

APPLICATION FOR JUDICIAL OFFICE

SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 65)

PERSONAL INFORMATION

1. Full Name: **Claudia Maria González Jiménez**
2. Have you ever used or been known by any other name? Yes If so, state name: **Claudia González, Claudia Jiménez, Claudia M. González, Claudia M. Gonzalez-Jimenez**
3. Office Address: **250 W. 2nd Street, Suite G, Yuma, Arizona 85364**
4. How long have you lived in Arizona? **I have lived in Arizona since 1987.** What is your home zip code? **85364.**
4. Identify the county you reside in and the years of your residency.
I have resided in Yuma County for 5 years, since January 2014.
6. If appointed, will you be 30 years old before taking office? ☒ yes ☐ no

If appointed, will you be younger than age 65 at the time of appointment?
☒ yes ☐ no
7. List your present and any former political party registrations and approximate dates of each: **Registered Democrat since 2008.**

Filing Date: March 11, 2019
Applicant Name: **Claudia M. González Jiménez**

8. Gender: **Female**

Race/Ethnicity: Hispanic

EDUCATIONAL BACKGROUND

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

Arizona State University
Sandra Day O'Connor College of Law
Tempe, Arizona
September 2009 – May 2012
Degree received: Juris Doctor

Phoenix College
Phoenix, Arizona
Summer 2003
Degree received: Not applicable. I took one general science summer course to apply towards my studies at Emory University.

Emory University
Atlanta, Georgia
August 2002 - May 2006
Degree received: Bachelor of Arts, Political Science and Spanish Literature.

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

Arizona State University
Sandra Day O'Connor College of Law
Chicano/ Latino Law Students Association, Chair & Vice-Chair of Finance
Law Journal for Social Justice, Articles Editor
Executive Moot Court Board, Member
Member of the Hispanic National Bar Association
Member of Los Abogados, Arizona's Hispanic Bar Association

Emory University
Majors in Political Science and Spanish Literature
Lambda Theta Alpha, Latin Sorority, Inc.— Gamma Nu Chapter, Co-Founder,
Vice President, and Treasurer

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

Arizona State University

Sandra Day O'Connor College of Law:

Dean's Recruitment Award, 2009

Carstens Family Fund Scholarship, 2009

Hon. Valdemar Cordova Scholarship, 2009, 2011

Jenckes Closing Argument Moot Court Competition, Finalist 2009

Moot Court Oral Argument Competition, Finalist 2010

ABA Judicial Intern Opportunity Program, 2010 extern

2011 HNBA Uvaldo Herrera National Moot Court Competition, 1st Place Team Brief, 2nd Place Team overall

2012 HNBA Uvaldo Herrera National Moot Court Competition, Quarterfinalists

Order of the Barristers, 2012 inductee

Janet S. Mueller Oral Advocacy Award (*Top graduating oral advocate*)

Emory University:

Emory Dean's List, Fall 2002

Phi Eta Sigma Freshman Honor Society, inductee

Phi Sigma Iota Foreign Language Honor Society, inductee

Study Abroad:

Buenos Aires, Argentina, Spring semester (2004)

Employment during college:

Charlotte Russe, sales person, 2002

Department of Spanish & Portuguese, work study clerk, 2003-2006

Emory School of Public Health, translator, 2003

Mexican Restaurant, hostess, 2004- 2005

Bollywood Restaurant, server, 2004

The Peachtree Club, server, 2004-2005

The Law Office of Daniel J. Levy, legal secretary, 2005

PROFESSIONAL BACKGROUND AND EXPERIENCE

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

Arizona Supreme Court (2012)

13. a. Have you ever been denied admission to the bar of any state due to failure to pass the character and fitness screening? **No** If so, explain.
- b. Have you ever had to retake a bar examination in order to be admitted to the bar of any state? **No** If so, explain any circumstances that may have hindered your performance.
14. Describe your employment history since completing your undergraduate degree. List your current position first. If you have not been employed continuously since completing your undergraduate degree, describe what you did during any periods of unemployment or other professional inactivity in excess of three months. Do not attach a resume.

EMPLOYER	POSITION	DATES	LOCATION
Yuma County Attorney's Office	Deputy County Attorney	07/2014 – present	Yuma, AZ
Yuma County Legal Defender	Deputy Legal Defender	02/2014 – 07/ 2014	Yuma, AZ
Florence Immigrant & Refugee Rights Project	Staff Attorney	08/2012 – 01/2014	Phoenix, AZ
Seoul Language Institute	Teacher of English as a Second Language	08/2008 – 07/2009	Seoul, South Korea
Phoenix Country Day School	Upper School Faculty & Community Outreach Assistant	08/2006 – 07/2008	Paradise Valley, AZ

Because I attended law school from August 2009 to May 2012, I was not continuously employed full time. However, I did work as a legal intern or extern during this time period.

EMPLOYER	POSITION	DATES	LOCATION
Immigration Law & Policy Clinic	Student Attorney	Spring 2012	Tempe, AZ
Greenberg Traurig	Legal Writing Extern	Spring 2011	Phoenix, AZ
Department of Justice, Executive Office of Immigration Review	Judicial Extern	Fall 2010	Eloy, AZ
The Honorable Mary H. Murguia, U.S. District Court of Arizona	Judicial Intern	Summer 2010	Phoenix, AZ

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

Attorney colleagues at the Yuma County Attorney's Office

Jon Smith, Yuma County Attorney

Criminal Division

Roger Nelson, former Chief Criminal Deputy (*now Hon. Roger Nelson, Yuma Superior Court*)
 John Tate, Chief Criminal Deputy
 Brian Boyd
 Charles Platt
 Chris A. Weede
 Dallin Marcy
 Griselda Cordova
 Rene Holmes
 Jessica Holzer
 Jim E. Eustace
 Joshua Davis-Salsbury
 Karolyn Kaczorowski
 Mary E. White
 Meaghan Gallagher
 Nathaniel T. Sorenson
 Rachel Guerrero
 Ricki Nicewander
 Robert Severson

Stephen Kiholm
Thomas Varela
William Katz
Andrew Orozco
Yancey Garner
Thomas Weber
Kaitlin Wolf
Emily Hart

Civil Division

William Kerekes, Chief Civil Deputy
Theresa Fox
Amanda Mahon
Edward Feheley

Attorney Colleagues at the Office of the Legal Defender

José De La Vara, former Legal Defender
Levi Gunderson (*now Hon. Levi Gunderson, Yuma County Superior Court*)
Nohemy Echavarria (*now Hon. Nohemy Echavarria, San Luis Municipal Court*)
Paul Kittredge
Kristin McManus
Michael Politi

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

My primary area of practice in the last five years has been criminal. With the exception of six months in the first half of 2014 when I did immigration and criminal defense work, I have exclusively done criminal prosecution.

Criminal Prosecution: 90%
Criminal Defense: 8%
Immigration Law: 2%

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

While working as a Staff Attorney for the Florence Immigrant & Refugee Rights Project, I practiced family law in Juvenile Court and immigration law in Immigration Court.

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

None.

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

In my practice as a prosecutor, I routinely draft and file pre- and post-trial motions and responses. These include, among others, Motions to Introduce Evidence of Other Acts pursuant to Rules 404(b) & (c), Motions to Preclude Evidence, Motions *in Limine*, Motions to Aggravate Sentences, responses to Motions to Dismiss, and responses to Motions to Suppress.

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

- a. The agencies and the approximate number of adversary proceedings in which you appeared before each agency. **Not applicable.**

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

Sole Counsel: **Not applicable.**

Chief Counsel: **Not applicable.**

Associate Counsel: **Not applicable.**

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

Sole Counsel: **11***

Chief Counsel: _____

Associate Counsel: _____

***These mediation matters were handled as a certified mediator in the Mediation Clinic during law school. The mediations took place at the McDowell Mountain and Highland Justice Courts in Phoenix, Arizona.**

Additionally, as both a defense attorney and prosecutor, I routinely participated in and continue to participate in case settlement conferences as part of case negotiations.

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

State of Arizona v. Stephen Gary Summers, S1400CR201701095

- 1) Relevant dates: November 2, 2017 – February 15, 2018
- 2) Relevant parties: Judge Roger Nelson, Yuma County Superior Court

Julie McDonald, Attorney for the Defendant
928-919-7470
julie@crimlaw.pro

Over the course of at least one year, the defendant, a 45-year-old man was downloading, sending, and receiving child pornography through various social media applications, such as Facebook, Tango, and Kik. Forensic examinations of both his phone and his computer revealed hundreds of child pornography images and videos, as well as that he had been active in child pornography chat groups, for some of which he was the administrator. Although we had enough evidence to move forward with an indictment in the spring of 2017, I spent six (6) months preparing the case with the forensic case agent before seeking an indictment in November 2017. Because of this pre-charging preparation, which included identifying “known victims” through the National Center for Missing & Exploited Children (NCMEC) registry and sorting through hundreds of images to identify those with greatest visual and technological evidentiary value, I was able to swiftly settle the case in 3 months, secure a conviction, and avoid further cost to the county. The defendant accepted a plea offer requiring that he serve ten (10) years in prison, followed by lifetime probation supervision and registration as a sex offender.

State of Arizona v. Isaac Manuel Contreras, S1400CR201501119

- 1) Relevant Dates: October 6, 2015 – May 12, 2017
- 2) Relevant Parties: Judge Maria Elena Cruz (*currently Judge on the Court of Appeals, Division One*)

Jillian Bachman-Underhill, Attorney for the Defendant
Former Yuma Deputy Public Defender
Yavapai County Public Defender
595 White Spar Rd.

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Prescott, Arizona, 86303
938-771-3588
Jillian.bachman-underhill@yavapai.us

This case involved the defendant, a 32-year-old known gang member with a well-documented history of mental illness, brutally physically assaulting his victim girlfriend, who suffered severe bruising on her body and a fractured eye socket, cheek bone, and nose as a result. Because of the defendant's documented mental history, opposing counsel motioned for a Rule 11 evaluation early on in the case. The Defendant was found not competent, and the case was subsequently held in limbo for restoration to competency proceedings for approximately one year. After the Defendant was declared competent, however, he was determined to be Guilty Except Insane by psychiatrists at the time of the assault. Ultimately, the Defendant accepted a GEI plea offer pursuant to A.R.S. § 13-502 and § 13-3994, requiring that he serve 5 years in prison under the psychiatric supervision of a secured mental health facility, along with potential post-prison civil commitment. This case was both emotionally and legally frustrating. Given the victim's severe injuries and the Defendant's history, I was prepared to offer a plea that required that the Defendant serve a harsher sentence. However, his GEI determination significantly limited my options and decreased the likelihood of securing a conviction at trial, which forced me to seek justice for the victim and still protect the community in an alternative way.

State of Arizona v. Angelica Murillo, S1400CR201800458

1) Relevant Dates April 24, 2018 – November 13, 2018

2) Relevant Parties Judge Stephen J. Rouff
 Yuma County Superior Court

Cid Kallen, Attorney for the Defendant
623-521-4513
928-783-8879
cid@bsklawoffice.com

This was a misdemeanor DUI and felony criminal damage case resulting from the Defendant, a 24-year-old woman, careening off the road and driving intoxicated through portions of 2 residences on New Year's Eve 2018. The Defendant caused over \$40,000 in damages to one of the homes and over \$1,000 to the other. This case was difficult from a victim expectations and management perspective. Although the Defendant accepted a felony plea offer requiring her to serve jail time and pay restitution for all home damages and collateral expenses incurred by one of the victims, this one victim was not satisfied. Despite my negotiating for the entire amount this victim sought in restitution, he viewed the Defendant's ability to regain her driving privileges after a DUI conviction as an affront to his

comparable pain and suffering and, consequently, not justice. Cases such as this one reminded me that my duty as a prosecutor is to seek justice fairly, equitably, and with the interests of the community as a whole in mind, not just of one person.

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

The approximate number of cases in which you appeared before:

Federal Courts: 0

State Courts of Record: 727

Municipal/Justice Courts: 229

The approximate percentage of those cases which have been:

Civil: 5%*

Criminal: 95%

***This approximation reflects immigration court cases that I handled directly while employed at the Florence Immigrant & Refugee Rights Project. I handled approximately 30-50 cases, possibly more. I do not have an exact number due to unavailability of records.**

The approximate number of those cases in which you were:

Sole Counsel: 1,004

Chief Counsel: 1,006

Associate Counsel: 0

The approximate percentage of those cases in which:

You wrote and filed a pre-trial, trial, or post-trial motion that wholly or partially disposed of the case (for example, a motion to dismiss, a motion for summary judgment, a motion for judgment as a matter of law, or a motion for new trial) or wrote a response to such a motion: 1%

You argued a motion described above 1%

You made a contested court appearance (other than as set forth in the above response) 5%

You negotiated a settlement: 99%

The court rendered judgment after trial: 1%

A jury rendered a verdict: 1%

The number of cases you have taken to trial:

Limited jurisdiction court 10

Superior court 7

Federal district court 0

Jury 8

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

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

The approximate number of your appeals which have been:

Civil: Not applicable.

Criminal: 1 * Special Action Filing

Other: Not applicable.

The approximate number of matters in which you appeared:

As counsel of record on the brief: 1

Personally in oral argument: Not applicable.

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

Hon. Mary H. Murguia, U.S. District Court of Arizona

June – August 2010

As a summer law clerk, I conducted research in the areas of civil law and observed proceedings in civil and criminal trials. Specifically, I drafted orders for attorneys' fees, social security appeals, and motions to dismiss.

Department of Justice, Executive Office of Immigration Review

Hon. Steven P. Logan

Hon. Linda I. Spencer-Walters

Hon. Irene Feldman

Hon. James Devitto

Hon. Richard A. Phelps

Fall 2010

As a judicial law clerk to all the immigration judges at the Eloy Immigration Court, I researched issues related to asylum and withholding of removal, and drafted statements of facts, memoranda, bond orders, and a final asylum order. I also observed master hearings, bond hearings, and asylum trials relating to domestic violence, female genital mutilation, and political persecution.

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

State of Arizona v. Levi Eulalio Madrigal, S1400CR201700005

1) Relevant Dates: November 2016 – March 5, 2019
Currently pending sentencing

2) Relevant Parties: Judge David M. Haws
Yuma County Superior Court

Michael Donovan, Attorney for the Defendant
928-329-8707
mjdonovan@dlawaz.com

After receiving a cybertip of an e-mail with suspected child pornography from the National Center for Missing & Exploited Children (NCMEC), the Yuma Police

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Department investigated and arrested the Defendant, a 28-year-old man, at his mother's home. A subsequent forensic examination of the computer taken from his bedroom and of his personal cell phone revealed he possessed over 2,000 child pornography images and videos, some of which dated back to 2014. The Defendant was consequently charged with 14 counts of sexual exploitation of a minor. Discovery was voluminous and technologically complex, with an 8,000-page forensic report for the computer alone, an intricate cellular cell-site data report from the phone provider, and multiple CDs with images and videos. There were also many dates, times, and locations to keep track of and cross-reference.

The challenges encountered in this case and subsequent trial were three-fold. Firstly, I inherited this case after the departures of two previously assigned prosecutors and with trial dates having already been set, which significantly limited my review of the case and any legal strategizing. Secondly, the nature and volume of the case required that I completely immerse myself in the computer jargon and work of the forensic examiner to understand it and, in turn, be able to teach it to the jury. Although the case seemed relatively straightforward, the facts attributing use and ownership of the computer to the Defendant, and whether any activity was performed by him, were complicated. Thirdly, because this was a technology-based investigation, I had to get creative and draw from my teaching experiences to condense information and present it in a digestible manner to the jury through charts, graphs, notes, and other visuals. This proved effective, as the Defendant was convicted despite his argument that the computer was a shared, family computer with open access and that he was not at home during the creation dates and times of certain images and videos.

This case was also significant because it allowed me to come full circle with a Drug Court graduate, whose addiction recovery and excellence in the program I witnessed while I was the Drug Court prosecutor. She was part of the jury pool for this case and, while she was not chosen to serve on our jury, she expressed the great honor she felt to finally be fulfilling her civic duty. Facing her as a potential juror reminded me that our legal system, while penal in nature and construction, can also be rehabilitative and be a source of hope within the community.

State of Arizona v. Virgil Jerome Brooks, S1400CR201500698

- 1) Relevant Dates: June 25, 2015 – December 14, 2016
- 2) Relevant Parties: Judge Stephen J. Rouff
Yuma County Superior Court

Robert Billar
Former Deputy Public Defender
No contact information, per Arizona State Bar
website.

The Defendant was charged with one count of Attempted First-Degree Murder and two counts of Aggravated Assault for the beating and stabbing of his blind, live-in girlfriend. Aside from the Defendant and the victim, no one else witnessed the stabbing that occurred in their bedroom. Their roommate, who was in the neighboring bedroom, called 911 after hearing screaming and seeing her on the living room couch, hemorrhaging from her stab wounds. When the medics arrived, the Defendant had layered on clothing and the victim was still sitting on the couch, alive but immobile. At trial the Defendant argued that someone else had broken into their home and stabbed the victim in the middle of the night. And while the victim spoke to officers that first night and identified the Defendant as the perpetrator, she recanted months later and during trial.

This was also an inherited case with trial dates set within a couple of months, and an accompanying violation of probation matter for the Defendant's prior felony conviction. To avoid further delay, I motioned to set the probation matter for a revocation hearing, after which the Defendant was found in violation of the probation terms and was subsequently sentenced to prison.

His attempted murder case presented the unique situation of having an uncooperative and sole blind witness identify the Defendant at trial. During her testimony, I had the victim explain how, as a blind woman, she was self-sufficient and how she relied on motion and sound to identify others to establish that she, in fact, recognized the Defendant's voice and movements the night he stabbed her. I also asked the Defendant to say her name during trial so that she could make an in-court identification. I was also able to successfully impeach her and admit her initial interview into evidence. The Defendant was convicted and was sentenced to prison.

State of Arizona v. Hector Javier Mora, S1400CR201700406

1) Relevant Dates: April 20, 2017 – May 8, 2018

2) Relevant Parties: Judge Stephen J. Rouff
Yuma County Superior Court

Michael Donovan, Attorney for the Defendant
928-329-8707
mjdonovan@dlawaz.com

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After years of sexually abusing his 17-year-old daughter both in California and in Arizona, the Defendant was arrested and charged with multiple counts of Sexual Conduct with a Minor and Molestation of a Child. During further investigation, law enforcement officers discovered that the Defendant had also sexually abused a niece, now an adult, and had fathered her first son. This case had many moving parts and storylines, including DNA evidence on the victim, a paternity DNA identification for the niece's son, the Defendant's wife's foundational story of how they met when she was also a minor, and a legally complex interview of the Defendant.

This case was both legally and emotionally challenging. I filed several pretrial motions, including a Motion to Consume DNA samples and a lengthy and thorough Motion to Admit Other Act Evidence pursuant to Rule 404(c) in order to introduce evidence of the victim daughter's abuse in California, the niece's abuse, her son's biological father, the Defendant's juvenile adjudication for a sexual offense, and testimony regarding observed inappropriate behavior between the Defendant and his victim daughter. Over a defense objection and a much contested hearing, the court ruled that everything but evidence of the Defendant's juvenile adjudication could be introduced in the State's case-in-chief.

He also ruled that evidence that the Defendant had fathered the niece's son could only be used as rebuttal evidence. Opposing counsel also filed a lengthy Motion to Suppress the Defendant's statements in his interview based primarily on the alleged violation of his rights afforded to him under *Miranda v. Arizona*, 384 U.S. 436 (1966), and its progeny. I filed a timely response and objection on behalf of the State and, after a lengthy and contested hearing, the defense's motion to suppress the Defendant's statements was denied. During trial, the niece and the victim daughter gave powerfully emotional testimony and the Defendant was convicted.

Because of the victim's young age, the years of abuse that began when she was 9 years old, and the psychological trauma she had endured and will continue to endure, it was difficult to not feel pressured to successfully obtain a conviction in this case. The victim is a bright, resilient, young woman who showed bravery against, and compassion for, her father throughout the proceedings and during trial. She was a breath of fresh air and a reminder of why I have chosen this profession in public service.

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

handled at each court or agency (e.g., jury or court trials, settlement conferences, contested hearings, administrative duties, etc.).

As a certified mediator through the law school's Mediation Clinic, I mediated 11 small claims cases that were either contract disputes or debt collection matters, from October to December 2011.

Highland Justice Court

Case No. CC2011-119311: Debt Collection
Case No. CC2011-159401RC: Debt Collection
Case No. CC2011-1080347: Debt Collection
Case No. CC2011-195523: Debt Collection

McDowell Mountain Justice Court

Case No. CC2011-140716RC: Contract
Case No. CC2011-043225: Contract
Case No. C2011-164066: Debt Collection
Case No. CC2011-186108R: Debt Collection
Case No. CC2010-574138: Debt Collection
Case No. CC2011-173898: Contract
Case No. CC2011 -098766: Contract

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

Case No. CC2011-119311: Debt Collection Matter

Date of Mediation: October 12, 2011

Court: Highland Justice Court

Counsel: Art Hinshaw
Clinical Professor of Law
480-965-3109
Art.hinshaw@asu.edu

Plaintiff and Defendant were private parties for which I have no contact information.

The Defendant entered into a credit card contract in 2003 and accrued \$3,267.08 in charges, which the Defendant did not pay. As of the mediation date, the

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accrued interest on those charges was \$184.38. The Defendant had 2 daughters and grandchildren living with her, her car had recently caught on fire, and she had not received the promotion at work she was expecting. Although no agreement resulted from the mediation, it was clear that this case was ripe for mediation because the Defendant needed to tell her story in order to feel heard and understood. As for the Plaintiff, the collection agency's attorney, it was clear that he was interested in negotiating and assuring her that it was not personal and that he would work with her to establish a payment plan. Being my first mediation, I learned that empowerment and empathy are key. It was highly effective to explain the court process and consequences to the Defendant, as she felt included and had some control in the process. However, my attempt to be empathetic was ineffective. My tone did not reflect my empathy while she was crying and visibly stressed, which could have helped her feel heard and move forward with a payment plan agreement to put the case behind her.

Case No. CC2011-043225: Contract Matter

Date of Mediation: November 9, 2011

Court: Highland Justice Court

Counsel: Plaintiff and Defendant were private, unrepresented parties for which I have no contact information.

The Plaintiff sued the Defendant for breach of an oral contract which he believed obligated the Defendant to ship 13 golf drivers from Arizona to Canada in exchange for investors, the guaranteed return of the drivers, or the payment thereof, if the Defendant failed to get investors. The Plaintiff's company sold golf drivers built with a unique patented technology. The Defendant was the former co-owner of the Canadian company that was to help the Plaintiff acquire investors in Canada. According to the parties, an engagement agreement was signed in December of 2009. The Plaintiff believed that the Defendant's company would produce investors and capital within 3 months but nothing had happened by May 2010. During this time, the Plaintiff granted distribution rights to the Defendant's company, after which the Defendant introduced a third party ("the golf pro") to the Plaintiff, who was to sell the drivers for a commission. There was a misunderstanding between the parties as to the golf pro's relationship with the Defendant's company; the Plaintiff was under the impression that the golf pro was an independent contractor, and the Defendant assumed the golf pro would be selling the drivers under the Defendant company's distribution rights license, as granted by the Plaintiff. In June 2010, the Defendant requested that the Plaintiff send 10 golf clubs to be used as demonstrations pieces for potential investors. According to the Plaintiff, he was reluctant to do this because he had seen no progress in raising any capital or locating firm investors in Canada.

However, he decided to ship the 10 drivers after having a phone conversation during which the Defendant allegedly made the following oral promise that was the crux of his suit: "...either we get you the investors, you get your drivers back, or I will personally pay for the drivers." After seeing no progress in potential investors, the parties terminated their Dec. 2009 agreement and the Plaintiff sent 2 invoices for the drivers, totaling \$2,433.51. The Defendant counterclaimed for \$4,800 for the work he allegedly did for the Plaintiff's past business endeavors and for which he was not paid. He increased his counterclaim to \$5,340.39 to cover his flights and miscellaneous expenses associated with the suit.

This case gave me a small glimpse into the judicial role, as both parties were well prepared with numerous exhibits and at least one witness. Although no agreement was reached, I was able to manage the information of each party's extensive presentation and address their main concerns both jointly and separately. Additionally, because the parties were former friends and business associates, I learned how personal biases and motives drove the redress they sought from each other, as the Plaintiff primarily wanted personal vindication for golf drivers he believed he was placing in a friend's hands, and the Defendant wanted to "help his friend" without formally taking any legal responsibility.

Case No. CC2011 -098766: Contract Matter

Date of Mediation: December 13, 2011

Court: McDowell Mountain Justice Court

Counsel: Plaintiff and Defendant were private, unrepresented parties for which I have no contact information.

The Plaintiff invested in the 21-year-old Defendant's entertainment company by lending him a total of \$9,000 during the summer of 2010. One loan was for a Snoop Dogg after-party at a club and, the other, for a Yung Joc after-party. The Plaintiff's original complaint, however, sought payment for \$10,000 because he miscalculated the number of loans and their amounts. The Defendant initially denied that the contracts existed or, in the alternative, that the contracts had been voided when the Plaintiff breached them. According to the Defendant, the Plaintiff breached both contracts by wiring the money directly to the artists or to their management teams, rather than to the Defendant. When both events failed, the Defendant did not repay the loans to the Plaintiff.

By clarifying the actual amount of the loans, I assuaged the Defendant's fears regarding the amounts he was responsible for. I was successful in getting the Plaintiff to verbally admit he was mistaken about the amounts when I noted the inconsistencies between the complaint and the actual contracts for him. Also,

halfway through the mediation, when it became apparent that the Defendant was lying about not giving the Plaintiff wiring instructions, I successfully played up their personal relationship and the Plaintiff's hurt feelings to remind the Defendant of the Plaintiff's main interest – finality of this matter. This prompted the Defendant to immediately began brainstorming and then put forth an offer, without necessarily admitting he had been untruthful. As a result, this case was successfully settled for \$1,000, to be paid immediately by the Defendant.

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

In 2015, I served as one of the county's drug court prosecutors, a position which helped me glean the personal and community value of this rehabilitative program. Being part of that program also helped me understand the cycle of addiction, the social and criminal ramifications on those who succumb to it, and the immense hard work and discipline it takes to escape it. I witnessed first-hand that those who are mentally prepared and are willing to work hard can be successful.

BUSINESS AND FINANCIAL INFORMATION

30. Have you ever been engaged in any occupation, business or profession other than the practice of law or holding judicial or other public office, other than as described at question 14? **No.** If so, give details, including dates. **Not applicable.**
31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise? **Yes.** 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. **Spanish Source, LLC is translation business that I started with my sister in 2018. We are not active and have conducted business under it once.**

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

32. Have you filed your state and federal income tax returns for all years you were legally required to file them? Yes. If not, explain.
33. Have you paid all state, federal and local taxes when due? Yes. If not, explain.
34. Are there currently any judgments or tax liens outstanding against you? No. If so, explain.
35. Have you ever violated a court order addressing your personal conduct, such as orders of protection, or for payment of child or spousal support? No. If so, explain.
36. Have you ever been a party to a lawsuit, including an administrative agency matter but excluding divorce? Yes. If so, identify the nature of the case, your role, the court, and the ultimate disposition.

In 2011, I was the plaintiff in a personal injury lawsuit resulting from a vehicular collision that occurred in August 2010. The case was settled through the defendant's insurance carrier and ultimately was not filed in any court.

37. Have you ever filed for bankruptcy protection on your own behalf or for an organization in which you held a majority ownership interest? No. If so, explain.
38. Do you have any financial interests including investments, which might conflict with the performance of your judicial duties? No. If so, explain.

CONDUCT AND ETHICS

39. Have you ever been terminated, asked to resign, expelled, or suspended from employment or any post-secondary school or course of learning due to allegations of dishonesty, plagiarism, cheating, or any other "cause" that might reflect in any way on your integrity? No. If so, provide details.

40. Have you ever been arrested for, charged with, and/or convicted of any felony, misdemeanor, or Uniform Code of Military Justice violation? **No.**

If so, identify the nature of the offense, the court, the presiding judicial officer, and the ultimate disposition.

41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain.
Not applicable.

42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice.

In May 2018, a defendant I prosecuted for several counts of sexual conduct with a minor filed a complaint with the State Bar of Arizona. I received a letter from the State Bar only notifying me of the complaint. I was not asked or required to respond. To my knowledge, no formal charges were filed.

43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42.
None.

44. List and describe any sanctions imposed upon you by any court.
None.

45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction? **No.** If so, in each case, state in detail the circumstances and the outcome.

46. During the last 10 years, have you unlawfully used controlled substances, narcotic drugs or dangerous drugs as defined by federal or state law? **No.** If your answer is "Yes," explain in detail.

47. Within the last five years, have you ever been formally reprimanded, demoted, disciplined, cautioned, placed on probation, suspended, terminated or asked to resign by an employer, regulatory or investigative agency? **No.** If so, state the

circumstances under which such action was taken, the date(s) such action was taken, the name(s) and contact information of any persons who took such action, and the background and resolution of such action.

48. Have you ever refused to submit to a test to determine whether you had consumed and/or were under the influence of alcohol or drugs? No. If so, state the date you were requested to submit to such a test, type of test requested, the name and contact information of the entity requesting that you submit to the test, the outcome of your refusal and the reason why you refused to submit to such a test.
49. Have you ever been a party to litigation alleging that you failed to comply with the substantive requirements of any business or contractual arrangement, including but not limited to bankruptcy proceedings? No. If so, explain the circumstances of the litigation, including the background and resolution of the case, and provide the dates litigation was commenced and concluded, and the name(s) and contact information of the parties,

PROFESSIONAL AND PUBLIC SERVICE
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50. Have you published or posted any legal or non-legal books or articles? No. If so, list with the citations and dates.
51. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge? Yes. If not, explain.
52. Have you taught any courses on law or lectured at bar associations, conferences, law school forums or continuing legal education seminars? Yes. If so, describe.

Arizona Career Prosecutor Course (2017)

Based on my notable performance as a student in the 2016 course, I was invited to come back in 2017 as an Assistant Team Leader for the Arizona Career Prosecutor Course hosted by the Arizona Prosecuting Attorneys' Advisory Council (APAAC).

Arizona Public Defender's Association's (APDA) Summer Conference (2014)

I served on a panel regarding representing unaccompanied minors with potential criminal pitfalls within the context of Special Immigrant Juvenile Status (SIJS) Visas.

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

Arizona Women's Lawyers Association, Western Chapter, President, 2018 – 2019

Yuma County Bar Association, Board Member, Mock Trial Coordinator, 2017-2019

Arizona High School Mock Trial Program Region One, Regional Coordinator, 2017 -2019

Los Abogados, Arizona Hispanic Bar Association, Member, 2008 – 2014, 2019

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

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

Yuma County Bar Association, Board Member, Mock Trial Coordinator, 2017-2019

Arizona State Bar Leadership Institute, Participant, 2018-2109

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

Undergraduate volunteer work

Ronald McDonald House – Atlanta, Georgia

Lead and participate in arts & crafts, shows, and other activities with children of the Ronald McDonald House.

Middle School mentoring – Atlanta, Georgia

One of our sorority's philanthropic endeavors was to mentor young women throughout middle schools within the Atlanta area. We joined these young women for after school programs and organized joint volunteer activities with them.

Law school volunteer work

Wills for Heroes – Flagstaff, Arizona

Assisted attorneys in preparing estate planning documents for first responders and served as a witness to the wills.

Citizenship Day – Phoenix, Arizona

Assisted Legal Permanent Residents with completing USCIS N-400 Naturalization Forms.

Volunteer Income Tax Assistance (VITA) Program

Assisted residents, community members, and students with completing their income tax forms.

Attorney volunteer work

Citizenship Day – Phoenix, Arizona

Assisted Legal Permanent Residents complete USCIS N-400 Naturalization Forms.

No Dream Deferred – Phoenix, Arizona

Assisted eligible community members complete applications for Deferred Action for Childhood Arrivals relief.

Arizona High School Mock trial – Yuma, Arizona

Organize, promote, and execute the annual high school mock trial tournament for Region One.

Criminal Justice Speaker – Yuma, Arizona

Guest speaker at Cibola High School, Kofa High School, and the Arizona Western College.

Southwest Arizona Town Hall, Criminal Justice Session

Participated in proactive discussions regarding what should be Yuma County's and Arizona's principal goals for the adult and juvenile criminal justice system. We collaborated on action items for the county.

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

Certificate of Recognition by Cibola High School for my contributions in resurrecting the Mock Trial Program in Yuma, Arizona (2018)

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

None.

Have you ever been removed or resigned from office before your term expired? No. If so, explain. **Not applicable.**

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

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

Outside of my work as a lawyer and advocate, I enjoy reading, running, hiking, and traveling. My family and my spiritual journey are also very important to me.

HEALTH

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

ADDITIONAL INFORMATION

59. Provide any information about yourself (your heritage, background, life experiences, etc.) that you would like the Governor to consider.

Please see "Attachment A"

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

No additional information at this time.

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

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

In addition to my response to question #59, I seek this position because public service is my calling. As a college student, I recall reading John Locke's and Thomas Hobbes' social contract theory for a philosophy

course and, consequently, our social history and system of government suddenly made sense to me. While I did not know it then, this course planted the seed for my future career in the law because it has helped me understand why we have laws, the moral code they represent, and why both citizen and government adherence to them are the foundation of a trusting and prospering community. The judiciary, in its role as the gatekeeper, must respect, follow, and apply the laws equally to the people within the community that put it in place. I want to be part of this important role that gives faith and credence to our uniquely democratic system of government, and to the societal contract within our community.

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

See "Attachment B" & "Attachment C"

64. If you have ever served as a judicial or quasi-judicial officer, mediator or arbitrator, attach sample copies of not more than two written orders, findings or opinions (whether reported or not) which you personally drafted. **Each writing sample should be no more than five pages in length, double-spaced.** You may excerpt a portion of a larger document to provide the writing 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.

Not applicable. The matters I mediated in the Phoenix Justice Courts through the Mediation Clinic, although real cases, did not require written orders, findings, or opinions.

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

Not applicable.

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

ATTACHMENT “A”

As a first-generation immigrant, Mexican-American, bilingual woman, and avid traveler, I bring diversity of race, gender, ethnicity, culture, language, and life experiences to the Yuma County Superior Court. The legal profession has taught me that people want to be heard and understood. My upbringing and diverse experiences have prepared me for this responsibility and important role in the Yuma community.

I was born in a small town in the state of Chihuahua, Mexico, the youngest of four children, and the daughter of working-class parents, whose formal education was truncated before high school out of necessity. I say "formal education" because, although my parents may not have degrees, they are undoubtedly intelligent, insightful, and hard-working visionaries. My father, Heriberto Gonzalez, is a Jack-of-all-trades. He is an upholsterer by craft, a mechanic by necessity and curiosity, and a welder and carpenter by passion. My mother, Rosa Gonzalez, is a seamstress by trade and a singer, poet, and writer at heart. My parents are socially aware individuals who instilled the importance of education in their children. Thanks to them, my siblings and I are all college-educated and successful in our respective professions.

I was three years old when my parents immigrated with our family to Phoenix, Arizona. We lived in a low-income, gang-ridden, predominantly Hispanic area in southwest Phoenix. I grew up surrounded by family, with my aunts, uncles, grandparents, cousins, and my elementary school right around the block. Growing up, I spent the school years in Phoenix, being a typical student yet sharing the task with my siblings of helping my parents navigate life in the U.S. by interpreting for them. Specifically for my father, I shared the task of interpreting between him and his clients when giving upholstery estimates and delivering his finished products. My summers were spent in Mexico with my best friend and extended family, solely speaking Spanish and learning how others live without basic necessities I thought were built-in staples, such as a refrigerator or running water. This was my world until high school, when I began attending Phoenix Country Day School (PCDS), a private college preparatory high school, and I was thrust into a completely different world. Not only did this institution become my educational foundation, but also my microcosm of unlimited possibilities.

Among the many lessons I learned at PCDS was the value of understanding others and finding common ground. As a Mexican, bilingual teenager from a low-income and criminally active neighborhood, I neither had the socioeconomic background of my peers, nor did I look anything like them. Additionally, because at the end of each day I travelled 40 minutes back to my diametrically opposite neighborhood, my life outside of school was nothing like theirs either. While my peers were having pool parties in their backyards, my cousins and I were sliding down plastic tarps as my dad sprayed the hose on them in our paved front yard. While they were taking overseas trips during the summers, I was squeezing myself into the cabin of my parents' truck at 4 a.m. to begin our 8-hour drive to our home town in Mexico. Despite these differences, I found that we still shared the common experiences of being socially awkward teenagers, maneuvering through high school classes, surviving friendships, and applying to colleges. I have

taken these lessons and learned skills everywhere and applied them to all aspects of my life, including the work I have done as a law student, defense attorney, and prosecutor.

As an immigration and criminal defense attorney, I worked hard to make sure my clients' Constitutional rights were upheld. I believed I was serving my community in an important way by helping them navigate systematic, confusing, and often frightening processes. Through my work as a defense attorney, and now as a prosecutor, I understood that my job, as an officer of the Court, was to make sure that individuals' rights were respected by demanding that all actors in the criminal justice system follow the law and uphold the U.S. and Arizona Constitutions. I learned that, as an advocate, it was not my role to pass judgment on the individuals I represented; it was my job to make sure their rights were upheld and the law was applied correctly to the facts, while still ethically and legally advocating for my clients' positions. Equally important, was the continuing lesson that the individuals I represented were people. Each client had fears, hopes, dreams, a voice, and a story, and each one deserved to be treated as a person. This is an important lesson to bring to the bench and apply to those who come before it because, no matter the result of a case, individual lives and the life of our community are impacted.

As a prosecutor, my perspective was forced to expand as I represented victims of various crimes and various backgrounds on behalf of the State. This position allowed me to see the injustices on the other side of the coin. Although I am not a wife, I can still sympathize with domestic violence victims; I am not a mother, but can still empathize with those who have lost a child to a murder; I do not have children, but can still feel the unbridled rage against someone who has perpetrated abuse on one. I understand the importance of upholding the laws, Constitutions, and rights of both victims and the accused, and how vital it is that law enforcement officers do the same. Likewise, in a civil matter, ensuring that each side is heard.

I also know the value of a strong work ethic and discipline. Throughout my college years, I often sustained two or three jobs at a time, ranging from a hostess and server to a secretary and linguistic translator. Because of my demonstrated work ethic and discipline, I was able to make the Dean's list, to be a co-founder of a chapter of a Latin sorority, to finish my double major in 4 years, to study for a semester abroad, and to rent an apartment off-campus.

After graduating from college, I moved from Atlanta, Georgia back to Phoenix, where I taught Latin, Spanish, and American Government to middle-school and high-school students for two years. Before attending law school, I taught English classes and lived in Seoul, South Korea for one year. In addition to these experiences, I have also traveled to various places, both within the U.S. and internationally, where I have been blessed to meet extraordinary people from diverse walks of life. I have spent time communicating and interacting with people that have unique viewpoints. These experiences and individuals have helped mold me into the compassionate and culturally

empathetic person that I am today, with the ability to communicate and relate with anyone.

I also know the power and value of community. During law school, I became involved in various organizations, served on their boards, and was very active in hosting and participating in community events, such as the Volunteer Income Tax Assistance Program (VITA), Citizenship Day, and Wills for Heroes. As an attorney, I began my legal career in public service through a non-profit organization, but also regularly volunteered at law-related fairs and community self-help events.

I have continued to feed my sense of community spirit in Yuma. Although I am not from here, the city's students and residents have nurtured and embraced me like family, both socially and professionally. Serving and uplifting the community that has given me so much is important, which is why I resurrected the Mock Trial Program for high school students, why I invested in the roots of this community by purchasing my first home here, a historic home in the North End, and why I would treasure the opportunity to serve this community on the judicial bench.

I believe that the ability to view an experience through the lens of someone else is an important skill to serve with honor, respect, and dignity on the bench. I believe that my life experiences, the values that have been instilled in me from a young age, and my journey to who I am today, set me apart from the other candidates, and will allow me to objectively hold the role and responsibility of Judge and the immense power that it holds.

ATTACHMENT “B”

1 2. THE NATURE OF THE OTHER ACTS PROVIDES A
2 REASONABLE BASIS TO INFER THE DEFENDANT HAS AN
3 ABERRANT SEXUAL PROPENSITY.

4 As the Supreme Court has previously stated in Aguilar,

5 “Thus, the question is not whether the other act per se involves abnormal or
6 aberrant conduct. Instead, the rule requires that the **other act evidence must**
7 **lead to a reasonable inference that the defendant had a character trait**
8 **that gives rise to an aberrant sexual propensity** to commit the charged
9 sexual offense. And as the comment to Rule 404(c) explains, the
10 admissibility of such other act evidence will turn on either “the basis of
 similarity or closeness in time [to the charged offense], supporting expert
 testimony, or other reasonable basis that will support such an inference.”
 State v. Aguilar, 209 Ariz. 40, 48 (2004)(emphasis added), *distinguished on*
 other grounds.

11 An aberration has been defined as a deviation from the proper, normal or typical course. State v.
12 Beck, 151 Ariz. 130, 134 (App. 1986). Specific acts defined by courts as sexually aberrant
13 include sodomy, child molestation, and lewd and lascivious conduct. State v. McFarlin, 110 Ariz.
14 at 228. Expert testimony is not required unless other bad acts are remote and dissimilar. State v.
15 Aguilar, 209 Ariz. 40, 44 - 48 (2004). Additionally, exact similarity between acts is not required
16 for a sexual propensity finding. State v. Weatherbee, 158 Ariz. 303, 304 (App. 1988) (State v.
17 Roscoe, 145 Ariz. 212 (1984)).

18 a. Touching of J.M. in La Puente, California.

19 In State v. Vega, defendant was convicted of child molestation, sexual conduct with a
20 minor, and sexual abuse of his 6-year-old and 11-year-old nieces. 228 Ariz. 24, 26 (2011). At
21 issue on appeal was evidence introduced at trial that Vega improperly touched the 11-year-old at a
22 beach in Mexico a few months before the charged incidents. Id. In holding that it was harmless
23 error to admit the Mexican beach incident without 404(c) findings first, the Arizona Supreme
24 Court noted that the Mexican beach incident satisfied all requirements of 404(c), to include
25 “aberrant sexual propensity.” Id. at 29 (“The beach incident clearly provides a basis for
26

27
28 539, 547 (1990).

1 concluding that Vega had a 'character trait' that gave 'rise to an aberrant sexual propensity' to
2 commit the several other sexual assaults on the girl . . .").

3 Similarly to Vega's touching of the 11-year-old, Defendant's sexual touching of J.M.
4 while they were all living in La Puente, California is certainly "lewd and lascivious conduct."
5 Here, as in Vega, Defendant's touching of J.M. "clearly provides a basis" to conclude that
6 Defendant has a character trait giving rise to an "aberrant sexual propensity" to continue to
7 commit those same acts – and more – on J.M. in Yuma, Arizona.
8

9 b. Sexual conduct with cousin, V C.

10 In Weatherbee, the Arizona Court of Appeals held that evidence that Weatherbee had
11 molested his two older daughters when they were 8 and 13 years old was admissible under 404(c)
12 in the trial for sexual assault and abuse of his current 16-year-old and 12-year-old daughters.
13 Weatherbee, 158 Ariz. 303 (App Div. 1 1988). The other acts against the older daughters
14 occurred 19 – 22 years before trial. At the time of trial, Weatherbee's older daughters were in
15 their 30s and he was married to a woman 32 years younger than he. Id. In holding that
16 remoteness in time did not make the other acts inadmissible under 404(c), the Court noted that the
17 time lapse was not a concern due to the similarities as to the type of victim involved (daughters),
18 the age of the victims (8-13 years old), the locale (family home), the type of sex act (touching on
19 breasts and vaginas), and the exercise of parental authority by the accused over the victims
20 (biological father)." Id. at 305. The Court found that all testimony was properly admitted as proof
21 of emotional propensity. Id.
22
23
24

25 Here, Defendant began a sexual relationship with his cousin, V C. when she
26 was approximately 13 years old and while she was living with him and his mother. This sexual
27
28

1 relationship continued after she turned 18 years old. V. C. is now 35 years old, and these
2 acts occurred between 15 - 22 years before the charged acts as to the victim, J.M. Nonetheless,
3 they still provide a clear basis for the jury to conclude that Defendant has an "aberrant sexual
4 propensity" towards committing the identical acts for which he is charged – sexual conduct with
5 minors. Based on the above, the acts committed against V. C. should be admitted, as they
6 are sufficient to infer that Defendant has "an aberrant sexual propensity" towards having sex with
7 minors to whom he has access.
8

9 c. Sexual Conduct with Z. C. as a minor.

10 Defendant's relationship history with his wife, Z. C. involves him seeking
11 her out when he was 18 years old and she turned 13 years old., beginning a romantic and sexual
12 relationship with her soon after, and ultimately conceiving a child with her at 15 years old. This,
13 plus his own admissions about his sexual history with J.M. at 13 years old, clearly establishes that
14 the defendant continues to have an aberrant sexual propensity to commit the charged crimes.
15

16 d. J.M. was regularly seen sitting between Defendant's legs.

17 A father who treats his 17-year-old biological daughter like his spouse by having her sit
18 between his legs while sitting on the couch is not "normal or typical" conduct. While this itself is
19 not criminal in nature, it does not need to be to be considered an "aberration," i.e. a deviance in
20 behavior.³ A jury can certainly infer from this conduct, along with Defendant's own admissions
21 that he and J.M. had sex "just like a couple," that he has a "character trait that gives rise to an
22 aberrant sexual propensity" to have sex with and molest minors, as he is charged.
23

24 e. Defendant's 1991 juvenile adjudication for Molestation of Child and Sexual Abuse with victim under 15 years of age.

25 Defendant's juvenile adjudication for the exact same or similar offenses for which he is
26
27
28

1 now charged provides more than "reasonable basis" to support an inference that he has a "sexual
2 propensity to commit the charged sexual offense" in this case – sexual conduct with a minor and
3 molestation of a child. This, coupled with Defendant's own admissions regarding that
4 adjudication, as well as statements that he has been having sex with J.M. since she was 13 years
5 old, is sufficient to find that he has an "aberrant sexual propensity" that is not "proper, normal, or
6 typical." See, James, 242 Ariz. 126, 393 P.3d 467, 474 (other victim's testimony plus defendant's
7 record of 1991 conviction for sexual abuse of other victim meet requirements under 404(c)).
8

9 f. Defendant felt that because he was abused when he was a boy, he felt
10 that he had to pass it on.

11 Statements by a previously abused adult man that he felt the need to "pass it on" because
12 he was also sexually abused is sufficient to reasonably infer that Defendant, by his own
13 admission, has a "character trait that gives rise to an aberrant sexual propensity." The mentality
14 that sexual abuse must be perpetuated is certainly a deviation from the "proper, normal, or typical
15 course" of thinking with regards to sex with children.

16 The evidence mentioned above bears directly on the defendant's aberrant sexual interest in
17 children, and provides a reasonable basis for the jury to conclude that the defendant does have an
18 aberrant sexual propensity.

19 3. **THERE IS NO UNFAIR PREJUDICE TO THE DEFENDANT OR**
20 **OTHER RULE 403 CONSIDERATIONS THAT WOULD PREVENT**
21 **ADMISSION.**

22 The court must also perform a modified Rule 403 balancing test to determine whether the
23 probative value of the evidence is substantially outweighed by the danger of unfair prejudice. Rule
24 404(c)(1)(C). The question is not whether the evidence will be prejudicial to the defendant. All
25 good evidence is prejudicial to one side or the other; hence, its value to the proponent of the
26 evidence. "The exceptions to the exclusionary rule are generally based on the strong relevancy of

27 3 It should be noted that the Court has stated that other acts evidence is not limited to those acts that are "abnormal or
28 aberrant." Aguilar, 209 Ariz. at 48.

1 the evidence offered even though prejudicial to the defendant.” McFarlin, 110 Ariz. at 228. The
2 questions are whether the evidence is *unfairly* prejudicial and whether any probative value is
3 substantially outweighed by unfair prejudice. In this case, there is no danger of the probative value
4 being outweighed by unfair prejudice.

5 In conducting the balancing test under the sexual propensity rule, the Court must take
6 factors into consideration that are not present with other types of evidence. Rule 404(c)(1)(C);
7 Aguilar, 209 Ariz. at 49. Some of the factors that the court shall consider are the remoteness of
8 the other acts, the similarity of the acts, the strength of the evidence that the defendant committed
9 the other acts, the strength of the evidence and the frequency of the acts. Rule 404(c)(1)(C).
10 Almost all of those factors strengthen the probative value of the evidence and lessen any potential
11 prejudice.
12

13 a) Remoteness

14 While in some instances there are a number of years between the charged offenses (oral
15 and penile-vaginal sex) and uncharged offenses (touching her breasts and vagina while living in
16 La Puente, California) as to J.M., this defendant abused this victim for many years. There is no
17 remoteness issue when the crimes are committed against the same victim incessantly. State v.
18 Spence, 146 Ariz. 142, 144 (App. 1985).

19 In State v. Weatherbee, as outlined above, the Court of Appeals specifically commented on
20 the Defendant’s contribution to remoteness in time, when holding that that a 19-22 year time span
21 was not a concern:
22

23 “One of the reasons for the lengthy time period between the incidents
24 is that appellant left the prior marriage and family, remarried and
25 started a new family with his fifth wife. Thus, it was a number of
26 years before the daughters of the new family reached the appropriate
27 age for appellant to again begin his sexual contacts.” Id. at 305.

28 Similarly, this Court should find that remoteness in time of the acts against V. C.
does not make them inadmissible. As in Weatherbee, there are similarities in J.M.’s and V.

ATTACHMENT “C”

1 authority, determined that there was probable cause to issue the subsequent written search
2 authorization.

3 B. Military "Search Authorizations" are Substantively Comparable to Arizona Search
4 Warrants.

5 Arizona has repeatedly recognized and upheld substance over form when determining
6 validity of a search warrant. Cf., State v. Hadd, 127 Ariz. 270 (Ct.App.1980)(substantial rather
7 than literal compliance with telephonic search warrant did not void it, where there was no
8 certified transcript of recording, magistrate did not file original warrant, no citations were on
9 duplicate warrant, and no "exact time" stamp was included on original), State v. Mead, 120 Ariz.
10 108 (Ct.App. 1978)(failure to record administration of oath does not invalidate), State v. Tillery,
11 107 Ariz. 34 (1971)(failure to return the warrant within the prescribed time period does not
12 invalidate), State v. Sherrick, 98 Ariz. 46 (1965)(use of a copy rather than the original search
13 warrant does not invalidate), to State v. Boniface, 26 Ariz.App. 118 (1976)(failure to record
14 statements made for telephonic search warrant or to make them under oath will invalidate),
15 Bowyer v. Superior Court, 37 Cal.App.3d 151 (1974)(failure to execute any writing before the
16 search invalidates a telephonic search warrant).
17

18 The State concedes that the "Search Authorizations" issued by Lt. Col. Merino and
19 Col. Ricardo Martinez on May 19 and May 22, 2015, respectively, do not literally meet all the
20 statutory requirements under Arizona law. However, they are substantively comparable to state
21 search warrants and should be upheld as valid. A military search authorization is an "express
22 permission, written or oral, issued by a competent military authority to search a person or an area
23 for specified property or evidence or for a specific person and to seize such property, evidence, or
24 person." Mil. R. Evid. 315(b)(1). Similarly to the substantive requirements of an Arizona search
25 warrant, a military search authorization may be oral or written, Mil. R. Evid. 315(b)(1), must be
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27
28

1 based upon probable cause, Mil. R. Evid. 315(f)(1), and, contrary to Defendant's assertion, must
2 be issued by a detached and impartial commander, military judge or magistrate, Mil. R. Evid.
3 315(d). The fact that the military does not mirror the technical aspects of Arizona's statute to
4 execute within a timeframe, return service, and provide receipt for property should not be the
5 basis for suppression of evidence, since Arizona has recognized these requirements as insufficient
6 to invalidate a warrant when deciding whether to apply the exclusionary rule. Additionally, both
7 of these "search authorizations" were obtained by NCIS agents in good-faith compliance of their
8 own jurisdictional requirements. Particularly with respect to the 5/22/15 written search
9 authorization, this Court should uphold its substantive value over its technical form because no
10 misconduct or bad faith by law enforcement has been shown.

12 Furthermore, the State of Arizona recognizes and favors assisting and collaborating
13 with foreign jurisdictions for law enforcement purposes. State v. Nahee, 155 Ariz. 144 (App.
14 1987)(holding that evidence would not be suppressed, even though defendant's arrest was not in
15 accordance with a tribal code regulation, as police acted in "good faith" reliance on tribal officer
16 to effectuate arrest in proper manner); State v. Heylmun, 147 Ariz. 97 (Ct.App.1985)(warrant may
17 issue to seize property located in Arizona if it is evidence of a crime committed in another
18 jurisdiction, where Riverside, California police department asked Tucson police department to
19 obtain and execute search warrant for defendant's Tucson home); State v. Robles, 183 Ariz. 170
20 (Ct.App. 1995)(state and federal courts had concurrent jurisdiction over Indian charged with
21 conspiracy to commit murder, where conspiracy occurred off reservation and actual murder
22 occurred on reservation); State v. Standsberry, 114 Ariz. 351 (Ct.App.1976) (deputy state fire
23 marshal was not required to obtain search warrant prior to participating in investigation of fire
24 damage at request and in assistance of local police department); Ariz. Rev. Stat. Ann. § 26-1021
25 (conferring concurrent jurisdiction over military bases to military courts martial and state courts).

1 The United States Supreme Court has also recognized the need for common sense practices when
2 4th Amendment suppression issues arise involving concurrent jurisdictions. U.S. v. Janis, 428 U.S.
3 433 (1976)(permitting the use in federal civil proceedings of evidence illegally seized by state
4 officials since the likelihood of deterring police misconduct through such an extension of the
5 exclusionary rule was insufficient to outweigh its substantial social costs).

6 It is not offensive to recognize another jurisdiction's or sovereign's practices of law; it
7 is the reality and nature of collaborating agencies in an effort to bring offenders to justice,
8 particularly in concurrent jurisdictions. Contrary to Defendant's assertions, the State is not asking
9 the Court to interpret federal military law. The State is asking that this Court recognize the
10 substantive similarities in respective statutes of concurrent jurisdictions whose end goal is the
11 same – to protect persons from unlawful intrusions. Because probable cause existed at the time of
12 the search authorizations, because they are comparable in the substantive aspects recognized in
13 Arizona, and because they were obtained in good faith, this Court should recognize the military
14 search warrants as valid.
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17 **III. INEVITABLE DISCOVERY DOCTRINE APPLIES AND EVIDENCE**
18 **SHOULD NOT BE SUPPRESSED.**

19 Assuming that this Court finds the 5/19/15 verbal search authorization invalid, but the
20 5/20/15 written search authorization valid, this Court should nonetheless not suppress the
21 evidence under the Inevitable Discovery Doctrine. Arizona recognizes the inevitable discovery
22 doctrine. State v. Davolt, 207 Ariz. 191, 204 (2004).

23 Under the inevitable discovery doctrine, the State must prove by a preponderance of
24 evidence that, absent initial illegality, the evidence would nonetheless have been discovered by
25 lawful means. Davolt at 204. Arizona adopted a broad view of this rule. Id. The deterrence
26 rationale behind the exclusionary rule is important in this analysis. Id. Products of a second
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1 search under a valid search warrant may be admitted if based on legally obtained information.

2 State v. Martin, 139 Ariz. 466, 477 (1984).

3 In Davolt, Defendant was arrested in California as a suspect in a double murder in
4 Arizona. Davolt at 200. After officers promised him that anything he said could not be used
5 against him, Defendant spoke to officers and made inculpatory statements. Id. Officers then had
6 him sign a consent form for the search of his motel room, where they found incriminating
7 evidence. Id. At no point did officers get a search warrant. Id. The Court held that the motel
8 search was illegal because it was conducted without a warrant, without exigent circumstances, and
9 without valid consent. Id. In reversing the trial court's decision to admit the evidence, the Court
10 found that inevitable discovery doctrine could not be applied to cure the initial illegal entry and
11 seizure of evidence within Davolt's motel room because no subsequent warrant was obtained. Id.
12 at 204. Specifically, the Court considered no deterrence value in applying the doctrine where
13 officers did not make an effort to ever obtain a warrant. Id. In contrast in Martin, the Court
14 declined to apply the exclusionary rule to evidence seized pursuant to a subsequent telephonic
15 search warrant. Martin, 139 Ariz. 466. Martin was suspected of supplying and selling drugs after
16 officers conducted several controlled buys. Id. at 469. Officers arrested Martin several blocks
17 from his house and then interviewed him. Id. In the meantime, DPS agents arrived at his house,
18 secured the scene by entering the home and conducting a protective sweep, and stayed there for
19 about 3 hours. Id. An officer then prepared an affidavit for a telephonic search warrant that
20 included conclusions from the interview and the names of persons within the house. Id. The
21 telephonic warrant was executed and cocaine and money was seized. Id. The Court held that the
22 initial entry by DPS agents was unlawful. Id. at 475. However, in holding that the exclusionary
23 rule would not be applied to suppress the evidence seized, the Court noted that subsequent search
24 warrant was based on information lawfully obtained; thus, the products of that may be admitted at
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1 trial. Id. at 477.

2 Unlike the officers in Davolt who never made an effort to get a warrant, NCIS agents here
3 did obtain a written, subsequent military search authorization on 5/22/15. Similarly to the
4 affidavit for the subsequent warrant in Martin, the affidavit for the 5/22/15 search authorization
5 does not include any information obtained as a result of the residential search on 5/19/15. See,
6 Exhibit A. The preliminary autopsy information and interviews with neighbors, co-workers,
7 family, and friends were all legally and separately obtained from any evidence at Defendant's
8 residence. Also, MCAS Yuma PMO personnel maintained 24-hour perimeter security and
9 controlled access until May 27, 2015, indicating the evidence would not have been removed or
10 tainted by 5/22/15. Because officers in fact obtained a subsequent written search authorization,
11 did not base it on any residential information, and the scene was secured outside Defendant's
12 home, it follows that the evidence sought to be suppressed would "inevitably have been
13 discovered by lawful means" on 5/22/15. Accordingly, the inevitable discovery doctrine should
14 apply and evidence should not be suppressed.
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17 **IV. GOOD FAITH EXCEPTION APPLIES AND EVIDENCE SHOULD NOT BE**
18 **SUPPRESSED.**

19 Even if this court finds that both the 5/19/15 and 5/22/15 military search authorizations
20 are invalid because they do not strictly comply with Arizona law, this Court should find that the
21 Good Faith Exception applies and evidence should not be suppressed.

22 Arizona recognizes the good-faith exception to the exclusionary rule. A.R.S. § 13-
23 3925; State v. Valenzuela, 239 Ariz. 299 (2016). It is applied as a matter of state law no broader
24 than the federal rule. State v. Coats, 165 Ariz. 154, 158 (Ct.App.1990).

25 "The Exclusionary Rule . . . is a prudential doctrine invoked to deter future violations."
26 Valenzuela, 239 Ariz. at 309 (finding that suppression of appellant's test results would not serve
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