

APPLICATION FOR NOMINATION TO JUDICIAL OFFICE

This original application, 5 double-sided copies and one (1) single-sided copy must be filed with the Human Resources Department, Administrative Office of the Courts, 1501 W. Washington, Suite 221, Phoenix, AZ, 85007, not later than 3:00 p.m. on Wednesday, August 31, 2016. Read the application instructions thoroughly before completing this application form. The fact that you have applied is not confidential, responses to Section I of this application are made available to the public, and the information provided may be verified by Commission members. The names of applicants, interviewees and nominees are made public, and Commission files pertaining to nominees are provided to the Governor for review. This entire application, including the confidential portion (Section II), is forwarded to the Governor upon nomination by the Commission.

SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 71)

PERSONAL INFORMATION

1. Full Name: Andrew J. Russell
2. Have you ever used or been known by any other legal name? No If so, state name:
3. Office Address: 18380 North 40th Street, Suite E, Phoenix, AZ 85032
4. When have you been a resident of Arizona? May 2001-Present
5. What is your county of residence and how long have you resided there?

Maricopa County, 15 years

6. Age: 52

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

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

Arizona
Independent, 2002-Present

Virginia
Democrat, 1998-2001

California
Democrat, 1982-1998

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

8. Gender:

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

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

EDUCATIONAL BACKGROUND

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

Washington and Lee University School of Law, Lexington, VA
1998-2001
Juris Doctorate

University of California, Los Angeles
1988-89
California Teaching Credential

University of California, Los Angeles
1982-88
Bachelor of Arts, Music

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

Law School

Externship: United States Attorneys' Office
Western District, VA 2000-01
Extracurricular: Moot Court Executive Board, 2000-01
Mock Trial Competition, 2000-01
Client Counseling Competition, 1999
Rockbridge Choral Society, 1998-2000

Undergraduate

Major: Music
Study Abroad: Conservatoire National de Bordeaux
France, 1985-86
Extracurricular: Marching/Concert Bands, 1984-85, 1986-87
Fiesta Bowl Performance, 1985
Concert Choir, 1987-88
England Tour, Summer 1988
Student Teaching, 1988-89

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

Law School

Briefed/Argued *United States v. Hopkins*, 268 F.3d 222 (4th Cir. 2001), representing United States
Coordinator, Mock Trial Competition, 2001
Finalist, Mock Trial Competition, 2000
First Place, Client Counseling Competition 1999

Undergraduate

Employee, Associated Students of UCLA, 1984-85, 1986-89
UCLA Marching Band, 1984-85, 1986-87
Studied Abroad, Bordeaux, France, 1985-86
Student Teacher
Paul Revere Middle School, 1988-89
Santa Monica High School, 1989

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 administrative bodies, which require special admission to practice.

Supreme Court of Arizona, 3/2002 – Present
 United States District Court, District of Arizona, 9/2002 – Present
 United States Court of Appeals, Ninth Circuit, 6/2012 – Present

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening? No If so, explain.
- b. Have you ever had to take a bar examination more than once in order to be admitted to the bar of any state? No If so, explain.

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

EMPLOYER	DATES	LOCATION
Maricopa County Superior Court	8/2014 – Present	Phoenix, AZ
Kutak Rock, LLP	1/2006 – 8/2014	Scottsdale, AZ
Lieberman Dodge Gerding & Anderson, Ltd.	5/2003 – 12/2005	Phoenix, AZ
The Cavanagh Law Firm, PA	4/2002 – 5/2003	Phoenix, AZ
Arizona Court of Appeals, Division One	6/2001 – 4/2002	Phoenix, AZ

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

See attached List of Judicial Officers, at Tab 4

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

Presently, I serve as a Commissioner in Maricopa County Superior Court, assigned to a Probate/Family calendar. Approximately 80% of the cases

on this calendar involve adult guardianships, adult conservatorships, minor conservatorships, estate/probate disputes, and trust disputes. The remaining matters involve orders of protection.

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

Commercial Litigation
Appellate Litigation
Family Law

18. Identify all areas of specialization for which you have applied or been granted certification by the State Bar of Arizona.

None

19. Describe your typical clients.

As a Judicial Officer, I no longer have clients, but the typical litigants in my courtroom are family members seeking appointment as guardian or conservator for another family member. I also see siblings and widowed spouses fighting over distribution of a decedent's estate, and individuals seeking protection from alleged acts of domestic violence. As an attorney, my typical clients included large to medium-sized lenders and other business entities, although I occasionally had the opportunity to represent individuals in family law appellate litigation.

20. Have you served regularly in a fiduciary capacity other than as a lawyer representing clients? If so, give details.

None

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

I have not yet participated in drafting statutes or rules of court. As a lawyer, however, I negotiated and drafted multiple settlement agreements for my clients. Additionally, while serving as a law clerk at the Court of Appeals, I researched and drafted approximately 30-35 memorandum decisions and opinions dealing with a wide variety of issues.

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

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

Arizona Registrar of Contractors (two adversary proceedings)

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

Sole Counsel: 0

Chief Counsel: 0

Associate Counsel: 2

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

Sole Counsel: 8

Chief Counsel: 0

Associate Counsel: 10

24. List not more than three contested matters you negotiated to settlement. State as to each case: (1) the date or period of the proceedings; (2) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented; (3) a summary of the substance of each case; and (4) a statement of any particular significance of the case. You may reveal nonpublic, personal, identifying information relating to client or litigant names or similar information in the confidential portion of this application.

1. *Estates of Adolphus Edward Lee and Zelda Lee*
Maricopa County Superior Court case nos. PB2015-070791 and PB2015-070793

Dates: Settlement Conference held December 2, 2015
I served as Judge *Pro Tem*

Personal Representative's Counsel: Mathis Becker
Mushkatel, Robbins & Becker PLLC
15249 North 99th Avenue, Suite A
Sun City, AZ 85351
(623) 889-0691
mathis@phoenixlawteam.com

Counsel for one of the Heirs: Rita A. Daninger
Rita A. Daninger Attorney at Law PLLC
10451 North Palmeras Drive
Suite 205B
Sun City, AZ 85373
(623) 815-8069
rita@daningerlaw.com

All other parties represented themselves

Substance: The dispute focused on disposition of the decedents' real property, vehicles, and firearms between warring siblings.

Significance: We were able to fashion a unique settlement by which the estates would be split between the heirs while allowing one heir to obtain title to the home in which she lived.

2. *Estate of Grace Ann Cancellieri*
Maricopa County Superior Court case no. PB2009-050690

Dates: Settlement Conference held March 17, 2011
I represented the Personal Representative

Counsel:
For Personal Representative: Me

For the Creditor: James A. Fassold
Tiffany & Bosco PA
2525 East Camelback Road
Floor 7
Phoenix, AZ 85016
(602) 452-2720
JAF@tblaw.com

Mediator: Hon. Robert Myers (Ret.)

Substance: The matter involved a former business partner's claim against an estate pursuant to an allegedly terminated incorporation agreement. The Personal Representative was the decedent's mother.

Significance: In an emotionally charged matter following the untimely deaths of the decedent and her husband, I was able to negotiate a settlement, with Judge Myers' assistance, under which the Estate paid far less than the amount of the creditor's verified claim.

3. *General Electric Capital Corp. v. Creative Environments*
Maricopa County Superior Court case no. CV2011-056066

Dates: 9/2011 – 3/2012

Plaintiff's Counsel: I represented the Plaintiff

Defendant's Counsel: Yvonne Tagart
Ronan & Tagart, PLC

8980 East Raintree Drive
Scottsdale, AZ 85260
(480) 305-5150
ytagart@ronantagartlaw.com

Substance of the Case: This matter involved Defendant's breaches of various equipment leases.

Significance: In a case involving a non-paying corporate borrower and no personal guarantors, I helped negotiate a settlement for virtually 100% of the outstanding balance paid over time, with a stipulated judgment to enforce should the Defendant breach the settlement agreement. Typically, the lack of a personal guarantor would significantly decrease the likelihood of recovery in such cases. The negotiated settlement occurred without formal mediation and with minimal court involvement.

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

The approximate number of cases in which you appeared before:

Federal Courts: 11

State Courts of Record: 180+

Municipal/Justice Courts: 5

The approximate percentage of those cases which have been:

Civil: 98

Criminal: 2

The approximate number of those cases in which you were:

Sole Counsel: 90

Chief Counsel: 20

Associate Counsel: 86

The approximate percentage of those cases in which:

You conducted extensive discovery¹: 10

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

You wrote and filed a motion for summary judgment: 25

You wrote and filed a motion to dismiss: 5

You argued a wholly or partially dispositive pre-trial, trial or post-trial motion (e.g., motion for summary judgment, motion for a directed verdict, motion for judgment notwithstanding the verdict): 5

You made a contested court appearance (other than as set forth in above response) 20

You negotiated a settlement: 45

The court rendered judgment after trial: 3

A jury rendered verdict: 1

Disposition occurred prior to any verdict: 96

The approximate number of cases you have taken to trial: Court 10

Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible. Jury 2

Jury trials in my practice were rare, and I feel confident in my recollection that I only participated in two. I must approximate the number of bench trials because they were many years ago, in family law matters. Also, in approximating the number of bench trials, I attempted to differentiate "trials" from "evidentiary hearings."

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

The approximate number of your appeals which have been:

Civil: 17

Criminal: 1

The approximate number of matters in which you appeared:

As counsel of record on the brief: AZ 16 U.S. 2

Personally in oral argument: AZ 3 U.S. 1

27. Have you served as a judicial law clerk or staff attorney to a court? Yes If so, state the name of the court and dates of service, and describe your experience.

From June 2001-April 2002, I clerked for the Honorable Noel Fidel, Arizona Court of Appeals, Division One. I researched and drafted multiple appellate decisions, presented many of those decisions to the panel of judges assigned to the particular case, and argued in favor of the results of each such decision. Cases were assigned randomly, enabling law clerks to work on a wide variety of legal issues in civil, criminal, domestic relations, and industrial commission matters. As I suspect most former law clerks would agree, it was a wonderful experience.

28. List not more than five cases you litigated or participated in as an attorney before mediators, arbitrators, administrative agencies, trial courts or appellate courts. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency and the name of the presiding judge or officer before whom the case was heard; (3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case. You may reveal nonpublic, personal, identifying information relating to client or litigant names or similar information in the confidential portion of this application.

1. *General Electric Capital Corp. v. Giannis*
Maricopa County Superior Court case no. CV2009-025563
Arizona Court of Appeals, Division One, case no. 1 CA-CV 12-0278

Dates: 8/7/09 – 7/2013

Court/Judicial Officer: Maricopa County Superior Court
Honorable John Doody
Arizona Court of Appeals, Division One
Honorable Patricia Orozco
Honorable Andrew Gould
Honorable Margaret Downie

Plaintiff's Counsel: I represented the Plaintiff

Defendants' Counsel: None

Garnishee's Counsel: Wesley S. Loy
Broening Oberg Woods & Wilson, PC
1122 East Jefferson Street
Phoenix, AZ 85034
(602) 271-7737
wsl@bowwlaw.com

Intervenors' Counsel: Michael P. Fiflis
Law Office of Michael Fiflis
7454 East Camino Rayo de Luz
Scottsdale, AZ 85266
(602) 862-0220
No e-mail address available

Substance of the Case: The case initially involved collection litigation against the out-of-state guarantors of a defaulted loan. Plaintiff obtained a judgment, and then discovered that one of the guarantors owned part of a commercial property in Scottsdale. Plaintiff then sought to garnish rent payments paid to that debtor by the Garnishee (a restaurant operating on the property). Intervenors contested the proposed Garnishment Judgment, alleging that they had a superior lien on those rent payments. The Superior Court found that the Intervenors' lien constituted a fraudulent conveyance and would be subordinated to Plaintiff's Judgment. The Court of Appeals affirmed that decision.

Significance: The case was of particular importance to our client, and involved related bankruptcy litigation and criminal prosecution in Illinois. Proving that the Intervenors' lien resulted from a fraudulent conveyance required considerable creativity, discovery, and legal research.

2. *Canada Verde Constr. Co. v. Tri-Chord Builders*
Maricopa County Superior Court case no. CV2007-000445
Arizona Court of Appeals, Division One, case no. 1 CA-CV 10-0648

Dates: 01/2007 – 04/2012

Court/Judicial Officer: Maricopa County Superior Court
Honorable Dean Fink
Arizona Court of Appeals, Division One
Honorable Peter Swann
Honorable Daniel Barker
Honorable Patricia Norris

Plaintiff's Counsel: I represented the Plaintiff

Defendants' Counsel: Daniel Maynard
Maynard Cronin Erickson Curran & Reiter PLC
3200 North Central Avenue
Suite 1800
Phoenix, AZ 85012
(602) 279-8500
dmaynard@mmcec.com

Substance of the Case: I represented a general contractor pursuing a subcontractor and its owners/guarantors for, *inter alia*, the company's failure to pay its employees prevailing wages and the owners/guarantors' misrepresentations related to those failures. After the company declared bankruptcy, the court awarded partial summary judgment against one of the Guarantors. The jury then returned a significant verdict on most of the remaining counts against both Guarantors. The summary judgment ruling and the verdict were upheld on appeal, although portions of the attorneys' fee award were reversed and remanded.

Significance: This was my first solo jury trial, and the jury returned a verdict in my clients' favor on almost all counts. Defendants' counsel had considerably more experience in jury trials, and watching him helped improve my trial skills.

3. *United States v. Hopkins*
United States Court of Appeals, Fourth Circuit

Dates: 02/2001 – 05/2001

Court/Judicial Officer: United States Court of Appeals, Fourth Circuit
Honorable Robert King
Honorable J. Michael Luttig
Honorable Paul V. Niemeyer

Appellee's Counsel: I represented the Appellee. Lead counsel was:
Ruth E. Plagenhoef
Assistant United States Attorney
Post Office Box 1709
Roanoke, VA 24008
(540) 857-2250

Appellant's Counsel: Jennifer P. Lyman
Eugene K. Ohm
Community Legal Clinics
720 20th St. NW
Washington, D.C. 20052
(202) 994-7463

Substance of the Case: This appellate case stemmed from a Petition for *Habeas Corpus* in which the Petitioner sought retroactive application of a recent United States Supreme Court decision that discussed the limits of law enforcement officers' "stop and frisk" authority.

Significance: While serving a third-year externship with the United States Attorney's Office for the Western District of Virginia, the U.S. Attorney asked me to research and brief the United States' response to a *habeas corpus* petition. When the Fourth Circuit *sua sponte* ordered oral argument, the U.S. Attorney asked me to argue for the United States. This was my first appellate oral argument, and resulted in a successful ruling memorialized in a published opinion.

4. *St. Paul Fire and Marine Ins. Co. v. Ohio Casualty Ins. Co., et al.*
United States District Court case no. 2:11-CV-01954-SMM

Dates: 5/2011 – 8/2014

Court/Judicial Officer: United States District Court, District of Arizona
Honorable Stephen M. McNamee

Plaintiff's Counsel: Daniel Eli
The Aguilera Law Group, APLC
700 South Flower Street
Suite 3350
Los Angeles, CA 90017

Defendants' Counsel: I represented several of the insurance company Defendants/Counterclaimants. Lead counsel was:
Michael Sillyman
Kutak Rock LLP
8601 North Scottsdale Road
Suite 300
Scottsdale, AZ 85253
(480) 429-5000
michael.sillyman@kutakrock.com

Substance of the Case: The matter involved an insurance coverage dispute, with multiple insurance companies contesting their respective responsibility for payment of defense costs incurred by a local general contractor in construction defect litigation.

Significance: This was the first large insurance contribution action that I litigated. The case presented complex issues involving the interpretation of multiple insurance policies, the definition of which persons or entities qualified as "additional insureds" under those policies, and the determination of each insurer's appropriate contribution to the underlying defense costs.

5. *Deepwater Divers, Inc. v. Wells Fargo Insurance Services, Inc.*
Maricopa County Superior Court case no. CV2009-033792
Arizona Court of Appeals, Division One, case no. 1 CA-CV 13-0518

Filing Date: August 31, 2016

Page 13

Dates: 10/2009 – 8/2015 (my involvement ended upon my appointment as a Commissioner in 8/2014)

Court/Judicial Officer: Maricopa County Superior Court
Honorable Emmet J. Ronan (Ret.)
Arizona Court of Appeals, Division One
Honorable John Gemmill
Honorable Patricia Norris
Honorable Lawrence Winthrop

Plaintiff's Counsel: Jake Curtis
Melissa Iyer
Burch & Cracchiolo, P.A.
702 East Osborn Road
Suite 200
Phoenix, AZ 85011
(602) 274-7611
jcurtis@bcattorneys.com

Defendants' Counsel: I represented the Defendants. Lead counsel was:
Paul Gerding, Jr.
Kutak Rock LLP
8601 North Scottsdale Road
Suite 300
Scottsdale, AZ 85253
(480) 429-5000
paul.gerdingjr@kutakrock.com

Substance of the Case: Plaintiff, a diving company, claimed that the Defendant insurance brokerage company breached an agreement to procure insurance coverage for the company, resulting in the company losing a contract and eventually going out of business. Defendant contested the factual allegations, claimed that no oral contract existed, and argued that Defendant had no duty to Plaintiff under these circumstances. The jury found in favor of Plaintiff and awarded Plaintiff more than twice the amount Plaintiff sought. The Court of Appeals reversed.

Significance: This was a hard-fought, complicated jury trial against an opponent represented by excellent attorneys. To lose was disappointing, but the jury's verdict stunned the courtroom. But our client correctly viewed that result as losing a battle but not a war. We re-grouped, determined how best to proceed, and eventually won the war when the Court of Appeals reversed the trial court result.

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

From August 18, 2014, to the present, I have served as a Commissioner with the Maricopa County Superior Court. The Presiding Judge at that time – the Honorable Norman Davis – appointed me to this position. I am currently assigned to the probate department of our court, at the Northeast Regional Facility in Phoenix. My calendar includes adult guardianships, adult conservatorships, minor conservatorships, estate/probate matters, disputes involving trusts, and Orders of Protection. I have also presided over cases involving court-ordered mental health treatment petitions, and injunctions against harassment. On average, I handle 15-20 matters each day. Those matters include return hearings, evidentiary hearings, trials, oral arguments on dispositive motions, and settlement conferences. When not in the courtroom, I rule on motions and matters previously taken under advisement.

30. List not more than five cases you presided over or heard as a judicial or quasi-judicial officer, mediator or arbitrator. State as to each case: (1) the date or period of the proceedings; (2) the name of the court or agency; (3) the names, addresses (street and e-mail) and telephone numbers of all counsel involved and the party each represented; (4) a summary of the substance of each case; and (5) a statement of any particular significance of the case. You may reveal nonpublic, personal, identifying information relating to client or litigant names or similar information in the confidential portion of this application.

1. *Conservatorship of Douglas A. Bryan*
Maricopa County Superior Court case no. PB2015-000075
Arizona Court of Appeals, Division One, case no. 1 CA-SA 15-0122

Dates: 1/2015 – 11/2015 (my involvement ended in 7/2015)

Courts: Maricopa County Superior Court
Honorable Andrew J. Russell (1/2015 – 7/2015)
Honorable Kerstin LeMaire (7/2015 – 11/2015)
Honorable Aryeh Schwartz (11/2015 – Present)
Arizona Court of Appeals, Division One
Honorable Randall M. Howe
Honorable Andrew W. Gould
Honorable Peter B. Swann

Petitioner's Counsel: Steven D. Keist
7508 North 79th Avenue
Post Office Box 1734
Glendale, AZ 85311
(623) 937-9799
skeist@keistlaw.com

Intervenor's Counsel: Christopher J. Bork
Gary L. Hudson
Perry Childers Hanlon & Hudson, PLC
722 East Osborn Road
Suite 100
Phoenix, AZ 85014
(602) 254-1444
cbork@pchhlaw.com

Guardian *ad Litem*: Joseph M. Boyle
Law Office of J.M. Boyle
1819 East Morton Avenue
Suite 160
Phoenix, AZ 85020
(602) 943-0469
Jboyle52@gmail.com

Substance of the Case: The proposed protected person, Douglas Bryan, was involved in an automobile accident and retained an attorney to pursue a claim against the allegedly at-fault driver. That attorney initiated litigation, but became concerned that Mr. Bryan was unable to make decisions concerning the litigation, and asked the court in that matter to appoint a Guardian *ad Litem*. Subsequently, Mr. Bryan disappeared. The Guardian *ad Litem* then petitioned for appointment of a conservator for Mr. Bryan, and the case was assigned to my division. The allegedly at-fault driver objected to the appointment of a conservator, arguing that the court lacked jurisdiction over Mr. Bryan and that the evidence did not support Mr. Bryan's "disappearance." I ruled that our court had jurisdiction over Mr. Bryan for purposes of appointing a conservator, that Mr. Bryan had disappeared, and that his disappearance supported the conservator appointment.

Significance: This case presented several interesting legal issues, including whether I could exercise jurisdiction over a person whose present whereabouts were unknown, and whether Mr. Bryan's disappearance would support the appointment of a conservator. I determined that while the evidence did not show Arizona was Mr. Bryan's "home state," sufficient evidence existed to determine that Arizona had a "significant connection" to Mr. Bryan, which

supported the exercise of jurisdiction over him pursuant to A.R.S. 14-12201. The allegedly at-fault driver sought relief from the Court of Appeals via a petition for special action. That court accepted jurisdiction but denied relief, upholding my rulings in a published opinion.

2. *Kevla Construction v. Schilder*

Maricopa County Superior Court case no. CV2013-051527

Dates: Settlement Conference held July 30, 2014 and July 2, 2015.
I served as Judge *Pro Tem*.

Court: Maricopa County Superior Court
Case assigned to the Honorable John Hannah
I conducted the settlement conferences

Counsel:

For Plaintiff: Mary Hone
The Law Office of MTH PLLC
10505 North 69th Street
Suite 1400
Paradise Valley, AZ 85253
(480) 336-2557
mary@honelegal.com

For Defendant: James P. Schilder
Pro-Med Staffing, Inc.
Post Office Box 51855
Phoenix, AZ 85076
(480) 496-7111
No e-mail address available

Substance: This matter stemmed from a home remodel. Plaintiff, the contractor for the project, sought full payment pursuant to the parties' contract, while the Defendants claimed that the Plaintiff breached that contract and performed substandard work.

Significance: I was first assigned to mediate this matter when I worked as an attorney, as part of the court's Alternative Dispute Resolution program for civil cases. The parties were not successful at the first settlement conference, but one year later, after my appointment as a Commissioner, their attorneys contacted me again and asked if I would consider presiding over a second settlement conference. I am disappointed when a settlement conference assigned to me does not produce a settlement, and was honored that the parties asked me to work with them a second time.

3. *Hupet v. Hupet*
Maricopa County Superior Court case no. FN2015-052556

Dates: 10/2015

Court: Maricopa County Superior Court

Plaintiff's Counsel: None

Defendant's Counsel: Kiilu Davis
Law Offices of Stone & Davis PC
8601 North Scottsdale Road
Suite 305
Scottsdale, AZ 85253
(480) 609-1490
kiilu@stonedavislaw.com

Substance of the Case: This matter involved an Order of Protection obtained by Plaintiff. Defendant requested a hearing, which was assigned to me.

Significance: Approximately 30 minutes into this hearing – after he had made a brief opening statement and questioned the Plaintiff regarding the Order of Protection – it was discovered that the person purporting to be the Plaintiff's attorney was not an attorney at all, but rather a friend of the Plaintiff. This friend happened to have the same name as a member of the State Bar of Arizona, so when the Clerk entered his name into her system, all appeared well. Understandably, the discovery of his true identity stunned the courtroom and created several potential problems for the Plaintiff. Not wanting to unduly sanction the Plaintiff in such an important proceeding, but mindful of the rules regarding unauthorized practice of law, I found the purported attorney in contempt of court for willfully and knowingly deceiving the court, and as a sanction, ordered him to leave the courthouse. The hearing continued with Plaintiff proceeding as a self-represented litigant.

4. *Estate of Mansheim*
Maricopa County Superior Court case no. PB2015-051274

Dates: 7/2015 – Present

Court: Maricopa County Superior Court

Petitioner's Counsel: George Smith
Berk Law Group
14220 North Northsight Blvd.
Suite 135

Scottsdale, AZ 85260
(480) 607-7900
george@berkmoskowitz.com

Respondent's Counsel: Steven J.P. Kupiszewski
Kile & Kupiszewski Law Firm, LLC
8727 East Via de Commercio
Scottsdale, AZ 85258
(480) 348-1590
info@kilekuplaw.com

Substance of the Case: In this probate dispute, the decedent's children allege that his widow exploited the decedent for her own financial gain. They sought leave to file a complaint against the widow based on those allegations.

Significance: A.R.S. 46-456(G) allows a vulnerable adult, that person's conservator, or the personal representative of that person's estate to bring a claim for financial exploitation. In some instances, though, the conservator or personal representative is the very person alleged to have financially exploited the vulnerable adult, and thus would be unlikely to pursue that claim. Under such circumstances, the statute allows any other "interested person" to file the exploitation claim, but only with court permission. The statute does not provide any factors for the court to consider in deciding whether to grant such permission, but the fact that permission is needed suggests that a petitioner must meet some standard. This case presented an opportunity for me to research and determine what factors should be relevant to this decision.

5. *Guardianship of Amy Beck*
Maricopa County Superior Court case no. PB2014-051798

Dates: 9/2014 – Present

Court: Maricopa County Superior Court

Petitioner's Counsel: Charlotte Johnson
Bivens & Associates PLLC
5020 East Shea Blvd.
Suite 100
Scottsdale, AZ 85254
(480) 922-1010
charlotte@bivenslaw.com

Ward's Counsel: Gary Doyle
Baumann Doyle Paytas & Bernstein
2929 North 44th Street

Suite 120
Phoenix, AZ 85018
(602) 952-8500
gdoyle@bkdpblaw.com

Guardian *ad Litem*: Yvette Banker
Banker Law Office, P.L.L.C.
4530 East Shea Blvd.
Suite 140
Phoenix, AZ 85028
(480) 626-0182
yvette@phoenixelderlaw.com

Guardian's Counsel: Khalil Saigh
Dyer Bregman & Ferris, PLLC
3411 North 5th Avenue
Suite 300
Phoenix, AZ 85013
(602) 254-6008
kcsaigh@dyerferris.com

Substance of the Case: This matter began with the Ward's mother and aunt petitioning for appointment as the Ward's guardian and conservator. The Ward objected, asking that if a guardian and conservator were warranted, her friend be appointed instead.

Significance: I was assigned to conduct a settlement conference in this matter. The Ward was adamant that she would not agree to her mother being appointed as her guardian and conservator, and that she should continue to live on her own. The parties agreed that I could take jurisdiction over the matter, I conducted several settlement conferences and hearings, and convinced the parties to try various combinations of persons as Amy's guardian. Eventually, the parties stipulated to the appointment of a professional guardian, with the Ward's mother agreeing to pay the fees associated with that appointment. This was an emotionally charged matter, and required unique arrangements to provide for the Ward's best interests while salvaging the mother/daughter relationship.

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

1. I served on the Executive Committee of the Thurgood Marshall Inn of Court between 2008-2011, including service as President during the 2010-2011 term. In 2013, I organized our Inn's 20th Anniversary celebration, which focused on the Inn's history and the life and accomplishments of its namesake, Justice Marshall.

2. While in law school, I served an externship with the United States Attorney's Office for the Western District of Virginia, working primarily on the office's responses to *habeas corpus* petitions, and assisting the Assistant U.S. Attorneys with various projects. That experience culminated with a successful oral argument at the United States Court of Appeals for the Fourth Circuit, in Richmond, VA. I also worked as a research and writing assistant for Professor Robert Danforth, focusing on issues involving federal estate tax apportionment.
3. Prior to entering law school, I taught music (band, orchestra, choir) in the public schools of Big Bear Lake, CA and Pasadena, CA from 1989-1998. I also volunteered as music director for the yearly musical productions at Big Bear High School, training the singers, arranging the instrumental parts, rehearsing the pit band, and conducting performances. It was remarkably fun, hard work, and directly led to the moment I met my wife.

BUSINESS AND FINANCIAL INFORMATION

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

I taught music in southern California between 1989-1998, most recently at Big Bear Middle School, 41275 Big Bear Blvd., Big Bear Lake, CA 92315. My students were 6th-8th graders, although I also served as volunteer music director for Big Bear High School's musical productions. Participation in our music department increased from 24 students to more than 200 during my tenure.

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

Is it your intention to resign such positions and withdraw from any participation in the management of any such enterprises if you are nominated and appointed? N/A If not, give reasons.

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

35. Have you paid all state, federal and local taxes when due? Yes If not, explain.
36. Are there currently any judgments or tax liens outstanding against you? No If so, explain.
37. Have you ever violated a court order, including but not limited to an order for payment of child or spousal support? No If so, explain.
38. Have you ever been a party to a lawsuit, including bankruptcy but excluding divorce? No If so, identify the nature of the case, your role, the court, and the ultimate disposition.
39. Do you have any financial interests, investments or retainers that might conflict with the performance of your judicial duties? No If so, explain.

CONDUCT AND ETHICS

40. Have you ever been terminated, expelled, or suspended from employment or any school or course of learning on account of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity? No If so, give details.
41. a. Have you ever been charged with, arrested for, or convicted of any felony, misdemeanor, or violation of the Uniform Code of Military Justice? No If so, identify the nature of the offense, the court, and the ultimate disposition.
- b. Have you, within the last 5 years, been charged with or cited for any traffic-related violations, criminal or civil, that are not identified in response to question 41(a)? No If so, identify the nature of the violation, the court, and the ultimate disposition.
42. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain.
- N/A
43. List and describe any litigation (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) concerning your practice of law.

None

44. List and describe any litigation involving an allegation of fraud in which you were or are a defendant.

None

45. List and describe any sanctions imposed upon you by any court for violation of any rule or procedure, or for any other professional impropriety.

None

46. To your knowledge, has any formal charge of professional misconduct ever been filed against you by the State Bar or any other official attorney disciplinary body in any jurisdiction? No If so, when? How was it resolved?

47. Have you received a notice of formal charges, cautionary letter, private admonition or other conditional sanction from the Commission on Judicial Conduct or any other official judicial disciplinary body in any jurisdiction? No If so, in each case, state in detail the circumstances and the outcome.

48. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by Federal and State laws? No If your answer is "Yes," explain in detail. (Unlawful use includes the use of one or more drugs and/or the unlawful possession or distribution of drugs. It does not include the use of drugs taken under supervision of a licensed health care professional or other uses authorized by Federal law provisions.)

49. In the past year, have you ever been reprimanded, demoted, disciplined, placed on probation, suspended, cautioned or terminated by an employer as a result of your alleged consumption of alcohol, prescription drugs or illegal use of drugs? No If so, state the circumstances under which such action was taken, the name(s) of any persons who took such action, and the background and resolution of such action.

50. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended or terminated by an employer? No If so, state the circumstances under which such action was taken, the date(s) such action was taken, the name(s) of any persons who took such action, and the back ground and resolution of such action.

51. Have any of your current or former co-workers, subordinates, supervisors, customers or clients ever filed a complaint or accusation of misconduct against you with any regulatory or investigatory agency, or with your employer? No

If so, state the date(s) of such accusation(s), the specific accusation(s) made, and the background and resolution of such action(s).

52. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? No If so, state the date you were requested to submit to such a test, type of test requested, the name of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.
53. Within the last five years, have you failed to meet any deadline imposed by a court order or received notice that you have not complied with the substantive requirements of any business or contractual arrangement? No If so, explain in full.
54. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings? No If so, explain in full.

PROFESSIONAL AND PUBLIC SERVICE
--

55. Have you published any legal or non-legal books or articles? No If so, list with the citations and dates.
56. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? Yes If not, explain.
57. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars? Yes If so, describe.
1. Judicial Conference, June 2016
Co-Presenter at annual Arizona Judicial Conference. Our probate session focused on Arizona law regarding enforceability of *in terrorem* clauses in estate and trust documents.
 2. Probate Department "Accounting 1-2-3" Class, November 2014 – Present
Teach portion of bi-monthly conservatorship accounting class to individuals involved in adult conservatorships (generally non-professional conservators for small to mid-size estates).

3. Maricopa County Bar Association Probate Seminar, Spring 2015 and 2016
Joined other probate Judges and Commissioners in discussing current probate issues with local probate attorneys
 4. Jennings, Strauss & Salmon Paralegal Conference, October 2014
Presented seminar on various issues in Arizona law and legal history for law firm paralegals
 5. Arizona Paralegal Association, September 2013
Presented seminar on various issues in Arizona law and legal history for local litigation paralegals
 6. NALS Phoenix, March 2011
Presented seminar on various issues in Arizona law and legal history for local legal secretaries and paralegals
 7. NALS Phoenix, March 2010
Presented seminar on various issues in Arizona law and legal history for local legal secretaries and paralegals
 8. NALS Phoenix, March 2008
Presented seminar on various issues in Arizona law and legal history for local legal secretaries and paralegals
 9. West Valley Bar Association, December 2005
Presented lunch seminar regarding Arizona appellate procedure
58. List memberships and activities in professional organizations, including offices held and dates.
1. Thurgood Marshall Inn of Court, 2005 – Present
Past President, 2011 – 2012
President, 2010 – 2011
Vice President, 2009 – 2010
Secretary, 2008 – 2009
 2. State Bar of Arizona, 2002 – Present
 3. Arizona Women's Lawyers Association, 2006 – Present
Sustaining Member of local legal association focusing on improving opportunities for women in the legal profession.
 4. Arizona Judges Association, 2015 – Present
 5. Maricopa County Bar Association, 2002 – 2015

6. Scottsdale Bar Association, 2006 – 2014
7. American Bar Association, 2002 – 2014

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? No

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.

1. National Adoption Day, November 2015
Volunteer Judge for juvenile adoption hearings during annual event
 2. Boy Scout Courtroom Tours, 2015-2016
Lead discussion of constitutional rights and other legal issues with members of various boy scout troops during courthouse tour
 3. Thurgood Marshall Inn of Court, Executive Committee, 2008-2011
Serve as Secretary, Vice President, President, and Past President of local Inn of Court
 4. Law Day, Tempe, 2006
Provide free legal advice to public television viewers via call-in format
 5. Courthouse Experience, Phoenix, 2003-2005
Lead groups of 8th grade students to observe various courtroom proceedings and discussions with judicial officers
59. Describe the nature and dates of any community or public service you have performed that you consider relevant.
1. Boy Scout Troop 316, Merchandise Chairperson, 2016 – Present
Facilitate ordering and sale of scout merchandise to Troop members
 2. Co-Den Leader, Cub Scout Pack 618, Webelos Den, 2012 – 2014
Assist in planning and leading meetings and activities for Cub Scout Webelos den
 3. Volunteer/Chaperone, Explorer Middle School, 2012 – 2014
Volunteer at school book fair
Chaperone field trip to U.S. Marine Corps Band performance
 4. Volunteer/Chaperone, Copper Canyon Elementary School, 2009 – Present

Volunteer at various school events
Chaperone 6th Grade trip to Catalina Island
Chaperone 4th Grade trip to Flagstaff

5. Volunteer Musical Director, Big Bear High School, 1994 – 1998
Trained singers, arranged instrumental parts, rehearsed pit band, and conducted Spring musical performances, including “Swingland” (world premier), “Godspell”, “Lovers on Canvas” (world premier), and “A Chorus Line”.

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

Plaque and sculptures from students at Big Bear Middle School, 1998

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

N/A

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

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

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

My wife and I have two children, 16 and 14. Among other things, we enjoy traveling throughout the western United States, attending musical theater productions at ASU Gammage, attending sporting events when UCLA teams come to town, camping on or below the Rim, and attempting to grow vegetables in a desert environment. I also enjoy attending Boy Scout meetings and events with my son, and cheering for my daughter as she performs with her school’s marching band.

HEALTH

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

ADDITIONAL INFORMATION

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

N/A

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

Please see statement attached hereto at Tab 1.

66. If you were selected by this Commission and appointed by the Governor to serve, are you aware of any reason why you would be unable or unwilling to serve a full term? No If so, explain.

67. If selected for this position, do you intend to serve fully, including acceptance of rotation to areas outside your areas of practice or interest? Yes If not, explain.

68. Attach a brief statement explaining why you are seeking this position.

Please see statement attached hereto at Tab 1.

69. Attach three professional writing samples, which you personally drafted (e.g., brief or motion). The samples should be no more than a few pages in length.

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.

Please see writing samples attached hereto at Tab 2.

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

Please see decisions attached hereto at Tab 3.

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

I just completed my first Court Commissioner Judicial Performance Review, but do not have public data reports as yet. I will supplement this application when/if such reports become available.

Tab 1

Two years ago, I was honored to receive a phone call from then-Presiding Judge Norm Davis offering me appointment as a Commissioner. Serving as a judicial officer has been everything I thought it would be – rewarding and challenging, inspiring and enlightening. After considerable reflection, and discussions with my family, friends, and colleagues, I have decided to seek appointment as a Superior Court Judge.

For me, the most rewarding assignments as a lawyer involved appearing in this court, in a courtroom, be it for a brief status conference or a full jury trial. Appointment as a Judge will allow me to continue working with and helping to shape that same court. Judges can affect the people of our County on a greater scale by working on a wider range of cases and more intricate legal issues than Commissioners typically face. I believe that my varied professional background, judicial experience as a Commissioner, and steady courtroom demeanor will help me succeed at this new challenge.

I look forward to continuing my service to the people of Maricopa County as a Superior Court Judge.

A handwritten signature in black ink, appearing to read "Andrew J. Russell". The signature is stylized with a large loop at the end and a horizontal line crossing the vertical stem.

Andrew J. Russell

Tab 2

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION ONE

RES-NV SUMMERLIN, LLC,

Plaintiff/Appellee,

v.

RED HAWK VIEWS, LLC; MARK
BERRY and MIKA JANE VANUCCI
a/k/a MIKA J. BERRY,

Defendants/Appellants.

No. 1 CA-CV 13-0283

Maricopa County

Superior Court

No. CV2011-050767

APPELLEE'S ANSWERING BRIEF

ANDREW J. RUSSELL #021307
JACOB SHERRARD #021594
JOSEPH WM. KRUCHEK #010332
KUTAK ROCK LLP
Suite 300
8601 North Scottsdale Road
Scottsdale, AZ 85253-2742
(480) 429-5000
Facsimile: (480) 429-5001
andrew.russell@kutakrock.com
jacob.sherrard@Kutakrock.com
joseph.kruchek@KutakRock.com

*Attorneys for Plaintiff/Appellee
RES-NV Summerlin, LLC*

~~859 P.2d 196, 199 (App. 1993). Similarly, this Court reviews a trial court's grant or denial of relief under the Savings Statute for abuse of discretion. See Copeland, 176 Ariz. at 91, 859 P.2d at 201 (the page immediately preceding the Copeland language cited by Appellants).~~

II. THE TRIAL COURT APPROPRIATELY REINSTATED THIS MATTER UNDER RULE 38.1.

As noted, Appellee sought reinstatement of this matter either (a) under Rule 38.1 and case law discussing inactive calendar dismissals, or (b) pursuant to the Savings Statute. The trial court's ruling does not specify which basis it chose. While both apply, this Court will affirm the trial court if the record contains any reasonable basis supporting the lower court's decision. See *State v. Nuckols*, 229 Ariz. 266, 268, ¶ 7, 274 P.3d 536, 538 (App. 2012).

A. Rule 38.1 is Not Intended to Prevent a Trial on the Merits.

Rule 38.1 requires a superior court clerk to place all cases on the inactive calendar if no party has filed a Motion to Set and Certificate of Readiness within nine months of the complaint's filing. See Ariz. R. Civ. P. 38.1(d). Absent an intervening Motion to Set, a motion to continue the case on the inactive calendar, or a notice of decision from an arbitrator, the case is automatically dismissed two months later. See *id.* Such dismissals are without prejudice, see *id.*, which under most circumstances would allow the re-filing of a dismissed case.

The purpose of Rule 38.1 is “to rid court calendars of inactive or abandoned cases and to prod the judge and the attorneys involved to bring cases to trial as quickly as possible.” *See Gorman v. City of Phoenix*, 152 Ariz. 179, 183, 731 P.2d 74, 78 (1987).³ The Rule is not intended as a trap for a party pursuing relief, or a “get out of jail free” card for those against whom relief is sought. Its language clearly shows the Rule’s status as a procedural rule, once described as “a convenience administrative practice.” *See id.*

B. Arizona Law Supports Appellee’s Request for Reinstatement.

Because a Rule 38.1 dismissal operates as a judgment on the merits – *see Britt v. Steffen*, 220 Ariz. 265, 205 P.3d 357 (App. 2008) – obtaining relief from that judgment requires a movant to satisfy the factors stated in Rule 60(c). *See Copeland*, 176 Ariz. at 89, 859 P.2d at 199. The most relevant subsections of that Rule for our purposes are 60(c)(1) or (c)(6). To obtain relief under the former, Appellee had to show (a) mistake, inadvertence, surprise, or excusable neglect, (b) that Appellee promptly sought reinstatement, and (c) a meritorious claim. *See id.*, citing *Jepson v. New*, 164 Ariz. 265, 272-73, 792 P.2d 728, 735-36 (1990). Relief under Rule 60(c)(6) required Appellee to show (a) diligent and vigorous prosecution its case, (b) reasonable efforts to apprise the trial court of the case’s

³ The applicable provisions of Rule 38.1 came from Rule V(e) of the former Uniform Rules of Practice of the Superior Court, and most of the case law relevant to the issues raised by Appellants interpreted the earlier rule.

status, (c) substantial prejudice to Appellee if reinstatement is denied, (d) prompt pursuit of reinstatement, and (e) a meritorious claim. *See id.* Here, the trial court could grant relief under either subsection of Rule 60(c).

1. Appellee Was Entitled To Relief under Rule 60(c)(1).

Appellants do not contest the promptness of Appellee's Motion to Reinstate, or that Appellee has a meritorious claim (though Appellants would likely dispute that claim). The question thus becomes whether Appellee demonstrated mistake, inadvertence, surprise, or excusable neglect. In answering that question, courts look not at one specific factor, but at all of the circumstances involved in the litigation (*see Copeland*, 176 Ariz. at 89, 859 P.2d at 199), and relief will be granted "when the failure to act might be the act of a reasonably prudent person under the same circumstances." *See Resolution Trust Corp. v. Maricopa County*, 176 Ariz. 631, 635, 863 P.2d 923, 927 (Ariz. Tax 1993).

Here, those circumstances support a finding of mistake, inadvertence, and excusable neglect. Appellee filed its Complaint on January 31, 2011, but was unable to serve that Complaint at any of the addresses previously provided by Appellants. With their company (Red Hawk) having been served on March 9th, Appellants had actual notice of the litigation filed against them, but laid low. Appellee was then forced to file a Motion for Alternative Service on May 27th, which the trial court granted. Only *after* entry of that order and *after* insisting that

Appellee agree to a different forum did Appellants participate in this matter, with their counsel finally accepting service on August 3rd – more than six months after Appellee filed its Complaint. Typically, the Superior Court issues its Rule 38.1 Notice approximately five months after the Complaint’s filing, and because service (at least in these types of cases) generally occurs fairly soon after such filing, the parties at that point have engaged in 4-5 months of litigation. Here, however, the 150-day Order arrived on July 6th, one month *before* Appellants accepted service.

Appellants further delayed the matter by demanding that, as a condition to their attorney accepting service, the Superior Court case be stayed and the matter referred to AAA arbitration. Appellee agreed to arbitration, but Appellee’s previous counsel mistakenly failed to file the appropriate motion with the trial court.⁴ Believing she had done so, however, counsel understandably did not file a Motion to Set the case for trial as otherwise required by Rule 38.1. Filing such a Motion would have been inappropriate and unnecessary given the parties’ agreement to arbitrate the matter. The parties also engaged in settlement discussions during the post-service time period, with Appellants making an offer and providing financial information in support thereof. *See, e.g., Jepson*, 164 Ariz. at 270, 792 P.2d at 733 (“Settlement discussions may be considered by the trial

⁴ Perfection, though desirable, is not the standard, and mistakes do happen. As the Arizona Supreme Court once stated, “[t]he occasional errors and mistakes to which we all succumb also may be considered until we devise some way to require – and obtain – perfection from ourselves and others.” *See Gorman*, 152 Ariz. at 183, 731 P.2d at 78.

court in exercising its discretion, but the trial court decides how much weight that factor should be given.”).

The question does not focus on what a perfect person would have done, but instead, how a reasonably prudent person would have acted under similar circumstances. *See Resolution Trust Corp.*, 176 Ariz. at 635, 863 P.2d at 927. The delays created by Appellants, the decision to accept Appellants’ arbitration demand, the existence of settlement discussions, or previous counsel’s errors might not support a decision to reinstate an administratively dismissed case if considered in isolation. Viewed collectively, however, they support the trial court’s decision to reinstate this matter under Rule 60(c)(1).

2. Rule 60(c)(6) Also Supported Reinstatement.

The same circumstances would support the trial court’s decision to reinstate the case under Rule 60(c)(6). Relief may be granted under that subsection if the movant shows (a) it diligently and vigorously prosecuted its case, (b) it kept the trial court apprised of the case’s status, (c) it would suffer substantial prejudice if reinstatement were denied, (d) it sought reinstatement promptly, and (e) it possesses a meritorious claim. *See Copeland*, 176 Ariz. at 89, 859 P.2d at 199. The last three of these factors are not in serious dispute – failure to allow reinstatement would bar Appellee from pursuing its claims, Appellee sought reinstatement promptly after it ascertained what had occurred, and Appellee’s

claim (seeking recovery under two Guaranties that Appellants do not contest signing) is meritorious.

The first two factors tilt in Appellee's favor as well. By definition, any party in Appellee's current position at some point failed to prosecute its case diligently and vigorously, resulting in the case's dismissal. The question must thus focus on the movant's prosecution well in advance of that dismissal. Here, Appellee diligently prosecuted its case, at least up to the point where counsel mistakenly believed she had filed the Motion to Stay. Appellee filed its Complaint on January 31, 2011 [I.R. 1], and spent the next several months attempting to find and serve Appellants. Appellee was able to serve Red Hawk fairly quickly (March 9th), but Appellants evaded service. [I.R. 3, 4.] Appellants only agreed to accept service if Appellee allowed them to forum shop, transferring the matter from Superior Court to AAA. [I.R. 11-12, exhibit C thereto.] In order to move its case forward, Appellee agreed, but Appellants' counsel still refused to sign and return the Acceptance of Service until late July. [I.R. 9.]

In analyzing diligence, "trial courts should look at the activities of *all* parties involved, not just the plaintiff's," and "should also consider factors which may inhibit vigorous prosecution, notwithstanding diligence, such as impediments to serving defendants...." *See Jepson*, 164 Ariz. at 276, 792 P.2d at 739 (emphasis added). While Appellee could be faulted for its counsel's failure to actively

litigate in the months preceding the early January 2012 administrative dismissal, diligent litigation occurred throughout the majority of this case, and has occurred since the dismissal.

Similarly, while former counsel may not have informed the trial court of the case's status in the months preceding the dismissal, and failed to file the Motion to Stay, Appellee kept the court informed of every major development before that point. When Red Hawk was served on March 9th, Appellee filed an Affidavit showing such service within six days. [I.R. 3.] When it was unable to find and serve Appellants, Appellee informed the trial court of this fact and asked for an Order allowing alternative service. [I.R. 4-6.] When Appellants' counsel finally signed and returned the Acceptance of Service in late July, Appellee quickly filed that document on August 3rd. Appellee kept the trial court informed of the status of this matter, at least until counsel's error prevented filing of the Motion to Stay. The record thus supported reinstatement under Rule 60(c)(6) as well as Rule 60(c)(1).

III. THE SAVINGS STATUTE ALSO SUPPORTS REINSTATEMENT.

The record also supported the trial court's decision to reinstate Appellee's case under A.R.S. § 12-504. Known as the "Savings Statute," § 12-504 grants a trial court discretion to extend the deadline for a party to re-commence an action previously dismissed for, *inter alia*, lack of prosecution, even if an applicable

statute of limitation would otherwise bar such action. *See* A.R.S. § 12-504(A). In determining whether a party is entitled to relief under the Savings Statute, courts look at similar factors to those referenced *supra* for reinstatement under Rule 60(c): (1) whether the movant acted reasonably and in good faith, (2) whether the movant prosecuted its case diligently and vigorously, (3) whether the movant's ability to file a second action is affected by a procedural impediment, and (4) whether the requested relief would substantially prejudice either party. *See Copeland*, 176 Ariz. at 91-92, 859 P.2d at 201-02, *citing Jepson*, 164 Ariz. at 272, 792 P.2d at 735.

Appellee has satisfied the first two of those factors for the reasons discussed *supra* at pages 11-13 and 14-16, respectively. Because Appellee seeks recovery of a deficiency remaining after a trustee's sale, A.R.S. § 33-814(A) required Appellee to initiate its action against Appellants within six months of that sale. Section 33-814(A) thus constitutes an enormous procedural impediment to Appellee's ability to file a new action against Appellants.

Finally, the prejudice (or lack thereof) to each party supports Appellee's request. Denying reinstatement would end this case and bar Appellee from recovering the outstanding amount owed by Appellants. Appellee would thus suffer the ultimate prejudice. Allowing reinstatement, however, would not prejudice Appellants. Reinstatement places all parties back in the position where

they expected to be – litigating or arbitrating the case. Appellants could still present any and all defenses which the evidence would support. They could still analyze the claims against them, prepare and file their Answer, conduct discovery, depose witnesses, engage in motion practice, and defend themselves before either the Superior Court or the AAA. Appellants would suffer no prejudice from reinstatement, while Appellee would suffer the ultimate prejudice were reinstatement denied. The Savings Statute supported Appellee’s request for reinstatement, as well as Rule 60(c)(1) and (6).

IV. APPELLEE IS ENTITLED TO AN AWARD OF ATTORNEYS’ FEES AND COSTS ON APPEAL.

Appellee requests that the Court award Appellee its reasonable attorneys’ fees and costs, pursuant to page 2 of each Guarantee [I.R. 1, exhibit C] executed by Appellants, and A.R.S. §§ 12-341 and -341.01 as well. *See also* ARCAP 21.

CONCLUSION

Appellants ask this Court to review the same facts reviewed by the trial court and come to an opposite conclusion. The role of the appellate court in this situation, however, is not to substitute its own judgment for that of the trial court, but rather, to determine whether the trial court abused its considerable discretion. That Appellants complain about the trial court’s discretion is particularly stunning, given the trial court’s use of that same discretion in Appellants’ favor. Appellants, who complain so vehemently about a discretionary ruling that reinstated the case

against them, benefited from a virtually identical ruling from the same court, allowing them to reinstate their previously dismissed appeal. The trial court did not abuse its discretion in reinstating this matter, and this Court should affirm that decision.

RESPECTFULLY SUBMITTED this 14th day of October, 2013.

/s/ Andrew J. Russell
Andrew J. Russell
Jacob Sherrard
Joseph Wm. Kruchek
KUTAK ROCK LLP
Suite 300
8601 N. Scottsdale Road
Scottsdale, AZ 85253-2742
(480) 429-5000

Attorneys for Plaintiff/Appellee

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-003490

04/30/2015

COMMISSIONER ANDREW J. RUSSELL

CLERK OF THE COURT
P. Valenzuela
Deputy

IN THE MATTER OF THE ESTATE OF:

CARMEN C LOPEZ

DECEASED.

MARK EDWIN ANDERSEN
ALLYSON JOY TEPLY

RULING

As discussed at the April 20, 2015 hearing, Petitioners Soledad Lopez, David Lopez, and Guadalupe Lopez ("Petitioners") have filed a First Amended Petition for (1) Adjudication of Intestacy, (2) Termination of Informal Proceeding, (3) Determination of Heirs, (4) Removal of Personal Representative, and (5) Appointment of Independent Personal Representative (the "Amended Petition"). The Amended Petition appears to address some, although likely not all, of the issues raised in the Motion to Dismiss filed by Irma C. Valentin ("Personal Representative"). As a result, the court will take no action on said Motion to Dismiss. Rather,

IT IS ORDERED that the Personal Representative shall file either a Response to the Amended Petition, a Motion to Dismiss the Amended Petition, or a similar responsive pleading on or before May 15, 2015.

The court has also received Petitioners' Motion for Declaration of Waiver of Attorney Client Privilege and Confidentiality, and for Accelerated Ruling on the Motion, together with the Personal Representative's Response to said Motion, and Petitioner's Reply in support of said Motion. The Motion asks the court to order attorney Kjersten Dockery to testify and provide documents regarding her representation of the Decedent in preparing the Decedent's estate plan. Normally, of course, an attorney cannot be required to testify concerning the attorney's representation of a client except in certain specified circumstances. *See generally* A.R.S. 12-

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-003490

04/30/2015

2234. The Personal Representative argues that while some states have adopted the so-called testamentary exception to the attorney-client privilege, Arizona has not, and even if it had, Petitioners' allegations do not support application of that exception.

The court disagrees. The testamentary exception to the attorney-client privilege allows an attorney to testify regarding communications with the attorney's now-deceased client in a dispute concerning the validity of the client's estate plan, but not in the litigation of claims against the client's estate. *See Glover v. Patton*, 165 U.S. 394, 406-08 (1897). Essentially, courts imply that a client would waive the attorney-client privilege when necessary to provide support for the client's testamentary intentions, as outlined in the client's estate plan, but would decline to waive such a privilege if claims were brought against the estate.

Here, three of the Decedent's children (and thus three of her heirs, if the Decedent were deemed to have died intestate) are contesting the validity of the Will offered for probate by the Personal Representative. The court presumes that if the Decedent were alive, she would want Ms. Dockery to testify concerning the validity (or invalidity) of that will. Ms. Dockery's testimony is "impliedly authorized in order to carry out the representation" of her client, the Decedent, and would not violate her duty of confidentiality to her client. *See* E.R. 1.6(a); *see also* E.R. 1.9(c)(2)(requiring confidentiality regarding former clients "except as these Rules would permit or require with respect to a client").

IT IS THEREFORE ORDERED granting the Motion for Declaration of Waiver of Attorney Client Privilege and Confidentiality. Petitioners may obtain discovery from Ms. Dockery concerning the preparation and execution of the Will offered by the Personal Representative and any other estate planning documents prepared by Ms. Dockery on the Decedent's behalf.

All parties representing themselves must keep the court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-003218

02/12/2015

COMMISSIONER ANDREW J. RUSSELL

CLERK OF THE COURT
P. Valenzuela
Deputy

IN THE MATTER OF

PAUL J MEYER IRREVOCABLE TRUST

CINDY C ALBRACHT-CROGAN
ALISA J GRAY

ORAL ARGUMENT VACATED

The Court has received and reviewed the following items:

- Petitioner/Plaintiff's Motion to Vacate Current Deadlines and Oral Argument
 - Respondent/Defendant Paul J. Meyer's Response in Opposition to Motion to Vacate Current Deadlines and Oral Argument
 - Joinder of Non-Party Paul Erik Meyer in Response in Opposition to Motion to Vacate Current Deadlines and Oral Argument Filed by Paul J. Meyer
 - Elizabeth Van Wie's Joinder in Paul J. Meyer's Response in Opposition to Motion to Vacate Current Deadlines and Oral Argument
 - Petitioner/Plaintiff's Reply in Support of Motion to Vacate Current Deadlines and Oral Argument
 - Joinder in Petitioner/Plaintiff's Reply in Support of Motion to Vacate Current Deadlines and Oral Argument, filed by Mary G. Meyer, in her individual capacity.
- Respondent/Defendant Paul J. Meyer's Motion to Dismiss Petition for Declaratory Judgment and for Instruction and Complaint
 - Joinder of Non-Party Paul Erik Meyer in Motion to Dismiss Petition Filed by Paul J. Meyer

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-003218

02/12/2015

- Elizabeth Van Wie's Joinder in Paul J. Meyer's Motion to Dismiss Petition for Declaratory Judgment and for Instruction and Complaint
- Respondent/Defendant Paul J. Meyer's Reply in Support of Motion to Dismiss Petition for Declaratory Judgment and for Instruction and Complaint
- Joinder of Non-Party Paul Erik Meyer in Reply in Support of Motion to Dismiss Petition for Declaratory Judgment and for Instruction and Complaint, Filed by Paul J. Meyer
- Elizabeth Van Wie's Joinder in Paul J. Meyer's Reply in Support of Motion to Dismiss Petition for Declaratory Judgment and for Instruction and Complaint
- Petitioner/Plaintiff's Motion to Strike Respondent/Defendant's Reply in Support of Motion to Dismiss
- Notice of Filing Amended Petition for Declaratory Judgment and For Instruction and Amended Complaint, filed by Petitioner/Plaintiff
 - Respondent/Defendant Paul J. Meyer's Objection and Notice of Intent to File Motion to Dismiss Amended Petition for Declaratory Judgment and Instruction and Amended Complaint

In a nutshell, Petitioner/Plaintiff filed a Petition, Respondent/Defendant moved to dismiss that Petition, and instead of responding to the Motion to Dismiss, Petitioner/Plaintiff filed an Amended Petition. Because she amended her Petition, Petitioner/Plaintiff believes any deadlines or hearings related to the initial Motion to Dismiss should be vacated. Respondent/Defendant objects to vacating those deadlines, believes Petitioner/Plaintiff has failed to respond to his Motion to Dismiss, and argues that Petitioner/Plaintiff's filing of her Amended Petition violated Arizona Rule of Civil Procedure 15. Paul Erik Meyer and Elizabeth Van Wie side generally with Respondent/Defendant.

Arizona Rule of Civil Procedure 15(a) allows a party to amend the party's pleadings once, without court approval, within 21 days after service of a responsive pleading. *See* Ariz. R. Civ. P. 15(a)(1)(B). If a responding party files a Motion to Dismiss in lieu of a responsive pleading, the party seeking to amend its pleadings may do so on or before the deadline to respond to that Motion to Dismiss. *See id.* The term "pleading" generally refers to a complaint, answer, reply to a counterclaim, answer to a cross-claim, third-party complaint, and an answer to a third-party complaint. *See* Ariz. R. Civ. P. 7(a). In a responsive pleading, the responding party "shall state in short and plain terms the party's defenses to each claim asserted and shall admit or deny the averments [in the initial pleading] upon which the adverse party relies." *See* Ariz. R. Civ. P. 8(b). Probate petitions are the equivalent of civil complaint (*see* Comment to Ariz. R.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-003218

02/12/2015

Prob. P. 17(A)), and objections to probate petitions must comply with Arizona Rules of Civil Procedure 8-11. *See* Ariz. R. Prob. P. 17(D)(3).

On November 14, 2014, Respondent/Defendant filed an “Objection and Notice of Intent to File Motion to Dismiss Petition for Declaratory Judgment and For Instruction and Complaint.” Nowhere in that Objection does Respondent/Defendant admit or deny any specific averments from the Petition, and that document does not come close to stating “defenses to each claim asserted” in the initial Petition. The Court does not view the November 14, 2014 Objection as constituting a “responsive pleading” under Rule 15(a)(1)(B), and because Respondent/Defendant did not file a responsive pleading, the 21-day deadline in Rule 15(a)(1)(B) was not implicated.

At a hearing held on November 19, 2014, the Court ordered that Respondent/Defendant could file a Motion to Dismiss by December 15, 2014, and that any responses to that Motion would be due by January 15, 2015. Thus, the “date on which a response to the [Rule 12(b)] motion is due” was January 15, 2015. Petitioner/Plaintiff filed her Amended Petition on that date, and as a result, the Amended Petition was timely under Rule 15(a)(1)(B). With Petitioner/Plaintiff having timely filed an amended pleading, the pending deadlines that related to her initial pleading and Respondent/Defendant’s Motion to Dismiss same are moot.

IT IS THEREFORE ORDERED granting Petitioner/Plaintiff’s Motion to Vacate Current Deadlines and Oral Argument.

IT IS FURTHER ORDERED vacating the oral argument previously scheduled for February 19, 2015, at 10:00 a.m.

Respondent/Defendant having indicated his intent to file a Motion to Dismiss Petitioner/Plaintiff’s Amended Petition,

IT IS ORDERED that Respondent/Defendant’s responsive pleading to or Motion to Dismiss the Amended Petition shall be filed on or before February 25, 2015. If Respondent/Defendant opts to file a Motion to Dismiss, Petitioner/Plaintiff’s Response to that Motion shall be filed on or before March 13, 2015, and any reply in support of the Motion shall be filed by March 23, 2015. The Court will determine whether oral argument on any such motion is necessary.

Division review: **March 30, 2015**

Tab 3

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2015-000075

04/15/2015

COMMISSIONER ANDREW J. RUSSELL

CLERK OF THE COURT
P. Valenzuela
Deputy

IN THE MATTER OF THE
CONSERVATORSHIP FOR:

DOUGLAS A BRYAN

STEVEN D KEIST

AN ADULT.

JOSEPH M BOYLE
CATHERINE ANN FULLER
MICHAEL A WOESTMAN
NO ADDRESS ON RECORD

RULING

Pending before the court are the following filings, which the court has considered:

- Petition for Appointment of Conservator for an Adult, filed by the Guardian *ad litem*;
- Objection to Petition for Appointment of a Conservator of an Adult, filed by Michael A. Woestman;
- Response to Objection to Petition for Appointment of a Conservator of an Adult, filed by counsel representing Mr. Bryan in a civil lawsuit pending in Maricopa County Superior Court;
- Mr. Woestman's Reply in support of his Objection;
- The Maricopa County Public Fiduciary's Reply re: Whether the Court Can Proceed to Appoint a Conservator in the Absence of the Proposed Ward;
- Motion to Dismiss/Strike the Objection of M. Woestman Per Rules 17D. and 18; Not an Interested Person, filed by the Guardian *ad litem*;
- Mr. Woestman's Response to the Motion to Dismiss/Strike.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2015-000075

04/15/2015

The Guardian *ad litem* asks the court to appoint a conservator for Mr. Bryan. The GAL first nominated the Maricopa County Public Fiduciary for that role, and has since sought and received approval to file an amended Petition nominating the Arizona Department of Veteran's Affairs as conservator. The court has not yet received a filed copy of the amended petition, but notes that the version attached to the GAL's Motion to Amend includes language that continues to seek appointment of the Maricopa County Public Fiduciary. *See* proposed Amended Petition, page 3, lines 18-20. The court presumes that language to be in error.

At last report, Mr. Bryan's whereabouts are unknown. Before his disappearance, Mr. Bryan retained Mr. Keist to prosecute a civil lawsuit against Mr. Woestman stemming from an accident where Mr. Woestman's car allegedly struck Mr. Bryan. Mr. Woestman objects to the appointment of a conservator for Mr. Bryan, arguing that (1) Arizona lacks personal jurisdiction over Mr. Bryan, (2) Mr. Bryan cannot be served with notice of the conservatorship proceeding, (3) a court investigator cannot interview Mr. Bryan "as required by A.R.S. § 12-5407(B)" and no psychological evaluation could occur, (4) the court cannot determine Mr. Bryan's current mental condition, and (5) Mr. Bryan's purported history of relocation does not constitute "disappearance" under the conservatorship statutes. The GAL counters by claiming that Mr. Woestman does not fall under the definition of "interested person" under A.R.S. 14-1201(28), a claim Mr. Woestman disputes. The court will consider these issues in reverse order.

Mr. Woestman is an "Interested Person" For Purposes of This Matter.

Arizona Rule of Probate Procedure 17(D) provides that an "interested person" may file an objection to a petition, or may object to that petition by appearing in person at a hearing thereon. An "interested person" under A.R.S. 14-1201(28) includes a "creditor," and a "person who has . . . a claim against . . . the estate of a . . . protected person." The statutory definition, however, is not exclusive – the term "includes" rather than being "limited to" various persons or entities. Additionally, the statute expressly notes that the term "interested person" varies from case to case and "must be determined according to the particular purposes of, and matter involved in, any proceeding." *See* A.R.S. 14-1201(28).

Here, Mr. Woestman may have a claim against Mr. Bryan for taxable costs under A.R.S. 12-341 should Mr. Woestman prevail in the civil lawsuit currently pending between them. The appointment of a conservator is being sought primarily to prosecute that same lawsuit. The court believes that, in this matter, Mr. Woestman's status as a potential creditor makes him an interested person for purposes of these conservatorship proceedings.

IT IS ORDERED denying the Guardian *ad litem's* Motion to Dismiss/Strike the Objection of M. Woestman Per Rules 17D. and 18; Not an Interested Person.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2015-000075

04/15/2015

Arizona Law Allows the Appointment of a Conservator for Mr. Bryan.

Arizona law authorizes the appointment of a conservator for an adult if two conditions are met. First, the person must be unable to manage his/her affairs for a variety of non-exclusive reasons. *See* A.R.S. 14-5401(A)(2)(a). Second, the proposed protected person must have property that will be wasted or lost without proper management. *See* A.R.S. 14-5401(A)(2)(b). The parties do not appear to seriously dispute this second prong, as Mr. Bryan has a claim pending against Mr. Woestman in the civil lawsuit that could be lost without a conservator in place to pursue that claim on Mr. Bryan's behalf.

A. **Mr. Bryan's Disappearance Provides an Independent Basis for His Inability to Manage His Estate and Affairs.**

The parties agree that Mr. Bryan has disappeared. Regardless of whether this disappearance reflects a trend of Mr. Bryan relocating in recent years, the fact remains that he has disappeared.

Petitioner also argues that in 2012 and 2013, Mr. Bryan was diagnosed with a mental illness or mental disease/deficiency/disorder. While a person's mental state may provide a basis for appointing a conservator, other factors, such "detention by a foreign power" or disappearance (as alleged here), can also support that appointment. *See* 14-5401(A)(2)(a). Thus, contrary to Mr. Woestman's assertions, the inability to determine Mr. Bryan's current mental condition does not prevent the court from appointing a conservator.

B. **The Conservatorship Statutes Do Not Require Involvement of a Court Investigator or a Physician.**

Nor does the inability of a court investigator to interview Mr. Bryan, or a psychiatrist to examine him, foreclose such an appointment. The law only requires a court investigator to interview a proposed protected person when that person's alleged disability arises from mental or physical health issues, or from chronic drug or alcohol use. *See* A.R.S. 14-5407(B). That same statute authorizes the court to order a medical or psychological evaluation, but does not require such an order. *See id.*

C. **The Conservatorship Statutes Do Not Require Service on Mr. Bryan.**

Mr. Woestman also argues that Mr. Bryan's disappearance will prevent "service" of a notice of hearing upon Mr. Bryan. The conservatorship statutes require that the proposed protected person "be given" notice of the hearing where the court will consider the petition for appointment. *See* A.R.S. 14-5405(A)(1). The notice requirement, however, does not require

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2015-000075

04/15/2015

personal service, and the fact that the statute identifies “detention by a foreign power” and “disappearance” as situations where the court can appoint a conservator further suggests that the legislature did not intend to require actual notice of the hearing. The statutory language convinces the court that the inability to find Mr. Bryan at the present time does not foreclose the appointment of a conservator for him. Further, Mr. Bryan’s attorney of record – an attorney he retained to represent his interests in the civil lawsuit – has actual notice of the conservatorship proceedings.

D. Arizona Can Exercise Personal Jurisdiction Over Mr. Bryan in Conservatorship Proceedings.

Finally, Mr. Woestman urges the court to dismiss the conservatorship petition because Arizona lacks personal jurisdiction over Mr. Bryan. Arizona can exercise personal jurisdiction in a conservatorship proceeding if, *inter alia*, Arizona is a “significant-connection state” and Mr. Bryan does not have a “home state.” *See* A.R.S. 14-12203(2)(a). At present, no state appears to qualify as Mr. Bryan’s “home state” as that term is defined in A.R.S. 14-12201(A)(2). The court believes, however, that Arizona qualifies as a significant-connection state. A “significant-connection state” is one “with which the respondent has a significant connection other than mere physical presence and in which substantial evidence concerning the respondent is available.” *See* A.R.S. 14-12201(A)(3).

Mr. Bryan has a significant connection with Arizona. In November 2012, he was injured in a car accident that occurred in Arizona. He presumably received medical treatment in Arizona related to that accident, and the records related to such treatment would be in Arizona. Also in 2012, Mr. Bryan was found criminally incompetent in Arizona. *See* Maricopa County case no. CR2012-122436-001 DT. The records related to that proceeding are in Arizona. Mr. Bryan retained an attorney in Arizona, and is a party (namely, the plaintiff) in a civil lawsuit filed in Maricopa County Superior Court. Mr. Bryan’s sister – his only relative identified in these proceedings – resides in Maricopa County. Substantial evidence exists in Arizona regarding Mr. Bryan, including the medical records related to the civil lawsuit, the medical records and court records related to his 2012 criminal competency matter, and the existence of a relative living here. As a result, Arizona has personal jurisdiction over Mr. Bryan for purposes of this conservatorship matter.

IT IS ORDERED denying Mr. Woestman’s Objection to Petition for Appointment of a Conservator of an Adult.

All parties representing themselves must keep the court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-001961

04/03/2015

COMMISSIONER ANDREW J. RUSSELL

CLERK OF THE COURT
P. Valenzuela
Deputy

IN THE MATTER OF THE
CONSERVATORSHIP FOR:

SHARON KAY SUSENS

BRIAN J THEUT

AN ADULT.

ALISA J GRAY

RULING

The Court has considered the Petition for Appointment of Permanent Conservator and Removal of Co-Trustee (the "Petition"), together with the testimony and evidence presented at the February 6, 2015 and February 17, 2015 Evidentiary Hearing in this matter. Based on that testimony and evidence, the Court makes the following findings:

- Sharon Kay Susens ("Ms. Susens") is a 77-year old resident of Sun Lakes, Arizona. Sun Lakes is in Maricopa County.
- Petitioner is Ms. Susens' daughter.
- Ms. Susens earned a bachelor's degree in music education/performance from Grinnell College, and a master's degree in musicology from the University of California, Berkeley.
- Ms. Susens taught at Lake Tahoe Community College for at least 31 years. She continues to teach various classes in and around her community.
- Ms. Susens is quite active in her community, singing in at least two choirs and playing tennis regularly.
- Ms. Susens was divorced many years ago. She has always been in charge of her finances. Ms. Susens was able to accumulate several hundred thousand dollars in assets, as well as a pension from CalSTRS.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-001961

04/03/2015

- According to the testimony from at least two witnesses, Ms. Susens lived frugally throughout her adult life, and was always very financially responsible.
- Following the attempted sale of a timeshare she owned in Mexico, Ms. Susens became involved in a complicated scheme involving various people in Central America. At least one of those people purports to be affiliated with the United States Department of Treasury, but a local FBI investigator was unable to find any record of such person. Another of these people purports to represent the Nicaraguan government, but his e-mail address shows no evidence of any such official relationship.
- Although the testimony is by no means clear (a lack of clarity that further suggests the scheme in which Ms. Susens became involved is fraudulent), Ms. Susens has been convinced to send as much as \$550,000-600,000 to various persons/accounts in Central America.
- Ms. Susens has been told that the Banco de America Centrale or other alleged Central American bank is holding \$8.6MM for her, but she has frequently been told that she must pay large sums of money for items like taxes or attorneys' fees in order to receive this money. Her explanation for why she would be entitled to a sum as large as \$8.6MM is that investments in Nicaragua provide much higher returns than other investments. No other evidence was provided that would support this claim.
- Ms. Susens has never met any of the persons to whom she has sent the aforementioned funds.
- Some of the funds that Ms. Susens sent to Central America came from a withdrawal from her IRA. That withdrawal created a federal tax liability, but Ms. Susens testified that in 2013, she (through her accountant) sought and received a refund of those taxes because of "theft by email/phone fraud."
- Despite her testimony regarding the "theft by email/phone fraud," Ms. Susens continued to send funds to the same people who had convinced her to send the earlier funds.
- At one point, Ms. Susens obtained a \$10,500 loan against the title of her automobile at a *daily* interest rate of 22%, and sent that money to someone in Central America in furtherance of the fraudulent scheme.
- In March 2014, the court appointed Petitioner as temporary conservator. Ms. Susens was apparently allowed to retain use and control over her monthly pension income.
- Around that same time, and at other times later, Ms. Susens promised her daughter that she would not send any more funds to the people from Central America who continued to demand such funds.
- On September 23, 2014, a person identifying himself as William Galinas (purportedly a Nicaraguan prosecutor) e-mailed Ms. Susens insisting that she send an additional \$75,000, and saying that the Nicaraguan litigation would have ended if not for the interference of Petitioner.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-001961

04/03/2015

- Two witnesses testified that, in the Fall of 2014, after her daughter had been appointed as her temporary conservator, Ms. Susens told them that she needed additional funds to pay toward the Central America scheme, and asked them to lend her funds for that purpose. They refused.
- In early December 2014 – with the temporary conservatorship in place, and despite having promised to send no more funds to Nicaragua – Ms. Susens sent another \$5,000 to Nicaragua. Ms. Susens sent the money using her gardener Mr. Alvarez as a middle man, most likely to avoid scrutiny by Petitioner or the Court.
- Dr. Wilson, a clinical psychologist, examined Ms. Susens and determined that Ms. Susens is unable to manage her financial affairs due to Frontal Temporal Dementia (“FTD”). Dr. Wilson further testified that FTD affects behavior, personality, insight, and discernment, but not speech or memory.
- Dr. Wilson described Ms. Susens as rambling, obsessed with one topic (namely the fraudulent scheme), and refusing to accept reality or other views regarding that scheme.
- She also described Ms. Susens as an “extremely bright woman.”
- Dr. Wilson referred Ms. Susens to Dr. Casseli, whom Dr. Wilson described as the best behavioral neurologist in Arizona.
- Dr. Casseli testified that he found no obvious FTD from his exam of Ms. Susens, but that he could not rule out that diagnosis, and that behavioral changes could signal FTD without the presence of any obvious physical changes.
- Ms. Susens has never received any money from the alleged lawsuits or investments in Central America.

The Court has spent significant time reviewing the evidence and the testimony, in an attempt to piece together a scenario that would support Ms. Susens’ belief that the funds she has sent to Central America really do represent a viable, realistic investment, as opposed to an intricate scheme designed to defraud her. However, the evidence overwhelmingly demonstrates the latter – Ms. Susens has been the victim of a disgusting fraudulent scheme perpetrated against her. The evidence further demonstrates that Ms. Susens has been and remains under a persistent and continuing delusion regarding the need to finance multiple lawsuits and alleged investments in Central American countries. Her actions demonstrate that she will use any means necessary – including obtaining high-interest loans, borrowing from family or friends, or clandestinely enlisting her gardener’s help – to send additional monies to Nicaragua to finance the fraudulent scheme.

Substantial evidence demonstrates that Ms. Susens is unable to manage her property or affairs due to a mental illness, physical illness, or physical disability, and that she has property that is subject to waste or dissipation unless proper management is provided.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2014-001961

04/03/2015

IT IS THEREFORE ORDERED granting the Petition for Appointment of Permanent Conservator, and appointing Petitioner Karin A. Susens as permanent conservator for Ms. Susens. Counsel for Petitioner shall prepare and lodge a proposed Order Appointing Conservator and a signed Order To Conservator within ten (10) days from the date of this minute entry.

Pursuant to the parties' agreement, the Court having appointed a permanent conservator for Ms. Susens,

IT IS ORDERED transferring all assets of the Sharon K. Susens 1994 Amended and Restated Trust from the co-Trustees of said Trust to Karin A. Susens as Conservator for Ms. Susens.

Division review: **April 17, 2015**

All parties representing themselves must keep the court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.

Tab 4

Phone Directory

Phone Listing – Judges

Name	Phone/FAX	Office	Calendar	Department	Judicial Asst.
ADLEMAN, Jay	602.372.5497 602.372.8540	CCB 12E/1204	CRJ12	Criminal	Michelle Stergulz
ANDERSON, Aimee	602.506.0055 602.372.8565	NE H/108	CVJ03	Civil	Arielle Thomas
ANDERSON, Arthur	602.506.0341 602.372.0870	SEJ 1079-1081/4	JUJ19	Juvenile	Gina Willcoxson
ASTROWSKY, Bradley	602.372.2048 602.372.8734	CCB 13D/1303	CRJ07	Criminal	Valerie Valenzuela
BACHUS, Alison	602.506.7569 602.372.8550	DUR 2290/2	JUJ20	Juvenile	Jason Rivera
BAILEY, Cynthia	602.506.5121 602.372.9153	NE F	DRJ06	Family	April Johnson
BARTON, Janet	602.506.5340 602.372.8616	OCH 5	PJ01	Presiding Judge	Rachel Carreras
BASSETT, Edward	602.372.3003 602.372.8758	OCH 102	PBJ01	Associate Presiding Probate	Melinda Wilson
BEENE, James	602.372.7382 602.372.8926	CCB 9A/901	CRJ13	Criminal	Colleen Gauna
BERGIN, Dawn	602.372.2961 602.372.8566	ECB 713	CVJ23	Civil	Susan Whitaker
BLOMO, James T.	602.372.4537 602.372.8938	ECB 411	CVJ09	Civil	Iris Ramirez
BRAIN, Mark H.	602.372.1141 602.372.8934	CCB 12A/1201	CRJ05	Criminal	Renee Ellison
BRNOVICH, Susan	602.372.2020 602.372.8545	NE L/1112	CVJ06	Civil	Yvonne Gano
BRODMAN, Roger	602.372.2943 602.372.8688	ECB 413	CVJ19	Civil	Christine Tiff Cobb
BROTHERTON, William	602.372.2024 602.372.8736	CCB 6C	DRJ15	Family	Robert Bassous
BUSTAMANTE, Lori	602.506.0423 602.372.8645	ECB 811	CVJ07	Civil	Bernadette Camacho
CAMPAGNOLO, Theodore	602.372.0537 602.372.8599	SEF 3A/301	DRJ22	Family	Sharon Smith
COFFEY, Rodrick	602.372.1783 602.372.8772	SEJ 1103	JUJ11	Juvenile	Michael Fierro
COHEN, Bruce	602.372.0686 602.372.9180	DUR 2250/5	JUC03	Juvenile	Julie Carlson
COHEN, Suzanne	602.372.1916 602.372.9178	CCB 7A	DRJ29	Family Court	Chris Lopez
COMO, Gregory	602.372.0754 602.372.8608	CCB 8A/801	CRJ-18	Criminal	Shawne Kepner
CONTES, Connie	602.506.7768 602.372.8642	DUR 2280	JUJ-02	Juvenile	Joni Lacaria
COOPER, Katherine	602.506.8311 602.506.1231	CCB 5A/501	DRJ07	Family	Blair Jamison
COURY, Christopher	602.372.3876 602.372.8509	CCB 8C/803	CRJ26/TCJ05	Criminal	Leticia Gauna

CRAWFORD, Janice	602.372.0844 602.372.9154	SEJ 1090-1092	JUU14	Juvenile	Jim Koeller
CULBERTSON, Kristin	602.372.4762 602.372.8654	SEF 4C/403	DRJ24	Family Court	Daysha Nanni
CUNANAN, David O.	602.372.1710 602.372.8711	SCT 13115/8C	CRJ21	Criminal	Sofia Gonzalez
DITSWORTH, John	602.506.8288 602.372.8706	DUR 2285/3	JUU06	Juvenile	Susan Leong
DUNCAN, Sally Schneider	602.506.9042 602.372.8690	DUR 3285	JUU-04	Juvenile	Debbie Paetz
FENZEL, Alfred	602.506.7080 602.506.5894	CCB 11C	CRJ09	Criminal	Susan Wood
FINK, Dean M.	602.506.3776 602.372.8670	CCB 12D	CRJ14	Criminal	Mica Inman
FISH, Geoffrey	602.372.1771 602.372.8661	CCB 4B	DRJ-28	Family	Carol Ruelas
FLORES, Lisa	602.372.0825 602.372.8614	OCH 202	JUU05	Juvenile	Leslie O. Strombeck
FOSTER, George H.	602.506.3892 602.372.8680	CCB 9D/904	CRJ25	Criminal	Debby Shinabarger
FOX, Dewain D.	602.372.2260 602.372.8586	CCB 6D/604	DRJ03	Family	Carla Estrada
GARCIA, Jeanne	602.372.0610 602.372.8646	OCH 302	JUU17	Juvenile	Myrna Mejia
GASS, David	602.372.3592 602.372.8771	ECB 514	CVJ01	Civil	Lena Dupuis
GATES, Pamela	602.506.6391 602.372.8790	SCT 13400/5B	CPJ02	Criminal Associate Presiding	Justin Aldecoa
GENTRY, Jo Lynn	602.372.3091 602.372.8732	ECB 414	CVJ14	Civil	Kristi Reid
GERLACH, Douglas	602.372.5851 602.372.8512	ECB 513	CVJ12	Civil	Regina Paduganan
GORDON, Michael	602.372.0762 602.506.1181	SCT 13110/7B	CRJ20	Criminal	Sheila Copalman
GRANVILLE, Warren J.	602.506.0434 602.372.8669	SCT 13103	CRJ08	Criminal	Mary Taube
GREEN, Jennifer E.	602.506.0438 602.372.8610	SEF 4A/401	DRJ16	Family Court	Shelby DeMassari
HANNAH, John	602.372.0759 602.372.8707	NE G	CVJ16	Civil	Gail Cody
HARRISON, Cari A.	602.506.0967 602.372.8624	OCH 301	JUU-18	Juvenile	Fred Witte
HEGYI, Hugh	602.506.3963 602.372.8636	ECB 714	CVJ04	Civil	Eileen Rosel
HERROD, Michael	602.372.0359 602.372.8946	CCB 6F	DRJ25	Family	Alaina Dykes
HOFFMAN, Kristin C.	602.506.5624 602.372.8665	DUR 3250	JUU-10	Juvenile	Elda Daniels
HOPKINS, Stephen	602.372.5561 602.372.8679	SEF 4E	DRJ12	Family Court	Christina Gatz
KEMP, Michael	602.372.0608 602.372.8664	CCB 13E/1304	CRJ22	Criminal	Lena Hertel

KILEY, Daniel	602.372.3839 602.372.8647	ECB 511	CVJ13	Civil	Debra Harding
KLEIN, Andrew	602.506.4645 602.372.8671	OCH 101	PBJ-02	Presiding Probate	Constance Vila
KORBIN STEINER, Ronee	602.506.1927 602.372.8740	CCB 6E/606	DRJ10	Family	Joanna Smith
KREAMER, Joseph	602.372.1764 602.372.8742	NE K/110	DRJ02	Northeast Presiding/Family	Katy Snyder
LEMAIRE, Kerstin	602.506.8245 602.372.8527	ECB 711	CVJ20	Civil	Erin Kelly
MAHONEY, Margaret R.	602.506.0387 602.372.8686	SCT 13114	CRJ-10	Criminal	Melanie Martinez
MARTIN, Daniel	602.372.2925 602.372.8640	ECB 412	CVJ08	Civil	Irene Hendricks-Jones
MCCOY, Scott	602.372.3603 602.372.8781	SCT 13104	SAJ12	Criminal	Sally Hawley
MCMURDIE, Paul	602.372.0765 602.372.8705	CCB 7C	DRJ-01	Family Court Presiding Judge	Julie Irby
MCNALLY, Colleen	602.506.5961 602.372.8682	DUR C2C 132A	JUJ-01	Presiding Juvenile Judge	Michelle Sanders
MEAD, Kathleen	602.506.2500 602.372.8585	NWR A	NWJ02	Family	Vanessa Lopez
MIKITISH, Joseph	602.372.1547 608.372.8718	CCB 13A/1301	CRJ15	Criminal	Veronica Ledesma
MOSKOWITZ, Frank	602.506.7140 602.372.8684	NWR D/124	FC/PB NWJ04	Family Court	Mary A Smith
MROZ, Rosa	602.372.0384 602.372.8932	SCT 13109	CRJ16	Criminal	Sandra Nageotte
MULLINS, Karen	602.372.1160 602.372.8672	ECB 814	CVJ10	Civil	Britani Henninger
MYERS, Sam	602.372.2940 602.372.8744	SCT 13200/5A	CRJ01	Criminal Presiding	Delma A. Melo
O'CONNOR, Karen L.	602.506.0428 602.372.8552	SEJ 1114	JUJ15	Juvenile	Melissa Gabel
OBERBILLIG, Robert	602.506.2194 602.372.8700	SEF 2F/206	CVJ21	Presiding Southeast Judge/Civil	Rolena Gomez
PADILLA, Jose	602.372.0901 602.372.8620	CCB 11A	CRJ11	Criminal	Mauri Nielsen
PALMER, David	602.372.3980 602.372.8791	SEJ 1093 8	JUJ13	Juvenile	Sarah Webster
PINEDA, Susanna	602.372.2958 602.372.8745	DUR 2245	JUJ03	Juvenile	Stephanie Samora
POLK, Jay	602.372.0879 602.372.8945	NE D	DRJ-21	Family Court	Diane Hilty
REA, John	602.372.0382 602.372.8730	SCT 13102/6B	CRJ17	Criminal	Carlos Lopez
RECKART, Laura	602.506.5861 602.372.8513	SEF 4B/402	DRJ13	Family	Donna Jones
REINSTEIN, Peter	602.506.6368 602.372.8630	CCB 4C	SAJ-06	Spec Assign Criminal	Michelle Cunanan
ROGERS, Joshua	602.506.1603 602.372.8721	ECB 712	CVJ18	Civil	Lora Gilbert

RUETER, Jeffrey	602.372.5465 602.372.8625	SEF 2C/203	DRJ19	Family	Rachele Conner
RYAN, Timothy J.	602.372.3081 602.372.8701	SEJ 1076-8/3	JUJ12	Juvenile	Donna Trevino
RYAN-TOUHILL, Jennifer	602.372.0920 602.372.9179	NE I/106	DRJ14	Family Court	Eileen Clevenger
SANDERS, Teresa A.	602.506.4791 602.372.8538	SCT 13111	CRJ02	Criminal	Loretta Velarde
SINCLAIR, Joan	602.372.4553 602.372.8749	CCB 9C/903	CRJ06	Criminal	Maribel Rivas
SMITH, James D.	602.372.5945 602.372.8634	SEF SEF4D/404	DRJ12	Family	Kelly Grundell
STARR, Patricia	602.506.4164 602.372.8536	OCH 309	LCA	LCA	Kimberly Riordan
STEPHENS, Sherry K.	602.506.4818 602.372.8637	SCT 13105	SAJ04	Criminal	Randy Collins
SUKENIC, Howard	602.506.8214 602.372.8594	CCB 6A/601	DRJ23	Family	Julie Lane
SVOBODA, Pamela	602.372.1983 602.372.8644	CCB 7B/702	DRJ04	Family	Fernando Castillo
TALAMANTE, David M.	602.506.6251 602.372.8660	SEF 2G	CVJ-22	Civil	Joan Weyrauch
THOMASON, Timothy	602.506.0573 602.372.8726	CCB 7D/704	DRJ-18	Family Court	Bridget Miller
THOMPSON, Peter	602.372.3579 602.372.8570	SEF 2D	DRJ09	Family	Ann Keil
UDALL, David K.	602.506.5514 602.372.8663	SEF 2E	CVJ05	Civil	John Slone
VIOLA, Danielle	602.506.3442 602.372.8652	SCT 13108	CRJ23	Criminal	Donna Galligan
WARNER, Randall	602.372.2966 602.372.8746	ECB 512	CVJ17X	Civil Presiding Judge	Rosanne Coloccia
WELTY, Joseph C.	602.372.2537 602.372.8683	DUR 3245/12	APJ02/JUJ08	Associate Presiding Judge/Juvenile	Mark Moreno
WHITEHEAD, Chuck	602.372.8496 602.372.8584	NE 104	DRJ11	Family	Elyse Kirby
WHITTEN, Christopher	602.372.1164 602.372.8731	OCH 201	TXJ01/CVJ02	Presiding Tax Court Judge/Civil	Jacqueline Lobato

Phone Directory

Phone Listing – Commissioners

Name	Phone/FAX	Office	Calendar	Department	Judicial Asst.
ABE, Alysson	602.372.3135 602.372.8547	DURJ 3290/8	JUC02	Juvenile	Angela Manriquez
ALBRECHT, Richard	602.506.7822 602.372.8739	NE A	NEC03	Family	Laura Bayer
ALLEN, Glenn	602.506.2040 602.372.8666	DUR 1219/A1215	JUC05D	Juvenile	Sarah Camacho
ASH, Lori	602.876.8200	FAJ	I.A. Court	Criminal	Nancy Baca
BARTH, Michael	602.506.3857 602.372.8633	ECB 812	PCC-05	Civil	Melissa Holdeman
BENNY, Margaret	602.506.3915 602.372.9159	SEF 3C	SEC02	Civil	Anastasia Johnson
BERESKY, Justin	602.506.0306 602.372.5184	CCB 11E/1104	SAC02-CRJ04	Special Assignment/Criminal for Judge Gama	Morgan Potton
BERNSTEIN, Jerry	602.506.1190 602.372.8689	SEF 3D/304	SEC03	Family	Paula Dieker
BODOW, Keelan	602.372.3021 602.372.8600	CCB 5D/503	DRC03	Family	Najet Manning
BRAME, Veronica	602.372.0268 602.372.8674	SEJ 1064/1	JUC04	Juvenile	Karen Sapp
BRICKNER, Nicole	602.372.0969 602.372.8649	SCT 2D/13314	CRC08-MHC02-PCC04-PMH02-VET02	Criminal/Mental Health	Samantha Jim
CLARKE, Terri	602.372.0425 602.372.9160	SEF 3B	PCC10	Civil/Probate	Judi Stein
DONOFRIO III, Charles	602.506.1767 602.372.8692	CCB LL201/2	MQPV4-CRDUI	Criminal/DUI	Kathlynn Miller
DOODY, John	602.506.5349 602.372.8667	CCB LL 200/3	CR-PV-MQPV3-Prob Rev	Criminal	Linda Hernandez
FRENCH, Colleen L.	602.372.1979	DUR 7/3295	SAC03/JUJ09	Special Assignment/Juvenile	Michele Malachi
GARFINKEL, Monica	602.372.2053 602.372.6810	OCH 001	JUC10	Juvenile	Nancy Northrop
GIALKETSIS, Cynthia	602.506.1117 602.372.8650	SEF 2A	EDCSE,CRC16,RCCSE	Criminal/RCC	Danielle Gaudio
GIAQUINTO, Laura	602.372.0740 602.372.8622	SCT 13308/3A	CRC14-RCCT1	Criminal/RCC	Nelly Barraza
HARRIS, Myra	602.506.3902	OCH 309	LCA	Lower Court Appeals	Kathy Waldner
HARTSELL, Roger	602.506.0862 602.372.9143	CCB 5F	DRC01	Family	Sabrina Maestas-Munoz
HINZ, Richard	602.506.4203 602.372.8941	SEF 3E	SEC-01	Family	Katrina Green
HOLDING, Steven	602.506.7860 602.372.8720	NE B	NEC-01	Family	Ashley Marshall
HOSKINS, Nicolas	602.506.5624 602.372.8628	DUR 11/3250	JUJ10	Juvenile	Kathleen Labonte
IRELAND, Jacki (Pro Tem)	602.372.2322 602.372.8627	NWR 122/B	NWJ03/CRC12	Family	Ricky McKaig

KAIPIO, Thomas	602.372.3707 602.372.8531	CCB Suite 5G	FC02	Family	Lydia Hernandez
KAISER, Brian	602.506.0616 602.372.8694	SEF 2B/202	SEC04-RCC	Criminal	Leah Rice
LABIANCA, Margaret	602.506.3381 602.372.8693	OCH 205	PBC-03	Probate	Lydia Rueda
LAFAVE, Julie	602.372.1878 602.372.8784	SCT 13305	CRC15-RCCT3	Criminal/RCC	Melissa Flores
LAING, Utiki Spurling	602.506.6081 602.372.8629	DUR 3280	JUC07	Juvenile	Raquel Murillo
LYNCH, Steven	602.372.0778 602.372.8618	SEJ 1068	JUC09	Juvenile	Karen Sailer
MANDELL, Michael	602.506.3366 602.372.8931	CCB 5E	DRC06	Family	Angela Garza
MATA, Julie	602.506.0059 602.372.8940	SCT 13309/3C	BONDS-CRC05- CRCNG	Criminal	Ana Avila
MCGUIRE, J. Justin	602.506.3809 602.372.8659	NWR C	NWC01	FC/PB	Kimberlee Hudson
MCLAUGHLIN, Jane	602.876.8200	FAJ	I.A. Court	Criminal	Nancy Baca
MILLER, Pheмония	602.506.4067 602.372.8747	CCB 5B/504	FCO01	Family	Rodney Burton
MORROW, James	602.372.2403 602.372.8783	ECB 813	PCC07	Civil	Salvador Contreras
MORTON, Wendy	602.506.0959 602.372.8727	SCT 13315/2B	CRC03-VET01-PCC06- PMH01	Mental Health	Kelly Huerta
MULLENEAUX, Christine	602.506.3151 602.372.9165	SCT 13303/6C	CMC01	Criminal	Oswaldo Avila
NEWCOMB, Casey	602.506.1746 602.372.8789	SCT 13310/2A	EDCT2	Criminal	Gabriella Juhos
NOTHWEHR, Richard L. (Rick)	602.372.0001 602.372.8752	CCB 10A	CMC06	Criminal	Larry Schulze
OTIS, Erin	602.506.4185 602.372.8741	SCT 13302	CMC02	Criminal/MCC	Jennifer Huntley
OWENS, Bernard C.	602.372.2490 602.372.8651	CCB 5C	DRC10	Family	Montserrat Vejar
PASSAMONTE, Carolyn K. (ProTem/Jd. Steinle)	602.506.0221 602.372.8598	CCB 13A/1301	SAC01-CRJ15	Criminal	Carla Waymire
POPKO, Sigmund	602.876.8200	FAJ	I.A. Court	Criminal	Nancy Baca
REES, Brian	602.372.3131 602.372.8939	NE C	NEC02	Civil	Cindy Ingles
RICHTER, Virginia	602.372.2017 602.372.8656	CCB 10E	CMC-04,CRC- 01,TCJ02	Criminal/MCC	Ana Duarte
ROBERTS, Lisa M.	602.876.8200	FAJ	Presiding I.A. Court Commissioner	Criminal	Nancy Baca
RUMMAGE, James	602.372.4516 602.372.8754	CCB 1003/C	CMC05	Criminal	Christina Sanchez
RUSSELL, Andrew	602.506.6086 602.372.9161	NE E/109	PCC11	Probate	Peggy Krevitt
SCHWARTZ, Aryeh	602.372.0756	OCH 209	PCC01	Probate	Aaron Garcia

	602.372.8710				
SEYER, David	602.372.0555 602.372.8735	CCB 8B/802	DRDU1	Criminal/DUI	Elda Daniels
SMITH, Shellie	602.372.1232 602.372.8695	SEJ 5/1105	JUJ16	Juvenile	Andrew Baiza
SPENCER, Barbara L.	602.372.0987 602.372.8728	CCB 10D/1002	CMC03-FFJ01-SIM01-DVC01	Presiding Commissioner/Criminal	Marina Instone
VAN WIE, Annielaurie	602.372.0986 602.372.8712	CCB 8D/804	CRDU2	Criminal DUI	Sidney Anderson
VANDENBERG, Lisa Ann	602.372.0270 602.372.8655	OCH 108	PCC02	Probate	Elizabeth Kabel
VIGIL, Julia	480.344.2006 602.372.8643	Desert Vista	ASH01-MHC01	Mental Health	Krista Foster
WASHINGTON, Eartha K.	602.876.8200	FAJ	I.A. Court	Criminal	Nancy Baca
WEIN, Kevin	602.506.4527 602.372.8761	SCT 3D/13304	CRC12-RCCT2	Criminal	Faviola Ortiz
WHITE, Susan	602.372.3192 602.372.8737	CCB 13C/1302	TJC01	Criminal/PV/Drug	Margaret Breedveld
WILLIAMS, Paula	602.876.8200	FAJ	I.A. Court	Criminal	Nancy Baca
WINGARD, William	602.506.6452 602.372.8619	DURJ 2295	JUJ07	Juvenile	Julie Ramirez
WOODBURN, R. Jeffrey	602.506.4572 602.372.8687	SCT 13311	CRC06,EDCT1	Criminal	Denae Johnson