

APPLICATION FOR JUDICIAL OFFICE

SECTION I: PUBLIC INFORMATION (QUESTIONS 1 THROUGH 65)

PERSONAL INFORMATION

1. Full Name:

Darci Danielle Weede

2. Have you ever used or been known by any other name? Yes If so, state name:

Darci Danielle Farrell

Farrell was my maiden name, upon my marriage in 2009 I changed my last name to Weede.

3. Office Address:

Yuma County Justice Center
Justice Court Precinct One
250 West 2nd Street Suite A
Yuma, Arizona 85364

4. How long have you lived in Arizona? What is your home zip code?

I have lived in Arizona forty-two (42) years, except for three years while attending law school in New York.

My home zip code is 85364.

5. Identify the county you reside in and the years of your residency.

I reside in Yuma County, Arizona and I have lived in Yuma County for seventeen (17) years.

6. If appointed, will you be 30 years old before taking office? YES

If appointed, will you be younger than age 65 at the time of appointment? YES

Applicant Name: Darci D. Weede

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

Republican – 2002* – current
Democrat – 1990 – 2002

I am a registered Republican, I believe I became a registered Republican at some point in 2002 while living in Mohave County, Arizona. However, despite due diligence I have been unable to verify this. I was able to obtain a copy of my voter identification card from the Secretary of State website which lists my most current registration date as, October 19, 2005 when I registered to vote in Yuma County.

8. Gender: Female

Race/Ethnicity: Caucasian

EDUCATIONAL BACKGROUND

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

Glendale Community College
Associates of the Arts

Glendale, Arizona
September 1990 - December 1992

Arizona State University
Bachelor of Science-Justice Studies; Cum Laude

Glendale and Tempe, Arizona
Jan. 1993 – Dec. 1994

Pace University School of Law
Juris Doctorate; Cum Laude

White Plains, New York
August 1995 – May 1998

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

Glendale Community College
General Studies

Arizona State University

Major:

Justice Studies

Honors:

Dean's list

Alpha Phi Sigma -- National Justice Honor Society

Golden Key National Honor Society

Activities:

Justice Studies Club - President

Research Assistant

Pace University School of Law

Major:

Juris Doctorate

Environmental Law Certificate

Honors:

Dean's list

Class Rank: Top 25%

Pace Moot Court Board

Environmental Moot Court Board

Environmental Litigation Clinic

Activities:

Environmental Law Society –

SBA Representative 95-96
Member 96-97 & 97-98

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

I was not an academic over achiever in high school. I did not decide to pull my act together until my junior year in high school. Once I put my mind to it, my grades improved, and I received all As and Bs for the remainder of my high school experience.

However, having not decided to put my true efforts into my education until this time, I was not on track to take the SATs or to apply for admittance into a four-year university. Thus, I began my post-secondary educational career at Glendale Community College. As I was behind in math, it required that I start at the lowest level of Math that was offered. Despite taking classed even during the summer, I was not able to complete my course work at GCC until December 1992. In December 1992, I received my Associates Degree from GCC. Due to my hard work, I was able to receive a minimal academic scholarship after my first semester at GCC to go towards my tuition. While attending GCC I nannied for my two nephews and niece.

Upon graduation from GCC, I transferred to ASU. I was accepted into the Justice Studies Program. While at ASU, I worked in the library as a student assistant, additionally, I obtained a part time job at Thunderbird Samaritan Hospital working in the housekeeping department. I worked for Thunderbird Samaritan Hospital for approximately a year and a half. During that time, I mainly worked the swing shift or night shift in order to be able to continue to carry a full course schedule and work at the University library. After my first couple of months working at the hospital a new position was created to cover the emergency room every Friday and Saturday evening from 5:00 p.m. until 2:00 a.m. Coverage for this new position was shared between myself and another college student. Working while attending undergrad allowed for me to complete my studies without the assistance of any financial aid or student loans. My grades earned me Dean's list acknowledgements and I graduated with my Bachelor of Science in Justice Studies, Cum Laude in December 1994. I continued on at ASU during the Spring 1995 semester as a full-time student and student worker as Law School would not commence until August of 1995.

I applied for law school and was accepted for admittance at several law schools, I elected to attend Pace University School of Law in White Plains, New York as I was interested in pursuing a career in environmental law. At the time, Pace was ranked third in the nation for its environmental law program which included its esteemed Environmental Litigation Clinic run by Robert Kennedy Jr. Additionally, as I was born in New York and had moved to Arizona at a young age, I wanted to experience New York again at an older age in order to determine whether or not I had any interest in residing in the east as an adult, I quickly learned I did not. Based upon my academics, I received a partial scholarship to attend Pace University School of Law. However, as Pace was a private law school this scholarship did not cover my entire educational costs. I supplemented these costs by working during law school and obtaining student loans.

While attending Pace, I obtained a part time job working in the school's law library. I excelled at my job and during my second year of law school I was asked to accept a position as the Director of the law library's assistant. As this would have required a transfer to the night program and an additional year tacked onto law school, I declined. I continued to work as a student assistant in the law library until my graduation in May 1998. After my first year of law school, I returned to Arizona and worked full time for the Best Western call center. After my second year of law school, I remained in New York and obtained a part time job working for a local law firm as an assistant. The firm handled civil and real estate matters. I also interned during this period for the Environmental Protection Agency in New York City.

During law school I was on both the Pace Moot Court Board(criminal) and the Environmental Moot Court Board. I was a member of the Environmental Law Society. During my third year of law school, I was selected to participate in the Environmental Litigation Clinic. The clinic allowed for law students to practice law under the supervision of licensed attorneys. Our primary client of the clinic was the Hudson River Keeper. I made the Dean's list four out of my six semesters at Pace and I graduated cum laude. In addition to receiving my Juris Doctorate, I received an environmental law certificate.

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 Superior Courts, October 1998

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

EMPLOYER	DATES	LOCATION
Yuma County Justice Court Precinct One Full time Judge Pro Tem	July 2019- present	Yuma, AZ
Mary Katherine Boyte P.C. Associate Attorney	March 2014 – July 2019	Yuma, AZ
Arizona Attorney General's Office Assistant Attorney General, Supervising Attorney – Division of Child Support Services	March 2010 – March 2014	Yuma, AZ
Yuma County Attorney's Office Deputy County Attorney – Criminal Division	June 2008 – March 2010	Yuma, AZ
Arizona Attorney General's Office August 2005 – May 2008 Assistant Attorney General, Supervising Attorney – Division of Child Support Services March 2003 – August 2005 Assistant Attorney General – Division of Child Support Services December 1999- March 2003 Assistant Attorney General – Protective Services Division	December 1999 – May 2008	Yuma, AZ Phoenix, AZ Kingman, AZ

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La Paz County Attorney's Office
Civil Deputy County Attorney

August 1999-December 1999 Parker, AZ

Maricopa County Superior Court
Bailiff to Honorable Jonathan H. Schwartz

February 1999-August 1999 Phoenix, AZ

Pace University School of Law
Student Assistant – Law Library

September 1995 – May 1998 White Plains, NY

While attending law school I obtained a part-time job with a law firm the summer 1994 between my second year and third year of law school. I worked there on a part time basis while simultaneously interning at the Environmental Protection Agency (EPA). I am unable to recall the exact name or location of the law firm. To the best of my recollection the firm name was Steinfink, Napoleon and Robertson. I do know that the law firm was located near where I resided at the time which was Hartsdale, New York. Despite my due diligence I have been unable to verify this information.

Upon returning to Arizona in May 1998, I began studying for the Arizona Bar. I took the Arizona bar in July 1998. I did not work during this time. After I took the bar, I was a nanny for my two nephews and niece while I awaited the bar results. I was admitted to the Arizona Bar in October 1998. I continued to nanny my nephews and niece until I started my employment with the Maricopa County Superior Court.

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.

Mary K. Henderson, Mary K. Boyte P.C
Honorable Greg Stewart, Yuma County Justice of the Peace, Precinct One

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.

I took the bench in July 2019, prior to that I worked at the law firm of Mary K. Boyte P.C from March 2014 through July 2019. While working at that firm I focused primarily on family law matters including but not limited to divorces, legal decision making and parenting time, paternity establishment, child support, Third-Party Custody matters, juvenile dependency matters, guardianships, severances and adoptions. Additionally, I handled a small amount of miscellaneous matters including criminal misdemeanors, orders of protections and injunctions against harassment. The estimated percentages of each are as follows:

Family Law	95%
Miscellaneous	5%

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

Prior to working for Mary K. Boyte P.C. I worked for both the Attorney General's Office and the Yuma County Attorney's Office. While working for the Attorney General's Office, I represented both the Division of Child Support Service and Child Protective Services, nka the Department of Child Safety.

While with the Attorney General's office I handle child support matters including interstate child support issues and all juvenile dependency matters including initial dependencies, guardianships, severances and adoptions.

While with the Yuma County Attorney's office I was a Criminal Deputy County Attorney handling both misdemeanor and felony criminal matters.

18. Identify all areas of specialization for which you have been granted certification by the State Bar of Arizona or a bar organization in any other state. Not Applicable

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

Upon taking the bench in July 2019, I was invited by the Honorable Maria Elena Cruz, to serve on the Advisory Committee on the Rules of Evidence to fill a vacancy. I served on the committee until the end of that term and was reappointed as a member by Chief Justice Brutinel on June 8, 2021, pursuant to Arizona Supreme Court Administrative Order No. 2021-100. My current term expires on June 30, 2024. The purpose of the committee is to periodically conduct a review and analysis of the Arizona Rules of Evidence to the Federal Rules of Evidence and to recommend revisions and rule additions as the committee deems appropriate, to review comments concerning the rules and to provide reports to the Arizona Supreme Court, as appropriate. I have served on both the Rule 702 and Rule 106 subcommittees.

While working for the Attorney General's Office I spent years representing the Division of Child Support Services. As an Assistant Attorney General, I was responsible for assisting parties with paternity establishment and the establishment, modification, and enforcement of child support. The Attorney General's office does not represent individual parties in these matters. Multiple courts had a procedure where once cases were filed with the court, the cases were set for conferences/hearings. In these courts, I would meet with the parties prior to appearing before the court to conduct settlement conferences. If parties could not reach a settlement, only then would the matter go before the court for a contested hearing. The majority of cases I handled while working as an Assistant Attorney General were resolved by agreement.

As a private attorney, representing individuals in family law matters, most of my cases were resolved through negotiating settlements between the parties. Roughly eighty (80%) of my privately retained cases were resolved without the need for a contested trial. Additionally, as private counsel one of my primary jobs was to draft legal documents on behalf of my clients such as: Petitions for Dissolution of Marriage; Responses to Petitions for Dissolution of Marriage; Petitions to Establish Paternity; Petitions to Establish, Modify and Enforce child support; Responses to Petitions to Establish, Modify, and Enforce Child Support; Petitions to Establish Legal Decision Making and Parenting Time; Motions to Dismiss Petitions to Modify; Responses to Petitions to Modify; Petitions to Establish Third-Party Rights; Petitions for Temporary Orders without Notice; Petitions for Temporary Orders; Pretrial Motions; Joint Pretrial Statements; Parenting Time Plans; Petitions for Adoptions; Decrees; Marital Settlement Agreements; Final Orders re Child Support, Final Orders re Legal Decision Making and Child Support; Motions to Reconsider; and, Responses to Motions to Reconsider.

As a fulltime Justice Court Judge Pro Tem, I have drafted several final orders disposing of cases before my court. I have also drafted for use in my court hearing setting minute orders such as civil jury trial final management conference setting orders and criminal pretrial conference setting minute orders.

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? No If so, state the approximate number of these matters in which you were involved as:
- Sole Counsel: Not Applicable
 - Chief Counsel: Not Applicable
 - Associate Counsel: Not Applicable

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.

Additional identifying information is contained in Section II of this application

I. Dissolution of Marriage

- (1) 03/05/2018 – 07/10/2019
- (2) Plaintiff's Attorney:
 - a. Gregory T. Torok – Law Office of Greg T. Torok
- (3) Case involved the dissolution of marriage between two individuals who had been physically separated for approximately 11 years prior to any divorce proceeding being filed. After husband left the marital home and abandoned the wife and children, wife had no contact with him and had no information as to his whereabouts until served with divorce paperwork. Husband filed for divorce after being seriously injured resulting in his permanent disability. Husband had acquired no property after leaving wife and had no substantial work history. After husband left, wife continued to maintain the marital home and continued to work and pay into her retirement account. Husband requested spousal maintenance and one half of all community property. During the proceedings wife lost her employment.
- (4) Settling the matter required the balancing of community property law and unjust enrichment. Additionally, the issues of abandonment came up as husband left in the marital home, his separate property including a vintage automobile.

II. Dissolution of Marriage/Legal Decision Making

- (1) 03/23/2016 – 03/20/2017
- (2) Plaintiff's Attorney:
 - a. Sonia Monique Ramirez – Law Office of Sonia Monique Ramirez
- (3) Case involved the dissolution of marriage, but the primary issues concerned legal decision making and parenting time for the parties' minor child. At the time the petition for dissolution was filed Husband was facing criminal charges for disorderly conduct with a weapon and child abuse. Father who was an admitted alcoholic, shot a gun in the air while seated in the living room of the parties home. There were two minors present in the home when this occurred. One of the minors was the petitioner's child from a previous relationship, whom the respondent helped raise. The other minor child was a child of the parties.

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- (4) Given father's substance abuse issues, the severity of the incident and the pending criminal charges against father, the case was extremely difficult to reach a compromising resolution. Father admitted the issues that he was facing but still wanted an active role in the child's life. Mother wanted to ensure that her child was protected while in father's care.

III. Dissolution of Marriage

- (1) 06/24/2014-12/18/2014
- (2) Respondent's Attorney:
(a) Janet Metcalf - Law Office of Janet Metcalf
- (3) Dissolution of marriage case involving a community owned business. Parties had been married for a significant period of time. During the marriage, Husband acquired a funeral home business. The business was in the process of moving and expanding. There were multiple loans pending during the pendency of this case for this expansion. Wife had no involvement in the business' day to day operations.
- (4) Given the status of the pending loans it required that the matter be resolved in a timely manner. Husband had to negotiate a fair and equitable buy out of wife's interest while taking into consideration his maintaining liability of the pending loans. Additionally, the parties had to settle all issues regarding their minor children, spousal maintenance, and personal property issues.
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: Not Applicable

State Courts of Record: 5,000*

Municipal/Justice Courts: 250*

*While working for both the Attorney General's office and the Yuma County Attorney's Office I handled an assigned case load. My individual case load varied depending on the county in which I was working. My case load ran as little as 60 cases a month at the Yuma County Attorney's Office to approximately 130 per month representing the Department of Child Safety to as much as 600 per month representing the Division of Child Support Services. As private counsel I estimate that my monthly case load was 30 open cases a month

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The approximate percentage of those cases which have been:

Civil: 80%

Criminal: 10%

The approximate number of those cases in which you were:

Sole Counsel: 90%

Chief Counsel: _____

Associate Counsel: 10%

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: 15%

You argued a motion described above 5%

You made a contested court appearance (other than as set forth in the above response) 25%

You negotiated a settlement: 60%

The court rendered judgment after trial: 25%

A jury rendered a verdict: **less than 1%**

The number of cases you have taken to trial:

Limited jurisdiction court 15

Superior court	150+
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Federal district court	0
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Note: If you approximate the number of cases taken to trial, explain why an exact count is not possible.

While working at the Attorney General's Office representing DCSS and DCS, I was assigned a high case, as the numbers above indicate. Although I attended court on a regular basis for DCSS regarding contested child support hearings I did not include those numbers in this total. I estimated this number taking into consideration any dependency, severance, divorce, legal decision making, and criminal bench trials. I am unable to provide an exact number as unfortunately given the volume of matters that I handled over a long period of time, I did not keep such tallies.

24. Have you practiced in the Federal or state appellate courts? No If so, state:

The approximate number of your appeals which have been:

Civil: Not Applicable

Criminal: Not Applicable

Other: Not Applicable

The approximate number of matters in which you appeared:

As counsel of record on the brief: Not Applicable

Personally in oral argument: Not Applicable

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

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

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I. Third Party Custody

(1) 04/22/2015 – 08/02/2017

(2) Yuma County Superior Court
Honorable Stephen Rouff

(3) Respondent's Attorneys:

- a. Janet Metcalf - Law Office of Janet Metcalf 07/27/2015 - 01/24/2017
- b. Amanda Taylor – Law Office of Amanda Taylor 05/18/2015 – 07/27/15

(4) This case involved the third-party custody of a sixteen-year-old by his older sister. The children's biological parents had significant substance abuse issues. The children's biological father committed suicide as a direct result of his substance abuse issues. The biological mother, despite father's suicide, continued to use illegal substances to the point of having to be hospitalized on several occasions for injuries resulting from her substance abuse. At the time of the commencement of the action, the respondent resided out of state. The minor child was residing in Arizona under the care of his sister and brother in law. The child was in the care of his sister for six months prior to the commencement of the action.

(5) This matter involved issues of jurisdiction, third party rights, visitation rights of mother under a third-party custody order. At trial, evidence regarding mother's substance abuse, mother's past medical history, DCS involvement, and the child's wishes were presented to the court.

II. Relocation Case

(1) 05/02/2017 – 04/28/2018

(2) Yuma County Superior Court
Honorable Levi Gunderson

(3) Petitioner's Attorney:

- a. Amanda Taylor – Law Office of Amanda Taylor

(4) I represented father in a post decree petition to modify legal decision making and parenting time. I had previously represented the father in the original divorce proceedings where he was awarded sole legal decision making and primary parenting time over the parties' minor child. Mother had substance abuse and criminal legal issues at the time of the divorce and was awarded minimal parenting time with the minor child. Mother filed to amend the legal decision making and parenting time orders to increase her parenting time with the minor child and to be awarded joint legal decision making. During the pendency of the matter, Father's work required him to relocate to California.

- (5) The issue of relocation was litigated before the court. Father who had sole legal decision-making authority and primary parenting time of the child for four years prior to this issue arising, needed to relocate out of state for work. Mother, who had previous criminal and substance abuse issues and with minimal contact with the child seemed to be turning her life around, and desired additional parenting time with her child.

III. Dissolution of Marriage/Legal Decision Making

(1) 12/15/2017 – 06/05/2019

(2) Yuma County Superior Court
Honorable Levi Gunderson

(3) Pro Per litigant

- (4) This was a dissolution of marriage matter that primarily involved the issues of Legal Decision Making of the parties' minor children. It was apparent that the father was suffering from mental health issues. In regards to the children, he had a strong bond with them and mother was not looking preclude a relationship between father and the children. The major issue in this case was father's obsession with mother. Father could not cope with the end of the marriage and breakdown of the family unit. Father would text mother over 100 times each day. Father was unable to participate in the proceedings (i.e. would not provide disclosure) based upon his inability to face the fact that the divorce was going forward. Father during the pendency of the matter had the court case number tattooed on his forearm.
- (5) Father was a difficult litigant which would not allow for this matter to be resolved via negotiations. This matter proceeded to trial on every issue in the divorce proceeding. Father's failure to provide disclosure resulted in the filing of a motion to reopen the case which was granted.

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.).

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While in private practice I was appointed arbitrator on approximately seven cases, one of which resulted in a contested arbitration hearing over which I presided.

In July 2019, I was appointed as a full time Judge Pro Tem for the Yuma County Justice Court Precinct One. I still am currently serving in this position. Yuma County Justice Court Precinct One is a high-volume court which necessitates having a full time judge pro tem and a hearing officer. As a Judge Pro Tem I handle all misdemeanor criminal matters including all bench and jury trials, all motions filed in misdemeanor criminal matters, a portion of all felony initial appearances, order of protection hearings, and civil matters including review of all pleadings and motions filed, bench trials and jury trials and debt collection cases. Occasionally, I cover evictions matters, small claims matters, and weekend initial appearance court. It is hard to provide the actual number of cases assigned to me in this position however, the Court Administrator pulled a report of cases filed between January 2022 and July 2022. The report reflects that during this period there were 1049 misdemeanor criminal cases filed and 1,305 civil matters filed. This averages out to 150 criminal cases a month and 186 civil cases a month. This is a safe low estimate of the number of cases I handle each month as I conduct an average of 150 criminal hearings a month and I review approximately 150 civil cases a month.

I am also currently appointed as a Yuma County Superior Court Judge Pro Tem for coverage purposes only. I have on a few occasions provided court coverage for the Superior Court, by covering walk-ins and covering Grand Jury when no other judge was available. I am not separately compensated for this position.

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.

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I. Restitution Matter

- (1) 03-19-20
- (2) Yuma County Justice Court Precinct 1
- (3) Attorneys:
 - a. Petitioner - Marissa Zhu, Yuma County Attorney's Office
 - b. Defendant - Richard Edgar, Law Office of Richard J. Edgar
- (4) Matter involved the claim for restitution in a criminal matter wherein the person making the claim was not entitled to restitution under the law. After trial, defendant was found not guilty on two counts and guilty on one. The count that he was found guilty for was criminal damage. The restitution claimed by the victim did not involve the criminal damage offense.

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II. Injunction against Harassment

(1) 04/20/2020 – 05/14/2020

(2) Yuma County Justice Court Precinct 1

(3) N/A

(4) Petitioner is a vendor of goods relating to a specific political figure. She was selling these items on the side of the road from a trailer in 2020.

Defendant is an individual who likes to record other people and push people's buttons. Petitioner and Defendant had interactions with each other at Petitioner's roadside stand. Petitioner requested and was granted an ex parte order for injunction against harassment. Defendant requested a hearing. A contested hearing was held. Defendant has a very abrasive demeanor. After hearing, I dismissed the injunction of harassment finding that Petitioner had not proved that the defendant had committed a series of acts of harassment against her as required by law.

(5) Defendant wished to record the proceedings, however, he had not filed the appropriate motions pursuant to the Arizona Supreme Court rules. Defendant was hostile and very difficult to deal with which made getting through the hearing difficult. In the end, I did not allow recording of the proceedings as the appropriate motions were not filed and I dismissed the injunction of harassment as petitioner had not proven that defendant had committed a series of acts of harassment.

III. Civil Case

(1) 03/25/2021

(2) Yuma County Justice Court Precinct 1

(3) Attorneys:

a. Plaintiff's Attorneys:

i. Ryan C. Hengel – Law Offices of Ryan C. Hengl

ii. Barbara Emily Cowin – Workplace Advocates

b. Defendant's Attorney:

i. Araceli Rodriguez

(4) Civil case involving breach of contract and negligence claims. Defendant was hired by plaintiff to replace a heater core in Plaintiff's 2012 jeep. After the repairs were made Plaintiff experienced mechanical issues with the Jeep.

(5) Issues at trial was whether or not there was a breach in contract, given the guarantees contained in the contract, i.e. that the work was only guaranteed for a period of time and miles, I found no breach of contract. However, I did rule in favor of Plaintiff on his claim of Negligence as Defendant did not conform with industry standards.

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

While at the Attorney General's Office, I worked in the Child and Family Division representing both the Division of Child Support Services ("DCSS") and the Department of Child Safety. I started with the Attorney General's Office in Mohave County Arizona in 1999. At that time, I was with the Protective Services Division, representing Child Protective Services, nka the Department of Child Safety ("DCS"). However, while in Mohave County I handled both child support cases and DCS cases. The Mohave County office was participating in a Pilot Project in which attorneys would be cross trained to represent both DCSS and DCS. When I started representing DCS, there was no process in place for the establishment of paternity in dependency matters. I worked on this project to initiate the pleading of paternity in dependency petitions and developed a mechanism for those paternity orders to survive a dependency action.

I moved from Mohave County to Maricopa County in 2003. At that time, I solely represented DCSS. However, I was responsible for the training of new DCSS and DCS attorneys in Mohave County. In 2005, after the passing of my mother, I moved to Yuma County Arizona. While in Yuma County I worked for the Attorney General's Office representing DCSS from 2005 until 2008 and again from 2010 until 2014. During this period, I would also cover DCS matters as needed.

While representing DCS I handled matters involving the establishment of paternity, disestablishment of paternity, establishment of child support, modification of child support, enforcement of child support, interstate child support matters and administrative issues. While representing DCS I handled all matters related to child dependency including staffing of cases with DCS case managers, filing of dependency, guardianships, severances and adoptions petitions and conducting contested trials.

I was employed by the Yuma County Attorney's office from 2008 until 2010. While at the Yuma County Attorney's Office I was a Criminal Deputy County Attorney handling both misdemeanor and felony criminal matters.

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.
31. Are you now an officer, director, majority stockholder, managing member, or otherwise engaged in the management of any business enterprise? No If so, give details, including the name of the enterprise, the nature of the business, the title or other description of your position, the nature of your duties and the term of your service.
- Do you intend to resign such positions and withdraw from any participation in the management of any such enterprises if you are appointed? Not Applicable If not, explain your decision.
32. Have you filed your state and federal income tax returns for all years you were legally required to file them? Yes If not, explain.
33. Have you paid all state, federal and local taxes when due? 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.

Civil suit (Car accident)
Yuma County Superior Court

Defendant
Settled

My husband was involved in a car accident in which he was at fault. The other individuals involved in the accident sued us. The matter was settled out of court and any claims were paid by our insurance agency.

Applicant Name: Darci D. Weede

Adoption
Adoption

Petitioner
Petitioner

Yuma County Superior Court
Yuma County Superior Court

adoption finalized
adoption finalized

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. Not Applicable
41. If you performed military service, please indicate the date and type of discharge. If other than honorable discharge, explain. Not Applicable
42. List and describe any matter (including mediation, arbitration, negotiated settlement and/or malpractice claim you referred to your insurance carrier) in which you were accused of wrongdoing concerning your law practice. Not Applicable
43. List and describe any litigation initiated against you based on allegations of misconduct other than any listed in your answer to question 42. Not Applicable
44. List and describe any sanctions imposed upon you by any court. Not Applicable
45. Have you received a notice of formal charges, cautionary letter, private admonition, referral to a diversionary program, or any other conditional sanction from the Commission on Judicial Conduct, the State Bar, or any other disciplinary body in any jurisdiction? No If so, in each case, state in detail the circumstances and the outcome.
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.

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

PROFESSIONAL AND PUBLIC SERVICE

50. Have you published or posted any legal or non-legal books or articles?
_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.

Judicial Conference 2022, Co-Chair - Evidence 101

Judicial Conference 2021, Co-Chair - Law of Evidence Update

State Bar of Arizona 2020 Convention, Co-Chair - Arizona Supreme Court Advisory Committee on Rules of Evidence Program: Evidence Law Update.

While with the Attorney General's Office, I presented training courses to new attorney hires with the Child Support Services Section.

While working in Mohave County and as a Member of the Mohave County Bar association, I presented during a local offering of the State Bar of Arizona's Mandatory Professionalism Course. New attorneys are required to take this course within on year of admission to the bar. The Mohave County bar worked together to put this on locally for the benefit of new attorneys in Mohave County.

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

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

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

Supreme Court Advisory Committee on the Arizona Rules of Evidence 2019 -

Applicant Name: ____Darci D. Weede____

present

Family Law Executive Committee, State Bar of Arizona 2014 -2019
Secretary 2019

Western Arizona Women Lawyers Association 2018 – 2020
Treasurer 2018

Yuma County Bar Association – member on and off from 2008

Mohave County Bar Association – 2000-2003

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

I have been an adult member of Girl Scouts since 2005 and a Troop Co-Leader since 2006.

Optimist Club of Yuma, 2018 to present

55. List any relevant professional or civic honors, prizes, awards or other forms of recognition you have received. Not Applicable

56. List any elected or appointed public offices you have held and/or for which you have been a candidate, and the dates. Not Applicable

Have you ever been removed or resigned from office before your term expired?
___No___ If so, explain.

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

According to the Secretary of State website, my voter history indicates that I did not vote in the 2012 general election. From the best of my recollection, I did not vote during that election as I was unable to make it to the polling place in time to vote. I prefer to vote in person during all elections and had not opted for an early voter ballot or absentee ballot. After missing this general election I have ensured that I had received an absentee ballot, which I used in 2016, all other elections I have voted in person at the polling site.

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

I believe it is important to participate and support local community events and organizations. I have two young daughters (12 & 11) and I like to instill in them the importance of being involved in and making a difference in their community. Both of my girls participate in numerous activities. I believe it is important for us as a family to be

Applicant Name: ___Darci D. Weede___

actively involved in community events, programs, and activities.

Both of my girls are girl scouts; however, they are not in the same troop. This allows us to double our involvement. I was heavily involved in my eldest's troop as a parent volunteer. When my second child started the following year, I became a troop leader. I have been a girl scout troop leader for the past seven (7) years. Being a troop leader allows me to shape the lives of not just my own children but other girls as well. It is important that young girls see a strong woman role model. As a leader, I lead the girls in earning badges through community service.

In addition to girl scouts, my children are involved in several different city sports programs, including travel in-line hockey. Being part of the travel hockey team has allowed us to participate in community service hours. My children also participate in the Yuma County 4H program. Participating in 4H also allows us to put in service hours at community events.

Having my children participate in community events and programs now, I hope, will help them learn the importance of being involved in their community to make it a better place.

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.

I am the youngest of four girls. I was born and lived in a small town in New York. My family did not have much growing up and we received family and community assistance to make ends meet. My parents did not purchase their first home until I was in the fifth grade.

While in New York, my father worked at the Ford Motor Plant in New Jersey. In the late seventies the automobile crisis forced the closing of this plant. My father for the first time, was jobless. In October of 1980, upon the urging of an uncle, my parents moved us to Arizona in search of a better life. This move separated us from the majority of our extended family and our church.

Upon moving to Arizona my parents continued to work hard to support their family of four. My mother worked in the nursing field for as long as I can remember. I do not recall when she received her degree in nursing but, she received her master's degree when I was in high school. My father obtained employment with the Arizona Department of Corrections from where he retired in 2003.

My two eldest sisters followed my mother's lead and obtained employment in the medical field. My third sister, attempted college but did not receive her degree. She originally followed in my father's footsteps and was employed as a correctional officer. She moved to American Express and started off as a security officer but worked her way up to designing credit cards for use in small businesses. I am the only child to go on to college and receive a degree.

While in law school, my family was impacted by the prescription opioid addiction crisis. My mother and my two oldest sisters all became addicted to pain medication as a result of being prescribed such medications for pain management. Their addition issues caused devastating effects to our family.

By the time I was finished with law school, all three had lost their employment and were receiving disability. In addition to her substance abuse issues, my second oldest sister was diagnosed with bi-polar disorder. Both of these issues ultimately resulted in the breakdown of her marriage thus, negatively impacting the lives of her three children. She moved back into my parent's home in 2002. In an effort to help assist my father, the only working adult, I too returned to my parent's home in 2003. My father and I continued to work and provide care for my disabled mother and sister and care for three young children. My third sister, although maintaining a close relationship with me, distanced herself from the

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family, not being able to deal with the effects of the substance abuse issues. Additionally, my third sister had a strained relationship with my mother due to her being in a long-term relationship with another woman.

In December of 2004, at the age of thirty-two (32) I lost my mother. I believe her long-term disability and death were a direct result of her abuse of prescribed pain medication. In October 2005, I moved my father back to New York and I relocated to Yuma, Arizona. Both of us needed some distance from the chaotic life resulting from the substance abuse issues.

I began making a life for myself in Yuma. In 2009 I married, and we purchased our home. In October 2010, my 16-year-old niece moved into our home with her 6-month-old daughter. At that time, she was pregnant with her second child who was born in April 2011. In November 2010, my eldest sister was convicted of a class 2 felony for selling narcotic drugs. She was sentenced to six months in jail. We took in her two sons during this time. Her two sons remained in our home until September 2011.

We attempted to assist my niece with obtaining her high school diploma and getting her life back on track, we were unsuccessful. She asked us to adopt her second child upon her birth. We finalized the adoption of our youngest child in November 2011. Unfortunately, substance abuse and mental health issues precluded my niece from getting her life together. In March 2005, we finalized the adoption of our oldest child. She was five years old at the time of her adoption, but she had resided in our home and under our care since she was six months old. My niece continues to suffer from addictions issues and is living on the streets in Phoenix. She has given birth to a total of six children, none of which are in her care. She has been featured on the YouTube documentary channel "Tales from the Street". It is hard not knowing day to day if she is still alive.

In 2016, my oldest nephew came to visit with his pregnant girlfriend and young son. While visiting Yuma, he picked up felony drug charges. While he was in jail awaiting sentencing, his pregnant girlfriend and son moved into our home. He too resided in the home when he was not incarcerated. He went on to have several felony charges over the years and was in and out of jail and our home. His girlfriend and children resided in our home until 2018. He has since been released from prison and is doing well in Maricopa County. She also resides in Maricopa County, although they have gone their separate ways, I maintain a close relationship to her and the boys.

In June 2016 I was diagnosed with ovarian cancer, as a result I had a total hysterectomy and went through Chemo. Just weeks after my surgery and diagnosis I lost my third sister, my closest friend. This loss devastated me but, I continued to work and go through chemo treatments. I completed my chemo treatments in November of 2016 and have been cancer free for six years.

Applicant Name: Darci D. Weede

Since 2018, we have not had any further house guests and me and my husband have been able to put all of our energy into our two precious daughters. They are both aware that they are adopted, and they are generally aware of the biological parent's issues. We attempt to maintain contact with their four siblings.

I believe all of this has given me life experience which will assist me in this position

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

I have been serving as a full-time Judge Pro Tem for the Yuma County Justice Court Precinct One since July 2019. I handle all misdemeanor criminal matters, civil cases including debt cases, initial appearance arraignment calendar daily, and occasionally I cover weekend court. Additionally, I shear order of protections and injunction of harassment cases and cover evictions and small claims matter on occasion. I also serve currently as Judge Pro Tem for the Superior Court for emergency coverage purposes.

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

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

See Attachment A

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

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.

See Attachment C

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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

ATTACHMENT A

I am seeking to be appointed to Division 7 of the Yuma County Superior Court in furtherance of my desire to serve the community of Yuma County. I believe the judiciary plays an important role in the community. There are hundreds of individuals who come before the court for various reasons, but most do so at the very lowest points in their lives. They seek assistance regarding the most personal issues involving their marital lives, their children, a death of a loved one, the care of an incapacitated family member or even when they are facing their own criminal matters, but no matter the issue the court is looked at to provide them with relief. The relief may even come to them in the form of an unfavorable judgment or verdict, but finalization is the most important outcome. It is an important skill for a judge to be able to listen to the litigants, apply the law and communicate with litigants the reason for their decisions.

I believe that I possess the skills needed to be an effective judicial officer. I believe I have demonstrated this through my time as a full time Judge Pro Tem in Justice Court. As an attorney I gained a wide variety of legal experience in the areas of dissolutions, legal decision making, parenting time, guardianships, adoptions, dependencies, severances, child support, misdemeanors, felonies, and minor civil matters. I believe my legal experience will be beneficial to the Yuma County Superior Court. Additionally, I believe my experience as a full time judge Pro Tem in justice Court will help in fulfilling the duties of a Superior Court Judge. I have presided over DUI jury trials, both civil and criminal bench trials and performed other judicial functions such as setting bail, determining release conditions, and sentencing in criminal matters. I believe obtaining the Division 7 position will help me broaden my judicial experience and service to the Yuma community.

ATTACHMENT B

1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **I. FACTUAL AND PROCEDURAL BACKGROUND**

4 The parties in this matter are the natural and biological parents of the following child, [REDACTED]
5 [REDACTED], born September 29, 2006. On July 2, 2008, the parties during the process of ongoing
6 litigation attended mediation. During that mediation conference the parties reached an agreement
7 regarding legal decision-making and parenting time.¹ Pursuant to the agreement, Petitioner was
8 awarded sole legal decision-making authority over the minor child and the parenting time plan was
9 entered as follows: Father is to have parenting time with the child every other weekend from
10 Saturday at 10:00 a.m. until Sunday at 3:00 p.m. at the paternal grandparent's home. Further, the
11 parents were to split the major holidays. On September 22, 2008, the Honorable Denise D. Gaumont
12 adopted this agreement as the official order of the Court regarding legal decision-making and
13 parenting time. These remain the Court's orders regarding legal decision-making and parenting
14 time.

15 On December 8, 2015 the Respondent through his counsel filed a Petition to Establish
16 Decision-Making Authority and Parenting Time and Modify IV-D Child Support. This petition was
17 filed pursuant to Arizona Revised Statutes ("A.R.S.") §§ 25-403, 25-503(E) and the Arizona Rules
18 of Family Law Procedure ("ARFLP") 91. Along with this Petition Respondent filed the required
19 summons pursuant to ARFLP Rule 26(B) and an Order to Appear which complies with ARFLP rule
20 91 for the setting of the modification of child support hearing before the Court.

21 Shortly after the Petitioner was served she did consult with undersigned counsel regarding
22 this matter and Respondent's counsel was contacted to inform him that orders already exist in this
23

24 ¹ Since 2008 the term legal custody has been changed to legal decision-making. For the purpose of this motion Petitioner will use the updated term of legal decision-making.

1 matter pertaining to Legal Decision Making and Parenting Time. Respondent was further advised
2 that given the fact that orders existed a modification action filed pursuant to A.R.S. § 25-411 was
3 mandated not an establishment action.

4 As Respondent had submitted an Order to Appear to the Court along with his initial filings,
5 this Court set a hearing for January 29, 2016.² As a hearing was scheduled for January 29, 2016, the
6 confusing nature of Respondent's pleadings, and as there was no agreement that only child support
7 would be heard at this hearing, Petitioner filed her Pro Se Motion to Dismiss on January 21, 2016.
8 In her motion, Petitioner informed the Court that there already exists orders pertaining to legal
9 decision making and parenting time and that the Respondent's Petition to Establish was inaccurate.

10 On or about January 25, 2016, Respondent filed a Motion to Continue the hearing along with
11 a Response to the Motion to Dismiss which requested leave of the Court to amend his pleadings. As
12 the pleadings were filed in close proximity to the hearing date all parties were present before the
13 Court on January 29, 2016. The Court at that hearing granted Respondent's request to file an
14 amended petition and denied Petitioner's Motion to Dismiss. The Court referred the matter to the
15 IV-D commissioner to set the matter for a child support hearing. Respondent made an oral motion
16 to continue the January 29, 2016 hearing which was granted by the Court. A continued hearing was
17 later scheduled by the Court for April 11, 2016.³

18 Respondent's Amended Petition was filed in open court on January 29, 2016. Petitioner was
19 served with the amended Petition. After receipt of the amended Petition which purported to be a

21
22 ² As noted below, the filing of the Order to Appear by the Respondent
23 with his initial action was only appropriate for the setting of a child support
24 modification hearing pursuant ARFLP Rule 26(C). Hearings regarding Legal
Decision Making are set pursuant to ARFLP Rule 77 with the filing of a Motion
to Set Trial.

³ Petitioner is unaware of what procedural basis upon which the
Respondent had a right to request a continued hearing other than for the
purposes of child support modification as the court at that time had not fully
reviewed the amended petition nor any response from Petitioner at that time.

1 Petition to Modify, Petitioner hired undersigned counsel and a Partial Motion to Dismiss was filed
2 on February 17, 2016. Pursuant to the filing date and the date of delivery to Respondent, his
3 Response to the Partial Motion to Dismiss was due on March 7, 2016. Petitioner is in receipt of the
4 Response filed by Respondent which has a file stamped date of March 7, 2016 at 3:41 p.m. As such,
5 Petitioner concedes that Respondent's response was timely filed and should have been considered
6 by the Court. Petitioner is also in receipt of the Court's order granting Petitioner's motion which
7 was signed by the Court on March 7, 2016 and filed with the Clerk of Court at 4:21 p.m. The
8 Petitioner is without information to know whether or not the Court received and reviewed the
9 Response filed by Respondent prior to granting her motion.

10 On or about March 31, 2016 the Respondent filed the present Motion for Reconsideration.
11 In his motion Respondent alleges that the Court failed to consider his timely filed Response it issuing
12 its ruling. If this is the case, Respondent's timely filed Response should have been reviewed by the
13 Court prior to the entry of the dismissal. Petitioner, however contends that even if considered the
14 dismissal should still have been granted. Petitioner in this matter did not file a Reply to the Response
15 as she had received the order of dismissal. In order that this matter not be delayed further Petitioner
16 provides below the reasons why even considering the Respondent's response the dismissal was
17 appropriate in this matter.

18 19 II. LAW

20 Whether or not a party has grounds to have a court reconsider its rulings is governed by
21 ARFLP Rule 84. In this case, Respondent has alleged that the Court failed to take into consideration
22 his timely filed Response before entering its order. The Petitioner concedes that a timely filed
23 response should have been reviewed by the Court but contends that even if it were reviewed the
24 Court would have come to the same conclusion.

1 Petitions to Establish Legal Decision Making and Parenting time orders are filed pursuant to
2 A.R.S § 25-403 and the Arizona Rules of Family Law Procedure. When one commences a new
3 action on must look to ARFLP Rules 23, 24, 25 and 26. This directs a party as to how a family law
4 action is commenced, the types of pleadings allowed to be filed, informs parties of the Family Law
5 Cover Sheet, and informs parties of the additional filings that each particular type of action requires.
6 See ARFLP Rules 23, 24, 25 and 26. Pursuant to ARFLP Rule 26 when a new action is filed to
7 establish Legal Decision Making order where none previously exists a party must file a summons
8 along with the Petition. See ARFLP Rule 26. ARFLP also provides guidance to a party as to how
9 a case proceeds from filing through the setting of the matter for trial. See ARFLP Rule 1 through
10 Rule 77. Pursuant to ARFLP once a Petition to Establish Legal Decision Making orders is filed with
11 its corresponding summons it must be served upon the opposing party. See ARFLP Rule 27. The
12 opposing party must file a Response to such petition or in the alternative a motion to dismiss. See
13 ARFLP Rules 28 and 32. In a normal case, where there is no basis to dismiss, once the initial petition
14 and mandatory response has been filed, the parties are to conduct disclosure and participate pretrial
15 procedures. See ARFLP Rules 49 through 65 and Rules 76 - 77. A hearing on a Petition to Establish
16 new Legal Decision Making Orders is not set by an Order to Appear filed by a party. See ARFLP
17 Rule 26(C). A hearing may be set on the court's own motion or via Motion to Set filed by a party.
18 See ARFLP Rule 77. But, such hearing is not typically scheduled prior to the expiration of the
19 disclosure timelines under ARFLP Rules 49 through 65.

20 In this case, Respondent was not entitled to set this matter for a custody hearing pursuant to
21 the issuance of an Order to Appear. The only type of hearing Respondent was entitled to set for
22 hearing pursuant to an Order to Appear was a hearing regarding his request to modify the existing
23 child support order. As such any continuance of the January 29, 2016 hearing date for any other
24 purpose other than for child support was inappropriate and not pursuant to ARFLP.

1 Modifications of existing Legal Decision Making Orders are filed pursuant to A.R.S. 25-411
2 and the Arizona Rules of Family Law Procedure. See ARFLP Rules 23, 26, and 91 (D). These
3 matters as well cannot be set by Order to Appear filed by a party. See ARFLP Rule 26(C). In
4 addition, ARFLP Rule 91(D) specifically states that **no** hearing shall be set unless a party complies
5 its provisions and with provisions outlined in A.R.S. § 25-411. Id. A petition to modify an existing
6 order must be accompanied by a notice and served on all parties requiring service. See ARFLP Rule
7 91(D)(1)(b) and 91(D)(3). A person who was entitled to notice may file a response to the petition.
8 See ARFLP Rule 91(D)(4). A hearing on a petition to modify is still not automatically granted, five
9 days after the expiration of any response time, a party must file a "Request for Order Granting or
10 Denying Custody hearing". See ARFLP Rule 91(D)(5). The Court then has the discretion on the
11 pleadings alone to deny a hearing on any petition to modify. Id. As such, a party may not obtain a
12 hearing on a Petition to Modify Custody by the mere filing of an Order to Appear, the procedures in
13 Rule 91(D) must be followed. Id. Respondent's contention that the Court may not have granted
14 Petitioner's Partial Motion to Dismiss as a continued hearing was already set is misplaced. First,
15 the only thing that would have been properly before the Court on January 29, 2016 pursuant to the
16 order to Appear filed by Respondent is the issue of child support.

17 As the Respondent's Amended Petition to Modify did not comply with A.R.S § 25-411 or
18 AFRLP Rule 91(D) a Partial Motion to Dismiss was filed by Petitioner. The facts and arguments
19 made in that motion are affirmed and incorporated herein by the Petitioner. The Petitioner contends
20 that even with consideration of any response filed by the Respondent, dismissal is still appropriate
21 in this matter, save for the issues surrounding child support. Again, Petitioner does not object to any
22 setting of a child support modification hearing in this matter. As previously argued by Petitioner in
23 the Partial Motion to Dismiss, Respondent has not complied with A.R.S. § 25-411 nor ARFLP Rule
24 91(D) and the matter should be dismissed.

1 witness statements. All of these items were available to the Plaintiff for presentation to the Court
2 at the January 22, 2019 hearing.

3 **II. LEGAL ARGUMENT**

4 Pursuant to Rule 2 of the Arizona Rules of Protective Order Procedure, "the Arizona Rules
5 of Civil Procedure apply when not inconsistent with these rules." Pursuant to Rule 59 of the
6 Rules of Civil Procedure, a party maybe granted a new trial upon motion showing any of the
7 following grounds materially affected that party's rights.

- 8 (A) any irregularity in the proceedings or abuse of discretion depriving
9 the party of a fair trial;
- 10 (B) misconduct of the jury or prevailing party;
- 11 (C) accident or surprise that could not reasonable have been prevented;
- 12 (D) newly discovered material evidence that couldn't not have been
13 discovered and produced at the trial with reasonable diligence;
- 14 (E) excessive or insufficient damages;
- 15 (F) error in the admission or rejection of evidence, error in giving or
16 refusing jury instructions, or other errors of law at the trial or
17 during the action;
- 18 (G) the verdict is the result of passion or prejudice; or
- 19 (H) the verdict, decision, findings of fact, or judgment is not support by
20 the evidence or is contrary to law.

21 In this case, Plaintiff has based his Motion for New trial based upon two (2) grounds: 1)
22 misconduct of the prevailing party; and 2) the decision entered by the Court was not supported by
23 the evidence.

24 Although Plaintiff attaches additional evidence to his Motion for New trial, he does not
allege the ground of "newly discovered material evidence". Defendant can only conclude that he
is not doing so as Plaintiff knows this would be inappropriate. See Wendling v. Southwest Sav.
and Loan Ass'n, 143 Ariz. 599. (if "newly discovered" evidence was in possession of party
seeking new trial before judgment was rendered, it does not entitle party to relief.) The video and
its transcription which Plaintiff now attaches to his motion were available to him for presentation
at the hearing. In fact, there was discussions regarding whether or not longer videos existed to

1 which Plaintiff stated that the one being presented at trial was not an excerpt. Plaintiff although he
2 had possession of this video, choose not to present it at the hearing. Attaching it now to his motion
3 for new trial is inappropriate. The Plaintiff also attaches three (3) witness statements to his Motion
4 for New Trial. The number of witnesses testifying at the hearing was addressed two (2) times by
5 the Court. The Plaintiff does not state any reason why these individuals could not have been
6 present to testify at the hearing. In fact, at one point during the viewing of the Gate incident videos
7 the Court specifically questioned whether or not any other individual who was seen in the video
8 would be testifying. The parties clarified that no other person would be testifying. Plaintiff had
9 the ability to present these witness at the hearing and choose not to do so. It was inappropriate to
10 attach this additional evidence to the Motion for New Trial and the Court should not consider this
11 inappropriately attached additional evidence.

12 The decision whether or not to grant a new trial rests solely in the discretion of this Court.
13 See *Murphy v. Thompson*, 70 Ariz. 250. The Court at the hearing heard all the testimony and
14 considered all of the evidence presented. The Court found that the one "true act" of violence
15 occurred over a year ago and that there was no other act of violence sufficient to sustain the order
16 of protection. The Court was correct in its ruling and the Court should deny Plaintiff's Motion for
17 New Trial. First, there was no misconduct on behalf of the Defendant or his attorney. Second, the
18 ruling was not contrary to the law.

19 It appears that the Plaintiff is alleging that the Defendant participated in misconduct for
20 testifying in opposition to Plaintiff's testimony, cross-examining Plaintiff in regards to statements
21 in his Petition for Order of Protection and his credibility, "mocking" the Plaintiff about his broken
22 finger, and offering his own video evidence at the hearing. First, merely because Defendant
23 presented evidence and testimony which differs from that of Plaintiff does not rise to the level of
24 misconduct. It is often that litigants present different sides to the same story. If there were not two

1 sides to a story we would not need a justice system or a fact finder. Having a different version of
2 events does not make Defendant a liar or a participant in misconduct. Even if there are several
3 witnesses testifying one way and only one the other it is not misconduct on that part of that one
4 party to testify differently. It is up to the court or a jury to determine credibility of testimony and
5 weigh evidence presented. Second, Plaintiff was appropriately cross-examined by Defense
6 counsel regarding his credibility and statements he made in his Petition for Order of Protection. A
7 litigant does not engage in misconduct when appropriately attacking the credibility of a witness or
8 cross examining them on statements or positions they have taken in the pleadings or on direct
9 examination. Third, although Plaintiff seems to chastise Defense counsel for mocking him about
10 his broken finger, that allegation is false. Defense counsel cross-examined Plaintiff two times
11 during the hearing, once after the April 2017 video was played and then again after completion of
12 his full testimony. At no point during either cross-examination was Plaintiff even questioned by
13 Defense counsel about his broken finger. Finally, there was no misconduct on behalf of Defendant
14 or his counsel in regards to videos submit at the hearing or any statements made regarding the
15 videos. Both parties' videos were admitted by the Court with no objection by either side.
16 Defendant stated at the hearing that he had over thirteen (13) videos to present to the Court. He in
17 no way stated that all of the videos he was presenting were all longer versions of Plaintiff's videos.
18 Plaintiff did not object to any of Defendant's videos. At one point, there was a statement by
19 Defense counsel about a longer video surrounding the April 2017 incident however, Defense
20 counsel immediately informed the Court and Plaintiff that he misspoke and that he did not have a
21 longer video of the April 2017 incident. This was immediately clarified by the Court and the
22 Court confirmed that only a short video would be produced regarding the April 2017 incident.¹
23 Defendant did present a longer video than that of Plaintiff's surrounding the Boat Dock incident.
24

¹ It should be noted that it is now Plaintiff who seeks to provide a "longer" video of the April 2017 incident when it is he who seemed to infer to the Court that the video he presented was the "full" video from that date.

1 Plaintiff had an opportunity to object to the admission of Defendant's videos or present rebuttal
2 evidence as to them, he choose not to do so. As such, Defendant committed no act of misconduct
3 at the January 22, 2019 hearing and Petitioner's Motion for New Trial should be denied.

4 Plaintiff is alleging that he should be granted a new trial on the basis that the dismissal of
5 the Order of Protection was not supported by the evidence. First, in order to obtain an order of
6 protection pursuant to Rule 23 of the Rules of Protective Order Procedure, a Plaintiff must present
7 a petition which alleges "each specific act of domestic violence that will be relied on at hearing".
8 In order to grant an order of protection, a court must "find reasonable cause to believe that the
9 defendant may commit an act of domestic violence or has committed an act of domestic violence
10 *within the past year* or within a longer period if the court finds good cause exists to consider a
11 longer period". Rule 23(e)(1) and A.R.S. § 13 -3602(E)(2)(Emphasis added). Once an Order of
12 Protection has been granted a defendant may request a hearing. Rule 38(a). At that hearing, the
13 Court must limit the scope of the hearing to the allegations presented in the petition and a plaintiff
14 must prove their case by a preponderance of the evidence. Rule 38(g). At the conclusion of any
15 hearing on a contested order of protection the court must state the basis for either continuing,
16 modifying or revoking the protective order. Rule 38 (h).

17 In this case, the Court correctly informed the parties of the standard of proof at the
18 beginning of the hearing. The Court informed the parties that is was Plaintiff's burden to prove the
19 need for the Order of Protection and that it was not Defendant's burden to prove it should be lifted.
20 The Court limited the testimony of Defendant when he started showing his videos, again stating to
21 the parties that it was Plaintiff who must first show an act of violence occurred. In this case, the
22 Court was the finder of fact. The Court accurately stated its basis for revoking the protective
23 order, finding that there was no act of violence shown by Plaintiff to sustain the order of
24 protection.

1 The Court informed the parties that although he may have considered the April 2017
2 incident a violent act, it was greater than a year ago and he normally does not consider those. This
3 statement by the Court was not objected to or discussed further by the parties. Although Plaintiff
4 states now in his motion that he knows of no rule or case law regarding the one (1) year limitation,
5 it is clear in Rule 23 and A.R.S. 13-3602(E)(2) that an order of protection cannot even be granted
6 unless the court finds that "defendant has committed an act of domestic violence within the past
7 year or within a longer period if the court finds good cause exists to consider a longer period". If a
8 person cannot even get an order of protection granted unless this condition is met, it stands that
9 one may not be maintained unless this condition is met. The Court is not required to consider acts
10 greater than a year unless it finds good cause to do so, the Court in stating that it was not
11 considering this incident was in essence stating that it found no good cause to do so. This is
12 decision was appropriately in the Court's discretion.

13 The court then pointed out to the parties that it was having trouble finding a second act of
14 violence based upon the testimony and evidence presented to it. The Court focused the
15 Defendant's testimony on the Gate incident. The Court heard the parties' testimony and viewed
16 the Plaintiff's videos surrounding this incident multiple times. Again it was the Court who was the
17 trier of fact in this case and charged with weighing the testimony of the parties and the evidence
18 surrounding this incident. Defendant agrees, that "best" evidence surrounding this event was
19 presented to the Court, the video evidence. However, the Court viewed it and weighed it and
20 determined that it was not a violent act sufficient to uphold the order of protection. Additionally,
21 the Court heard evidence from both parties regarding the Restaurant incident and determined that
22 it was not an act of violence. Again, the Court had the assistance of a video presented by the
23 Plaintiff and both parties' testimony. The Court's dismissal of the Order of Protection in this
24

ATTACHMENT C

Applicant Name: ___Darci D. Weede

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1 award of restitution only on charges for which a defendant has been found
2 guilty, to which he has admitted, or for which he has agreed to pay. State v.
3 Garcia, 176 Ariz. 231, 860 P.2d 498 (app. 1993).

4
5 THE COURT FINDS:

6 1. An Arizona Traffic Ticket and Complaint was filed with this Court on
7 August 2, 2020 charging the Defendant with the following offenses
8 alleged to have occurred on August 2, 2020:

9 Count 1: A.R.S. § 13-2904A1 - Disorderly Conduct - Fighting
10 Count 2: A.R.S. § 13-1602A1 - Criminal Damage - Deface
11 Count 3: A.R.S. § 13-1504A3 - Criminal Trespass 1st Degree

12 2. Defendant entered a plea of not guilty as to these charges on August
13 4, 2020;

14 3. A bench trial was held in this matter on January 28, 2021;

15 4. Mr. Christopher Quintero, presented testimony at the trial and at the
16 restitution hearing that he suffered economic loss due to injuries he
17 sustained as a result of being struck by the Defendant;

18 5. At the conclusion of the trial, Defendant was found not guilty as to
19 the following counts:

20 Count 1: A.R.S. § 13-2904A1 - Disorderly Conduct - Fighting
21 Count 3: A.R.S. § 13-1504A3 - Criminal Trespass 1st Degree

22 6. At the Conclusion of the trial, Defendant was found guilty as to the
23 following count:

24 Count 2: A.R.S. § 13-1602A1 - Criminal Damage - Deface

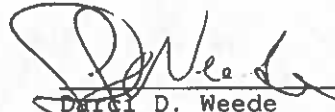
25 7. The criminal damage charge related solely to property damage to a home
26 in which Mr. Quintero does not reside nor have any interest in;

8. The State filed a Motion to Set Restitution Hearing on March 3, 2020;

1 9. The injuries sustained by Mr. Quintero and thereby causing his economic
2 loss do not flow from the Defendant's criminal conduct of criminal
3 damage in this matter.

4 IT IS THEREFORE ORDERED deny the request for restitution in this matter.

5
6 DATED: 3/11/21


Darcil D. Weede
Justice Court Judge Pro Tem

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9 Cc:

10 County Attorney: Marissa Zhu

11 Defense Counsel: Richard Edgar
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FILED

IN THE JUSTICE COURT

2021 MAY 12 PM 1:35

FIRST PRECINCT

YUMA JUSTICE COURT
FIRST PRECINCT

COUNTY OF YUMA, STATE OF ARIZONA

ROBERT SMITH, an individual man,

) Case No.: J1401CV2019-001057

Plaintiff,

)

vs.

)

ORDER

)

CLIFF'S GARAGE, a sole
proprietorship; CLIFFORD KADERLY and
DELIA KADERLY, husband and wife,
Defendant,

)

)

)

)

This matter having come before this Court on March 25, 2021 on a
Civil Bench Trial; Justice of the Peace Pro Tem Darci D. Weede presided,
Plaintiff Robert Smith appeared in person with counsel, Ryan C. Hengl,
Defendants appeared in person with counsel, Araceli Rodriguez.

Thereupon, having taken this matter under advisement the Court having
heard and considered the evidence presented, finds as follows:

As to Plaintiff's Breach of Contract claim:

1. The parties entered into a contract for services on January 22,
2018;
2. The service contract was for Defendant to replace a heater core in
Plaintiff's 2012 Jeep Liberty;
3. The work was completed by, Jose Cisneros, a mechanic with
Defendant's garage;
4. The work preformed by Defendant was guaranteed for a period of
ninety (90) days or 4,000 miles; and,

1 5. At the time of the service the Plaintiff's vehicle had an odometer
2 reading of 55,476 miles.

3 6. The incident in which the Plaintiff alleges resulted in damages did
4 not occur until July 1, 2018, a period well beyond the ninety (90)
5 days.

6 7. At the time of the incident the vehicle had an odometer reading of
7 65,015 miles, well over the 4,000 warranted by the Defendant.

8 **IT IS THEREFORE ORDERED THAT** Plaintiff shall take nothing from the
9 Defendant as to the claim of Breach of Contract.

10 As to Plaintiff's claim of Negligence:

11 8. When services were performed by Defendant, Defendant owed Plaintiff
12 a duty to conform to the standard of care;

13 9. On July 1, 2018 while driving his vehicle in Billings, Montana,
14 Plaintiff's Jeep broke down;

15 10. Plaintiff was required to have his vehicle towed and repaired by
16 a mechanic in Billings, Montana, Matt Wentzell;

17 11. The Plaintiff's Jeep's engine was destroyed and needed to be
18 replaced;

19 12. The damages to the engine were caused either by a faulty heating
20 core or faulty installation of the heating core;

21 13. The heating core was not defective;

22 14. Damage to the hating core was as a result of electrolysis;

23 15. When replacing a heating core, it standard practice to flush the
24 heating core to prevent against electrolysis;

25 16. Defendant did not flush the heating core at the time of service;
26

1 17. Flushing of the heating core when it was installed would have
2 prevented damage to the heating core, thus preventing damage to the
3 engine;

4 18. Plaintiff had to pay Mr. Wentzell the amount of \$9,088.41 to
5 replace the damaged engine in his Jeep;

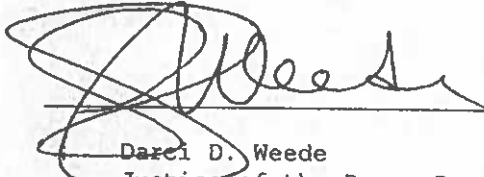
6 19. As this occurred out of state, Plaintiff had to pay the
7 additional costs of \$550.00 for airfare and \$88.00 for lodging;

8 IT IS THEREFORE ORDERED that the Plaintiff is granted judgment against
9 Defendant in the amount of \$9,726.41.

10 IT IS FURTHER ORDERED that the Parties bear their own costs and fees in
11 this matter.

12 Date:

5/12/21


Darel D. Weede
Justice of the Peace Pro Tem

14 Copies of the foregoing mailed on

15 MAY 12 2021

16 , to the following:

17 Ryan C. Hengl, Esq.
18 The Law Offices of Ryan C. Hengl, Esq., P.L.C.
256 S. 2nd Avenue, Suite F
Yuma, AZ 85364
19 **Attorneys for Plaintiff**

20 Barbara Emily Cowin, Esq.
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22 **Co-Attorneys for Plaintiff**

23 Araceli Rodriquez
24 Pamela Walsma, P.C.
682 S. Fourth Avenue
Yuma, AZ 85364
25 **Attorneys for Defendants**

26 By: Teresa Piedra
Civil Clerk

WAIVER OF CONFIDENTIALITY AND RELEASE OF INFORMATION

I DARCI D Weede hereby authorize the committees of the State Bar of Arizona, all bar associations, references, employers, credit reporting agencies, business and professional associations, and all government agencies to release to the State of Arizona, Office of the Governor any information requested by the State of Arizona, Office of the Governor in connection with the processing of my request for consideration as a candidate for judicial office. I understand that the fact that I have applied and all responses provided in Section I of the application are not confidential and the information provided may be verified and is subject to public disclosure.

Upon submission of this application to the State of Arizona, Office of the Governor, I expressly consent to the release of my name and the contents of Section I of this application to the public. Furthermore, I waive the benefits of any statute, rule, or regulation prescribing confidentiality of records or information that is disclosed in Section I. I understand that it may become public record.

All of the statements made in this application are true and correct to the best of my knowledge, and submission expresses my willingness to accept appointment to the judicial position for which I have applied, should I be selected by the Governor of the State of Arizona.

(Signature)

(Date)