

## APPLICATION FOR NOMINATION TO JUDICIAL OFFICE

This original application, 5 double-sided copies and one (1) single-sided copy must be filed with the Human Resources Department, Administrative Office of the Courts, 1501 W. Washington, Suite 221, Phoenix, AZ, 85007, not later than 3:00 p.m. on Monday, November 21, 2016. Read the application instructions thoroughly before completing this application form. The fact that you have applied is not confidential, responses to Section I of this application are made available to the public, and the information provided may be verified by Commission members. The names of applicants, interviewees and nominees are made public, and Commission files pertaining to nominees are provided to the Governor for review. This entire application, including the confidential portion (Section II), is forwarded to the Governor upon nomination by the Commission.

### SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 71)

#### PERSONAL INFORMATION

1. Full Name: **Scott Sebastian Minder**
2. Have you ever used or been known by any other legal name? **No**  
If so, state name:
3. Office Address: **Scott Minder  
c/o Perkins Coie LLP  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012**
4. When have you been a resident of Arizona? **1997-1998, 2004-present**

5. What is your county of residence and how long have you resided there?

**Maricopa; since 2004**

6. Age: **42**

(The Arizona Constitution, Article VI, §§ 22 and 37, requires that judicial nominees be 30 years of age or older before taking office and younger than age 65 at the time the nomination is sent to the Governor.)

7. List your present and former political party registrations and approximate dates of each:

**Republican (1992-present)**

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

8. Gender: **Male**

Race/Ethnicity:      White  
                           Hispanic or Latino (of any race)  
                           Black or African American  
                           American Indian or Alaska Native  
                           Asian  
                           Native Hawaiian/Pacific Islander  
                           Other: \_\_\_\_\_

(The Arizona Constitution, Article VI, §§ 36 and 41, requires the Commission to consider the diversity of the state's or county's population in making its nominations. However, the primary consideration shall be merit.)

## EDUCATIONAL BACKGROUND

9. List names and locations of schools attended (college, advanced degrees and law), dates attended and degrees.

**University of Michigan Law School, Ann Arbor, Michigan (2001-2004)  
Juris Doctor**

**University of Michigan, Ann Arbor, Michigan (1992-1996)  
Bachelor of Science in Engineering (Computer Engineering)**

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

**University of Michigan Law School**

**Field of Study: Law**

**Activities: Intellectual Property Students Association,  
University of Michigan Fencing Club Team,  
Intramural soccer**

**University of Michigan**

**Field of Study: Computer Engineering**

**Activities: Institute of Electrical and Electronics Engineers,  
Society of Women Engineers,  
Student government campaign (1995),  
Intramural soccer**

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

**University of Michigan Law School:**

**Graduated *magna cum laude***

**Order of the Coif**

**Selected by the school as a tutor for Torts and Contracts students**

**Internships: Brown & Bain (Phoenix, Arizona),  
Cravath, Swaine & Moore (New York, New York)**

**University of Michigan College of Engineering:**

**Internships: Intel Corp. (Chandler, Arizona), Environmental  
Research Institute of Michigan (a government  
defense contractor) (Ann Arbor, Michigan)**

**Other Employment: Computer lab monitor, library assistant**

<b>PROFESSIONAL BACKGROUND AND EXPERIENCE</b>
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12. List all courts in which you have been admitted to the practice of law with dates of admission. Give the same information for administrative bodies, which require special admission to practice.

<b>Arizona Supreme Court</b>	<b>Nov. 24, 2004</b>
<b>U.S. District Court, District of Arizona</b>	<b>Dec., 13 2004</b>
<b>U.S. Court of Appeals, Ninth Circuit</b>	<b>Aug. 19, 2009</b>
<b>U.S. Court of Appeals, District of Columbia Circuit</b>	<b>Mar. 21, 2008</b>
<b>U.S. Dept. of Justice, Board of Immigration Appeals</b>	<b>Apr. 7, 2015</b>

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 take a bar examination more than once in order to be admitted to the bar of any state? **No** If so, explain.

14. Indicate your employment history since completing your formal education. List your current position first. If you have not been employed continuously since completing your formal education, 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
<b>Perkins Coie (formerly Perkins Coie Brown &amp; Bain)</b>	<b>Sept. 2004 - Present</b>	<b>Phoenix, Arizona</b>
<b>Maricopa County Superior Court (Judge <i>Pro Tempore</i>)</b>	<b>July 2010 - Present</b>	<b>Phoenix, Arizona</b>

**In addition, since completing undergraduate studies:**

EMPLOYER	DATES	LOCATION
<b>Cravath, Swaine &amp; Moore</b>	<b>May 2003 - July 2003</b>	<b>New York, New York</b>
<b>Brown &amp; Bain</b>	<b>July 2003 - Aug. 2003</b>	<b>Phoenix, Arizona</b>
<b>University of Michigan</b>	<b>May 2002 - Sept. 2002</b>	
<b>X-Rite Corp./Coherix Corp.</b>	<b>Sept. 2002 - May 2003</b>	<b>Ann Arbor, Michigan</b>
<b>Intel Corp.</b>	<b>Mar. 2000 - Aug. 2001</b>	<b>Grandville, Michigan</b>
	<b>Jan. 1997 - Mar. 2000</b>	<b>Chandler, Arizona &amp; Folsom, California</b>

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

**See Attachment A.**

16. Describe the nature of your present law practice, listing the major areas of law in which you practice and the percentage each constitutes of your total practice.

**My practice relates almost entirely to complex, commercial litigation, although I do assist in internal investigations and compliance activities for corporate clients, as well as litigation risk assessment and counseling.**

**Over the past few years, the substantive areas generally break down as:**

- **Antitrust and unfair competition (including class action): 35%**
- **Contract and business torts: 20%**
- **Intellectual property: 10%**
- **Construction: 15%**
- **Other general commercial litigation: 15%**
- **Pro bono (civil rights, immigration): 5%**

**One unique aspect to my practice is the percentage of significant, complex, time-intensive matters, usually involving multiple parties and numerous claims and cross-claims. These cases often span many years and occupy the majority of my time for their duration. Despite limiting the total number of cases on which I have worked, this practice gives me substantial exposure to important and often complicated aspects of discovery, including the ever-changing and increasingly important world of electronic discovery.**

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

**I have experience with securities litigation, constitutional law, employment law, cybersecurity, and products liability.**

18. Identify all areas of specialization for which you have applied or been granted certification by the State Bar of Arizona. **None**

19. Describe your typical clients.

**My clients are generally corporations, typically large companies, often in a technology field, but I also represent smaller companies with a handful or a dozen employees. In addition, I provide pro bono services to immigrants seeking asylum and to prisoners who require special assistance. About two-thirds of my work falls on the defense side, and one-third for plaintiffs.**

20. Have you served regularly in a fiduciary capacity other than as a lawyer representing clients? **No** If so, give details.
21. Describe your experience as it relates to negotiating and drafting important legal documents, statutes and/or rules.

**As part of my litigation practice, I have drafted numerous pleadings, motions (including emergency motions), settlement agreements, and other documents. I have also assisted in drafting intellectual property licenses.**

**As a Judge Pro Tem, I regularly draft settlement memoranda after successful civil settlement conferences.**

**I have also recently participated in a workgroup reporting to the recently-formed Civil Justice Reform Committee. The workgroup drafted proposed changes for various civil rules to increase efficiency and reduce costs for litigants. My focus was on potential changes to the discovery rules for electronic discovery.**

22. 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. **Not applicable**
- b. The approximate number of these matters in which you appeared as:

Sole Counsel/Chief Counsel/Associate Counsel: **Not applicable**

23. 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: **4**

Chief Counsel: **0**

Associate Counsel: **5**

24. List not more than three contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, addresses (street and e-mail) 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. You may reveal nonpublic, personal, identifying information relating to client or litigant names or similar information in the confidential portion of this application.

(1) The mediation occurred on December 3, 2014, but subsequent negotiations extended through January 28, 2015.

(2) Scott S. Minder, attorney for plaintiff  
Perkins Coie, LLP

Lucy M. Rand, attorney for defendant Ryan and the Arizona  
Department of Corrections  
Office of the Arizona Attorney General  
Department of Corrections Unit  
Liability Management Section  
1275 West Washington Street  
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602-542-7683  
Lucy.Rand@azag.gov

J. Scott Conlon, attorney for physician defendants and Corizon, LLC  
Renaud, Cook, Drury, Mesaros, PA  
1 North Central Avenue #900  
Phoenix, Arizona 85004  
602-307-9900  
sconlon@rcdmlaw.com

(3) Plaintiff, a prisoner in the state correctional system, filed a pro se complaint to receive treatment for various chronic illnesses and injuries that limited his ability to walk and perform daily tasks.

(4) I handled this case as part of the United States District Court's Prisoner Mediation Program and represented the plaintiff until the case was dismissed. Not surprisingly, prisoners possess limited leverage for any meaningful settlement, so the negotiations required careful steps to ensure that the client received real help from the prison health system. This negotiation also lasted much longer than anticipated—a number of weeks—in order to ensure that the prisoner's health issues would be sufficiently and reasonably addressed. The case, which was one of the first of a pilot mediation program, was personally significant in that it allowed me to simultaneously help someone in need of medical assistance and also to ease some of the burden on the court system from an increase in prisoner complaints. These mediations also lessen demand on the State's attorneys to litigate the complaints.

(1) My client's involvement in the lawsuit ran from roughly November 2006 through March 2008. We mediated on February 29, 2008 and settled shortly thereafter.

(2) Samuel A. Thumma  
C. Mark Kittredge  
Scott S. Minder, attorneys for third-party defendant Panasonic Corporation of North America  
Perkins Coie LLP  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012  
602-351-8000  
mkittredge@perkinscoie.com

*The Honorable Samuel A. Thumma is now on the Arizona Court of Appeals, Division One  
1501 West Washington  
Phoenix, Arizona 85007  
602-542-3492  
sthumma@appeals.az.gov*

Danielle Viola  
Daniel Steimel, attorneys for Cold Stone Creamery  
Snell & Wilmer L.L.P.

*The Honorable Danielle Viola is now a judge for the Maricopa County Superior Court  
175 West Madison Street  
Phoenix, Arizona 85003  
602-506-3204*

*Mr. Steimel is now at Grand Canyon University  
3300 West Camelback Road  
Phoenix, Arizona 85017  
602-639-7553  
Dan.steimel@gcu.edu*

Maria Salapska (now deceased), attorney for plaintiff

(3) The dispute centered around the sale of cash registers to Cold Stone stores. My client, Panasonic, manufactured the registers while the defendant sold and installed them. The claims involved multiple alleged contract breaches, tortious interference with business opportunities, unjust enrichment, and unfair business practices.

- (4) The case was significant because it involved multiple parties and numerous cross claims, each of which had to be balanced to find an appropriate resolution. My client also worked closely with each of the other disputing parties, which required additional considerations to balance business interests. This case was personally significant as the first time that I was able to lead a negotiation.

*Wang v. Lynch*

United States Court of Appeal for the Ninth Circuit, Case No. 13-73404

- (1) My involvement ran from August 2014 through March 2015.
- (2) Scott S. Minder, attorney for petitioner  
Perkins Coie LLP
- Todd J. Cochran, attorney for respondent  
Department of Justice Civil Division  
Office of Immigration Litigation  
Ben Franklin Station  
P.O. Box 878  
Washington, D.C. 20044  
202-616-9340  
todd.cochran@usdoj.gov
- (3) My client fled China to avoid further incarceration from her protests over impure medications sold by the government-run pharmacy at which she worked. I received her case through the Ninth Circuit Pro Bono Mediation Program after she had been denied asylum. In the years that passed since her hearing, and while she worked here, awaiting removal to China, she met and married a United States citizen. She had appealed her asylum ruling but she had a stronger chance to stay in the country based on her marriage.
- (4) The case is significant because the terms of the settlement required me to petition the Chief Counsel of Immigration and Customs Enforcement in Los Angeles for a joint motion to reopen and dismiss her current removal order so that she could apply for a permanent resident card and remain with her husband. Convincing the government to join that kind of motion is unusual and often a difficult process, but we were successful immediately with ample evidence of their relationship, their financial (and tax) responsibility, and her community involvement. In addition, the Ninth Circuit's program allowed me the opportunity to help reduce the burden on the court and on the Department of Justice litigators, while also ensuring that a United States citizen can live happily with his wife.

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

The approximate number of cases in which you appeared before:

Federal Courts: **23**

State Courts of Record: **3\***

Municipal/Justice Courts: **None**

**\* Because my clients tend to have multiple facilities around the country, and because my firm has offices in many other states, I have also litigated in roughly another dozen matters in state courts outside of Arizona.**

**In addition, as described above, a large percentage of my matters tend to be complex cases that last for many months or even years and consume the majority of my work for those periods. As a result, the number of cases does not accurately reflect my level of experience.**

The approximate percentage of those cases which have been:

Civil: **100%**

Criminal: **0%**

The approximate number of those cases in which you were:

Sole Counsel: **4**

Chief Counsel: **1**

Associate Counsel: **35**

The approximate percentage of those cases in which:

You conducted extensive discovery<sup>1</sup>: **55%**

You wrote and filed a motion for summary judgment: **20%**

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<sup>1</sup>Extensive discovery is defined as discovery beyond standard interrogatories and depositions of the opposing party.

You wrote and filed a motion to dismiss:	<b>10%</b>
You argued a wholly or partially dispositive pre-trial, trial or post-trial motion (e.g., motion for summary judgment, motion for a directed verdict, motion for judgment notwithstanding the verdict):	<b>5%</b>
You made a contested court appearance (other than as set forth in above response)	<b>10%</b>
You negotiated a settlement:	<b>30%</b>
The court rendered judgment after trial:	<b>3%</b>
A jury rendered verdict:	<b>0%</b>
Disposition occurred prior to any verdict:	<b>97%</b>

The approximate number of cases you have taken to trial: Court **0**\*

**\* Although I did not personally stand in the trial, one of my cases in California was tried to the court.**

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible. Jury **0**

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

The approximate number of your appeals which have been:

Civil: **2**

Criminal: **0**

The approximate number of matters in which you appeared:

As counsel of record on the brief: AZ **0** U.S. **2**

Personally in oral argument: AZ **0** U.S. **1**

27. Have you served as a judicial law clerk or staff attorney to a court? **No** If so, state the name of the court and dates of service, and describe your experience.

28. List not more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts. 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 presiding judge or officer before whom the case was heard; (3) the names, addresses (street and e-mail) 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. You may reveal nonpublic, personal, identifying information relating to client or litigant names or similar information in the confidential portion of this application.

***Lowe's HIW, Inc. v. Thomas James Civil Design Group Inc., et al.***  
***Case No. CV-09-02481-PHX-SMM***

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- (1) **November 2009 - June 2013**
- (2) **United States District Court for the District of Arizona,  
The Honorable Stephen M. McNamee**
- (3) **Jodi K. Feuerhelm  
John W. Rogers  
Scott S. Minder  
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Kirk H. Hays  
Suzette S. Doody, attorneys for defendant Mortimer, Inc.  
Holm Wright Hyde & Hays PLC  
*Mr. Hays is now at Koeller Nebeker Carlson & Haluck, LLP  
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*Ms. Doody is now at Tiffany & Bosco, P.A.  
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The Doyle Firm PC  
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*Mr. Jue is now at the Maricopa County Attorney's Office  
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*Ms. Skeel is no longer at Lewis Brisbois Bisgaard & Smith and I am unable to find current contact information for her.*

P. Douglas Folk, attorney for Daedalus Design Group  
Folk & Associates, P.C.

*Mr. Folk is now at Clark Hill PLC  
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- (4) My client, Lowe's, operates large hardware and home improvement stores across the country. The design for its Prescott, Arizona store site required a large retaining wall that spanned hundreds of feet and rose over sixty feet tall. Immediately following its construction, and just days after the store's grand opening, portions of the retaining wall failed and fell to the ground. The failures continued over the next year until the wall had to be replaced with a man-made slope that exists today. Lowe's filed suit against roughly a dozen parties including the various wall or utility designers, engineers, and contractors. The ultimate damages caused by the wall's failure well exceeded \$20 million.
- (5) This case was significant because of its sheer complexity and the time required to resolve the dispute. Nearly every party had complicated defenses and cross-claims against other defendants or counter-claims against Lowe's. We required three separate mediators, including two nationally-recognized mediators, and five mediation sessions, over the course of two-and-a-half years, well over 50 fact witness and 20 expert depositions, many of which lasted multiple days. The parties produced millions of pages of documents

in discovery, had multiple discovery disputes, and even a venue dispute. The dozens of experts included those versed in damages, law, and engineering. The case was also the subject of numerous Prescott news articles and received substantial attention from the City.

***In re Intel Laptop Battery Litigation, Case No. C 09-02889 JW***

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- (1) July 2009 - April 2011
- (2) United States District Court for the Northern District of California,  
The Honorable James Ware
- (3) Joseph E. Mais  
Anthony L. Marks  
Timothy J. Franks  
Dan L. Bagatell  
Scott S. Minder, attorneys for Intel Corporation  
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**415-772-4700**  
**lfong@kaplanfox.com**

- (4) My client, Intel, was sued by a number of individuals in separate courts claiming that their laptop batteries did not last as long as advertised in violation of unfair competition laws. A laptop's battery life depends on the type and condition of the battery and the type of work done by the laptop. The individual lawsuits were consolidated into one. After extensive discovery and a class certification motion, the District Court ultimately dismissed the complaint on standing grounds because the plaintiffs could not meet the requirements for the injunction they sought against Intel.**
- (5) This case was significant to me again because of its complexity. It involved significant discovery efforts and coordination with many large, hi-tech third parties that participated in the process to create the battery life measurement test procedures. It also involved class action certification issues and constitutional standing issues, which do not often arise in everyday litigation. Like the Lowe's matter, this case also involved a wide range of experts and a large number of depositions. The result was also significant in avoiding a nationwide class action involving millions of purchasers.**

(1) March 2007 - March 2008 (the case settled after a bankruptcy stay)

(2) United States District Court for the District of Arizona,  
The Honorable Roslyn O. Silver

(3) Charles A. Blanchard,  
Scott S. Minder, attorneys for defendant  
Perkins Coie LLP  
*Mr. Blanchard is now at Arnold & Porter, LLP*  
*555 Twelfth Street, NW*  
*Washington, District of Columbia 20004*  
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Brian A. Cagianca  
Brian D. Kaiser, attorneys for plaintiff  
Squire Sanders, L.L.P. now *Squire Patton Boggs*  
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602-528-4160  
brian.cagianca@squirepb.com  
*Mr. Kaiser is now a Commissioner for the*  
*Maricopa County Superior Court*  
*Southeast Facility 2B/202*  
*1810 South Lewis*  
*Mesa, Arizona 85210*  
*602-506-0616*

(4) My client, Boston Laser, was sued for breach of contract for allegedly supplying defective lasers to plaintiff. Boston Laser counter-sued for trade secret misappropriation and breach of contract. Each party deposed a number of witnesses and experts, later filing dueling motions for summary judgment. The case ultimately settled after a bankruptcy stay.

(5) This case was significant because it not only provided valuable experience with discovery and motion practice, but also provided lessons in working with difficult parties. My client hired us after the prior two firms, both highly respected large firms in Phoenix, withdrew from the case. I learned the importance of listening and temperament throughout this litigation.

- (1) August 2009 - February 2013
- (2) United States Court of Appeals for the Ninth Circuit,  
The Honorable Alfred T. Goodwin, Michael D. Hawkins, and Kim M. Wardlaw
- (3) Scott S. Minder  
Lee Stein, attorneys for petitioner, Mr. Rawat  
Perkins Coie LLP  
*Mr. Stein is now at Mitchell, Stein, Carey PC*  
*2 North Central Avenue, Suite 1900*  
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Eric W. Marsteller, attorney for respondent, Eric Holder, United States Attorney General  
United States Department of Justice  
Civil Division/Office of Immigration Litigation  
P.O. Box 878, Benjamin Franklin Station  
Washington, District of Columbia 20044  
202-305-0186

- (4) This matter was an appeal of my client's denied asylum request. Before my involvement, my client sought asylum after escaping India because of threats and physical violence he endured after he married an American Christian woman. His community's rigid caste system did not permit his marriage, so he fled to the United States. He appealed his asylum claim to the Ninth Circuit, where I was appointed as pro bono counsel. Our arguments centered on the legal grounds and adequacy of the factual findings and assumptions made by the trial court.
- (5) This case was significant for me because of the opportunity to fully brief and argue to the Ninth Circuit at the Court's specific request. Although the petition for review was ultimately denied by the court, the experience was invaluable and the judges praised the work and effort. The case was also significant because of the complicated nature of immigration law. The statutes are scattered in different sections of various federal codes and policies, and judicial decisions often contradict the current statutes or precedents. Wading through those materials was an important learning experience.

- (1) December 2007 - July 2009
- (2) Superior Court of the State of Arizona, Maricopa County,  
The Honorable Bethany Hicks
- (3) C. Mark Kittredge  
Scott S. Minder  
Craig A. Morgan, attorneys for defendant, Emissions Technology  
Perkins Coie LLP  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012  
602-351-8290  
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*Mr. Morgan is now at Sherman & Howard LLC  
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Kevin L. Jensen, attorney for plaintiff  
The Law Offices of Kevin L. Jensen, PLC  
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kevin@jensenlawaz.com

Craighton Boates  
Joseph P. McGurk, attorneys for individual defendants (each officers  
or former employees of Emissions Technology, Inc.)  
*Mr. Boates is now at Boates Law Firm PLLC  
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Anthem, Arizona 85086  
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craig@anthemlaw.com  
Mr. McGurk is now at The McGurk Law Firm, PLLC  
40 North Central Avenue, Suite 1400  
Phoenix, Arizona 85004  
jmcgurk@themcgurklawfirm.com  
602-283-1039*

- (4) My client, Emissions Technology, was sued by its former president  
for breach of contract, unpaid wages, and defamation. ETI then  
countersued for breach of fiduciary duty.

**(5) This matter was significant because it required action on an almost emergency basis when we became involved in the matter after taking over for prior counsel. We immediately faced critical discovery deadlines and a short timeline to mount a successful defense. The short time to attend to discovery caused some friction between the parties and its resolution required extra motion practice. That experience helped shape my views on discovery disputes that the benefit of cooperation and open communication.**

29. 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.).

**I am an appointed Judge *Pro Tempore* for the Maricopa County Superior Court and have served since July 2010 on about 25 matters. Each matter involves pending civil litigation, and I am typically tasked with conducting a settlement conference and, if necessary, providing additional or ongoing settlement facilitation. My cases run the gamut from personal injury and property disputes, to employment conflicts, construction defects, contract breaches, and other business torts.**

**In my capacity as Judge *Pro Tempore*, I also presided over a Civil Short Trial, which was tried to a jury on October 20, 2015.**

30. List not 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, addresses (street and e-mail) 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. You may reveal nonpublic, personal, identifying information relating to client or litigant names or similar information in the confidential portion of this application.

**Brooke v. Herchert, et al., Case No. CV2013-016003**

- (1) I was assigned to this matter as a Judge *Pro Tempore* to preside over a Civil Short Trial. That trial occurred on October 20, 2015.
- (2) Maricopa County Superior Court
- (3) William J. Wolf, attorney for plaintiff  
1121 East Missouri, Suite 117  
Phoenix, Arizona  
602-279-1914  
Wolflaw18@aol.com  
  
Edward P. Wallace, attorney for defendant  
Edub8282@yahoo.com  
Mr. Wallace now resides in Portland, Oregon. No mailing address is available.
- (4) The plaintiff sought damages for physical injuries and disability following an automobile accident.
- (5) This was my first opportunity to preside over a jury trial. Beyond the trial, I also handled pre-trial issues related to evidence and voir dire.

**Wylie v. Imex Global Solutions LLC, Case No. CV2014-050292**

- (1) I was assigned to this matter as a Judge *Pro Tempore* to conduct a settlement conference. That conference occurred on February 12, 2015, but subsequent discussions continued through March 6, 2015.
- (2) The case was assigned to the Honorable Thomas LeClaire in Maricopa County Superior Court.
- (3) Marshall A. Martin, attorney for plaintiff  
Law Office of Marshall A. Martin  
8585 East Hartford Drive, Suite 800  
Scottsdale, Arizona 85255  
480-444-9980  
marshall@marshallmartinlaw.com  
  
Jeffrey W. Toppel, attorney for defendant  
Jackson Lewis PC  
2398 East Camelback Road, Suite 1060  
Phoenix, Arizona 85016  
602-714-7044  
ToppelJ@jacksonlewis.com

- (4) The plaintiff sought back pay allegedly owed for services provided while employed by defendant. The defendant claimed that plaintiff did not work after resigning and that plaintiff instead was required to repay defendant a portion of monies already paid as a draw.
- (5) The matter did not settle on the day of the settlement conference, but rather required an additional few weeks to resolve. The case was significant because of the extended effort, including numerous phone calls and emails, required to bridge the relatively large gap between demands from each side.

**Bienstock v. Ocotillo Dev., LLC, et al., Case No. CV2013-055966**

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- (1) I was assigned to this matter as a Judge *Pro Tempore* to conduct a settlement conference. The conference occurred on December 10, 2014.
- (2) The case was assigned to the Honorable Michael Gordon in Maricopa County Superior Court.
- (3) Hank E. Pearson, attorney for plaintiff  
*Mr. Pearson is now at Lake & Cobb, PLC*  
1095 West Rio Salado Parkway, # 206  
Tempe, Arizona 85281  
602-523-3000  
*HPearson@lakeandcobb.com*

Ryan P. Swartz, attorney for defendant Octotillo Development, LLC  
Collinsworth, Specht, Calkins & Giampaoli, LLP  
7310 North 16th Street, Suite 220  
Phoenix, Arizona 85020  
602-508-3127  
*rswartz@cslawoffices.com*

Robert A. Scheffing, Esq., attorney for defendant Developers Surety  
and Indemnity Co.  
Law Offices of Robert A. Scheffing  
413 8th Street  
Huntington Beach, California 92648  
714-842-0058  
*bob@scheffinglaw.com*

Venessa Bragg, attorney for third-party defendant JLaw Contracting  
Elardo, Bragg & Rossi, P.C.  
3001 East Camelback Road, Suite 130  
Phoenix, Arizona 85016  
602-889-0272  
vbragg@ebarlaw.com

- (4) The plaintiff homeowners sued their contractor and the bond issuer for an alleged construction defect that caused extensive damage. The contractor in turn filed a third party complaint against the sub-contractor that allegedly performed the work.
- (5) This matter was significant because it involved multiple parties with many moving parts. To resolve the issue, we had to work through the equivalent of three separate claims between different parties and make the individual resolutions fit into a global package. It also required additional negotiations beyond the initial settlement conference to come to full resolution.

**Stocker v. McLaughlin, Case No. CV2011-010994**

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- (1) I was assigned to this matter as a Judge *Pro Tempore* to conduct a settlement conference. The conference occurred on November 7, 2011.
- (2) The case was assigned to the Honorable Edward Burke in Maricopa County Superior Court.
- (3) Jamie C. Eisenfeld, attorney for plaintiff  
Cheifetz Iannitelli Marcolini P.C.  
*Ms. Eisenfeld is now at Buchalter Nemer  
16435 North Scottsdale Road, Suite 440  
Scottsdale, Arizona 85254  
480-383-1833  
jeisenfeld@buchalter.com*

Kevin J. Parker, attorney for defendant  
Snell & Wilmer  
One Arizona Center, Suite 1900  
400 East Van Buren Street  
Phoenix, Arizona 85004  
602-382-6238  
kparker@swlaw.com

- (4) The parties disputed the property line between their adjacent home lots and the uses of the land surrounding the property line.

- (5) This was a particularly contentious dispute between neighbors, which required delicate negotiations with attention to many fine points. The case was significant because I learned a great deal about diffusing emotionally charged situations.

***Craig v. Glendale Union High School Dist. No. 205,***  
**Case No. CV2012-096937**

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- (1) I was assigned to this matter as a Judge *Pro Tempore* to conduct a settlement conference. The conference occurred on September 24, 2013.
- (2) The case was assigned to the Honorable Mark F. Aceto in Maricopa County Superior Court.
- (3) Doug Tobler, attorney for plaintiff  
Hammond & Tobler, P.C.  
1400 E. Southern Avenue, Suite 935  
Tempe, Arizona 85282  
480-756-2224  
dtobler@hammondandtobler.com
- Ian Neale, attorney for defendant  
Burch & Cracchiolo, P.A.  
702 East Osborn Road, Suite 200  
Phoenix, Arizona 85014  
602-234-9909  
ineale@bcattorneys.com
- (4) The plaintiff, a high school student, injured herself during school activities and filed suit to recover medical costs and other damages.
- (5) This case also involved a significant initial gap between the parties' expectations for a reasonable settlement. Here, the plaintiff was seeking more than 100 times the amount that the defendant originally offered to settle the case. The case also involved competing medical experts on the extent of the plaintiff's injury and the reasonable amount of treatment needed. After a difficult negotiation period, with some elevated emotions, we were able to resolve the dispute.

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

**As mentioned earlier, my practice often involves large-scale litigation with multiple parties with various claims, cross-claims, and counterclaims. That leads to multifaceted strategies, legal needs, and resolutions. That complexity also results, often times, in lengthy and extensive discovery, including electronic discovery, along with dozens of depositions, numerous experts, competing dispositive motions, complicated mediations and the like. At the same time, I've also had many opportunities to represent individuals and companies in less complex matters, all of which adds up to a rich, diverse litigation experience.**

**My practice has also allowed me to litigate in other jurisdictions, and even to participate in international matters (though I am not permitted to file papers or appear in those courts). Those experiences will help create a more efficient courtroom and tailor practical solutions for those who appear in it.**

**In addition to my legal career, I spent a number of years as a software engineer. Despite common perception, engineering shares many similarities with the law. Both require a fundamental knowledge of the rules, whether the law, the rules of court, physics, or the operations of a computer. Both require in-depth analysis to understand the problem, craft a solution, and understand the implications of moving forward. Both examine trade-offs and often require difficult decisions. And each requires a degree of creativity to look beyond the usual or obvious answers and see if a better solution exists, not only for the immediate problem, but also for others that could be affected.**

**While an engineer, I worked for Intel, a large, multi-national corporation, and also a start-up company in Michigan. In both places, I learned a great deal about business decision-making, strategies, and risk. In the end, my engineering and legal careers have taught me the importance of seeing all sides of an issue or problem before pushing forward. And I will continue to do the same if appointed to the Superior Court.**

**BUSINESS AND FINANCIAL INFORMATION**

32. 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.

**I held various jobs during college and high school, such as computer lab monitor, library assistant, factory worker, and grocery store clerk.**

33. Are you now an officer, director or majority stockholder, 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.

Is it your intention 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, give reasons.

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

35. Have you paid all state, federal and local taxes when due? **Yes**  
If not, explain.

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

37. Have you ever violated a court order, including but not limited to an order for payment of child or spousal support? **No**  
If so, explain.

38. Have you ever been a party to a lawsuit, including bankruptcy but excluding divorce? **No**  
If so, identify the nature of the case, your role, the court, and the ultimate disposition.

39. Do you have any financial interests, investments or retainers that might conflict with the performance of your judicial duties? **No**  
If so, explain.

## CONDUCT AND ETHICS

40. Have you ever been terminated, expelled, or suspended from employment or any school or course of learning on account of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity? **No**  
If so, give details.
41. a. Have you ever been charged with, arrested for, or convicted of any felony, misdemeanor, or violation of the Uniform Code of Military Justice? **No**  
If so, identify the nature of the offense, the court, and the ultimate disposition.
- b. Have you, within the last 5 years, been charged with or cited for any traffic-related violations, criminal or civil, that are not identified in response to question 41(a)? If so, identify the nature of the violation, the court, and the ultimate disposition. **No**
42. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain. **Not applicable**
43. List and describe any litigation (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) concerning your practice of law. **None**
44. List and describe any litigation involving an allegation of fraud in which you were or are a defendant. **None**
45. List and describe any sanctions imposed upon you by any court for violation of any rule or procedure, or for any other professional impropriety. **None**
46. To your knowledge, has any formal charge of professional misconduct ever been filed against you by the State Bar or any other official attorney disciplinary body in any jurisdiction? **No**  
If so, when? How was it resolved?
47. Have you received a notice of formal charges, cautionary letter, private admonition or other conditional sanction from the Commission on Judicial Conduct or any other official judicial disciplinary body in any jurisdiction? **No**  
If so, in each case, state in detail the circumstances and the outcome.

48. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by Federal and State laws? **No**  
If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal law provisions.)
49. In the past year, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned or terminated by an employer as a result of your alleged consumption of alcohol, prescription drugs or illegal use of drugs?  
**No**  
If so, state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.
50. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended or terminated by an employer? **No**  
If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the back ground and resolution of such action.
51. Have any of your current or former co-workers, subordinates, supervisors, customers or clients ever filed a complaint or accusation of misconduct against you with any regulatory or investigatory agency, or with your employer? **No**  
If so, state the date(s) of such accusation(s), the specific accusation(s) made, and the background and resolution of such action(s).
52. 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 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.
53. Within the last five years, have you failed to meet any deadline imposed by a court order or received notice that you have not complied with the substantive requirements of any business or contractual arrangement? **No**  
If so, explain in full.
54. 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 in full.

**PROFESSIONAL AND PUBLIC SERVICE**

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

**I contributed a section on trade associations and standard setting to an upcoming American Bar Association treatise on antitrust issues for technology companies.**

56. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? **Yes**  
If not, explain.

57. 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.

**I presented a CLE session on federal pleading standards under the Supreme Court's *Iqbal* and *Twombly* opinions on November 19, 2009.**

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

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.

**State Bar of Arizona, Professionalism Committee member (2014-present)**

**Maricopa County Bar Association, Bench/Bar Committee member (2016)**

**American Bar Foundation fellow (2016)**

**Arizona Women Lawyers Association member (2016)**

**Arizona Technology Council, Cybersecurity Committee member (2014-present)**

**Committee on Civil Justice Reform, non-appointed volunteer workgroup participant (2016)**

- Participant in workgroup addressing efficiency and cost reduction in civil litigation, particularly in electronic and expert discovery
- Assisting in the drafting of proposed changes to the rules of civil procedure and related forms

**Arizona Working Group, Participant (June 2015-present)**

- Participation in a group containing representatives from the federal courts, Arizona Department of Corrections, public and private attorneys, and prisoner rights and training groups tasked with improving efficiency and effectiveness of litigation related to prisoner complaints in federal courts

**Ninth Circuit Pro Bono Mediation Program**

- Represented an immigration client on appeal to the Ninth Circuit, including briefing and oral argument
- Represented an immigration client in negotiations with the Department of Homeland Security and later in briefing to the Board of Immigration Appeals

**United States District Court Prisoner Mediation Program**

- Represented multiple prisoners who filed *pro se* complaints for additional health care or adjusted housing arrangements
- All cases entered mediation shortly after filing to ease the burden on the District Court

**Other Pro Bono Activities**

- I have litigated *pro bono* on behalf of a local high school marching band that was sued for allegedly violating copyrights while performing shows at football games and competitions.
- I have provided legal counseling services for a local youth soccer team.
- I also provided legal counseling services for a local foundation who provides support to families that lost a child and are unable to pay the funeral expenses.
- I also provided legal counseling services for a family who lost their daughter in conjunction with the public use of her photographs for commercial purposes.
- I recently represented *pro bono* an Arizona inmate in a First Amendment claim over the confiscation of his mail.

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

**In addition to the pro bono services listed above, I have also volunteered to work at the American Diabetes Association Downtown Phoenix Walk in 2006 and 2007. I have also managed an adult recreational soccer team for the past eight years and have volunteered to help coach my son's and daughter's youth soccer teams over the past three years.**

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

**Super Lawyers, Southwest Rising Star, Commercial Litigation (2014)**

61. List any elected or appointed offices you have held and/or for which you have been a candidate, and the dates. **None**

Have you been registered to vote for the last 10 years? **Yes**

Have you voted in all general elections held during those years? **Yes**  
If not, explain.

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

**My most important time is that spent with my family. My wife, Bridget Minder, is an Assistant United States Attorney with an incredibly bright future. Our children, ages 6 and 4, keep us on our toes at all times. Owen is a curious first-grader and we enjoy watching him play soccer and tee-ball. Ellie is our socialite pre-schooler, who loves soccer, swimming and singing. I have been blessed with many things in life, but nothing makes me prouder than my family.**

**HEALTH**

63. Are you physically and mentally able to perform the essential duties of a judge in the court for which you are applying? **Yes**

## ADDITIONAL INFORMATION

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

**In our world and our profession, diversity is undoubtedly important. Different people bring different views on the same issues. That is why I have, during my time at Perkins Coie, mentored diverse attorneys and have gone out of my way to include more women attorneys on my cases. The same is true for my roles on the firm's hiring and summer associate program committees: I have always advocated for Perkins to hire and train highly-qualified diverse and women attorneys and law students. Doing so benefits me, my firm, my clients, and the community.**

**My own diversity comes in many forms. I do not statistically count as a diverse candidate, but I have, for as long as I can remember, sought diverse experiences to build upon at each step of my life's journey. And those experiences, I believe, will benefit me and the community should I be appointed to the bench.**

**I grew up in West Michigan, one of the most conservative places in the country. After high school, I left Grand Rapids for its polar opposite: Ann Arbor, an incredibly liberal college town. My time and interaction with the community at the University of Michigan and with my friends and family in Grand Rapids left me with a profound appreciation for the value of understanding other people's backgrounds and views, and how so many people have such different perspectives.**

**I have been fortunate to work in different places, for different types of companies, and for different kinds of clients. Before settling in central Phoenix, I worked and lived in the suburbs of Chandler, the foothills of Northern California, rural Michigan, and downtown Manhattan, each with drastically different people and views. I worked as an engineer for one of the largest technology companies in the world, Intel, and then at a start-up company of four during the dot-com heyday of the early 2000s. As a judge *pro tem*, I have helped disabled seniors recover on their insurance claims and have resolved disputes for wealthy homeowners. As a lawyer, I have represented industry giants like Microsoft and Lowe's, and the next day visited a client in maximum security housing at a state prison.**

**We all build and draw upon our personal experiences and I am excited for the opportunity to bring mine to the Superior Court bench.**

65. Provide any additional information relative to your application or qualifications you would like to bring to the Commission's attention at this time.

**My family has always emphasized hard work, diligence, and preparation. My grandparents both served in the military during World War II, and later supported their large families as a teacher and an electrician, while my grandmothers worked at the school and as a baker. My parents passed along the virtues of hard work as they both maintained their careers while raising me and my brother in Michigan. I started working at an early age and have not stopped since. In junior high school, I mowed lawns and later worked at a grocery store until college. I held positions all throughout college at the campus library and computer labs, as well as multiple internships. In law school, I tutored first-year law students. Whether as a software engineer, lawyer, judge pro tem, tutor, or grocery clerk, I have always pushed forward, worked with enthusiasm, and prepared in order to succeed. My experience has taught me not to rest, not to assume that I know the answers, and not to disregard the significance of every task, every case, and every opportunity to improve. My history shows that I will bring the same effort to the bench.**

66. If you were selected by this Commission and appointed by the Governor to serve, are you aware of any reason why you would be unable or unwilling to serve a full term? **No**  
If so, explain.
67. If selected for this position, do you intend to serve fully, including acceptance of rotation to areas outside your areas of practice or interest? **Yes**  
If not, explain.
68. Attach a brief statement explaining why you are seeking this position.

**See Attachment B.**

69. Attach a professional writing sample, which you personally drafted (e.g., brief or motion). The sample should be no more than a few pages in length. You may excerpt a portion of a larger document to provide the writing sample. 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 (excerpt from Petitioner's Reply Brief, *Rawat v. Holder*, United States Court of Appeals for the Ninth Circuit).**

70. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than two written orders, findings or opinions (whether reported or not) which you personally drafted. The writing sample(s) should be no more than a few pages in length. 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.

**Although I have served as a judge *pro tempore* and have conducted numerous settlement conferences, and presided over a Short Trial, I have not drafted orders, findings, or opinions other than generic scheduling orders and a judgment.**

71. 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 two performance reviews.

**Not applicable**

# **ATTACHMENT A**

Aaserud, Eric	Baur, Don	Bowen, Jeff	Chen, Vicky	Tiffany
Abravanel, Allan	Bauz, Thane	Bowen, Tyler	Chenet, Sara	Curfman, Chelsea
Adamson, Louise	Beal, George	Brairton, Scott	Cheng, Nancy	Curtis, Chuck
Ai, Bing	Beane, Amanda	Branch, Aria	Cheng, Shawn	Curtis, Lee
Alappat, Rose	Beaumont, Anne	Brandfonbrener, Eric	Cherry, Ceridwen	Cutler, Joe
Albrecht, Dick	Beck, Heidi	Brandon, Mikhail	Chiappetta, David	Cutler, Norton
Aldama, Karin	Becker, Jordan	Brenner, Adam	Cho, Cindy	Daley, Susan
Aldisert, Rob	Beel, Bryan	Brenner, Jim	Choi, Ed	Daley-Watson, Christopher
Alfonso, Shylah	Beigelmacher, Steven	Brewer, Dori	Chopra, Vivek	Daluiso, Brian
Allbee, Dannon	Bell, Steven	Bridgeman, Randy	Chou, Christopher	Dang, Kha
Allely, Craig	Bell, Thomas	Bringman, Joe	Chowdhury, Afzal	Daniel, Tom
Allen, Lindsay	Bello, Ryan	Bromer, Alix	Christian, John	Danneman, Alexis
Allison, Sonny	Bender, Michael	Brookman, Stephen	Christy, Jr., David	Daryanani, Jon
Allred, Colin	Benderly, Danielle	Brooks, Truscenia	Cin, Matthew	Davis, Nick
Al-Salam, Ramsey	Bennett, Katie	lyn	Clackley, Jeffery	Davitian, Darwin
Amborn, Kyle	Berenstain, Ronald	Brophy, Fiona	Clancey, Mala	Day, Evan
Anderson, Pam	Berger, Michelle	Brown, Les	Clarke, David	Day, Jason
Andrews, Dave	Berka, Chris	Bruner, Marc	Clarke, Julia	Day, Kirsten
Ansari, Lydia	Berkon, Jon	Bu, Zhongyuan	Clyde, Michael	De La Cruz, Jordon
Anstaett, David	Berkowitz, Pam	Buck, Jon	Cohen, Barak	Dedyo, David
Anthony, Tyler	Berlin, Hayley	Buckley, Kathy	Cohen, David	Cohen, Lauren
Araiza, Al	Berman, Mike	Bullock, Brentley	Cohen, Neal	Cohen, Paul
Archie, Peter	Bernard, Debra	Burgin, Alisha	Cole, Alexandra	Coleman, Brian
Arnett, Steve	Bernstein, Matthew	Burman, David	Coleman, Brian	Coleman, Chris
Arnheim, Buddy	Betcher, Susan	Burns, Tim	Colindres, George	Colli, Garrett
Arroyo, Tina	Betz, Colonel	Buschmann, Christina	Collins, Patrick	Collins, Ted
Aslin, John	Beuche, Jeff	Bushaw, Emily	Connelly, Rike	Connery, Sean
Assefa, Marcus	Beyer, Ali	Buxbaum, Jeremy	Coombs, Aaron	Cooper, Marie
Athey, Derek	Biderman, David	Cabot, Howard	Cosman, Brad	Coughlan, James
Atzen, Jonathan	Biebel, Christine	Cabou, J	Cowan, James	Coyne, Dan
Audette, Brian	Bilder, Kathryn	Caixeiro, Manny	Crane, Brandon	Crane, Ken
Austin, Alexa	Bina, Gabrielle	Caliendo, Tony	Criglow, Chris	Cristy, Tom
Axell, Karla	Birnbaum, Mark	Callais, Amanda	Crooks, Sarah	Crop, Jared
Bagatell, Dan	Bishop, Steve	Cameron, Kelly	Cross, Andrew	Cross, Bruce
Bailey, Alex	Black, David	Campbell, Bruce	Crow, Carl	Crowder, Andrew
Bailey, Joe	Bledsoe, David	Campbell, Chad	Crowley, Brendan	Cruiger, Jim
Bailey, Robert	Bloodworth, Shannon	Campbell, Meg	Crum, Josh	Culbert, Andy
Bain, Randy	Bloom, Karen	Canterbury, Crystal	Cullen, Jeanne	Cunningham, Janis
Bair, Jesse	Blum, Stefan	Cao, Meirong	Cunningham, Janis	Cunningham, Janis
Baird, Chris	Blumenfeld, Chuck	Carey, Caitlin		
Baker, Ann	Boardman, Richard	Carlsen, Serena		
Baker, Ted	Bock, Jeff	Carney, Molly		
Bali, Sunita	Boeder, Thomas	Carpenter, John		
Baltazar, David	Boehm, Josh	Carr, Michael		
Banks, Bryan	Boggs, Craig	Carreyn, Rodger		
Banzhoff, Elizabeth	Boice, Heather	Carroll, Jim		
Baranowicz, Adrienne	Boji, Jeannil	Carroll, Jim		
Barclay, Cecily	Boman, Marc	Carroll, Schuyler		
Barnett, Donna	Bombach, Miguel	Carroll, Timothy		
Barr, Caitlin	Bonjour, Bruce	Carson, Sheree		
Barr, Dan	Booth, Paul	Cassidy, Lara		
Barrett, Michael	Bor, Andrew	Castillo, Elvira		
Barton, Gregg	Borth, Scott	Chang, Alex		
Bass, Lance	Boundy, Mara	Chang, Amy		
Bastian, Justin	Bowen, Freya	Chen, Harvey		
Bauer, Bob				

Engrav, Rebecca	Gitterman, Judith	Hanewicz, Chris	Hwang, Steve	Kolios, Arthur
Esterhay, John	Glaser, Michael	Hannah, Larry	Ianelli, James	Kolkmeier, Kiplund
Everett-Garcia, Jessica	Glasunow, Allison	Hansen, Dax	Iani, John	Konz, Sarah
Fahrer, Nathan	Glazer, Melody	Hanson, Jeff	Isacson, John	Koo, Ronald
Fahringer, Susan	Glenn, Michael	Hardesty, Steve	Jacobs, Rachel	Koop, Lissa
Farhi, Miriam	Goddard, Jon	Hardin, Jon	Jacobs, Rob	Kostka, Steve
Feldhammer, Jon	Gold, David	Hariharan, Vidhya	Jacobs, Teresa	Kozich, Kelly
Feldman, Stephen	Gold, Ivan	Harth, David	James, Dennis	Krawczuk, Dana
Fenner, Alex	Gold, Judy	Harvey, Dean	James, Jon	Kreger, Mike
Fentin, David	Gold, Norman	Hawkins, Ryan	Jennings, Brian	Krevor, Larry
Ferlo, Al	Gold, Oliver	Haynie, Erick	Jennison, Judy	Kristoferson, Betsy
Fernald, Graham	Goldstein, Aaron	Hayter, Dana	Jensen, Jim	Kroop, Jordan
Ferrer, Nick	Gonski, Sarah	Heindel, Heather	Jewell, Lindsay	Kruger, Kristine
Fete, Tim	Goodfried, Jeffrey	Henault, John	Jew-Lim, Jonathan	Kula, Don
Feuerhelm, Jodi	Goodrich, Mark	Henderson, Tanya	Johnson Koch, LeAnn	Kulpa, Lauren
Fields, Kristy	Goodwin, Paula	Hendricks, Don	Johnson, Anthony	Kumar, Nishant
Fischer, Jens	Gorczyca, Diane	Hennessey, Laura	Johnson, Tom	Kung, Viola
Fisher, Camille	Gordon, Matt	Henson, Michael	Jolley, Jennifer	Kuzma, Jason
Fjelstad, Eric	Gordon, Phil	Herbert, David	Jones, Angie	LaBeau, Katherine
Flynn, Bruce	Gordon, Rebecca	Hesterberg, Nick	Jones, Julie	Lackey, Craig
Fogg, George	Gores, Thomas	Hettinger, Kyle	Jones, Zach	Lake, Brian
Ford, Nate	Gorman, Tara	Hickman, Troy	Joseph, Jeanine	Lambert, Jade
Fortier, Danielle	Goswami, T.D.	Higdon, Phil	Kaempff, Joey	LaMonica, Gina
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Fournier, Dave	Grant, Andrew	Hilton, Jim	Kanach, Jesse	Larsen, David
Fowler, Brendon	Graves, Paul	Himes, Michael	Kantharia, Kevin	Larson, Bates
Fowler, Colin	Gray, Gina	Hine, Kelly	Kaplan, Eliot	Larson, Kirstin
Fox, Mary	Gray, John	Hinnen, Todd	Kaplan, John	Lassen, Dan
Franks, Tim	Gray, Matt	Hirano, Stephanie	Karell, Heather	Lassen, David
Fraser, Erin	Graybeal, Lynne	Hirose, Paul	Kari, Don	Laub, David
Freeman, Wilson	Greb, Emily	Hoge, Mike	Karl, Don	Lawrence, Peter
Friedman, Bill	Grech, Catherine	Hollingsworth, Jeffrey	Kassebaum, Nate	Lawrenz, Steve
Friedman, Danielle	Green, Bill	Holm, Kristina	Katz, David	Lazarus, David
Friedman, Don	Green, Jordan	Holmes, Grayson	Kaul, Josh	Ledford, Christopher
Froehle, Tim	Greene, Andrew	Holt, Tom	Kawada, Naoki	Lee, Christian
Frost, Lis	Greene, Scott	Hong, Joelle	Keane, Kate	Lee, Gene
Fruchter, Michael	Gresl, Theresa	Hopkins, Dennis	Keese, Steve	Leik, Jim
Funk, Markus	Grimm, Brian	House, Michael	Keene, Steve	Leonard, Cameron
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Gamliel, Amir	Grygiel, Sean	Howard, Martin	Kelley, Christopher	Levun, Hillary
Gangadean, Raj	Guggenhime, Richard	Howard, Renee	Kerr, Laura	Lewis, Brandon
Garcia, Alex	Gutfeld, Deborah	Howell, Jason	Kerr, Todd	Liao, Gabe
Garcia, Javier	Haar, Kendra	Hsu, Homer	Kestenbaum, Janis	Lim, Stephen
Garfinkel, Michael	Hagenbuch, Tyler	Huang, Jing	Khanna, Abha	Lin, Eddie
Garrett, Clint	Haggerty, Patchen	Huang, Shirley	Kim, Bo	Lincicum, Matt
Gaston, Mary	Haider, Shan	Hudders, Neal	King, Seth	Linde, Selena
Gehringer, Matt	Halama, Meredith	Hudson, Jalina	Kinnear, Brian	Lindley, Tom
Gellert, Nick	Hale, Adrienne	Hughes, Krista	Kinsel, Grant	Lindquist, Teri
George, LaDale	Hall, Chris	Hughes, Mary Rose	Kinsella, Peter	Linsenmayer, Kurt
Gerlicher, Amelia	Hall, Michael	Hughes, Valerie	Kittredge, Mark	Lisbakken, Jim
Gerrard, Keith	Halpern, Ken	Hume, John	Klassen, Karl	Little, Doug
Gibson, Nora	Halpern, Marcelo	Hung, Winnie	Klein, Andrew	Liu, Rick
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Gilbert, Craig	Hamilton, Joseph	Hunter, Amy	Klick, Emily	Longan, Alex
Giles, Bob	Hamilton, Kevin	Hunter, Jeff	Knowles, Sean	Longino, Jonathan
Gillstrom, Sarah	Hampton, Polly	Hupp, Marcy	Koehler, Reg	Lonsway, Nicole
Gilmore, Martin	Han Stanton, Grace	Hussey, Julie	Koh, Steve	Lopez, Jackie
Githens, Danielle	Handy, Allison	Hvalsoe, Lynn	Kokabi, Kaz	Lopez, Jose
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Louijeune, Ruthzee	McMillan, Joe	Nguyen, Olivia	Pirio, Maurice	Ryan, Christopher
Low, Allan	McMillan, Knox	Nichols, Clark	Platt, Tom	Ryan, Patrick
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MacBain, Douglas	Menaldo, Nicola	Oehler, Richard	Price, Dawson	Samel, Chuck
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Mahon, Bob	Merriman, Steve	Oloomi, Yasamin	Prosser, Sean	Sandoval, Martha
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Malley, Bill	Miller, Eric	Oratz, Lisa	Quehrn, Mark	Sarubbi, Ronald
Malmen, Erika	Miller, Keith	O'Shea, Dan	Rao, Pravin	Sathe, Vinay
Maloney, Vince	Miller, Will	Osterhoff, Michael	Rasmussen, Laurie	Sawyer, Doug
Maltz, Matthew	Miller-Suna, Joanna	Ostrander, Gregory	Rasmussen, Libby	Schindler, Lee
Manek, Amisha	Millikan, Tom	O'Sullivan, Katie	Rava, Will	Schindler, Steven
Mansourian, Vick	Minder, Scott	Owen, Mike	Ravetta, Stacey	Schlect, Brian
Marchuk, Adam	Minzel, Jeff	Page, Katie	Reagan, Seth	Schneider, Harry
Margason, Aubri	Moffa, Matt	Pahl, Douglas	Reddy, Kate	Schneider, Mark
Markley, Julia	Mohammed, Furqan	Pahlavan, Arman	Redman, Anne	Schneiderman, Jason
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Marre, Daniel	Montgomery, Alexander	Painter, Ann Marie	Regenold, Stephanie	Schottlaender, Hayden
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Martin, Rhett	Moore, Cori	Palma-Solana, Vilma	Reindl, Kimberly	Schussman, Barbara
Martin, Win	Moore, Marlana	Park, Lucy	Reingold, Barry	Schwartz, Julie
Mason, Jeff	Moore, Cody	Parker, Chris	Reinhardt, Lynwood	Schwartz, Max
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McBride, Mark	Mrazik, Ryan	Perini-Abbott, Jo	Riedinger, Jerry	Sherman, Mindy
McCabe, Bill	Mucklestone, Robert	Peters, Brendan	Ripke, Jill	Shine, Sarah
McCall, Greg	Mullin, Shan	Petersen, Chelsea	Rivard, Sarah	Shin-Li, Mik
McCann, Richard	Murphy, Alan	Petersen, Derek	Rivera, Frederick	Shiple, Andy
McCarthy, Jordan	Murphy, Brendan	Petersen, Tonn	Robbins, David	Shoback, Pauline
McClure, David	Murphy, Christian	Peterson, Dennis	Robinson, Geoff	Shrontz, Craig
McCormick, Tony	Nagele, Ann	Peterson, Jeff	Robinson, Michael	Shuchat, Jeffrey
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McCullough, Christy	Nama, Vinod	Peterson, Sherilyn	Rogers, Ian	Shvodian, Dan
McFarland, Jonathan	Nathanson, Neil	Peterson, Tyler	Rohde, Dick	Siekawitch, Scott
McGaffey, Karen	Navarro, Paul	Petrovic, Lena	Rona, Luke	Silberman, Jeff
McGimpsey, Lisa	Neebling, Laura	Pettit, Andy	Roos, Breena	Simonsen, Catherine
McIntire, Ronald	Neff, David	Pfeiffer, Steve	Rosencrans, Todd	Simpkins, Holly
McKeever, Patrick	Nelsen, Kiry	Philbin, Rachael	Rosenthal, Greg	Simpson, Amy
McLaughlin, Maggie	Nero, Autumn	Phillips, Deborah	Rosini, Laurie	Simpson, Mica
McLaughlin, Tom	Ness, Lowell	Piciocchi, Mary	Ross, Richard	Simpson, Patrick
McMahon, Brien	Neumann, Kurt	Pierce, John	Rossiter, Jay	Sink, Michael
McMahon, Thomas	Newman, Sandra	Piering, Tobias	Rubocki, Melanie	Sipos, Charles
	Ng, Chun		Runfeldt, Gail	Skilton, John

Smith, Alan	Sturgis, Samantha	Understahl, Beth	Williams, Christine	Zolotusky, Lisa
Smith, Bryan	Such, Domingo	Understahl, Jennifer	Williams, James	Zorea, Lior
Smith, Ellen	Sullivan, Katelyn	Vajzovic, Jasmina	Williams, Nancy	Zudekoff, Brett
Smith, Mark	Sussmann, Michael	Valentine, Jim	Williamson, Gwen	
Smith, Mike	Sutton, Chris	Vana, Jim	Willis, Jaime	
Smith, Odin	Suwanto, Fabiola	Vanacore, Jeff	Willis, Reed	
Smith, Steve	Svoboda, Brian	Vance, Geof	Wilson, Bobbie	
Smith, Victoria	Swanson, Rob	Vayra, Fabricio	Wilson, Chris	
Smyth, Paul	Swindle, Shane	Ver, Aaron	Wilson, Faith	
Snell, Jim	Talieh, KT	Victor, Andrew	Wilson, Graham	
Soderquist, Kirk	Tang, Yang	Villier, Andy	Wilson, Kris	
Solomon, Andrew	Tate, Teresa	Volk, Phyllis	Wilson-McNerney,	
Song, Michael	Tatman, Kara	von Herrmann,	Julie	
Souza, Matthew	Taylor, Dan	Susan	Wimsatt, Ted	
Spear, Ryan	Taylor, David	Walker, Eric	Winger, Aaron	
Speers, Taylor	Tehranchi, Babak	Walker, Jeffrey	Wirrick, Monique	
Spendlove, Liana	Teichner, Caroline	Wallace, Cara	Wise, Michael	
Spindler, Kester	Templeton, Andrea	Wallace, Graehm	Wolff, Eric	
Spiva, Bruce	Terry, Jeff	Wallace, Scott	Wolff, Laura	
Squires, John	Tessar, Amanda	Walton, Linda	Wong, Carmen	
Sroufe, Evelyn	Thomas, John	Wang, June	Wood, David	
St. John-Larkin,	Thomas, Julia	Wang, Yingli	Woolston, Rob	
David	Thompson, Patrick	Warnecke, Mike	Woolston, V	
Stafford, Ben	Thompson, Phil	Wax, Katherine	Wright, Sandy	
Stahnke, Sarah	Thorsen, Corbyn	Wechkin, John	Wu, Chian	
Stanton, Chris	Thuo, Roque	Weinberg, Meredith	Wyszynski, Jeff	
Stark, Stevan	Tolomei, John	Weiss, Eric	Yates, Georges	
Steele, David	Toobian, Sharona	Weiss, Judy	Yoshizawa, Kris	
Stephenson, Garrett	Torres, Adrian	Welling, Aaron	Young, Jackie	
Stetsko, Kate	Torres, Charles	Wern, Ted	Young, Michael	
Stewart, Steve	Townsend, David	Wes, Edward	Zagar, Laura	
Stoffregen, Joel	Townshend, Peter	Wesenberg, Eric	Zamani, Alli	
Stoller, Heidee	Tracey, Peter	Westermeyer, Dane	Zazove, Daniel	
Stott, Sue J.	Trombino, Caryn	Weston, Cody	Zeck, Kevin	
Stout, Michael	Truax, Margret	White, Brandon	Zerega, Todd	
Strain, Donna	Tucker, Amy	Whitlow, Mark	Zhang, Di	
Stratford, Barry	Tucker, Roy	Wicker, Mark	Zhang, Yiming	
Straughan, Ben	Tullett, Rodney	Wicks, Ed	Zhao, Jennifer	
Stubbings, Maria	Tyler, Randy	Wikberg, Terry	Zhu, Ling	
Studulski, Steve	Umberger, Michelle	Wildman, Sloane	Zivian, Bruce	

# **ATTACHMENT B**

## Statement of Interest

I have always been a problem solver. I started my career as an engineer at Intel in Chandler and was later on the ground floor of a start-up company in Michigan. I have learned that solving problems requires patience, analysis, a thorough understanding of the rules and constraints, an appreciation of the background, context and environment, communication, and cooperation. Those skills served me well as an engineer, as a litigator and judge pro tem, and will benefit me on the bench.

Being a judge means more to me than a career path. It gives me the best chance to serve this community and make a difference for our citizens. Being a judge will allow me help others in a way that I have never been able to do. It will afford me the chance to ease burdens, to change people's lives for the better, to help resolve differences, to move the ball forward so that others can make their own marks, to just do what I do best: solve problems.

A judge must be more than a problem solver, though. I believe that my thoughtfulness, diligence, patience, and demeanor, combined with my history as a complex commercial litigator and as a judge pro tem make will make me an effective, efficient, and respected judge.

Undoubtedly, this commission has heard that line before. My experiences, however, back it up. I became a judge pro tem once I was eligible to do so and helping litigants resolve their differences to everyone's satisfaction has been a major influence on my decision to become a judge. The same is true with my pro bono work for the Ninth Circuit and the District Court. Those litigation and mediation opportunities allow me to impact not only those in need, but also to help streamline the court dockets and relieve some of the stress on government resources.

My private practice also lines up with the needs of the Court. From the start of my career, I have worked on large-scale, complex civil litigation matters. My experience in managing discovery, including issues related to electronically stored information, and navigating the needs of corporate litigants meshes perfectly with the Court's new, Supreme Court-approved, pilot program for commercial disputes. At the same time, my practice has run the gamut of civil litigation, from intellectual property to property wall disputes, from employment law to securities law to antitrust, and most everything in between.

I have also been fortunate to work for one of the top litigation firms in Arizona. My time at Perkins Coie, working with renowned lawyers, has not only taught me not only the finer points of litigation, but affirmed my values for service and community. Since day one, the firm has stressed the importance of giving back and making a difference by solving important problems for our community. And I believe that becoming a judge is exactly how I can best do that.

# **ATTACHMENT C**

**UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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No. 09-70250  
PRO BONO  
Agency No. A089-269-656

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PRATAP SINGH RAWAT,\*  
Petitioner

v.

ERIC H. HOLDER, JR., Attorney General,  
Respondent

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On Petition for Review of an Order of the Board of Immigration Appeals

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**PETITIONER'S REPLY BRIEF**

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\* NOT PRESENTLY DETAINED

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## Introduction

[OMITTED FOR LENGTH]

## Argument

### **A. This Court Should Review the Decisions of Both the BIA and the IJ.**

[OMITTED FOR LENGTH]

### **B. Mr. Rawat has Provided Sufficient Evidence to Meet His Burden.**

Mr. Rawat married an American Christian woman outside of his caste. For that offense to the Indian caste system, and while waiting for his visa to be approved so that he could join his wife in the United States, he received threatening telephone calls, including death threats, for a year-and-a-half and ultimately was attacked on the street. Fearful for his life, he fled India to the United States where he attempted to enter illegally and was apprehended at the border. His requests for asylum and withholding of removal were denied and he has appealed to this Court. *See generally* Op. Brief at 2-3.

In the Opening Brief, Mr. Rawat made numerous arguments in favor of his requests for removal and withholding that Respondent failed to address, including:

- The IJ's improper speculation on Mr. Rawat's motive for flight;
- Eyewitness evidence about his report to the Indian police;

- Mr. Rawat’s contemporaneous discussions with his attorney, the police, and his American friend regarding the threatening calls;
- The results of an examination by Dr. Gangsei, a psychologist with more than two decades of experience with torture victims, and his conclusion that Mr. Rawat’s mental trauma is consistent with the threats and physical attack described by Mr. Rawat;
- The remote likelihood that Mr. Rawat was attacked by someone other than the “moral policing” groups that repeatedly and continually threatened him;
- The IJ’s improper speculation as to the motives of the attackers;
- The IJ’s failure to articulate the need for medical records regarding the attack; and
- This Court’s decisions in *Ruano v. Ashcroft* and *Reyes-Guerrero v. INS*, which support Mr. Rawat’s eligibility for asylum and withholding of removal.

Instead, relying upon the purported scope of the BIA’s review (*see* Resp. at 18, n. 8), Respondent argues only that Mr. Rawat (a) did not provide sufficient examples of persecution by others in his precise circumstance, and (b) did not produce cell phone records corroborating his testimony regarding the threatening phone calls. These arguments essentially mirror the IJ’s

decision, summarized by the BIA.

Even if this Court's review is limited to the BIA's order (which it is not), Mr. Rawat has provided ample evidence to show his persecution and qualification for asylum and withholding of removal. *First*, the Opening Brief cites multiple portions of the record to show the atmosphere of persecution in India on account of marriage, religion, and caste regardless of gender. Under Ninth Circuit authority, the IJ and BIA cannot discard that evidence for lack of examples of persecution in Mr. Rawat's exact situation. Respondent did not even address that argument. *Second*, Mr. Rawat produced evidence of contemporaneous discussions of the threats with his attorney, the police, and his American friend. Again, Respondent completely ignores this evidence and, instead, focuses on the lack of cell phone records, which would have little (if any) corroborative value.

**1. Mr. Rawat Has Provided Consistent Objective Evidence of Persecution in India.**

In order to establish a well-founded fear of persecution, an asylum applicant must show either (i) past persecution or (ii) a subjective fear coupled with an objective danger of persecution. 8 U.S.C. § 1101(a)(42)(A); *Reyes-Guerrero v. INS*, 192 F.3d 1241, 1244 (9th Cir. 1999). To establish an objective danger of persecution, Mr. Rawat submitted country conditions evidence, including State Department reports, periodicals, and an affidavit

from Mr. Singh, his American friend. Op. Brief at 5, 13, 25, 35-36.

As described in the Opening Brief (at 24-25), the IJ and BIA applied the incorrect legal standard by requiring that Mr. Rawat provide evidence that others in his exact circumstances were persecuted. Instead, country conditions evidence is used only for context and not to exclude the precise situation faced by an asylum applicant.<sup>1</sup>

That fundamental error of law is not even addressed by Respondent who instead falls back to the BIA's and IJ's narrow assessment that there is no evidence that, unlike Hindu *women*, Hindu *men* who marry a foreigner or outside the caste will be harmed. Resp. at 27. Yet even Respondent admits that the record contains evidence "that marrying outside one's caste will result in harm." *Id.* Respondent attempts to downplay this undisputed fact by arguing that Mr. Rawat provided only a single article supporting that claim. Resp. at 27 (citing AR 450-52). Not only does that article provide

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<sup>1</sup> See Op. Brief at 24-25; *Duarte de Guinac v. INS*, 179 F.3d 1156, 1162 (9th Cir. 1999) ("[T]he purpose of country conditions evidence, such as the State Department Report . . . , is not to corroborate specific acts of persecution (which can rarely be corroborated through documentation), but to provide information about the context in which the alleged persecution took place."); *Zheng v. Ashcroft*, 397 F.3d 1139, 1144 (9th Cir. 2005) ("[T]he petitioner's testimony must be *inconsistent* with the facts contained in the country report or profile *before* the IJ may discredit the petitioner's testimony.") (emphasis added); *Chand v. INS*, 222 F.3d 1066, 1077 (9th Cir. 2000) ("[W]e have never assumed that all potentially relevant incidents of persecution in a country are collected in the State Department's documentation.").

substantial evidence of the potential harm,<sup>2</sup> but it also is not the only evidence in the record. Mr. Singh declared that “it was not uncommon to read in the newspaper and see on TV news about religious leaders denouncing, beating and even killing the girls and boys in their community who . . . went outside their own caste for marriage.” AR 313. The State Department’s “Country Reports on Human Rights Practices” for India stated that the Indian Supreme Court, in 2006, intervened and demanded protection for inter-caste and inter-religion couples. AR 421 (describing “honor killings” as a problem for “couples that married despite objections by their caste and religious communities”). Despite that call for protection, the violence continues. AR 450-52. In short, none of the evidence submitted by Mr. Rawat establishes that Hindu men who marry foreign national Christians are free from persecution as Respondent suggests. Resp. at 27-28.

Respondent also attempts to downplay the numerous references in the record to caste-, religious-, and marriage-based violence by the Bajrang Dal and Shiv Sena, the groups that threatened Mr. Rawat. As set forth in the

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<sup>2</sup> The article is directly on point. According to the article, “[w]hat is prohibited . . . are inter-class, inter-religion, inter-caste . . . alliances.” AR 451. Indeed, “[t]he violence against relationships of choice is not restricted to a particular caste, to north India, or to rural communities. Evidence of cases reveals that resistance cuts across religious communities . . . and pervades various social strata of society, and different regions.” *Id.*

Opening Brief (at 5, 13, and 25-27), however, Mr. Rawat’s persecution is entirely consistent with the objective evidence, including the evidence (at AR 451), that violence occurs in “different regions,” and the IJ’s recognition that Mr. Rawat’s relationship with his wife would cause problems if “people saw [them] living together.” AR 220-21 (Tr. 108:23-109:3).

Respondent’s reliance on *Aden v. Holder* is equally misplaced. There, the Court focused on three affidavits purporting to establish the existence of certain clans in Somalia. Unlike here, the affidavits were inconsistent with each other. *Aden v. Holder*, 589 F.3d 1040, 1046 (9th Cir. 2009) (noting inconsistent clan names and misspellings not expected from one with personal knowledge). There were also multiple inconsistencies in the other evidence presented by Aden. *Id.* at 1042 (e.g., claims of poverty when pictures suggest affluence and education; claims of not understanding English when Petitioner answered questions without waiting for translations). Considering the many inconsistencies that went to the heart of Aden’s asylum claim, the Court found that the affidavits could not corroborate Aden’s story. *Id.* at 1046 (despite the many inconsistencies, noting “[t]he question is close”).

That key element—inconsistency—is not present here. The State Department reports (*see, e.g.*, AR 421) are entirely consistent with the

articles submitted by Mr. Rawat (*see, e.g.*, AR 430, 450-52), which are entirely consistent with Mr. Singh’s declaration (AR 313), which is entirely consistent with the Indian Supreme Court action (AR 421), which is entirely consistent with Mr. Rawat’s testimony and declaration (*see, e.g.*, AR 152-54 (Tr. 40:21-42:2), 155-56 (Tr. 43:22-44:16), 384, 388). The IJ even admitted that the Mr. Rawat’s “testimony has been consistent with his application and his own declaration.” AR 91.

Combining the record and the correct legal standard leads to only one conclusion: Mr. Rawat has met his burden of establishing past persecution or a well-founded fear of persecution. This is especially true considering that the well-founded fear standard is not “more likely than not” and even a ten percent chance may be sufficient. *INS v. Cardoza-Fonseca*, 480 U.S. 421, 431, 440 (1987); *Sael v. Ashcroft*, 386 F.3d 922, 925 (9th Cir. 2004).

**2. Mr. Rawat Has Provided Corroborative Evidence of the Threatening Telephone Calls.**

[OMITTED FOR LENGTH]

**C. This Court has Jurisdiction to Decide the Issues Presented by Mr. Rawat.**

[OMITTED FOR LENGTH]

DATED: February 18, 2010

PERKINS COIE BROWN & BAIN P.A.

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