

**APPLICATION FOR NOMINATION TO  
JUDICIAL OFFICE**

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

**PERSONAL INFORMATION**

1. Full Name: **JOSEPH PAUL GOLDSTEIN**
  
2. Have you ever used or been known by any other name? **YES** If so, state name:  
**Joe Goldstein**
  
3. Office Address:  
**Yavapai County Courthouse  
120 South Cortez  
Room 200  
Prescott AZ 86303**
  
4. How long have you lived in Arizona? What is your home zip code?  
**My family and I have lived in Arizona over 19 years.  
My home zip code is 86303.**
  
5. Identify the county you reside in and the years of your residency.  
**I reside in Yavapai County and have since 2001.**
  
6. If nominated, will you be 30 years old before taking office?  yes  no

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

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:

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

**I have been a registered Republican in Arizona since 2001.**

8. Gender: **Male**  
Race/Ethnicity: **White**

<b>EDUCATIONAL BACKGROUND</b>
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9. List names and locations of all post-secondary schools attended and any degrees received.

**A. Southern Methodist University School of Law**

**3315 Daniel Avenue  
Storey Hall, Suite 140  
Dallas, Texas 75205  
Telephone (214) 768-2621**

**Dates Attended: 1987 through 1990  
Degree Earned: Doctor of Jurisprudence**

**B. Boise State University**

**1910 University Drive  
Boise, Idaho 83725  
Telephone (208) 426-1000**

**Dates Attended: 1977 through 1980  
Degree Earned: Bachelor of Arts in Economics**

**C. Southern Illinois University**

**Carbondale, Illinois 62901  
Telephone (618) 453-2121**

**Dates Attended: 1975 through 1976  
Degree Earned: None**

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

**A. At Southern Methodist University I studied law.**

**As a second year and third year student, I served as Chairman of the Barrister's Committee of the Student Bar Association and as a justice on the Moot Court staff.**

**As a third year student, I was accepted as a member of the Delta Theta Phi international law fraternity.**

**I volunteered at the law school's *pro bono* clinic. Under the guidance of professors and other licensed attorneys, we represented individuals with matters pending before the U.S. Department of Justice immigration court.**

**Between my second and third years I clerked for the Turley Law Firm, assisting in high profile tort litigation.**

**B. At Boise State University I majored in economics.**

**In my senior year, I was accepted as a member of Omicron Delta Epsilon honor society in economics.**

**I worked all through college at a variety of part-time jobs.**

**C. At Southern Illinois University I was in the general studies program.**

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

**While in law school at SMU, I was awarded the Outstanding Service Award for 1988-1989, and again for 1989-1990.**

**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.

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**Arizona Supreme Court  
Admitted January 8, 2002**

**United States Supreme Court  
Admitted October 30, 2000**

**Federal District Court for the Northern District of Texas  
Admitted June 24, 1991**

**Illinois Supreme Court  
Admitted May 13, 1991**

**Texas Supreme Court  
Admitted November 2, 1990**

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
<b><u>Yavapai County Superior Court Family Law Division</u></b>	<b>January 2011 through Present</b>	<b>120 S. Cortez Prescott AZ 86303</b>
<b>Position: Superior Court Judge <i>Pro Tem</i> / Commissioner</b>		

<b><u>Joseph P. Goldstein, P.C.</u></b>	<b>January 2010 through December 2010</b>	<b>140 N. Granite Prescott AZ 86301</b>
<b>Position: Sole practitioner attorney</b>		

<b><u>Phillips &amp; Goldstein, P.C.</u></b>	<b>January 2007 through December 2009</b>	<b>147 S. Marina Prescott AZ 86301</b>
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Applicant Name: **Joseph P. Goldstein**

**Position: Attorney / Partner**

**Favour Moore & Wilhelmsen, PA**

**October 2001  
through  
December 2006**

**1580 Plaza West  
Prescott AZ 86303**

**Position: Attorney / Shareholder**

**Note: From May 2001 until September 2001, I was relocating from Texas to Arizona, and preparing for, taking, and passing the Arizona Bar Examination.**

**Joseph P. Goldstein, P.C.**

**September 1992  
through  
May 2001**

**1701 N. Market St.  
Suite 330  
Dallas TX 75202**

**Position: Sole practitioner attorney**

**Note: During this time period, the physical location of my practice changed. This was the last law office address used.**

**Ray E. Green & Associates**

**November 1990  
through  
September 1992**

**2550 Walnut Hill  
Dallas TX 75229**

**Position: Associate attorney**

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.

**A list is attached and marked as [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.

**In the five years prior to my appointment to the bench, 2005 through 2010, I was in private practice in Prescott. I focused primarily on civil litigation, family law, small business transactions, and estate planning. The legal work I handled remained consistent whether I was at a firm or working as a solo attorney.**

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

**I have practiced before the U.S. Bankruptcy Court in Chapters 7, 11, and 13 proceedings.**

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.

**In 2019, I was appointed by the Arizona Supreme Court to the Family Court Improvement Committee. This is a standing committee charged with identifying areas of concern in family law and developing and implementing improvements. I am also on the Child Support Guidelines Review sub-committee conducting the quadrennial review of the child support guidelines; the Statutes and Rules workgroup; and the Child Support Guidelines Re-styling workgroup. This work is ongoing.**

**In 2017, I was appointed by the Arizona Supreme Court to the Committee for an Interim Review of the Child Support Guidelines. As a committee, recommendations were made to revise the Child Support Guidelines based upon changes in the State's minimum wage laws and in response to recent appellate decisions concerning child support. The recommendations we drafted were approved and implemented.**

**As a trial judge, I have drafted hundreds of rulings and orders, which were of great importance to the parties in the cases. I conduct judicial settlement conferences seeking to resolve ongoing litigation.**

**When I was a practicing attorney, I negotiated and drafted business agreements for the formation, operation, and dissolution of businesses. I have drafted estate plans including wills, trusts, and powers of attorney. In family law matters, I negotiated and drafted pre-marital and post-marital agreements, decrees of dissolution of marriage, and related agreements.**

20. Have you practiced in adversary proceedings before administrative boards or commissions? YES If so, state:

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

**While in law school I volunteered at the school's *pro bono* clinic. I assisted in the presentation of an immigration case before the U.S. Department of Justice, Office of Immigration Review.**

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

Sole Counsel: 0

Chief Counsel: 0

Associate Counsel: 1

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: 15

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) *James R. Adams v. Joy H. Adams, No. P1300DO20070680*  
Yavapai County Superior Court**

(1) the date or period of the proceedings

**Filed August 3, 2007.**

(2) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

**Attorney for the Respondent / Mother:**

**Joseph P. Goldstein**  
120 S. Cortez Street  
Division FLC, Room 200  
Prescott AZ 86303  
(928) 771-3480  
[jgoldstein@courts.az.gov](mailto:jgoldstein@courts.az.gov)

**Attorney for Petitioner / Father:**

**Mark M. Moore (retired)**  
Favour Moore & Wilhelmsen, PA  
1580 Plaza West Drive  
Prescott AZ 86303  
(928) 445-2444  
email address not available

(3) a summary of the substance of each case

**Dissolution of Marriage with minor children and substantial assets.**

(4) a statement of any particular significance of the case

**Emotions ran high between the parties and this brought them to the brink of contested hearings and trial. Opposing counsel and I were able to work out an agreement as to temporary orders just before the hearing and a consent decree was announced at the time of trial. The designation of attorney and counselor is significant. The advice provided to clients can be the difference between a protracted and expensive fight and a negotiated outcome. While there are times that a trial is necessary, in this instance, both counsel recognized, and were able to help the clients recognize, that an agreement would resolve the matter and would allow the parties to maintain a co-parenting relationship.**

**(B) *Michael S. Kagen v. Terri Lynn Adams*, No. P1300DO201100110  
Yavapai County Superior Court**

(1) the date or period of the proceedings

**Date filed: February 4, 2011**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

- (2) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**I was the judge presiding over the settlement conference.**

**Attorney for Petitioner / Husband:**  
**Ingeborg E. Cox**  
**Law Offices of Ingeborg E. Cox, PLC**  
**6900 Camelback Road, Suite 525**  
**Scottsdale AZ 85251**  
**(480)361-5389**  
[ingeborg.cox@azbar.org](mailto:ingeborg.cox@azbar.org)

**Attorney for Respondent / Wife:**  
**David M. Wilson**  
**David M. Wilson Law Office, PC**  
**100 E. Union Street**  
**Prescott AZ 86303**  
**(928) 771-1365**  
[davewilsonlaw@cableone.net](mailto:davewilsonlaw@cableone.net)

- (3) a summary of the substance of each case

**Dissolution of Marriage.**

- (4) a statement of any particular significance of the case

**The barrier to getting the case settled was the division of a community business and spousal maintenance. The parties' positions were far apart and, after spending a half day, only minimal progress was made. We agreed that additional discovery was needed and I set a second conference to take place after the discovery was completed. At that second conference, the parties reached a settlement of all issues and a consent decree was entered.**

- (C) ***Nathan A. Wiggins v. Kristine A. Wiggins*, No. P1300DO201600831  
Yavapai County Superior Court**

- (1) the date or period of the proceedings

**October 17, 2016**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

- (2) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**I was the judge presiding over the settlement conference.**

**Petitioner / Husband was self-represented**

**Attorney for Respondent / Wife:**

**Stephanie A. Willison**

**Willison Law, PC**

**141 S. McCormick St, Suite 211**

**Prescott AZ 86303**

**(928) 445-3534**

**[office@willisonlawpc.com](mailto:office@willisonlawpc.com)**

- (3) a summary of the substance of each case

**Dissolution of Marriage.**

- (4) a statement of any particular significance of the case

**When seeking to resolve matters involving a party represented by counsel and a self-represented party, special considerations and skills are needed. This is true whether in litigation or settlement. All parties are bound by the same statutory and case law, and all are to adhere to the rules of procedure, but the Code of Judicial Conduct recognizes that often some form of accommodation may be needed (Rules of the Supreme Court, Rule 81, Arizona Code of Judicial Conduct, Rule 2.2, comment 4). Often self-represented parties look to the court for legal advice or guidance. Though I cannot give legal advice, I do explain the process and procedure in a way that will allow the matter to proceed while ensuring that everyone feels that they had an opportunity to be heard. In this matter, where there was only one lawyer, some extra time was needed with the parties, but in the end, a settlement was reached, and a consent decree was presented to resolve the case.**

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: 10

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State Courts of Record: 200

Municipal/Justice Courts: 50

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: 220

Chief Counsel: 0

Associate Counsel: 40

The approximate percentage of those cases in which:

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 80%

You made a contested court appearance (other than as set forth in the above response) 70%

You negotiated a settlement: 55%

The court rendered judgment after trial: 15%

A jury rendered a verdict: 2%

The number of cases you have taken to trial:

Limited jurisdiction court 10

Superior court 50

Federal district court 0

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

**I was in private practice for 20 years before serving on the Superior Court. I do not have access to all my files as some are in the possession of firms where I worked.**

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: 1

Criminal: 0

Other: 0

The approximate number of matters in which you appeared:

As counsel of record on the brief: 1

Personally in oral argument: 1

25. Have you served as a judicial law clerk or staff attorney to a court? NO If so, identify the court, judge, and the dates of service and describe your role.

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) Shirley A. Schuster v. Alan J. Schuster, No. P1300DO20060525**

**and**

**In Re the Estate of Alan J. Schuster, No. P1300PB20070095**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

- (1) the date or period of the proceedings

**This case began as a dissolution of marriage matter that was filed on June 14, 2006, and then became an informal probate matter on April 16, 2007, and subsequently a formal probate on August 20, 2007.**

- (2) the name of the court or agency and the name of the presiding judge or officer before whom the case was heard

**Both cases were filed in the Yavapai County Superior Court and assigned to Division 4 before the Hon. Howard D. Hinson, Jr.**

- (3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Petitioner / Wife in the family law matter and for the Personal Representative of the estate in the probate matter:**

**Joseph P. Goldstein  
120 S. Cortez Street  
Division FLC, Room 200  
Prescott AZ 86303  
(928) 771-3480  
[jgoldstein@courts.az.gov](mailto:jgoldstein@courts.az.gov)**

**Attorney for Respondent / Husband and Claimant against the Estate:**

**Chester R. Lockwood, Jr. (retired)  
P.O. Box 4560  
Apache Junction AZ 85178-0010  
(928) 533-3126  
email address unknown**

- (4) a summary of the substance of each case

**This case initially involved the dissolution of a long-term marriage with personal and business community and joint property interests. Significant efforts were made on behalf of Petitioner to settle the case, but the parties were unsuccessful. While the litigation was pending, Respondent was diagnosed with a terminal illness. Petitioner and I again sought to resolve the case, but Respondent was not inclined to settle. Respondent passed away and the Petition for Dissolution of Marriage was dismissed.**

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(5) a statement of any particular significance of the case

**This case was significant because Respondent had a valid Will prepared during the marriage, which he neither revoked nor modified. In the days prior to his death, Respondent and his counsel worked towards preparing a new Will, but never completed the task. Respondent's counsel was retained by Respondent's adult children from a prior marriage. Opposing counsel filed claims against the estate to prevent Petitioner from taking under the Will. As counsel for the Petitioner, I successfully established that the actions of Decedent did not create a legally recognized Will. It was neither holographic nor nuncupative. The court hearing the probate case dismissed all the claims against the estate.**

**(B) *Raymond Rickelman v. Susan S. Rickelman*, No. P1300DO20071053**

(1) the date or period of the proceedings

**Dissolution of Marriage Proceedings filed November 28, 2007.**

(2) the name of the court or agency and the name of the presiding judge or officer before whom the case was heard

**The case was filed in the Yavapai County Superior Court and assigned to Division 4 before the Hon. Howard D. Hinson, Jr.**

(3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Respondent / Wife:**

**Joseph P. Goldstein  
120 S. Cortez Street  
Division FLC, Room 200  
Prescott AZ 86303  
(928) 771-3480  
[jgoldstein@courts.az.gov](mailto:jgoldstein@courts.az.gov)**

**Attorney for Petitioner / Husband:**

**William B. Fortner (retired)  
115 E. Goodwin, Suite D, Prescott AZ 86301  
(928) 445-3817  
email address unknown**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

(4) a summary of the substance of each case

**This case involved the dissolution of a long-term marriage with real and personal property issues, spousal maintenance, and claims for attorney's fees.**

(5) a statement of any particular significance of the case

**The significance of this case was that Husband engaged in conduct during the pendency of this case that extended the litigation and effectively prevented settlement efforts. At the conclusion of the case, my client received all the relief she requested and an award of her attorney's fees. Despite the efforts of counsel, you cannot always get the parties to come to the table or to participate in a civil, peaceful manner.**

**(C) *Mary B. Hudelson v. MyAnum, Inc.*, No. JA-96-00580-C**

(1) the date or period of the proceedings

**Civil Complaint – Forcible Entry and Detainer filed August 28, 1996.**

(2) the name of the court or agency and the name of the presiding judge or officer before whom the case was heard

**The case was filed in the Denton County, Texas, County Court at Law Court No. 3 before the Hon. Don R. Windle.**

(3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Defendant / Commercial Tenant:**

**Joseph P. Goldstein  
120 S. Cortez Street  
Division FLC, Room 200  
Prescott AZ 86303  
(928) 771-3480  
[jgoldstein@courts.az.gov](mailto:jgoldstein@courts.az.gov)**

**Attorney for Plaintiff / Landlord:**

**Donna R. Hernandez  
610 Parker Square**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

Flower Mound TX 75028  
(972) 539-0090  
email address unknown

(4) a summary of the substance of each case

**This case involved the alleged breach of a commercial lease and the attempt to evict my client from the space. The leased premises were retail space on the first floor of an office building. Plaintiff alleged that my client violated the lease provisions regarding the percentage of the space that could be devoted to food sales and the percentage for alcohol sales. The case was tried to a jury.**

(5) a statement of any particular significance of the case

**The significance of this case was that the allegations were actually a pretext to conceal the real motive of the Landlord. At the time that the lease agreement commenced, market conditions were weak and the tenant received very favorable lease terms. Later, the market improved and the landlord had potential tenants willing to pay a much higher rent. The case went to a jury trial; the jury returned a unanimous verdict for my client.**

**Plaintiff subsequently appealed the decision, but a non-suit was entered ending the appeal.**

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.).

**In 2009 I was appointed by Justice of the Peace Arthur Markham as a Small Claims Hearing Officer. I estimate that I presided over, and resolved, around 18 cases, mostly consisting of disputes between merchants and consumers. It was an enjoyable experience and I am grateful to Judge Markham for giving me the opportunity. This was a volunteer position without compensation.**

**In December 2010, I was appointed to the Superior Court in Yavapai County as a Superior Court Judge *Pro Tem* and Family Law Commissioner. I began this assignment on January 3, 2011.**

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**I am assigned domestic relations matters, all Title IV-D cases (child support cases as set forth in the U.S. Social Security Act), settlement conferences, requests for orders of protection, applications for deferral or waiver of fees, and requests for protected addresses.**

**I estimate that I have presided over:**

**9,500 IV-D support hearings  
385 bench trials  
825 expedited Order of Protection / Temporary Orders hearings  
700 default hearings**

**At any given time, I am assigned between 350 and 500 cases.**

**I have sat as a visiting judge for conflict cases from Coconino, Navajo, Gila, and Pinal Counties.**

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) *Dana Thompson v. William Corry*, No. P1300DO20060699**

- (1) The date or period of the proceedings

**Petition for Post-Decree Enforcement filed November 12, 2010.**

- (2) The name of the court or agency

**Yavapai County Superior Court, Family Law Division**

- (3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Petitioner / Mother:**

**Joseph C. Waesche  
8147 E. Florentine, Suite B  
Prescott Valley AZ 86314  
(928)925-2142**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

[joearthlaw@gmail.com](mailto:joearthlaw@gmail.com)

**Attorney for Respondent / Father:**

**Dennis G. Bassi  
Law Offices of Dennis G. Bassi, PLLC  
1100 E. Washington Street, Suite 200  
Phoenix AZ 85034  
(602)258-6684  
[dennis.bassi@azbar.org](mailto:dennis.bassi@azbar.org)**

(4) a summary of the substance of each case

**The relevant portion of this case involved an award of attorney's fees to a party represented by *pro bono* counsel. A.R.S. § 25-324 allows for attorney fees to be shifted from one party to the other under certain circumstances. Father engaged in litigation conduct giving rise to an award of attorney's fees in favor of Mother. Mother was represented by *pro bono* counsel. I awarded Mother's counsel an amount equal to what would have been reasonable and necessary attorney's fees, had she been charged.**

(5) a statement of any significance of the case

**Based upon Father's conduct, Mother's counsel was entitled to an award of fees under the statute. The fact that Mother's counsel represented her *pro bono* did not give Father a free pass. The amount ultimately awarded was for fewer hours at a lower hourly rate than counsel sought, because the statutory standard is prevailing market rate in the community for similar services.**

**The case was appealed by Father. The Court of Appeals, Division One, affirmed the ruling in No. 1 CA-CV 11-0729 issued November 15, 2012, and reported at 231 Ariz. 161, 291 P.3d 358.**

**(B) *Michael M. Huege v. Heather M. Huege*, No. P1300DO201200094**

(1) the date or period of the proceedings

**Petition for Dissolution of Marriage filed January 27, 2012.**

(2) the name of the court or agency

**Yavapai County Superior Court, Family Law Division**

Filing Date: August 31, 2020  
Applicant Name: **Joseph P. Goldstein**

- (3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Petitioner / Father:**

**Douglas C. Gardner  
Davis Miles McGuire Gardner  
40 E. Rio Salado Pkwy, Suite 425  
Tempe AZ 85281  
(480)733-6800  
[dgardner@davismiles.com](mailto:dgardner@davismiles.com)**

**Attorney for Respondent / Mother:**

**Joseph C. Waesche  
8147 E. Florentine, Suite B  
Prescott Valley AZ 86314  
(928)925-2142  
[joearthlaw@gmail.com](mailto:joearthlaw@gmail.com)**

- (4) a summary of the substance of each case

**This case involved the application of the Uniform Child Custody Jurisdiction Enforcement Act (“UCCJEA”) (A.R.S. § 25-1001 *et seq.*) Mother and Father were married in Idaho and continued to live there for the first two years of their marriage before coming to Arizona. While in Arizona, Mother gave birth to their child. Father committed significant domestic violence against Mother and their infant child. Father was convicted of Aggravated Assault per Domestic Violence. Mother and child left Arizona and relocated to Idaho, which was where Mother’s extended family support structure was located. Prior to the child residing in Idaho for six months (the time set forth for home state jurisdiction to attach in a case involving original jurisdiction pursuant to the UCCJEA, A.R.S. § 25-1002(7)(a)), Father filed his Petition for Dissolution of Marriage in Arizona. One month later, Mother filed her Divorce Complaint in the State of Idaho. Mother filed in Arizona to change jurisdiction to Idaho. This case involved the interests of two competing Petitions for Dissolution of Marriage filed in two different states; Arizona and Idaho.**

- (5) a statement of any significance of the case

**The court was faced with balancing the statutory home state of the child under the UCCJEA against the domestic violence Mother and child experienced at the hands of Father that caused them to go back to Idaho.**

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An evidentiary hearing was conducted on Mother's motion and, after receiving the evidence, testimony, and the arguments of counsel, I concluded that although Arizona was the home state of the child, Idaho was a more convenient forum (A.R.S. § 25-1037).

Father timely appealed my decision. On May 23, 2013, the Court of Appeals, Division One, affirmed the ruling in its Memorandum Decision in 1 CA-CV 12-0764.

**(C) *Carrie S. Stacey v. Richard R. Regimballe*, No. P1300DO201100301**

(1) the date or period of the proceedings

**Venue transferred to Yavapai County March 28, 2011.  
Post-Decree Modification Proceedings filed April 19, 2011.**

(2) the name of the court or agency

**Yavapai County Superior Court, Family Law Division**

(3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Petitioner / Mother:**

**Stacie B. Robb  
316 N. Alarcon  
Prescott AZ 86301  
(928)237-3800  
[robblaw@cableone.net](mailto:robblaw@cableone.net)**

**Attorney for Respondent / Father:**

**David M. Wilson  
David M. Wilson Law Office, PC  
100 E. Union Street  
Prescott AZ 86303  
(928) 771-1365  
[davewilsonlaw@cableone.net](mailto:davewilsonlaw@cableone.net)**

**Attorney for Third Party / Division of Child Support Services**

**Franklin R. Hall (retired)  
Assistant Attorney General  
(928) 273-2890  
[frhall1849@gmail.com](mailto:frhall1849@gmail.com)**

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(4) a summary of the substance of each case

**The relevant portion of this case involved a requested modification of legal decision-making, parenting time, and child support due to serious mental and emotional issues concerning the minor child. The parents differed greatly on the need for, and extent of, treatment for the child. Temporary orders were entered placing the child into a special school. Subsequently the case was transferred to my Division after Third Party entered an appearance and the case was designated as IV-D.**

(5) a statement of any significance of the case

**The significance of this case was that the parents' interaction with each other and the child created a high conflict atmosphere, which aggravated the child's mental health issues. The non-custodial parent was quick to blame the custodial parent without accepting responsibility that his acts and omissions were also highly damaging to the child and her relationship with her parents. All attempts at reaching any agreements were exhausted. After trial and post-trial motions, I ordered the type and level of care found to be in the best interest of the child and modified child support to ensure that the appropriate care was available. At a later status conference, I learned that the child had successfully graduated high school and that the relationship with her custodial parent was improving.**

**(D) *Antonella Sherman v. Derek Sherman*, No. P1300DO201300139**

(1) the date or period of the proceedings

**Petition for Dissolution of Marriage filed February 11, 2013.**

(2) the name of the court or agency

**Yavapai County Superior Court, Family Law Division**

(3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Petitioner / Wife:**

**John G. Mull  
Brown, Hanna and Mull, PLLC  
1570 Plaza West Drive**

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Applicant Name: **Joseph P. Goldstein**

Prescott AZ 86303  
(928)445-6827  
[johnngmull@gmail.com](mailto:johnngmull@gmail.com)

Attorney for Respondent / Husband:

Robert L. Frugé  
Law Offices of Robert L. Frugé, PC  
3173 Clearwater Dr., Suite B  
Prescott AZ 86305  
(928)445-5500  
[frugelawoffice@cableone.net](mailto:frugelawoffice@cableone.net)

(4) a summary of the substance of each case

**The petition for dissolution of marriage raised issues of child support and spousal support. Father was a high-income earner. After the petition was filed, Father suffered a serious medical event and was unable to work. The medical evidence was that Father would be able to resume work in the near future, but that he may not be able to earn at the same high level. During his recovery period, Father received loans from his family to keep him at the same standard of living he previously enjoyed. The court ordered child support from Father to Mother based upon his loans and ordered spousal maintenance in a nominal amount.**

(5) a statement of any significance of the case

**The award of spousal maintenance at \$50.00 a month was considered a nominal award. I knew that the appellate courts disfavored nominal awards and had published opinions on that point, but these cases also held that, for the right case, a nominal award would be permissible. I analyzed the case law and the facts of this case and reasoned that this was one of those exceptions. Father appealed the ruling. The Court of Appeals, Division One issued its memorandum decision on November 1, 2016, in No. 1 CA-CV 15-0201 FC, and disagreed on the award of spousal maintenance, but affirmed on the issue of the child support award.**

**It is a great benefit to a trial judge to have an appellate court tell you when you get it right and when you get it wrong. While I reasoned that the facts of this case fit the case law, the appellate court disagreed. I am a better trial judge because of this case.**

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**(E) James L. Anderson v. Judith Anderson, No. P1300DO201500234**

(1) the date or period of the proceedings

**Petition for Dissolution of Marriage filed March 17, 2015.**

(2) the name of the court or agency

**Yavapai County Superior Court, Family Law Division**

(3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented

**Attorney for Petitioner / Husband:**

**Valarie A. McNeice**  
Current address unknown  
[valarie.mcneice@gmail.com](mailto:valarie.mcneice@gmail.com)

**Attorney for Respondent / Husband:**

**Daniel J. DeRienzo**  
Law Office of Daniel J. DeRienzo  
8128 E. Florentine Road, Suite B  
Prescott Valley AZ 86314  
(928)493-1177  
[derienzolaw@hotmail.com](mailto:derienzolaw@hotmail.com)

(4) a summary of the substance of each case

**This was a dissolution of a long-term marriage without minor children. Husband was 68 years of age and Wife was 72 years of age. At the time Husband filed, he was incarcerated in the Department of Corrections on a sentence of 8½ years with 1½ years remaining. Both parties received pensions. After dividing the community portions of the pensions, Wife was still clearly in need of spousal maintenance. Husband was able to save his pension payments while incarcerated. I awarded Wife spousal maintenance. Husband timely appealed.**

(5) a statement of any significance of the case

**Husband's available income and financial resources were adequate to provide for Wife while the State of Arizona provided for all of Husband's needs. While I recognized that the situation may be**

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different after Husband's release, part of the legislative intent behind A.R.S. § 25-327 allows for modification of spousal maintenance upon a showing of changed circumstances that are substantial and continuing. I had to balance this against Wife's needs, which were immediate.

On March 23, 2017, the Court of Appeals, Division One, affirmed the ruling in its Memorandum Decision in No. 1 CA-CV 16 0237 FC, March 23, 2017.

29. Describe any additional professional experience you would like to bring to the Commission's attention.
- A. In June 2020, I was elected president of the Arizona Judges Association. The AJA is a voluntary organization made up of active and retired Supreme Court Justices, Court of Appeals Judges, Superior Court Judges, Pro Tem Judges, and Commissioners from across the state.
  - B. In 2019, I was appointed by the Arizona Supreme Court to the Family Court Improvement Committee. This is a standing committee charged with identifying areas of concern in family law and developing and implementing improvements. I am also on the Child Support Guidelines Review sub-committee conducting the quadrennial review of the child support guidelines; the Statutes and Rules workgroup; and the Child Support Guidelines Re-styling workgroup. This work is ongoing.
  - C. In 2017, I was appointed by the Arizona Supreme Court to the Committee for an Interim Review of the Child Support Guidelines. As a committee, recommendations were made to revise the Child Support Guidelines based upon changes in the State's minimum wage laws and in response to recent appellate decisions concerning child support. The recommendations we drafted were approved and implemented.
  - D. COVID-19 has impacted all of us, our families, community, and our institutions. The response in Arizona has been good and timely. We don't have a crystal ball. We make the best decisions we can with the credible information available at the time and make adjustments as needed. Working in the court system and being part of countless meetings with the stakeholders (judges, clerk, lawyers, county attorney, public defender, sheriff, probation, and administration), I

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**talked to people with diverse objectives and saw them come together. We developed policy and procedures to get through this public health event and still maintain access to justice. I am honored to work with and alongside all these people who selflessly act for the greater good.**

<b>BUSINESS AND FINANCIAL INFORMATION</b>
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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.

**After completing my undergraduate degree, and before attending law school, I was employed in the hotel industry.**

<b><u>Fairmont Hotel</u></b>	<b>1985 through 1987</b>	<b>1717 N. Akard St. Dallas TX 75201</b>
<b>Position: Credit Manager</b>		
<b><u>Registry Hotel</u></b>	<b>1984 through 1985</b>	<b>15201 Dallas Pkwy Dallas TX 75001</b>
<b>Position: Credit Manger</b>		
<b><u>Loews Anatole Hotel</u></b>	<b>1982 through 1984</b>	<b>220 Stemmons Freeway Dallas TX 75207</b>
<b>Position: Assistant Manager</b>		
<b><u>Hyatt Regency Chicago</u></b>	<b>1980 through 1982</b>	<b>151 E. Wacker Dr. Chicago IL 60601</b>
<b>Position: Assistant Housekeeper</b>		

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.

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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? YES If not, explain.
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? YES If so, identify the nature of the case, your role, the court, and the ultimate disposition.

**A. In 1997, I was the plaintiff in a tort claim for damages to my home. The case was resolved by entry of a default judgment and a post-judgment settlement was reached. The case was styled *Joseph P. Goldstein v. Mike Haxton and M&H Fence Co.*, No. 97-30509-211, District Court of Denton County, Texas, 211th Judicial District.**

**B. In 1998, I was the plaintiff in a breach of contract and bad faith suit against an insurance company regarding a homeowner's claim. The issues were resolved by agreement and the case was dismissed. The case was styled, *Joseph P. Goldstein v. State Farm Lloyds*, No. 98-50392-367, District Court of Denton County, Texas, 367th Judicial District.**

**C. Since my time on the bench, I have been named in one or more suits brought against the court system. All actions have been dismissed. The most recent matter involved a suit naming all elected and appointed superior court judges and other county officials. The case was filed as No. V1300CV201380328, Yavapai County Superior Court, *James L. Brown and Brenda L. Crater v. Arthur Markham, et al.* It was heard by a visiting judge and dismissed. The plaintiffs appealed, and the trial court's judgment was affirmed.**

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

<b>CONDUCT AND ETHICS</b>
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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.

**In 2009 I was co-counsel on a matter in which a filing deadline was not met. The matter was resolved amicably without litigation. Co-counsel and I each referred the matter to our respective insurance carriers and it was resolved to everyone’s satisfaction.**

43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42.

**None**

44. List and describe any sanctions imposed upon you by any court.

**None**

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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? YES If so, in each case, state in detail the circumstances and the outcome.

**In 2017 a complaint was filed with the Commission on Judicial Conduct by a party in a contentious family law case. The complaint was dismissed. Please see [ADDENDUM 1](#), attached to this application.**

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.

<b>PROFESSIONAL AND PUBLIC SERVICE</b>
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50. Have you published or posted any legal or non-legal books or articles? NO If so, list with the citations and dates.

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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.

**On August 13, 2014, I was on a panel with Hon. Patricia Trebesch and Hon. Celé Hancock at a public forum at Alta Vista Retirement Community in Prescott.**

**On August 26, 2015, I presented to the Yavapai County Bar association along with Hon. Daniel P. Collins, Chief Judge of the U.S. Bankruptcy Court for the District of Arizona, and local attorney Daniel Furlong on the topic of Bankruptcy and Family Law Issues.**

**On May 13, 2016, I presented at a National Business Institute (NBI) seminar entitled, "Family Law Judicial Forum," in Flagstaff.**

**On May 17, 2017, I presented at the NBI seminar in Flagstaff on the topic, "As Judges See It: Best and Worst Practices in Civil and Family Litigation."**

**On March 28, 2018, I presented to the Yavapai County Bar association along with several of my colleagues on the Yavapai County Superior Court on the topic of "What Judges Want You to Know."**

**I present a class each month in my courtroom called "Divorce 101" to educate the public on the process of dissolution of marriage. This program was implemented by Hon. Rhonda Repp and I have continued it since my appointment to the bench in 2011. From 2005 through 2010, I participated in the class as a volunteer attorney to answer questions from the group.**

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

**Arizona Judges Association**

**President, elected 2020**

**Vice-President, elected 2019**

**Secretary, elected 2018**

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**Treasurer, elected 2017**  
**Rural Representative, elected 2014 and 2016**  
**Member since 2011**

**The Arizona Judges Association is a voluntary organization open to all active and retired Supreme Court Justices, Courts of Appeals Judges, Superior Court Judges, Pro Tem Judges, and Commissioners.**

**Yavapai County Bar Association**

**Member since 2002**

**State Bar of Arizona**

**Member since 2002**

**State Bar of Texas**

**Member since 1990 (presently on inactive status)**

**Association of Family and Conciliation Courts**

**Member since 2011**

**Conciliation Courts Roundtable**

**Member since 2011**

**Prescott Chamber of Commerce**

**Member from 2007 through 2009**  
**Economic Development Committee, 2008 and 2009**

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.

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**I was named Volunteer Attorney of the Year for Yavapai County in 2010 by the Volunteer Lawyer Program.**

**While I was a practicing attorney, it was an important part of my practice to represent *pro bono* clients. I did this every year I was in practice. While I never did this type of work for any sort of praise, I was recognized by the Volunteer Lawyer Program for my participation in 2004, 2005, 2006, 2007, and 2008, and named Volunteer Attorney of the Year for 2010.**

**I volunteered annually for the Yavapai County Bar Association's Law Day *pro bono* legal clinics. Prior to my appointment to the bench, I participated in the Veterans Stand Down events held annually. Since my appointment, I continue to participate, as a judge, in the annual Veterans Stand Down events.**

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

**I have been involved with the Arizona High School Mock Trial Program since 2011. Along with some of my colleagues, I judge the regional tournament. For some of my earlier years on the bench, I worked with the high school students in helping them prepare for the competition.**

**I volunteer to hear cases at the Veterans Stand Down which takes place in Yavapai County each Fall.**

**I was a Small Claims Hearing Officer in 2009 and 2010, after being appointed by Judge Arthur Markham for this volunteer position.**

**As an attorney, I volunteered for one afternoon every month from 2007 through 2010 assisting self-represented litigants with their cases through the Family Law Ombudsman Program, which was a co-effort between the Superior Court and Community Legal Services.**

**When my family first came to Prescott in 2001, I volunteered with Meals on Wheels delivering food and visiting with homebound seniors in Prescott. I had a regular route, which allowed me to get to**

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**know the people I served. It was a pleasure to do this work.**

**I volunteered with the Yavapai County Search and Rescue Team in 2001 and completed the Search & Rescue Academy on September 30, 2001.**

**I am a member of Aztlan Lodge No. 1, Free and Accepted Masons of Arizona, since 2009.**

**During the time that my children were in elementary school, from 1995 through 2007, I was involved with their youth sports leagues, either as a league officer or team coach.**

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

**Named Volunteer Attorney of the Year for Yavapai County, 2010.**

**Elected President of the Arizona Judges Association, 2020**

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 Judge *Pro Tempore* and Family Law Commissioner of the Superior Court in Yavapai County commencing January 3, 2011.**

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.

**I enjoy spending time outdoors. My family and I enjoy hiking, gardening, skiing, and travel.**

**I am somewhat of a rock hound. I find myself hunting for rocks and minerals and then cutting, shaping, and polishing them.**

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**It is a regular occurrence that I have one or more projects happening around my house.**

**I have been a student of Shotokan karate for many years.**

**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 am a third generation American. My great grandparents and grandparents came to this country from Europe at the end of the nineteenth century and the first years of the twentieth century, eventually settling in Chicago. Both of my grandfathers became successful small business owners; one in the neighborhood grocery business and the other in the furniture business. Their perseverance and determination to make their way in a new country paved the way for their children to succeed. My parents met in their early twenties and were married for the next 68 years until my father passed away December 2018, at the age of 90.**

**My parents and grandparents instilled in me and my siblings the idea that a good education, hard work, honesty, and faith was what would carry you through life.**

**I started working while I was still in middle school. My first job was as an usher in a movie theatre. I have worked pretty much continuously ever since. In high school I worked at a gas station, in a warehouse, and as a dishwasher. In college I worked at a**

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**newspaper, in a stockroom, as a delivery driver, and as a bellhop. All these jobs gave me the experience of being with people from diverse backgrounds and the ability to find common ground.**

**After receiving my undergraduate degree, I went to work in the hotel industry where I spent the next seven years until starting law school. Those years broadened my experience from the local level to dealing with people from around the world. There are many people in the legal profession who go from high school, into college, into law school, and then into the practice of law without gaining a real-world perspective; that was never my path. The experiences I have had outside of the legal profession helped me to become the lawyer, and judge, that I am. Being a judge isn't just about knowing and applying the law. It is also having compassion and respect for the people before you and for your community. It is what I strive to achieve.**

**I have been married for 26 years with three grown children, all of whom ventured away from home, but chose to come back to this area for the quality of life that they didn't find elsewhere.**

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

**I have had many jobs in my life and fewer careers, but it was not until I was appointed judge of the Superior Court that I found a calling. The responsibility and authority that come with this position has inspired me to rise to the occasion and perform at a higher level.**

**As an attorney I was able to work with my clients to help them achieve the results they desired, but I could not control the outcome. Being a judge has provided me an improved perspective. The parties who appear before me have invited me into their lives at a vulnerable time. Having the opportunity to see them through the process and resolve their case is rewarding.**

**Since 2011, I have presided over nearly 10,000 hearings and trials. Though many of the child support hearings only last 15 to 20 minutes, the trials may last multiple days. I am often involved with a family over months or years. I have the same families coming back into court years later seeking to change or enforce their orders. You can't help but get to know the people under these circumstances. I**

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have helped steer parents to employment opportunities, to obtaining their GED, learn parenting skills, and to get help for substance abuse. The goal is to see that their children's needs are met and that the parents figure out how to peacefully resolve any future conflicts that may arise. Admittedly, some days are better than others, but I have enjoyed all my time on the trial court bench.

I am grateful to Chief Justice Brutinel and Judge Mackey for giving me the opportunity to be a judicial officer on the Superior Court in Yavapai County.

I am confident that I not only have the regard for the law that is required from a Judge, I also have the qualifications, experience, and temperament to be successful in this position.

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.

Statement attached and marked as [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.

Writing samples attached and marked as [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.

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**Writing samples attached and marked as [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.

**I serve as a judicial officer in Yavapai County. We are not at this time subject to judicial performance review; however, with the 2020 U.S. Census currently ongoing, that may soon change.**

**-- INSERT PAGE BREAK HERE TO START SECTION II  
(CONFIDENTIAL INFORMATION) ON NEW PAGE --**

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Applicant Name: **Joseph P. Goldstein**

# ATTACHMENT A

## Response to Question 15

### SUPERIOR COURT IN YAVAPAI COUNTY LIST OF JUDGES

Hon. John D. Napper Presiding Judge	Division 2	(928) 777-7990
Hon. Tina R. Ainley	Division 3	(928) 771-3316
Hon. Krista Carmen	Division 4	(928) 771-3303
Hon. Celé Hancock	Division 5	(928) 771-3307
Hon. Anna Young	Division 6	(928) 771-3305
Hon. Michael R. Bluff	Division 7	(928) 567-7775
Hon. Debra R. Phelan	Division Pro Tem A	(928) 567-7722
Hon. Christopher L. Kottke	Division Pro Tem B	(928) 567-7726
Hon. Joseph P. Goldstein	Division Family Law	(928) 771-3480
Hon. Thomas K. Kelly	Seasonal Pro Tem	(928) 771-3303
Hon. Rhonda L. Repp	Seasonal Pro Tem	(928) 777-7908
Hon. Don Stevens	Seasonal Pro Tem	(928) 554-8941

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Applicant Name: **Joseph P. Goldstein**

# **ATTACHMENT B**

## **Response to Question 62**

**As a trial judge, I strive to resolve the issues presented in accordance with the law and the facts. I like to think that I get this correct most of the time. With a case assignment averaging over 400 cases at any given time, the job does not allow much time to really delve deeply into the issues and explore the law. A trial judge does not get much opportunity to discuss his or her assigned cases and legal issues with colleagues. The only feedback a trial judge receives is when a case goes up on appeal and a written decision is issued. This feedback is invaluable. It lets you know what you did right, what you did wrong, and expands the perspective. My experience on the Superior Court has been the most rewarding time of my professional journey. I now seek to take my experience to the next level.**

**The Court of Appeals presents the opportunity to collaborate with experienced judges, discuss the cases, conduct the necessary research, and debate the issues.**

**To prepare myself I have devoted over 10 years to serving on the Superior Court. I have volunteered to handle matters outside of family law. I volunteer to hear conflict cases from other counties. I was assigned the lower court civil appeals. I take Grand Jury returns when needed. I have covered the drug treatment and mental health specialty courts. I have also been assigned criminal cases when needed.**

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# ATTACHMENT C

## Response to Question 63

- (1) [The first writing sample is from 2009](#) when I was in private practice. It is an excerpt from a closing memorandum.
- (2) [The second writing sample is from 2015.](#) It is an Order that resolved a Motion to Set Aside portions of a Decree of Dissolution of Marriage.

**Please note** that the second sample was originally filed in single-spaced format. It has been re-formatted into double-spaced format to conform with your instructions.

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Applicant Name: **Joseph P. Goldstein**

Attachment C – Sample 1

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B. Debts

No credible evidence of any secured debt was presented. In the event that secured debt is found to exist, it should be found to be the separate debt of the party in possession of the asset used to secure such debt.

Much discussion was had on the parties' community and separate unsecured debt. It is not in dispute that the parties had a first and second mortgage secured by their former marital residence. The residence was sold under a Trustee's Sale (Exhibit 11). Pursuant to the anti-deficiency statute, A.R.S. § 33-814 and *Nydam v. Crawford*, 181 Ariz. 101, 887 P.2d 631 (App 1994); both liens and the notes are extinguished. Any post-sale payments that petitioner may have made to the former lienholder were purely voluntary and quite frankly unnecessary. Petitioner's own testimony was that he relied solely upon the lienholder to tell him that he owed the debt and made no independent investigation of the facts or law. The second mortgage is not a community debt to be allocated between the parties. In the event that a successful claim were ever asserted by the creditor regarding the second mortgage, the parties would be responsible to that creditor regardless of the terms of the Decree of Dissolution that may be entered in this case because the creditor is not a party to this action. In other words, no harm or injustice would occur to either the parties or the creditor if this Court were to find that the second mortgage is not a debt to be allocated between the parties.

Petitioner incurred a debt of \$44,000.00 to Yavapai Regional Medical Center (Petitioner's Affidavit of Financial Information, page 8, Exhibit 10). The undisputed testimony was that this debt was incurred after the filing of this case, that it is the separate debt of petitioner and that petitioner considers it to be his separate debt. This debt should not be allocated between the parties.

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1           Petitioner listed two additional debts (Petitioner’s Affidavit of Financial Information, page 8,  
2 Exhibit 10); the first being “Beacon Debt Sol (*sic.*)” in the amount of \$31,000.00 and “Citi Financial”  
3 in the amount of \$8,500.00. For both these debts, petitioner wholly failed to present any documentary  
4 evidence to support these alleged debts. No evidence was presented as to what these debts consist of,  
5 when they were incurred, or what was acquired. Petitioner claimed that documents existed but after  
6 being given opportunity to produce such records, the best he could say was that they were attached to  
7 his Affidavit of Financial Information. A review of the Affidavit (Exhibit 10) contains no such records.  
8

9           Petitioner stated on cross examination that he would pay the “Beacon Debt Sol” debt and that is  
10 how it should be. In the event that he may now seek to have ██████ take responsibility for one-half the  
11 debt, it should be noted that petitioner is attempting to burden ██████ with one-half of an alleged  
12 \$39,500.00 debt, but cannot be bothered to produce a scintilla of evidence to show that a debt exists, let  
13 alone that it is a community debt. Petitioner had the burden of production to provide evidence that a  
14 debt exists. All petitioner came forth with was a handwritten list he authored with the names of  
15 supposed creditors and rounded off dollar amounts. Not a single statement, invoice, account number or  
16 other document from these creditors was shown. Assuming, for the sake of argument, that petitioner  
17 did meet his burden of production as to these two debts, ██████ has shown that the debts should be  
18 petitioner’s separate obligation due to the facts that (1) No evidence was presented as to whether or not  
19 the debts were created before or after service of the petition for dissolution (A.R.S. § 25-211(A)(1)) ; (2)  
20 ██████ was never made aware of these debts by petitioner or the creditors; (3) ██████ was not a signer for  
21 the liability; and (4) ██████ is not aware of any benefit to the community realized by these debts.  
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23

24           On the other hand, ██████ provided testimony and documentation as to the unsecured  
25 community debt. Her Affidavit of Financial Information, page 8 (Exhibit 8) contains a detailed list of  
26 community debt including identity of creditors, account numbers, amounts owed, purpose of debt and

Attachment C – Sample 1

1 payment history. In addition [REDACTED] provided individual documentation from each creditor to evidence  
2 the community obligation (Exhibits 20 through 31, inclusive). [REDACTED] testified that she has been paying  
3 on these debts subsequent to the filing of this case; that petitioner has made no financial contribution  
4 towards the debt and even when [REDACTED] cannot afford to make a payment, she has remained in  
5 communication with the creditors.  
6

7 The amount of the unsecured community debt was \$55,887.64. This amount includes medical  
8 eye care that [REDACTED] received and was unable to submit to her insurance because petitioner had  
9 terminated her eye care insurance coverage in violation of the Court's preliminary injunction and  
10 A.R.S. § 25-315(A)(1)(b)(iii).

11 [REDACTED] asks that these community debts be allocated equitably between the parties and that any  
12 other debt be the sole responsibility of the party incurring the debt.

13 \* \* \*

14 [REDACTED]'s Attorneys Fees & Costs

15 [REDACTED] had requested that she be awarded her reasonable attorneys' fees and costs as permitted  
16 under A.R.S. § 25-324. The statute gives the Court the discretion to award fees and costs under either  
17 of two (2) factors; the financial resources of the parties and the reasonableness of the positions each  
18 party has taken throughout the proceedings. The evidence and testimony supports an award to [REDACTED]  
19 under both factors.  
20

21 The financial resources of the parties are skewed heavily in favor of petitioner. His earnings  
22 and earning ability are much greater than [REDACTED]'s. Part of the reason he enjoys his enhanced earnings  
23 is through the career sacrifices that [REDACTED] made for the family. He is on track to earn over \$100,000  
24 this year and last year he earned \$103,467 (Exhibit 10, page 2 and attached federal income tax returns.  
25 [REDACTED] receives benefits of \$1,027 per month (Exhibit 9, attachment).  
26

Attachment C – Sample 1

1 More importantly, the second factor of A.R.S. § 25-324 needs to be considered. Petitioner has  
2 taken an unreasonable position throughout these proceedings. The evidence and testimony is  
3 undisputed that during the course of litigation, petitioner e-mailed to [REDACTED] communications that were  
4 vulgar, profane, abusive, and obscene (Exhibits 32, 33 and 34). Out of respect for the Court, staff and  
5 [REDACTED], they were not even read aloud in open Court. Petitioner admitted that he authored the  
6 communications and that the effect of the e-mails was to hinder reasonable settlement discussions and  
7 make civil discussions between the parties impossible.  
8

9 Petitioner further inflamed the situation by violating the Preliminary Injunction and terminating  
10 portions of [REDACTED]'s health insurance coverage during the pendency of this case.

11 Petitioner also pursued an award of child support after he had reached agreements with [REDACTED] as  
12 to custody, access, and support, and filed sworn pleadings declaring that neither party shall owe child  
13 support to the other. Petitioner next took advantage of financial benefits of the agreement (taking the  
14 federal income tax exemption for the child) but attempting to unilaterally modify the parents'  
15 agreement for no child support. This was not a reasonable position.  
16

17 Petitioner's actions were offensive and clearly the sort of conduct contemplated by the statute in  
18 giving the Court the power to award attorneys' fees and costs.

19 [REDACTED] requests that the Court find that she is entitled to an award of reasonable attorneys' fees  
20 and costs pursuant to A.R.S. § 25-324 due to (1) petitioner's substantially greater historic income and  
21 earning ability; and (2) the lack of reasonableness of the position petitioner had taken throughout the  
22 proceedings. [REDACTED] further requests that the Court find that her attorneys' fees were incurred in the  
23 establishment of maintenance and support.  
24  
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Attachment C – Sample 2

final Decree was entered.

Father now seeks to have portions of the Decree set aside pursuant to ARIZONA RULES OF FAMILY LAW PROCEDURE (“ARFLP”), Rule 85(C)(1)(a), (c) and (f), which states in relevant part:

Rule 85. Motion to Correct Mistakes; Relief from a Judgment or Order

...

**C. Mistake; Inadvertence; Surprise; Excusable Neglect; Newly Discovered Evidence; Fraud, etc.**

1. On motion and upon such terms as are just the court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons:

a. mistake, inadvertence, surprise, or excusable neglect;

...

c. fraud, misrepresentation, or other misconduct of an adverse party;

...

f. any other reason justifying relief from the operation of the judgment.

*Id.*

The issues raised by Father pertain to legal decision-making, parenting time, and past and current child support.

**Legal Decision-Making and Parenting Time**

The court does not find that subsection (c) applies to this case. There was no fraud,

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misrepresentation or other misconduct by Mother. Subsection (f) is a catch all provision for those rare cases when law or equity requires that relief be granted. This is not one of those cases. The applicable provision is subsection (a), mistake, inadvertence, surprise or excusable neglect. From this list, the only provision that may afford relief to Father is that of surprise.

Father's position is that he was surprised to find that at the conclusion of trial, the mediated parenting plan regarding the parties' minor children in common, was vacated and orders were entered as to these issues different than those in the agreement.

The court received extensive testimony as to issues regarding domestic violence, coercive control and substance abuse by Father that directly and negatively impacted the children. The substantive relief granted by the court at trial was wholly appropriate and in the best interest of the children. Father must acknowledge that when he fails to appear for trial he does so at his own peril.

At the same time the court must balance Father's failure to appear with his notice as to the subject matter to be addressed. The issues of legal decision-making and parenting time appeared to have been resolved prior to the time of trial and reduced to an order. Father may have taken a calculated risk by not appearing as to the outcome of disputed issues but that would not include the resolved issues. Due process considerations would result in the *effective time frame* of the relief granted to be different. Mother was entitled to have a temporary order entered on these issues and an evidentiary hearing to be conducted later. Best interests of the children require that the safeguards put in place

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remain in full force and effect pending that further hearing.

**Past and Current Child Support**

Father takes issue with the order as to child support and the evidence adduced at trial as the calculation of support pursuant to the child support guidelines, A.R.S. § 25-320 (the “Guidelines”).

Testimony was taken at trial as to the factors necessary for determination of support. No controverting evidence or testimony was presented. Father did not file an Affidavit of Financial Information. Father did not appear at trial. Now Father wishes to be heard as to his claims that his income is exaggerated and that past support was not properly calculated.

Unlike the prior issue discussed above, child support was contested and Father had proper notice that it was subject of the trial. The court does not find ARFLP Rule 85 applicable to this claim.

**IT IS THEREFORE ORDERED** that Father’s motion is partially granted and partially denied.

**IT IS FURTHER ORDERED** that the Decree is amended as follows:

- A. Paragraph D, beginning on page is 3, shall be a temporary order which shall remain in effect until further order of the court.
- B. All other provisions of the Decree shall remain in full force and effect.

**IT IS FURTHER ORDERED** that Father shall file with the Clerk of the Court by July 31, 2015, the results of all random drug testing as ordered in the Decree. Upon receipt, the Clerk of the Court shall restrict the results from disclosure.

**IT IS FURTHER ORDERED** that Father shall file with the Clerk of the Court by July

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31, 2015, all records of any treatment or evaluation that he received at any treatment facility or evaluation that he received at the facility. Upon receipt, the Clerk of the Court shall restrict the results from disclosure.

**IT IS FURTHER ORDERED** that the motion as to child support is **DENIED**.

**IT IS FURTHER ORDERED** that trial on the issues legal decision-making and parenting time is set for September 4, 2015, at 1:30 p.m. (one-half day allotted). The State is excused from attendance at this proceeding.

**IT IS FURTHER ORDERED** that the court will set a separate hearing on the State's Petition to Enforce Support by separate order to appear signed this date and to be held after the resolution of the Legal Decision-Making and Parenting Time issues.

DATED the \_\_\_\_\_ day of July 2015

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HON. JOSEPH P. GOLDSTEIN  
JUDGE OF THE SUPERIOR COURT

cc: Robert L. Frugé, *Law Offices of Robert L. Frugé*, for Petitioner (e)  
Jeffrey R. Adams, *The Adams Law Firm, PLLC*, for Respondent (e)  
DCSS – Prescott

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# ATTACHMENT D

## Response to Question 64

- (1) [The first writing sample is from 2016.](#) It was Decision that resolved a civil appeal from a limited jurisdiction court.
- (2) [The second writing sample is from 2014.](#) It is an Order that resolved several post-decree motions.
- (3) [The third writing sample is from 2012.](#) It is a Ruling that resolved a jurisdictional dispute between Arizona and Idaho.

**Please note** that these samples were originally filed in single-spaced format. They have been re-formatted into double-spaced format to conform with your instructions.

**SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI**

STATE OF ARIZONA, Appellee,  vs.  WILLIAM LAWRENCE GARDNER, Appellant.	Case No. P1300CV201600420  <b>DECISION</b>	<b>FILED</b> <b>DATE:</b> _____ _____ O'Clock _____ M <b>DONNA McQUALITY, CLERK</b> <b>BY:</b> _____ Deputy
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<b>HONORABLE JOSEPH P. GOLDSTEIN</b>  <b>DIVISION FAMILY LAW</b>	<b>BY:</b> Heather Figueroa, Judicial Assistant  <b>DATE:</b> September 21, 2016
--	--

Appellant William L. Gardner timely appeals the ruling of the Prescott Justice Court finding Gardner responsible for violating A.R.S. §§ 28-2153(A) and 28-4135(C). Neither party requested oral argument and the court does not find further argument to be necessary to the resolution of this matter. For the reasons that follow, the decision is affirmed.

**FACTUAL AND PROCEDURAL REVIEW**

On November 9, 2015, Gardner was issued a citation by Deputy Evers of the Yavapai County Sheriff's Office asserting that Gardner was operating a motor vehicle without a current registration and without proof of insurance. Gardner timely requested a hearing on the matter, which was conducted on February 8, 2016.<sup>1</sup> Deputy Evers appeared on behalf of the State and Gardner appeared in *pro per*. At the conclusion of the hearing, the trial court found Gardner

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1. A related case regarding criminal charges against Gardner stemming from the same event was filed and heard at the same time. Gardner timely appealed that ruling which is the subject of a separate appeal to the Superior Court docketed as P1300CR201601141.

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responsible for violations of A.R.S. §§ 28-2153(A) and 28-4135(C); suspended imposing any monetary fine as to A.R.S. § 28-4135(C), and imposed a monetary fine as to A.R.S. § 28-2153(A).

### **STANDARD OF REVIEW**

This court reviews the trial court's factual findings for an abuse of discretion but reviews *de novo* issues of a purely legal nature, such as statutory construction. *State v. Bouck*, 225 Ariz. 527, 529, 241 P.3d 524, 526 (Ariz.App. Div. 1, 2010); *State v. Newell*, 212 Ariz. 389, 397, ¶ 27, 132 P.3d 833, 841 (2006); *State v. Patterson*, 222 Ariz. 574, 575, ¶ 5, 218 P.3d 1031, 1032 (App. 2009).

### **DISCUSSION**

At the hearing, the trial court heard the testimony of Deputy Evers, who set forth the facts and circumstances prior to and at the time of the traffic stop. He identified the vehicle and the operator of the vehicle.

Gardner stated that he did not have a current registration for the vehicle but that he did have valid liability insurance coverage.

Gardner was found by a preponderance of the evidence to have violated A.R.S. § 28-2153(A), which states:

§ 28-2153. Registration requirement; exceptions; assessment; violation; classification

A. A person shall not operate, move or leave standing on a highway a motor vehicle, trailer or semitrailer unless the motor vehicle, trailer or semitrailer has been registered with the department for the current registration year or is properly

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registered for the current registration year by the state or country of which the owner or lessee is a resident.

A.R.S. § 28-2153(A).

Gardner raises 2 points of error. First, that the trial court lacked jurisdiction; and second, that A.R.S. § 28-2153 is either invalid or does not apply to him.

### Jurisdiction

Gardner does not state whether he is addressing subject matter jurisdiction or personal jurisdiction. His memorandum contains no legal authority to support his position as to this issue. SUPERIOR COURT RULES OF APPELLATE PROCEDURE – CIVIL, Rule 8(a)(3) requires that, “memoranda shall set forth a short statement of the facts with reference to the record, a concise argument setting forth legal issues presented with citation and authority, and a conclusion stating the precise remedy sought on appeal.” Issues on appeal not supported by legal authority may be deemed waived. *See generally Ritchie v. Krasner*, 221 Ariz. 288, 305, ¶62, 211 P.3d 1272, 1289 (App. 2009). The court declines to deem the issue waived.

Subject matter jurisdiction is conferred upon the justice court by our Constitution and by statute. Article 6 establishes that jurisdiction shall be as provided by law. Ariz. Const. art 6, § 32(B). A.R.S. § 22-201(E)(3) states that the justice of the peace has original jurisdiction in civil traffic offenses, with exceptions that were not argued and do not apply here.

Personal jurisdiction by the court over the parties to a case is subject to due process examination. Here, Gardner submitted himself to the personal jurisdiction of the court by being a resident of Arizona and by operating a motor vehicle upon an Arizona public roadway. See

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generally, *Blackmer v. U.S.*, 284 U.S. 421, 52 S. Ct. 252 (1932). Gardner has raised no colorable argument that the trial court did not have personal jurisdiction over him.

A.R.S. § 28-2153

Gardner argues that A.R.S. § 28-2153 does not apply to him in this case because he was not operating a motor vehicle on a highway. To support his position he cites to the definition of motor vehicle as contained in A.R.S. § 28-5201(9) which defines a motor vehicle as:

9. “Motor vehicle” means any vehicle, machine, truck, tractor, trailer or semitrailer that is propelled or drawn by mechanical power and that is used on a public highway in the transportation of passengers or property in the furtherance of a commercial enterprise.

A.R.S. § 28-5201(9).

Gardner’s argument is that his vehicle was not being used in the furtherance of a commercial enterprise; a fact not disputed at trial. The definition quoted upon by Gardner needs to be read in conjunction with A.R.S. § 28-5202(A):

A. Except as otherwise provided, this chapter applies to all commercial motor vehicles, commercial motor vehicle combinations and manufacturers, shippers, motor carriers and drivers who operate, cause the operation of, ship materials using or transport persons or property using commercial motor vehicles.

A.R.S. § 28-5202(A).

The definition relied upon by Gardner is for the transportation chapter concerning motor carrier safety and does not apply to this case.

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The burden of proof in this matter is on the State to prove its case by a preponderance of the evidence. A.R.S. § 28-1596(D); ARIZONA RULES OF PROCEDURE IN CIVIL TRAFFIC AND CIVIL BOATING VIOLATION CASES, Rule 17 (b). Preponderance of the evidence is defined as “evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it.” Black’s Law Dictionary 1064 (5th ed.). The trial court found that the burden had been met. This was not an abuse of discretion.

It is the function of the trial court to evaluate the evidence. Where there is reasonable evidence to support its conclusion, this court will not disturb it on appeal. *Aetna Loan Co. v. Apache Trailer Sales*, 1 Ariz.App. 322, 402 P.2d 580 (1965). In such situations the appellate court will take the evidence in the strongest light in favor of the trial court's decision. *Linsenmeyer v. Flood*, 1 Ariz.App. 502, 405 P.2d 293 (1965).

### CONCLUSION

For the foregoing reasons, the judgment of the trial court is affirmed.

DATED the \_\_\_ day of September 2016

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HON. JOSEPH P. GOLDSTEIN  
JUDGE OF THE SUPERIOR COURT

cc: William L. Gardner, Triple L. Ranch, Skull Valley, AZ 86338, Appellant  
Jonathan H. Hale, Yavapai County Attorney, for State of Arizona, Appellee (e)  
Prescott Justice Court  
Appeals Clerk (w/file)

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**SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI**

<p>SABRA A KEITH, Petitioner, and CHEYENNE CLINT KEITH, Respondent,  STATE OF ARIZONA, ex rel.; THE DIVISION OF CHILD SUPPORT SERVICES, Third Party.</p>	<p>Case No. P1300DO20010391  ORDER</p>	<p><b>FILED</b>  DATE: _____ O'Clock _____ M <b>DONNA McQUALITY,</b> CLERK  BY: _____ Deputy</p>
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<p><b>HONORABLE JOSEPH P. GOLDSTEIN</b> <b>DIVISION FAMILY LAW</b></p>	<p><b>BY:</b> Shannon Muñoz, Judicial Assistant <b>DATE:</b> October 28, 2014</p>
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On January 2, 2014, Respondent filed his Motion for Relief from Decree of Dissolution of Marriage, and a Motion for Genetic Testing. A response and reply were filed. On February 27, 2014, Respondent filed a Petition for Joinder for Henry J. Davis. The court, being unable to determine the legal basis for the relief requested held oral argument on the petitions and motion. As a result of the pleadings and argument presented, the court found that the child's interests were not adequately being represented by the parties, appointed a best interests attorney for the minor child and denied Respondent's request for joinder and for genetic testing. Respondent moved for reconsideration of the order appointing a best interests attorney. The court having considered the motion and the responses,<sup>2</sup> finds that the motion should be granted.

IT IS THEREFORE ORDERED that Respondent's Motion for Reconsideration is **GRANTED**.

IT IS FURTHER ORDERED that the Child Representation Appointment Order issued July

<sup>2</sup> A reply was filed by Respondent. Pursuant to ARFLP Rule 35 (D) there is no reply to a motion for reconsideration. The reply was not considered.

Applicant Name: **Joseph P. Goldstein**  
Deadline Date: July 13, 2020

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7, 2014, is **VACATED**.

The court having reviewed the pleadings, sworn statements, and arguments presented finds that no further hearing or proceeding is necessary to resolve this matter.

This issue involves a 2014 request for relief from a 2002 Decree of Dissolution of Marriage in which Respondent was found to be the father of three minor children common to the parties.<sup>3</sup>

Respondent brings this action under ARFLP 85(C)(1)(a) and (c), and A.R.S. § 25-807.

A.R.S. § 25-807 concerns the establishment of paternity proceedings. It is not disputed that paternity was established in 2002, by the entry of the Decree of Dissolution of Marriage. This is not a new paternity action regardless of Respondent's suspicions. A final judgment as to paternity was entered in 2002.

Rule 85 does provide a procedural means to seek relief from a judgment. Rule 85 (C)<sup>4</sup> states:

C. Mistake; Inadvertence; Surprise; Excusable Neglect; Newly Discovered Evidence; Fraud, etc.

1. On motion and upon such terms as are just the court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons:

- a. mistake, inadvertence, surprise, or excusable neglect;
- b. newly discovered evidence, which by due diligence could not have been discovered in time to move for a new trial under Rule 83(D);

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<sup>3</sup> Decree of Dissolution of Marriage entered June 3, 2002, page 2 line 6. The current issue involves only [REDACTED] [REDACTED] (date of birth [REDACTED]).

<sup>4</sup> A separate claim for relief was made by Petitioner under Rule 85(A) which was resolved by order entered May 12, 2014.

Applicant Name: **Joseph P. Goldstein**  
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Attachment D Sample 2

- c. fraud, misrepresentation, or other misconduct of an adverse party;
  - d. the judgment is void;
  - e. the judgment has been satisfied, released, or discharged, or a prior judgment on which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or
  - f. any other reason justifying relief from the operation of the judgment.
2. The motion shall be filed within a reasonable time, and for reasons 1(a), 1(b) and 1(c) not more than six (6) months after the judgment or order was entered or proceeding was taken.
3. A motion under this subdivision does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to grant relief to a respondent served by publication as provided by Rule 83(G), or to set aside a judgment for fraud upon the court. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

Based on the passage of time, consideration of the motion under Rule 85(C)(1)(a) or (c) is not available. The Decree of Dissolution of Marriage was entered June 2, 2002. The last day to file would have been December 2, 2002. Respondent filed his motion on January 2, 2014.

Respondent filed a supporting affidavit which alleges fraud by Petitioner. Considering Respondent's sworn statements in the light most favorable to Respondent, he has not made a *prima facie* case establishing fraud. It is based on suspicions and doubt. Respondent states that in the time in proximity to the child's conception, he heard rumors about infidelity and that he discovered

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Petitioner was involved romantically with another man. Those declarations by Respondent put him on notice or should have put him on notice as to any possible paternity concerns. A delay of nearly 17 years in raising these issues is not supported by the facts or the law.

Respondent is not entitled to Rule 85(C) relief because of his unexplained and inexcusable delay in moving to vacate the Decree of Dissolution of Marriage. The rule requires that a motion be filed at least within a reasonable time. Respondent's delay of over 14 years was not reasonable.

Respondent posits the concern that if this issue is not re-opened and addressed, then "the child will never know for certain who his father is."<sup>5</sup> This sworn statement is disingenuous. The relief requested is the termination of current child support and cancelation of child support arrears. Respondent seeks a financial gain cloaked in the language of "best interests of the child."

The court finds that the Motion for Relief from Decree of Dissolution of Marriage is not supported by either A.R.S. § 25-807 *et seq.* or ARFLP 85(C)(1)(a) or (c).

IT IS THEREFORE ORDERED that Respondent's Motion for Relief from Decree of Dissolution of Marriage, filed January 2, 2014, is **DENIED**.

DATED the \_\_\_\_\_ day of October 2014

\_\_\_\_\_  
HON. JOSEPH P. GOLDSTEIN  
JUDGE OF THE SUPERIOR COURT

cc: Daniel J. DeRienzo, *Law Office of Daniel DeRienzo, P.L.L.C.*, for Petitioner (e)  
Eric S. Chester, for Respondent (e)  
DCSS – Prescott (e)  
C. Eileen Bond, Best Interest Attorney (e)

\_\_\_\_\_  
5 Notice of Filing Affidavit of Respondent, May 7, 2014, Exhibit A, page 6, line 5.

Applicant Name: **Joseph P. Goldstein**  
Deadline Date: July 13, 2020

**SUPERIOR COURT, STATE OF ARIZONA, IN AND FOR THE COUNTY OF YAVAPAI**

<p>MICHAEL MARTIN HUEGE  Petitioner,  and  HEATHER MARIE HUEGE  Respondent.</p>	<p><b>Case No.</b> P1300DO201200094  UNDER ADVISEMENT RULING</p>	<p><b>FILED</b>  <b>DATE:</b> _____ _____ <b>O’Clock</b> _____ <b>M</b> <b>SANDRA K MARKHAM,</b> <b>CLERK</b>  <b>BY:</b> _____ _____ <b>Deputy</b></p>
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<p><b>HONORABLE JOSEPH P. GOLDSTEIN</b>  <b>DIVISION FAMILY LAW</b></p>	<p><b>BY:</b> Shannon Muñoz, Judicial Assistant  <b>DATE:</b> September 24, 2012</p>
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This matter came up for hearing on September 13, 2012, on Respondent Heather M. Huege’s (“Mother”) Motion for Change of Jurisdiction. Mother appeared telephonically and by and through her attorney of record Mr. Joseph C. Waesche. Petitioner Michael M. Huege (“Father”) appeared in person and by and through his attorney of record Mr. Douglas C. Gardner. The Court having considered the evidence, testimony and arguments of counsel makes the following findings and enters the following orders:

1. The parties are the parents of one (1) minor child: [REDACTED] (born September 1, 2010).
2. On or about October 4, 2011, the parties separated with Father residing in Prescott Valley, Arizona and Mother and child residing in Twin Falls, Idaho.
3. On January 27, 2012, Father filed his Petition for Dissolution of Marriage in this case.
4. Mother was served with process by substitute service on February 7, 2012.
5. On February 27, 2012, Mother filed her Divorce Complaint in Idaho in the Fifth Judicial District, Twin Falls County, case number CV-12-853.

Applicant Name: **Joseph P. Goldstein**  
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The testimony was uncontradicted that prior to marriage the parties had extensive ties to the State of Idaho and that in October 2009 the parties moved to Arizona where the minor child was born and resided until the parties' separation.

The Court further finds that Mother and the minor child have been the victims of domestic violence by Father on one or more occasions. Mother testified as to two (2) incidents of domestic violence involving law enforcement and the criminal justice system. The first occurred on September 18, 2010, when the minor child was less than three (3) weeks old. The second occurred on October 1, 2011, resulting in Father's arrest and conviction for felony aggravated assault per domestic violence and another related felony offense. Mother left the State with the child in the days immediately following the incident.

The statutory authority for determining this matter is set forth in the Uniform Child Custody Jurisdiction and Enforcement Act ("UCCJEA"), A.R.S. § 25-1001 *et seq.* The issue of jurisdiction in a non-emergency initial child custody determination is made pursuant to the four (4) criteria set forth in A.R.S. § 25-1031:

1. *Home state jurisdiction.* Arizona is the home state of the child as his time in Idaho is less than six (6) consecutive months. A.R.S. § 25-1002(7)(a).
2. *Significant connection jurisdiction.* This applies if this Court declines to exercise jurisdiction on the grounds that Idaho is the more appropriate forum, as discussed further below.
3. *More appropriate forum jurisdiction.* This section is not applicable to this case.
4. *No other state jurisdiction.* This section is not applicable to this case.

Having found that Arizona is the home state of the child, the Court looks to whether the factors necessary for this Court to decline jurisdiction apply.

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**Jurisdiction Declined by Reason of Conduct A.R.S. § 25-1038**

In making a determination as to whether this Court should decline jurisdiction based upon conduct, the Court looks to A.R.S. § 25-1038(A):

A. Except as otherwise provided in § 25-1034, if a court of this state has jurisdiction under this chapter because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless any of the following is true:

1. The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction.
2. A court of the State otherwise having jurisdiction under §§ 25-1031, 25-1032 or 25-1033 determines that this State is a more appropriate forum under § 25-1037.
3. A court of any other State would not have jurisdiction under the criteria specified in §§ 25-1031, 25-1032 or 25-1033.

A.R.S. § 25-1038(A).

The Court finds that Father has caused domestic violence towards Mother and child as discussed in the following section. As a result of the domestic violence and the absence of any reasonable support structure for Mother in Arizona, Mother and child left the jurisdiction to Idaho. The flight was justified under the circumstances.

The Court further finds that the conduct of Father is not the sort of conduct contemplated by the UCCJEA as a basis to decline jurisdiction in Arizona. It may be relevant as to whether Idaho

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would have jurisdiction. The comments to the UCCJEA authored by the drafters provide some insight and guidance in this issue:

Domestic violence victims should not be charged with unjustifiable conduct for conduct that occurred in the process of fleeing domestic violence, even if their conduct is technically illegal. Thus, if a parent flees with a child to escape domestic violence and in the process violates a joint custody decree, the case should not be automatically dismissed under this section. An inquiry must be made into whether the flight was justified under the circumstances of the case.

UCCJEA, drafted by the National Conference of Commissioners on Uniform State Laws (1997), Comments to Section 208 (codified in Arizona as A.R.S. § 25-1038).<sup>6</sup>

**Inconvenient Forum A.R.S. § 25-1037**

In making a determination as to whether this Court should decline jurisdiction based upon it being an inconvenient forum, the Court finds as follows pursuant to A.R.S. § 25-1037(B):

1. *Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child.* Serious domestic violence has occurred. The evidence and testimony show that there has been a continuing and escalating pattern of domestic violence by Father. No evidence was presented that the domestic violence would not continue in the future. The December 19, 2011, Presentence Report from Adult Probation in Father's most recent criminal case assesses him at a medium-high risk level to re-offend. The statements of Father in the report do not show remorse or acknowledgement that he caused domestic violence to occur to Mother or the child. Father does acknowledge that he has a problem with alcohol. Mother and child are located in Idaho due to their being

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<sup>6</sup> Full text at <https://www.law.upenn.edu/library/archives/ulc/uccjea/final1997act.htm>.

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victims of domestic violence. Idaho is the state where Mother was raised, where the parties were married and lived for the first three (3) years of the five (5) year marriage and where Mother has extended family for support. An Arizona No Contact Order is in effect from Father's most recent criminal matter. Mother and child had been receiving support from the paternal grandparents in Arizona, but the testimony showed that at the October 1, 2011, domestic violence incident, the paternal grandparents had limited involvement and would not cooperate with law enforcement. Mother and child's family support structure in Idaho is best situated to protect Mother and child.

2. *The length of time the child has resided outside the state.* At the time of Father's filing the minor child resided in Idaho for approximately 115 days.

3. *The distance between the court in this state and the court in the state that would assume jurisdiction.* The distance between the courts is 786 miles.

4. *The relative financial circumstances of the parties. Each party is in the same relative financial circumstances.* Father, through his counsel, asserts that he is unemployed. Mother is working below minimum wage.

5. *Any agreement of the parties as to which state would assume jurisdiction.* The parties have not agreed as to jurisdiction.

6. *The nature and location of the evidence required to resolve the pending litigation, including testimony of the child.* Evidence pertaining to events occurring during the period after the parties moved to Arizona in October 2010 until the separation is more likely to be located in Arizona. Evidence as to events occurring pre-marital, post-marital until October 2010 and post-separation is more likely to be located in Idaho. The child in common is two (2) years of age and his testimony is not an issue.

7. *The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence.* The Courts in both jurisdictions have the ability to meet this factor.

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8. *The familiarity of the court of each state with the facts and issues pending litigation.* The Courts in both jurisdictions are familiar with the facts and pending issues as indicated by the pleadings filed and proceedings conducted in both jurisdictions. The District Court of the Fifth Judicial District of Idaho has stayed its proceeding pending this determination.

The Court finds that this Court is an inconvenient forum and should decline to exercise jurisdiction and that the Fifth Judicial District of the State of Idaho in Twin Falls County is a more appropriate forum.

**THEREFORE, IT IS ORDERED** that the Motion for Change of Jurisdiction is GRANTED and that Father's Petition for Dissolution of Marriage filed January 27, 2012, is DISMISSED without prejudice.

**IT IS FURTHER ORDERED** that any affirmative relief sought before the date of this Order that is not expressly granted above is DENIED.

DATED the 24th day of September 2012

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HON. JOSEPH P. GOLDSTEIN  
JUDGE OF THE SUPERIOR COURT

cc: Douglas C. Gardner, *Davis Miles McGuire Gardner*, Attorney for Petitioner  
Joseph C. Waesche, *Community Legal Services*, Attorney for Respondent  
Honorable Thomas D. Kershaw Jr., District Court of the Fifth Judicial District, PO Box  
126, Twin Falls ID 83303-0126

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