0%	0	0%	0	0%	9	16%	47	84%	3.84	56	
2. Communication													
10 Explained proceedings	0	0%	0	0%	0	0%	2	29%	5	71%	3.71	7	0
11 Explained reasons for delays	0	0%	0	0%	0	0%	2	33%	4	67%	3.67	6	0
Category Total	0	0%	0	0%	0	0%	4	31%	9	69%	3.69	13	
3. Temperament													
12 Understanding and compassion	0	0%	0	0%	1	17%	1	17%	4	67%	3.50	6	0
13 Dignified	0	0%	0	0%	0	0%	2	29%	5	71%	3.71	7	0
14 Courteous	0	0%	0	0%	0	0%	2	29%	5	71%	3.71	7	0
15 Conduct that promotes public confidence in the court	0	0%	0	0%	0	0%	1	14%	6	86%	3.86	7	0
16 Patient	0	0%	0	0%	0	0%	3	43%	4	57%	3.57	7	0
Category Total	0	0%	0	0%	1	3%	9	26%	24	71%	3.68	34	
4. Admin Performance													
17 Punctual in conducting proceedings	0	0%	0	0%	0	0%	3	43%	4	57%	3.57	7	0
18 Maintained proper control of courtroom	0	0%	0	0%	0	0%	2	29%	5	71%	3.71	7	0
19 Was prepared for the proceedings	0	0%	0	0%	0	0%	2	29%	5	71%	3.71	7	0
Category Total	0	0%	0	0%	0	0%	7	33%	14	67%	3.67	21	

Commissioner:	Starr, Patricia
Appointment Date:	July, 2011
Assignment:	Criminal

Results of	<u>84</u>	surveys received from Litigants and Witnesses	Superior/Very Good/ Satisfactory
<u>Litigant/Witness Survey Questions</u>			
Section I: Integrity			
<i>Basic fairness and impartiality</i>			100%
<i>Equal treatment regardless of race</i>			100%
<i>Equal treatment regardless of gender</i>			98%
<i>Equal treatment regardless of religion</i>			97%
<i>Equal treatment regardless of national origin</i>			98%
<i>Equal treatment regardless of disability</i>			96%
<i>Equal treatment regardless of age</i>			98%
<i>Equal treatment regardless of sexual orientation</i>			100%
<i>Equal treatment regardless of economic status</i>			97%
Section II: Communication Skills			
<i>Explained Proceedings</i>			97%
<i>Explained reasons for delays</i>			95%
<i>If a Juror, clearly explained juror's responsibility</i>			98%
Section III: Judicial Temperament			
<i>Understanding and compassion</i>			98%
<i>Dignified</i>			96%
<i>Courteous</i>			97%
<i>Conduct that promotes public confidence in the court and commissioner's ability</i>			98%
<i>Patient</i>			98%
Section IV: Administrative Performance			
<i>Punctual in conducting proceedings</i>			98%
<i>Maintained proper control in courtroom</i>			100%
<i>Was prepared for the proceedings</i>			97%

Results of	<u>6</u>	surveys received from Jurors	Superior/Very Good/ Satisfactory
<u>Juror Survey Questions</u>			
Section I: Integrity			
<i>Basic fairness and impartiality</i>			100%
<i>Equal treatment regardless of race</i>			100%
<i>Equal treatment regardless of gender</i>			100%
<i>Equal treatment regardless of religion</i>			100%
<i>Equal treatment regardless of national origin</i>			100%
<i>Equal treatment regardless of disability</i>			100%
<i>Equal treatment regardless of age</i>			100%
<i>Equal treatment regardless of sexual orientation</i>			100%
<i>Equal treatment regardless of economic status</i>			100%
Section II: Communication Skills			
<i>Explained Proceedings</i>			100%
<i>Explained reasons for delays</i>			100%
<i>If a Juror, clearly explained juror's responsibility</i>			100%
Section III: Judicial Temperament			
<i>Understanding and compassion</i>			100%
<i>Dignified</i>			100%
<i>Courteous</i>			100%
<i>Conduct that promotes public confidence in the court and commissioner's ability</i>			100%
<i>Patient</i>			100%
Section IV: Administrative Performance			
<i>Punctual in conducting proceedings</i>			100%
<i>Maintained proper control in courtroom</i>			100%
<i>Was prepared for the proceedings.</i>			100%

Commissioner:	<i>Starr, Patricia</i>
Appointment Date:	<i>July, 2011</i>
Assignment:	<i>Criminal</i>

Results of 10 surveys received from Attorneys

<u>Attorney Survey Questions</u>	<u>Superior/Very Good/ Satisfactory</u>
Section I: Legal Ability	
<i>Legal reasoning ability</i>	100% *
<i>Knowledge of substantive law</i>	100% *
<i>Knowledge of rules of evidence</i>	100% *
<i>Knowledge of rules of procedure</i>	100% *
Section II: Integrity	
<i>Basic fairness and impartiality</i>	100%
<i>Equal treatment regardless of race</i>	100%
<i>Equal treatment regardless of gender</i>	100%
<i>Equal treatment regardless of religion</i>	100%
<i>Equal treatment regardless of national origin</i>	100%
<i>Equal treatment regardless of disability</i>	100%
<i>Equal treatment regardless of age</i>	100%
<i>Equal treatment regardless of sexual orientation</i>	100%
<i>Equal treatment regardless of economic status</i>	100%
Section III: Communication Skills	
<i>Clear and logical oral communications and directions</i>	100% *
<i>Clear and logical written decisions</i>	100% *
<i>Gave all parties an adequate opportunity to be heard</i>	100% *
Section IV: Judicial Temperament	
<i>Understanding and compassion</i>	100%
<i>Dignified</i>	100%
<i>Courteous</i>	100%
<i>Conduct that promotes public confidence in the court and commissioner's ability</i>	100%
<i>Patient</i>	100%
Section V: Administrative Performance	
<i>Punctual in conducting proceedings</i>	100%
<i>Maintained proper control in courtroom</i>	100%
<i>Prompt in making rulings and rendering decisions</i>	100% *
<i>Was prepared for the proceedings</i>	100%
<i>Efficient management of calendar</i>	100% *
Section VI: Settlement Activities	
<i>Appropriately conducted or promoted settlement</i>	100% *

*: Percentage based on 6 responses to supplemental survey.