

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 25-503 and 25-527

Judge: Vanessa Smith
Complainants: Commission on Judicial Conduct
Sierra Allegretto

AMENDED ORDER

The Complainants in each matter alleged a superior court commissioner showed a lack of professional boundaries by hugging a litigant in a case.

On April 25, 2025, Commissioner Vanessa Smith conducted a hearing in a probate matter. At the conclusion of the hearing, she asked the litigant if it would be okay for her to step down and give the litigant a hug. On her way down from the bench, she mentioned that she realized that she probably violates the judicial demeanor code every day. A court participant then stated something to the effect of turn off the microphones. The commissioner echoed this statement, and there was laughter in the courtroom. Commissioner Smith did in fact give the litigant a hug.

In her response, Commissioner Smith indicated that the party himself has cognitive function issues and has been taken advantage of by others. However, the commissioner acknowledges it was inappropriate for her to hug this individual in a courtroom setting. Commissioner Smith stated that while this was well intentioned, it created an appearance inconsistent with the expectations of judicial demeanor and impartiality.

After reviewing the allegations and the commissioner's response, the Commission finds that the commissioner in this case violated the following provisions of the Code of Judicial Conduct:

- Rule 1.2 which states: A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.
- Rule 2.2 which states: A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

- Rule 2.3 (B) which states: A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

Accordingly, Maricopa County Superior Court Commissioner Vanessa Smith is hereby publicly reprimanded for the conduct described above and pursuant to Commission Rule 17(a). In determining the appropriate disposition, the Commission considered the public nature of the conduct, the damage to the reputation of the judiciary, and that the Commission had previously issued a public reprimand to another judicial officer for similar conduct. Notably, the seriousness of the violations in this matter – particularly the commissioner's comments about violating the rules and turning off the microphones – caused the Commission to consider whether formal charges and more severe discipline were warranted. The commissioner's contrition and acknowledgment of the violations prompted the decision to issue a reprimand. The record in this case, consisting of the complaints, the judicial officer's redacted response, this amended order and the original reprimand order, and the order granting Respondent Judicial Officer's request to withdraw motion for reconsideration and granting request for protective order shall be made public as required by Commission Rule 9(a).

Commission members Roger D. Barton and Joseph C. Kreamer did not participate in the original consideration of this matter.

Dated: April 1, 2026

FOR THE COMMISSION

/s/ Colleen E. Concannon
Colleen E. Concannon
Commission Secretary

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 25-503 and 25-527

Judge: Vanessa Smith
Complainants: Commission on Judicial Conduct
Sierra Allegretto

**ORDER GRANTING RESPONDENT JUDICIAL OFFICER'S REQUEST TO
WITHDRAW MOTION FOR RECONSIDERATION AND
GRANTING REQUEST FOR PROTECTIVE ORDER**

The Commission previously voted to publicly reprimand Maricopa County Superior Court Commissioner Vanessa Smith by separate order dated January 28, 2026.

On February 9, 2026, Commissioner Smith filed a Motion for Reconsideration, which contained a request for a protective order for part of her response. Thereafter, it was ordered that Disciplinary Counsel for the Commission file a response to Respondent's motion by February 27, 2026, which was done. On March 5, 2026, Judge Smith requested to withdraw her Motion to Reconsider, but maintained her request for the protective order, which sought to redact detailed and sensitive information regarding the ward/protected person in the underlying probate case.

After careful consideration, the Commission granted Commissioner Smith's Motion to Withdraw her Motion for Reconsideration. The Commission also granted Commissioner Smith's request for a protective order in this matter, and any detailed and sensitive information regarding the ward/protected person in the underlying matter will be redacted from Commissioner Smith's response, which will be made public.

IT IS HEREBY ORDERED that the public reprimand issued on January 28, 2026, shall be amended to show that the public record in these matters shall consist of the complaints, the judicial officer's redacted response, the original and amended reprimand orders, and this order. Commissioner Smith's Motion for Reconsideration and Disciplinary Counsel's response thereto, shall not be part of the public record pursuant to Commission Rule 9(a)(3).

Commission members Joseph C. Kreamer and Christopher P. Staring did not participate in the consideration of this matter.

Dated: April 1, 2026

FOR THE COMMISSION

/s/ Colleen E. Concannon

Colleen E. Concannon

Commission Secretary

Copies of this order were distributed to all appropriate persons on April 1, 2026.

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 25-503 and 25-527

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ORDER

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Commission members Roger D. Barton and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: January 28, 2026

FOR THE COMMISSION

/s/ Christopher P. Staring
Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on January 28, 2026.

Resp (Smith)
DEC 04 2025
2025 - 503

To the Commission on Judicial Conduct,

This letter is submitted in response to the Commission's request regarding a complaint arising from my interaction with an incapacitated adult during court proceedings. I acknowledge it was inappropriate for me to hug this individual in a courtroom setting. I recognize that this action, while well-intentioned, created an appearance inconsistent with the expectations of judicial demeanor and impartiality. 2025 - 527

I have reflected deeply and consulted with colleagues and my presiding judge on ways to maintain appropriate professional boundaries while still conveying respect and empathy toward all who appear before me. I take this experience as an opportunity for growth and remain committed to upholding the integrity of the judiciary by ensuring every person is treated with kindness, dignity, and respect, and that each feels heard and valued within the judicial process.

As the Commission reviews my actions, I ask that it consider the following.

Karl Edmark

Since 2018, Karl Edmark has been involved in five cases in Maricopa County, Arizona, appearing before 23 different judicial officers across the probate, criminal, and family court divisions.

For an overview of the court matters involving Mr. Edmark, please see the attached Case Timeline (Ex. A).

In CR2020-129848, Mr. Edmark plead guilty to counts related to Theft From a Vulnerable Adult. He admitted to using his mother's credit card in the amount of \$30,122.61. He was sentenced to three years of probation with a deferred term of jail. In CR2022-001811, Mr. Edmark plead guilty to Misconduct Involving Weapons. He admitted to having weapons in a locked gun safe while being a convicted felon. Mr. Edmark was sentenced to probation but was revoked on several counts in CR2020-129848 and was sentenced to the Department of Corrections for 3.5 years. While Mr. Edmark's conduct in his criminal cases is inexcusable, the article overlooks critical context—namely, the severity of his incapacity, that he was exploited for millions of dollars, and the vital role the Court plays as a "super guardian" for individuals under its protection.

This is the context for the approach I took during the April 25, 2025, hearing. Mr. Edmark needed to understand that, although I made difficult decisions that significantly impacted his life, each was made with his best interests in mind. I previously ordered that Mr. Edmark be forcibly divorced after receiving two letters in which he pleaded to remain married (Ex. B, C). I had directed the Arizona Department of Corrections to restrict all contact between Mr. Edmark and his former spouse (Ex. D). I previously suspended his driving privileges and

The April 25, 2025, status conference was scheduled to confirm that the intertwined probate and family matters had been fully resolved and to ensure that all remaining issues were addressed. While Mr. Edmark has previously appeared, if at all, only by telephone, this time he requested to attend the hearing in person so he could meet me. This hearing offered a rare and important opportunity to focus on Mr. Edmark's current needs, to ensure he was in the least restrictive environment possible, and to confirm that his best interests continued to be supported by his appointed Guardian and Conservator, Coventry Vernon & Roberts. His attorneys supported this interaction. Please refer to the email sent to my division by Elise Adams, Counsel for Coventry Vernon & Roberts (Ex. F).

During the hearing, I was deeply moved by Mr. Edmark's circumstances. It was heartbreaking to witness the lasting impact of his exploitation—having been taken advantage of for millions of dollars by a spouse who preyed on his vulnerability. His criminal behavior began only after she entered his life and appeared to be a direct result of that relationship.

Compounding his distress was his concern for his 95-year-old mother, who was in hospice care. He repeatedly expressed a desire to see her. Although he had been permitted virtual visits while in prison, upon his release, Camelback Fiduciary—through counsel—refused to allow any form of visitation, stating, "We are not inclined to further victimize Ms. Miller (Mr. Edmark's mother)."

It was in this context, and with the permission of counsel, that I stepped down from the bench and embraced Mr. Edmark—a gesture of compassion in a moment that called for humanity.

Letter from Sierra Allegrato

In her correspondence to the Commission, Ms. Sierra Allegrato omits any reference to her multiple prior appearances before me as a witness in proceedings involving Petitions for Approval of Sale of Real Property. Notably, her testimony has most frequently occurred in matters where Camelback Fiduciary is a party, or where Attorneys Thomas Asimou or James Rhode serve as counsel. Please review Exhibits G - J.

Comments of Thomas Asimou

In the article, comments are made by Thomas Asimou, and it is appropriate to provide additional context. Thomas Asimou has regularly appeared before me and has demonstrated a pattern of unprofessional conduct, including making disparaging remarks toward parties and witnesses, and engaging in crude commentary when his ethics or courtroom behavior is challenged (Ex. 2, 3). Following efforts to address and curb this conduct in PB2023-051089/Beverly Johnson, Mr. Asimou responded by filing a Petition for Declaratory Judgment (Ex. K), which I subsequently denied (Ex. L), and the Court of Appeals dismissed (Ex. M). Since that time, he has engaged in a series of retaliatory actions aimed at undermining my integrity, including filing a judicial conduct complaint, requesting copies of hundreds of recorded hearings in which he has not made an appearance (Ex. N) and appearing in my physical courtroom to observe—despite not appearing in any matter and proceedings being conducted virtually. Mr. Asimou has also made false statements regarding the operations of my division and the scheduling of hearings (Ex. 8). Due to the ongoing nature of this behavior and its impact on the integrity of the proceedings, I have recused myself from all matters in which Mr. Asimou is involved.

Comments of Edward Novak

Absent from the article is that Attorney Edward Novak filed a Notice of Appearance on behalf of Camelback Fiduciary in *State v. Karl Edmark*, CR2020-129848 (Ex. O). Mr. Novak provided an expert opinion contained in the Petition for Declaratory Judgment, filed by Thomas Asimou in the Johnson matter (Ex. K). Additionally, the article omits that Mr. Novak previously appeared in my division on behalf of Mr. Asimou in *PB2023-050188* (Ex. P).

Comments Made Concerning the Pool Matter

The hearings referenced in the article are provided for transparency and review as they accurately document the actions I took in the Pool matter (Ex. 4 – 8). These recordings

reflect the procedural steps and decisions made in accordance with the law. The content of these hearings rebuts any suggestion or implication of racially disparaging comments or conduct. The record speaks for itself and stands in direct contradiction to any such claims.

What was not disclosed in the article—and is not reflected in the courtroom recordings—is that Mr. Pool Roy appeared in my division in person on January 7, 2025. He was assisted into the courtroom by my Judicial Assistant, Julie Garcia. Mr. Roy appeared disheveled, physically fragile, and had a strong odor of urine. Ms. Garcia remained in the courtroom during the hearing and, upon its conclusion, helped Mr. Roy to the lobby of the Northeast Regional Courthouse. She reported her concerns to me immediately afterward.

Given Mr. Pool Roy's apparent vulnerability and Mr. Atul Roy's documented history of aggressive behavior toward family members, I felt it was necessary to carefully evaluate whether Mr. Pool Roy was an appropriate choice to serve as successor guardian for Mr. Atul Roy. My concerns deepened when Mr. Pool Roy petitioned to transfer the guardianship from Arizona to Maryland but appeared unaware that it would be his responsibility to arrange for Mr. Roy's mental health services in the new jurisdiction.

The possibility that Mr. Pool Roy himself was vulnerable—and that Mr. Atul Roy might not receive adequate services to address his incapacities—was troubling. Before approving the transfer, I ordered that a list of available mental health services in Maryland be submitted. Once that list was provided, I granted the Petition to Transfer.

Conclusion

While the information outlined above provides important context regarding the dynamics and history of the Edmark matter, it does not excuse my conduct. I acknowledge that it was inappropriate for me to have hugged Mr. Edmark, and I take full responsibility. However, it is notable that the attorneys directly involved in the Edmark proceedings, those most familiar with the case and its complexities—have neither commented publicly on the article nor filed a judicial conduct complaint. I respectfully ask the Commission to consider the entirety of the information presented in their review of my actions.

Very Truly Yours,

Vanessa Smith

Exhibit List

Exhibit A	Timeline of Edmark Cases
Exhibit B	Letter from Karl
Exhibit C	Letter from Karl
Exhibit D	Order Preventing Contact
Exhibit E	Minute Entry Concerning Fees
Exhibit F	Email from Adams
Exhibit G	Torres Petition noting Sierra Allegretto's relationship with Camelback Fiduciary LLC
Exhibit H	Torres Minute Entry documenting Sierra Allegretto's appearance on March 19, 2025
Exhibit I	Johnson Petition noting Sierra Allegretto's role as agent
Exhibit J	Johnson Minute Entry documenting Sierra Allegretto's appearance on September 27, 2024
Exhibit K	Johnson Petition for Declaratory Judgment
Exhibit L	Johnson Minute Entry Denying Petition
Exhibit M	Court of Appeals Order
Exhibit N	Request for FTR recordings made by Asimou & Associates
Exhibit O	Novak NOA on behalf of Camelback Fiduciary
Exhibit P	Novak's previous representation of Thomas Asimou.

Recordings of Proceedings

Exhibit 1	Edmark Hearing April 25, 2025
Exhibit 2	Johnson Hearing April 5, 2024
Exhibit 3	Johnson Hearing July 22, 2024
Exhibit 4	Pool Hearing January 7, 2025

Exhibit 5	Pool Hearing February 25, 2025
Exhibit 6	Pool Hearing April 7, 2025
Exhibit 7	Pool Hearing April 25, 2025
Exhibit 8	Pool Hearing August 20, 2025

EXHIBIT A

TIMELINE OF EDMARK CASES

PB2018-001429/Mary Miller (Kalman, Bell, Altieri)

CR2020-129848 (Barth, Spencer, Whitehead, Ryan, Phillips, Vandenberg, Kreamer, Myers, Wein, Schwartz, Starr)

PB2021-005431 (Marquoit, Palmer, Fink (SC), Smith)

CR2022-001811 (Hinz, Washington, Vandenberg, Kreamer)

FN2023-000042 (Pineda, Carson, Fink (SC))

- 2017 Karl Edmark meets Berenika while she is working in a spa on a world cruise. 30 years younger. Berenika suddenly appears in Seattle.
- 7/2/18 Asimou files initiating Petition for G/C on behalf of Camelback Fiduciary In **PB2018-001429/Mary Miller** (Karl Edmark's mother).
Asimou's Fees as of 2024 \$262,525.49 (1 – 6 Accountings)
- 7/6/2018 Karl deposed in probate matter,
- 11/6/18 Karl and Berenika marry, no prenup. Shortly thereafter, Berenika organized multiple LLCs and transferred all of Karl's property with 50/50 ownership.
- 12/6/18 Camelback Fiduciary Appointed Permanent Guardian/Conservator/TT of Mary Miller
- 1/17/19 Exploitation Complaint Filed (CC use, cruise)
Mary Miller's assets as of 3/30/19 = \$8,780,187.18
Value as of 3/31/24 = \$16,186,690.98
- 8/7/20 Criminal Case is filed (**CR2020-129848**) against Karl Edmark by Tamara Barnett.
- 8/2/21 Berenika leaves Karl, moves to Seattle. Karl remains in Arizona.
- 9/23/21 Edmark Pleads guilty to 7 counts.
Minimum restitution is \$30,122.61.

TIMELINE OF EDMARK CASES

- 12/6/21 Ed Novak files his appearance in CR2020-129848 on behalf of Camelback Fiduciary.
- 12/10/21 Karl is sentenced to three years of supervised probation with 12 months of jail to start 4/23/22 (deferred to 6/10/22).
- April 2022 Berenika without notice returns to Arizona, despite her under oath testimony that she was afraid of Karl. After consistent persuasion, Karl allows Berenika to move back into the Scottsdale home.
- 5/20/22 Berenika calls police. Berenika says she is scared because Karl has guns. Police find guns in a locked safe.
- 5/21/22 Berenika still in the Scottsdale house, calls police. Karl is arrested and charged with DV. Police report notes that Berenika was videotaping Karl naked in the shower, indicates that multiple videos were taken with Karl telling her to stop.
- Communication between Karl and Berenika stops (May 2022 to November 2023), Karl requests a divorce.
- 7/8/22 Karl is indicted for 4 counts of MIW, 1 count False Reporting (Tamara Barnett) in **CR2022-001811**.
- 7/14/21 Revocation Arraignment is held
- 12/1/21 Berenika initiates a Temporary and Permanent Petition for Guardianship and Conservatorship of Karl in **PB2021-005431**.
- 1/19/22 CVR is appointed as temporary guardian and conservator of Karl. Temporary guardianship expired 2/4/22, conservatorship is extended through 9/16/22.
- 1/25/22 “
- 8/11/22 Amended Petition for Permanent Appointment of Conservator filed.
- 8/19/22 Stipulated Petition for Emergency Appointment of Guardian filed

TIMELINE OF EDMARK CASES

9/21/22 Dr. Bell meets with Karl, new findings made. "Karl is unaware why he has a weapons violation or probation violation and states that "Nika must have done that.""

"I have reviewed the above documents related to the case, which includes a transcript and note that Karl contradicts himself multiple times and the testimony was stopped at least once to inquire as to whether Karl understood questions, answers to questions or his rights during testimony."

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e.

2023 Berenika initiates a lawsuit regarding Washington property. No23-2005216-1 SEA.

1/5/23 Karl is sentenced to 3.5 years DOC concurrent (6 counts), Unlawful Use of POA probation.

2/13/23 Petition for Annulment of Marriage or in the Alternative, Dissolution of Marriage (FN2023-000042) filed.

2/13/23 Karl pleads guilty to MIW.

TIMELINE OF EDMARK CASES

2/21/23 Restitution ordered in the amount of \$159,738.76. Camelback Fiduciary requested \$239,634.87. PCR initiated.

Crystal Cruise	\$80,535.61
Camelback Fiduciary	\$27,443.51
Counsel for Camelback Fiduciary	\$103,454.50
Court-Appointed Counsel	\$18,703.00
Peiss Financial Forensics, LLC	\$10,131.25
Perisnell	\$5,000
Total	\$399,434.97

4/18/23

4/19/23 Karl is sentenced to probation to follow prison term in 2020 case.

4/24/23 Karl is transferred to ASPC-Yuma, at intake he tells staff he sometimes feels suicidal.

3/22/23 OSC: Against court order, Berenika refuses to cooperate with CVR concerning finances and mail.

5/10/21 OSC: Against court order, Berenika removed half of the funds from a Charles Schwab account and refused to restrict the account.

5/11/23 Settlement conference held by Judge Fink to resolve divorce case. Settlement reached.

9/22/23 CVR Appointed Permanent Guardian and Conservator of Karl.

11/2023 Berenika initiates contact with Karl, AZDOC records/documents all contact. Documentation reflects manipulation by Berenika to end divorce proceedings, disparages CVR, CAC, GAL and the court. Berenika has Karl sign a loan application, so she can take care of their real property. The loan application was denied once the loan officer discovered the G/C proceedings.

12/11/23 Case is reassigned to me.

2/7/24 Request for trial as issues remain unresolved. Extensive litigation ensues as to whether Guardian can consent to divorce.

2/27/24 OSC: Against court order, Berenika refused to approve the sale of Washington property.

TIMELINE OF EDMARK CASES

3/29/24

4/1/24

4/10/24

4/17/24 Karl sends letter to me, "I wish to withdraw my petition to divorce... I love my wife Nika very very much and wish to remain married to her, my entire life."

6/7/24 Karl sends letter to me, informing the Court that, "I have decided on my own to withdraw my petition to divorce as well as settlement... I wish to remain married to my loving and supportive wife Nika until death do us part."

7/24/24

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9/12/24 After non-appearance hearing and an appearance hearing with testimony, I approve:

TIMELINE OF EDMARK CASES

- 9/13/24 ADOC is ordered to immediately restrict all contact between Karl and Berenika.
- 11/21/24 Consent Decree Filed.
- 3/29/25 Karl is released from DOC. While in DOC, Camelback Fiduciary allows virtual visits between Mary Miller and Karl.
- 4/15/25 Elise Adams, Counsel for CVR, emails the division to inform the Court that the parties plan on attending the status conference IN PERSON so that Karl can meet Commissioner Smith.
- 4/25/25 Hearing is held. Karl repeatedly asks to see his mother. Camelback refuses as “we are not inclined to further victimize Ms. Miller.”
- 5/1/25 Petition for Contact filed by GAL in Mary Miller’s case.
- 5/27/25 Hearing on Petition is held. No one, **including family and CAC for Mary Miller** objects to contact EXCEPT Camelback Fiduciary. Contact allowed on a temp basis, JSO set with EVH in 2026.
- 5/8/25 Restitution is paid.
- 6/16/25 Court signs order allowing Karl contact on a temporary basis with Mary Miller for up to one hour per week in person and one phone call per week for up to 15 minutes.
- 10/1/25 Mary Miller dies.

EXHIBIT B

Imo Edmark
PB 2021-005431

CLERK OF THE SUPERIOR COURT
FILED
APR 17 2024 11:18am
R. Perman, Deputy

Monday April 8, 2024 9:00 P.M.

Dear Judge Vanessa Smith: Via Certified Letter

I wish to Withdraw my petition to divorce

Filed on Jan 3, 2024 without my knowledge or

Consent. I love my wife Nika very very

much and wish to remain married to her my

entire life. This is my decision to remain

married to Nika. I will NOT allow anyone

to ^{Deny} deny my right to ^{Remain} remain married

to my ^{Loving} ~~loving~~ wife Nika, ^{Whom} whom I

love very much!

Very Sincerely Yours

EXHIBIT C

JMO - Karl Edmark

PB 2021-005431

Clerk of the Superior Court
*** Electronically Filed ***
A. Mariscal, Deputy
6/7/2024 4:43:42 PM
Filing ID 17958720

Thursday, May 23, 2024 7:00 PM

Dear Your Honorable Vanessa Smith

I have decided on my ^{own} to withdraw my petition to divorce as well
as my settlement ^{agreements} that were entered into without my knowledge or consent,
I do not now, and have ^{never} had or desired to divide my assets. I
want all my assets to remain the marital ^{property} of my loving wife Nikka
and myself for the remainder of our natural lives.

Your Honor, I ^{will} wish to remain married to my loving and supportive wife
Nikka until death do us part. This is my desire and my plan and nobody
and no entity should be permitted to stop or interfere with this natural
desire and ^{will} wish of mine and Nikka.

Your Honor, this letter is being sent by certified mail delivery for
copy and consideration to:

Attorney Gary Dink

Elke Adams

Alexander Polans

Commissioner Vanessa Smith

RECEIVED
JUN 04 2024

Commissioner of the Superior Court
VANESSA N. SMITH

EXHIBIT D

1 RICK KILFOY, SBA #018051
1518 E. Villa Maria Dr.
2 Phoenix, Arizona 85022
Ph: (602) 667-6934
3 Fax: (602) 926-2730
Email: kilfoyr@yahoo.com

4
5 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
6 IN AND FOR THE COUNTY OF MARICOPA,

7 In the Matter of the Guardianship and) PB2021-005431
8 Conservatorship of:)
9 Karl Edmark III,) Order Directing ADOC to Restrict Contact
Between Karl Edmark and Berenika
Szynklarz (aka Berenika Edmark)
10 An Adult.)

11 The Court, having received a Petition for Order Restricting Contact between
12 Berenika Szynklarz and Karl and good cause appearing;

13 IT IS ORDERED that the Arizona Department of Corrections Rehabilitation and
14 Reentry shall immediately restrict all contact between Karl Edmark III, date of birth January
15 21, 1955; Inmate Number 361075 ("Karl") and Berenika Szynklarz (aka Berenika
16 Szynklarz-Edmark) ("Nika"), including, but not limited to:

- 17 1) All electronic communications, including emails and text messages, Securus
18 messages, etc.;
- 19 2) In person contact, including in person visits
- 20 3) Telephone contact
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- 4) Written contact, including communications via regular mail or hand-delivery;
- 5) Any other means of contact.

DATED this 13th day of September, 2024.

/_____
Hon. Vanessa Smith

EXHIBIT E

)
)

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2021-005431

09/12/2024

HONORABLE VANESSA N. SMITH

CLERK OF THE COURT
R. Perman
Deputy

IN THE MATTER OF THE GUARDIANSHIP
OF AND CONSERVATORSHIP FOR:

KARL EDMARK III

GARY DOYLE

AN ADULT.

ALISA J GRAY
RICK KILFOY

COMM. VANESSA N SMITH

MINUTE ENTRY

Courtroom 109 – Northeast Regional.

9:01 a.m. This is the time set for a Virtual Hearing on *Petition for Order Restricting Contact Between Berenika Szynklarz and Karl Edmark*, filed on August 9, 2024; review of fee applications, pursuant to the Minute Entry dated July 17, 2024; and update on post-conviction relief and malpractice claim, pursuant to the Minute Entry dated September 9, 2024. Coy Vernon, a representative of Petitioner, Guardian, and Conservator Coventry Vernon & Roberts LLC, is present and represented by Counsel Elise Adams appearing for Counsel Alisa Gray. Guardian ad Litem Rick Kilfoy and Court-Appointed Counsel Gary Doyle are present on behalf of Protected Person Karl Edmark who is present. Counsel Sandra Slaton is present. All parties appear virtually.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held regarding *Petition for Order Restricting Contact Between Berenika Szynklarz and Karl Edmark*.

THE COURT FINDS that notice has been given as required by law.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2021-005431

09/12/2024

Counsel Slaton states an objection to the Petition.

The Court will construe Counsel Slaton's Response as a Petition for Contact and moves forward with Initial Hearing on the Petition.

THE COURT FINDS that notice has been given as required by law.

THE COURT FURTHER FINDS an Order restricting contact between Berenika Szynklarz and Karl Edmark is appropriate at this time based on the Court's knowledge of this proceeding, Guardian ad Litem's Petition, and the extensive documents reviewed.

IT IS ORDERED granting the Petition for Order Restricting Contact Between Berenika Szynklarz and Karl Edmark on a temporary basis.

IT IS FURTHER ORDERED that all parties/counsel are directed to confer personally regarding all of the matters set forth in Rule 27(b) of the Arizona Rules of Probate Procedure ("Probate Rules"). Counsel shall prepare and deliver to this Division's In-Box at the Northeast Regional Court Center, **on or before September 26, 2024**, a joint proposed form of scheduling order, approved by all parties as to form and content, which complies with Probate Rule 27(d) and contains a fillable paragraph with blanks for the Court to provide a date for a status conference required by Probate Rule 27(e).

IT IS FURTHER ORDERED that counsel file a notice of any agreed-upon extension of any time period provided by applicable rules of procedure. The purpose of this order is not to discourage extensions as a matter of professionalism, but to ensure that no party suffers summary disposition of any issue because the Court is unaware that an extension had been agreed upon by the other party or parties.

Guardian ad Litem Kilfoy shall provide the Court with a proposed Order in this matter.

9:23 a.m. Counsel Slaton is removed from the Hearing.

Discussion is held regarding the status of the criminal post-conviction relief and malpractice claim. Counsel Adams believes there is no need to proceed on the PCR concern, but that parties should move forward on the malpractice concern.

Discussion is held on the review of fee applications.

Coy Vernon and Karl Edmark III are sworn and testify.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2021-005431

09/12/2024

IT IS ORDERED granting the fee applications and approving the attorney's fees and costs, as modified and set forth in full detail on the record.

Based on the information presented, and for reasons as stated on the record,

IT IS ORDERED setting a Virtual Status Conference, regarding pending issues, on December 11, 2024, at 1:30 p.m. (30 minutes allotted) to be conducted virtually using the Court Connect application.

**COURT CONNECT INSTRUCTIONS FOR
COMMISSIONER VANESSA N. SMITH'S COURTROOM**

OPTION 1: Computer, tablet or smartphone (audio and video)

Please join the hearing from any computer, tablet or smartphone web browser at:

<https://tinurl.com/jbazmc-pcc11>

Use of the service can be made easier by **downloading the Microsoft Teams application in advance from www.microsoft.com or an App Store.**

OPTION 2: Telephone (audio only)

Participants can call into the hearing from any telephone at:
+1 917-781-4590 (not a toll-free number) using **Conference ID: 738 643 491#**

Judicial Divisions are unable to provide technical support to participants. For more information on the new Court Connect platform, including an introductory video and participant guide, please visit:
<https://superiorcourt.maricopa.gov/court-connect>.

NOTE: All court proceedings are recorded digitally and not by a court reporter. Pursuant to Local Rule 2.22, if a party desires a court reporter for any proceeding in which a court reporter is not mandated by Arizona Supreme Court Rule 30, the party must submit a written request to the assigned judicial officer at least ten (10) judicial days in advance of the hearing and must pay the authorized fee to the Clerk of the Court at least two (2) judicial days before the proceeding. The fee is \$140 for a half-day and \$280 for a full day.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2021-005431

09/12/2024

10:02 a.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes.
A form may be downloaded at: https://superiorcourt.maricopa.gov/lrc/fc_gn9/

DIVISION STAFF REVIEW: October 4 – Joint Scheduling Order

EXHIBIT F

 Outlook

RE: In re Matter of Karl Edmark III (PB2021-005431)

From: Elise B. Adams
Date: Wed 4/16/2025 9:56 AM
To: PCC11

This Message Is From an External Sender

This message came from outside your organization. Please use caution when corresponding outside the county.

Thank you, Julie!

From: PCC11
Sent: Wednesday, April 16, 2025 9:20 AM
To: Elise B. Adams
Subject: RE: In re Matter of Karl Edmark III (PB2021-005431)

Affirmative, she intends to be on-site for April 25, 2025, and yes, we will still be here at the NER.

I will note the calendar with the intended in-person appearance.

Attentively,

Julie Garcia
Judicial Assistant / Probate Commissioner Vanessa N. Smith
Division Email:
Northeast Regional Court Center
18380 N. 40th St., Phoenix, AZ 85032



Committed to excellence and the principles inherent in the rule of law
every person, every day, every time

From: Elise B. Adams
Sent: Tuesday, April 15, 2025 12:51 PM
To: PCC11
Subject: In re Matter of Karl Edmark III (PB2021-005431)

Good afternoon,

The parties are planning to attend the status conference currently set for April 25 at 1:30 PM in person so that Karl can meet Commissioner Smith. Can you please confirm that Commissioner Smith will be present in Court that day and whether you all will still be in Northeast?

Thank you!

TIFFANY & BOSCO, P.A.

Elise B. Adams | Shareholder

Upcoming Out of Office Dates: May 1-19

Seventh Floor Camelback Esplanade II | 2525 E Camelback Road | Phoenix, AZ 85016

D 602.255.6066 | P 602.255.6000 | F 602.255.0103

eba@tblaw.com | [Website](#) | [Practice Areas](#)

Offices: Alabama | Arizona | California | Florida | Michigan | Nevada | New Mexico

EXHIBIT G

CORRECTED
By Clerk of the Court

CLERK OF THE
SUPERIOR COURT
RECEIVED IN
DOCUMENT DEPOSITORY
25 FEB 21 PM 1:45

1 **JDR LAW PLLC**
2 James ("Jimmy") D. Rohde, SBN 034454
3 13951 N. Scottsdale Road, Suite 131
4 Scottsdale, Arizona 8524
5 jimmy@jdrilawaz.com
6 Phone: (602) 877-8780
7 *Counsel for Camelback Fiduciary, LLC (AFL 20812)*

FILED
BY D. Lugo, DEP

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**
10 PB2024-051478

11 In the Matter of the Guardianship of and
12 Conservatorship for:
13 **CARMEN MARIE TORRES (a.k.a**
14 **CARMEN MARIE GARFINKEL),**
15
16 An Adult.

Case No. ~~PB2024-051261~~

**VERIFIED EMERGENCY PETITION
TO APPROVE SALE OF REAL
PROPERTY**

*(Assigned to Hon. Vanessa Smith)
(Accelerated Hearing Requested)*

17 In the Matter of:
18 **THE GARFINKEL FAMILY LIVING**
19 **TRUST, DATED SEPTEMBER 9, 2011**

20 Camelback Fiduciary, LLC (AFL 20812), by and through undersigned counsel,
21 hereby files this *Verified Emergency Petition to Approve Sale of Real Property* (the
22 "Petition"), requesting an accelerated hearing because funds are needed to pay for Carmen
23 Marie Torres' (a/k/a Carmen Marie Garfinkel) ("Carmen"). Carmen does not have
24 adequate assets and/or available income to pay for her group home, incidentals, and/or
25 other valid bills, without the sale of the subject property being sold through this Petition.

26 1. Petitioner, Camelback Fiduciary, LLC (AFL 20812) ("Camelback"), is
27 interested in this matter as the duly appointed Guardian and Conservator for Carmen Marie
28 Torres (a/k/a Carmen Marie Garfinkel) ("Carmen") and as the Trustee of the *Garfinkel*
Family Living Trust, U/A/D September 9, 2011 (the "Trust"). A copy of the Trust is
attached hereto as Exhibit A.

1 2. Pursuant to A.R.S. § 14-10201(A), Camelback, as Trustee of the Trust,
2 involves this Court's jurisdiction on a limited basis to seek the Court's approval for the
3 sale of real property titled to the Trust.

4 3. Pursuant to A.R.S. § 14-10201(B), the Trustee does not invoke the Court's
5 continuing jurisdiction over the Trust after the limited purpose of approving the sale of real
6 property.

7 4. Venue is proper in this County, as the Trust's principal place of
8 administration is in Maricopa County, Arizona.

9 5. The persons entitled to notice of this hearing are the Carmen and
10 beneficiaries of the Trust.

11 **ALZHEIMER'S ASSOCIATION**
12 1028 East McDowell Road
13 Phoenix, Arizona 85006
Beneficiary of Lapsed Specific Devise

**ST. JUDE CHILDREN'S RESEARCH
HOSPITAL**
262 Danny Thomas Place
Memphis, Tennessee 38105
Beneficiary of Lapsed Specific Devise

14 **PHOENIX CHILDREN'S HOSPITAL**
15 1919 East Thomas Road
16 Phoenix, Arizona 85016
Beneficiary of Lapsed Specific Devise

BARBARA TRUESON
Address Unknown
Beneficiary of Lapsed Specific Devise

17 **MUSCULAR DYSTROPHY
ASSOCIATION**
18 4500 South Lakeshore Drive, Suite 250
19 Tempe, Arizona 85282
20 *Residual Beneficiary of the Trust*

**AMERICAN SOCIETY FOR THE
PREVENTION OF CRUELTY TO
ANIMALS**
424 East 92nd Street
New York, New York 10128-6804
Residual Beneficiary of the Trust

21 **Carmen Torres**
22 c/o Jared Causey, Esq.
23 11811 N. Tatum Blvd., Ste 3031
24 Phoenix, AZ 85028
Counsel for Carmen Torres

25 6. The Trust owns real property is located at 1961 E Rockwood Drive, Phoenix,
26 Arizona 85024, Maricopa County Assessor's APN 213-21-034 (hereinafter the "Subject
27 Property").
28

1 7. The Subject Property is legally described as "Lot Twenty-five (25),
2 HILLSDALE, according to Book 301 of Maps, page 16, records of Maricopa County,
3 Arizona."

4 8. The Subject Property is being sold because it is an unproductive asset as
5 Carmen has not lived in the home for more than a year and can no longer live at home
6 alone. Moreover, the home is Carmen's largest asset and must be sold to pay for her care.
7 Carmen is more than a year past due on payment to her group home (totaling
8 approximately \$81,000.00, plus late fees) and severely past due on other invoices required
9 to maintain her minimum level of care.

10 9. The Subject Property is in disarray.

11 A. Ms. Torres' son previously lived in the Subject Property and did not
12 maintain the home. The condition of the home at the time Camelback
13 marshaled the asset was described as: a hoarding house, filthy, carpets
14 in complete shambles due to animals relieving themselves freely
15 throughout the house, and a bio-hazard due to clogged toilets and
16 unaddressed feces being left in the house.

17 B. In addition to the abhorrent condition of the Subject Property at the
18 time of marshaling, Ms. Torres' son took his own life in the Subject
19 Property requiring significant biohazard cleanup of the property. As a
20 result of the Subject Property's condition at the time of marshaling
21 and Mr. Torres taking his life in the home, all carpet in the home had
22 to be removed.

23 C. Two (2) windows are damaged and boarded up. The window in the
24 main room and the window in bedroom 3 is shattered and the frames
25 are damaged as a result of the Phoenix SWAT team forcibly entering
26 the Subject Property after nearly a six (6) hour standoff with Joseph
27 Torres.

28 D. The water heater is not in working condition.

 E. The HVAC unit likely needs to be replaced.

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- F. The roof likely needs to be replaced.
- G. The landscaping is unkept, dead, and needs to be redone.

10. Camelback retained Sierra Allegretto ("Sierra"), a licensed realtor in the State of Arizona, to market, list, and represent Camelback in the sale of the Subject Property.

11. Due to the condition of the Subject Property and the lack of liquid resources available to the Trustee to repair the Subject Property, Sierra identified the home must be sold to a cash buyer (i.e. investor) because the condition of the Subject Property is unloanable. (A standard Federal Housing Administration ("FHA") loan is not available for this property, as FHA will not lend on a property that is missing flooring and/or has a water heater that is not working.)

12. Prior to listing, Sierra completed a Comparable Market Analysis ("CMA") on the Subject Property which suggested:

- A. A listing price of \$325,000 to \$350,000.00 for investors/cash buyer, considering the condition of the Subject Property. (The refined value and comp analysis value.)
- B. A value of \$462,610.00 for comparable homes in the area without considering the condition of the Subject Property. (The current estimated value.)

A copy of the CMA is attached hereto as Exhibit B.

13. The Subject Property was listed as "coming soon" at approximately 19:00 on February 19, 2025, at a list price of \$350,000.00.

14. Camelback received a full price offer on February 20, 2025. The full price offer also waived:

- A. The inspection period;
- B. Concessions and/or repairs to the home through the Buyer's Inspection Notice and Seller's Response ("BINSR");
- C. The Seller's Property Disclosure Statement ("SPDS"); and

- 1 D. The Comprehensive Loss Underwriting Exchange (“CLUE”) for any
2 letters of experience from the home owners insurance company. .
- 3 A copy of the sales contract and all addendums is attached hereto as Exhibit C.
- 4 15. The subject property is being sold in as-is, where-is, and how-is condition,
5 with the sole remedy for any defect in title being the policy of title insurance purchased
6 with the transaction.
- 7 16. The sales contract requires buyer and seller compensation at three percent
8 (3%) each, for a total of six percent (6%) commission paid from the sale. Given the
9 complexities of closing a transaction with the Subject Property in such a poor condition,
10 Camelback believes this compensation is fair and reasonable.
- 11 17. Camelback has directed Sierra to keep the Subject Property listed on the
12 ARMLS as “Under Contract Accepting Backups”.
- 13 18. Undersigned counsel has directed Sierra to provide the Notice of Hearing on
14 this Petition to any person who inquires about the Subject Property to inform them that
15 they can appear at the hearing to provide an upset bid.
- 16 19. Although the Subject Property was not listed for five to seven days before
17 accepting a contract, as is Camelback’s normal practice, Camelback believes the current
18 offer that waives all inspections and contingencies is in Carmen’s best interests and will
19 allow for an immediate infusion of cash which is required to continue to care for Carmen.
20 By keeping the Subject Property on the ARMLS and sending the Notice of Hearing to any
21 person who inquires about the home, Camelback is taking additional and overt steps to
22 ensure the highest and best price is obtained for the Subject Property.
- 23 20. Although R. 16(d)(2), Ariz.R.Prob.P., does not require posting the Notice of
24 Hearing on the Subject Property, Camelback intends to post notice on the property to
25 ensure fairness and to seek the highest and best price for the Subject Property.
- 26 21. Pursuant to R. 15(h), Ariz.R.Prob.P., Camelback request an accelerated
27 hearing so that Carmen’s bills can be paid.
- 28 22. Undersigned counsel has discussed this Petition with Jared Causey, Esq., and
 Mr. Causey supports the positions taken by Camelback and the relief requested.

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WHEREFORE Camelback Fiduciary, LLC (AFL 20812), respectfully requests that this Court:

- A. Set an accelerated hearing on this Petition to be held as soon as practicable.
- B. Find the sale of the real property titled to the *Garfinkel Family Living Trust, U/A/D September 9, 2011* is in the best interest of Carmen Marie Torres (a/k/a Carmen Marie Garfinkel).
- C. Find the proposed sales price is appropriate and for the benefit of Carmen Marie Torres (a/k/a Carmen Marie Garfinkel).
- D. Authorize Camelback Fiduciary, LLC, as Trustee of the *Garfinkel Family Living Trust, U/A/D September 9, 2011*, to sell the real property located at 1961 E Rockwood Drive, Phoenix, Arizona 85024, Maricopa County Assessor's APN 213-21-034, for the sales price of \$350,000.00.
- E. Authorize Camelback Fiduciary, LLC, as Trustee the *Garfinkel Family Living Trust, U/A/D September 9, 2011*, to sign and effectuate all necessary documents to complete the transaction approved by this Order.
- F. Immediately unrestrict the real property located at 1961 E Rockwood Drive, Phoenix, Arizona 85024, Maricopa County Assessor's APN 213-21-034.
- G. Enter such other and further orders as the Court may deem reasonable and proper.

DATED this 21st day of February, 2025.

JDR LAW PLLC

James D. Rohde, Esq.
Counsel for Camelback Fiduciary, LLC

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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, Becky Brimhall (ALF 20736), as Vice President of Camelback Fiduciary, LLC (AFL 20812), being duly sworn, states as follows:

I have read the *Verified Emergency Petition to Approve Sale of Real Property* ("Petition"). The statements in the Petition are true, accurate and complete to the best of my knowledge and belief.

IN WITNESS WHEREOF, Becky Brimhall (ALF 20736), as Vice President of Camelback Fiduciary, LLC (AFL 20812), executes this document as of this 21st day of February, 2025.

Becky Brimhall (ALF 20736)

SUBSCRIBED AND SWORN to before me this 21st day of February, 2025, by Becky Brimhall.

Commission Expires: May 5, 2027

Notary Public



Exhibit A

**AMENDMENT
TO
THE GARFINKEL FAMILY LIVING TRUST, DATED SEPTEMBER 9, 2011**

I, **HARVEY GARFINKEL**, as Trustor of **THE GARFINKEL FAMILY LIVING TRUST, DATED SEPTEMBER 9, 2011**, (hereunder referred to as the "Trust"), hereby exercise my reserved authority, as stated in Article II of the Trust, and amend the Trust in the following manner:

1. **ARTICLE VI, Section D.** is hereby deleted and replaced with the following new **ARTICLE VI, Section D.**:

D. Administration of Deceased Beneficiary's Share. In the event a beneficiary appointed in **ARTICLE VI C.** hereinabove predeceases the Trustor(s), or survives the Trustors and subsequently dies prior to the complete distribution of his trust share, the Trustee shall divide the remainder of the deceased beneficiary's share into shares as follows and shall hold, administer and distribute each share according to the provisions of **ARTICLE VI E.** and **F.** hereinbelow:

The share of **JOSEPH ANTHONY TORRES** shall be divided and distributed as follows:

All of Trustors' Vanguard stocks (Brokerage Account No. 49458087) shall be liquidated and distributed as follows: all proceeds from the Wellesley income shares shall be distributed to **ALZHEIMER'S ASSOCIATION**, located at 1028 East McDowell Road, Phoenix, Arizona 85006, one hundred percent (100%); and all proceeds from the Costco shares shall be distributed to **ST. JUDE CHILDREN'S RESEARCH HOSPITAL**, located at 262 Danny Thomas Place, Memphis, Tennessee 38105, fifty percent (50%); and **PHOENIX CHILDREN'S HOSPITAL**, located at 1919 East Thomas Road, Phoenix, Arizona 85016, fifty percent (50%); and

All monies located at and within Trustors' Desert Schools Bank account (Checking Account No. 4326652977 and Savings Account No. 122187238) shall be distributed to **BARBARA TRUESON**, one hundred percent (100%); and

The balance of the share of **JOSEPH ANTHONY TORRES** shall be divided and distributed as follows: **MUSCULAR DYSTROPHY ASSOCIATION (MDA)**, located at 4500 South Lakeshore Drive, Suite 250, Tempe, Arizona 85282, one-third (1/3); **AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (ASPCA)**, located at 424 East 92nd Street, New York, New York 10128-6804, one-third (1/3); and any wounded veterans charitable organization(s) to be chosen by the Trustee, one-third (1/3).

2. **ARTICLE XII, Section A.** is hereby deleted and replaced with the following new **ARTICLE XII, Section A.:**

A. Co-Trustors as Trustees and Successors. Upon the death, resignation or mental incapacity of either **HARVEY GARFINKEL** or **CARMEN M. GARFINKEL** as Trustee, the successor Trustee shall be the survivor of them. Upon the death, resignation or mental incapacity of both **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, the successor Trustee shall be **JOSEPH ANTHONY TORRES**. Upon the death, resignation or mental incapacity of **JOSEPH ANTHONY TORRES**, the successor Trustee shall be **BARBARA TRUESON**.

In all other respects the Trust shall remain in full force and effect.

DATED this FEB 05 2016.

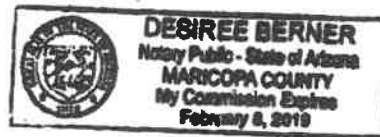
HARVEY GARFINKEL, Trustor

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

On FEB 05 2016, before me personally appeared **HARVEY GARFINKEL**, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

My Commission Expires:

Notary Public



E. Construction. Unless the context requires otherwise, words denoting the masculine shall include the feminine and the neuter and vice versa, and words denoting the singular shall include the plural and vice versa.

F. Trust Purpose. The material purposes of this Trust are set forth throughout the Trust Agreement and include, but are not limited to:

1. The care, custody, management and investment of Trust Assets during Trustors' lifetime.
2. The payment of income and principal to Trustors during their lifetime.
3. The avoidance or minimization or probate proceedings with respect to assets that may comprise the Trust Estate prior to the death of the Trustors.
4. The minimization of the estate tax burden on the death of Trustors consistent with allowable provisions of the Internal Revenue Code, as amended, and Regulations issues thereunder.
5. The non-judicial administration and distribution of Trustors' assets upon the death of Trustors in the manner set forth in the Trust.
6. Avoiding a conservatorship proceeding upon a Trustor's incapacity.
7. The appointment of certain persons or organizations as Trustee and/or Successor Trustee.
8. Provide for the ultimate distribution of the Trust Estate to certain named individuals whom Trustors desire to ultimately benefit.

G. Arizona Trust Code Compliance. This Revocable Living Trust is in compliance with the applicable provisions of the Arizona Trust Code (Title 14, Chapter 11).

ARTICLE II CO-TRUSTORS' RIGHTS DURING JOINT LIFETIMES

A. Amendment. While both Co-Trustors are living and mentally competent, this trust may be altered or amended by written instrument signed by both Co-Trustors and filed with the Trustee.

B. Revocation. While both Co-Trustors are living, either Co-Trustor may revoke this trust in whole or in part and restore to Co-Trustors their respective rights of testamentary disposition by written instrument filed with the other Co-Trustor and the Trustee. By way of construction, Co-Trustors intend that the character of all property transferred to the trust that has an original source as community property shall remain community property and shall receive a basis adjustment under Section 1023 of the Internal Revenue Code of 1986, as amended. Any joint tenancy property owned by the Co-Trustors that was originally acquired out of community property assets and transferred to this trust shall be construed as community property as defined herein. Separate property and quasi-community property shall retain their original character as separate or quasi-community property. Either Co-Trustor may withdraw his or her separate or quasi-community property without the consent or concurrence of the other Co-Trustor.

C. Conservatorship or Guardianship. In the event that both Trustors are unable to manage their affairs, or shall be legally declared Conservatees or Wards of the court, and the income from the trust shall be insufficient to provide for the proper health, support and maintenance of the Trustors, the Conservator or Guardian of the Trustors shall have the right, with the approval of the appropriate court, to invade the trust for the benefit of the Trustors to the extent that the Trustors could have invaded the trust had the Trustors not been, at that time, subject to a Conservatorship or Guardianship. The power of the Trustors to revoke or amend this trust is personal to the Trustors and shall not be exercisable on the Trustors' behalf by any Conservator or Guardian or other person, except that revocation or amendment may be authorized, after notice to the Trustee, by the court that appointed the Conservator or Guardian.

D. Determination of Inability to Manage Affairs. For purposes of Paragraph C. of this ARTICLE II, a Trustee shall be considered to be unable to manage his or her affairs if he or she is under a legal disability or by reason of illness or mental or physical disability he or she is unable to give prompt and intelligent consideration to financial matters, and the determination as to a Trustee's inability at any time, shall be made by either of the following methods:

1. Two (2) physicians, licensed in the state of Trustee's legal residence, and the Trustee may rely upon written notice of that determination; or
2. A determination of incapacity by a court of competent jurisdiction.

E. Release of Liability by Trustors. The Trustees are aware of restrictions related to the Health Insurance Portability and Accountability Act, or HIPAA. The Trustees hereby release and hold harmless from liability any physician who releases the Trustee's medical records to a beneficiary of this trust relating to the determination of inability of a Trustee to manage his or her affairs as defined in Paragraph C. of ARTICLE II above. The Trustees also hereby release and hold harmless any physician who certifies the health condition of a Trustee, provided that the Trustee's physician has acted in good faith and has rendered a reasonable medical opinion under the circumstances.

F. Investment of Trust Estate. While the Trustor is living and mentally competent, the Trustor may, at any time or times, direct the Trustee in writing to invest the trust estate in specific securities, properties or investments, to retain as part of the trust estate any securities, properties or investments for such length of time as such directions may provide, or to sell, encumber, lease, manage, control or dispose of any property of the trust estate. The Trustee shall not be liable for any loss sustained or incurred by reason of compliance by such Trustee with any such written directions of the Trustor.

G. Character of Property. Regardless of the location of such property, any personal property transferred to this trust shall remain personal property, and any real property transferred to this trust shall remain real property.

H. Trustor's Desire for Home Care Rather than Institution. If either Trustor becomes incapacitated for any reason, and has access to a residence, be it

owned or rented, then the Trustee shall pay or apply for the Trustor's benefit whatever funds are held in the trust, towards the cost of home care for the Trustor, including the expense of whatever nursing care is required, the rental or purchase of hospital type furniture, medical equipment and supplies (including but not limited to special beds, wheelchairs, tables, elevating chairs, bathroom fixtures, elevators, stair glides and ramps) as well as the temporary or permanent installation of any such equipment in any one or more of the Trustor's residences, including but not limited to necessary structural or other alterations such as widening of doorways, installing fixtures, alarms, elevators, stair glides, and ramps.

Should the Trustor not have access to any residence, then the Trustee shall, as an alternative to placing the Trustor in a nursing home or other institution, place the Trustor in one of the following and shall use all available funds in the trust toward the cost of placing and maintaining the Trustor in such alternative housing, in preferential order:

1. Assisted-living residence, with the Trustee providing for extra help if required to allow the Trustor to enter into and remain in such residence,
2. Foster Home, with the Trustee providing for extra help if required to allow me to enter into and remain in such home.

The Trustor shall be placed in a nursing home or other such institution only as a last resort, after the Trustee has used his/her best efforts to obtain alternative housing and care for the Trustor, unless, in the opinion of the Trustor's attending physician, such alternative housing care would not be adequate or satisfactory for the Trustor.

ARTICLE III IRREVOCABLE PROVISIONS

Upon the death of the first Co-Trustor, hereinafter called the "Deceased Spouse," the then surviving Co-Trustor, hereinafter called the "Surviving Spouse," shall have the power to amend, revoke and/or terminate the **SURVIVOR TRUST** only. If a **DISCLAIMER TRUST** is established, the terms of the **DISCLAIMER TRUST** may not be amended, revoked or terminated. On revocation of the **SURVIVOR TRUST**, all of its assets shall be delivered to the Surviving Spouse. Revocation and amendment shall be made by written instrument filed with the Trustee.

ARTICLE IV DISPOSITIVE PROVISIONS DURING JOINT LIFETIMES

A. Payment of Expenses. The Trustee shall pay or reserve sufficient funds to pay all expenses incident to the establishment, management and administration of the trust estate, including the compensation of the Trustee, all or any part of which, in the discretion of the Trustee, may be charged to income and/or principal of the trust estate. The remaining income shall be and is hereinafter referred to as "net income."

B. Distribution of Income and Principal of Community Estate. During the joint lifetimes of the Co-Trustors, the Trustee shall pay to the Co-Trustors, or shall apply for the Co-Trustors' benefit, the net income of the community estate in quarter-annual or more frequent intervals. If the Trustee considers the net income insufficient, the Trustee shall pay to the Co-Trustors or apply for the benefit of the Co-Trustors as much of the principal of the community estate as is necessary, in the Trustee's discretion, for the Co-Trustors' proper health, education, support, maintenance, comfort and welfare, in accordance with their accustomed manner of living at the date of this instrument. The Co-Trustors shall have the same duty to use community income and principal received under this instrument for the benefit of Co-Trustors as they have with respect to any other community property.

C. Distribution of Income and Principal of Separate and Quasi-Community Estate. During the joint lifetimes of the Co-Trustors, the Trustee shall pay to or apply for the benefit of the Co-Trustor whose separate or quasi-community property was transferred to the trust the net income of that Co-Trustor's separate or quasi-community estate in quarter-annual or more frequent intervals. Similarly, if the Trustee considers the net income of the separate or quasi-community property insufficient, it shall pay to or apply for the benefit of the Co-Trustor whose separate or quasi-community property was transferred to the trust as much of the principal of that Co-Trustor's separate or quasi-community estate as is necessary, in the Trustee's discretion, for the proper health, education, support, maintenance, comfort and welfare of that Co-Trustor in accordance with his or her accustomed manner of living at the date of this instrument. Unless otherwise agreed by the Co-Trustors, quasi-community property shall, for these purposes, be treated as the separate property of the spouse whose labors gave rise to such property.

D. Liberal Exercise of Power of Invasion. The Trustee shall exercise in a liberal manner the power to invade principal contained in Subparagraphs B and C of this ARTICLE IV.

ARTICLE V

DISPOSITIVE PROVISIONS AFTER DEATH OF DECEASED SPOUSE

A. Payment of Debts of Deceased Spouse. On the death of the Deceased Spouse, the Trustee may, in the Trustee's discretion, pay, out of the trust, debts of the Deceased Spouse; the estate and inheritance taxes, including interest and penalties, arising because of the Deceased Spouse's death; the last illness and funeral expenses of the Deceased Spouse; and attorneys' fees and other costs incurred in administering the Deceased Spouse's estate. The Trustee may pay any such taxes directly or, alternatively, in the sole discretion of the Trustee, distribute such sums to the Personal Representative as shall be necessary to pay all or any portion of such taxes. Should the Trustee elect to make any payment of expenses or debts of the Deceased Spouse, the Trustee may not pay the separate or community debts or expenses of the Deceased Spouse from the separate property of the Surviving Spouse.

B. Disclaimer Provision at Death of Deceased Spouse. It is the intention of the Co-Trustors that, upon the death of the Deceased Spouse, the entire trust estate, less any part of the Deceased Spouse's interest in the community, quasi-community and separate property included in the trust estate that the Surviving Spouse disclaims pursuant to the qualified disclaimer provisions of the Internal Revenue Code sections 2042 and 2518, be held for the benefit of the Surviving Spouse and be administered as set forth hereafter ("Survivor Trust"). Any part disclaimed by the Surviving Spouse shall be administered as set forth hereinafter ("Disclaimer Trust"). The date of electing a qualified disclaimer may be no later than nine (9) months from the date of death of the Deceased Spouse.

C. Marital Deduction Qualification. It is the intention of the Co-Trustors that the Survivor Trust qualify for the unlimited marital deduction under Section 2056 of the Internal Revenue Code of 1986, as amended.

D. SURVIVOR TRUST.

1. Distribution of Income and Principal. During the life of the Surviving Spouse, the Trustee shall pay to or apply for the benefit of such Surviving Spouse the entire net income of the trust in quarterannual or more frequent intervals. Additionally, the Trustee may distribute such portion of the principal of the SURVIVOR TRUST, up to and including the whole thereof, as the Trustee deems to be in the best interest of the Surviving Spouse.

2. Appointment Exercisable During Life. During the life of the Surviving Spouse, such Surviving Spouse may, by a written instrument filed with the Trustee and signed by the Surviving Spouse, direct the Trustee to distribute any amount of income and/or principal of the SURVIVOR TRUST, up to and including the whole thereof, to himself or herself, or to his or her estate, his or her creditors, or the creditors of his or her estate, or to any other individual designated by such Surviving Spouse.

3. Appointment Exercisable at Death. Upon the death of the Surviving Spouse, the Trustee shall distribute the principal of the SURVIVOR TRUST and any accrued or undistributed net income thereon to such person or persons, including the estate, the creditors, or the creditors of the estate of the Surviving Spouse, outright or in trust, or upon such conditions and estates, and with such powers, in such manner and at such time or times, as appointed and directed by the last unrevoked written instrument executed by the Surviving Spouse and on file with the Trustee at the date of death of the Surviving Spouse or, if no such written instrument exists, as appointed and directed by such Surviving Spouse's Last Will, with such Will specifically referring to this power of appointment. Unless within ninety (90) days after the death of the Surviving Spouse the Trustee has actual notice of the existence of such a written instrument or Will, it shall be deemed for all purposes hereunder that such power of appointment was not exercised (but the provisions of this paragraph shall not affect any right which an appointee or beneficiary in default of appointment may have against any distributee).

4. Distribution of SURVIVOR TRUST in Lieu of Appointment. To the extent that the Surviving Spouse does not exercise this power of appointment, the principal of the SURVIVOR TRUST and any accrued or undistributed net income thereon, after payment of any estate or inheritance taxes, debts and expenses, shall be held, administered and distributed pursuant to ARTICLE VI hereafter.

5. Payment of Expenses of Surviving Spouse's Estate. After the death of the Surviving Spouse, the Trustee may, in the sole discretion of the Trustee, pay the estate and inheritance taxes and any debts and expenses of the Surviving Spouse from the SURVIVOR TRUST.

E. DISCLAIMER TRUST.

1. Distribution of Income. On the death of the Deceased Spouse, the Trustee shall pay to or apply for the benefit of the Surviving Spouse the net income of the DISCLAIMER TRUST in quarter-annual or more frequent intervals.

2. Invasion of Principal. In the event of any illness affecting the Surviving Spouse, or if such Surviving Spouse should be in need of funds for support in the standard of living to which he or she is accustomed at the date of the death of the Deceased Spouse, and if the income of this trust shall be deemed insufficient by the Trustee to provide for such reasonable health, support and maintenance as set forth herein, the Trustee may, as often as it deems necessary, pay to or apply for the use and benefit of such Surviving Spouse such part of the principal of the DISCLAIMER TRUST, up to and including the whole thereof, as is necessary for such reasonable health, support and maintenance.

ARTICLE VI

DISPOSITIVE PROVISIONS AFTER DEATH OF SURVIVING SPOUSE

A. Payment of Expenses. Upon the death of the Surviving Spouse, the Trustee shall pay or reserve sufficient funds to pay all expenses of management and administration of the trust estate, including the compensation of the Trustee and the attorney, all or any part of which shall be charged, in the Trustee's discretion, to income and/or principal of the trust estate. The remaining income shall be and is hereinafter referred to as "net income".

B. 1. Distribution of Gifts. The Trustee shall distribute gifts of trust property, subject to the provisions of ARTICLE VI E. and F. hereinbelow, to beneficiaries as follows: **No special gifts.**

2. Distribution Pursuant to Memorandum.

(a) Trustee shall distribute tangible personal property of the Trustor, including but not limited to jewelry, clothing, household furniture, china, silver, furnishings and fixtures, photographs, books, artworks, automobiles, and boats, in accordance with any written, dated and signed memorandum of the deceased Trustor directing the distribution of such property.

(b) Any memorandum written, dated and signed by the deceased Trustor disposing of such non-business tangible personal property shall be incorporated herein by reference into this Trust Agreement.

(c) In the event there are multiple written memoranda with conflicting dispositions of any non-business tangible personal property, the last dated and signed memorandum shall control as to the conflicts in disposition.

C. Administration of Remainder of Trust Estate. Upon the death of the Surviving Spouse, the Trustee shall, after paying or reserving for all amounts payable, as provided in ARTICLE VI A. and B., divide the remainder of the trust estate, including the assets of the SURVIVOR TRUST and the DISCLAIMER TRUST, into shares set forth as follows and shall hold, administer and distribute each share according to the provisions of ARTICLE VI E. and F. hereinbelow:

JOSEPH ANTHONY TORRES, one hundred percent (100%).

D. Administration of Deceased Beneficiary's Share. In the event a beneficiary appointed in ARTICLE VI C. hereinabove predeceases the Trustor(s), or survives the Trustors and subsequently dies prior to the complete distribution of his trust share, the Trustee shall divide the remainder of the deceased beneficiary's share into shares as follows and shall hold, administer and distribute each share according to the provisions of ARTICLE VI E. and F. hereinbelow:

The share of **JOSEPH ANTHONY TORRES** shall be divided among his then living descendants, per stirpes.

E. Distributions of Income and Principal.

1. The Trustee may pay to or apply for the benefit of each beneficiary for whom a trust is then held as much of the net income of said trust as the Trustee shall determine to be in the best interest of and tending to promote the welfare of such beneficiary, after taking into consideration, to the extent the Trustee deems advisable, any other income or resources of such beneficiary. Any income not distributed shall be accumulated and added to and become part of the principal of said trust.

2. If the Trustee deems the net income available hereunder not sufficient to provide for the reasonable health, support, maintenance and education of any beneficiary for whom a trust is then held, taking into consideration any other income and financial resources of such beneficiary, so far as known to the Trustee, it may, as often as it deems necessary, pay to or apply for the use and benefit of such beneficiary such part of the principal of the respective trust of such beneficiary, up to and including the whole thereof, as is necessary for the reasonable health, support, maintenance and education of such beneficiary.

3. The Trustee, in its discretion, may make ~~net income~~ or principal payments to a minor or a beneficiary under disability by ~~making~~ such payments to the guardian or conservator of his or her person, to a custodian under a Uniform Transfers to Minors Act or similar statute applicable in the State of ARIZONA, or to any suitable person with whom he or she resides, or the Trustee may apply such payments directly for the beneficiary's benefit. The Trustee may make net income or principal payments directly to a minor child if, in the Trustee's discretion, such child is of sufficient maturity to manage such distribution.

4. Upon the death of a beneficiary for whom a trust is then held prior to final distribution to such beneficiary, if said decedent is survived by issue, that portion of such trust (including both principal and any accrued or undistributed income) which is not exempt from the generation-skipping transfer tax imposed by Chapter 13 of the Internal Revenue Code of 1986 (or any successor provisions) shall be distributed to such one or more persons or entities, including the decedent's estate, and on such terms and conditions, either outright or in trust, as the decedent shall have appointed by the last dated instrument delivered to the Trustee, including a Will (whether or not admitted to probate), specifically referring to and exercising this power of appointment. Any of such portion of the trust as is not appointed, together with that portion of the trust that is exempt from the generation-skipping transfer tax, shall be distributed according to the terms of ARTICLE VI D. hereinabove as though said beneficiary had predeceased the Surviving Spouse.

5. There need be no physical segregation or division of the various trust shares except as segregation or division may be required by the termination of any of the trusts, but the Trustee shall keep separate accounts for the different undivided interests.

6. Subject to a possible retention of some or all of the assets of the trust estate by the Trustee pursuant to ARTICLE VIII S., distribution of a beneficiary's share shall be made on the following basis:

(a) whenever any beneficiary for whom a trust is then held shall have attained the age of ~~twenty-one~~ (21) years, the Trustee shall distribute to such beneficiary, free of trust, the entire principal and accumulated income, if any, of his or her separate trust.

7. In the event that there shall be no surviving named beneficiaries, including issue as set forth herein, the trust shall terminate and the proceeds shall be distributed one-half (1/2) to the then surviving heirs at law of each Co-Trustor, as determined by the laws of intestate succession then existing in the State of ARIZONA; excluding, however, any provision for distribution to heirs of a predeceased spouse.

8. The term "issue," unless otherwise designated herein, shall include adopted "issue" of descendants and lineal descendants, both natural and legally adopted indefinitely. Such term shall specifically exclude individuals adopted out of the family of Co-Trustors or out of the family of a descendant of Co-Trustors. The word "living" shall include unborn persons in the period of gestation.

F. Handicapped Beneficiaries. If any beneficiary of this trust has a disability that substantially impairs the beneficiary's ability to provide for their own and constitutes a substantial disability, then they shall cease to be a Beneficiary of this trust.

The percentage of the trust assets allocated for the benefit of the handicapped beneficiary will be allocated as a separate share to a Special Needs Trust. The Trustee named above as the Trustee of the inter-vivos instrument will be the same Trustee for the Special Needs Trust. The Trustee(s) of the Special Needs Trust may supplement any benefits received (or for which the beneficiary may be eligible) through or from various governmental assistance programs but may not supplant any such benefits. All actions of the Trustee shall be directed toward carrying out this intent. This handicapped beneficiary shall not be considered to have access to principal or income of the trust.

The Trustee, in the Trustee's sole and absolute discretion, shall pay to or for the benefit of the handicapped beneficiary, as much of the net income and principal as is necessary to meet his/her special needs, as defined herein. Any income not so distributed shall be added to principal.

1. "Special Needs" Defined. As used in this document, "special needs" refers to the requisites for maintaining the handicapped beneficiary's comfort, and happiness when, in the discretion of the Trustee, such requisites are not being provided by any public agency, office or department of the State of Arizona, or of any other state, or of the United States or by any private agency.

"Special needs" shall include, but not be limited to, medical and dental expenses, annual independent check-ups, equipment, programs of training, education, treatment, and rehabilitation, eye glasses, transportation (including vehicle purchase), maintenance, and essential dietary needs.

"Special needs" may include spending money, electronic equipment such as radios, record players, television sets, and computer equipment, camping, vacations, athletic contests, movies, trips, money to purchase appropriate gifts for relatives and friends, payments for a companion, and other items to enhance the handicapped beneficiary's self-esteem or situation.

The Trustee shall, with reasonable frequency, visit the handicapped beneficiary to inspect living conditions, treatment, and morale and to evaluate his/her needs.

2. Distribution Guidelines. In making any distribution, the Trustee:

- a. Shall consider any other income or resources of the beneficiary known to the Trustee and reasonably available;

- b. Shall take into consideration all entitlement benefits from any government agency, such as Social Security disability payments, food stamps, Medicare, Medicaid, Welfare, Supplemental Social Security Income (SSI), and other special purpose benefits for which the beneficiary is eligible;
- c. Shall consider resource and income limitations of any such assistance program;
- d. May make expenditures so that the beneficiary's standard of living will be comfortable and enjoyable;
- e. Shall not be obligated to or compelled to make such payments;
- f. Shall not pay or reimburse any amounts to any government agency or department;
- g. Shall not be liable for any loss of benefits.

3. Supplemental. No part of the assets of this trust shall be used to supplant or replace public assistance benefits of any county, state, federal, or other government agency which has a legal responsibility to serve persons with disabilities which are the same as or similar to the handicapped beneficiary. This includes, but is not limited to, Social Security benefits for disabled persons.

For purposes of determining the handicapped beneficiary's eligibility for any such benefits, no part of the principal or undistributed income of the trust estate shall be considered available to him/her. In the event the Trustee is requested to release principal or income of the trust to or on behalf of the handicapped beneficiary to pay for equipment, medication, or services which any government agency is authorized to provide (were it not for the existence of this trust), or in the event the Trustee is requested to petition the court or any other administrative or judicial agency for the release of trust principal or income for this purpose, the Trustee is authorized to deny such request and is authorized in his or her discretion to take whatever administrative or judicial steps as may be necessary to continue the handicapped beneficiary's eligibility for benefits, including obtaining instructions from a court of competent jurisdiction ruling that the trust corpus is not available to the handicapped beneficiary for eligibility purposes. Any expenses of the Trustee in this regard, including reasonable attorney's fees, shall be a proper charge to the trust estate.

4. Spendthrift Provision. No interest in the principal or income of this trust shall be anticipated, assigned or encumbered, or shall be subject to any creditor's claim or legal process, prior to its actual receipt by the beneficiary. The beneficial interest in this trust and the principal and income rights shall be free from interference or control by any creditor of a beneficiary and shall not be liable to attachment, execution, bankruptcy, or other process of law.

This trust is to be conserved and maintained for the handicapped beneficiary's special needs throughout his/her life. No part of the corpus thereof, neither principal nor undistributed income, shall be construed as part of his/her "estate" or be subject to the claims of voluntary or involuntary creditors for the provision of care and services unless specified reimbursement is required and demanded by a public entity, office, department or agency of the State of Arizona or any other state pursuant to the state law.

The trust estate shall not be subject to the claims of voluntary or involuntary creditors for the provisions of care and services, including residential care, by any governmental agency.

The portion of the trust estate which, absent the provisions of the section, would have been the share of such handicapped person shall be retained in trust for so long as that individual lives. If such individual recovers from his/her disability, and is no longer eligible for aid from any governmental agency, including costs or benefits, fees, or charges, such individual shall be reinstated as a beneficiary after sixty days from such recovery, and the allocation and distribution provisions stated herein shall apply to that portion of the trust estate which is held by the Trustee subject to the foregoing provisions. If said handicapped beneficiary is no longer living, his/her share shall be administered according to the provisions of ARTICLE VI D.

ARTICLE VII ADDITIONAL DISPOSITIVE PROVISIONS

A. Discretionary Termination. If the value of the trust estate or of any segregated share held as a separate trust is determined by the Trustee to be valued at \$20,000.00 or less, then such trust may, in the discretion of the Trustee, be terminated and the remainder of such trust shall be distributed to the person then entitled to the income therefrom.

B. Rule Against Perpetuities. Unless sooner terminated in the manner hereinbefore provided, each trust shall cease and terminate one day prior to twenty-one (21) years from the death of the Surviving Spouse or the death of the survivor of the named beneficiaries who are living at the date of death of the Deceased Spouse, whichever death shall last occur. Upon such termination, the entire trust estate, including principal and any accrued or undistributed net income thereon, shall be distributed to the persons for whom said trust estate is then held, in proportion to the trusts then held for such persons.

C. Spendthrift Provision. No beneficiary of this trust, other than a Co-Trustor, shall have any right to alienate, encumber or hypothecate his interest in the trust to claims of his creditors, or to render such interest liable to attachment, execution, or other process of law. The income of this trust shall not be pledged, assigned, transferred, sold or accelerated, anticipated or encumbered in any manner whatsoever by any beneficiary, nor shall any income of the trust be in any manner subject to or liable for in the hands of the Trustee for the debts, contracts or encroachments of any beneficiary or be subject to any assignments or any other voluntary or involuntary alienation or disposition whatsoever. If the creditor of any beneficiary, other than a Co-Trustor, who is entitled to any distributions from a trust established under this instrument shall attempt by any means to subject to the satisfaction of his claim such beneficiary's interest in distribution, then, notwithstanding any other provision herein, until the release of the writ of attachment or garnishment or other process, the distribution set aside for such beneficiary shall be disposed of as follows:

1. Distribution to Beneficiary. The Trustee shall pay to or apply for the benefit of such beneficiary such sums as the Trustee determines to be necessary for the reasonable health, education (including study at institutions of higher learning) and support of the beneficiary according to his or her accustomed mode of life.

2. Disposition of Excess. The portion of the distribution that the Trustee shall determine to be in excess of the amount necessary for such health, education (including study at institutions of higher learning) and support shall, in the Trustee's discretion, either be added to and become principal of the trust share of such beneficiary or be paid to or applied for the benefit of the other beneficiaries then entitled to receive payments from any trust established under this instrument, in proportion to their respective interests in the trust estate; or, if there be no other beneficiaries, the excess income may be paid to or applied for the benefit of the person or persons presumptively entitled to the next eventual interest, in proportion to their respective interests.

D. Simultaneous Death.

1. Co-Trustors. In the event that the Co-Trustors shall die simultaneously, or if there is insufficient evidence to establish that Co-Trustors died other than simultaneously, it is deemed that the spouse owning the greater share of the separate property in this trust or passing into this trust due to the death of the Co-Trustors, as defined for federal estate tax purposes, shall have predeceased the other Co-Trustor, notwithstanding any provision of law to the contrary, and the provisions of this trust shall be construed on such assumption. Should there be no separate property either in the trust or passing into trust after the Co-Trustors' deaths, all property shall pass as though the Wife shall have survived.

2. Surviving Spouse and Beneficiaries. If any beneficiary of the trust other than a Co-Trustor shall die simultaneously with the Surviving Spouse, or if there is insufficient evidence to establish that such beneficiary and the Surviving Spouse died other than simultaneously, it is hereby deemed that the Surviving Spouse shall have survived the beneficiary.

E. Intentional Omission. The Trustors have intentionally omitted to provide in this document for any person or persons not mentioned herein who, if the Trustors had died intestate, would be entitled to share in their estates as an heir at law or otherwise.

**ARTICLE VIII
TRUSTEE'S POWERS**

In addition to all other powers and discretions granted to or vested in the Trustee by law or by this instrument, the Trustee shall have full power to do everything it deems to be in the best interests of the beneficiaries of the trust, including, but not limited to, the following powers and discretions:

A. Power to Retain Trust Property and Comply with Existing Agreements.

To continue to hold any property received in trust, including undivided interests in real property, and to operate any property or any business received in trust as long as the Trustee, in the Trustee's discretion, may deem advisable, notwithstanding the fact that any or all of the investments retained are of a character or size which, but for this express authority, would not be considered proper for the Trustee. In the event either Co-Trustor shall be a party to a Buy-Sell Agreement, Cross-Purchase Agreement, Stock Redemption Agreement, Option or any agreement providing for the disposition of such Co-Trustor's interest in property, whether such agreement has been executed by Co-Trustor individually or as Co-Trustee of this Trust Agreement, and which property is owned by the trust, then upon the death of such Co-Trustor, the then acting Trustee of this trust is hereby directed to transfer as much of Co-Trustor's interest in such property then held in the trust as is necessary to carry out the provisions of any such agreement and to execute all documents and take all further actions necessary or appropriate to carry out the terms of such agreement.

B. Power to Manage Trust Property. To manage, control, sell, convey, exchange, partition, divide, subdivide, improve and repair; to grant options and to sell upon deferred payments; to lease for terms within or extending beyond the duration of the trust, for any purpose, including exploration for and removal of oil, gas and other minerals; to enter into oil, gas and mineral leases, assignments, farmouts, farmins and joint ventures; to purchase and sell gas, oil and mineral royalties, to create restrictions, easements, and other servitudes; to compromise, arbitrate, or otherwise adjust claims in favor of or against the trust; to institute, compromise and defend actions and proceedings; to construct, alter or demolish any buildings; and to carry such insurance as the Trustee may deem advisable.

C. Power to Invest. To invest and reinvest the principal and to purchase or acquire therewith every kind of property, real or personal, and every kind of investment, specifically including, but not by way of limitation, commodities of every nature, corporate obligations of every kind, precious metals such as gold or silver, and stocks, preferred or common, and to buy stocks, bonds, commodities and similar investments on margin or other leveraged accounts and to short sell such accounts, and to buy, sell and write stock and other security options, and to enter into commercial partnership as a partner, limited or general, and to operate any business as a sole proprietor. To open, operate and maintain a securities brokerage account wherein any securities may be bought and/or sold on margin, and to hypothecate, borrow upon, purchase and/or sell existing securities in such account as the Trustee may deem appropriate or useful.

D. Power to Retain Trust Property without Diversification. To retain, without liability for loss or depreciation resulting from such retention, original property, real or personal, at any time received by the Trustee, for such time as the Trustee shall deem best, even though such property may not be of the

character prescribed by law or by the terms of this trust for the investment of trust funds, and although it may represent a large percentage of the total trust or estate property, and without being required to observe the principle of diversification of trust investments.

E. Power to Retain Unproductive Property. To retain uninvested all or any part of the trust estate from such time, and from time to time; as the Trustee may deem advisable; provided that unproductive property shall not be held as an asset of the SURVIVOR TRUST for more than a reasonable time during the life of the Surviving Spouse without his or her consent.

F. Power to Borrow. To borrow money for any trust purpose upon such terms and conditions as the Trustee may deem proper, and to obligate the trust estate by mortgage, deed of trust, pledge, or otherwise, using such procedure to consummate the transaction as the Trustee may deem advisable and to pledge the assets of the trust estate to secure the guarantee by the Co-Trustors of the debts of third parties.

G. Power to Manage Securities. To have, respecting securities, all the rights, powers and privileges of an owner, including the power to pay assessments and other sums deemed by the Trustee necessary for the protection of the trust estate; to participate in voting trusts, pooling agreements, foreclosures, recapitalizations, reorganizations, consolidations, mergers, and liquidations, and in connection therewith to deposit securities with and transfer title to any protective or other committee under such terms as the Trustee may deem advisable; to exercise or sell stock subscription or conversion rights, to accept and retain as an investment any securities or other property received through the exercise of the foregoing powers.

H. Power to Partition, Allot and Distribute. Upon any division or distribution of the trust estate, to partition, allot and distribute the trust estate in undivided interests or in kind, or partly in money and partly in kind, at valuations determined by the Trustee, and to sell such property as the Trustee may deem necessary to make division or distribution. The power of the Trustee to make distributions in kind shall include the power to make non-pro rata distributions in kind without regard to the income tax basis of assets so distributed.

I. Power to Determine Principal and Income. Except as otherwise specifically provided in this Trust Agreement, the determination of all matters relating to principal and income and receipts and expenses shall be governed by the provisions of the Uniform Principal and Income Act or similar statute applicable in the State of ARIZONA from time to time existing. Any such matter not provided for either in this instrument or in the Uniform Principal and Income Act or similar statute applicable in the State of ARIZONA shall be determined by the Trustee in the Trustee's discretion. The Trustee's powers shall be subject, at any time that a beneficiary shall be a Trustee hereunder, to the Trustee's duty to treat income and remainder beneficiaries equitably.

J. Power to Distribute Income. To make payments, if any, of the net income of the trust in quarterly or more frequent intervals as may be convenient to the Trustee. Upon the death of the income beneficiary of the trust during its continuance, any accumulated income which would have been paid to such beneficiary had he or she survived shall not be payable to his or her estate but shall be paid to his or her successors or successor in interest in the trust as hereinabove provided.

K. Power to Employ Counsel. To employ counsel and corporate or other agents in the discharge of their duties and to pay them a reasonable compensation out of income and/or principal, in the Trustee's discretion, and to rely upon the advice of counsel and to suffer no liability resulting from any action taken or withheld pursuant to such advice.

L. Power to Pay Taxes and Expenses Relative to Trust Property. To pay from time to time all taxes, assessments, including corporate assessments, and other charges levied or accruing against or on account of the trust property, and to pay all expenses of the trust, including reasonable compensation to the Trustee. To deduct all said taxes, assessments, charges and expenses from the income or principal of the trust as the Trustee may deem proper, giving consideration to whether it was income or principal or an allocation between them which gave rise to such taxes, charges and expenses.

M. Power to Hold Trust Property in the Name of a Nominee. To take title to any property in its name as Trustee hereunder or in its own name or in the name of a nominee without disclosing the trust, or, in the case of securities, to take and keep the same unregistered and to retain them in such manner that title may pass by delivery; or, in the case of real estate, to keep deeds unrecorded; or to deposit cash in a checking or savings account without indication of any fiduciary capacity.

N. Power to Distribute to or for the Benefit of Minor or Disabled Beneficiary. In any case in which a trust share is distributable to a beneficiary who has not reached majority in the state of his or her residence, or in any case where mandatory or discretionary payments of income or principal are to be made to such a minor or other beneficiary under legal disability, the Trustee may, in its discretion, distribute income or principal directly to the beneficiary, to the guardian or parent of the beneficiary, to a bank account in trust, to a custodianship for the beneficiary or to a person with whom the beneficiary resides. The receipt of such distribution of income and/or principal by the beneficiary, guardian, parent or person shall discharge the Trustee from its responsibility for the proper expenditure of income or principal.

O. Power to Pay Taxes. To pay out of the trust shares or income interests giving rise to taxes, all state, federal and local property taxes, income taxes and all other taxes relating to such trust estate.

P. Power to Lend. To lend money to any person, including the probate estate of either Co-Trustor, provided that any such loan shall be adequately secured and shall bear a reasonable rate of interest.

Q. Power to Insure. To carry insurance of such kinds and in such amounts as the Trustee deems advisable, at the expense of the trust, to protect the trust estate and the Trustee personally against hazard.

R. Power to Commence or Defend Litigation and to Compromise. To commence or defend, at the expense of the trust, such litigation with respect to the trust or any property of the trust estate as the Trustee may deem advisable, and to compromise or otherwise adjust claims or litigation against or in favor of the trust.

S. Power to Withhold Payment Pursuant to Conflicting Claims. To withhold from distribution, in the Trustee's discretion, at the time for distribution of any property in this trust, without the payment of interest, all or any part of the property, so long as the Trustee shall determine, in the Trustee's discretion, that such property may be subject to conflicting claims, to tax deficiencies, or to liabilities, contingent or otherwise, properly incurred in the administration of the trust estate. The Trustee is under no obligation to make such retentions and shall be under no liability whatever for the exercise or the failure to exercise such discretion. The interests of the beneficiaries hereunder shall be vested regardless of whether or not such assets are so retained, and all income required to be distributed shall be payable to such beneficiaries in convenient intervals not less frequently than quarter-annually. Anything else herein to the contrary notwithstanding, the Surviving Spouse may cause the disposition of the share in the SURVIVOR TRUST through the exercise of his or her power of appointment under ARTICLE V.D. 2. or 3. of this Trust Agreement.

T. Power to Adjust for Tax Consequences. To take any action and to make any election, in the Trustee's discretion, in order to minimize the tax liabilities of this trust and its beneficiaries or to extend the time for payment of any tax liabilities. The Trustee shall allocate the benefits from such action or election among the various beneficiaries. The Trustee shall make adjustments in the rights of any beneficiaries, or between the income and principal accounts, to compensate for the consequences of any tax election, investment, or administrative decision that the Trustee believes has had the effect of directly or indirectly preferring one beneficiary or group of beneficiaries over others.

U. Power to Subject Trust Property to Probate. It is the Co-Trustors' intention to avoid probate through the use of this Trust Agreement. If, however, the Trustee of this trust and the Personal Representative of the estate of either Co-Trustor shall mutually determine that it shall be in the best interests of the beneficiaries of the trust, and the beneficial interests of the beneficiaries shall not thereby be altered, the Trustee may subject any asset to probate to accomplish a result unavailable without probate. This power shall be strictly construed and shall only be used to secure any tax or other benefit otherwise unavailable to the trust.

V. Power to Delegate. To perform or to delegate to any trustee or non-trustee any non-discretionary power, including the power to singularly or jointly open, close or transfer any type of bank account and savings and loan association account, sign checks, drafts, withdrawal slips or other documents, give instructions for the receipt or delivery of securities or other property, give instructions for the payment or the receipt of money and, singularly or with others, have access to any safe deposit box or other place containing property of this trust.

W. Power to Gift. The Trustee shall have the discretionary power to make gifts directly to lineal descendants of the Trustors so long as such action does not cause such gifts to be included in the estate of the Trustors under I.R.C. § 2035 in conjunction with I.R.C. § 2036 or 2038. Such gifts may be made outright, in further trust or to a custodian as the Trustee deems appropriate in its sole discretion; provided, however, that the Trustee shall not terminate this trust by distribution during the lifetime of an incapacitated Trustor.

The Trustee may also make distributions to an attorney-in-fact acting under a power of attorney specifically authorizing such attorney-in-fact to withdraw amounts from a trust for the purpose of making gifts on either Trustor's behalf. Such withdrawal shall be directed by the Trustor's attorney-in-fact by an instrument in writing delivered to the Trustee. The Trustee may, but need not, rely on the attorney-in-fact's written directions without inquiry into the scope of authority of the attorney-in-fact.

All gifts made by the Trustee shall be made under the direction of either Trustor while competent. If both Trustors are incompetent, as defined in Paragraph C. of ARTICLE II, above, then such gifts shall be consistent with the Trustors' established gifting practices, known estate plan and the advice of those available of Trustor's spouse and adult children.

ARTICLE IX LIMITATION OF POWERS

A. Management of Principal and Income. No powers, enumerated herein or accorded to Trustee generally by law, shall be construed to enable any person appointed as Trustee or otherwise, or any other person, to purchase, exchange or otherwise deal with or dispose of the principal or income of this trust for less than an adequate consideration in money or money's worth or to enable any person appointed as Trustee or otherwise to borrow the principal or income of this trust directly or indirectly without adequate interest or security. This limitation shall not apply to a Co-Trustor acting as Co-Trustee or sole Trustee, nor shall it apply to a Co-Trustor who is the Surviving Spouse and serving as Trustee of the SURVIVOR TRUST after the death of the Deceased Spouse.

B. Fiduciary Capacity of Trustee. Any Trustee or Co-Trustee of an irrevocable trust hereunder shall act at all times in his or her fiduciary capacity and shall treat the income and remainder beneficiaries equitably, and no Trustee shall have any power which would cause includibility of such irrevocable trust share in his or her estate for federal estate tax purposes. Should any condition arise, including a change in the law, which would prevent any such Trustee or Co-Trustee of such irrevocable trust from acting as Trustee hereunder without causing includibility of such trust share in his or her estate for federal estate tax purposes merely by reason of such trusteeship, such Trustee or Co-Trustee shall resign, and the next successor Trustee, as designated herein, who shall not be subject to such includibility shall be appointed in his or her stead.

C. Invasion of Principal by Trustee. No Trustee or Co-Trustee who is also a beneficiary of an irrevocable trust share hereunder shall have the power to invade the trust principal for his or her benefit prior to the termination of the trust, except pursuant to the ascertainable standards set forth in this Trust Agreement.

D. Trustee's Power over Community Property. The Trustee shall have no more extensive power over any community property transferred to the trust than either of the Co-Trustors would have had according to the laws of the State of ARIZONA had this trust not been created; and this instrument shall be so interpreted to achieve this intention. This limitation shall terminate upon the death of either Co-Trustor.

ARTICLE X RECORDS AND ACCOUNTING

The Trustee shall keep and maintain adequate books and records reflecting all income and principal transactions, which books and records shall be open at all reasonable times to the inspection of the Co-Trustors and to their duly authorized representatives. The Trustee shall furnish at least annual statements for all transactions to the then income beneficiaries of the trust or to the natural or legal guardians of such beneficiaries.

ARTICLE XI COMPENSATION OF TRUSTEE

Any party serving as Trustee hereunder, other than Trustor, shall be entitled to fair and reasonable compensation, and to reimbursement of expenses incurred, in the performance of such party's duties under the trust hereby created. The reasonable compensation of a bank or trust company for its services as Trustee shall be in accordance with its published schedule of fees in effect from time to time, and the reasonable compensation of an individual for his or her services as Trustee shall not exceed the customary charges of corporate trustees in the same locality for similar services.

**ARTICLE XII
TRUSTEES AND SUCCESSORS**

A. Co-Trustors as Trustees and Successors. Upon the death, resignation or mental incapacity of either **HARVEY GARFINKEL** or **CARMEN M. GARFINKEL** as Trustee, the successor Trustee shall be the survivor of them. Upon the death, resignation or mental incapacity of both **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, the successor Trustee shall be **JOSEPH ANTHONY TORRES**.

B. Powers and Responsibility of Successor Trustee. Upon the appointment of any successor Trustee, such Trustee shall not be required to conduct an audit or account of the fiduciary conduct of any previous Trustee and shall incur no liability whatsoever by its failure to examine the prior trust record. Every successor Trustee shall have all the powers given the originally named Trustee. No successor Trustee shall be personally liable for any act or omission of any predecessor.

C. Guardianship or Conservatorship of Trustee. The establishment of a Guardianship or Conservatorship of the Trustee, whether it is of the Estate or the Person, shall cause the trusteeship of such individual to terminate and to pass to the successor Trustee. Additionally, should two physicians, neither of whom is a beneficiary hereunder, related to either Co-Trustor or to the Trustee within the second degree, nor related to any beneficiary of this trust or beneficiary under the Will of either Co-Trustor within the second degree, certify that the Trustee is mentally incompetent to act as Trustee, such trusteeship shall terminate and pass to the successor Trustee upon notification of such certification to the Co-Trustors, or the surviving Co-Trustor, the Trustee, and each then income beneficiary. Should any Co-Trustor, Trustee or income beneficiary object to such certification, such objecting party may seek a legal determination of mental incompetence in any court of competent jurisdiction.

D. Resignation of Trustee. Any Trustee or Co-Trustee of this Trust Agreement may resign as Trustee after written notice of such resignation is delivered to the Co-Trustors, or the surviving Co-Trustor, or, if both Co-Trustors are deceased, to all of the beneficiaries then receiving income interests, and upon the acceptance of the successor Trustee to act. The resignation of a Trustee can be effected by the attorney-in-fact for a Trustee exercising such power pursuant to a valid power of attorney. The resigned Trustee shall deliver an accounting of the assets, income and expenses to the successor Trustee as soon thereafter as is reasonably practicable.

E. Removal of Trustee. The Co-Trustors shall have full power and authority and, after the death of either Co-Trustor, the surviving Co-Trustor shall have full power and authority, at any time or times, to remove the Trustee hereunder and to appoint a successor Trustee, including any corporation or banking institution, and shall do so by delivering to the Trustee to be removed a written notice of

such removal, a written appointment of the successor Trustee, and a written acceptance by the successor Trustee. Upon delivery of such instruments to the Trustee, said Trustee shall, after deducting all charges and amounts due it as Trustee, and upon receipt of such proper indemnity as it may require, transfer and deliver the trust estate to the successor Trustee. Thereafter, said removed Trustee shall have no further powers, discretions, rights, obligations or duties with reference to the trust, and all such powers, discretions, rights, obligations or duties given the Trustee by this instrument shall inure to and be binding upon said successor Trustee. After the death of either Co-Trustor, the surviving Co-Trustor shall have full power and authority to alter the succession of trustees, as provided herein, by written Designation of Successor Trustee(s) filed with the then acting Trustee.

F. Delegation of Power to Co-Trustee(s) and Other Agents. Any acting Co-Trustee may, from time to time, delegate to one or more of the remaining acting Co-Trustees any powers, duties or discretions. Every such delegation shall be in writing, delivered to the delegatee or delegatees and shall remain in effect for the period of time specified in such written delegation or until earlier revocation in writing is delivered to such delegatee or delegatees. The certification of any Trustee as to the name and authority of any Trustee acting by reason of delegation or otherwise shall be sufficient evidence and such certifying Trustee shall indemnify any person relying upon such certification. Additionally, a Co-Trustor acting as a Trustee may, by the execution of a Power of Attorney, delegate to a third party the power and authority to act for such Co-Trustor in his or her capacity as a Trustee in any way in which said Trustee could act if personally present and able to act, subject to the provisions and any limitations set forth in such executed Power of Attorney.

G. Required Consent of Co-Trustees. Subject to the provisions of ARTICLE XII F., whenever there are more than two (2) acting Co-Trustees, a majority of such Co-Trustees, whether individual or corporate, shall have the power to make any decision, undertake any action or execute any documents affecting the trusts created herein, and the dissenting Co-Trustee or Co-Trustees shall thereupon be released from all liability resulting from the decision of the majority. Unless otherwise provided herein, as long as both Trustors act as Co-Trustees under this Trust Agreement, each shall have the individual power to transact any and all matters including, but not limited to, the power to draft and sign checks, purchase, convey, deliver, sell, lease mortgage, pledge, or otherwise encumber any assets of the trust created herein. Co-Trustees, other than the Trustors, shall not have the individual power to transact any and all matters. Such transactions by these Co-Trustees shall require the signature of both Co-Trustees. If an individual Co-Trustee and a corporate Co-Trustee are acting, the decision of the individual Co-Trustee shall be binding.

H. Vacancy in Trusteeship. In the event that all of the named Trustees and successors shall die, resign, or be mentally incapacitated, and in the event that the right to appoint or designate a successor Trustee is not exercised by the Co-

Trustors or by the surviving Co-Trustor, as provided in ARTICLE XII E. hereinabove, then, and in that event, the successor Trustee shall be chosen by a majority in interest of the then living beneficiaries, with a parent or guardian voting for each minor beneficiary.

I. Foreign Assets. In the event that the trust shall own real property (hereinafter referred to as "Foreign Assets") in some state other than ARIZONA and the Trustee hereunder shall be a corporate or individual Trustee not authorized to do business in that state, such corporate or individual Trustee shall select an individual ancillary Trustee located anywhere within the United States of America, providing such individual Trustee shall be legally able to act in such state, or a corporate ancillary Trustee located within the state of situs of such real property, and such ancillary Trustee shall be vested with, and only with, title to and management of each Foreign Asset, and such ancillary Trustee shall have the same rights and powers over the real property within such state as the regularly appointed Trustee under this trust would have had it been able to act as Trustee within that state. The ancillary Trustee shall pay over to the Trustee hereunder, at least annually, the net income attributable to such Foreign Assets. The Trustee selecting such ancillary Trustee shall be held harmless for any wrongdoing on the part of the ancillary Trustee that it shall select. No individual ancillary Trustee may be selected who would, merely through selection as such ancillary Trustee, be subject to estate or inheritance tax on any trust assets upon his or her death.

ARTICLE XIII

ADMINISTRATIVE PROVISIONS FOR QUALIFIED SUBCHAPTER S TRUST

If any trust established hereunder holds stock in one or more S Corporations, the Trustors intend that such trust ('QSST') qualifies as a Subchapter S Trust under IRC section 1361. Despite any other provision in this trust instrument to the contrary, the following provisions shall apply to the QSST:

1. All of the income shall be distributed at least quarterly to the Beneficiaries; if a Beneficiary is a minor, distribution shall be made to his or her guardian as Custodian under the Arizona Uniform Transfers to Minors Act or any similar statute;
2. No distribution of principal may be made to anyone other than the Beneficiaries during his or her lifetime;
3. Upon the death of a Beneficiary, that Beneficiary's income interest shall end. However, if the QSST ends during the Beneficiaries' lifetime for any reason, the Trustee shall distribute all of the QSST assets to the Beneficiaries, outright; and
4. If the QSST contains both S Corporation stock and other assets, the Trustee shall divide the QSST into two trusts, one trust funded with the S Corporation stock and the other trust funded with the other assets. Each trust shall constitute a separate and independent trust. The trust funded with the S Corporation stock ("QSST") shall be administered in accordance with provisions hereinabove in this ARTICLE XIII 1. through 4. and the other trust shall be administered in accordance with its terms.

The Trustors recognize that the IRC provisions and applicable regulations relating to trust ownership of S Corporation stock are not only complex, but are also subject to change. Therefore, to accomplish the Trustors' intent that the requirements of a Qualified Subchapter S Trust be met, the Trustors grant to an Independent Trustee the power to amend the terms of this instrument (including any amendment hereto) for the sole purpose of complying with such IRC requirements and applicable regulations. Any such amendment shall be in writing, and notice of such amendment shall be given to the Trustee and the Beneficiary. If no objection is filed with the court having jurisdiction of the QSST by either the Trustee or the Beneficiary within thirty (30) days of such notice, the amendment shall be effective as of the date set forth in the amendment. If any objection is filed, the amendment shall be effective only if and to the extent determined by the court.

ARTICLE XIV BOND

No Trustee or successor Trustee named herein shall be required to furnish any bond or bonds for the performance of Trustee's duties hereunder.

ARTICLE XV BANK ACCOUNTS

While both Co-Trustors are living and mentally competent, except when a corporate Trustee is acting hereunder, either Co-Trustor may add money to or withdraw money from any savings or checking account owned by the trust in any financial institution without the approval of the Trustee or other Co-Trustor, provided, however, that the ownership of the funds received or deposited, whether community or non-community of either party, shall remain the same and the Co-Trustor removing or adding such funds shall gain no additional ownership interest therein than was present prior to the withdrawal from or addition to the trust account.

ARTICLE XVI GOVERNING LAW

The validity of this trust shall be determined by reference to the laws of the State of Arizona. Questions with regard to the construction and administration of the various trusts contained in this agreement shall be determined by reference to the laws of the jurisdiction in which the trust is then currently being administered.

ARTICLE XVII MERGER

The trust created hereby shall not terminate or be held to have terminated upon any theory of merger based on the fact that the same persons are, by the terms of this instrument, made sole beneficiaries and Trustees of said trust; and said beneficiaries are expressly given the right and privilege to participate in the property and business and the profits, dividends, earnings and increase thereof without regard to the relation as Trustee which such beneficiaries may bear to said trust.

**ARTICLE XVIII
NO-CONTEST CLAUSE**

In the event that any beneficiary under this trust shall, singly or in conjunction with any other person or persons, contest in any court the validity of this trust or of a deceased Co-Trustor's Last Will or shall seek to obtain an adjudication in any proceeding in any court that this trust or any of its provisions, or that such Will or any of its provisions, is void, or seek otherwise to void, nullify, or set aside this trust or any of its provisions, or such Will or any of its provisions, then the right of that person to take any interest given to him by this trust shall be determined as it would have been determined had the person predeceased the execution of this Trust Agreement. The Trustee is authorized to defend, at the expense of the trust estate, any contest or other attack of any nature on this trust or any of its provisions.

**ARTICLE XIX
VALIDITY OF TRUST AGREEMENT**

A. Conflict with Jurisdictional Law. This trust shall be construed in such a manner as to uphold its validity in the event that any provision would otherwise appear to conflict with the law of the jurisdiction governing such trust provision in question.

B. Distribution Required by Court. In the event that any court of competent jurisdiction shall make a final determination that some individual or institution other than a named beneficiary hereunder is, in fact, to be a recipient of a portion or all of this trust estate, the Trustee shall distribute to such court-determined beneficiary such share as such court shall order, and the Trustee and attorney for the trust shall be absolved from any liability whatever for carrying out such order, and all beneficiaries herein shall be bound by such court order. Should any such court make such a determination after any assets are distributed hereunder, the individual or individuals receiving such assets shall return them to the Trustee for redistribution in accordance with the court order.

C. Violation of Law. If the trust created hereunder shall violate any applicable rule against perpetuities, accumulations or any similar rule or law, the Trustee is hereby directed to terminate such trust on the date limited by such rule or law and, thereupon, the property held in such trust shall be distributed to the persons then entitled to share in the income therefrom, in the proportions in which they are entitled to share the income, notwithstanding any provision of this trust to the contrary.

D. Exercise of Power of Appointment in Violation of Law. No power of appointment granted hereunder shall be so exercised as to violate any such applicable rule or law, and attempted exercise of any such power that violates such rule or law shall be void, notwithstanding any provision of this trust to the contrary.

E. Headings. The headings, titles and subtitles used herein are for the convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meanings of the provisions contained herein and shall not affect the construction hereof.

F. Partial Invalidity. Should any part, clause, provision or condition of this Trust be held to be void, invalid or inoperative, I direct that such invalidity shall not affect any other provision hereof, which shall be effective as though such invalid provisions had not been made.

IN WITNESS WHEREOF, **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, Co-Trustors, and **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, as evidence of their acceptance of the responsibilities of Co-Trustees hereunder, have each signed this Trust Agreement.

CO-TRUSTORS:

CO-TRUSTEES:

HARVEY GARFINKEL

HARVEY GARFINKEL

CARMEN M. GARFINKEL

CARMEN M. GARFINKEL

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

On SEP 09 2011, before me, the undersigned, a Notary Public in and for said County and State, personally appeared **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

My Commission Expires:

Notary Public



**ASSIGNMENT OF PERSONAL PROPERTY
TO
THE GARFINKEL FAMILY LIVING TRUST**

We, **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, (hereinafter referred to as "Assignors"), hereby convey, quit claim and assign for good and valuable consideration, all of our rights, title and interest in the property set forth below to the Trustee(s) of **THE GARFINKEL FAMILY LIVING TRUST, DATED SEP 09 2011**, (hereinafter referred to as "Assignee(s)");

All of our present and future interest in and to all of our personal property and household goods and furnishings located in any home we might own or have an interest in now or hereafter.

DATED THIS SEP 09 2011

ASSIGNOR:

ASSIGNOR:

HARVEY GARFINKEL

CARMEN M. GARFINKEL

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

On SEP 09 2011, before me, the undersigned, a Notary Public in and for said County and State, personally appeared **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument, and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

My Commission Expires:

[Signature]
Notary Public



**Memorandum for Distribution
of Tangible Personal Property of
HARVEY GARFINKEL**

Pursuant to Article VI B. 2. of **THE GARFINKEL FAMILY LIVING TRUST**,
DATED SEP 09 2011, I hereby request my Trustee to distribute the
following items of non-business tangible personal property as follows:

**Description of Tangible
Personal Property**

**Recipient of Tangible
Personal Property**

If a recipient of a particular item of non-business personal property does not survive me, such item shall be disposed of as though it had not been listed in this memorandum. In the event there is a conflict between this memorandum and THE GARFINKEL FAMILY LIVING TRUST, the terms of my trust shall control.

Dated: 10/4/11

HARVEY GARFINKEL

**AMENDMENT
TO
THE GARFINKEL FAMILY LIVING TRUST, DATED SEPTEMBER 9, 2011**

I, **HARVEY GARFINKEL**, as Trustor of **THE GARFINKEL FAMILY LIVING TRUST, DATED SEPTEMBER 9, 2011**, (hereunder referred to as the "Trust"), hereby exercise my reserved authority, as stated in Article II of the Trust, and amend the Trust in the following manner:

1. **ARTICLE VI, Section D.** is hereby deleted and replaced with the following new **ARTICLE VI, Section D.**:

D. Administration of Deceased Beneficiary's Share. In the event a beneficiary appointed in **ARTICLE VI C.** hereinabove predeceases the Trustor(s), or survives the Trustors and subsequently dies prior to the complete distribution of his trust share, the Trustee shall divide the remainder of the deceased beneficiary's share into shares as follows and shall hold, administer and distribute each share according to the provisions of **ARTICLE VI E. and F.** hereinbelow:

The share of **JOSEPH ANTHONY TORRES** shall be divided and distributed as follows:

All of Trustors' Vanguard stocks (Brokerage Account No. 49458087) shall be liquidated and distributed as follows: all proceeds from the Wellesley income shares shall be distributed to **ALZHEIMER'S ASSOCIATION**, located at 1028 East McDowell Road, Phoenix, Arizona 85006, one hundred percent (100%); and all proceeds from the Costco shares shall be distributed to **ST. JUDE CHILDREN'S RESEARCH HOSPITAL**, located at 262 Danny Thomas Place, Memphis, Tennessee 38105, fifty percent (50%); and **PHOENIX CHILDREN'S HOSPITAL**, located at 1919 East Thomas Road, Phoenix, Arizona 85016, fifty percent (50%); and

All monies located at and within Trustors' Desert Schools Bank account (Checking Account No. 4326652977 and Savings Account No. 122187238) shall be distributed to **BARBARA TRUESON**, one hundred percent (100%); and

The balance of the share of **JOSEPH ANTHONY TORRES** shall be divided and distributed as follows: **MUSCULAR DYSTROPHY ASSOCIATION (MDA)**, located at 4500 South Lakeshore Drive, Suite 250, Tempe, Arizona 85282, one-third (1/3); **AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (ASPCA)**, located at 424 East 92nd Street, New York, New York 10128-6804, one-third (1/3); and any wounded veterans charitable organization(s) to be chosen by the Trustee, one-third (1/3).

2. **ARTICLE XII, Section A.** is hereby deleted and replaced with the following new **ARTICLE XII, Section A.:**

A. Co-Trustors as Trustees and Successors. Upon the death, resignation or mental incapacity of either **HARVEY GARFINKEL** or **CARMEN M. GARFINKEL** as Trustee, the successor Trustee shall be the survivor of them. Upon the death, resignation or mental incapacity of both **HARVEY GARFINKEL** and **CARMEN M. GARFINKEL**, the successor Trustee shall be **JOSEPH ANTHONY TORRES.** Upon the death, resignation or mental incapacity of **JOSEPH ANTHONY TORRES**, the successor Trustee shall be **BARBARA TRUESON.**

In all other respects the Trust shall remain in full force and effect.

DATED this FEB 05 2016.

HARVEY GARFINKEL, Trustor

STATE OF ARIZONA)
)ss.
COUNTY OF MARICOPA)

On FEB 05 2016, before me personally appeared **HARVEY GARFINKEL**, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed the same.

My Commission Expires:

Notary Public

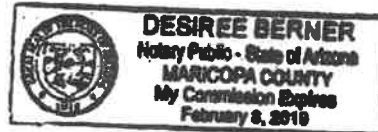


Exhibit B



Russ
Lyon

Sotheby's
INTERNATIONAL REALTY

SELLER'S REPORT

1961 E Rockwood Dr, Phoenix, AZ 85024



Presented by

Sierra Allegretto | Associate Broker

Arizona Real Estate License: BR677985000



Work: (503) 317-7678

Main: sierra@sierraallegretto.com

Agent: sierraallegretto.com | Office: sierraallegretto.com

Russ Lyon Sotheby's International Realty

6800 E Camelback Rd

#110

Scottsdale, AZ 85251





Russ
Lyon

Sotheby's
INTERNATIONAL REALTY

Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

1961 E Rockwood Dr, Phoenix, AZ 85024



Legend: Subject Property

Off Market • Public Record

Current Estimated Value

\$462,610

Last RVM® Update: 2/8/2025

RVM® Est. Range: \$416K – \$509K

RVM® Confidence: ★★★★★

↓ RVM® Change - Last 1 Month: -\$1,770

↓ RVM® Change - Last 12 Months: -1.26%

Your Refined Value

\$332,415

Your Comp Analysis

\$350,000

Last Edited: 2/13/2025

\$223 Price per Sq. Ft.

Your Comp Analysis Range

\$325K – \$350K

This report contains data and information that is publicly available and/or licensed from third parties and is provided to you on an "as is" and "as available" basis. The information is not verified or guaranteed. Neither this report nor the estimated value of a property is an appraisal of the property. Any valuation shown in this report has been generated by use of proprietary computer software that assembles publicly available property records and certain proprietary data to arrive at an approximate estimate of a property's value. Some portions of this report may have been provided by an RPR user; RPR is not responsible for any content provided by its users. RPR and its information providers shall not be liable for any claim or loss resulting from the content of, or errors or omissions in, information contained in this report.





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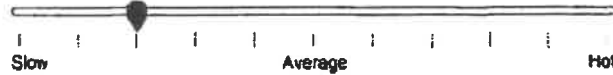
Sotheby's
INTERNATIONAL REALTY

Seller's Report

1981 E Rockwood Dr, Phoenix, AZ 85024

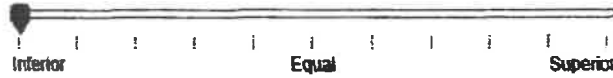
Refined Value: Market Conditions

Local Market
Conditions



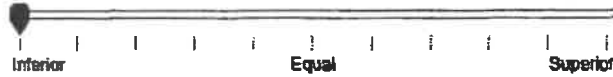
-\$15,140

Home Exterior
Condition (relative to
other properties)



-\$21,028

Home Interior
Condition (relative to
other properties)



-\$21,028

Lot Size (relative to
other properties)



\$0

View (relative to other
properties)



\$0

Privacy (relative to
other properties)



\$0

**Changes to Estimated Value
based on market conditions**

-\$57,195

Refined Value: Needed Improvements

Roof

\$10,000

Flooring

\$15,000

HVAC

\$8,000

Kitchen

\$20,000

Bathroom x 2

\$20,000





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Seller's Report

1881 E Rockwood Dr, Phoenix, AZ 85024

Changes to Estimated Value
based on needed improvements **-\$73,000**



Russ
Lyon

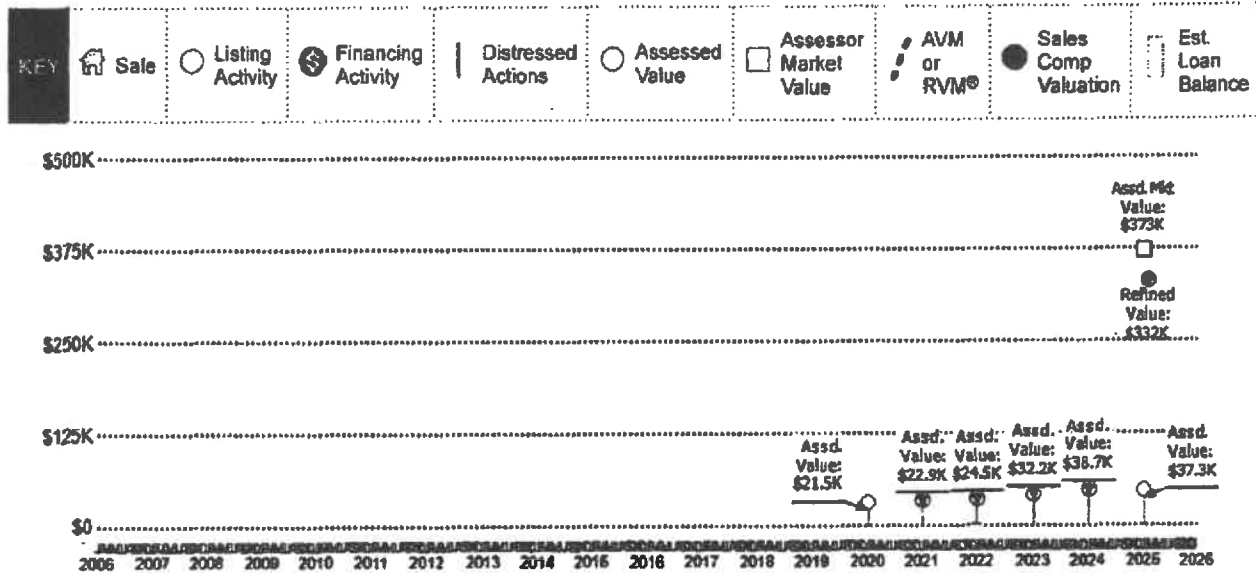
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INTERNATIONAL REALTY

Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Sales and Financing Activity

This chart shows a property's sales and financing history. It can be used to compare the value of the property as seen by public records, such as deeds and tax records, with the estimated home value. Actions taken against the owner, such as the issuance of a Notice of Default, are noted. Sales activity, such as listing date and price reductions, are highlighted.



Data Source: Public Record and Listing data

Update Frequency: Valuations are updated twice monthly; actions on the home, such as listing activity or distressed property notices, are updated daily as made available from public records sources





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INTERNATIONAL REALTY

Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Market Activity for 85024

Market Snapshot

Compared with Last Year: February 12, 2024 vs. February 12, 2025

Median Est. Home Value

\$506K

Up 0.2%

Median Listing Price

\$550K

Up 0.9%

Median Days in RPR

40

Down -21.6%

Sales Volume

11

Down -47.6%



Listing Price vs. Sales Price

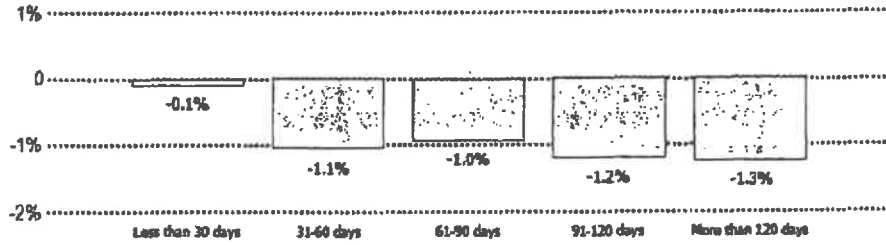
This chart displays the average percentage difference between the listing and selling price, compared by length of time properties were for sale in this market.

Data Source: On- and off-market listings sources

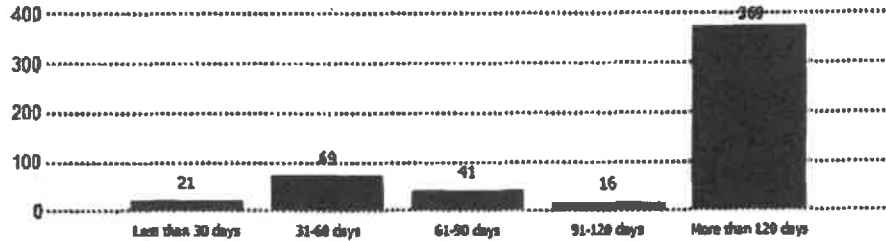
Update Frequency: Monthly

- Below Listing Price
- Number of Sales

Percentage Difference in Price



Number of Sales



Average Price Adjustments

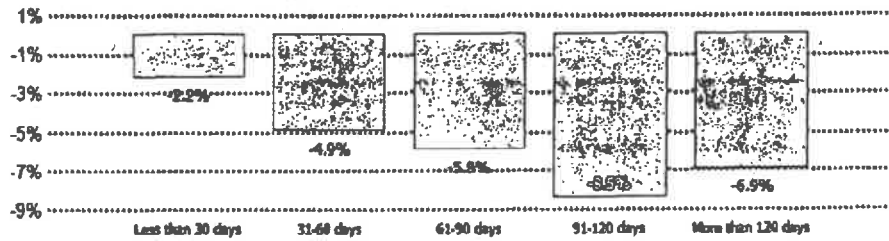
This chart displays the average percentage adjustment from the original list price, compared by length of time properties have been for sale in this market.

Data Source: On- and off-market listings sources

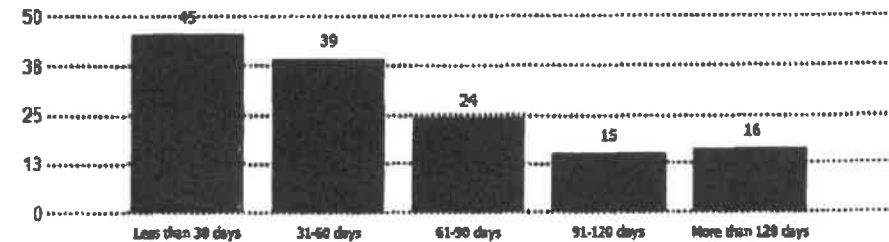
Update Frequency: Monthly

- Price Adjustments (-)
- Number of Price Adjustments - All Listings

Percentage Change in Listing Price



Number of Price Adjustments - All





Market Health Charts and Comparisons

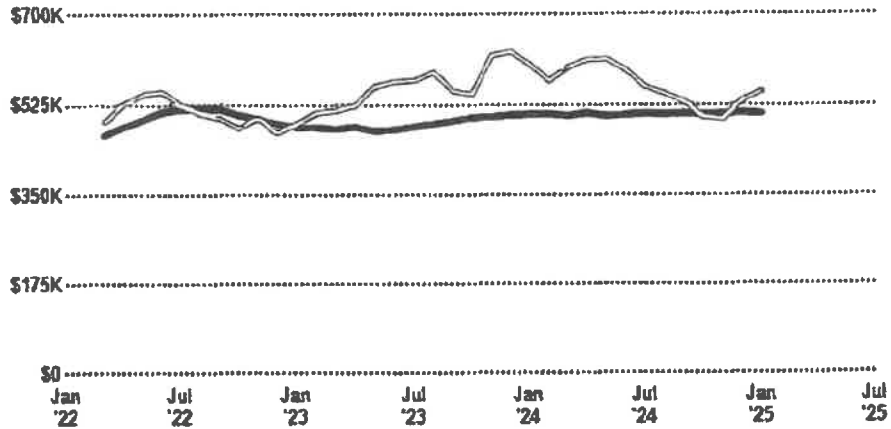
Median Estimated Home Value vs. Median Listing Price

This chart compares a ZIP code's median estimated home value with the median listing price of Active listings. Estimated home values are generated by a valuation model and are not formal appraisals.

Data Source: Public Record and Listing data

Update Frequency: Monthly

- Median Estimated Value
- Median List Price



Median Sales Price vs. Sales Volume

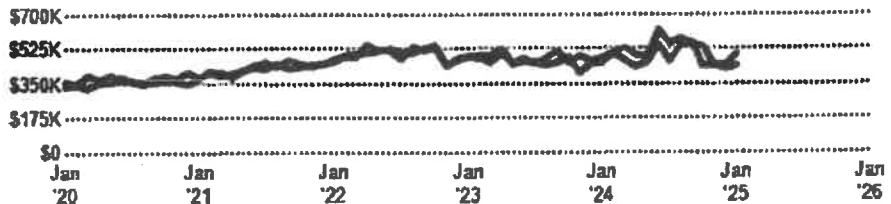
This chart compares the listings and public records sales price trend and sales volume for homes in an area.

Data Source: Public Record and Listing data

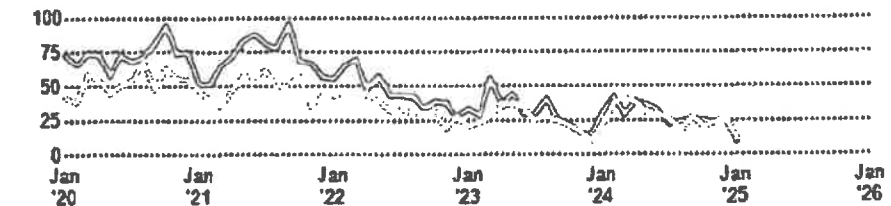
Update Frequency: Monthly

- Median Sales Price Public Records
- Median Sales Price Listings
- Sales Volume Public Records
- Sales Volume Listings

Median Sales Price



Sales Volume





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Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Median Listing Price vs. Listing Volume

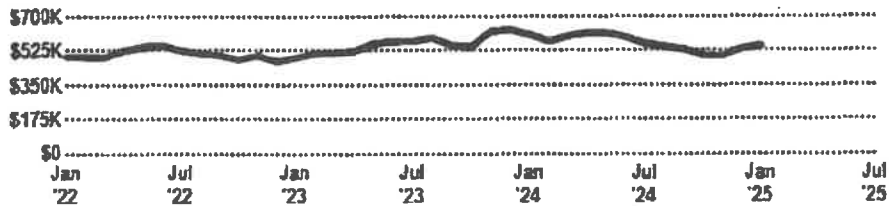
This chart compares the listings and public records sales price trend and sales volume for homes in an area.

Data Source: Public Record and Listing data

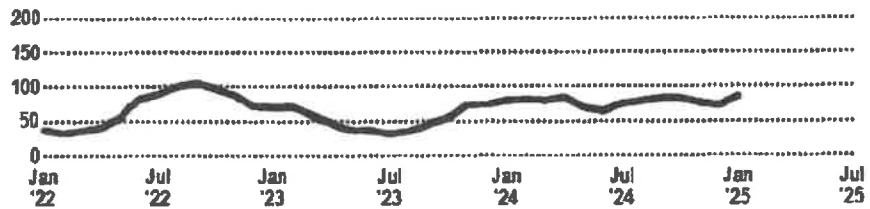
Update Frequency: Monthly

- Median List Price
- Listing Volume

Median List Price



Listing Volume



Listing Inventory

This chart shows the number of For Sale listings in a ZIP code by Property Type.

Data Source: On- and off-market listings sources

Update Frequency: Daily

- ZIP Count Listings by PropertyType



Price per Bedroom of Comps Sold

This chart shows the distribution of homes reported sold in the past six months at different prices per bedroom in the area of your search. The amount shown for the subject property is sold data where available, or the property's estimated value when sales data are unavailable (such as a non-disclosure state) or provided in range format.

Data Source: Public records and MLS data where licensed

Update Frequency: Monthly

- This Property
- Comps

This Property

\$111K

Comps





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1961 E Rockwood Dr, Phoenix, AZ 85024

Median Sales Price by Square Footage

This chart shows the median price of homes reported sold in the past six months, according to the size of the living space (square footage sourced from public records). The amount shown for the subject property is sold data where available, or the property's estimated value when sales data are unavailable (such as non-disclosure states) or provided in range format.

Data Source: Public records and MLS data where licensed

Update Frequency: Monthly

- This Property
- Comps

This Property

1,578 sq. ft.

Comps

2,200 - 2,400 sq. ft.	2,200,000
2,000 - 2,200 sq. ft.	2,500,000
1,800 - 2,000 sq. ft.	2,100,000
1,600 - 1,800 sq. ft.	2,000,000
1,400 - 1,600 sq. ft.	2,100,000

Price Range of Comps Sold

This chart shows the distribution of homes reported sold in the past three months within different price ranges in the area of your search. The amount shown for the subject property is sold data where available, or the property's estimated value when sales data is unavailable (such as a non-disclosure state) or provided in range format.

Data Source: Public records data

Update Frequency: Daily

- This Property
- Comps

This Property

\$332K

Comps

\$660K - \$720K	1
\$540K - \$600K	2
\$480K - \$540K	3
\$420K - \$480K	3

Price per Square Foot of Comps Sold

This chart shows the distribution of homes reported sold in the past three months at different prices per square foot.

Data Source: Public records data

Update Frequency: Daily

- This Property
- Comps

This Property

\$211

Comps

> \$390	1
\$360 - \$390	1
\$300 - \$330	1
\$270 - \$300	3
\$240 - \$270	2
\$180 - \$210	1





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Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Age Range of Comps Sold

This chart shows the distribution of homes reported sold in the past three months of different age ranges in the area of your search.

Data Source: Public records data

Update Frequency: Daily

- This Property
- Comps

This Property

35 yrs

Comps



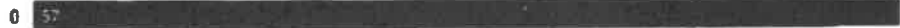
Number of Bedrooms in Homes Sold

This chart shows the distribution of homes reported sold in the past three months, compared by the number of bedrooms, in the area of your search.

Data Source: Public records data

Update Frequency: Daily

- Sales Count by Bedroom



Inventory of Distressed Listings

This chart shows the count of distressed properties (all stages of foreclosure) that are for sale in a ZIP code.

Data Source: MLS data where licensed

Update Frequency: Daily

- Inventory of Distressed Listings



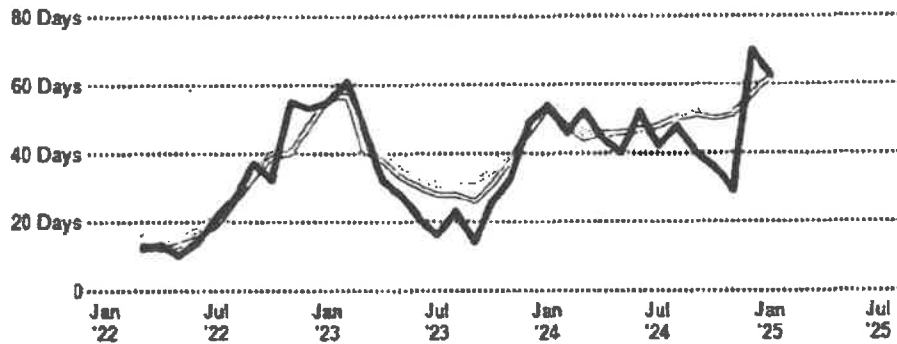
Median Days in RPR

This chart shows how long homes are listed in RPR before their status is converted to sold.

Data Source: Listing data

Update Frequency: Monthly

- 85024
- Maricopa County
- Arizona





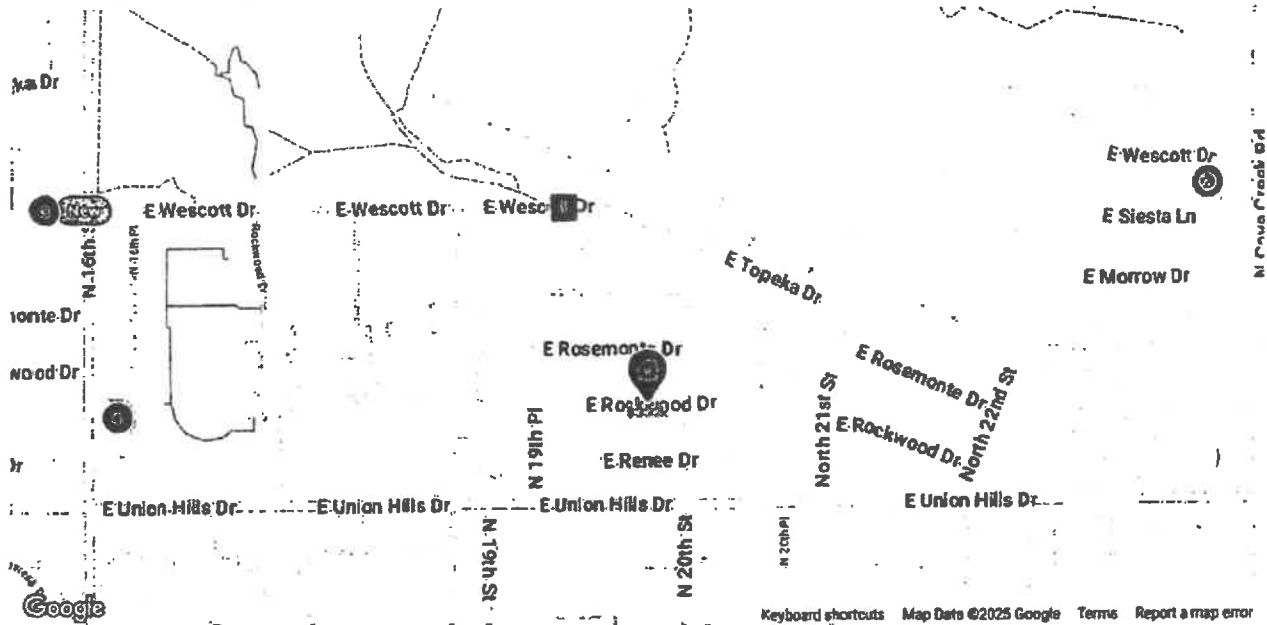
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Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Comps Map

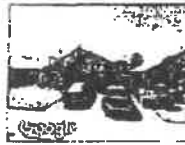


LEGEND: Subject Property Pending For Sale or For Lease Distressed Recent Sale Off Market

Keyboard shortcuts Map Data ©2025 Google Terms Report a map error



Comps Selected by Agent



Address	1981 E Rockwood Dr Phoenix, AZ 85024	1933 E Wescott Dr Phoenix, AZ 85024	2310 E Siesta Ln Phoenix, AZ 85024	18843 N 15th Pl Phoenix, AZ 85024	18614 N 16th Pl Phoenix, AZ 85024
Status	Subject Property	1 Closed	2 Pending	3 Active	4 Active
Amount	\$332,415 Refined Value	\$657,000 Closed Price	\$500,000 List Price	\$599,000 List Price	\$469,000 List Price
Recording Date	-	1/30/2025	-	-	-
Days in RPR	-	75	23	20	243
Price Per Sq. Ft.	\$223	\$414	\$305	\$378	\$298
Bedrooms	3	3	3	3	3
Total Baths	2	2	2	2	2
Partial Baths	1	1	1	1	-
Total Rooms	6	8	7	4	6
Living Area	1,570	1,586	1,638	1,586	1,574
Building Area	1,570	1,586	1,638	1,586	1,574
Lot Size	5,028 sq ft	5,621 sq ft	5,245 sq ft	7,407 sq ft	4,826 sq ft
Year Built	1989	1988	1995	1989	2004
Property Type	Single Family	Single Family	Single Family	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached	Single Family - Detached	Single Family - Detached	Single Family - Detached
Proximity	-	.18 Mi.	.52 Mi.	.53 Mi.	.46 Mi.
MLS ID	-	6785045	6808103	6809834	6719940
Listing Broker	-	Courtesy of Realty One Group Gateway	Listing Courtesy of My Home Group Real Estate	Listing Courtesy of Homesmart	Listing Courtesy of Homesmart

Description		With massive price cuts of over \$50,000 this home is now very aggressively priced for the quality of remodel, with fixtures and appliances to rival multi-million dollar homes. Lovely no hoa neighborhood with mountains right across the street and mountain views from inside the home and from the backyard. Walk through the custom glass pella door into the massive open great room, running almost 80 feet of open and elegant space. The kitchen is a pure master class, with a 12-foot long island with double waterfall edge and Italian quartz throughout...	This stunning home sits on a quiet street in one of north phoenix's most desirable neighborhoods. Located just 10 minutes from the mayo clinic, 3 minutes from costco, 10 minutes from the desert ridge marketplace, and near the loop 101 and 51, it offers unmatched convenience. Inside, enjoy a bright, well-maintained interior with vaulted ceilings, new plantation shutters, and a recently updated kitchen featuring quartz countertops, a stylish backsplash, and an island with breakfast bar seating. The primary suite includes a walk-in closet, dual s...	With a massive price cut of \$25k this home is now very aggressively priced for the quality of remodel. This newly remodeled, stunning, corner lot home has it all. With upgraded finishes that rival any multi-million dollar property. The moment you walk in, you will fall in love with the spacious open concept design and soothing color pallet. The large exotic stone island adds tons of storage to the custom kitchen design with all new appliances. Seamless waterproof flooring through-out and bathrooms that resemble any high-end spa. This little...	Super cute home in great location of north phoenix. Newer style gated community with mountain views, walking distance to schools and shopping. Home is at end of the street at start of cul-de-sac with no neighbors to the south. Useable floor plan offers great room, cozy kitchen with 3 bedrooms plus a den. Nice backyard has covered patio and artificial turf. Home is great condition with newer hvac unit in 2022 and updated kitchen. Perfect starter home, or lock-n-leave winter residence!
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Highlighted fields were changed by agent to reflect knowledge of this property.



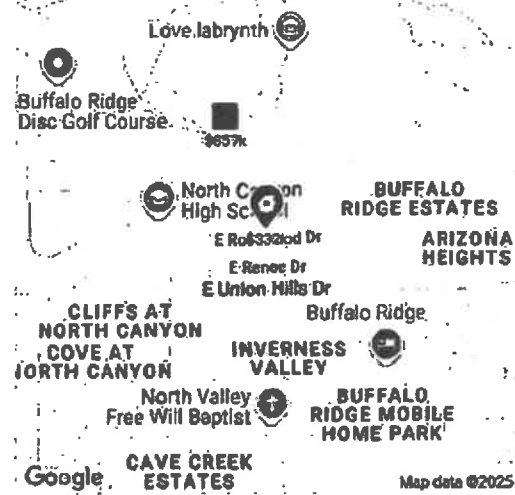
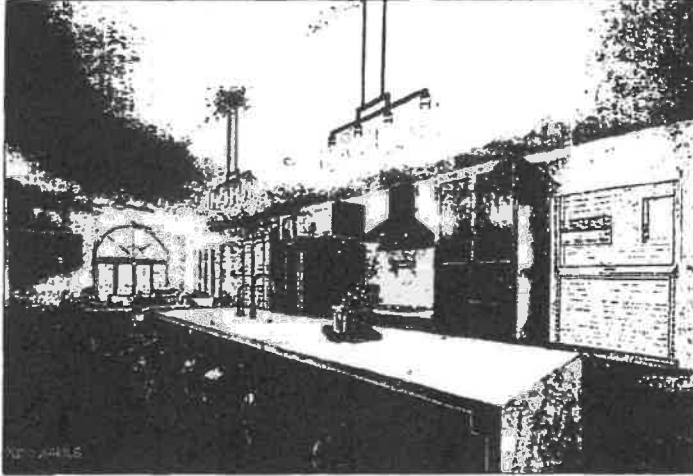
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Seller's Report

1861 E Rockwood Dr, Phoenix, AZ 85024

1933 E Wescott Dr, Phoenix, AZ 85024



LEGEND: Subject Property This Property

Closed

• Sold Date: 1/30/2025
• MLS Listing 6785045: 11/16/2024

Closed Price

\$657,000

Closed Date: 1/30/2025
Days in RPR: 75

With MASSIVE price cuts of over \$50,000 this home is now very aggressively priced for the quality of remodel, with fixtures and appliances to rival multi-million dollar homes. Lovely NO HOA neighborhood with mountains right across the street and mountain views from inside the home and from the back...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	3
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,586	1,586
Building Area (sq ft)	1,586	1,586
Lot Size	6,521 sq ft	6,521 sq ft
Lot Dimensions	6621 SF	-
Garage	Yes	-
Garage (spaces)	2	2
Pool	Yes	Yes
Year Built	1988	1988
Total Rooms	6	8
Roofing	Concrete tile	Tile
Heating	Yes	Electric
Cooling	Refrigeration	Ceiling Fans, Refrigeration
Fireplaces	-	None
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Courtesy of Realty One Group Gateway



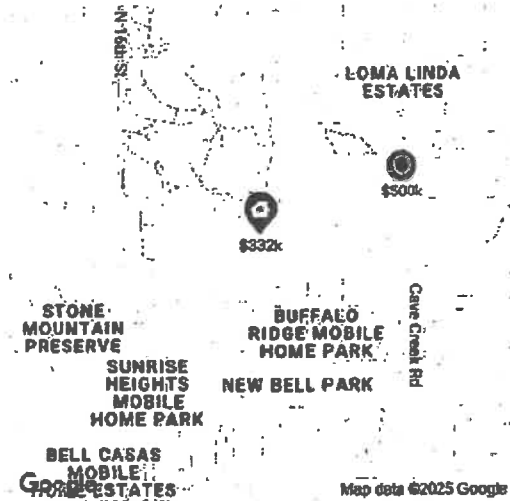
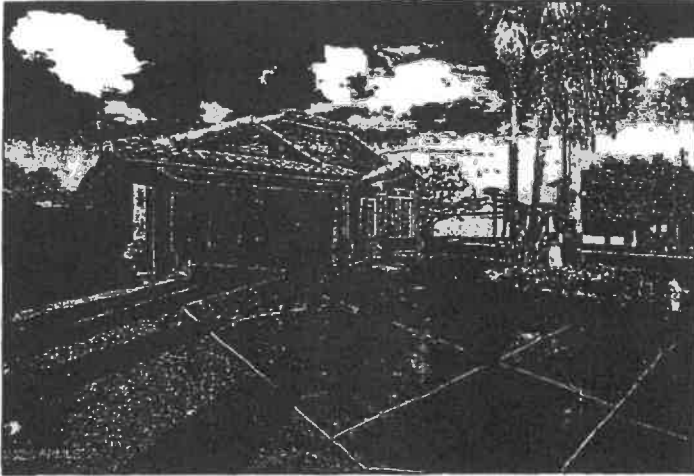
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Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

2310 E Siesta Ln, Phoenix, AZ 85024



LEGEND: Subject Property This Listing

Pending

• Pending as of 1/28/2025

List Price
\$500,000

List Date: 1/20/2025
Days in RPR: 23

This stunning home sits on a quiet street in one of North Phoenix's most desirable neighborhoods. Located just 10 minutes from the Mayo Clinic, 3 minutes from Costco, 10 minutes from the Desert Ridge Marketplace, and near the Loop 101 and 51, it offers unmatched convenience. Inside, enjoy a bright...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	3
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,638	1,638
Building Area (sq ft)	1,638	1,638
Lot Size	6,246 sq ft	6,246 sq ft
Lot Dimensions	6246 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None
Year Built	1995	1995
Total Rooms	7	-
Roofing	Concrete tile	Tile
Heating	Yes	Electric
Cooling	Refrigeration	Ceiling Fans, Refrigeration
Fireplaces	-	None
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Stucco	-
Number of Units	0	-
Number of Stories	1	1

Listing Courtesy of My Home Group Real Estate





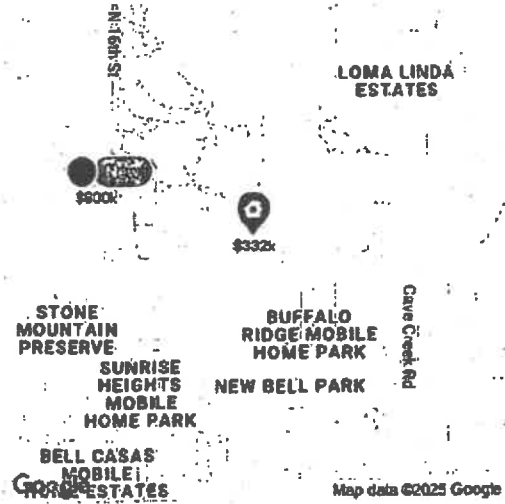
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Seller's Report

1881 E Rockwood Dr, Phoenix, AZ 85024

18843 N 15th Pl, Phoenix, AZ 85024



LEGEND: Subject Property This Listing

● Active

• New, Active: 1/23/2025

List Price

\$599,900

List Date: 1/23/2025

Days in RPR: 20

Last Price Update: 2/9/2025

With a MASSIVE price cut of \$25K this home is now very aggressively priced for the quality of remodel. This newly remodeled, stunning, corner lot home has it all. With upgraded finishes that rival any multi-million dollar property. The moment you walk in, you will fall in love with the spacious o...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	3
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,551	1,556
Building Area (sq ft)	1,551	1,556
Lot Size	7,407 sq ft	7,407 sq ft
Lot Dimensions	7407 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None
Year Built	1989	1989
Total Rooms	5	4
Roofing	Asphalt	Composition
Heating	Yes	Electric
Cooling	Refrigeration	Ceiling Fans, Evaporative Cooling
Fireplaces	-	None
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Listing Courtesy of Homesmart





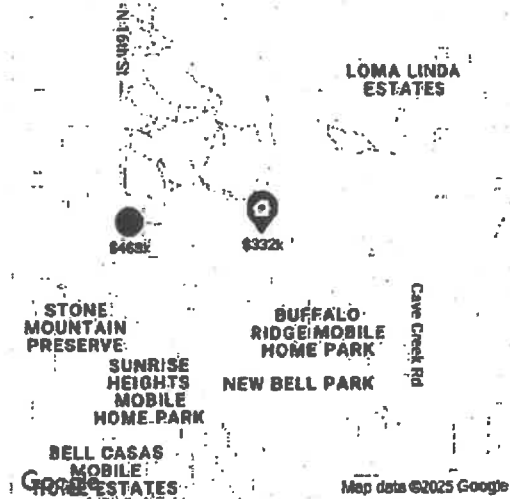
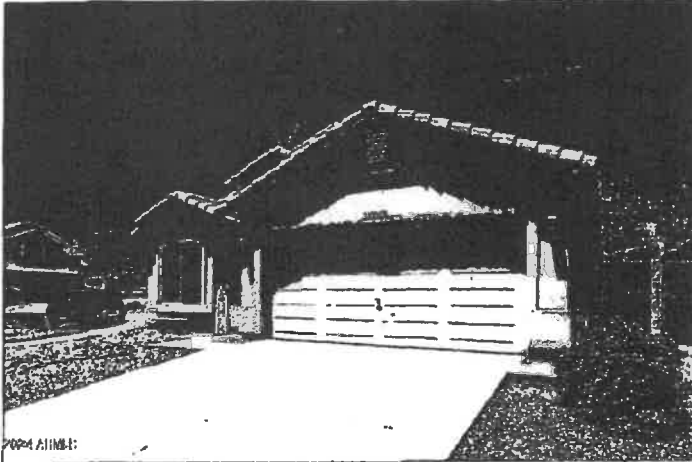
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Seller's Report

1991 E Rockwood Dr, Phoenix, AZ 85024

18614 N 16th Pl, Phoenix, AZ 85024



LEGEND: Subject Property This Listing

● Active

• Active: 6/14/2024

List Price

\$469,000

List Date: 6/14/2024

Days in RPR: 243

Last Price Update: 11/22/2024

Super cute home in great location of North Phoenix. Newer style gated community with mountain views, walking distance to schools and shopping. Home is at end of the street at start of cul-de-sac with no neighbors to the south. Useable floor plan offers great room, cozy kitchen with 3 bedrooms pl...

Home Facts

Public Facts

Listing Facts

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	3
Total Baths	2	2
Full Baths	2	2
Partial Baths	-	-
Living Area (sq ft)	1,574	1,574
Building Area (sq ft)	1,574	1,574
Lot Size	4,826 sq ft	4,826 sq ft
Lot Dimensions	4826 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	Yes	None
Year Built	2004	2004
Total Rooms	6	-
Roofing	Concrete tile	Tile
Heating	Yes	Electric
Cooling	Refrigeration	Ceiling Fans, Refrigeration
Fireplaces	-	None
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Listing Courtesy of Homesmart





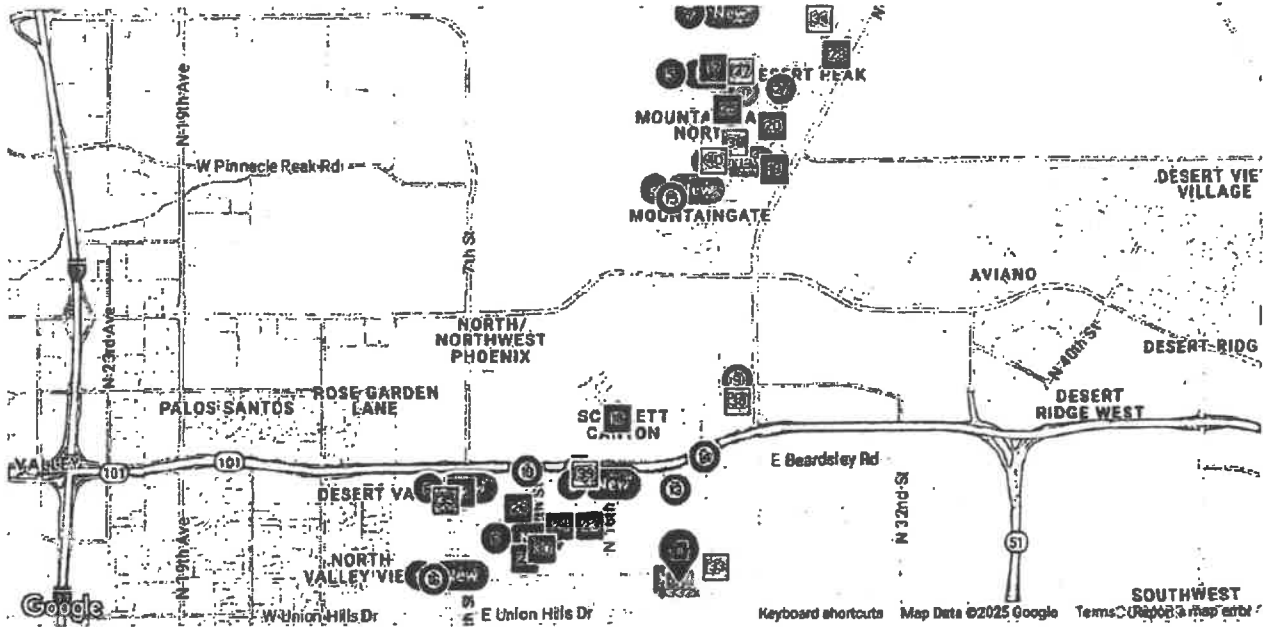
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Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Selected Recent Market Activity for 85024



LEGEND: Subject Property Pending For Sale or For Lease Distressed Pending Distressed Recent Sale Off Market

	User Selected Comps	Market Activity For Sale or For Lease Listings	Market Activity Pending Sales	Market Activity Distressed	Market Activity Expired Listings	Market Activity Closed
Total Number of Properties	4	8	8	8	8	8
Lowest Listing Price/Est. Value	\$469,000	\$299,900	\$419,000	\$317,420	\$363,750	\$410,000
Median Listing Price/Est. Value	\$549,950	\$605,000	\$560,000	\$548,315	\$728,905	\$603,000
Highest Listing Price/Est. Value	\$657,000	\$1,380,000	\$735,000	\$1,405,260	\$1,399,000	\$805,000
Median Living Area	1,586	1,872	1,956	1,620	2,612	1,926
Median Price per sq.ft.	\$342	\$305	\$280	\$313	\$293	\$344
Median Days in RPR	49	6	52	51	189	52
Median Age	33	32	30	33	22	28





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Seller's Report

1961 E Rockwood Dr, Phoenix, AZ 85024

Recommended Pricing Strategy

This chart compares the high, low and median price of homes in various listing statuses in the subject property's ZIP code to help determine the asking price for the subject property. The prices of the User Selected Comps are closed prices where available.

	User Selected Comps	Market Activity For Sale Listings	Market Activity Closed	Market Activity Distressed	Market Activity Expired Listings	Market Activity Pending Sales
Lowest Price	\$489,000	\$289,900	\$410,000	\$317,420	\$363,750	\$419,000
Median Price	\$549,950	\$605,000	\$603,000	\$548,315	\$728,905	\$560,000
Highest Price	\$657,000	\$1,380,000	\$805,000	\$1,405,260	\$1,399,000	\$735,000
Median Price Per Sq. Ft.	\$342	\$305	\$344	\$313	\$293	\$280
Median Days in RPR	49	6	52	51	189	52

Details of Comparative Analysis

Average of Comps	\$547,538
Adjustments	-\$109,507
Recommended Price	\$350,000 (or \$223 per sq. ft.)

Details of Refined Value Analysis

Original Estimated Value	\$462,610
Changes Based on Home Facts	—
Home Improvement Adjustments	—
Needed Improvement Adjustments	-\$73,000
Market Condition Adjustments	-\$57,195
Estimate + Adjustments	\$332,415 (or \$211 per sq. ft.)

Sellers

Signature	Date
Signature	Date

Broker / Agent

Signature	Date
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Seller's Report

1951 E Rockwood Dr, Phoenix, AZ 85024

About RPR (Realtors Property Resource)

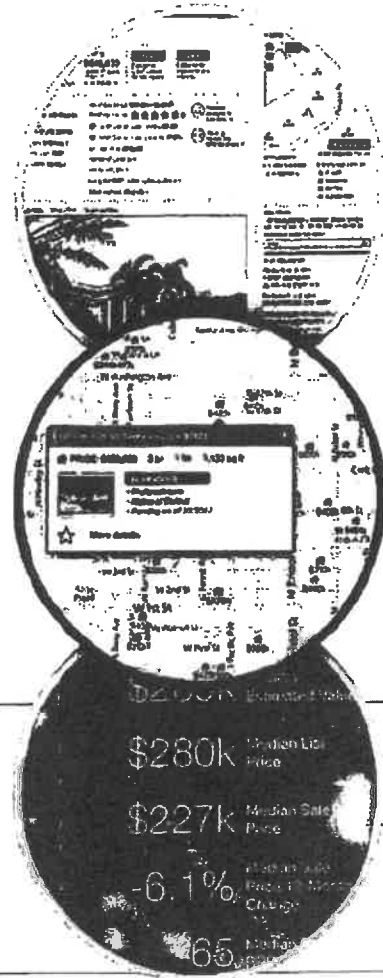
- Realtors Property Resource® is a wholly owned subsidiary of the National Association REALTORS®.
- RPR offers comprehensive data – including a nationwide database of 164 million properties – as well as powerful analytics and dynamic reports exclusively for members of the NAR.
- RPR's focus is giving residential and commercial real estate practitioners, brokers, and MLS and Association staff the tools they need to serve their clients.
- This report has been provided to you by a member of the NAR.



About RPR's Data

RPR generates and compiles real estate and other data from a vast array of sources. The data contained in your report includes some or all of the following:

- **Listing data** from our partner MLSs and CIEs, and related calculations, like estimated value for a property or median sales price for a local market.
- **Public records data** including tax, assessment, and deed information. Foreclosure and distressed data from public records.
- **Market conditions and forecasts** based on listing and public records data.
- **Census and employment data** from the U.S. Census and the U.S. Bureau of Labor Statistics.
- **Demographics and trends data** from Esri. The data in commercial and economic reports includes Tapestry Segmentation, which classifies U.S. residential neighborhoods into unique market segments based on socioeconomic and demographic characteristics.
- **Business data** including consumer expenditures, commercial market potential, retail marketplace, SIC and NAICS business information, and banking potential data from Esri.
- **School data and reviews** from Niche.
- **Specialty data sets** such as walkability scores, traffic counts and flood zones.



Update Frequency

- Listings and public records data are updated on a continuous basis.
- Charts and statistics calculated from listing and public records data are refreshed monthly.
- Other data sets range from daily to annual updates.

Learn more

For more information about RPR, please visit RPR's public website: <https://blog.narpr.com>



Exhibit C

BUYER ATTACHMENTDocument updated:
August 2024

This attachment should be given to the Buyer prior to the submission of any offer and is not part of the Residential Resale Real Estate Purchase Contract's terms.



ATTENTION BUYER!

You are entering into a legally binding agreement.

- 1. Read the entire contract *before* you sign it.
- 2. Review the Residential Seller's Property Disclosure Statement (See Section 4a).
 - This information comes directly from the Seller.
 - Investigate any blank spaces, unclear answers or any other information that is important to you.
- 3. Review the Inspection Paragraph (see Section 6a).

If important to you, hire a qualified:

- General home inspector
- Heating/cooling inspector
- Mold inspector
- Pest inspector
- Pool inspector
- Roof inspector

Verify square footage (see Section 6b)

Verify the property is on sewer or septic (see Section 6f)

- 4. Confirm your ability to obtain insurance and insurability of the property during the inspection period with your insurance agent (see Sections 6a and 6e).
- 5. Apply for your home loan now, if you have not done so already, and provide your lender with all requested information (see Section 2f).

It is your responsibility to make sure that you and your lender follow the timeline requirements in Section 2, and that you and your lender deliver the necessary funds to escrow in sufficient time to allow escrow to close on the agreed upon date. Otherwise, the Seller may cancel the contract and you may be liable for damages.

- 6. Read the title commitment within five (5) days of receipt (see Section 3c).
- 7. Read the CC&R's and all other governing documents within five (5) days of receipt (see Section 3c), especially if the home is in a homeowner's association.
- 8. Conduct a thorough pre-closing walkthrough (see Section 6i). If the property is unacceptable, speak up. After the closing may be too late.

You can obtain information through the Buyer's Advisory at www.aaronline.com/manage-risk/buyer-advisory-3/.

Remember, you are urged to consult with an attorney, inspectors, and experts of your choice in any area of interest or concern in the transaction. Be cautious about verbal representations, advertising claims, and information contained in a listing. **Verify anything important to you.**

WARNING: *WIRE TRANSFER FRAUD*

Beware of wiring instructions sent via email. Cyber criminals may hack email accounts and send emails with fake wiring instructions. **Always independently confirm wiring instructions prior to wiring any money.** Do not email or transmit documents that show bank account numbers or personal identification information.

Buyer's Check List

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated:
August 2024



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



1. PROPERTY

- 1a. 1. **BUYER:** Wheelhouse Properties, Inc
BUYER'S NAME(S)
- 2. **SELLER:** Garfinkel Family Living Trust or as identified in section 9c.
SELLER'S NAME(S)
- 3. Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon
- 4. or incidental thereto, plus the personal property described herein (collectively the "Premises").
- 1b. 5. Premises Address: 1961 E ROCKWOOD Drive Assessor's #: 213-21-034
- 6. City: Phoenix County: Maricopa AZ, Zip Code: 85024-3059
- 7. Legal Description: LOT 25 HILLEDAL LOT 1-106 TR A MCR 030116
- 8. _____
- 9. _____
- 1c. 10. \$ 350,000.00 Full Purchase Price, paid as outlined below
- 11. \$ 5,000.00 Earnest Money To be deposited within 2 hrs of contract acceptance (see page 8)
- 12. \$ 345,000.00 Cash at closing
- 13. \$ _____
- 14. _____
- 15. _____
- 16. _____
- 17. Earnest Money is in the form of: Personal Check Wire Transfer Other Business Check or Wire
- 18. Upon acceptance of this offer, the Earnest Money, if any, will be deposited with: Escrow Company Broker's Trust Account.
- 19. IF THIS IS AN ALL CASH SALE: A Letter of Credit or a source of funds from a financial institution documenting the availability of
- 20. funds to close escrow is attached hereto.
- 1d. 21. **Close of Escrow:** Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office.
- 22. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing
- 23. documents, and perform all other acts necessary in sufficient time to allow COE to occur on
- 24. 3 days after Court Approval, 20 25 ("COE Date"). If Escrow Company or recorder's office is closed on the COE Date,
MONTH DAY YEAR
- 25. COE shall occur on the next day that both are open for business.
- 26. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down
- 27. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to
- 28. Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on the COE Date.
- 29. Buyer acknowledges that failure to pay the required closing funds by the scheduled COE, if not cured after a cure notice is delivered
- 30. pursuant to Section 7a, shall be construed as a material breach of this Contract and the Earnest Money shall be subject to forfeiture.
- 31. All funds are to be in U.S. currency.
- 1e. 32. **Possession:** Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security
- 33. system/alarms, and all common area facilities to Buyer at COE or
- 34. Broker(s) recommend that the parties seek independent counsel from insurance, legal, tax, and accounting professionals regarding
- 35. the risks of pre-possession or post-possession of the Premises.
- 1f. 36. **Addenda Incorporated:** Additional Clause Buyer Contingency Domestic Water Well H.O.A.
- 37. Lead-Based Paint Disclosure Loan Assumption On-site Wastewater Treatment Facility Seller Compensation
- 38. Seller Financing Short Sale Solar Addendum Other: _____

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- 1g. 39. **Fixtures and Personal Property:** For purposes of this Contract, fixtures shall mean property attached/affixed to the Premises.
- 40. Seller agrees that all existing: fixtures on the Premises, personal property specified herein, and means to operate fixtures and
- 41. property (i.e., remote controls) shall convey in this sale. Including the following:
 - 42. •built-in appliances, ceiling fans and remotes
 - 43. •central vacuum, hose, and attachments
 - 44. •draperies and other window coverings
 - 45. •fireplace equipment (affixed)
 - 46. •floor coverings (affixed)
 - 47. •free-standing range/oven
 - 48. •garage door openers and remotes
 - 49. •light fixtures
 - 50. •mailbox
 - media antennas/satellite dishes (affixed)
 - outdoor fountains and lighting
 - outdoor landscaping (i.e., shrubbery, trees and unpotted plants)
 - shutters and awnings
 - smart home devices, access to which shall be transferred (i.e., video doorbell, automated thermostat)
 - speakers (flush-mounted)
 - storage sheds
 - storm windows and doors
 - stoves: gas-log, pellet, wood-burning
 - timers (affixed)
 - towel, curtain and drapery rods
 - wall mounted TV brackets and hardware (excluding TVs)
 - water-misting systems
 - window and door screens, sun shades
- 51. If owned by Seller, the following items also are included in this sale:
 - 52. •affixed alternate power systems serving the Premises (i.e., solar)
 - in-ground pool and spa/hot tub equipment and covers (including any mechanical or other cleaning systems)
 - security and/or fire systems and/or alarms
 - water purification systems
 - water softeners
- 55. **Additional existing personal property included in this sale (if checked):**
- 56. refrigerator (description): _____
- 57. washer (description): _____
- 58. dryer (description): _____
- 59. above-ground spa/hot tub including equipment, covers, and any mechanical or other cleaning systems (description): _____
- 60. _____
- 61. other personal property not otherwise addressed (description): _____
- 62. other personal property not otherwise addressed (description): _____
- 63. **Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no**
- 64. **monetary value, and free and clear of all liens or encumbrances.**
- 65. Leased items shall NOT be included in this sale. Seller shall deliver notice of all leased items within three (3) days after Contract
- 66. acceptance. Buyer shall provide notice of any leased items disapproved within the Inspection Period or five (5) days after receipt of the
- 67. notice, whichever is later.
- 68. **IF THIS IS AN ALL CASH SALE:** Section 2 does not apply - go to Section 3.

2. FINANCING

- 2a. 69. **Pre-Qualification:** An AAR Pre-Qualification Form is attached hereto and incorporated herein by reference.
- 2b. 70. **Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval without Prior to
- 71. Document ("PTD") conditions no later than three (3) days prior to the COE Date for the loan described in the AAR Loan Status
- 72. Update ("LSU") form or the AAR Pre-Qualification Form, whichever is delivered later. No later than three (3) days prior to the
- 73. COE Date, Buyer shall either: (i) sign all loan documents; or (ii) deliver to Seller or Escrow Company notice of loan
- 74. approval without PTD conditions AND date(s) of receipt of Closing Disclosure(s) from Lender; or (iii) deliver to Seller or
- 75. Escrow Company notice of inability to obtain loan approval without PTD conditions.
- 2c. 76. **Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the Earnest Money if
- 77. after diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions and delivers notice of inability
- 78. to obtain loan approval no later than three (3) days prior to the COE Date. If Buyer fails to deliver such notice, Seller may issue a
- 79. cure notice to Buyer as required by Section 7a and, in the event of Buyer's breach, Seller shall be entitled to the Earnest Money
- 80. pursuant to Section 7b. If, prior to expiration of any Cure Period, Buyer delivers notice of inability to obtain loan approval, Buyer
- 81. shall be entitled to a return of the Earnest Money. Buyer acknowledges that prepaid items paid separately from the Earnest Money
- 82. are not refundable.
- 2d. 83. **Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest
- 84. rate and "points" by separate written agreement with the lender; or (ii) the failure to have the down payment or other funds
- 85. due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan
- 86. contingency.
- 2e. 87. **Loan Status Update:** Buyer shall deliver to Seller the LSU, with at a minimum lines 1-40 completed, describing the current status
- 88. of the Buyer's proposed loan within ten (10) days after Contract acceptance and instruct lender to provide an updated LSU to
- 89. Broker(s) and Seller upon request.

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- 2f. 90. **Loan Application:** Unless previously completed, within three (3) days after Contract acceptance Buyer shall (i) provide lender with Buyer's name, income, social security number, Premises address, estimate of value of the Premises, and mortgage loan amount sought; and (ii) grant lender permission to access Buyer's Trimerged Residential Credit Report.
- 2g. 93. **Loan Processing During Escrow:** Within ten (10) days after receipt of the Loan Estimate Buyer shall (i) provide lender with notice of intent to proceed with the loan transaction in a manner satisfactory to lender; and (ii) provide to lender all requested signed disclosures and the documentation listed in the LSU at lines 32-35. Buyer agrees to diligently work to obtain the loan and will promptly provide the lender with all additional documentation requested.
- 2h. 97. **Type of Financing:** Conventional FHA VA USDA Assumption Seller Carryback Cash
98. (If financing is to be other than new financing, see attached addendum.)
- 2i. 99. **Loan Costs:** All costs of obtaining the loan shall be paid by Buyer, unless otherwise provided for herein.
- 2j. 100. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller will credit Buyer _____% of the Purchase Price OR \$ _____ (Seller Concessions). The Seller Concessions may be used for any Buyer fee, cost, charge, or expenditure to the extent allowed by Buyer's lender.
- 2k. 103. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the Pre-Qualification Form attached hereto or LSU provided within ten (10) days after Contract acceptance and shall only make any such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan approval without PTD conditions, increase Seller's closing costs, or delay COE.
- 2l. 107. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to lender for at least the purchase price. If the Premises fail to appraise for the purchase price in any appraisal required by lender, Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a return of the Earnest Money or the appraisal contingency shall be waived, unless otherwise prohibited by federal law.
- 2m. 111. **Appraisal Cost(s):** Initial appraisal fee shall be paid by Buyer Seller Other _____ at the time payment is required by lender and is non-refundable. If Seller is paying the initial appraisal fee, the fee will will not be applied against Seller's Concessions at COE, if applicable. If Buyer's lender requires an updated appraisal prior to COE, it will be performed at Buyer's expense. Any appraiser/lender required inspection cost(s) shall be paid for by Buyer.

3. TITLE AND ESCROW

3a. 115. **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the terms of this Contract shall be:

117. Chicago Title Agency Stacy Heintz
ESCROW/TITLE COMPANY



118. 20860 N. Tatum Blvd., Ste. 140 Phoenix AZ 85050
ADDRESS CITY STATE ZIP

119. Stacy.Heintz@ctt.com (602) 667-1252
EMAIL PHONE FAX

3b. 120. **Title and Vesting:** Buyer will take title as determined before COE. If Buyer is married and intends to take title as his/her sole and separate property, a disclaimer deed may be required. Taking title may have significant legal, estate planning and tax consequences. Buyer should obtain independent legal and tax advice.

3c. 123. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, addressed pursuant to 8e and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's Title Insurance Policy or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire extended coverage at Buyer's own additional expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title Insurance Policy.

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- 3d. 133. **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of Buyer to any homeowner's association(s) in which the Premises are located. (ii) If Escrow Company is also acting as the title agency but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to Buyer and Seller, upon deposit of funds, a closing protection letter from the title insurer indemnifying Buyer and Seller for any losses due to fraudulent acts or breach of escrow instructions by Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by Seller and Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to Seller, Buyer and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information regarding the escrow. (vii) If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.
- 3e. 143. **Tax Prorations:** Real property taxes payable by Seller shall be prorated to COE based upon the latest tax information available.
- 3f. 144. **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with Escrow Company, Buyer and Seller authorize Escrow Company to release the Earnest Money pursuant to the terms and conditions of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or relating in any way to the release of the Earnest Money.
- 3g. 149. **Prorations of Assessments and Fees:** All assessments and fees that are not a lien as of COE, including homeowner's association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, and service contracts, shall be prorated as of COE or Other: _____
- 3h. 152. **Assessment Liens:** The amount of any assessment lien or bond including those charged by a special taxing district, such as a Community Facilities District, shall be prorated as of COE.

4. DISCLOSURE

- 4a. 154. **Seller's Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR Residential SPDS form to Buyer within three (3) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection Period or five (5) days after receipt of the SPDS, whichever is later.
- 4b. 157. **Insurance Claims History:** Seller shall deliver to Buyer a written five (5) year insurance claims history regarding the Premises (or a claims history for the length of time Seller has owned the Premises if less than five (5) years) from Seller's insurance company or an insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days after Contract acceptance. Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after receipt of the claims history, whichever is later.
- 4c. 162. **Foreign Sellers:** The Foreign Investment in Real Property Tax Act ("FIRPTA") is applicable if Seller is a non-resident alien individual, foreign corporation, foreign partnership, foreign trust, or foreign estate ("Foreign Person"). Seller agrees to complete, sign, and deliver to Escrow Company a certificate indicating whether Seller is a Foreign Person. FIRPTA requires that a foreign seller may have federal income taxes up to 15% of the purchase price withheld, unless an exception applies. Seller is responsible for obtaining independent legal and tax advice.
- 4d. 167. **Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, Seller shall: (i) notify Buyer of any known lead-based paint ("LBP") or LBP hazards in the Premises; (ii) provide Buyer with any LBP risk assessments or inspections of the Premises in Seller's possession; (iii) provide Buyer with the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, and any report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family from Lead in Your Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards to Seller prior to COE.
 - 173. LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk assessments or inspections during Inspection Period.
 - 175. Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days or _____ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five (5) days after expiration of the Assessment Period cancel this Contract.
 - 179. Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in residential properties built before 1978 and to follow specific work practices to prevent lead contamination.
 - 181. If Premises were constructed prior to 1978, (BUYER'S INITIALS REQUIRED) JV BUYER BUYER
 - 182. If Premises were constructed in 1978 or later, (BUYER'S INITIALS REQUIRED) _____ BUYER BUYER

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- 4e. 183. **Affidavit of Disclosure:** If the Premises are located in an unincorporated area of the county, and five (5) or fewer parcels of
184. property other than subdivided property are being transferred, Seller shall deliver a completed Affidavit of Disclosure in the form
185. required by law to Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items
186. disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.
- 4f. 187. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein,
188. in the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by this
189. Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed five (5) days after
190. delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

- 5a. 191. **Condition of Premises: BUYER AND SELLER AGREE THE PREMISES ARE BEING SOLD IN ITS PRESENT PHYSICAL
192. CONDITION AS OF THE DATE OF CONTRACT ACCEPTANCE.** Seller makes no warranty to Buyer, either express or implied,
193. as to the condition, zoning, or fitness for any particular use or purpose of the Premises. However, Seller shall maintain and repair
194. the Premises so that at the earlier of possession or COE: (i) the Premises, including all personal property included in the sale, will
195. be in substantially the same condition as on the date of Contract acceptance; and (ii) all personal property not included in the sale
196. and debris will be removed from the Premises. Buyer is advised to conduct independent inspections and investigations regarding
197. the Premises within the Inspection Period as specified in Section 6a. Buyer and Seller acknowledge and understand they may,
198. but are not obligated to, engage in negotiations or address repairs/improvements to the Premises. Any/all agreed upon repairs/
199. improvements will be addressed pursuant to Section 6j.
- 5b. 200. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and
201. any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the
202. consideration to be paid by Buyer. Prior to COE, Seller warrants that payment in full will have been made for all labor, professional
203. services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding COE in connection with the
204. construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the information regarding
205. connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is correct to the best of
206. Seller's knowledge.
- 5c. 207. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect
208. Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE,
209. Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises.
210. Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:
211. _____
212. _____

6. DUE DILIGENCE

- 6a. 213. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or 0(Zero) days after Contract acceptance. During the
214. Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections
215. and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies,
216. lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and
217. the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards,
218. violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of
219. sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is
220. a material matter to Buyer, it must be investigated by Buyer during the Inspection Period. Buyer shall keep the Premises free and
221. clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair all
222. damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection
223. reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate Buyer
224. Advisory to assist in Buyer's due diligence inspections and investigations.
- 6b. 225. **Square Footage: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE
226. REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL
227. MATTER TO BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.**
- 6c. 228. **Wood-Destroying Organism or Insect Inspection: IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS
229. (SUCH AS TERMITES) ARE A MATERIAL MATTER TO BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE
230. INSPECTION PERIOD.** Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the
231. Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be
232. performed at Buyer's expense.
- 6d. 233. **Flood Hazard: FLOOD HAZARD DESIGNATIONS OR THE COST OF FLOOD HAZARD INSURANCE SHALL BE
234. DETERMINED BY BUYER DURING THE INSPECTION PERIOD.** If the Premises are situated in an area identified as having
235. any special flood hazards by any governmental entity, THE LENDER MAY REQUIRE THE PURCHASE OF FLOOD HAZARD
236. INSURANCE. Special flood hazards may also affect the ability to encumber or improve the Premises.

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6e. 237. Insurance: IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO BUYER, BUYER SHALL APPLY FOR AND OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD. Buyer understands that any homeowner's, fire, casualty, flood or other insurance desired by Buyer or required by lender should be in place at COE.

6f. 241. Sewer or On-site Wastewater Treatment System: The Premises are connected to a:

242. sewer system conventional septic system alternative system

243. **IF A SEWER CONNECTION IS A MATERIAL MATTER TO BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.** If the Premises are served by a conventional septic or alternative system, the AAR On-site Wastewater Treatment Facility Addendum is incorporated herein by reference.

246.

(BUYER'S INITIALS REQUIRED) JS
BUYER BUYER

6g. 247. Swimming Pool Barrier Regulations: During the Inspection Period, Buyer agrees to investigate all applicable state, county, and municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt of the Arizona Department of Health Services approved private pool safety notice.

251.

(BUYER'S INITIALS REQUIRED) JS
BUYER BUYER

6h. 252. BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE SURROUNDING AREA IS BEYOND THE SCOPE OF BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.

259.

(BUYER'S INITIALS REQUIRED) JS
BUYER BUYER

6l. 260. Inspection Period Notice: Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be provided in a single notice.

6j. 264. Buyer Disapproval: If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller a signed notice of the items disapproved and state in the notice that Buyer elects to either:

266. (1) Immediately cancel this Contract, in which case:

267. (a) If Buyer's notice specifies disapproval of items as allowed herein, the Earnest Money shall be released to Buyer.

268. (b) If Buyer's notice fails to specify items disapproved as allowed herein, the cancellation will remain in effect but Buyer has failed to comply with a provision of this Contract and Seller may deliver to Buyer a cure notice as required by Section 7a. If Buyer fails to cure their non-compliance within three (3) days after delivery of such notice, Buyer shall be in breach and Seller shall be entitled to the Earnest Money. If, prior to expiration of the Cure Period, Buyer delivers notice specifying items disapproved as allowed herein, Buyer shall be entitled to a return of the Earnest Money.

273. **OR**

274. (2) Provide Seller an opportunity to correct or address the items disapproved, in which case:

275. (a) Seller shall respond in writing within five (5) days or _____ days after delivery to Seller of Buyer's notice of items disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed Seller's refusal to correct or address any of the items disapproved.

278. (b) If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days or _____ days prior to the COE Date.

281. (c) If Seller is unwilling or unable to correct or address any of the items disapproved, Buyer may cancel this Contract within five (5) days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and the Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided, Buyer shall close escrow without those items that Seller has not agreed in writing to correct or address.

285. **VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS.** Only a written agreement signed by both parties will extend response times or cancellation rights.

287. **BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.**

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Residential Resale Real Estate Purchase Contract >>

6k. 290. Home Warranty Plan: Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The
291. parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and
292. most plans exclude pre-existing conditions.

293. A Home Warranty Plan will be ordered by Buyer or Seller with the following optional coverage

294. _____, to be issued by _____ at a cost

295. not to exceed \$ _____, to be paid for by Buyer Seller Split evenly between Buyer and Seller

296. Buyer declines the purchase of a Home Warranty Plan.

297.

(BUYER'S INITIALS REQUIRED)

MS
BUYER

BUYER

6l. 298. Walkthrough(s): Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for
299. the purpose of satisfying Buyer that any corrections or repairs agreed to by Seller have been completed, and the Premises are
300. in substantially the same condition as of the date of Contract acceptance. If Buyer does not conduct such walkthrough(s), Buyer
301. releases Seller and Broker(s) from liability for any defects that could have been discovered.

6m. 302. Seller's Responsibility Regarding Inspections and Walkthrough(s): Seller shall make the Premises available for all inspections
303. and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane,
304. until COE to enable Buyer to conduct these inspections and walkthrough(s).

6n. 305. IRS and FIRPTA Reporting: The Foreign Investment in Real Property Tax Act ("FIRPTA") provides that, if a seller is a Foreign
306. Person, a buyer of residential real property must withhold federal income taxes up to 15% of the purchase price, unless an exception
307. applies. If FIRPTA is applicable and Buyer fails to withhold, Buyer may be held liable for the tax. Buyer agrees to perform any acts
308. reasonable or necessary to comply with FIRPTA and IRS reporting requirements and Buyer is responsible for obtaining independent
309. legal and tax advice.

7. REMEDIES

7a. 310. Cure Period: A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any
311. provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the
312. non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a
313. breach of Contract. If Escrow Company or recorder's office is closed on the last day of the Cure Period, and COE must occur
314. to cure a potential breach, COE shall occur on the next day that both are open for business.

7b. 315. Breach: In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the
316. breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute
317. Resolution obligations set forth herein. In the case of Seller, because it would be difficult to fix actual damages in the event of
318. Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept
319. the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver the
320. notice required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant
321. to Section 2i, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled
322. contingency is not a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and
323. conditions of Section 1d to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a,
324. will constitute a material breach of this Contract, rendering the Contract subject to cancellation.

7c. 325. Alternative Dispute Resolution ("ADR"): Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this
326. Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid
327. equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall
328. be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of
329. an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration
330. Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be
331. final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.
332. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the
333. mediation conference by notice to the other and, in such event, either party shall have the right to resort to court action.

7d. 334. Exclusions from ADR: The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the
335. Small Claims Division of an Arizona Justice Court (up to \$3,500) so long as the matter is not thereafter transferred or removed from
336. the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or
337. agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that
338. is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action
339. ("lis pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the
340. obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.

7e. 341. Attorney Fees and Costs: The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this
342. Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert
343. witness fees, fees paid to investigators, and arbitration costs.

>>

JK
SELLER SELLER

<Initials

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MS
BUYER BUYER

Residential Resale Real Estate Purchase Contract >>

8. ADDITIONAL TERMS AND CONDITIONS

Buyer's earnest money is hard and non-refundable upon deposit except for Seller's

8a. 344. Non Performance.

345.

346. One or more members of the buyer entity holds an active real estate license in the state of Arizona.

347.

348. Earnest money shall be deposited within two(2) hours of contract acceptance

349. Monday-Friday (except for holidays) between 9:00 am MST and 5:00 pm ET.

350. Cure period notice for the purpose of earnest money deposit shall be twenty-four (24) 351. hours.

352. Buyer agrees to purchase the property in as-is condition and will not request repairs 353. from the Seller on the BINSR.

354.

355. Buyer agrees to waive SPDS & CLUE.

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
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 SELLER SELLER

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 BUYER BUYER





Residential Resale Real Estate Purchase Contract >>

- 8b. 390. **Risk of Loss:** If there is any loss or damage to the Premises between the date of Contract acceptance and COE or possession, 391. whichever is earlier, by reason of fire, vandalism, flood, earthquake, or act of God, the risk of loss shall be on Seller, provided, 392. however, that if the cost of repairing such loss or damage would exceed ten percent (10%) of the purchase price, either Seller or 393. Buyer may elect to cancel the Contract.
- 8c. 394. **Permission:** Buyer and Seller grant Broker(s) permission to advise the public of this Contract.
- 8d. 395. **Arizona Law:** This Contract shall be governed by Arizona law and jurisdiction is exclusively conferred on the State of Arizona.
- 8e. 396. **Time is of the Essence:** The parties acknowledge that time is of the essence in the performance of the obligations described 397. herein.
- 8f. 398. **Compensation:** Seller and Buyer acknowledge that Broker(s) shall be compensated for services rendered as previously agreed by 399. separate written agreement(s), which shall be delivered by Broker(s) to Escrow Company for payment at COE, if not previously paid. 400. If Seller is obligated to pay Broker(s), this Contract shall constitute an irrevocable assignment of Seller's proceeds at COE. If Buyer is 401. obligated to pay Broker(s), payment shall be collected from Buyer as a condition of COE. **BROKER COMPENSATION IS NOT SET 402. BY LAW, NOR BY ANY BOARD, ASSOCIATION OF REALTORS®, MULTIPLE LISTING SERVICE, OR IN ANY MANNER OTHER 403. THAN AS FULLY NEGOTIATED BETWEEN BROKER AND CLIENT.**
- 8g. 404. **Copies and Counterparts:** A fully executed facsimile or electronic copy of the Contract shall be treated as an original Contract. 405. This Contract and any other documents required by this Contract may be executed by facsimile or other electronic means and in any 406. number of counterparts, which shall become effective upon delivery as provided for herein, except that the Disclosure of Information 407. on Lead-Based Paint and Lead-Based Paint Hazards may not be signed in counterpart. All counterparts shall be deemed to 408. constitute one instrument, and each counterpart shall be deemed an original.
- 8h. 409. **Days:** All references to days in this Contract shall be construed as calendar days and a day shall begin at 12:00 a.m. and 410. end at 11:59 p.m.
- 8i. 411. **Calculating Time Periods:** In computing any time period prescribed or allowed by this Contract, the day of the act or event from 412. which the time period begins to run is not included and the last day of the time period is included. Contract acceptance occurs on the 413. date that the signed Contract (and any incorporated counter offer) is delivered to and received by the appropriate Broker. Acts that 414. must be performed three (3) days prior to the COE Date must be performed three (3) full days prior (i.e. -- if the COE Date is Friday 415. the act must be performed by 11:59 p.m. on Monday).
- 8j. 416. **Entire Agreement:** This Contract, and any addenda and attachments, shall constitute the entire agreement between Seller and 417. Buyer, shall supersede any other written or oral agreements between Seller and Buyer and can be modified only by a writing signed 418. by Seller and Buyer. The failure to initial any page of this Contract shall not affect the validity or terms of this Contract.
- 8k. 419. **Subsequent Offers:** Buyer acknowledges that Seller has the right to accept subsequent offers until COE. Seller understands that 420. any subsequent offer accepted by Seller must be a backup offer contingent on the cancellation of this Contract.
- 8l. 421. **Cancellation:** A party who wishes to exercise the right of cancellation as allowed herein may cancel this Contract by delivering 422. notice stating the reason for cancellation to the other party or to Escrow Company. Cancellation shall become effective immediately 423. upon delivery of the cancellation notice.
- 8m. 424. **Notice:** Unless otherwise provided, delivery of all notices and documentation required or permitted hereunder shall be in writing 425. and deemed delivered and received when: (i) hand-delivered; (ii) sent via facsimile transmission; (iii) sent via electronic mail, if email 426. addresses are provided herein; or (iv) sent by recognized overnight courier service, and addressed to Buyer as indicated in Section 427. 8q, to Seller as indicated in Section 9a and to Escrow Company indicated in Section 3a.
- 8n. 428. **Release of Broker(s):** Seller and Buyer hereby expressly release, hold harmless and indemnify Broker(s) in this 429. transaction from any and all liability and responsibility regarding financing, the condition, square footage, lot lines, 430. boundaries, value, rent rolls, environmental problems, sanitation systems, roof, wood infestation, building codes, 431. governmental regulations, insurance, price and terms of sale, return on investment or any other matter relating to the value 432. or condition of the Premises. The parties understand and agree that Broker(s) do not provide advice on property as an 433. investment and are not qualified to provide financial, legal, or tax advice regarding this real estate transaction.
- 434. (SELLER'S INITIALS REQUIRED) (BUYER'S INITIALS REQUIRED)

SELLER SELLER
BUYER BUYER
- 8o. 435. **Terms of Acceptance:** This offer will become a binding Contract when acceptance is signed by Seller and a signed copy delivered 436. in person, by mail, facsimile or electronically, and received by Broker named in Section 8q 437. by February 25, 2025 at 5:00 a.m./p.m., Mountain Standard Time. 438. Buyer may withdraw this offer at any time prior to receipt of Seller's signed acceptance. If no signed acceptance is received by this 439. date and time, this offer shall be deemed withdrawn and Buyer's Earnest Money shall be returned.
- 8p. 440. **THIS CONTRACT CONTAINS TEN (10) PAGES EXCLUSIVE OF ANY ADDENDA AND ATTACHMENTS. PLEASE ENSURE 441. THAT YOU HAVE RECEIVED AND READ ALL TEN (10) PAGES OF THIS OFFER AS WELL AS ANY ADDENDA AND 442. ATTACHMENTS.**

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 SELLER SELLER	<Initials	Residential Resale Real Estate Purchase Contract • Updated: August 2024 Copyright © 2024 Arizona Association of REALTORS®. All rights reserved.	Initials>	 BUYER BUYER
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Residential Resale Real Estate Purchase Contract >>

8q. 443. Broker on behalf of Buyer:

444. Alan B Kittelman ak079 BR549414000
PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.
445. PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.
446. Venture REI, LLC vrei101
PRINT FIRM NAME FIRM MLS CODE
447. 15150 N. Hayden Rd. #102 Scottsdale AZ 85260 LC641154000
FIRM ADDRESS STATE ZIP CODE FIRM STATE LICENSE NO.
448. 602-820-8164 (888)788-6654 admin@rezamp.com
PREFERRED TELEPHONE FAX EMAIL

8r. 449. Agency Confirmation: Broker named in Section 8q above is the agent of (check one):

450. [X] Buyer; [] Seller; or [] both Buyer and Seller

8s. 451. The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of 452. Buyer Attachment.

453. Wheelhouse Properties, Inc 02/20/2025
^ BUYER'S SIGNATURE MO/DA/YR ^ BUYER'S SIGNATURE MO/DA/YR
454. Wheelhouse Properties, Inc ^ BUYER'S NAME PRINTED ^ BUYER'S NAME PRINTED
455. 500 W Chandler Blvd ADDRESS ADDRESS
456. Chandler AZ 85225 CITY, STATE, ZIP CODE CITY, STATE, ZIP CODE

9. SELLER ACCEPTANCE

9a. 457. Broker on behalf of Seller:

458. Sierra Allegretto sa6502 BR677985000
PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.
459. PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.
460. Russ Lyon Sotheby's International Realty lyon19
PRINT FIRM NAME FIRM MLS CODE
461. 6900 E Camelback Rd Scottsdale AZ 85251 LC646682009
FIRM ADDRESS STATE ZIP CODE FIRM STATE LICENSE NO.
462. 503-317-7676 480-287-5202 Sierra@SierraAllegretto.com
PREFERRED TELEPHONE FAX EMAIL

9b. 463. Agency Confirmation: Broker named in Section 9a above is the agent of (check one):

464. [X] Seller; or [] both Buyer and Seller

9c. 465. The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a 466. copy hereof and grant permission to Broker named in Section 9a to deliver a copy to Buyer.

467. [] Counter Offer is attached, and is incorporated herein by reference. Seller must sign and deliver both this offer and the Counter 468. Offer. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling. 02/20/25

469. Garfinkel Family Living Trust
^ SELLER'S SIGNATURE MO/DA/YR ^ SELLER'S SIGNATURE MO/DA/YR
470. Garfinkel Family Living Trust ^ SELLER'S NAME PRINTED ^ SELLER'S NAME PRINTED
471. ADDRESS ADDRESS
472. CITY, STATE, ZIP CODE CITY, STATE, ZIP CODE

473. [] OFFER REJECTED BY SELLER: MONTH DAY, 20 YEAR (SELLER'S INITIALS)

For Broker Use Only: Brokerage File/Log No. Manager's Initials Broker's Initials Date MO/DA/YR

Arizona Association of REALTORS

ADDENDUM 1

Document updated: June 1993



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



- 1. This is an addendum originated by the: Seller Buyer Landlord Tenant.
- 2. This is an addendum to the Contract dated 02/20/2025 between the following Parties:
MO/DAY/YR
- 3. Seller/Landlord: John Tully for Camelback Fiduciary, LLC, TTE of the Garfinkel Family Living Trust
- 4. Buyer/Tenant: Wheelhouse Properties, Inc
- 5. Premises: 1961 E Rockwood Dr Phoenix AZ 85024

- 6. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises:
- 7. To be included in all Offers via Addendum 1
- 8. Seller: Garfinkel Family Living Trust
- 9. Signer Authority is: John Tully for Camelback Fiduciary, LLC, TTE of the Garfinkel Family Living Trust

12. This home is being sold in as-is where-is how-is condition, with the sole and only warranty of the seller being the warranty of title. The buyer acknowledges that their sole remedy for any defect in title is with the policy of title insurance being purchased with the transaction, and not the seller, their agents or the beneficiary of the estate that owns the real property. Buyer further acknowledges and understand that the home is being sold in a court proceeding to approve the sale. Buyer's offer is subject to higher and/or better offers presented at the court proceeding. Buyer must be present at the court hearing; time and date to be forthcoming upon acceptance of an offer. Buyer shall close within three business days of court approval.

22. Seller shall not provide Seller Property Disclosures; as the Seller is the representative for the estate and has no knowledge of the property. The Buyer shall also waive the Letter of Experience from the Home Owner's Insurance Company.

26. Purchase Contract may not be assigned

29. Transaction shall close with Stacy Heintz
Chicago Title Agency
O: (602) 667-1252
20860 N. Tatum Blvd., Ste. 140 | Phoenix, AZ 85050

- 34.
- 35.
- 36.
- 37.
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- 39.
- 40.
- 41.

42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.
02/19/25 02/20/2025

44. Seller Buyer MO/DAY/YR Seller Buyer Wheelhouse Properties, Inc MO/DAY/YR
45. Landlord Tenant Landlord Tenant

46. Seller Buyer MO/DAY/YR Seller Buyer MO/DAY/YR
48. Landlord Tenant Landlord Tenant

49. For Broker Use Only:
Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
MO/DAY/YR



SELLER COMPENSATION ADDENDUM

Document Updated:
February 2025



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



- 1. This is an addendum originated by the: Seller Buyer Landlord Tenant
- 2. Date: 2/20/2025
- 3. Buyer/Tenant: Wheelhouse Properties, Inc ("Buyer")
- 4. Seller/Landlord: Garfinkel Family Living Trust ("Seller")
- 5. Premises: 1961 E ROCKWOOD Drive Phoenix AZ 85024-3059

6. The following additional terms and conditions are hereby included as part of the Contract or Lease Agreement between Seller and Buyer for the above referenced Premises:

8. Seller shall pay Broker representing Buyer compensation, which may be credited to Buyer in whole or in part, as follows:

9. (CHECK ANY THAT APPLY AND FILL IN THE COMPENSATION)

- 10. Sale: 3 % of the Full Purchase Price or \$ _____ at Close of Escrow.
- 11. Lease: _____ % of the gross rental amount as calculated for the entire term of the initial lease or \$ _____ at execution of Lease Agreement.
- 13. The amount paid pursuant to line 10 herein is **in addition** to any Seller Concessions credited to Buyer in the Contract, if applicable.
- 15. This Addendum provides the undersigned's written consent for Buyer Broker to receive compensation from more than one (1) party to the transaction.
- 17. Seller and Buyer explicitly intend Brokers to be direct third-party beneficiaries of the Contract and/or Lease Agreement pursuant to this Addendum and either Section 8f or Section 9g of the Contract. The provisions of this Addendum shall survive Close of Escrow.

20. Additional Terms and Conditions:

- 21. _____
- 22. _____
- 23. _____
- 24. _____
- 25. _____

26. The undersigned agrees to the terms and conditions set forth above and acknowledges receipt of a copy hereof.

- 27. 02/20/2025
- 28. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR
- 29. Landlord Tenant 02/20/25 Landlord Tenant MO/DA/YR
- 30. _____
- 31. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR
- 32. Landlord Tenant Landlord Tenant MO/DA/YR

For Broker Use Only:			
Brokerage File/Log No. _____	Manager's Initials _____	Broker's Initials _____	Date _____ <small>MO/DA/YR</small>

EXHIBIT H

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2024-051478

03/19/2025

HONORABLE VANESSA N. SMITH

CLERK OF THE COURT
D. Adams
Deputy

IN THE MATTER OF THE GUARDIANSHIP
OF AND CONSERVATORSHIP FOR:

CARMEN MARIE TORRES
GARFINKEL FAMILY LIVING TRUST, THE

JARED R CAUSEY

AN ADULT.

JAMES D ROHDE

COMM. VANESSA N SMITH

MINUTE ENTRY

Courtroom 109 – Northeast Regional.

2:26 p.m. This is the time set for a Virtual Hearing regarding the *Verified Emergency Petition to Approve Sale of Real Property* (“Petition”) filed on February 21, 2025. John Tulley, a representative of Petitioner, Guardian, and Conservator Camelback Fiduciary LLC, is present and represented by Counsel James Rohde. Court-Appointed Counsel Jared Causey is present on behalf of Protected Person Carmen Marie Torres who is not present. Real Estate Agent Sierra Allegreto is present. Various buyers and their agents are present. All parties appear virtually.

A record of the proceedings is made digitally in lieu of a court reporter.

Court-Appointed Counsel states no objection to the Petition.

All persons present are sworn.

Discussion is held.

Upset bids are called for and received by the Court.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2024-051478

03/19/2025

Based on the information presented, and for reasons as stated on the record,

THE COURT FINDS that notice has been properly given as required by law and that the sale is reasonable.

IT IS THEREFORE ORDERED confirming the sale of real property, as set forth in full detail in the formal written Order Approving Sale of Real Property and Unrestricting Real Property signed by the Court and filed (entered) by the clerk on March 19, 2025.

A copy for certification of the Order will be placed in this Division's outbox at the Northeast Regional Court Center.

Please note: The Court has signed a paper copy of the order. After the order has been docketed by the Clerk of the Court, copies of this order including certified copies will be available. More information regarding how to obtain copies and/or certified copies of records may be found here: <https://www.clerkofcourt.maricopa.gov/records/obtaining-records>.

IT IS FURTHER ORDERED directing Counsel Rohde to file, on or before May 9, 2025, a Status Report regarding the bond amount including the Court-Appointed Counsel's position.

2:52 p.m. Matter concludes.

DIVISION STAFF REVIEW: May 16, 2024 (for filed Status Report)

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: https://superiorcourt.maricopa.gov/llrc/fc_gn9/

EXHIBIT I

CLERK OF THE
SUPERIOR COURT
FILED
T. BLAND, DEP

2024 SEP -5 PM 4:36

1 **JDR LAW PLLC**
2 James ("Jimmy") D. Rohde, SBN 034454
3 13951 N. Scottsdale Road, Suite 131
4 Scottsdale, Arizona 85254
5 jimmy@jdrlawaz.com
6 Phone: (602) 877-8780
7 *Counsel for First Interstate Bank*

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF MARICOPA**

10 In the Matter of the Guardianship and
11 Conservatorship for:

12 **BEVERLY JOHNSON,**

13 An Adult.

Case No. PB2023-051089

**VERIFIED PETITION TO APPROVE
SALE OF REAL PROPERTY**

*(Assigned to Hon. Vanessa Smith)
(Accelerated Hearing Requested)*

14 First Interstate Bank, by and through undersigned counsel, hereby files this
15 *Verified Petition to Approve Sale of Real Property*, requesting an accelerated hearing in
16 order to close the sale in a timely manner.

17 1. Petitioner, First Interstate Bank ("FIB"), is interested in this matter as the
18 duly appointed Conservator for Beverly Johnson ("Beverly").

19 2. This Court has continuing jurisdiction over the guardianship and
20 conservatorship.

21 3. Venue is proper in this County, as Beverly's Conservatorship Estate owns
22 real property in Maricopa County.

23 4. The Conservatorship Estate's real property is located at 6924 E. Mighty
24 Saguaro Way, Scottsdale, Arizona 85266 (the "Subject Property").

25 ...

26 ...

27 ...

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1 13. Pursuant to the Arizona Corporation Commission's public database, Wendy
2 Herst is the sole Member of The Good Life Renovations, LLC.

3 14. The subject property is being sold in as-is, where-is, and how-is condition,
4 with the sole remedy for any defect in title being the policy of title insurance purchased
5 with the transaction.

6 15. The Buyer has signed the *Residential Buyer's Inspection Notice and*
7 *Seller's Response* ("BINSR"), causing the sale to go hard. Thus, the only holdup to
8 consummating the sale is this Court's approval. For this reason, FIB seeks an accelerated
9 hearing so that the transaction can timely close.

10 16. Although R. 16(d)(2), Ariz.R.Prob.P., does not require posting the Notice
11 of Hearing on the Subject Property, FIB intends to post notice on the property to ensure
12 fairness and to seek the highest and best price for the Subject Property.

13 17. The Subject Property is not currently restricted, however, given the
14 contentious nature of this proceeding to date, the Conservator seeks this Court's approval
15 for the sale of the Subject Property to The Good Life Renovations, LLC, for a total sales
16 price \$675,000.00.

17 **WHEREFORE** First Interstate Bank respectfully requests that this Court:

18 A. Set an accelerated hearing on this Petition.

19 B. Find the sale of the Conservatorship Estate's real property is in the best
20 interest of Beverly Johnson.

21 C. Find the proposed sales price is appropriate and for the benefit of Beverly
22 Johnson.

23 D. Authorize First Interstate Bank, as Conservators of the Estate of Beverly
24 Johnson, to sell the real property located at 6924 E. Mighty Saguaro Way, Scottsdale,
25 Arizona 85266, for the sales price of \$675,000.00.

26 ...

27 ...

28

1 E. Authorize First Interstate Bank, as Conservators of the Estate of Beverly
2 Johnson, to sign and effectuate all necessary documents to complete the transaction
3 approved by this Order.

4 F. Enter such other and further orders as the Court may deem reasonable and
5 proper.

6 DATED this 5th day of September, 2024.

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JDR LAW PLLC


James D. Ronde, Esq.
Counsel for First Interstate Bank

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VERIFICATION

STATE OF Idaho)
) ss
County of Ada)

I, **Linda Pancheri**, being duly sworn, states as follows:

I am an authorized representative for First Interstate Bank in the Conservatorship of Beverly Johnson. I have read the *Verified Petition to Approve Sale of Real Property* ("Petition"). The statements in the Petition are true, accurate and complete to the best of my knowledge and belief.

IN WITNESS WHEREOF, **Linda Pancheri**, executes this document as of this 5th day of September, 2024.

Linda Pancheri

SUBSCRIBED AND SWORN to before me this 5th day of September, 2024, by **Linda Pancheri**.

Commission Expires: 07-22-2028

Notary Public

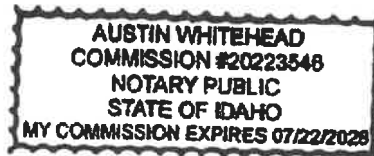


Exhibit A



SELLER'S REPORT

6924 E Mighty Saguaro Way, Scottsdale, AZ 85266



Presented by

Sierra Allegretto | Designated Broker

Arizona Real Estate License: BR677985000



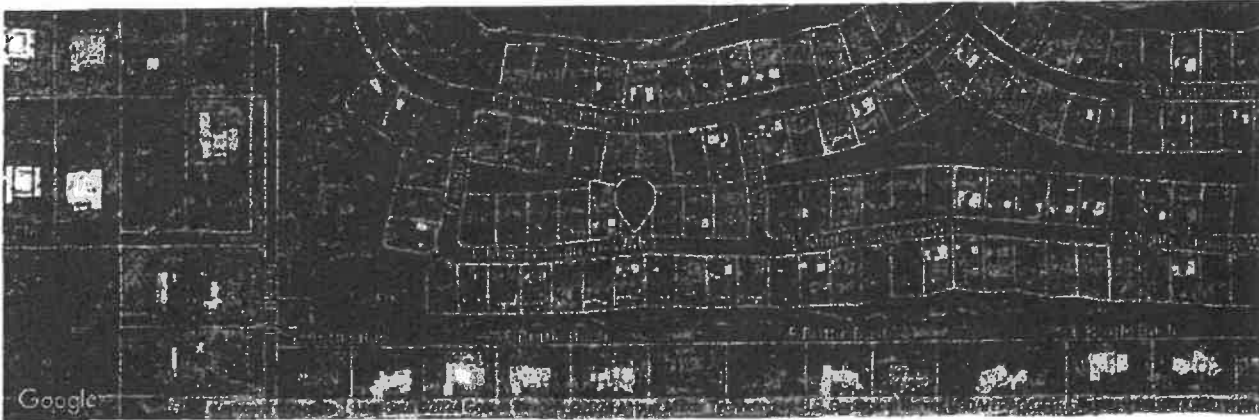
Work: (503) 317-7676

Main: sierra@sierraallegretto.com

Agent: sierraallegretto.com | Office: phoenixrealestateconnection.com

Paradise Valley
10825 N Tatum Blvd
D 101
Phoenix, AZ 85028



6924 E Mighty Saguaro Way, Scottsdale, AZ 85266

Legend:  Subject Property

■ Canceled - Canceled: 12/29/2023, MLS Listing 6633109: 11/20/2023

List Price**\$735,000**

Canceled Date: 12/29/2023
Listing ID: 6633109

Current Estimated Value**\$746,270**

Last RVM® Update: 1/30/2024

RVM® Est. Range: \$731K – \$761K

RVM® Confidence: ★★★★★

⬆ RVM® Change - Last 1 Month: \$960

➔ RVM® Change - Last 12 Months: –

Your Refined Value**\$672,911****Your Comp Analysis****\$745,000**

Last Edited: 2/16/2024

\$432 Price per Sq. Ft.

Your Comp Analysis Range

\$735K – \$765K

This report contains data and information that is publicly available and/or licensed from third parties and is provided to you on an "as is" and "as available" basis. The information is not verified or guaranteed. Neither this report nor the estimated value of a property is an appraisal of the property. Any valuation shown in this report has been generated by use of proprietary computer software that assembles publicly available property records and certain proprietary data to arrive at an approximate estimate of a property's value. Some portions of this report may have been provided by an RPR user; RPR is not responsible for any content provided by its users. RPR and its information providers shall not be liable for any claim or loss resulting from the content of, or errors or omissions in, information contained in this report.



Market Activity for 85266

Market Snapshot

Compared with Last Year: February 16, 2023 vs. February 16, 2024

Median Est. Home Value

\$1.26M

Up 3.3%

Median Listing Price

\$1.68M

Up 29.8%

Median Days in RPR

61

Down -3.2%

Sales Volume

17

Down -22.7%



Listing Price vs. Sales Price

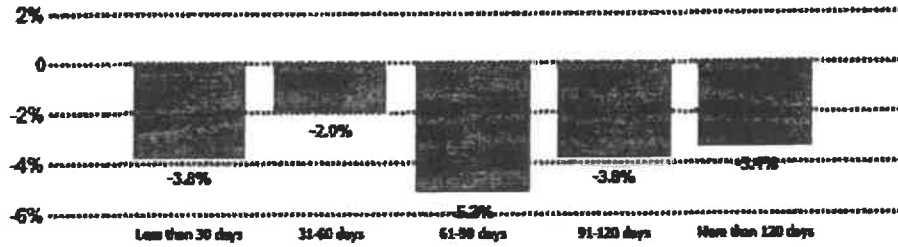
This chart displays the average percentage difference between the listing and selling price, compared by length of time properties were for sale in this market.

Data Source: On- and off-market listings sources

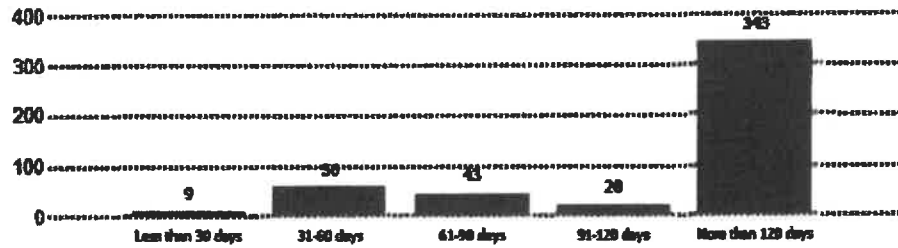
Update Frequency: Monthly

- Below Listing Price
- Number of Sales

Percentage Difference in Price



Number of Sales



Average Price Adjustments

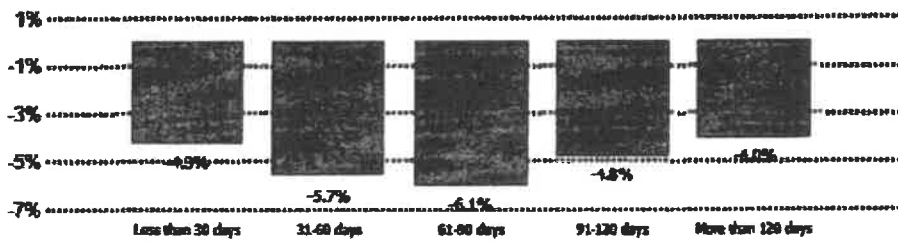
This chart displays the average percentage adjustment from the original list price, compared by length of time properties have been for sale in this market.

Data Source: On- and off-market listings sources

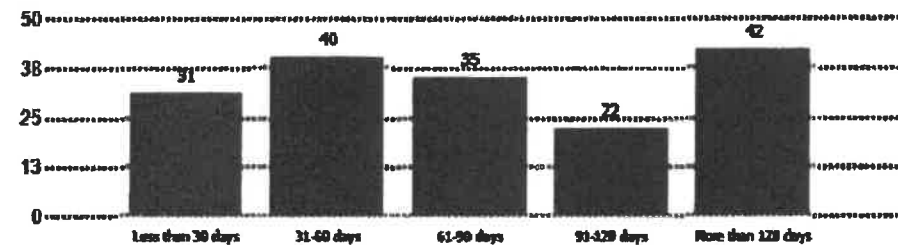
Update Frequency: Monthly

- Price Adjustments (-)
- Number of Price Adjustments - All Listings

Percentage Change in Listing Price



Number of Price Adjustments - All



Market Health Charts and Comparisons

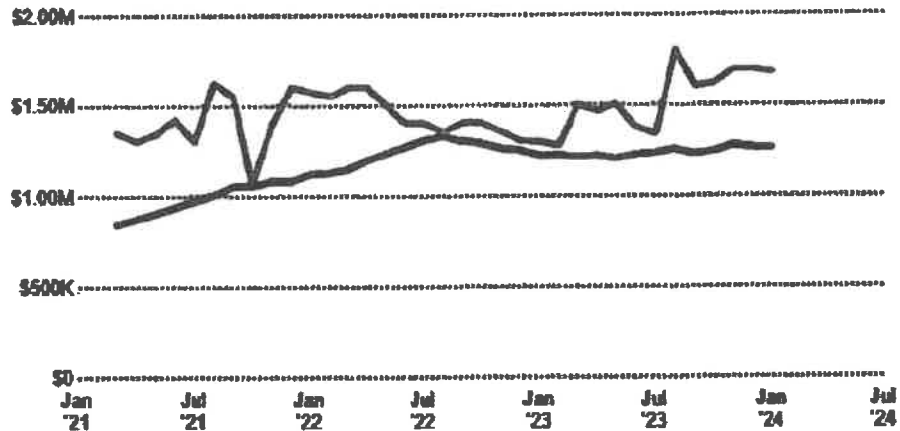
Median Estimated Home Value vs. Median Listing Price

This chart compares a ZIP code's median estimated home value with the median listing price of Active listings. Estimated home values are generated by a valuation model and are not formal appraisals.

Data Source: Public Record and Listing data

Update Frequency: Monthly

- Median Estimated Value
- Median List Price



Median Sales Price vs. Sales Volume

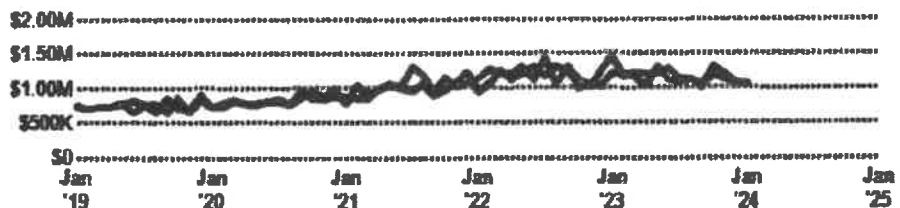
This chart compares the listings and public records sales price trend and sales volume for homes in an area.

Data Source: Public Record and Listing data

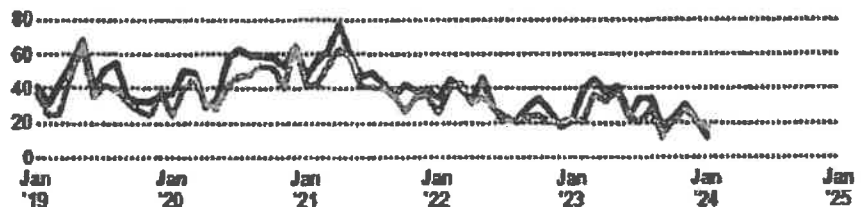
Update Frequency: Monthly

- Median Sales Price Public Records
- Median Sales Price Listings
- Sales Volume Public Records
- Sales Volume Listings

Median Sales Price



Sales Volume



Median Listing Price vs. Listing Volume

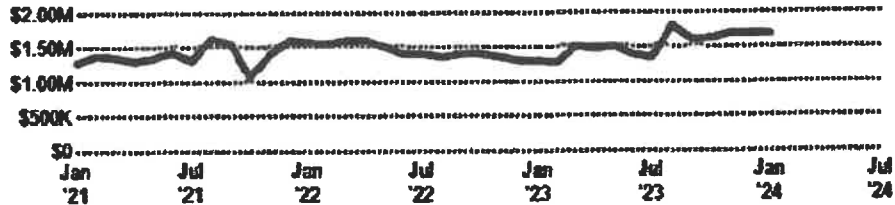
This chart compares the listings and public records sales price trend and sales volume for homes in an area.

Data Source: Public Record and Listing date

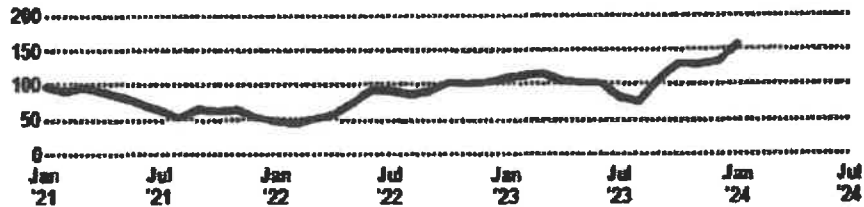
Update Frequency: Monthly

- Median List Price
- Listing Volume

Median List Price



Listing Volume



Listing Inventory

This chart shows the number of For Sale listings in a ZIP code by Property Type.

Data Source: On- and off-market listings sources

Update Frequency: Daily

- ZIP Count Listings by PropertyType



Price per Bedroom of Comps Sold

This chart shows the distribution of homes reported sold in the past six months at different prices per bedroom in the area of your search. The amount shown for the subject property is sold data where available, or the property's estimated value when sales data are unavailable (such as a non-disclosure state) or provided in range format.

Data Source: Public records and MLS data where licensed

Update Frequency: Monthly

- This Property
- Comps

This Property

\$336K

Comps



Median Sales Price by Square Footage

This chart shows the median price of homes reported sold in the past six months, according to the size of the living space (square footage sourced from public records). The amount shown for the subject property is sold data where available, or the property's estimated value when sales data are unavailable (such as non-disclosure states) or provided in range format.

Data Source: Public records and MLS data where licensed

Update Frequency: Monthly

- This Property
- Comps

This Property

1,723 sq. ft. \$672,911

Comps

2,200 - 2,400 sq. ft.

2,000 - 2,200 sq. ft.

1,800 - 2,000 sq. ft.

1,600 - 1,800 sq. ft.

Price Range of Comps Sold

This chart shows the distribution of homes reported sold in the past three months within different price ranges in the area of your search. The amount shown for the subject property is sold data where available, or the property's estimated value when sales data is unavailable (such as a non-disclosure state) or provided in range format.

Data Source: Public records data

Update Frequency: Daily

- This Property
- Comps

This Property

\$673K

Comps

> \$1.1M

\$1M - \$1.1M

\$800K - \$900K

\$700K - \$800K

Price per Square Foot of Comps Sold

This chart shows the distribution of homes reported sold in the past three months at different prices per square foot.

Data Source: Public records data

Update Frequency: Daily

- This Property
- Comps

This Property

\$390

Comps

> \$600

\$450 - \$500

\$400 - \$450

\$350 - \$400

Age Range of Comps Sold

This chart shows the distribution of homes reported sold in the past three months of different age ranges in the area of your search.

Data Source: Public records data

Update Frequency: Daily

- This Property
- Comps

This Property

29 yrs

Comps

30 - 35 yrs

25 - 30 yrs

Number of Bedrooms in Homes Sold



This chart shows the distribution of homes reported sold in the past three months, compared by the number of bedrooms, in the area of your search.

Data Source: Public records data
Update Frequency: Daily

■ Sales Count by Bedroom

Inventory of Distressed Listings



This chart shows the count of distressed properties (all stages of foreclosure) that are for sale in a ZIP code.

Data Source: MLS data where licensed
Update Frequency: Daily

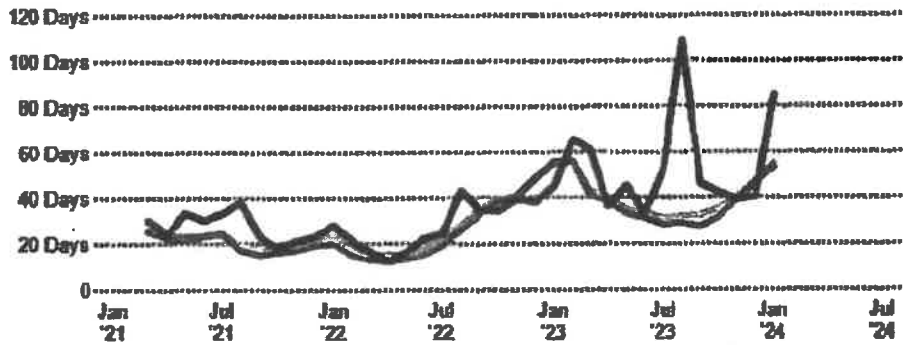
■ Inventory of Distressed Listings

Median Days in RPR

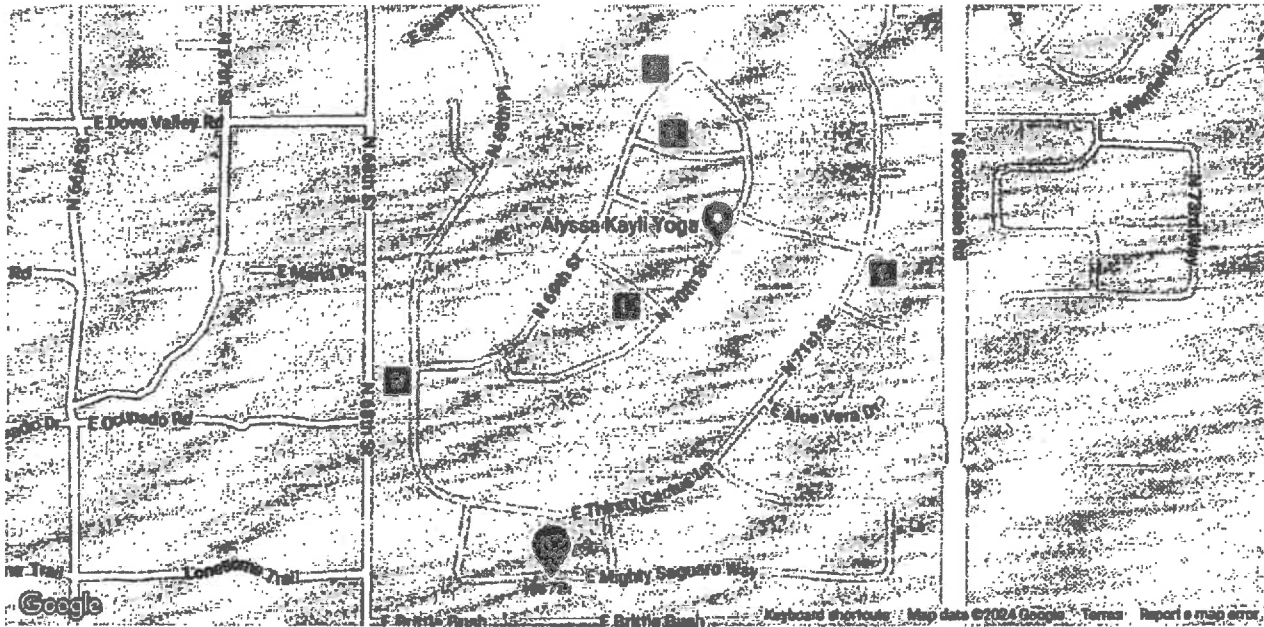
This chart shows how long homes are listed in RPR before their status is converted to sold.

Data Source: Listing data
Update Frequency: Monthly

■ 85266
■ Maricopa County
■ Arizona



Comps Map



LEGEND: Subject Property Pending For Sale or For Lease Distressed Recent Sale Off Market

Comps Selected by Agent

Address	6924 E Mighty Saguaro Way Scottsdale, AZ 85266	6955 E Bramble Berry Ln Scottsdale, AZ 85266	32956 N 69th St Scottsdale, AZ 85266	6930 E Hibiscus Way Scottsdale, AZ 85266	7123 E Sienna Bouquet Pl Scottsdale, AZ 85266
Status	Subject Property	1 Closed	2 Closed	3 Closed	4 Closed
Amount	\$672,911 Refined Value	\$715,000 Closed Price	\$740,000 Closed Price	\$720,000 Closed Price	\$750,000 Closed Price
Recording Date	12/29/2023	2/1/2024	7/6/2023	4/28/2023	9/18/2023
Days In RPR	39	115	75	88	52
Price Per Sq. Ft.	\$432	\$429	\$444	\$422	\$449
Bedrooms	2	2	3	2	2
Total Baths	2	2	2	2	2
Partial Baths	-	1	1	1	1
Total Rooms	5	6	6	6	6
Living Area	1,723	1,668	1,668	1,705	1,671
Building Area	1,723	1,668	1,668	1,705	1,671
Lot Size	7,814 sq ft	6,500 sq ft	5,500 sq ft	6,229 sq ft	5,869 sq ft
Year Built	1996	1994	1994	1994	1996
Property Type	Single Family	Single Family	Single Family	Single Family	Single Family
Property Subtype	Single Family - Detached	Single Family - Detached	Single Family - Detached	Single Family - Detached	Single Family - Detached
Proximity	-	.22 Mi.	.42 Mi.	.37 Mi.	.37 Mi.
MLS ID	6633109	6615879	6547534	6514423	6586382
Listing Broker	Listing Courtesy of Arizona Gateway Real Estate	Courtesy of Keller Williams Arizona Realty	Courtesy of Realty Executives	Courtesy of Berkshire Hathaway HomeServices Arizona Properties	Courtesy of My Home Group Real Estate
Description	Lovely 2 bedroom/ 2 bath home in Scottsdale's highly sought after premiere guard-gated community, Terravita, surrounded by the natural beauty of the high Sonoran Desert. You'll be wowed by soaring ceilings as you enter into the great room and dining space with a wall of windows letting the outside in. Spacious kitchen has it's own light & bright dining area with stainless steel Samsung appliances. Two private master suites boast walk-in closets. Newly updated shower and tile flooring in main bedroom bath. Enjoy your morning coffee on the large north facing back patio overl...	Nestled in the quietest heart of terravita, discover this sought-after vallis great room floorplan. Ideally located on a tranquil interior lot, it majestically backs onto a lush desert preserve adorned with iconic saguaros—a perfect setting for both stargazing and appreciating stunning sunsets. The bright south-facing patio promises warmer winters and temperate summer days. This design is efficiency at its best: a generous great room flowing seamlessly into the kitchen, two well-appointed bedrooms boasting walk-in closets, and an inviting open den. There's ample room to pe...	Charming "lock and leave" 2 bed plus den, 2 bath home in the coveted & guard gated terravita golf and country club. Note: the den has a closet and is larger than most dens in this model, so could be a 3rd bedroom. This vallis model features a split and open floor plan, fireplace, granite counters, as appliances, upgraded fixtures, new flooring and travertine. Private backyard backing to the naos space with low maintenance turf, and a gas fire pit. Gorgeous sunsets, views of black mountain and the boulders. Complete new hvac system, may 2023. New carpet in bedrooms. Terra...	Vallis model home with beautiful setting over open space to black mtn & starry skies... Lock n'leave in gorgeous terravita master plan community with everything your heart desires: renovated clubhouse/restaurant, golf club, gym, heated pool, tennis, and lots of great activities. Kitchen w/gas range, dining nook. Seduded primary suite, private guest qtrs/kull bth, great room/dining, & den. Patio faces north to views and serene outlook. Move right in ready. Hit the links, shop, go to dinner – house is offered completely and tastefully furnished & outfitted on separa...	Beautiful light strewn north facing home in arizona's premiere scottsdale community of terravita. This perfectly sized 2 bedroom plus den home has gorgeous travertine tile from the entry throughout the kitchen, great room and den, with hardwood flooring in the bedrooms. The split primary bedroom includes a double window with a view of an entertaining yard with natural desert landscape and large quiet patio area. Newer roof and hvac, and a new water heater was installed in 2021. This gated community features a completely remodeled clubhouse with a restaurant, bar, gym, term...



Highlighted fields were changed by agent to reflect knowledge of this property.



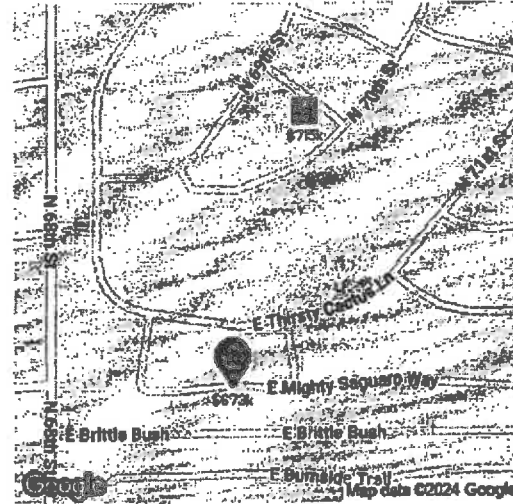
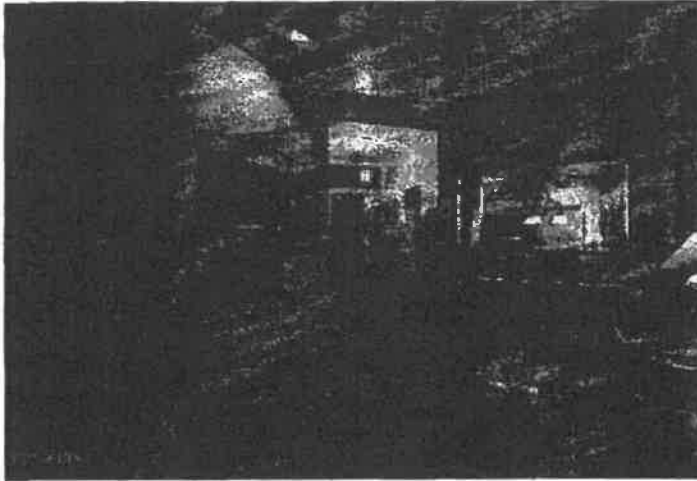
Comps Selected by Agent



Address	6924 E Mighty Saguaro Way Scottsdale, AZ 85266	32654 N 68th Pl Scottsdale, AZ 85266
Status	Subject Property	5 Closed
Amount	\$672,911 Refined Value	\$770,000 Closed Price
Recording Date	12/29/2023	1/24/2024
Days in RPR	39	129
Price Per Sq. Ft.	\$432	\$446
Bedrooms	2	2
Total Baths	2	2
Partial Baths	-	-
Total Rooms	6	5
Living Area	1,723	1,726
Building Area	1,723	1,726
Lot Size	7,814 sq ft	7,700 sq ft
Year Built	1996	1994
Property Type	Single Family	Single Family
Property Subtype	Single Family - Detached	Single Family - Detached
Proximity	-	.2 Mi.
MLS ID	6633109	6606313
Listing Broker	<i>Listing Courtesy of Arizona Gateway Real Estate</i>	<i>Courtesy of Keller Williams Realty Sonoran Living</i>
Description	Lovely 2 bedroom/ 2 bath home in Scottsdale's highly sought after premiere guard-gated community, Terravita, surrounded by the natural beauty of the high Sonoran Desert. You'll be wowed by soaring ceilings as you enter into the great room and dining space with a wall of windows letting the outside in. Spacious kitchen has it's own light & bright dining area with stainless steel Samsung appliances. Two private master suites boast walk-in closets. Newly updated shower and tile flooring in main bedroom bath. Enjoy your morning coffee on the large north facing back patio overl...	Rare sol plan w/o den located on a great private lot with sunset views. Travertine flooring in traffic areas and granite tile counters in the kitchen. Backyard features a large extended patio with electric sunshade, a mini-pool w/granite waterfall, firepit w/seating area, and a large section of artificial green grass to nicely contrast with the desert landscaping.

Highlighted fields were changed by agent to reflect knowledge of this property.

6955 E Bramble Berry Ln, Scottsdale, AZ 85266



LEGEND: Subject Property This Property

Closed

• Sold Date: 2/1/2024
• MLS Listing 6615879: 10/9/2023

Closed Price
\$715,000

Closed Date: 2/1/2024
Days in RPR: 115

Current Estimated Value
\$731,820

Last RVM[®] Update: 1/30/2024

RVM[®] Est. Range:
\$710K - \$754K

RVM[®] Confidence:
★★★★★

↑ RVM[®] Change
Last 1 Month: **\$8,370**

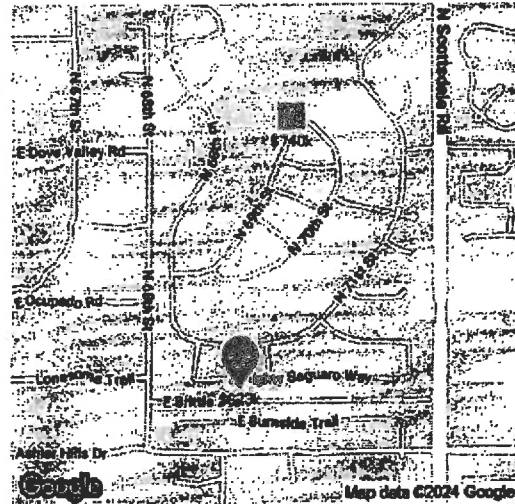
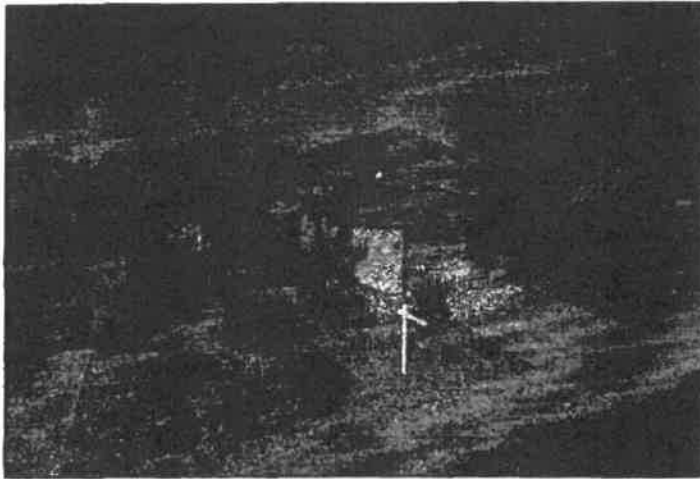
↑ RVM[®] Change
Last 12 Months: **2.97%**

Nestled in the quietest heart of Terraviva, discover this sought-after Valis great room floorplan. Ideally located on a tranquil interior lot, it majestically backs onto a lush desert preserve adorned with iconic Saguaro—a perfect setting for both stargazing and appreciating stunning Sunsets. The...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	2
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,670	1,668
Building Area (sq ft)	1,670	1,668
Lot Size	5,500 sq ft	5,500 sq ft
Lot Dimensions	6500 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None
Year Built	1994	1994
Total Rooms	8	-
Roofing	Concrete tile	Tile
Heating	Yes	Natural Gas
Cooling	Refrigeration	Ceiling Fans, Refrigeration
Fireplaces	-	Yes
Construction	Frame	Frame - Wood, Plastered, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Courtesy of Keller Williams Arizona Realty

32956 N 69th St, Scottsdale, AZ 85266



LEGEND: Subject Property This Property

Closed

- Sold Date: 7/5/2023
- MLS Listing 6647534: 4/21/2023

Closed Price
\$740,000

Closed Date: 7/5/2023
Days in RPR: 75

Current Estimated Value
\$761,710

Last RVM[®] Update: 1/30/2024

RVM[®] Est. Range:
\$716K - \$807K

RVM[®] Confidence:
★★★★★

↑ RVM[®] Change
Last 1 Month: **\$2,470**

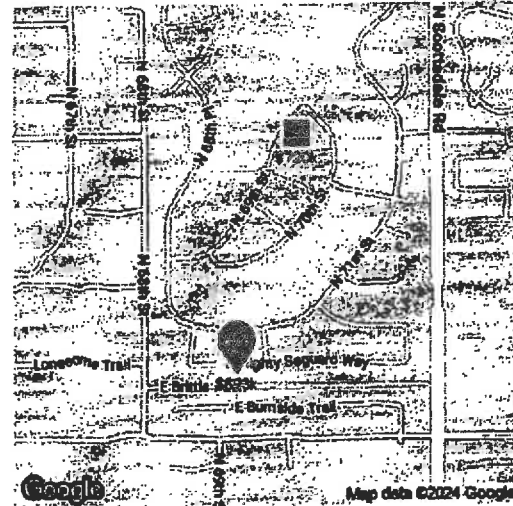
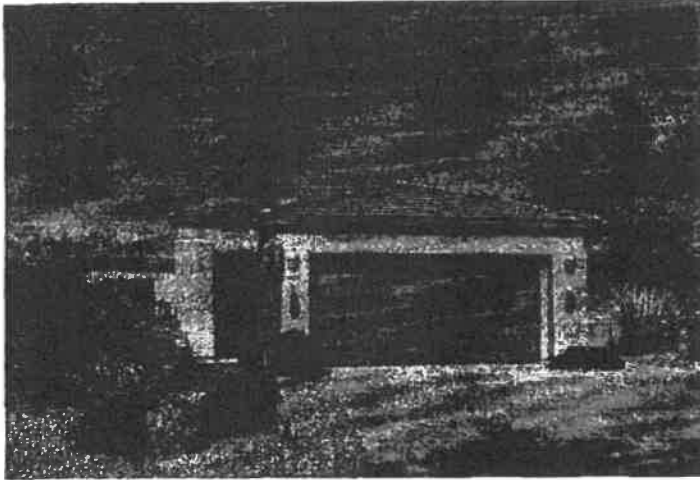
↓ RVM[®] Change
Last 12 Months: **-9.01%**

Charming "Lock and Leave" 2 Bed plus Den, 2 Bath home in the coveted & guard gated Terravita Golf and Country Club. Note: The Den has a closet and is larger than most dens in this model, so could be a 3rd bedroom. This Vallis model features a split and open floor plan, fireplace, granite counters...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	3
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,670	1,668
Building Area (sq ft)	1,670	1,668
Lot Size	6,600 sq ft	6,600 sq ft
Lot Dimensions	6600 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None
Year Built	1994	1994
Total Rooms	6	-
Roofing	Concrete tile	Tile
Heating	Yes	Natural Gas
Cooling	Refrigeration	Ceiling Fans, Refrigeration
Fireplaces	-	Yes
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Courtesy of Realty Executives

6930 E Hibiscus Way, Scottsdale, AZ 85266



LEGEND: Subject Property This Property

Closed

- Sold Date: 4/28/2023
- MLS Listing 6514423: 1/30/2023

Closed Price

\$720,000

Closed Date: 4/28/2023
Days in RPR: 88

Current Estimated Value

\$777,890

Last RVM® Update: 1/30/2024

RVM® Est. Range:
\$716K - \$840K

RVM® Confidence:



↑ RVM® Change
Last 1 Month: **\$14,840**

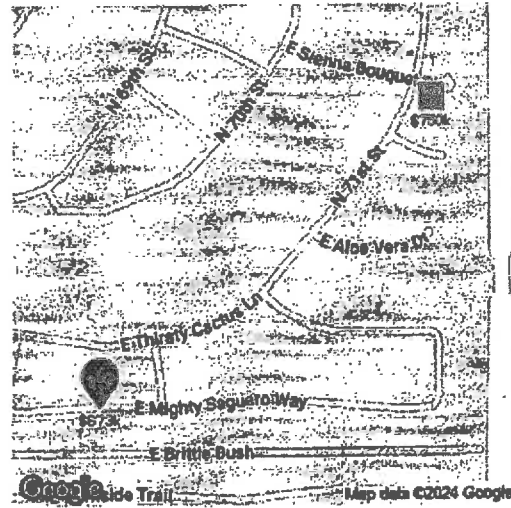
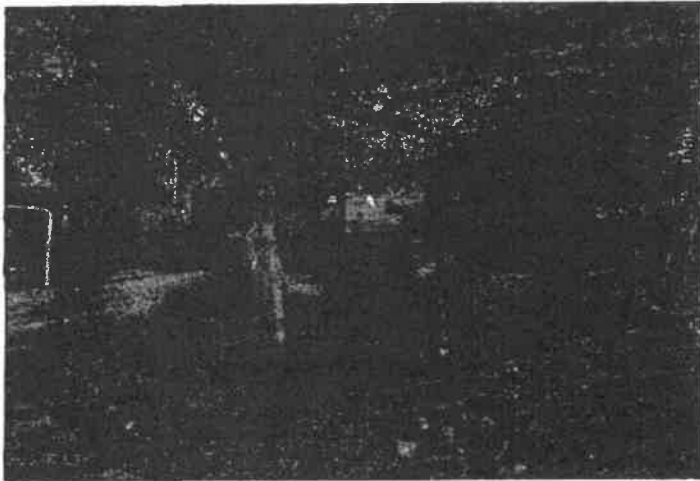
↓ RVM® Change
Last 12 Months: **-8.31%**

VALLIS model home with beautiful setting over open space to Black Mtn & stary skies... LOCK N'LEAVE in gorgeous Terravita master plan community with everything your heart desires: renovated CLUBHOUSE/RESTAURANT, GOLF club, gym, HEATED pool, tennis, and lots of great activities. Kitchen w/gas rang...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	2
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,670	1,705
Building Area (sq ft)	1,670	1,705
Lot Size	6,243 sq ft	6,229 sq ft
Lot Dimensions	6243 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None
Year Built	1994	1994
Total Rooms	6	-
Roofing	Concrete tile	Tile
Heating	Yes	Electric
Cooling	Refrigeration	Ceiling Fans, Refrigeration
Fireplaces	-	Yes
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Courtesy of Berkshire Hathaway HomeServices Arizona Properties

7123 E Sienna Bouquet Pl, Scottsdale, AZ 85266



LEGEND: Subject Property This Property

■ Closed

• Sold Date: 9/18/2023
• MLS Listing 6566382: 7/26/2023

Closed Price
\$750,000

Closed Date: 8/18/2023
Days in RPR: 52

Current Estimated Value
\$770,930

Last RVM[®] Update: 1/30/2024

RVM[®] Est. Range:
\$740K - \$802K

RVM[®] Confidence:
★★★★★

↑ RVM[®] Change
Last 1 Month: **\$13,530**

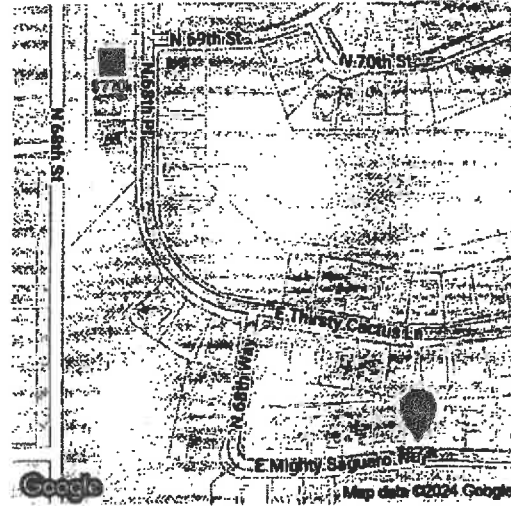
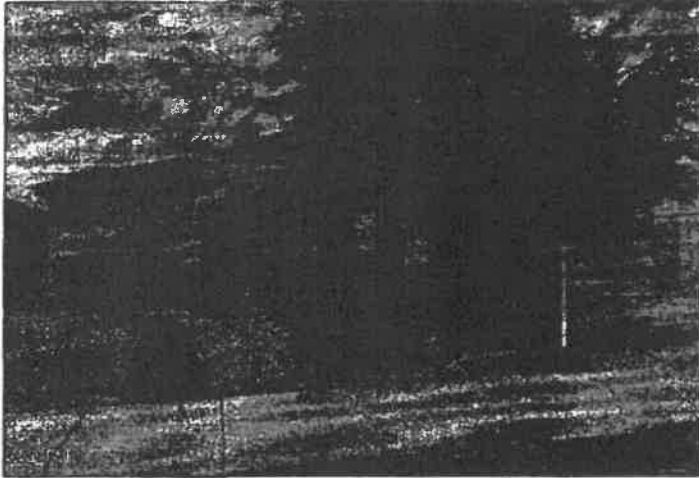
↓ RVM[®] Change
Last 12 Months: **-0.39%**

Beautiful light strown North Facing home in Arizona's Premiere Scottsdale community of Terravita. This perfectly sized 2 bedroom plus den home has gorgeous travertine tile from the entry throughout the kitchen, great room and den, with hardwood flooring in the bedrooms. The split primary bedroom in...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	2	2
Total Baths	3	2
Full Baths	2	2
Partial Baths	1	-
Living Area (sq ft)	1,670	1,671
Building Area (sq ft)	1,670	1,671
Lot Size	5,869 sq ft	6,869 sq ft
Lot Dimensions	6869 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None
Year Built	1995	1995
Total Rooms	5	-
Roofing	Concrete tile	Tile
Heating	Yes	Natural Gas
Cooling	Refrigeration	Refrigeration
Fireplaces	-	Yes
Construction	Frame	Adobe, Frame - Wood, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Courtesy of My Home Group Real Estate

32654 N 68th Pl, Scottsdale, AZ 85266



LEGEND: Subject Property This Property

■ Closed

- Sold Date: 1/24/2024
- MLS Listing 6806313: 9/17/2023

Closed Price

\$770,000

Closed Date: 1/24/2024
Days in RPR: 129

Current Estimated Value

\$776,160

Last RVM® Update: 1/30/2024

RVM® Est. Range:
\$761K - \$792K

RVM® Confidence:



↓ RVM® Change
Last 1 Month: **-\$2,850**

↓ RVM® Change
Last 12 Months: **-4.99%**

Rare Sol plan w/o den located on a great private lot with sunset views. Travertine flooring in traffic areas and granite tile counters in the kitchen. Backyard features a large extended patio with electric sunshade, a mini-pool w/granite waterfall, firepit w/seating area, and a large section of...

Home Facts	Public Facts	Listing Facts
Property Type	Single Family	Single Family
Property Subtype	Single Family Residential	Single Family - Detached
Bedrooms	-	2
Total Baths	3	2
Full Baths	3	2
Partial Baths	-	-
Living Area (sq ft)	1,723	1,726
Building Area (sq ft)	1,723	1,726
Lot Size	7,700 sq ft	7,700 sq ft
Lot Dimensions	7700 SF	-
Garage	Yes	Yes
Garage (spaces)	2	2
Pool	-	None, Play Pool
Year Built	1994	1994
Total Rooms	5	-
Roofing	Concrete tile	Concrete, Tile
Heating	Yes	Natural Gas
Cooling	Refrigeration	Refrigeration
Fireplaces	-	Yes
Construction	Frame	Frame - Wood, Painted, Stucco
Exterior Walls	Wood	-
Number of Units	0	-
Number of Stories	1	1

Courtesy of Keller Williams Realty Sonoran Living

Recommended Pricing Strategy

This chart compares the high, low and median price of homes in various listing statuses in the subject property's ZIP code to help determine the asking price for the subject property. The prices of the User Selected Comps are closed prices where available.

	User Selected Comps	Market Activity For Sale Listings	Market Activity Closed	Market Activity Distressed	Market Activity Expired Listings	Market Activity Pending Sales
Lowest Price	\$715,000	\$985,000	\$840,000	\$1,030,740	\$850,000	\$1,130,000
Median Price	\$740,000	\$1,569,000	\$1,272,500	\$1,374,510	\$1,512,500	\$2,060,250
Highest Price	\$770,000	\$2,900,000	\$3,400,000	\$3,001,380	\$3,121,280	\$6,480,000
Median Price Per Sq. Ft.	\$444	\$482	\$491	\$456	\$445	\$580
Median Days in RPR	88	1	65	-	212	28

Sold Price Comparison

This section compares prices for 7 properties in the subject property's ZIP code with a similar number of beds and baths, sold within the past 90 days.

	Sold Price	Price Per Sq. Ft.
Lowest Price	\$622,000	\$389
Median Price	\$770,000	\$446
Highest Price	\$896,900	\$502

Details of Refined Value Analysis

Original Estimated Value	\$746,270
Changes Based on Home Facts	-\$73,359
Home Improvement Adjustments	-
Needed Improvement Adjustments	-
Market Condition Adjustments	-
Estimate - Adjustments	\$672,911 (or \$390 per sq. ft.)

Details of Comparative Analysis

Average of Comps	\$754,674
Adjustments	-\$23,157
Recommended Price	\$745,000 (or \$432 per sq. ft.)

</div>

Signature

Date

Signature

Date

Broker / Agent

Signature

Date



Seller's Report

6924 E Mighty Saguaro Way, Scottsdale, AZ 85266



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Information is not guaranteed. Equal Housing Opportunity.



2/16/2024

About RPR (Realtors Property Resource)

- Realtors Property Resource® is a wholly owned subsidiary of the National Association REALTORS®.
- RPR offers comprehensive data – including a nationwide database of 164 million properties – as well as powerful analytics and dynamic reports exclusively for members of the NAR.
- RPR's focus is giving residential and commercial real estate practitioners, brokers, and MLS and Association staff the tools they need to serve their clients.
- This report has been provided to you by a member of the NAR.



About RPR's Data

RPR generates and compiles real estate and other data from a vast array of sources. The data contained in your report includes some or all of the following:

- **Listing data** from our partner MLSs and CIEs, and related calculations, like estimated value for a property or median sales price for a local market.
- **Public records data** including tax, assessment, and deed information. Foreclosure and distressed data from public records.
- **Market conditions and forecasts** based on listing and public records data.
- **Census and employment data** from the U.S. Census and the U.S. Bureau of Labor Statistics.
- **Demographics and trends data** from Esri. The data in commercial and economic reports includes Tapestry Segmentation, which classifies U.S. residential neighborhoods into unique market segments based on socioeconomic and demographic characteristics.
- **Business data** including consumer expenditures, commercial market potential, retail marketplace, SIC and NAICS business information, and banking potential data from Esri.
- **School data and reviews** from Niche.
- **Specialty data sets** such as walkability scores, traffic counts and flood zones.



Update Frequency

- Listings and public records data are updated on a continuous basis.
- Charts and statistics calculated from listing and public records data are refreshed monthly.
- Other data sets range from daily to annual updates.

Learn more

For more information about RPR, please visit RPR's public website: <https://blog.narmp.com>



Exhibit B

RESIDENTIAL RESALE REAL ESTATE PURCHASE CONTRACT

Document updated:
August 2024



The pre-printed portion of this form has been drafted by the Arizona Association of REALTORS®. Any change in the pre-printed language of this form must be made in a prominent manner. No representations are made as to the legal validity, adequacy and/or effects of any provision, including tax consequences thereof. If you desire legal, tax or other professional advice, please consult your attorney, tax advisor or professional consultant.



1. PROPERTY

1a. 1. BUYER: Wendy Herst
BUYER'S NAME(S)

2. SELLER: First Interstate Bank, Conservator for Beverly Johnson or as identified in section 9c.
a in Maricopa County Superior
SELLER'S NAME(S)

3. Buyer agrees to buy and Seller agrees to sell the real property with all improvements, fixtures, and appurtenances thereon
4. or incidental thereto, plus the personal property described herein (collectively the "Premises").

1b. 5. Premises Address: 6924 E MIGHTY SAGUARO Way Assessor's #: 216-50-504

6. City: Scottsdale County: Maricopa AZ, Zip Code: 85266

7. Legal Description: LOT 112 PARCEL G AT TERRAVITA MCR 037622

8. _____

9. _____

1c. 10. \$ 675,000.00 Full Purchase Price, paid as outlined below

11. \$ 10,000.00 Earnest Money

12. \$ 665,000.00 Cash due at Close of Escrow

13. \$ _____

14. _____

15. _____

16. _____

17. Earnest Money is in the form of: Personal Check Wire Transfer Other _____

18. Upon acceptance of this offer, the Earnest Money, if any, will be deposited with: Escrow Company Broker's Trust Account.

19. IF THIS IS AN ALL CASH SALE: A Letter of Credit or a source of funds from a financial institution documenting the availability of

20. funds to close escrow is attached hereto.

1d. 21. Close of Escrow: Close of Escrow ("COE") shall occur when the deed is recorded at the appropriate county recorder's office.

22. Buyer and Seller shall comply with all terms and conditions of this Contract, execute and deliver to Escrow Company all closing

23. documents, and perform all other acts necessary in sufficient time to allow COE to occur on

24. September 6, 2024 ("COE Date"). If Escrow Company or recorder's office is closed on the COE Date,
MONTH DAY YEAR

25. COE shall occur on the next day that both are open for business.

26. Buyer shall deliver to Escrow Company a cashier's check, wired funds or other immediately available funds to pay any down

27. payment, additional deposits or Buyer's closing costs, and instruct the lender, if applicable, to deliver immediately available funds to

28. Escrow Company, in a sufficient amount and in sufficient time to allow COE to occur on the COE Date.

29. Buyer acknowledges that failure to pay the required closing funds by the scheduled COE, if not cured after a cure notice is delivered

30. pursuant to Section 7a, shall be construed as a material breach of this Contract and the Earnest Money shall be subject to forfeiture.

31. All funds are to be in U.S. currency.

1e. 32. Possession: Seller shall deliver possession, occupancy, existing keys and/or means to operate all locks, mailbox, security

33. system/alarms, and all common area facilities to Buyer at COE or _____

34. Broker(s) recommend that the parties seek independent counsel from insurance, legal, tax, and accounting professionals regarding

35. the risks of pre-possession or post-possession of the Premises.

1f. 36. Addenda Incorporated: Additional Clause Buyer Contingency Domestic Water Well H.O.A.

37. Lead-Based Paint Disclosure Loan Assumption On-site Wastewater Treatment Facility Seller Compensation

38. Seller Financing Short Sale Solar Addendum Other: Addendum 1 generated by Seller

SELLER SELLER
CP JH

</Initials

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Initials>

BUYER BUYER
WH

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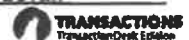
- 1g. 39. **Fixtures and Personal Property:** For purposes of this Contract, fixtures shall mean property attached/affixed to the Premises.
- 40. Seller agrees that all existing: fixtures on the Premises, personal property specified herein, and means to operate fixtures and property (i.e., remote controls) shall convey in this sale. Including the following:
 - 42. • built-in appliances, ceiling fans and remotes
 - 43. • central vacuum, hose, and attachments
 - 44. • draperies and other window coverings
 - 45. • fireplace equipment (affixed)
 - 46. • floor coverings (affixed)
 - 47. • free-standing range/oven
 - 48. • garage door openers and remotes
 - 49. • light fixtures
 - 50. • mailbox
 - media antennas/satellite dishes (affixed)
 - outdoor fountains and lighting
 - outdoor landscaping (i.e., shrubbery, trees and unpotted plants)
 - shutters and awnings
 - smart home devices, access to which shall be transferred (i.e., video doorbell, automated thermostat)
 - speakers (flush-mounted)
 - storage sheds
 - storm windows and doors
 - stoves: gas-log, pellet, wood-burning
 - timers (affixed)
 - towel, curtain and drapery rods
 - wall mounted TV brackets and hardware (excluding TVs)
 - water-misting systems
 - window and door screens, sun shades
- 51. If owned by Seller, the following items also are included in this sale:
 - 52. • affixed alternate power systems serving the Premises (i.e., solar)
 - in-ground pool and spa/hot tub equipment and covers (including any mechanical or other cleaning systems)
 - security and/or fire systems and/or alarms
 - water purification systems
 - water softeners
- 55. **Additional existing personal property included in this sale (if checked):**
- 56. refrigerator (description): _____
- 57. washer (description): _____
- 58. dryer (description): _____
- 59. above-ground spa/hot tub including equipment, covers, and any mechanical or other cleaning systems (description): _____
- 60. _____
- 61. other personal property not otherwise addressed (description): _____
- 62. other personal property not otherwise addressed (description): _____
- 63. **Additional existing personal property included shall not be considered part of the Premises and shall be transferred with no monetary value, and free and clear of all liens or encumbrances.**
- 65. **Leased items shall NOT be included in this sale. Seller shall deliver notice of all leased items within three (3) days after Contract acceptance. Buyer shall provide notice of any leased items disapproved within the Inspection Period or five (5) days after receipt of the notice, whichever is later.**
- 66. _____
- 67. _____
- 68. **IF THIS IS AN ALL CASH SALE:** Section 2 does not apply - go to Section 3.

2. FINANCING

- 2a. 69. **Pre-Qualification:** An AAR Pre-Qualification Form is attached hereto and incorporated herein by reference.
- 2b. 70. **Loan Contingency:** Buyer's obligation to complete this sale is contingent upon Buyer obtaining loan approval without Prior to Document ("PTD") conditions no later than three (3) days prior to the COE Date for the loan described in the AAR Loan Status Update ("LSU") form or the AAR Pre-Qualification Form, whichever is delivered later. No later than three (3) days prior to the COE Date, Buyer shall either: (i) sign all loan documents; or (ii) deliver to Seller or Escrow Company notice of loan approval without PTD conditions AND date(s) of receipt of Closing Disclosure(s) from Lender; or (iii) deliver to Seller or Escrow Company notice of inability to obtain loan approval without PTD conditions.
- 71. _____
- 72. _____
- 73. _____
- 74. _____
- 75. _____
- 2c. 76. **Unfulfilled Loan Contingency:** This Contract shall be cancelled and Buyer shall be entitled to a return of the Earnest Money if after diligent and good faith effort, Buyer is unable to obtain loan approval without PTD conditions and delivers notice of inability to obtain loan approval no later than three (3) days prior to the COE Date. If Buyer fails to deliver such notice, Seller may issue a cure notice to Buyer as required by Section 7a and, in the event of Buyer's breach, Seller shall be entitled to the Earnest Money pursuant to Section 7b. If, prior to expiration of any Cure Period, Buyer delivers notice of inability to obtain loan approval, Buyer shall be entitled to a return of the Earnest Money. Buyer acknowledges that prepaid items paid separately from the Earnest Money are not refundable.
- 77. _____
- 78. _____
- 79. _____
- 80. _____
- 81. _____
- 82. _____
- 2d. 83. **Interest Rate / Necessary Funds:** Buyer agrees that (i) the inability to obtain loan approval due to the failure to lock the interest rate and "points" by separate written agreement with the lender; or (ii) the failure to have the down payment or other funds due from Buyer necessary to obtain the loan approval without conditions and close this transaction is not an unfulfilled loan contingency.
- 84. _____
- 85. _____
- 86. _____
- 2e. 87. **Loan Status Update:** Buyer shall deliver to Seller the LSU, with at a minimum lines 1-40 completed, describing the current status of the Buyer's proposed loan within ten (10) days after Contract acceptance and instruct lender to provide an updated LSU to Broker(s) and Seller upon request.
- 88. _____
- 89. _____

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SELLER	SELLER		Page 2 of 10		BUYER	BUYER



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- 2f. 90. **Loan Application:** Unless previously completed, within three (3) days after Contract acceptance Buyer shall (i) provide lender 91. with Buyer's name, income, social security number, Premises address, estimate of value of the Premises, and mortgage loan 92. amount sought; and (ii) grant lender permission to access Buyer's Trimerged Residential Credit Report.
- 2g. 93. **Loan Processing During Escrow:** Within ten (10) days after receipt of the Loan Estimate Buyer shall (i) provide lender with 94. notice of intent to proceed with the loan transaction in a manner satisfactory to lender; and (ii) provide to lender all requested 95. signed disclosures and the documentation listed in the LSU at lines 32-35. Buyer agrees to diligently work to obtain the loan and 96. will promptly provide the lender with all additional documentation requested.
- 2h. 97. **Type of Financing:** Conventional FHA VA USDA Assumption Seller Carryback _____ 98. (If financing is to be other than new financing, see attached addendum.)
- 2i. 99. **Loan Costs:** All costs of obtaining the loan shall be paid by Buyer, unless otherwise provided for herein.
- 2j. 100. **Seller Concessions (if any):** In addition to the other costs Seller has agreed to pay herein, Seller will credit Buyer _____% 101. of the Purchase Price OR \$ _____ (Seller Concessions). The Seller Concessions may be used for any Buyer fee, cost, 102. charge, or expenditure to the extent allowed by Buyer's lender.
- 2k. 103. **Changes:** Buyer shall immediately notify Seller of any changes in the loan program, financing terms, or lender described in the 104. Pre-Qualification Form attached hereto or LSU provided within ten (10) days after Contract acceptance and shall only make any 105. such changes without the prior written consent of Seller if such changes do not adversely affect Buyer's ability to obtain loan 106. approval without PTD conditions, increase Seller's closing costs, or delay COE.
- 2l. 107. **Appraisal Contingency:** Buyer's obligation to complete this sale is contingent upon an appraisal of the Premises acceptable to 108. lender for at least the purchase price. If the Premises fail to appraise for the purchase price in any appraisal required by lender, 109. Buyer has five (5) days after notice of the appraised value to cancel this Contract and receive a return of the Earnest Money or 110. the appraisal contingency shall be waived, unless otherwise prohibited by federal law.
- 2m. 111. **Appraisal Cost(s):** Initial appraisal fee shall be paid by Buyer Seller Other _____ 112. at the time payment is required by lender and is non-refundable. If Seller is paying the initial appraisal fee, the fee will will not 113. be applied against Seller's Concessions at COE, if applicable. If Buyer's lender requires an updated appraisal prior to COE, it will be 114. performed at Buyer's expense. Any appraiser/lender required inspection cost(s) shall be paid for by Buyer.

3. TITLE AND ESCROW

3a. 115. **Escrow:** This Contract shall be used as escrow instructions. The Escrow Company employed by the parties to carry out the 116. terms of this Contract shall be:

117. Chicago Title Agency - Stacy Heintz
 ESCROW/TITLE COMPANY

118. 20860 N Tatum Bl Ste 140 Phoenix AZ 85050
 ADDRESS CITY STATE ZIP

119. stacy.heintz@cct.com 602-667-1252
 EMAIL PHONE FAX

3b. 120. **Title and Vesting:** Buyer will take title as determined before COE. If Buyer is married and intends to take title as his/her sole 121. and separate property, a disclaimer deed may be required. Taking title may have significant legal, estate planning and tax 122. consequences. Buyer should obtain independent legal and tax advice.

3c. 123. **Title Commitment and Title Insurance:** Escrow Company is hereby instructed to obtain and deliver to Buyer and Seller directly, 124. addressed pursuant to 8s and 9c or as otherwise provided, a Commitment for Title Insurance together with complete and legible copies 125. of all documents that will remain as exceptions to Buyer's policy of Title Insurance ("Title Commitment"), including but not limited to 126. Conditions, Covenants and Restrictions ("CC&Rs"); deed restrictions; and easements. Buyer shall have five (5) days after receipt of the 127. Title Commitment and after receipt of notice of any subsequent exceptions to provide notice to Seller of any items disapproved. Seller 128. shall convey title by warranty deed, subject to existing taxes, assessments, covenants, conditions, restrictions, rights of way, easements 129. and all other matters of record. Buyer shall be provided at Seller's expense an American Land Title Association ("ALTA") Homeowner's 130. Title Insurance Policy or, if not available, a Standard Owner's Title Insurance Policy, showing title vested in Buyer. Buyer may acquire 131. extended coverage at Buyer's own additional expense. If applicable, Buyer shall pay the cost of obtaining the ALTA Lender Title 132. Insurance Policy.

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 SELLER SELLER BUYER BUYER

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- 3d. 133. **Additional Instructions:** (i) Escrow Company shall promptly furnish notice of pending sale that contains the name and address of 134. Buyer to any homeowner's association(s) in which the Premises are located. (ii) If Escrow Company is also acting as the title agency 135. but is not the title insurer issuing the title insurance policy, Escrow Company shall deliver to Buyer and Seller, upon deposit of funds, a 136. closing protection letter from the title insurer indemnifying Buyer and Seller for any losses due to fraudulent acts or breach of escrow 137. instructions by Escrow Company. (iii) All documents necessary to close this transaction shall be executed promptly by Seller and 138. Buyer in the standard form used by Escrow Company. Escrow Company shall modify such documents to the extent necessary to be 139. consistent with this Contract. (iv) Escrow Company fees, unless otherwise stated herein, shall be allocated equally between Seller and 140. Buyer. (v) Escrow Company shall send to all parties and Broker(s) copies of all notices and communications directed to Seller, Buyer 141. and Broker(s). (vi) Escrow Company shall provide Broker(s) access to escrowed materials and information regarding the escrow. (vii) 142. If an Affidavit of Disclosure is provided, Escrow Company shall record the Affidavit at COE.
- 3e. 143. **Tax Prorations:** Real property taxes payable by Seller shall be prorated to COE based upon the latest tax information available.
- 3f. 144. **Release of Earnest Money:** In the event of a dispute between Buyer and Seller regarding any Earnest Money deposited with 145. Escrow Company, Buyer and Seller authorize Escrow Company to release the Earnest Money pursuant to the terms and conditions 146. of this Contract in its sole and absolute discretion. Buyer and Seller agree to hold harmless and indemnify Escrow Company against 147. any claim, action or lawsuit of any kind, and from any loss, judgment, or expense, including costs and attorney fees, arising from or 148. relating in any way to the release of the Earnest Money.
- 3g. 149. **Prorations of Assessments and Fees:** All assessments and fees that are not a lien as of COE, including homeowner's 150. association fees, rents, irrigation fees, and, if assumed, insurance premiums, interest on assessments, interest on encumbrances, 151. and service contracts, shall be prorated as of COE or Other: _____
- 3h. 152. **Assessment Liens:** The amount of any assessment lien or bond including those charged by a special taxing district, such as a 153. Community Facilities District, shall be prorated as of COE.

4. DISCLOSURE

- 4a. 154. **Seller's Property Disclosure Statement ("SPDS"):** Seller shall deliver a completed AAR Residential SPDS form to Buyer 155. within three (3) days after Contract acceptance. Buyer shall provide notice of any SPDS items disapproved within the Inspection 156. Period or five (5) days after receipt of the SPDS, whichever is later.
- 4b. 157. **Insurance Claims History:** Seller shall deliver to Buyer a written five (5) year insurance claims history regarding the Premises (or a 158. claims history for the length of time Seller has owned the Premises if less than five (5) years) from Seller's insurance company or an 159. insurance support organization or consumer reporting agency, or if unavailable from these sources, from Seller, within five (5) days 160. after Contract acceptance. Buyer shall provide notice of any items disapproved within the Inspection Period or five (5) days after 161. receipt of the claims history, whichever is later.
- 4c. 162. **Foreign Sellers:** The Foreign Investment in Real Property Tax Act ("FIRPTA") is applicable if Seller is a non-resident alien 163. individual, foreign corporation, foreign partnership, foreign trust, or foreign estate ("Foreign Person"). Seller agrees to complete, 164. sign, and deliver to Escrow Company a certificate indicating whether Seller is a Foreign Person. FIRPTA requires that a foreign 165. seller may have federal income taxes up to 15% of the purchase price withheld, unless an exception applies. Seller is responsible 166. for obtaining independent legal and tax advice.
- 4d. 167. **Lead-Based Paint Disclosure:** If the Premises were built prior to 1978, Seller shall: (i) notify Buyer of any known lead-based paint 168. ("LBP") or LBP hazards in the Premises; (ii) provide Buyer with any LBP risk assessments or inspections of the Premises in Seller's 169. possession; (iii) provide Buyer with the Disclosure of Information on Lead-Based Paint and Lead-Based Paint Hazards, and any 170. report, records, pamphlets, and/or other materials referenced therein, including the pamphlet "Protect Your Family from Lead in Your 171. Home" (collectively "LBP Information"). Buyer shall return a signed copy of the Disclosure of Information on Lead-Based Paint and 172. Lead-Based Paint Hazards to Seller prior to COE.
 - 173. LBP Information was provided prior to Contract acceptance and Buyer acknowledges the opportunity to conduct LBP risk 174. assessments or inspections during Inspection Period.
 - 175. Seller shall provide LBP Information within five (5) days after Contract acceptance. Buyer may within ten (10) days 176. or _____ days after receipt of the LBP Information conduct or obtain a risk assessment or inspection of the Premises for the 177. presence of LBP or LBP hazards ("Assessment Period"). Buyer may within five (5) days after receipt of the LBP Information or five 178. (5) days after expiration of the Assessment Period cancel this Contract.
 - 179. Buyer is further advised to use certified contractors to perform renovation, repair or painting projects that disturb lead-based paint in 180. residential properties built before 1978 and to follow specific work practices to prevent lead contamination.
 - 181. If Premises were constructed prior to 1978, (BUYER'S INITIALS REQUIRED)

BUYER	BUYER
WA	
BUYER	BUYER
 - 182. If Premises were constructed in 1978 or later, (BUYER'S INITIALS REQUIRED)

BUYER	BUYER
WA	
BUYER	BUYER

LP	JH
SELLER	SELLER

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Page 4 of 10

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Initial	
WA	
BUYER	BUYER

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- 4e. 183. **Affidavit of Disclosure:** If the Premises are located in an unincorporated area of the county, and five (5) or fewer parcels of 184. property other than subdivided property are being transferred, Seller shall deliver a completed Affidavit of Disclosure in the form 185. required by law to Buyer within five (5) days after Contract acceptance. Buyer shall provide notice of any Affidavit of Disclosure items 186. disapproved within the Inspection Period or five (5) days after receipt of the Affidavit of Disclosure, whichever is later.
- 4f. 187. **Changes During Escrow:** Seller shall immediately notify Buyer of any changes in the Premises or disclosures made herein, 188. in the SPDS, or otherwise. Such notice shall be considered an update of the SPDS. Unless Seller is already obligated by this 189. Contract or any amendments hereto, to correct or repair the changed item disclosed, Buyer shall be allowed five (5) days after 190. delivery of such notice to provide notice of disapproval to Seller.

5. WARRANTIES

- 5a. 191. **Condition of Premises: BUYER AND SELLER AGREE THE PREMISES ARE BEING SOLD IN ITS PRESENT PHYSICAL** 192. **CONDITION AS OF THE DATE OF CONTRACT ACCEPTANCE.** Seller makes no warranty to Buyer, either express or implied, 193. as to the condition, zoning, or fitness for any particular use or purpose of the Premises. However, Seller shall maintain and repair 194. the Premises so that at the earlier of possession or COE: (i) the Premises, including all personal property included in the sale, will 195. be in substantially the same condition as on the date of Contract acceptance; and (ii) all personal property not included in the sale 196. and debris will be removed from the Premises. Buyer is advised to conduct independent inspections and investigations regarding 197. the Premises within the Inspection Period as specified in Section 6a. Buyer and Seller acknowledge and understand they may, 198. but are not obligated to, engage in negotiations or address repairs/improvements to the Premises. Any/all agreed upon repairs/ 199. improvements will be addressed pursuant to Section 6j.
- 5b. 200. **Warranties that Survive Closing:** Seller warrants that Seller has disclosed to Buyer and Broker(s) all material latent defects and 201. any information concerning the Premises known to Seller, excluding opinions of value, which materially and adversely affect the 202. consideration to be paid by Buyer. Prior to COE, Seller warrants that payment in full will have been made for all labor, professional 203. services, materials, machinery, fixtures, or tools furnished within the 150 days immediately preceding COE in connection with the 204. construction, alteration, or repair of any structure on or improvement to the Premises. Seller warrants that the information regarding 205. connection to a sewer system or on-site wastewater treatment facility (conventional septic or alternative) is correct to the best of 206. Seller's knowledge.
- 5c. 207. **Buyer Warranties:** Buyer warrants that Buyer has disclosed to Seller any information that may materially and adversely affect 208. Buyer's ability to close escrow or complete the obligations of this Contract. At the earlier of possession of the Premises or COE, 209. Buyer warrants to Seller that Buyer has conducted all desired independent inspections and investigations and accepts the Premises. 210. **Buyer warrants that Buyer is not relying on any verbal representations concerning the Premises except disclosed as follows:** 211. _____ 212. _____

6. DUE DILIGENCE

- 6a. 213. **Inspection Period:** Buyer's Inspection Period shall be ten (10) days or 8 days after Contract acceptance. During the 214. Inspection Period Buyer, at Buyer's expense, shall: (i) conduct all desired physical, environmental, and other types of inspections 215. and investigations to determine the value and condition of the Premises; (ii) make inquiries and consult government agencies, 216. lenders, insurance agents, architects, and other appropriate persons and entities concerning the suitability of the Premises and 217. the surrounding area; (iii) investigate applicable building, zoning, fire, health, and safety codes to determine any potential hazards, 218. violations or defects in the Premises; and (iv) verify any material multiple listing service ("MLS") information. If the presence of 219. sex offenders in the vicinity or the occurrence of a disease, natural death, suicide, homicide or other crime on or in the vicinity is 220. a material matter to Buyer, it must be investigated by Buyer during the Inspection Period. Buyer shall keep the Premises free and 221. clear of liens, shall indemnify and hold Seller harmless from all liability, claims, demands, damages, and costs, and shall repair all 222. damages arising from the inspections. Buyer shall provide Seller and Broker(s) upon receipt, at no cost, copies of all inspection 223. reports concerning the Premises obtained by Buyer. Buyer is advised to consult the Arizona Department of Real Estate *Buyer* 224. *Advisory* to assist in Buyer's due diligence inspections and investigations.
- 6b. 225. **Square Footage: BUYER IS AWARE THAT ANY REFERENCE TO THE SQUARE FOOTAGE OF THE PREMISES, BOTH THE** 226. **REAL PROPERTY (LAND) AND IMPROVEMENTS THEREON, IS APPROXIMATE. IF SQUARE FOOTAGE IS A MATERIAL** 227. **MATTER TO BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD.**
- 6c. 228. **Wood-Destroying Organism or Insect Inspection: IF CURRENT OR PAST WOOD-DESTROYING ORGANISMS OR INSECTS** 229. **(SUCH AS TERMITES) ARE A MATERIAL MATTER TO BUYER, THESE ISSUES MUST BE INVESTIGATED DURING THE** 230. **INSPECTION PERIOD.** Buyer shall order and pay for all wood-destroying organism or insect inspections performed during the 231. Inspection Period. If the lender requires an updated Wood-Destroying Organism or Insect Inspection Report prior to COE, it will be 232. performed at Buyer's expense.
- 6d. 233. **Flood Hazard: FLOOD HAZARD DESIGNATIONS OR THE COST OF FLOOD HAZARD INSURANCE SHALL BE** 234. **DETERMINED BY BUYER DURING THE INSPECTION PERIOD.** If the Premises are situated in an area identified as having 235. any special flood hazards by any governmental entity, **THE LENDER MAY REQUIRE THE PURCHASE OF FLOOD HAZARD** 236. **INSURANCE.** Special flood hazards may also affect the ability to encumber or improve the Premises.

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<div style="border: 1px solid black; padding: 5px; display: inline-block;">LP</div> <div style="border: 1px solid black; padding: 5px; display: inline-block; margin-left: 20px;">JH</div>	Residential Resale Real Estate Purchase Contract • Updated: August 2024 Copyright © 2024 Arizona Association of REALTORS®. All rights reserved.	<div style="border: 1px solid black; padding: 5px; display: inline-block;">WA</div>
SELLER SELLER <Initials	Page 5 of 10	Initials > BUYER BUYER



Residential Resale Real Estate Purchase Contract >>

6e. 237. Insurance: IF HOMEOWNER'S INSURANCE IS A MATERIAL MATTER TO BUYER, BUYER SHALL APPLY FOR AND OBTAIN WRITTEN CONFIRMATION OF THE AVAILABILITY AND COST OF HOMEOWNER'S INSURANCE FOR THE PREMISES FROM BUYER'S INSURANCE COMPANY DURING THE INSPECTION PERIOD. Buyer understands that any homeowner's, fire, casualty, flood or other insurance desired by Buyer or required by lender should be in place at COE.

6f. 241. Sewer or On-site Wastewater Treatment System: The Premises are connected to a:

242. [X] sewer system [] conventional septic system [] alternative system

243. IF A SEWER CONNECTION IS A MATERIAL MATTER TO BUYER, IT MUST BE INVESTIGATED DURING THE INSPECTION PERIOD. If the Premises are served by a conventional septic or alternative system, the AAR On-site Wastewater Treatment Facility Addendum is incorporated herein by reference.

246. (BUYER'S INITIALS REQUIRED) [WJA] BUYER BUYER

6g. 247. Swimming Pool Barrier Regulations: During the Inspection Period, Buyer agrees to investigate all applicable state, county, and municipal Swimming Pool barrier regulations and agrees to comply with and pay all costs of compliance with said regulations prior to occupying the Premises, unless otherwise agreed in writing. If the Premises contains a Swimming Pool, Buyer acknowledges receipt of the Arizona Department of Health Services approved private pool safety notice.

251. (BUYER'S INITIALS REQUIRED) [WJA] BUYER BUYER

6h. 252. BUYER ACKNOWLEDGMENT: BUYER RECOGNIZES, ACKNOWLEDGES, AND AGREES THAT BROKER(S) ARE NOT QUALIFIED, NOR LICENSED, TO CONDUCT DUE DILIGENCE WITH RESPECT TO THE PREMISES OR THE SURROUNDING AREA. BUYER IS INSTRUCTED TO CONSULT WITH QUALIFIED LICENSED PROFESSIONALS TO ASSIST IN BUYER'S DUE DILIGENCE EFFORTS. BECAUSE CONDUCTING DUE DILIGENCE WITH RESPECT TO THE PREMISES AND THE SURROUNDING AREA IS BEYOND THE SCOPE OF BROKER'S EXPERTISE AND LICENSING, BUYER EXPRESSLY RELEASES AND HOLDS HARMLESS BROKER(S) FROM LIABILITY FOR ANY DEFECTS OR CONDITIONS THAT COULD HAVE BEEN DISCOVERED BY INSPECTION OR INVESTIGATION.

259. (BUYER'S INITIALS REQUIRED) [WJA] BUYER BUYER

6i. 260. Inspection Period Notice: Prior to expiration of the Inspection Period, Buyer shall deliver to Seller a signed notice of any items disapproved. AAR's Buyer's Inspection Notice and Seller's Response form is available for this purpose. Buyer shall conduct all desired inspections and investigations prior to delivering such notice to Seller and all Inspection Period items disapproved shall be provided in a single notice.

6j. 264. Buyer Disapproval: If Buyer, in Buyer's sole discretion, disapproves of items as allowed herein, Buyer shall deliver to Seller a signed notice of the items disapproved and state in the notice that Buyer elects to either:

- 266. (1) Immediately cancel this Contract, in which case:
267. (a) If Buyer's notice specifies disapproval of items as allowed herein, the Earnest Money shall be released to Buyer.
268. (b) If Buyer's notice fails to specify items disapproved as allowed herein, the cancellation will remain in effect but Buyer has failed to comply with a provision of this Contract and Seller may deliver to Buyer a cure notice as required by Section 7a. If Buyer fails to cure their non-compliance within three (3) days after delivery of such notice, Buyer shall be in breach and Seller shall be entitled to the Earnest Money. If, prior to expiration of the Cure Period, Buyer delivers notice specifying items disapproved as allowed herein, Buyer shall be entitled to a return of the Earnest Money.

273. OR

- 274. (2) Provide Seller an opportunity to correct or address the items disapproved, in which case:
275. (a) Seller shall respond in writing within five (5) days or _____ days after delivery to Seller of Buyer's notice of items disapproved. Seller's failure to respond to Buyer in writing within the specified time period shall conclusively be deemed Seller's refusal to correct or address any of the items disapproved.
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278. (b) If Seller agrees in writing to correct items disapproved, Seller shall correct the items, complete any repairs in a workmanlike manner and deliver any paid receipts evidencing the corrections and repairs to Buyer three (3) days or _____ days prior to the COE Date.
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281. (c) If Seller is unwilling or unable to correct or address any of the items disapproved, Buyer may cancel this Contract within five (5) days after delivery of Seller's response or after expiration of the time for Seller's response, whichever occurs first, and the Earnest Money shall be released to Buyer. If Buyer does not cancel this Contract within the five (5) days as provided, Buyer shall close escrow without those items that Seller has not agreed in writing to correct or address.
282.
283.
284.

285. VERBAL DISCUSSIONS WILL NOT EXTEND THESE TIME PERIODS. Only a written agreement signed by both parties will extend response times or cancellation rights.

287. BUYER'S FAILURE TO GIVE NOTICE OF DISAPPROVAL OF ITEMS OR CANCELLATION OF THIS CONTRACT WITHIN THE SPECIFIED TIME PERIOD SHALL CONCLUSIVELY BE DEEMED BUYER'S ELECTION TO PROCEED WITH THE TRANSACTION WITHOUT CORRECTION OF ANY DISAPPROVED ITEMS.

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Initials section with boxes for Seller (LP, JH) and Buyer (WJA) and a central text area with contract details and copyright information.



Residential Resale Real Estate Purchase Contract >>

6k. 290. Home Warranty Plan: Buyer and Seller are advised to investigate the various home warranty plans available for purchase. The 291. parties acknowledge that different home warranty plans have different coverage options, exclusions, limitations, service fees and 292. most plans exclude pre-existing conditions.

293. [] A Home Warranty Plan will be ordered by [] Buyer or [] Seller with the following optional coverage

294. _____, to be issued by _____ at a cost

295. not to exceed \$ _____, to be paid for by [] Buyer [] Seller [] Split evenly between Buyer and Seller

296. [X] Buyer declines the purchase of a Home Warranty Plan.

297.

(BUYER'S INITIALS REQUIRED)

Initial BUYER BUYER

6l. 298. Walkthrough(s): Seller grants Buyer and Buyer's inspector(s) reasonable access to conduct walkthrough(s) of the Premises for 299. the purpose of satisfying Buyer that any corrections or repairs agreed to by Seller have been completed, and the Premises are 300. in substantially the same condition as of the date of Contract acceptance. If Buyer does not conduct such walkthrough(s), Buyer 301. releases Seller and Broker(s) from liability for any defects that could have been discovered.

6m. 302. Seller's Responsibility Regarding Inspections and Walkthrough(s): Seller shall make the Premises available for all inspections 303. and walkthrough(s) upon reasonable notice by Buyer. Seller shall, at Seller's expense, have all utilities on, including any propane, 304. until COE to enable Buyer to conduct these inspections and walkthrough(s).

6n. 305. IRS and FIRPTA Reporting: The Foreign Investment in Real Property Tax Act ("FIRPTA") provides that, if a seller is a Foreign 306. Person, a buyer of residential real property must withhold federal income taxes up to 15% of the purchase price, unless an exception 307. applies. If FIRPTA is applicable and Buyer fails to withhold, Buyer may be held liable for the tax. Buyer agrees to perform any acts 308. reasonable or necessary to comply with FIRPTA and IRS reporting requirements and Buyer is responsible for obtaining independent 309. legal and tax advice.

7. REMEDIES

7a. 310. Cure Period: A party shall have an opportunity to cure a potential breach of this Contract. If a party fails to comply with any 311. provision of this Contract, the other party shall deliver a notice to the non-complying party specifying the non-compliance. If the 312. non-compliance is not cured within three (3) days after delivery of such notice ("Cure Period"), the failure to comply shall become a 313. breach of Contract. If Escrow Company or recorder's office is closed on the last day of the Cure Period, and COE must occur 314. to cure a potential breach, COE shall occur on the next day that both are open for business.

7b. 315. Breach: In the event of a breach of Contract, the non-breaching party may cancel this Contract and/or proceed against the 316. breaching party in any claim or remedy that the non-breaching party may have in law or equity, subject to the Alternative Dispute 317. Resolution obligations set forth herein. In the case of Seller, because it would be difficult to fix actual damages in the event of 318. Buyer's breach, the Earnest Money may be deemed a reasonable estimate of damages and Seller may, at Seller's option, accept 319. the Earnest Money as Seller's sole right to damages; and in the event of Buyer's breach arising from Buyer's failure to deliver the 320. notice required by Section 2b, or Buyer's inability to obtain loan approval due to the waiver of the appraisal contingency pursuant 321. to Section 2i, Seller shall exercise this option and accept the Earnest Money as Seller's sole right to damages. An unfulfilled 322. contingency is not a breach of Contract. The parties expressly agree that the failure of any party to comply with the terms and 323. conditions of Section 1d to allow COE to occur on the COE Date, if not cured after a cure notice is delivered pursuant to Section 7a, 324. will constitute a material breach of this Contract, rendering the Contract subject to cancellation.

7c. 325. Alternative Dispute Resolution ("ADR"): Buyer and Seller agree to mediate any dispute or claim arising out of or relating to this 326. Contract in accordance with the REALTORS® Dispute Resolution System, or as otherwise agreed. All mediation costs shall be paid 327. equally by the parties. In the event that mediation does not resolve all disputes or claims, the unresolved disputes or claims shall 328. be submitted for binding arbitration. In such event, the parties shall agree upon an arbitrator and cooperate in the scheduling of 329. an arbitration hearing. If the parties are unable to agree on an arbitrator, the dispute shall be submitted to the American Arbitration 330. Association ("AAA") in accordance with the AAA Arbitration Rules for the Real Estate Industry. The decision of the arbitrator shall be 331. final and nonappealable. Judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. 332. Notwithstanding the foregoing, either party may opt out of binding arbitration within thirty (30) days after the conclusion of the 333. mediation conference by notice to the other and, in such event, either party shall have the right to resort to court action.

7d. 334. Exclusions from ADR: The following matters are excluded from the requirement for ADR hereunder: (i) any action brought in the 335. Small Claims Division of an Arizona Justice Court (up to \$3,500) so long as the matter is not thereafter transferred or removed from 336. the small claims division; (ii) judicial or nonjudicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or 337. agreement for sale; (iii) an unlawful entry or detainer action; (iv) the filing or enforcement of a mechanic's lien; or (v) any matter that 338. is within the jurisdiction of a probate court. Further, the filing of a judicial action to enable the recording of a notice of pending action 339. ("lis pendens"), or order of attachment, receivership, injunction, or other provisional remedies shall not constitute a waiver of the 340. obligation to submit the claim to ADR, nor shall such action constitute a breach of the duty to mediate or arbitrate.

7e. 341. Attorney Fees and Costs: The prevailing party in any dispute or claim between Buyer and Seller arising out of or relating to this 342. Contract shall be awarded their reasonable attorney fees and costs. Costs shall include, without limitation, attorney fees, expert 343. witness fees, fees paid to investigators, and arbitration costs.

Initials: [TP] [JH] Seller Seller Initials: [WJH] BUYER BUYER



Residential Resale Real Estate Purchase Contract >>

8. ADDITIONAL TERMS AND CONDITIONS

Buyer is a licensed Real Estate Agent in the State of Arizona.

8a. 344. Address of property on Addendum 1 and on HOA Addendum to be 6924 E Mighty Saguaro Way.

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LP	JH	<Initials	Residential Resale Real Estate Purchase Contract • Updated: August 2024 Copyright © 2024 Arizona Association of REALTORS®. All rights reserved.	Initials>	initial WA	
SELLER	SELLER		Page 8 of 10		BUYER	BUYER



Residential Resale Real Estate Purchase Contract >>

8q. 443. Broker on behalf of Buyer:

444. Wendy Herst wh139 SA670052000
 PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.

445. _____
 PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.

446. DeLex Realty _____
 PRINT FIRM NAME FIRM MLS CODE

447. 10115 E Bell Rd #105 Scottsdale AZ 85260 LC649480001
 FIRM ADDRESS STATE ZIP CODE FIRM STATE LICENSE NO.

448. 310-367-9046 _____ wendy@wendyherst.com
 PREFERRED TELEPHONE FAX EMAIL

Br. 449. Agency Confirmation: Broker named in Section 8q above is the agent of (check one):

450. Buyer; Seller; or both Buyer and Seller

8a. 451. The undersigned agree to purchase the Premises on the terms and conditions herein stated and acknowledge receipt of

452. **a copy hereof including the Buyer Attachment**

453. _____ 8/18/2024
 BUYER'S SIGNATURE MO/DA/YR BUYER'S SIGNATURE MO/DA/YR

454. Wendy Herst _____
 BUYER'S NAME PRINTED BUYER'S NAME PRINTED

455. _____
 ADDRESS ADDRESS

456. Scottsdale AZ 85255 _____
 CITY, STATE, ZIP CODE CITY, STATE, ZIP CODE

9. SELLER ACCEPTANCE

9a. 457. Broker on behalf of Seller:

458. Sierra Allegretto sa6502 BR677985000
 PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.

459. _____
 PRINT AGENT'S NAME AGENT MLS CODE AGENT STATE LICENSE NO.

460. Russ Lyon Sotheby's International Realty _____
 PRINT FIRM NAME FIRM MLS CODE

461. 5900 E Camelback Rd Scottsdale AZ 85251 LC646682009
 FIRM ADDRESS STATE ZIP CODE FIRM STATE LICENSE NO.

462. 503-317-7676 480-287-5202 _____
 PREFERRED TELEPHONE FAX EMAIL

9b. 463. Agency Confirmation: Broker named in Section 9a above is the agent of (check one):

464. Seller; or both Buyer and Seller

9c. 465. The undersigned agree to sell the Premises on the terms and conditions herein stated, acknowledge receipt of a

466. **copy hereof and grant permission to Broker named in Section 9a to deliver a copy to Buyer.**

467. Counter Offer is attached, and is incorporated herein by reference. Seller must sign and deliver both this offer and the Counter Offer. If there is a conflict between this offer and the Counter Offer, the provisions of the Counter Offer shall be controlling.

468. _____ 08/23/24
 SELLER'S SIGNATURE MO/DA/YR SELLER'S SIGNATURE MO/DA/YR

470. First Interstate Bank, conservator for Beverly Joh Marcopca County Superior Court Cause No. PB2023-05
 SELLER'S NAME PRINTED SELLER'S NAME PRINTED

471. _____
 ADDRESS ADDRESS

472. _____
 CITY, STATE, ZIP CODE CITY, STATE, ZIP CODE

473. OFFER REJECTED BY SELLER: _____, 20____
 MONTH DAY YEAR (SELLER'S INITIALS)

For Broker Use Only:
 Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
 MO/DA/YR



Arizona Association of REALTORS

ADDENDUM 1

Document updated: June 1993



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1. This is an addendum originated by the: Seller Buyer Landlord Tenant.
2. This is an addendum to the Contract dated _____ between the following Parties: _____ MO/DA/YR
3. Seller/Landlord: First Interstate Bank, Conservator for Beverly Johnson in Maricopa County Superl
4. Buyer/Tenant: Wendy Herst
5. Premises: Scottsdale AZ 85266
6. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises:
7. To be included in all Offers via Addendum 1
8. Seller: First Interstate Bank, conservator for Beverly Johnson in Maricopa County
9. Superior Court Cause No. PB2023-051089
10. Signer Authority is: John Hilderbrant for First Interstate Bank, Permanent Conservator
11. and Linda Pancheri for First Interstate Bank, Permanent Conservator
- 12.
13. This home is being sold in as-is where-is how-is condition, with the sole and only
14. warranty of the seller being the warranty of title. The buyer acknowledges that their
15. sole remedy for any defect in title is with the policy of title insurance being
16. purchased with the transaction, and not the seller, their agents or the beneficiary of
17. the estate that owns the real property. Buyer further acknowledges and understand that
18. the home is being sold in a court proceeding to approve the sale. Buyer must be present
19. at the court hearing; time and date to be forthcoming upon acceptance of an offer.
20. Buyer shall close within three business days of court approval.
- 21.
22. Seller shall not provide Seller Property Disclosures; as the Seller is the Personal
23. Representative for the estate and has no knowledge of the property. The Buyer shall
24. also waive the Letter of Experience from the Home Owner's Insurance Company.
- 25.
26. Purchase Contract may not be assigned
- 27.
- 28.
29. Transaction shall close with Stacy Heintz
30. Chicago Title Agency
31. O: (602) 667-1252
32. 20860 N. Tatum Blvd., Ste. 140 | Phoenix, AZ 85050
33. Stacy.Heintz@ctt.com
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42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.

43. _____ 03/05/24 _____ 03/06/24

44. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR
45. Landlord Tenant Landlord Tenant

46. _____ 8/18/2024 _____

47. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR
48. Landlord Tenant Landlord Tenant

49. For Broker Use Only:
Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____ MO/DA/YR



Arizona Association of REALTORS

ADDENDUM 2

Document updated:
June 1993



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- 1. This is an addendum originated by the: Seller Buyer Landlord Tenant.
- 2. This is an addendum to the Contract dated 08/18/2024 between the following Parties:
First Interstate Bank, conservator for Beverly Joh Markop County Superior Court Cause No. PB2023-05
- 3. Seller/Landlord: _____
- 4. Buyer/Tenant: Wendy Herzst
- 5. Premises: _____
- 6. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises:
- 7. Line 275 to be seven business days after receipt of BINSR
- 8. Line 437 to read August 26th at 2pm

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42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.

43. _____ 08/29/24 _____

44. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR

45. Landlord Tenant Landlord Tenant

46. _____

47. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR

48. Landlord Tenant Landlord Tenant

49. For Broker Use Only:

Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____ MO/DA/YR

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Arizona Association of REALTORS

ADDENDUM 2

Document updated:
June 1993



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1. This is an addendum originated by the: Seller Buyer Landlord Tenant.
2. This is an addendum to the Contract dated 08/18/2024 between the following Parties:
3. Seller/Landlord: First Interstate Bank, conservator for Beverly Joh MO/DA/YR County Superior Court Cause No. PB2023-05
4. Buyer/Tenant: Wendy Herst
5. Premises: _____
6. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises:
7. Line 275 to be seven business days after receipt of BMSR
8. Line 437 to read August 26th at 2pm
9. _____
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42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.

43. _____ 08/18/24 _____

44. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR
45. Landlord Tenant Landlord Tenant

46. _____
47. Seller Buyer MO/DA/YR Seller Buyer MO/DA/YR
48. Landlord Tenant Landlord Tenant

49. For Broker Use Only:
Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
MO/DA/YR



Arizona Association of REALTORS

ADDENDUM 3

Document updated:
June 1993



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- 1. This is an addendum originated by the: Seller Buyer Landlord Tenant.
- 2. This is an addendum to the Contract dated 08/23/2024 between the following Parties:
MO/DAY/YR
- 3. Seller/Landlord: First Interstate Bank, Conservator for Beverly Johnson in Maricopa County Trust
- 4. Buyer/Tenant: Wendy Herst
- 5. Premises: Scottsdale AZ 85266
- 6. The following additional terms and conditions are hereby included as a part of the Contract between Seller and Buyer for the above referenced Premises:
- 7. Buyer to be The Good Life Renovations, LLC.
- 8.
- 9. All other terms and conditions to remain the same.

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42. The undersigned agrees to the additional terms and conditions and acknowledges receipt of a copy hereof.

43. 8/26/2024

44. Seller Buyer MO/DAY/YR Seller Buyer MO/DAY/YR

45. Landlord Tenant MO/DAY/YR Landlord Tenant MO/DAY/YR

46. 08/26/2024

47. Seller Buyer MO/DAY/YR Seller Buyer MO/DAY/YR

48. Landlord Tenant MO/DAY/YR Landlord Tenant MO/DAY/YR

49. For Broker Use Only:
Brokerage File/Log No. _____ Manager's Initials _____ Broker's Initials _____ Date _____
MO/DAY/YR



EXHIBIT J

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2023-051089

09/27/2024

HONORABLE VANESSA N. SMITH

CLERK OF THE COURT
R. Perman
Deputy

IN THE MATTER OF THE GUARDIANSHIP
OF AND CONSERVATORSHIP FOR:

BEVERLY JOHNSON

THOMAS G ASIMOU

AN ADULT.

MARK EDWIN ANDERSEN
LESLIE MANN DAMON
NO ADDRESS ON RECORD
JAMES D ROHDE
MAYO CLINIC, THE
NO ADDRESS ON RECORD
BRIAN JAMES THEUT

COMM. VANESSA N SMITH

MINUTE ENTRY

Courtroom 109 – Northeast Regional.

9:43 a.m. This is the time set for a Virtual Hearing regarding the *Verified Petition to Approve Sale of Real Property* (“Petition”) filed on September 5, 2024. John Hilderbrandt, a representative of Petitioner / Conservator, First Interstate Bank, is present and represented by Counsel James Rohde. Court-Appointed Counsel Thomas Asimou is present on behalf of Protected Person Beverly Johnson who is not present. Dawn Lloyd, a representative of permanent Guardian Aspen Grove Fiduciary, is present and represented by Counsel Mark Andersen. Guardian ad Litem Brian Theut is present on behalf of the Protected Person. Real Estate Agent Sierra Allegretto is present. Buyer Wendy Herst is present. All parties appear virtually.

A record of the proceedings is made digitally in lieu of a court reporter.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2023-051089

09/27/2024

Sierra Allegretto and Wendy Herst are sworn and testify.

Discussion is held.

Upset bids are called for, and none are tendered.

Based on the information and testimony presented, and for reasons as stated on the record,

THE COURT FINDS that notice has been properly given as required by law and that the sale is reasonable.

IT IS THEREFORE ORDERED confirming the sale of real property, as set forth in full detail in the formal written Order Granting Verified Petition to Approve Sale of Real Property modified and signed by the Court and electronically filed (entered) by the clerk on September 27, 2024.

Please note: The above-mentioned order has been digitally processed. After the order has been docketed by the Clerk of the Court, copies of this order including certified copies will be available. More information regarding how to obtain copies and/or certified copies of records may be found here: <https://www.clerkofcourt.maricopa.gov/records/obtaining-records>.

10:01 a.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: https://superiorcourt.maricopa.gov/lrc/fc_gn9/

EXHIBIT K

2024 APR 26 PM 1:20

1 THOMAS G. ASIMOU, SBA #018977
2 MEAGAN M. POLLNOW, SBA #028841
3 ASIMOU & ASSOCIATES, PLC
4 5070 NORTH 40TH STREET, SUITE 135
5 PHOENIX, ARIZONA 85018
6 Ph: (602) 604-0011
7 Fax: (602) 445-3686
8 tom@asimoulaw.com
9 *Court-appointed Counsel for Beverly Johnson*

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

11 IN AND FOR THE COUNTY OF MARICOPA

12 **In the Matter of the Guardianship and**
13 **Conservatorship of:**

Case No. PB2023-051089

14 **BEVERLY JOHNSON,**

**VERIFIED PETITION FOR
DECLARATORY JUDGMENT**

15 **an Adult.**

(Assigned to Honorable Vanessa Smith)

16 Pursuant to Arizona Revised Statutes ("A.R.S.") § 14-1831 et. seq., Thomas G.
17 Asimou, Esq. of the law firm Asimou & Associates, PLC, in his capacity as court-
18 appointed counsel for Beverly Johnson ("Petitioner") respectfully petitions the Court for
19 declaratory relief to confirm his role and conduct *vis-à-vis* Beverly Johnson, to-date in the
20 above-captioned matter.
21

22 **INTRODUCTION**

23
24 "[O]ur adversar[ial] system presupposes" that "accurate and just results are most
25 likely to be obtained through the equal contest of opposed interests[.]" *Lassiter v. Dep't of*
26 *Social Servs. of Durham Cnty.*, 452 U.S. 18, 28, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981).
27
28 Similarly, due process ordinarily requires that parties "be afforded the opportunity not only

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Phoenix, Arizona 85018

1 to advance their respective positions but to correct or contradict arguments or evidence
2 offered by the other.” *United States v. Abuhamra*, 389 F.3d 309, 322 (2d Cir. 2004).

3 “[N]eutrality in adjudicative proceedings” is vital because it “preserves both the
4 appearance and reality of fairness.” *Marshall v. Jerrico*, 446 U.S. 238, 242, 100 S.Ct. 1610,
5 1613 (1980). This neutrality requirement “helps to guarantee that life, liberty, or property
6 will not be taken on the basis of an erroneous or distorted conception of the facts or the
7 law. See *Mathews v. Eldridge*, 424 U.S. 319, 344, 96 S.Ct. 893, 907, 47 L.Ed.2d 18 (1976).
8
9 At the same time, it preserves both the appearance and reality of fairness, ‘generating the
10 feeling, so important to a popular government, that justice has been done,’ *Joint Anti-
11 Fascist Committee v. McGrath*, 341 U.S. 123, 172, 71 S.Ct. 624, 649, 95 L.Ed. 817 (1951)
12 (Frankfurter, J., concurring), by ensuring that no person will be deprived of his interests in
13 the absence of a proceeding in which he may present his case with assurance that the arbiter
14 is not predisposed to find against him.” *Marshall*, at 242, 1613. “A fair trial in a fair tribunal
15 is a basic requirement of due process. Fairness of course requires an absence of actual bias
16 in the trial of cases. But our system of law has always endeavored to prevent even the
17 probability of unfairness.” *In Re Murchison*, 349 U.S. 133, 136, 75 S.Ct. 632 (1955).
18
19
20
21

22 In this case, the Court has predetermined its conclusions about the role of court-
23 appointed counsel and the petitions pending before it, stated its positions, and then invited
24 counsel to “make a record” in objection to the Court’s conclusions without being able to
25 present evidence or testimony to the Court in the context of an evidentiary hearing to which
26 the parties are entitled. The Court’s process of continued status conferences and
27 solicitation of unnecessary additional court investigator reports, and appointment of a
28

1 *Guardian ad Litem* has caused unnecessary legal fees and costs to be incurred and
2 adjudication of ultimate issues to be delayed while the Court apparently attempts to garner
3 its own evidence—instead of simply allowing adverse parties to “have their day in court”
4 so to speak, is an affront to this adversarial process.
5

6 . This proceeding was initiated upon the filing of an emergency petition for the
7 appointment of a temporary guardian and temporary conservator by a well-respected
8 hospital based on its determination that Beverly was not capable of making appropriate
9 decisions for herself. Court-appointed counsel likewise recognized his client’s diminished
10 capacity and promptly filed for protective measures (a permanent guardian and
11 conservator). He subsequently obtained sufficient documents and information that called
12 into question that fiduciary’s conduct in administering his client’s care and assets, and
13 promptly sought to remove the fiduciary and compel a formal accounting of the same.
14 Informal resolution of these disputes among the parties was unsuccessful. Accordingly,
15 court-appointed counsel asked the Court to set a deadline for the parties to provide a joint
16 report and scheduling order with the court, and to set an evidentiary hearing.
17
18
19

20 Instead, the Court asked court-appointed counsel to step down from his role based
21 on unsubstantiated allegations in the court investigator’s report and the Court’s own
22 unsubstantiated “concerns” regarding Beverly’s ability to direct court-appointed counsel
23 in this matter. The Court then appointed a *Guardian ad Litem* to opine on these unfounded
24 concerns. While court-appointed counsel recognizes that the Court has discretion to
25 appoint *Guardians ad Litem* and to obtain additional reports from the Court Investigator,
26 it does not have the freedom to do so arbitrarily.
27
28

ASIMOU &
ASSOCIATES, PLC
5050 North 40th Street, Suite 220
Phoenix, Arizona 85018

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EXECUTIVE SUMMARY

At the April 5, 2024 status conference and initial hearing on the *Petition to Substitute Guardian*, court-appointed counsel informed the Court that the parties were unable to informally resolve disputes and issues set forth in the *Petition to Compel* and *Petition to Substitute Guardian* and that a Rule 28 Joint Report and Scheduling Order and evidentiary hearing would be appropriate for the Court to rule on the relief sought by court-appointed counsel in the *Petition to Compel* and *Petition to Substitute Guardian*.

The Court declined to give the parties a deadline to lodge a joint report and scheduling order in conformity with Rule 27, Ariz.R.Prob.Proc. and set an evidentiary hearing so that the Court could rule on the *Petition to Compel* and *Petition to Substitute Guardian* based on appropriate testimony and other admissible evidence.

Instead, without allowing any evidence, the Court subsequently appointed a *Guardian ad Litem* and set yet another status conference regarding court-appointed counsel's alleged "failure to see his client and potentially support her position and whether Counsel should be removed" and "determine who should serve as guardian and conservator." See Minute Entry dated April 5, 2024.

"It is the law of guardianships, anciently and well established, that at all times, the court must be guided by what is in the best interest of the ward." *In re Farson's Estate*, 77 Ariz. 196, 201, 269 P.2d 600, 603 (Ariz. 1954) The court's discretion to remove a guardian is not to be exercised arbitrarily or capriciously but is a legal discretion to be exercised with due regard to legal rights of all concerned. *Id.*

1 That the Court appointed a *Guardian ad Litem* to second-guess whether court-
2 appointed counsel's conduct in filing the *Petition to Compel* and *Petition to Substitute*
3 *Guardian* was in fact, in Beverly's best interest and within the scope of court-appointed
4 counsel's role in this matter, without any admissible evidence or significant change in
5 circumstances (other than the baseless and disputed allegations that the former Temporary
6 Conservator and Guardian made to the Court Investigator) is concerning, if not arbitrary.
7 The Court's conduct regarding its "concerns" as to the role of court-appointed counsel,
8
9 apparently based on the contested and hearsay allegations of the Court Investigator, has:
10

- 11 1. Served to expand these proceedings; increase the legal fees and costs to his client
12 both in the preparation and filing of this Petition, and of the Court's decision to
13 appoint another lawyer in this matter; and,
14
- 15 2. Delayed its own adjudication of the *Petition to Compel* and *Petition to Substitute*
16 *Guardian*, which at all material times, were well-grounded in fact and law, and
17 filed by court-appointed counsel in accordance with E.R. 1.14.
18

19 As set forth herein, at all material times, court-appointed counsel has represented
20 his client with diminished capacity within the scope of the Rules of Probate Procedure and
21 the Ethical Rules of Professional Conduct.
22

23 **SUBJECT MATTER, JURISDICTION, VENUE, AND NOTICE**

- 24 1. Pursuant to A.R.S. § 14-1301, the provisions of Title 14 of the Arizona Revised
25 Statutes apply to protected persons domiciled in this state, the property of nonresidents located
26 in this state, property coming into the control of a fiduciary who is subject to the laws of this
27 state, and estates and trusts subject to administration in this state.
28

1 2. Pursuant to A.R.S. § 12-1831, the court “shall have the power to declare rights,
2 status and other legal relationships whether or not further relief is or could be claimed. No
3 action or proceeding shall be open to objection on the grounds that a declaratory judgment or
4 decree is prayed for. The declaration may be either affirmative or negative in form and effect;
5 and such declarations shall have the force and effect of a final judgment or decree.”
6

7 3. Pursuant to A.R.S. § 12-1831 an actual controversy exists regarding the role and
8 propriety of court-appointed counsel’s conduct in this matter, regarding court-appointed
9 counsel’s alleged “failure to see his client and potentially support her position and whether
10 Counsel should be removed.” See Minute Entry dated April 5, 2024.
11

12 4. The “enumeration in §§ 12-1832, 12-1833 and 12-1834 does not limit or restrict
13 the exercise of the general powers conferred in § 12-1831, in any proceeding where declaratory
14 relief is sought, in which a judgment or decree will terminate the controversy or remove an
15 uncertainty.” A.R.S. § 12-1835 (emphasis supplied).
16

17 5. As set forth herein, there is uncertainty concerning the propriety of court-appointed
18 counsel’s conduct in this matter. Adjudication of this Petition will remove that uncertainty.
19

20 6. Declaratory judgment statutes should be construed liberally in favor of person
21 seeking relief under their provisions, so as to enable the statutes to accomplish their purpose
22 and obtain their objectives, with a view of making the court more serviceable to the people and
23 the profession. *Schwamm v. Superior Court*, 4 Ariz. App. 480, 421 P.2d 913 (App. 1966).
24

25 7. Venue is proper in Maricopa County, Arizona, pursuant to A.R.S. § 14-10204(A)
26 as Beverly Johnson is a resident of Maricopa County and owns property located in Maricopa
27 County.
28

1 8. Notice has been provided to all parties in this matter pursuant to A.R.S. § 14-1401.

2 **FACTUAL BACKGROUND**

3 1. **This proceeding was initiated in July 2023 by Mayo Clinic after Beverly**
4 **was found on the floor in her unairconditioned home.**

5 9. Ms. Beverly Johnson (“Beverly”) is 90 years old. She is from Chicago, has
6 never been married, and has no children. She lived in a home inherited from her parents.
7

8 10. Beverly has not been employed for a sufficient amount of time to qualify for
9 social security income.

10 11. Beverly has been diagnosed with _____ r an unknown period.

11 12. In July 2023, Beverly tripped and fell in her home. Her neighbors found her
12 on the floor in her home with the air conditioning turned off. She was admitted to Mayo
13 Clinic, where she was diagnosed with _____
14

15 13. On August 10, 2023, Mayo Clinic filed an *Emergency Petition for*
16 *Temporary Appointment of Guardian and Conservator of an Adult* (“Emergency Petition”).
17

18 14. Mayo Clinic petitioned for the appointment of Robin O’Connell of Aspen
19 Grove Fiduciary, LLC (License No. 20967) (“Aspen”) to serve as Beverly’s temporary
20 guardian and conservator in order to obtain her discharge from Mayo, as her physical
21 condition had stabilized, but was not considered a “safe discharge” back to her home to
22 live by herself.
23

24 15. It is believed that Aspen was nominated because of its networking
25 relationship with Mayo Clinic to obtain referrals for fiduciary appointments, and not
26 because of any prior relationship with Beverly Johnson.
27
28

1 16. Mayo Clinic's Physician Sachin M. Mehta, M.D., in his report, opined that
2 Beverly

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6 17. The physician further opined that Beverly "would benefit from
7 neurocognitive testing and advanced care planning".

8
9 18. The physician also opined that Beverly
10 that preclude her from reaching out for assistance. She mentioned having a
11 financial advisor, but he had not worked with her since 19(indecipherable)."

12
13 **2. Court-appointed counsel was appointed in August 2023, wherein he**
14 **promptly made contact with his client to ascertain her position regarding**
15 **the Emergency Petition and reasonably concluded that she was unable to**
16 **direct him as her counsel.**

17 19. Undersigned was appointed as court-appointed counsel on August 11, 2024.

18 20. On August 24, 2024, undersigned contacted Beverly Johnson ("Beverly")
19 through the nurse's station at Mayo Clinic.

20 21. Based on undersigned's communications with Beverly in consultation with
21 the Physician's Report, court-appointed counsel concluded that she was unable to direct
22 him as her legal counsel *vis-à-vis* the relief sought in the *Emergency Petition for Temporary*
23 *Appointment of Guardian and Conservator of an Adult* filed by Mayo Clinic.

24
25 22. That is, undersigned reasonably believed that Beverly was unable to opine
26 on whether a temporary or permanent guardian and conservator should be appointed for
27 her, and who should serve in that role.
28

1 23. Court-appointed counsel then reached out to one of Beverly's neighbors to
2 attempt to ascertain Beverly's wishes and any additional details and communicated the
3 same to Mayo Clinic and Aspen. Court-appointed counsel also opined that his client really
4 appeared to be in need of

Tom Asimou <tom@asimoulaw.com>

Fri, Aug 25, 2023 at 10:37 A

To: Danny Mazza

Emily Kite <emily@kilelawfirm.com>

Cc: Office Office <office@asimoulaw.com>, Leah Faibisoff <leah@asimoulaw.com>, Meagan Pollnow <meagan@asimoulaw.com>, Sara Richardson <sara@asimoulaw.com>

Meagan reminded me...as this is not anticipated to be contested...we did not notice Smith.

Tom

On Fri, Aug 25, 2023 at 9:02 AM Tom Asimou <tom@asimoulaw.com> wrote:

Danny/Emily:

As you may be aware, I was appointed for Beverly Johnson. We filed a Notice of Change of Judge...so I am not sure how that will impact the hearing next week.

I inquired of my client about family, she purports to have none...but she did tell me Don Maxson her neighbor was a dear friend. I had contact with him this morning, and he appears to have an eye out for Beverly. His phone number for Robin is Danny, please have Robin contact him to facilitate access to the house and her mail box.

Additionally, he expressed to me, that Beverly expressed to him...consistently that she has the resources, and wants to go to live at Heritage in Carefree
<https://www.heritagecarefree.com/>

Additionally, she apparently does have an estate plan in her home, with her estate going to the ASU Foundation. Please be sure to keep me apprised about the location of these documents, and send me copies.

Maxson was expecting a call from Robin, Danny please urge that, as it seems he could be a good resource.

Of note, my client, once placed, could really use a hearing aid.

Thanks,

Tom

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3. **At the hearing on the Emergency Petition (which only sought temporary relief), court-appointed counsel informed the Court that he would be filing a Petition for Appointment of Permanent Guardian and Conservator, given his client Beverly's readily-apparent cognitive deficits.**

24. On August 30, 2023, at the hearing on the Emergency Petition, court-appointed counsel offered no objection to the Emergency Petition consistent with his communications with Beverly that she could not meaningfully opine on the relief sought in the Emergency Petition.

25. At the hearing, court-appointed counsel informed the Court that he had no objection regarding the relief sought, and that he would be filing a cross-petition for Aspen's appointment as permanent conservator and guardian, as no such permanent relief was pending before the Court—and such relief was clearly warranted for his client Beverly. Court-appointed counsel opined that Beverly “clearly needs the help.”

26. On August 30, 2023, the Court appointed Aspen as Temporary Guardian and Temporary Conservator for Beverly. A budget, inventory, credit report and bond were waived as it was not clear if Beverly had any assets other than her home located at

Scottsdale, Arizona 85266.

27. The next day, on August 31, 2023, pursuant to E.R. 1.14(b), court-appointed counsel filed a *Petition for Permanent Appointment of Guardian and Conservator*, nominating Aspen to serve both of those roles.

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4. **The Court Investigator, in his first report, noted Beverly's inability to remember the name of her Temporary Guardian and Conservator (despite having provided it six times during his meeting with Beverly), or what those terms meant—even after such definitions were provided.**

28. The Court Investigator's October 4, 2023, Report unremarkably noted Beverly Johnson's _____ which comported with court-appointed counsel's initial communication with her in August:

Beverly Johnson was interviewed in-person on October 3, 2023. She was very talkative; however, she repeated herself several times and could not remember Robin O'Connell's first name despite it being given to her at least six times. She was clean in appearance, dressed appropriately and there were no observable signs of illness or injury. She provided this Investigator with her date of birth, the city and state in which she was born and the names of her parents. She correctly named the President of the United States, but she did not know the day of the week the interview took place because she does not have a calendar or watch. Beverly graduated from high school and attended the University of Arizona for 3 years, but she did not graduate. She worked as a secretary, has never been married and does not have any children. She owns a home and she knew the name of the street

3-14-23

where it was located, but she got confused with the numbers of her address. Beverly stated she has been at her assisted living facility for one week and she does not plan on returning to her home to live; however, she would like for somebody to take her there so she can get clothing, prescription glasses and other personal items prior to it being sold. Beverly was unable to define the words "Guardian" or "Conservator" and definitions were provided. When asked if she would benefit from having a Permanent Guardian or Conservator appointed on her behalf, she stated, "I need the help because I have no family."

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5. **After learning that Beverly's conservatorship was valued at approximately \$6 million, court-appointed counsel filed an *Amended Petition for Appointment of Guardian and Conservator* to nominate a bank as Conservator.**

29. A couple of weeks after court-appointed counsel filed the *Petition for Appointment of Guardian and Conservator*, Aspen discovered that Beverly had about six million dollars in assets. Because of the relatively large size of Beverly Johnson's conservatorship estate, court-appointed counsel preferred a financial institution to serve as Conservator for Beverly with the ability to prudently manage and invest her assets

1 without any bond obligation or restrictions on the ability for the conservator to make such
2 investments.

3 30. Accordingly, on October 23, 2023 (and again, pursuant to E.R. 1.14) court-
4 appointed counsel filed an *Amended Petition for Permanent Appointment of a Guardian*
5 *and Conservator*, to nominate First Interstate Wealth Management to serve as Conservator
6 instead of Aspen¹.

7
8
9 **6. At no point during the October 25, 2023, hearing did the Court raise**
10 **concern that Beverly was unable to opine on First Interstate Wealth**
11 **Management to serve as Conservator or court-appointed counsel's**
12 **conduct in filing the Amended Petition for Permanent Appointment of a**
13 **Guardian and Conservator.**

14 31. During the October 25, 2023, hearing on the original *Petition for Permanent*
15 *Appointment of Guardian and Conservator*, the Court asked how court-appointed counsel
16 nominated First Interstate Wealth Management to serve as Permanent Conservator.
17 Undersigned reported his experience with First Interstate Wealth Management in another
18 case in which court-appointed counsel in that matter served as *Guardian ad Litem*.

19 32. At no point during the October 25, 2023, hearing did the Court raise concern
20 that Beverly was unable to opine on First Interstate Wealth Management to serve as
21 Conservator or court-appointed counsel's conduct in filing the *Amended Petition for*
22 *Permanent Appointment of a Guardian and Conservator* ("Amended Petition").
23

24 ...
25
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27 _____
28 ¹ To be clear, court-appointed counsel has not represented First Interstate Wealth Management
in any capacity and can recall only one other case in which they act as Conservator in which
court-appointed counsel is involved.

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Phoenix, Arizona 85018

1 33. The Court subsequently appointed Aspen as Beverly's Permanent Guardian
2 on November 9, 2023. The Court set another hearing for court-appointed counsel to
3 provide adequate notice of his Amended Petition to appoint First Interstate as Conservator
4 by serving Beverly with the Amended Petition.
5

6 34. The Court also directed the Court Investigator to prepare another report
7 regarding court-appointed counsel's nomination of for First Interstate Wealth Management
8 to serve as Conservator.
9

10 35. The Court Investigator, in his November 29, 2023, Report did not even note
11 an attempt by the Court Investigator to communicate with Beverly regarding court-
12 appointed counsel's nomination of First Interstate Wealth Management to serve as
13 Conservator for her instead of Aspen—presumably given her cognitive deficits evidenced
14 in the initial Court Investigator's Report and experienced by the Court Investigator.
15

16 36. At the hearing on December 11, 2023, the Court entered its order appointing
17 First Interstate Wealth Management as conservator. The Court again raised no concerns
18 regarding court-appointed counsel's Amended Petition.
19

20 37. Thereafter, between December 11, 2023, and January 16, 2024, on several
21 occasions, court-appointed counsel requested an informal accounting of Aspen's
22 administration of Beverly's assets during its tenure as Temporary Conservator.
23

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1 **7. In the process of transitioning assets and information from the former**
2 **Temporary Conservator to the Permanent Conservator, it became clear**
3 **that Aspen had incurred unreasonable expenses (thousands of dollars in**
4 **unnecessary home “improvements”), was holding \$200,000 in**
5 **conservatorship funds to which it had no authority, and had failed to**
6 **properly marshal and secure Beverly’s tangible personal property.**

7 38. On January 16, 2024, based on the lack of information provided for more
8 than a month after such requests (and much longer since Aspen was aware of the Amended
9 Petition to appoint the bank as Conservator in October 2023), court-appointed counsel filed
10 a *Petition to Compel Inventory, Accounting and Transfer of Conservatorship Assets* for the
11 reasons stated therein.

12 39. Thereafter, the documents and information informally provided by Aspen
13 delineated stolen jewelry that had not been properly inventoried or appraised for months
14 prior to their theft, cash located in the home that had not been property inventoried, and
15 thousands of dollars of unnecessary home repairs for a home that was later listed for sale
16 when Aspen knew it was not going serve as permanent Conservator.

17 40. Based on these issues, and again, pursuant to E.R. 1.14, court-appointed
18 counsel filed a *Petition to Substitute Guardian*, as he had concerns regarding Beverly’s
19 care based on Aspen’s maladministration of Beverly’s assets.

20 **8. Court-appointed counsel sought to obtain Aspen’s cooperation in stepping**
21 **down as Guardian without unnecessary filings or litigation.**

22 41. In his February 15, 2024, correspondence, court-appointed counsel urged
23 Aspen to consider resigning without litigation to save on legal fees and costs:
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Phoenix, Arizona 85018

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Enclosed please find a copy of the *Petition to Remove* filed in this matter.

As you are aware, the “guardian and the guardian's attorney may be compensated from the ward's estate for defending against a petition for substitution only for the amount ordered by the court and on petition by the guardian or the guardian's attorney.” A.R.S. § 14-5307(A).

Counsel and other fiduciaries “have a duty to undertake a cost-benefit analysis at the outset and throughout their representation to ensure that they provide needed services...and do not waste funds or engage in excessive or unproductive activities.” *In re Guardianship of Sleeth*, 226 Ariz. at 175, ¶ 18, 244 P.3d at 1173 (App. 2010). Based on your client's unreasonable conduct in this matter, I don't foresee that you will be able to obtain reimbursement from the Protected Person's estate for defending the same.

Danny, I appreciate our professional relationship, but I have a client to protect. Please promptly advise if your client is willing to reconsider her position and stipulate to the substitution of a successor guardian.

Thank you.

42. Based on the allegations in the *Petition to Substitute Guardian*, the Court referred the Court Investigator to looking into the allegations of court-appointed counsel against Aspen and prepare a Report.

43. Instead, the Court Investigator apparently relied on the Aspen's denial of the allegations and its belief that undersigned should have consulted with his client regarding the *Petition to Compel and Petition to Substitute Guardian* in undersigned's role as court-appointed counsel.

9. The Court Investigator was directed to investigate Ms. O'Connell and Aspen's conduct vis-à-vis the *Petition to Substitute Guardian*, which apparently involved three different court investigators and culminated in a report filled with disputed allegations.

44. The Court Investigator noted the following interaction with Beverly (without court-appointed counsel present) in its April 3, 2024, Report, wherein the Court

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5050 North 40th Street, Suite 220

1 Investigator apparently misstated the crux of the *Petition to Substitute Guardian* to Beverly

2 ("Mr. Asimou's belief that Robin was not taking good care of her");²

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PCI Pieczynski Interview with Beverly Johnson

Beverly Johnson was interviewed in person on March 19, 2024, in the library area of the assisted living facility by PCI Pieczynski. She was clean in appearance, dressed appropriately and there were no observable signs of physical injury; however, she has difficulty hearing. This Investigator introduced himself, handed her a business card and asked if she remembered me from our visit in October 2023. Beverly adamantly denied ever meeting this Investigator, did not trust I wrote the original Guardianship/Conservatorship report and was leery of speaking with me, but she agreed to talk after a staff member said it was okay because I was with the Court.

Beverly is very talkative and would not allow this Investigator to explain the reason for the interview without her saying some things first. She then spoke at length, often repeating herself, about how her neighbor encouraged her to see a doctor and she was transported to the Mayo Clinic where she was admitted for treatment. Upon discharge, she was "dropped off" at the assisted living facility where she currently resides. Beverly stated numerous times she hates living at this facility because she had no choice in the matter, management does not help her get basic things like "john paper" and they do not allow her to play games or have fun with the other residents. She was very suspicious of people listening to our conversation, especially when talking negatively about her living situation. During the interview, three or four residents entered the library and Beverly became annoyed and requested we go to her room to finish our conversation. Her room was sparsely decorated, but it was clean and without odor.

This Investigator advised Beverly the Court requested she be interviewed to see if she was happy with Robin O'Connell being her Guardian. She stated Robin, or people from her office, have been taking good care of her. They take her to medical appointments and shopping. It should be noted Beverly frequently forgot Robin's and this Investigator's names. She indicated Robin would be more helpful if she was not living at this facility because she could deal with a different management team. Beverly reiterated numerous times her desire to move residences and stated, "I would stick with Robin if I moved, they are coming through just fine for me."

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25 ² Court-appointed counsel cites to the Court Investigator's Report not for the truth of the matter
26 asserted, but instead to discuss the nature of the allegations made in the Court Investigator's
27 Report. Pursuant to A.R.S. § 14-5303, court-appointed counsel is entitled to object to the
28 admissibility of the court investigator's reports and to cross-examine the court investigator and
present evidence regarding the same. The Arizona Rules of Evidence apply in contested
hearings unless the parties or court agree those rules will not apply. Rule 4(a)(2)(A),
Ariz.R.Prob.Proc.

Beverly was asked if she knew her Court Appointed Attorney, Thomas Asimou, filed a petition with the Court to have somebody else be her Guardian instead of Robin. She stated she has never met Tom, and if she did, she would remember it. Beverly did not know about the petition filed by Mr. Asimou and repeatedly asked why he would want her to have a different Guardian. This Investigator explained several times that it was Mr. Asimou's belief that Robin was not taking good care of her, and she stated, "that is not true." Beverly stated she would be open to having a different Guardian, but she would like to interview the person because they might not be better than Robin. She would like this person to help her move into a different place; however, she would like to research other living arrangements and be able to make the final decision.

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45. The April 3, 2024, Court Investigator's Report opined on court-appointed counsel's conduct as follows:

Mr. Asimou shared that he has not met with his client since August 2023, nor has he involved her with the Court proceedings he is engaged in on her behalf, which is a concern of the Court Investigator's Office. Mr. Asimou cited Ethical Rule 1.14. Ethical Rule 1.14 (a) says: "When a client's capacity to make adequately considered decisions in connection with a representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client." It does not appear that a normal client-lawyer relationship has been maintained. Ms. Johnson is verbal, and although has some confusion and repeats herself, she appears to have the ability to express her wants and needs. Ethical Rule 1.14 (b) also notes: "When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or

Asimou & Associates, P.L.C.
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other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian." It is also unclear why Mr. Asimou did not petition the Court to appoint a Guardian ad Litem in this matter to investigate his concerns.

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There are further concerns that Mr. Asimou and Mrs. O'Connell have not discussed with Ms. Johnson her wants and desires for her care. There has been no consideration of moving her back to her home and hiring 24 hour caregivers, which is something her estate would be able to pay for. While there is risk in exploitation or abuse in her home by private caregivers, the same is true in a facility, and when discussing her living arrangements with PCI Pieczynski, it appears a move home would be good for her mental health.

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10. At the April 5, 2024, status conference, the Court apparently considered the disputed allegations of the Court Investigator's Report in admonishing court-appointed counsel for his conduct to-date.

46. At an April 5, 2024, status conference before the Court, the Court admonished court-appointed counsel for failing to obtain his client's cooperation or consent in filing the *Petition to Compel* and *Petition to Substitute Guardian* in his role as court-appointed counsel and raised concerns about whether undersigned's conduct in doing so was ethical when his client was incompetent to direct court-appointed counsel to prepare and file such pleadings when he had not made contact with Beverly since August 2023.

47. The Court invited court-appointed counsel to withdraw from representing Beverly, to which he declined. Undersigned stated to the Court that he believed that his conduct as court-appointed counsel in all filings in this matter was in conformity with his representation of Beverly in conformity with E.R. 1.14 of the Arizona Rules of Professional Conduct, and that it was inappropriate for the Court to prejudge the allegations in the *Petition to Compel* and *Petition to Substitute Guardian* or court-appointed counsel's conduct based on the hearsay contained in the most recent Court Investigator's Report:

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14 THE COURT: And Mr. Asimou, that's one of the
15 ethical issues I'm struggling with, because I think
16 maybe your interpretation of 1.14 may be different from
17 mine, and if Ms. Johnson's wishes, as expressed to the
18 Court interpreter (sic) and to, I believe, another
19 person as well, are accurate, and I only have
20 accusations, then you are actually moving against what
21 your client may want.
22 And though I will absolutely agree she has
23 been found incapacitated, this is all so a woman who can
24 express what she wants.

25 MR. ASIMOU: Well, your Honor, but with that

1 incapacity also comes a vulnerability, and if we've got
2 people going there and grooming her when she is talking
3 about substantive legal issues that are in the purview
4 of a lawyer, then that's the concern.

5 The ethics issue is not mine. The ethics
6 issue is people going to talk to my client about
7 substantive legal issues, understanding that she's a
8 vulnerable adult and has been found incapacitated.
9 That's what we're --

10 **THE COURT:** Mr. Asimou, you keep
11 making accusations with no proof --

12 **MR. ASIMOU:** No, no --

13 **THE COURT:** -- and that's what's concerning.

14 **MR. ASIMOU:** Really. Really --

15 **THE COURT:** It's very concerning.

16 **MR. ASIMOU:** Really. Let's look at the --

17 **THE COURT:** Also -- ah-ah, do not cut me off.

18 **MR. ASIMOU:** The Court must give -- no --

19 **THE COURT:** Mr. Asimou? No. When I read that
20 Probate Court investigative report, you know what broke
21 my heart? You admitted you have not seen this client
22 since August of 2023, seven months ago.

23 **MR. ASIMOU:** Okay, so, your Honor, I think we
24 have a fundamental disagreement on the role of a lawyer
25 in these proceedings, because if my client can say, yes,

1 I like orange juice, that doesn't mean she gets to or
2 has the ability to, based upon those medical records, to
3 substantively participate in these proceedings enough to
4 direct me, and at the same time, if you want me to go
5 and visit her every week, we come back to the idea of,
6 do you want to keep spending money on that when her
7 ability to direct counsel is limited? I --

8 THE COURT: Mr. Asimou, when you file
9 petitions that are going to massively cause litigation
10 and costs without consulting with your client, that is
11 of concern, and for that reason, no.

12 Mr. Asimou, would you like to step down today?

13 MR. ASIMOU: No, we are not going to do that.

14 THE COURT: As it seems your relationship has
15 been compromised.

16 MR. ASIMOU: I don't believe that's necessary.

17 THE COURT: All right. Well, you and I have a
18 disagreement, wherein that's where I will need to look
19 at the ethical situation here.

20 I am appointing a GAL for that the following
21 reasons: The accusations made against the current
22 guardian, the accusations made against the current
23 conservator. I'm not sure who's appropriate to serve at
24 this point, the failure of Mr. Asimou to see his client
25 and potentially support her position. There's a massive

1 difference between court-appointed counsel and a
2 guardian ad litem. One is best interests, one is to
3 support the position of Ms. Johnson.

4 And again, I have this in a Probate Court
5 investigative report where she has met with a PCI member
6 who is telling me that she has concerns about where
7 she's living, but that the only person who's been
8 supportive is the current guardian.

9 And so, Mr. Asimou, you are welcome to make
10 the accusations so long as you can prove them, but
11 I want a guardian ad litem to determine who should
12 serve, whether court-appointed counsel should be
13 removed, determine if both guardian and conservator
14 should be removed. I don't know at this point, but
15 I need someone with a clean set of eyes to come in here
16 and figure out what is in Ms. Johnson's best interest.

17 I'm also going to make the record of, right
18 now, Mr. Asimou, you are coming abundantly close to
19 Sleeth, and I know you were absolutely familiar with
20 Sleeth, but let me make a record that when I consider
21 fees, I'm also going to consider whether, among other
22 things, whether counsel filed unnecessary motions or
23 engaged in unproductive litigation and whether counsel
24 was successful, but also, to make sure that there was an
25 ultimate benefit to the protected person.

Dr. J. Mackinnon, Court Reporter

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1 And so we may hold an evidentiary hearing, and
2 that may be absolutely founded in everything you're
3 alleging, but if it's not, this is stirring the pot and
4 raising fees considerably. I'm putting you on notice.
5 You are welcome to make a record.

6 MR. ASIMOU: I vehemently disagree with your
7 characterization and understanding of ethical Rule 1.14,
8 and the necessity to consult with your client when your
9 client has limited ability to give you substantive
10 direction in a case, and that, quite frankly, the Court
11 investigator's report does speak to that. The very
12 court investigator you've got here in October didn't
13 remember -- she didn't remember him from October.

14 The contact that I've had with my client and
15 the role of me as her court-appointed attorney, with the
16 medical records that have been entered into evidence in
17 this case, make it sufficiently clear that she may have
18 basic understanding of where she's at and that she likes
19 it or doesn't like it, but substantive legal issues on
20 whether or not there was a proper inventory done of her
21 assets, whether or not Ms. O'Connell's conduct with
22 respect to those assets was proper, whether or not her
23 placement is proper -- one of the reasons that I'm
24 asking for the removal of Ms. O'Connell as guardian is,
25 quite frankly, part and parcel of the substantive things

1 1 that she did with respect to this woman's assets.

2 2 Do I believe that my client is in personal
3 3 physical danger where she is currently at? No. But do
4 4 I also believe at the same time that my client has the
5 5 ability to direct me with respect to not getting a
6 6 proper dual control inventory? I don't know if there
7 7 was \$48,000 there or \$148,000 there. You will have an
8 8 opinion from an expert that that was not proper.
9 9 I don't know if doing the repairs without getting other
10 10 bids was improper, but I know that the court
11 11 investigator found that it was probably not, as did the
12 12 prior employer of Ms. O'Connell.

13 13 So whether or not my client can consult with
14 14 me to talk to me about that or whether or not my client
15 15 remembers the jewelry that she had that was stolen that
16 16 Ms. O'Connell never properly inventoried, those are the
17 17 issues in this case.

18 18 Her placement and whether or not we're going
19 19 to replace the guardian, quite frankly, are having to do
20 20 very much with the fact that if Ms. O'Connell -- if she
21 21 can't do the things correct as conservator and if she
22 22 misstates the role as First Interstate Bank and
23 23 misstates the fees that First Interstate Bank is
24 24 charging merely to keep on to this case, and that you're
25 25 going to criticize me, I am making a record.

13 T. Markham Court Report

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1 That is why I did what I did, and if we need
2 to have a record for that and if we need to have
3 evidentiary hearings about that, we will do that,
4 because there's other inaccuracies within the court
5 investigator's report that you're relying on to make
6 these allegations.

7 So Mr. Pieczynski and Kathleen -- the other --
8 Hall and the other person, will likely be witnesses,
9 because in my reading of this and my understanding of
10 the facts, being the lawyer on this for the last seven
11 months, we have -- you and I do have fundamental
12 disagreements, because you are seeming to prejudge,
13 based upon what is not admissible evidence in a court
14 right now, from three court investigators, one of whom
15 visited my client, that she didn't remember meeting that
16 person in October, and I'm getting criticized by this
17 Court for not then going and substantively meeting with
18 my client, at the same time you're saying on Sleeth,
19 I shouldn't be taking actions that don't have a benefit
20 to the client, whereas going to visit my client every
21 two weeks to say, are you liking this, are you not
22 liking this, comes very close to grooming when you have
23 the kind of vulnerability that my client has in her
24 inability to understand these things.

25 So yes, we do have a disagreement. Yes,

1 I respect this Court. Yes. I think you're a great
2 judicial officer. Can we disagree on the issues? Yeah,
3 because I don't think you have a record with which you
4 can make a decision, but it seems as though you've
5 already prejudged it based upon this court
6 investigator's report.

7
8 So if we're going to have anybody looking at
9 removing somebody, perhaps the Court's idea of
10 prejudging based upon a court investigator's report,
11 maybe that's where the Court needs to look rather than
12 removing court-appointed counsel, because what I'm
13 seeing here is the Court considering inadmissible
14 evidence where I've got two people that, quite frankly,
15 everything in this report is hearsay, and if I have
16 strict compliance with the Rules of Evidence, and
17 I cross-examine Mr. P and Ms. Hall and the other person
18 that were on there, a judicial officer who has not been
19 clouded by this report, which has not been admitted into
20 evidence and can't be because it contains entirely
21 hearsay, may have a different idea about it.

22 So yes, I want -- I made my record. So as you
23 think about those ethical rules, think about whether or
24 not there's -- a recusal is necessary based upon your
25 reliance on inadmissible evidence to already make
26 findings.

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THE COURT: All right, Mr. Asimou, this is not an ethical issue for me to decide. I am not ultimately the disciplinarian of attorneys. I gave you an opportunity to withdraw. I allowed you to make a record. I told you the Court's concerns.

48. After the Court's statement that it was "not an ethical issue for me to decide" that Court then appointed a *Guardian ad Litem* to opine on the propriety of court-appointed counsel's conduct in his "failure to see his client and potentially support her position" and "whether Counsel should be removed":

IT IS ORDERED appointing a Guardian ad Litem ("GAL") for the purpose of the best interests of the Protected Person. GAL shall investigate the accusations made against the current guardian; the accusations made against the current conservator; Court Appointed Counsel's failure to see his client and potentially support her position and whether Counsel should be removed; and determine who should serve as guardian and conservator. A separate appointment Minute Entry will issue.

See April 5, 2024, Minute Entry.

11. Court-appointed counsel obtained an evaluation of his client from an appropriate diagnostician to substantiate the consistently obvious notion that Beverly is not able to provide a "position" as to who should serve as her Guardian and Conservator, and the allegations raised in the Petition to Compel or Petition to Substitute Guardian.

49. Thereafter, court-appointed counsel obtained an evaluation of his client to substantiate the consistently obvious notion that Beverly is not able to provide a "position" as to who should serve as her Guardian and Conservator, and the allegations raised in the *Petition to Compel or Petition to Substitute Guardian*.

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51. Dr. Lamoureux opined that Beverly is unable to set forth a position regarding who should serve as her Guardian and Conservator:

3. Is Beverly Johnson able to express her "wishes and values" regarding who should serve as her guardian and conservator?

It is my opinion, to a reasonable degree of medical probability, that Beverly Johnson is not able to express her "wishes and values" regarding who should serve as her guardian and conservator. I base this on the following evidence:

Ms. Johnson initially did not recall who her guardian and conservator were. She seemed to have limited understanding of Ms. O'Connell's role; however, she appeared to believe that Ms. O'Connell was adequately functioning as a guardian because she would assist her in obtaining material objects and items. She did not have a substantive understanding of broader issues, and based on the interview, it appears as though she would likely support a guardian in the event that this guardian responsibly provided her materials upon request, regardless of whether the guardian was adequately performing their court duties.

Simply engaging in a discussion about the possible replacement of her guardian was met with distress, as she seemed to interpret this to mean

that she would be left to her own devices and be unable to have her needs met.

Dr. Lamoureux Report at pgs. 21-22.

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8. Does Beverly Johnson have sufficient capacity to express her desires concerning who should be appointed in a fiduciary role (guardian or conservator) vis-a-vis Ms. Johnson?

It is my opinion, to a reasonable degree of medical probability, that Beverly Johnson does not have sufficient capacity to express her desires concerning who should be appointed in a fiduciary role (guardian or conservator) vis-à-vis Ms. Johnson. I base this on the following evidence:

As previously noted, Ms. Johnson's attention is so severely impaired that she was unable to complete a screening cognitive assessment. She was unable to retain new information and discuss it in a meaningful fashion, and she was unable to recall basic autobiographical information. When attempting to engage in a substantive discussion regarding her fiduciary, Ms. Johnson became emotionally distraught and distressed. Ms. Johnson did not demonstrate the ability to understand the relevant facts concerning a fiduciary, nor was she able to integrate information or manipulate it rationally vis-à-vis the appointment of a fiduciary. Due to the severity of her Ms. Johnson does not have sufficient capacity to express her desires regarding the appointment of a fiduciary.

52. Similarly, Beverly is unable to assess any misfeasance or malfeasance regarding her care and assets, and to direct counsel to take appropriate action to remedy such conduct.

1 12. Is Beverly able to understand, assess and address the misuse
2 of her assets by directing legal counsel to take action to
3 remedy such conduct?

4 It is my opinion, to a reasonable degree of medical probability, that
5 Beverly Johnson is not able to understand, assess and address the
6 misuse of her assets by directing legal counsel to take action to remedy
7 such conduct. I base this on the following evidence:

8 During the instant evaluation, we attempted to engage Ms. Johnson in
9 a substantive conversation regarding the above. This was met with Ms.
10 Johnson's exhibiting agitation, anxiety, and increased emotional
11 distress. She was unable to adequately attend to the content of
12 discussion, retain the relevant information, and articulate a consistent
13 wish regarding counsel's actions. As noted above, attempts to discuss
14 what had transpired was met with her agitated and distressed
15 discussions about whether Ms. O'Connell was stealing from her. She
16 lacked the ability to appreciate the nuances in the subject litigation.

17 In sum, she lacks the ability to understand the substantive issues
18 relevant to the possible misuse of her assets, and simply discussing the
19 matter with the Respondent causes her to become even more confused
20 about the issues and experience emotional distress as a result.

21 53. Dr. Lamoureux also opined that it would not be appropriate for court-
22 appointed counsel to attempt to engage with Beverly regarding how to proceed in
23 addressing Aspen's misfeasance and malfeasance regarding Beverly's care and assets:

24 13. Would it be appropriate for Beverly's legal counsel to attempt
25 to engage with Beverly regarding recommendations for how
26 to proceed in any potential legal action concerning the
27 contents of her home, the jewelry she used to own before it
28 was stolen, the value of these items, and the propriety of a
fiduciary tasked with managing and administering her assets
and care?

1 It is my opinion, to a reasonable degree of medical probability, that it
2 would not be appropriate for Beverly Johnson's legal counsel to attempt
3 to engage with Ms. Johnson regarding recommendations for how to
4 proceed in any potential legal action concerning the contents of her
5 home, the jewelry she used to own before it was stolen, the value of
6 these items, and the propriety of a fiduciary tasked with managing and
7 administering her assets and care. I base this on the following evidence:

8 As noted throughout my responses to your previous questions, Ms.
9 Johnson's degree of The
10 question posed here is one of a more complex and involved cognitive
11 task. The cognitive task required here exceeds that of the cognitive task
12 for appointment of a guardian or conservator. This requires an individual
13 to be able to

- 14 • attend to the content of discussion,
- 15 • concentrate on that discussion such that they are able to commit
16 the relevant facts to memory,
- 17 • retrieve those memories,
- 18 • use those memories to think about the potential ramifications,
- 19 • assess the risks/benefits of different types of action,
- 20 • consider the various options presented to them by legal counsel,
- 21 • weigh the risks and benefits of each potential action relative to one
22 another, and
- 23 • integrate that information with their wishes and values.

24 Ms. Johnson's is so severe that she would lack the
25 ability to begin to engage in this task, as she does not have the requisite
26 attention span to adequately listen to and understand the relevant
27 issues precipitating proposed legal action. Because she lacks the
28 requisite ability to simply appreciate the background that is responsible
for the potential legal action, she is not able to meaningfully engage
with counsel regarding further options or whether or not to proceed.
Even if Ms. Johnson had the ability to attend to the content of

background information, her memory is severely impaired, and she
demonstrated severely impaired executive function. These impairments
would prevent her from rationally manipulating information, considering
benefits and risks of any proposed action, and articulating a consistent
and informed decision to legal counsel.

1 54. Additionally, court-appointed counsel obtained an opinion letter from ethics
2 counsel regarding the ethical propriety of his conduct in filing petitions for appointment of
3 a guardian and conservator in this matter, as well as subsequent petitions to compel
4 documents and information and to remove the guardian, in his role as court-appointed
5 counsel. A copy of Mr. Edward Novak's Opinion Letter is attached hereto as Ex. 1.

7 55. In his Letter, Mr. Novak opined that court-appointed counsel acted within his
8 discretion under E.R. 1.14(b) in filing the *Petitions to Compel* and *Petition to Substitute*
9 *Guardian*:

11 Further, these Petitions fall under the protective action left to the discretion of the attorney
12 under Ethical Rule 1.14(b). Based on the information provided in the Petitions regarding the
13 allegations against Aspen, Mr. Asimou could have reasonably deemed it necessary to act in the
14 "best interests" of Ms. Johnson to seek the Court's assistance to protect her from potential
15 misconduct by her legal representative. See ER 1.4, Cmt. 5. Therefore, Mr. Asimou acted within
16 his discretion under ER 1.14(b) when filing the above petitions.

17 Ex. 1 at 13.

18 56. Mr. Novak likewise opined that court-appointed counsel acted appropriately
19 in filing his Petition for Permanent Appointment of Guardian and Conservator:
20

21 Mr. Asimou petitioned the court for a permanent guardian and conservator for his client.
22 At the time, Mr. Asimou could have reasonably believed that it was reasonably necessary to seek
23 the appointment of a permanent guardian and conservator for Ms. Johnson. Therefore, Mr. Asimou
24 acted in accordance with his ethical duties in filing these petitions.

25 57. As to court-appointed counsel's decision not to conduct regular visits with
26 Beverly, Mr. Novak also opined that such visits were not appropriate given Beverly's
27 condition:
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1 60. Pursuant to A.R.S. § 12-1831 an actual controversy exists regarding the role
2 and propriety of court-appointed counsel's conduct in this matter, regarding court-
3 appointed counsel's alleged "failure to see his client and potentially support her position
4 and whether Counsel should be removed." See Minute Entry dated April 5, 2024.
5

6 61. To be clear, court-appointed counsel disputes that he has "failed" to see his
7 client—as the Court had alleged. He communicated with his client early on this proceeding
8 and visited her prior to the filing of this Petition.
9

10 **Court-appointed counsel's conduct in this matter was appropriate under Rule**
11 **42, Arizona Rules of Probate Procedure.**

12 62. Court-appointed counsel "must advocate for the subject person's wishes to
13 the extent the attorney is able to ascertain those wishes. The attorney must, as far as
14 possible, maintain a normal client-lawyer relationship with the subject person. In addition,
15 the attorney must act to protect the subject person's substantive and procedural due process
16 rights." Rule 42(b), Ariz.R.Prob.Proc. (emphasis supplied).
17

18 63. Utilizing his review of the Physician's Report and his own communication
19 and assessment of his client, court-appointed counsel determined that Beverly was unable
20 to meaningfully direct him as her counsel regarding whether a guardian and conservator
21 should be appointed for her, and who should serve in that role.
22

23 64. The initial Court Investigator's Report, the Mayo Clinic Physician's Report
24 and Dr. Lamoureux's Report all support court-appointed counsel conclusion that Beverly
25 could not and cannot meaningfully express her wishes.
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1 65. When court-appointed counsel was unable to ascertain Beverly's wishes
2 based on his communications with her, he turned to a neighbor to investigate the matter
3 further pursuant to E.R. 1.14(c), as she apparently had no close relatives or family.³
4

5 66. Pursuant to A.R.S. § 12-1831, seeks an Order from this Court that court-
6 appointed counsel's conduct *vis-à-vis* Beverly to-date was appropriate under Rule 42(b),
7 Ariz.R.Prob.Proc.
8

9 **Court-appointed counsel's conduct in this matter was appropriate under E.R.**
10 **1.14, Arizona Rules of Professional Conduct and his contract with the**
11 **Maricopa County Office of Public Defense Services.**

12 67. Undersigned's role as court-appointed counsel governed by his contract with
13 the Maricopa County Office of Public Defense Services to provide such services.

14 68. Undersigned's duties as court-appointed counsel include the following:

15 2.4 CONTRACTOR'S RESPONSIBILITIES:
16

17 2.4.1 Effective Representation. Contractor shall effectively represent the Client including, but
18 not limited to:

19 2.4.1.1 contacting and conferring with the Client concerning the representation within a
20 maximum of 48 hours of Contractor's notice of appointment;

21 2.4.1.2 maintaining reasonable contact with the Client until the representation is
22 terminated;

23 2.4.1.3 using reasonable diligence in notifying the Client of necessary court appearances
24 including any court action that arises out of the Client's non-appearance;

25 2.4.1.4 conducting such interviews and investigation as are appropriate;

26 2.4.1.5 appearing in court on time at whatever time the Court designates.
27

28 ³ Court-appointed counsel drafted and filed a *Stipulated Petition* to obtain the Court's authority
to use conservatorship assets to utilize the services of an heirship firm to locate any potential
family or heirs for Beverly, which the Court granted.

1 69. As discussed herein, court-appointed counsel promptly made contact with
2 Beverly before the hearing on the Emergency Petition. As to "maintaining reasonable
3 contact", Dr. Lamoureux's Report delineates that regular contact with Beverly is not
4 "reasonable" or in her best interest.
5

6 70. Thereafter, the contract also notes court-appointed counsel's unremarkable
7 requirement to act in accordance with the Arizona Rules of Professional Conduct:
8

2.4.15 Compliance with Law. Contractor will comply with all laws, including rules and regulations of all governmental accrediting and regulatory authorities, including the State of Arizona, relating to the licensure and regulation of attorneys. In the event the Contractor is suspended by the Arizona State Bar, on an interim or other basis, Contractor must immediately notify OCC of this suspension so that appointment of cases may be stopped. Failure to comply with such notice will result in termination of Contractor's contract(s).

13
14 71: The Arizona Rules of Professional Conduct are the rules governing the
15 conduct of lawyers licensed to practice law in Arizona. As it pertains to clients with a
16 "diminished capacity", the following rule applies:
17

18 (a) When a client's capacity to make adequately considered decisions in
19 connection with the representation is diminished, whether because of
20 minority, mental impairment or for some other reason, the lawyer shall,
21 as far as reasonably possible, maintain a normal client-lawyer
22 relationship with the client.

23 (b) When the lawyer reasonably believes that the client has diminished
24 capacity, is at risk of substantial physical, financial or other harm
25 unless action is taken and cannot adequately act in the client's own
26 interest, the lawyer may take reasonably necessary protective action,
27 including consulting with individuals or entities that have the ability to
28 take action to protect the client **and, in appropriate cases, seeking the
appointment of a guardian ad litem, conservator or guardian.**

(c) Information relating to the representation of a client with diminished capacity is protected by ER 1.6. When taking protective action pursuant to paragraph (b), the lawyer is impliedly authorized under ER

1 1.6(a) to reveal information about the client, but only to the extent
2 reasonably necessary to protect the client's interests.

3 (Emphasis supplied)

4 72. Comments to this rule state "in determining the extent of the client's
5 diminished capacity, the lawyer should consider and balance such factors as: the client's
6 ability to articulate reasoning leading to a decision; variability of state of mind and ability
7 to appreciate consequences of a decision; the substantive fairness of a decision; and the
8 consistency of a decision with the known long-term commitments and values of the client.
9 In appropriate circumstances, the lawyer may seek guidance from an appropriate
10 diagnostician." Cmt. 6.

11
12 73. Taking "protective" action "permits the lawyer to take protective
13 measures deemed necessary." In taking any protective action, "the lawyer should be
14 guided by such factors as the wishes and values of the client to the extent known, the
15 client's best interests and the goals of intruding into the client's decision-making
16 autonomy to the least extent feasible, maximizing client capacities and respecting the
17 client's family and social connections." Cmt. 5. (emphasis supplied).

18
19
20
21 74. At all material times, court-appointed counsel has reasonably believed that
22 his client has "diminished capacity" as defined in Comment 6 to E.R. 1.14. Utilizing his
23 review of the Physician's Report and his own communication with his client, court-
24 appointed counsel determined that Beverly was unable to meaningfully direct him as her
25 counsel regarding whether a guardian and conservator should be appointed for her, and
26 who should serve in that role.
27
28

1 75. Pursuant to Comment 6, when faced with the Court’s latent “concerns”
2 regarding the propriety of court-appointed counsel’s conduct, undersigned sought
3 additional guidance from “an appropriate diagnostician”—Dr. Lamoureux, who also
4 concluded that Beverly has “ . . . ”
5

6 76. Accordingly, pursuant to E.R. 1.14(b), court-appointed counsel elected to
7 seek the appointment of a Guardian and Conservator for Beverly instead of a *Guardian ad*
8 *Litem* and filed his *Petition for Permanent Appointment of Guardian and Conservator*, and
9 later, an *Amended Petition for Permanent Appointment of Guardian and Conservator*.
10

11 77. Thereafter, court-appointed counsel took additional “protective action” in
12 furtherance of Beverly’s best interests (that is, for the former Temporary Conservator to be
13 accountable and account for her conduct in that role) through the filing of the *Petition to*
14 *Compel* and *Petition to Substitute Guardian*, for the reasons alleged therein.
15

16 78. Court-appointed counsel was unable to locate Arizona case law analyzing the
17 role of court-appointed counsel in similar situations where a client is unable to
18 meaningfully direct counsel. However, a trial court’s reliance on case law from other
19 jurisdictions in the absence of controlling Arizona law is entirely proper. *State v. Nevarez*,
20 235 Ariz. 129, 133-134, 329 P.3d 233, 237-238 (App. 2014).
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1 79. Other jurisdictions have relied on the Restatement (Third) of the Law
2 Governing Lawyers § 24 to aid their analysis of a lawyer's conduct under E.R. 1.14.

3 Section 24 of the Restatement (Third) of the Law Governing Lawyers⁴ states:
4

5 (1) When a client's capacity to make adequately considered decisions in connection
6 with the representation is diminished, whether because of minority, physical illness,
7 mental disability, or other cause, the lawyer must, as far as reasonably possible,
8 maintain a normal client-lawyer relationship with the client and act in the best
9 interests of the client as stated in Subsection (2).

10 (2) A lawyer representing a client with diminished capacity as described in Subsection
11 (1) and for whom no guardian or other representative is available to act, must, with
12 respect to a matter within the scope of the representation, pursue the lawyer's
13 reasonable view of the client's objectives or interests as the client would define them
14 if able to make adequately considered decisions on the matter, even if the client
15 expresses no wishes or gives contrary instructions.

16 (3) If a client with diminished capacity as described in Subsection (1) has a guardian or
17 other person legally entitled to act for the client, the client's lawyer must treat that
18 person as entitled to act with respect to the client's interests in the matter, unless:

19 (a) the lawyer represents the client in a matter against the interests of that
20 person; or

21 (b) that person instructs the lawyer to act in a manner that the lawyer knows
22 will violate the person's legal duties toward the client.

23 (4) A lawyer representing a client with diminished capacity as described in Subsection
24 (1) may seek the appointment of a guardian or take other protective action within
25 the scope of the representation when doing so is practical and will advance the
26 client's objectives or interests, determined as stated in Subsection (2).

27 (emphasis supplied)

28 80. Comment b to Section 24 sets forth the rationale of a lawyer's authorized
conduct *vis-à-vis* a client with diminished capacity:

⁴ In the absence of binding precedent, Arizona courts follow the Restatement if it sets forth sound legal policy and no contrary controlling authority exists. *In re Sky Harbor Hotel Props., LLC*, 246 Ariz. 531, 533 ¶ 6, 443 P.3d 21, 23 (Ariz. 2019).

1 “b. Rationale. An unimpaired client can define the client's own objectives (see §
2 19), confer with counsel (see § 20), and make important decisions (see §§ 21 & 22).
3 To the extent a client is incapable of doing so and no other person is empowered to
4 make such decisions, the lawyer's role in making decisions will increase. An
5 alternative is to appoint a guardian for the client, but that may be expensive, not
6 feasible under the circumstances, and embarrassing for the client. In some cases,
7 different views about the client's welfare may be presented by opposing counsel for
8 a tribunal's decision. **This Section recognizes that a lawyer must often exercise
9 an informed professional judgment in choosing among those imperfect
10 alternatives. Accordingly, each Subsection applies based on the reasonable
11 belief of the lawyer at the time the lawyer acts on behalf of a client described
12 in Subsection (1).”**

13 (emphasis supplied).

14 81. In *In re Guardianship of Benjamin*, the Nebraska Supreme Court held that a
15 ward's inability to direct court-appointed counsel did not preclude court-appointed counsel
16 from nominating a third party to act as the ward's guardian over the ward's mother's
17 statutory priority. *In re Guardianship of Benjamin*, 289 Neb. 693 (Neb. 2014). In its
18 analysis of court-appointed counsel's conduct under E.R. 1.14(b) (in which a *Guardian ad*
19 *Litem* had also been appointed for the ward) the Court relied, in part, on the Restatement
20 (Third) of the Law Governing Lawyers § 24(1) and (2):

21 “Further guidance is provided by The Restatement provides that a lawyer
22 representing a client with diminished capacity must act in the best interests of the
23 client and pursuant the lawyer's reasonable view of the client's objectives *or*
24 *interests as the client would define them if able to make adequately considered*
25 *decisions on the matter, even if the client expresses no wishes or gives contrary*
26 *instructions*. There is nothing in the record indicating that Benjamin's appointed
27
28

1 attorney was motivated by anything other than Benjamin's best interest in
2 nominating [the third party]."

3 *Id.* at 453-454. (emphasis supplied).
4

5 82. Similarly, in *In Re Thetford*, the Texas Supreme Court held that a ward's
6 former estate planning lawyer did not violate E.R. 1.14 in petitioning for the appointment
7 of the ward's nominated attorney-in-fact, even after the ward had taken steps to revoke her
8 powers of attorney. *In re Thetford*, 574 S.W.3d 362 (Tex. 2019). In *Thetford*, the Court
9 also considered the Restatement (Third) of the Law Governing Lawyers § 24 instructive
10 in analyzing the lawyer's conduct (and alleged disqualification, as he represented the
11 proposed ward's guardian as well) under E.R. 1.14:
12

13
14 "We find the Restatement's approach most compelling. Rather than a bright-line
15 rule, its flexible approach better accommodates the challenges lawyers, families,
16 and trial courts face when trying to best protect the incapacitated elderly. We
17 would hold that for a guardianship proceeding to be adverse, the applicant's
18 interests must be adverse to the proposed ward's objectives or interests as the
19 proposed ward would have defined them *when she had capacity*. In the absence of
20 evidence of how the proposed ward would have defined her interests, *we think*
21 *adversity exists when the applicant's interests would not promote and protect the*
22 *proposed ward's well-being.*"
23

24
25 *Id.* at 379 (emphasis supplied).
26

27 83. In this context, the *Petition to Compel* and *Petition to Substitute Guardian*
28 reasonably promote and protect Beverly's well-being. These petitions, as well as the

1 Petition for Appointment of Permanent Guardian and Conservator, and Amended
2 Petition for Appointment of Permanent Guardian and Conservator, were pursued based
3 on court-appointed counsel's reasonable view of Beverly's objectives and interests if
4 she were able to make adequately considered decisions concerning her assets and
5 welfare, even if Beverly expresses no wishes or provided a contrary position to the Court
6 Investigator based on incomplete information provided to her.
7

8
9 84. For the foregoing reasons, pursuant to A.R.S. § 12-1831, court-appointed
10 counsel seeks an Order from this Court that court-appointed counsel's conduct *vis-à-vis*
11 Beverly to-date was appropriate under E.R. 1.14, Arizona Rules of Professional
12 Conduct.
13

14 **Court-appointed counsel's analysis of his conduct, through the procurement**
15 **of a psychiatric evaluation of his client, an opinion of ethics counsel, and the**
16 **preparation and filing of this Petition are appropriately compensable from the**
Conservatorship.

17 85. Counsel and other fiduciaries "have a duty to undertake a cost-benefit
18 analysis at the outset and throughout their representation to ensure that they provide needed
19 services....and do not waste funds or engage in excessive or unproductive activities." *In*
20 *re Guardianship of Sleeth*, 226 Ariz. at 175, ¶ 18, 244 P.3d at 1173 (App. 2010). *See* A.R.S.
21 §§ 14-5314(B) and -5414(B) (authorizing awards of attorneys' fees in guardianship and
22 conservatorship matters where petitions are denied). In considering awards of fees under
23 these statutes, the court may consider any evidence it deems appropriate. A.R.S. § 14-
24 5314(B); A.R.S. § 14-5414(B).
25
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1 86. If the court finds that a protected person has incurred professional fees or
2 expenses as a result of unreasonable conduct, the court may order the person or attorney
3 who engaged in the conduct to pay the ward or protected person for some of all of the fees
4 and expenses as the court deems just under the circumstances. A.R.S. § 14-1105(B).
5

6 87. Court-appointed counsel's initial *Petition for Appointment of Permanent*
7 *Guardian and Conservator* and *Amended Petition for Appointment of Permanent Guardian*
8 *and Conservator* were successful. Court-appointed counsel's *Petition to Substitute*
9 *Guardian* is pending, but certainly was not filed unreasonably or in bad faith, given the
10 well-pled allegations set forth in the *Petition to Substitute Guardian*.
11

12 88. This Petition was filed as a direct result of the Court's accusations against
13 court-appointed counsel in this matter, regarding his alleged "failure to see his client and
14 potentially support her position and whether Counsel should be removed." See Minute
15 Entry dated April 5, 2024.⁵
16

17 89. As discussed herein, court-appointed counsel had and fulfilled his ethical
18 duty to pursue reasonable protective measures in view of his client Beverly's objectives
19 and interests as she would define if able to make adequately considered decisions. In doing
20 so, court-appointed counsel exercised his informed professional judgment.
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27 ⁵ The Court Investigator's role is statutorily limited to conducting an investigation regarding
28 the appropriateness of a guardian and conservator's appointment, and "additional investigations
to determine if it is necessary to continue the appointment" of the guardian and conservator.
A.R.S. § 14-5308(B).

ASIMOU &
ASSOCIATES, P.L.C
5050 North 40th Street, Suite 220
Phoenix, Arizona 85018

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90. But for the Court's contrary position in this matter, undersigned counsel would not have incurred reasonable legal fees and costs to prepare and file this Petition, as well as the cost of his client's psychiatric evaluation, and an opinion of ethics counsel.

91. Pursuant to A.R.S. § 12-1831, court-appointed counsel seeks an Order from this Court that court-appointed counsel's conduct *vis-à-vis* Beverly to-date was *not* "unreasonable" pursuant to A.R.S. § 14-1105, was appropriate under A.R.S. §§ 14-5314(B) and -5414(B), and is properly compensable from Beverly's Conservatorship, subject to the requirements of Rule 33, Ariz.R.Prob.Proc.

92. The Arizona Supreme Court has determined that the state or county cannot be held liable for court-appointed counsel's negligent/ineffective representation:

"The State's duty ends once it has appointed competent counsel. . .any enlargement of the State's duty beyond appointment of qualified counsel would also suggest a corollary right of the State to supervise the performance of counsel's duties. Such supervision would encroach upon both the defendant's Sixth Amendment rights, *Strickland*, 466 U.S. at 686, 104 S.Ct. 2052, and the appointed attorney's ethical obligations, *Polk County v. Dodson*, 454 U.S. 312, 321, 102 S.Ct. 445, 70 L.Ed.2d 509 (1981) (noting that an appointed attorney, even though paid by the State, has an ethical duty to exercise independent judgment on behalf of the client). Thus, we hold that the State's constitutional duty is discharged once the State has appointed a competent attorney."

State v. Hicks, 219 Ariz. 328, 329, 198 P.3d 1200, 1201 (Ariz. 2009).

93. Similarly, the Court's decision to appoint counsel for Beverly does not provide a "corollary right" for the Court to dictate the performance of court-appointed counsel's duties in that role.

94. As set forth herein, court-appointed counsel's conduct in this matter was wholly appropriate under E.R. 1.14. Court-appointed counsel chose to petition for the

1 appointment of a guardian and conservator, and later a substitute guardian, rather than a
2 *Guardian ad Litem*.

3 95. Court-appointed counsel's decision to seek the appointment of a guardian
4 and conservator or substitute guardian (options expressly delineated in E.R. 1.14) is not an
5 appropriate basis for the Court to *sua sponte* ask court-appointed counsel to resign, call for
6 an investigation into court-appointed counsel's removal or otherwise direct court-
7 appointed counsel to substitute his judgment for that of the Court in discharging his duties
8 is that role. At all material times, court-appointed counsel was obligated to perform his
9 duties based on his own professional judgment, and not conformity with the Court's
10 preferences based on inadmissible evidence and unsubstantiated allegations.

11
12
13
14 **RELIEF REQUESTED**

15 WHEREFORE, Petitioner, after notice to the interested persons identified herein,
16 and a hearing, respectfully requests that the Court grant the following relief:

17
18 A. Pursuant to A.R.S. § 12-1831 et seq., court-appointed counsel seeks an
19 adjudication and declaration from the Court that his conduct in this matter was
20 appropriate under Rule 42, Ariz.R.Probate Procedure.

21
22 B. Pursuant to A.R.S. § 12-1831 et seq., court-appointed counsel seeks an
23 adjudication and declaration from the Court that his conduct in this matter was
24 appropriate under E.R. 1.14, Arizona Rules of Professional Conduct.

25
26 C. Pursuant to A.R.S. § 12-1831, court-appointed counsel seeks adjudication and
27 declaration from the Court that court-appointed counsel's conduct vis-à-vis
28 Beverly to-date was not "unreasonable" pursuant to A.R.S. § 14-1105, was

1 appropriate under A.R.S. §§ 14-5314(B) and -5414(B), and is properly
2 compensable from Beverly's Conservatorship, subject to the requirements of
3 Rule 33, Ariz.R.Prob.Proc.

4 RESPECTFULLY SUBMITTED this 26 th day of April, 2024.

5
6 ASIMOU & ASSOCIATES, PLC

7
8 By _____
9 Thomas G. Asimou, Esq.
10 Meagan M. Pollnow, Esq.
11 *Court-Appointed Counsel for Beverly Johnson*

12
13 ORIGINAL of the foregoing filed
14 this ____ day of April, 2024, with
15 the Clerk of the Court with COPY of
16 the foregoing hand-delivered or mailed to:

17 Honorable Vanessa Smith
18 Maricopa County Superior court
19 Northeast Facility, Courtroom 109
20 18380 N 40th Street, Ste 120
21 Phoenix, Arizona 85032
22
23
24
25
26
27
28

ASIMOU & ASSOCIATES, P.L.C.
5050 North 40th Street, Suite 220
Phoenix, Arizona 85018

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VERIFICATION

STATE OF ARIZONA)
) ss.
County of Maricopa)

Thomas G. Asimou, first being duly sworn, states as follows:

I am the Petitioner in the foregoing Petition. I have reviewed the foregoing
Verified Petition for Declaratory Judgment. I know the contents thereof and I verify
that, based on my knowledge at present, the matters stated therein are believed to be true
and accurate, to the best of my knowledge. I declare under penalty of perjury that the
foregoing is true and correct to the best of my knowledge.

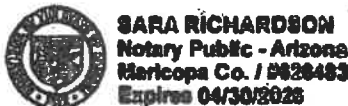
FURTHER AFFIANT SAYETH NAUGHT.

Thomas G. Asimou

SUBSCRIBED AND SWORN TO before me this 26th day of April, 2024, by Thomas
G. Asimou, Petitioner.

Notary Public /

My Commission Expires:
4 / 30 / 2026



ASIMOU & ASSOCIATES, PLC
5070 North 40th Street, Suite 135
Phoenix, Arizona 85018

Exhibit "1"



CityScape, One E. Washington St., Ste. 1200, Phoenix, AZ 85004 • (602) 650-2000

April 23, 2024

Edward F. Novak
(602) 650-2020
(602) 532-7128 Fax
enovak@polsinelli.com

Thomas G. Asimou
Asimou & Associates, PLC
5070 North 40th Street, Suite 135
Phoenix, Arizona 85018

**Re: In the Matter of the Guardianship and Conservatorship for Beverly
Johnson Maricopa County Cause Number PB203-051089**

Dear Mr. Asimou,

Pursuant to your request, I performed an analysis of the legal issues presented in your April 8, 2024 letter arising out of the above Matter of Johnson. Namely, the ethical propriety of filing the Petition to Compel Inventory, Accounting, and Transfer of Conservatorship Assets, Petition to Substitute Guardian, Petition for Permanent Appointment of Guardian and Conservator, and Amended Petition for Permanent Appointment of Guardian and Conservator pursuant to E.R. 1.14 of the Arizona Rules of Professional Conduct, Rule 42 of the Arizona Rules of Probate Procedure, and in the terms of his contract with the Maricopa County Office of Public Defense Services to provide legal services as court-appointed counsel.

Documents Reviewed

The documents reviewed include:

Emergency Petition for Temporary Appointment of Guardian and Conservator of an Adult filed by Mayo clinic on August 10, 2023

Physician's Report by Sachin M. Mehta, M.D. confidentially filed by Mayo Clinic on August 10, 2023

Petition for Permanent Appointment of Guardian and Conservator, filed on August 31, 2023, by Thomas G. Asimou as court-appointed counsel for Beverly Johnson

Atlanta | Boston | Chattanooga | Chicago | Dallas | Denver | Fort Lauderdale | Houston
Kansas City | Los Angeles | Miami | Nashville | New York | Phoenix | Raleigh | Salt Lake City
San Diego | San Francisco | Seattle | St. Louis | Washington, D.C. | Wilmington

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April 23, 2024

Page 2

Notice of Change of Ward's Contact Information filed by Aspen Grove Fiduciary on September 29, 2023

Court Investigator's Report dated October 4, 2023

Amended Petition for Permanent Appointment of a Guardian and Conservator, filed on October 23, 2023, by court-appointed counsel for Beverly Johnson

Court Investigator's Report dated November 29, 2023

Petition to Compel Inventory, Accounting, and Transfer of Conservatorship Assets filed on January 16, 2024, by court-appointed counsel for Beverly Johnson

Petition to Substitute Guardian filed on February 15, 2024, by court-appointed counsel for Beverly Johnson

Response to Petition to Compel Inventory, Accounting, and Transfer of Conservatorship Assets filed on February 21, 2024

Court Investigator's Report dated April 5, 2024

Contract Indigent Representation (Probate) Attorney Services - OCC awarded August 23, 2017

Physician's Report by Dr. Ian C. Lamoureux, M.D. dated April 12, 2024

Assumption of Facts

Beverly Johnson is a 90-year-old woman. She is unmarried and has no children. She has been diagnosed with dementia for an unknown period. In July 2023, she tripped and fell in her home. Her neighbors found her on the floor in her home with an internal temperature of 90 degrees and the air conditioning turned off. She was admitted to Mayo Clinic, where she was diagnosed with

On August 10, 2023, Mayo Clinic Filed *Emergency Petition for Temporary Appointment of Guardian and Conservator of an Adult* ("Emergency Petition"). Mayo Clinic petitioned for the appointment of Robin O'Connell of Aspen Grove Fiduciary, LLC (License No. 20967) ("Aspen") to serve as Ms. Johnson's temporary guardian and conservator in order to obtain her discharge from Mayo Clinic. The Emergency Petition stated that Ms. Johnson was "unable to answer any questions directly and could not give a clear story or timeline of events that lead to the fall in her home." In support of the Petition for Guardianship, it stated Ms. Johnson was
to the extent that she lacks sufficient understanding or capacity to make or communicate

April 23, 2024

Page 3

responsible decisions concerning her person. The appointment of a temporary guardian is necessary to provide for the demonstrated needs of the person alleged to be incapacitated and in need of protection." The Petitioner continued that limited guardianship was not appropriate because of the "demonstrated needs" of Ms. Johnson. In support of the Petition for Conservatorship, it stated that Ms. Johnson was ' to the extent that she lacks sufficient understanding or capacity to manage her estate and affairs effectively and her property will be wasted or dissipated unless proper management is provided or that funds are needed for support, care and welfare of the person . . . and that protection is necessary or desirable to obtain or provide funds." The general statement of property included only the estimated value of her real property located at 6924 E. Mighty Saguaro Way, Scottsdale, AZ 85266.

In the *Physician's Report* confidentially filed by Mayo Clinic on the same day, by Physician Sachin M. Mehta, M.D., an internal medicine doctor and the primary doctor during Ms. Johnson's hospitalization, stated that she '

." Dr. Mehta noted that Ms. Johnson "does seem to have some insight about her surroundings and short-term recall." The physician further added that Ms. Johnson "would benefit from neurocognitive testing and advanced care planning . . . has poor memory and cognitive deficits that preclude her from reaching out for assistance. She mentioned having a financial advisor, but he had not worked with her since [handwriting cut off - either 1998 or in the 1980s]."

Thomas G. Asimou was appointed as court-appointed counsel on August 11, 2023. On August 24, 2023, Mr. Asimou made contact with Ms. Johnson through the nurse's station at Mayo Clinic. Based on his communications with Ms. Johnson, he concluded that she was unable to direct him as her legal counsel *vis-à-vis* the relief sought in the Emergency Petition. Mr. Asimou believed that Ms. Johnson was unable to opine on whether a temporary guardian and conservator should be appointed for her, and who should serve in that role.

On August 30, 2023, at the hearing on the Emergency Petition, Mr. Asimou offered no objection to the Emergency Petition. He informed the Court that he would be filing a cross-petition for Aspen's appointment as permanent conservator and guardian, as no such permanent relief was pending before the Court and Mr. Asimou believed that such relief was clearly warranted for Ms. Johnson. On August 30, 2023, the Court appointed Aspen as Temporary Guardian and Temporary Conservator for Ms. Johnson through December 1, 2023. A budget, inventory, credit report, and bond were waived as it was not clear if Ms. Johnson had any assets other than her home located at 6924 E. Mighty Saguaro Way, Scottsdale, Arizona 85266.

The next day, on August 31, 2023, Mr. Asimou filed a *Petition for Permanent Appointment of Guardian and Conservator*, nominating Aspen to serve both of these roles.

April 23, 2024

Page 4

The Court Investigator's October 4, 2023 Report noted Ms. Johnson's significant cognitive deficits. Jerry Pieczynski, the Court Investigator, reported that when interviewed her on October 3, 2023, Ms. Johnson was very talkative but repeated herself several times and could not recall Robin O'Connell's first name despite it being given to her at least six times. She provided her date of birth, the city and state in which she was born, and the names of her parents. She was able to correctly name the President of the United States, but did not know the day of the week because she did not have a calendar or watch. She was able to name the street of the home she owned, but got confused with the numbers of her address. Ms. Johnson "was unable to define the words 'Guardian' or 'Conservator' and definitions were provided. When asked if she would benefit from having a Permanent Guardian or Conservator appointed on her behalf, she stated, 'I need the help because I have no family.'" The Report concluded that it "appears Beverly Johnson may benefit from the appointment of a Guardian/Conservator because she appears to be impaired by a diagnosis to the extent she may lack sufficient understanding or capacity to make responsible decisions concerning her person and finances."

On October 23, 2023, Mr. Asimou filed an *Amended Petition for Permanent Appointment of a Guardian and Conservator*, to nominate First Interstate Wealth Management to serve as Conservator instead of Aspen. The general statement of the property owned by Ms. Johnson was amended to include approximately \$6 million in additional assets. Mr. Asimou noted in the *Amended Petition* that First Interstate Bank "is more adequately positioned to prudently invest and manage" Ms. Johnson's assets.

The Court subsequently appointed Aspen as Guardian on November 9, 2023. The Temporary Conservatorship was extended to December 29, 2023 "pending the appointment of First Interstate Bank as permanent Conservator."

The Court Investigator's November 29, 2023 Report stated that Ms. Johnson was not interviewed. Ms. O'Connell was interviewed by Investigator Pieczynski via telephone on November 28, 2023. The Report stated that she did not object to First Interstate Bank as Permanent Conservator for Ms. Johnson. John Hilderbrandt, Wealth Advisor for First Interstate Bank, was also interviewed via telephone on November 28, 2023, and he stated he was willing to accept the Permanent Appointment of Conservator for Beverly Johnson.

First Interstate Bank was appointed as Conservator on December 11, 2023.

On December 13, 2023, Mr. Asimou requested an informal accounting of Aspen's administration of Ms. Johnson's assets during its tenure as Temporary Conservator. On December 20, 2023, the Conservator requested an update from Aspen regarding Mr. Asimou's request. Aspen provided an "informal photographic inventory of tangible personal property." On January 3, 2024, Mr. Asimou again followed up with Aspen regarding the request for financial records, insurance coverage information, and other information regarding Aspen's tenure as Temporary Conservator. On January 15, 2024, the Conservator followed up again stating "I do not believe our office

April 23, 2024

Page 5

received the additional documents referenced below. Please advise on the status of gathering and forwarding the information previously requested.”

On January 16, 2024, Mr. Asimou filed a *Petition to Compel Inventory, Accounting, and Transfer of Conservatorship Assets*. The *Petition* alleged that Aspen failed to provide a full and complete inventory of Ms. Johnson’s assets and accounts that it was aware of or had possession of during its tenure as Temporary Conservator. The *Petition* further alleged that Aspen entered into a Listing Agreement to sell the Saguaro Way home, despite Aspen’s appointment not including the authority to sell or lease Ms. Johnson’s real property. Aspen provided a copy of its cancellation of the listing agreement to sell the Saguaro Way property, executed December 30, 2023. The *Petition* further alleged that Aspen sold Ms. Johnson’s car during its tenure as Temporary Conservator when there was no need to liquidate her assets.

On January 18, 2024, Robin O’Connell of Aspen Grove informed her counsel that there had been a break-in at her office, and that someone had broken into the safe at her office which happened to contain Ms. Johnson’s and one other person’s jewelry.

Aspen provided an inventory and informal accounting, which provided that Aspen paid more than \$36,000 for home renovations performed by the same person; stolen jewelry that had not been appraised for months before its theft from Aspen’s office; and cash located at Ms. Johnson’s home that had not been turned over to the Permanent Conservator. Aspen did not immediately provide a record of an insurance claim having been filed for the stolen jewelry or a police report regarding the robbery.

On February 15, 2024, Mr. Asimou filed a *Petition to Substitute Guardian*, as court-appointed counsel for Beverly Johnson. Mr. Asimou alleged that he and the Conservator had spent a month attempting to obtain reasonable information and documentation concerning Aspen’s tenure as Temporary Conservator and when documentation was finally provided it delineated several negligent acts and/or malfeasance by Aspen.

On February 28, 2024, the Court ordered the Probate Court Investigator to meet and confer with everyone and provide an opinion as to what needs to be done in the case.

The Court Investigator’s April 3, 2024 Report stated that Investigator Pieczynski interviewed Ms. Johnson in person on March 19, 2024. Ms. Johnson “adamantly denied ever meeting” Investigator Pieczynski previously, despite their previous visit in October 2023. Investigator Pieczynski described Ms. Johnson as very talkative and stated that she would not allow Investigator Pieczynski to explain the reason for the interview before speaking at length and repeating herself regarding her current living situation. Investigator Pieczynski then advised that he was there to find out if Ms. Johnson was happy with her Guardian. Ms. Johnson stated that she had been taken care of by Aspen and would “stick with” her Guardian because “they are coming through just fine for me.” During the interview, Ms. Johnson denied meeting Mr. Asimou. She

April 23, 2024

Page 6

stated that she did not know about the petition to have a different Guardian and asked why he would want her to have a different Guardian. The Investigator told Ms. Johnson that "it was Mr. Asimou's belief that Robin was not taking good care of her" to which Ms. Johnson responded "that is not true."

Investigator Pieczynski reported to the court that Mr. Asimou had not met with Ms. Johnson since August 2023 and had not involved her with the Court proceedings he engaged in on her behalf. Investigator Pieczynski stated that this was "a concern of the Court Investigator's Office" and it did "not appear that a normal client-lawyer relationship has been maintained." Investigator Pieczynski stated that "it is also unclear why Mr. Asimou did not petition the Court to appoint a Guardian ad Litem in this matter to investigate his concerns."

Investigator Pieczynski also added that neither Mr. Asimou or Ms. O'Connell had discussed with Ms. Johnson the wants and desires for her care, with "no consideration of moving her back to her home and hiring 24 hour caregivers."

On April 5, 2024, during a status conference, the Court admonished Mr. Asimou for failing to obtain Ms. Johnson's cooperation or consent in filing the *Petition to Compel* and *Petition to Substitute Guardian* in his role as court-appointed counsel and raised concerns about whether his conduct in doing so was ethical. Mr. Asimou declined to withdraw from representing Ms. Johnson. The Court found that Ms. Johnson "absolutely . . . has been found incapacitated" but that she was "also so a woman who can express what she wants." The Court expressed concern regarding the cost of the litigation caused by the Petitions filed by Mr. Asimou without consulting with his client. Mr. Asimou responded, in part, that visiting with his client to discuss substantive legal issues would not benefit Ms. Johnson because she does not have the ability to substantively participate in the proceedings to direct counsel and these visits would increase costs. The Court then appointed a *Guardian ad Litem* to opine on the propriety of Mr. Asimou's conduct.

Dr. Lamoureux performed a forensic evaluation of Ms. Johnson on April 9, 2024. The examination revealed that Ms. Johnson suffers from

The evaluation is extensive in that it answers numerous questions related to whether Ms. Johnson can assist or participate in her own decision making. The short answer is that she cannot and is in need of 24/7 care. Importantly, Dr. Lamoureux opined that engaging Ms. Johnson in substantive discussion would be harmful to her.

Applicable Rules and Requirements

The Arizona Rules of Professional Conduct are the rules governing the conduct of lawyers licensed to practice law in Arizona.

April 23, 2024

Page 7

Ethical Rule 1.2 requires that lawyers “shall abide by a client’s decisions concerning the objectives of representation and, as required by ER 1.4, shall consult with the client as to the means by which they are to be pursued.”

Comments to Ethical Rule 1.2 state that “In a case in which the client appears to have diminished capacity, the lawyer’s duty to abide by the client’s decisions is to be guided by reference to ER 1.14.” Cmt. 4.

Ethical Rule 1.4 covers attorney client communication and provides, in part, that a lawyer “shall . . . reasonably consult with the client about the means by which the client’s objectives are to be accomplished . . . keep the client reasonably informed about the status of the matter.” ER 1.4(a). The rule also requires that a lawyer “shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.” ER 1.4(b):

Ethical Rule 1.14(a) states “When a client’s capacity to make adequately considered decisions in connection with the representation is diminished, whether because of minority, mental impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.”

Ethical Rule 1.14(b) of the Arizona Supreme Court Rules, Rules of Professional Conduct states “When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client’s own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.”

Ethical Rule 1.0(h) defines “Reasonable belief” or “reasonably believes” when used in reference to a lawyer to denote “that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.”

Comments to Ethical Rule 1.14 state “The normal client-lawyer relationship is based on the assumption that the client, when properly advised and assisted, is capable of making decisions about important matters . . . a severely incapacitated person may have no power to make legally binding decisions. Nevertheless, a client with diminished capacity often has the ability to understand, deliberate upon, and reach conclusions about matters affecting the client’s own well-being.” Cmt. 1. In addition, “[t]he fact that a client suffers a disability does not diminish the lawyer’s obligation to treat the client with attention and respect. Even if the person has a legal representative, the lawyer should as far as possible accord the represented person the status of client, particularly in maintaining communication.” Cmt. 2.

The comments add “in determining the extent of the client’s diminished capacity, the lawyer should consider and balance such factors as; the client’s ability to articulate reasoning

April 23, 2024

Page 8

leading to a decision, variability of state of mind and ability to appreciate consequences of a decision; the substantive fairness of a decision; and the consistency of a decision with the known long-term commitments and values of the client. In appropriate circumstances, the lawyer may seek guidance from an appropriate diagnostician.” Cmt. 6.

Taking “protective” action “permits the lawyer to take protective measures deemed necessary.” Cmt. 5. In taking any protective action, “the lawyer should be guided by such factors as the wishes and values of the client to the extent known, the client’s best interests and the goals of intruding into the client’s decision making autonomy to the least extent feasible, maximizing client capacities and respecting the client’s family and social connections.” *Id.*

Where a client has been appointed a legal representative, “the lawyer should ordinarily look to the representative for decisions on behalf of the client.” Cmt. 4.

A “normal client-lawyer relationship presumes that there can be effective communication between the client and lawyer.” *ABA Formal Ethics Opinion 96-404, Client Under a Disability, reprinted in ABA/BNA Lawyers’ Manual on Professional Conduct 109, 110 (ABA 2006)*. The relationship also presumes “that the client, after consultation with the lawyer, can make considered decisions about the objectives of the representation and the means of achieving those objectives.” *ABA Formal Ethics Opinion 96-404* at 110; *see also, ABA Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases* (rev. Feb. 2003), *reprinted in 31 Hofstra L. Rev.* 913, 1009 (2003) (“Overcoming barriers to communication and establishing a rapport with the client are critical to effective representation.”).

When a normal attorney-client relationship is impaired, the lawyer should “continue to treat the client with attention and respect, attempt to communicate and discuss relevant matters, and continue as far as reasonably possible to take action consistent with the client’s directions and decisions.” *ABA Formal Ethics Opinion 96-404* at 110 (citing Comment 1 to Model Rule 1.14(a)¹).

Where the client’s impairment is such that the lawyer is unable to comply with responsibilities to the client under the ethical rules, the lawyer would—without additional options—have no choice but to withdraw. *ABA Formal Ethics Opinion 96-404* at 112 (citing Model Rule 1.16(a)(1)) (withdrawal required where “representation will result in violation of the rules of professional conduct”). In fact, “[b]ecause the relationship of client and lawyer is one of principal and agent, principles of agency law might operate to suspend or terminate the lawyer’s authority to act when a client is incompetent.” *Id.* at 110. However, the authors of the Ethics Opinion believed that “the better course of action, and the one most likely to be consistent with Rule 1.16(b), will often be for the lawyer to stay with the representation and seek appropriate protective action on behalf of the client.” *Id.* at 112 (citing Model Rule 14(b)). At the same time,

¹ Arizona Rule of Professional Conduct 1.14 mirrors ABA Model Rule of Professional Conduct 1.14.

April 23, 2024

Page 9

the Opinion recognized that the appointment of a guardian is a “serious deprivation of the client’s rights.” *Id.*

“Incapacitated” is defined by Arizona Revised Statute (“A.R.S.”) § 14-5101(3). Pursuant to A.R.S. § 14-5101(3), “Incapacitated person means any person who is impaired by reason of mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that he lacks sufficient understanding to or capacity to make or communicate responsible decisions concerning his person.”

The phrase “responsible decisions concerning his person” means that the “putative ward’s decision-making process is so impaired that he is unable to care for his personal safety or unable to attend to and provide for such necessities as food, shelter, clothing, and medical care, without which physical injury or illness may occur.” *In re Guardianship of Reyes*, 152 Ariz. 235, 236 (App. 1986).

Under Arizona law, the court appoints a Guardian if the court finds by clear and convincing evidence that:

1. The person for whom a guardian is sought is incapacitated.
2. The appointment is necessary to provide for the demonstrated needs of the incapacitated person.
3. The person’s needs cannot be met by less restrictive means, including the use of appropriate technological assistance.

Under Arizona law, the court appoints a Conservator if the court finds, by clear and convincing evidence, that:

1. The person is unable to manage the person’s estate and affairs effectively for reasons such as mental illness, mental deficiency, mental disorder, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance.
2. The person has property that will be wasted or dissipated unless proper management is provided, or that funds are needed for the support, care and welfare of the person or those entitled to be supported by the person and that protection is necessary or desirable to obtain or provide funds.

Beverly Johnson was adjudicated incapacitated on an interim basis on August 30, 2023, and on a permanent basis as to her need for a Guardian on November 9, 2023. Ms. Johnson was

April 23, 2024

Page 10

also adjudicated to be unable to manage her estate and affairs effectively on an interim basis on August 30, 2023 and on a permanent basis as to her need for a Conservator on December 11, 2023.

Rule 42, Arizona Rules of Probate Procedure. Training, Role, and Termination of an Attorney for a Subject Person provides that "The attorney for the subject person must advocate for the subject person's wishes to the extent the attorney is able to ascertain those wishes. The attorney must, as far as possible, maintain a normal client-lawyer relationship with the subject person. In addition, the attorney must act to protect the subject person's substantive and procedural due process rights."

Contract Indigent Representation (Probate) Attorney Services - OCC

Mr. Asimou's role as court-appointed counsel is also governed by his contract with the Maricopa County Office of Public Defense Services to provide such services. Mr. Asimou's duties as court-appointed counsel include the following:

2.4 CONTRACTOR'S RESPONSIBILITIES:

2.4.1 Effective Representation. Contractor shall effectively represent the Client including, but not limited to:

2.4.1.1 contacting and conferring with the Client concerning the representation within a maximum of 48 hours of Contractor's notice of appointment;

2.4.1.2 maintaining reasonable contact with the Client until the representation is terminated;

2.4.1.3 using reasonable diligence in notifying the Client of necessary court appearances including any court action that arises out of the Client's non-appearance;

2.4.1.4 conducting such interviews and investigation as are appropriate;

2.4.1.5 appearing in court on time at whatever time the Court designates.

The contract also notes Mr. Asimou's requirement to act in accordance with the Arizona Rules of Professional Conduct. *Contract Indigent Representation (Probate) Attorney Services - OCC* at 2.4.15 (Aug. 23, 2017).

Legal Issues Presented

April 23, 2024

Page 11

Whether it was ethical of Tomas G. Asimou, as court-appointed counsel for Beverly Johnson, to file pleadings with the court, upon learning of concerning conduct of the former temporary conservator and permanent guardian, to compel the fiduciary to formally account for her administration of the temporary conservatorship, and to be removed as permanent guardian.

Whether Mr. Asimou's conduct in the Matter of Johnson was in conformity with his ethical duties and obligations to file pleadings to appoint a permanent guardian and conservator for his client.

Analysis & Findings

A. Petitions to Compel Inventory, Accounting, and Transfer of Conservatorship Assets and to Substitute Guardian

Mr. Asimou complied with ethical and contractual obligations to Ms. Johnson in filing pleadings with the court to compel the fiduciary to formally account for her administration of the temporary conservatorship and to be removed as permanent guardian in light of the concerning conduct of the temporary conservator and permanent guardian. Specifically, Mr. Asimou did not violate an ethical obligation under the Arizona Rules of Professional Conduct or Rules of Probate Procedure or his contractual obligations under his contract with the Maricopa County Office of Public Defense Services when he did not meet with Ms. Johnson before filing these petitions where Ms. Johnson was incapacitated, could not meaningfully communicate regarding the details of her finances, the value or contents of her home, or the value of her stolen jewelry, could not make decisions to direct litigation regarding the suitability of her current guardian, understand and direct litigation concerning the administration of her assets by the Temporary Conservator, or understand or opine on whether her Guardian and Temporary Conservator complied with their fiduciary duties under Arizona law.

This letter addresses the ethical propriety of Mr. Asimou's conduct in representing Ms. Johnson under E.R. 1.14 of the Arizona Rules of Professional Conduct, Rule 42 of the Arizona Rules of Probate Procedure, and in the terms of his contract with the Maricopa County Office of Public Defenses Services to provide legal services as court-appointed counsel.

1. *Ethical Rule 1.14 & Rule 42 Probate Procedure*

The Arizona Rules of Professional Conduct govern the conduct of lawyers licensed to practice law in Arizona. These rules expressly recognize that difficult ethical problems arise from conflict between a lawyer's responsibilities to their clients, the legal system, and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. *Preamble*, Rules of the Supreme Court of Arizona, Rule 42(9) Arizona Rules of Professional Conduct (stating "[s]uch issues must be resolved through the exercise of sensitive professional and moral judgment guided

by the basic principles underlying the Rules. These principles include the lawyer's obligation to protect and pursue a client's legitimate interests, within the bounds of the law . . .").

Arizona attorneys representing clients with diminished capacity are required under Ethical Rule 1.14(a) to "as far as reasonably possible, maintain a normal client-lawyer relationship with the client." The rule clearly establishes the attorney's goal of maintaining a normal relationship, while explicitly recognizing that in the case of a client with diminished capacity this ideal will not always be reasonably possible. At the same time, Rule 1.14(b) leaves to the discretion of the lawyer whether or not protective action is to be taken to protect the client's interests. Some of these protective actions may be adverse to the client's wishes or constitute a "serious deprivation of the client's rights" such as the appointment of a Guardian.

Similar to Ethical Rule 1.14, Rule 42, Arizona Rules of Probate Procedure. Training, Role, and Termination of an Attorney for a Subject Person provides that "The attorney for the subject person must advocate for the subject person's wishes to the extent the attorney is able to ascertain those wishes. The attorney must, as far as possible, maintain a normal client-lawyer relationship with the subject person. In addition, the attorney must act to protect the subject person's substantive and procedural due process rights." This Rule uses language such as "to the extent the attorney is able" and "as far as possible", couching the goals for the role of an attorney in a probate matter to recognize, just as in Ethical Rule 1.14, that an attorney may not be capable of always reaching these ideals in the case of a person with diminished capacity. The rule allows for situations where the attorney is unable to ascertain the wishes of his or her client and where it is not possible to maintain a normal client-lawyer relationship.

The practical effects of Ethical Rule 1.14 impact several other ethical rules including E.R. 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer), E.R. 1.4 (Communication), E.R. 1.6 (Confidentiality of Information), and E.R. 1.7 (Conflict of Interest: Current Clients). David D. Dodge, *Clients with Diminished Capacity*, Ariz. Att'y, June 2015, at 10. For example, while Ethical Rule 1.2 requires attorneys to "abide by a client's decisions concerning the objectives of the representation," attorneys with clients with diminished capacity are allowed to take protective actions that may be directly opposed to the client's stated wishes. *Id.* Similarly, there are lawyers with clients with diminished mental capacity who "obviously can't comply with [Ethical Rule 1.4 (Communication)] and, by virtue of ER 1.14, can be relieved from his or her obligations." *Id.*

By the date that the above Petitions were filed, Ms. Johnson had been found to be incapacitated at least two separate times by the court, during the appointment of a temporary and permanent guardian. Pursuant to Arizona law, this means she was found to lack "sufficient understanding to or capacity to make or communicate responsible decisions concerning [her] person." Multiple other participants in this matter including the Court Investigator noted Ms. Johnson had mental deficiencies that impacted her ability to understand, recall, and/or

communicate information, as described further below. Based on these circumstances, Mr. Asimou could have reasonably concluded that Ms. Johnson was incapacitated and could not make decisions to direct litigation regarding the suitability of her current guardian, understand and direct litigation concerning the administration of her assets by the Temporary Conservator, or understand or opine on whether her Guardian and Temporary Conservator complied with their fiduciary duties under Arizona law.

Also by the date the Petitions were filed, the Court had found by the appointment of a temporary and permanent Conservator that Ms. Johnson was “unable to manage [her] estate and affairs effectively” due to her mental incapacity. Based on these circumstances, Mr. Asimou could have reasonably concluded that Ms. Johnson could not meaningfully communicate regarding the details of her finances, the value or contents of her home, or the value of her stolen jewelry.

Overall, based on the facts of this matter, Mr. Asimou could have reasonably concluded that it was not reasonably possible to ascertain Ms. Johnson’s wishes or maintain the normal client-lawyer relationship with Ms. Johnson regarding the Petition to Compel Inventory, Accounting, and Transfer of Conservatorship Assets and to Substitute Guardian. In other matters, Mr. Asimou may have been able to turn to the client’s Guardian to make decisions on behalf of Ms. Johnson, but in light of the subject matter of the Petitions and the allegations concerning conduct of the temporary conservator and permanent guardian, that was not a sufficient option for these Petitions.

Further, these Petitions fall under the protective action left to the discretion of the attorney under Ethical Rule 1.14(b). Based on the information provided in the Petitions regarding the allegations against Aspen, Mr. Asimou could have reasonably deemed it necessary to act in the “best interests” of Ms. Johnson to seek the Court’s assistance to protect her from potential misconduct by her legal representative. See ER 1.4, Cmt. 5. Therefore, Mr. Asimou acted within his discretion under ER 1.14(b) when filing the above petitions.

2. *Contract with MCO Public Defenses Services*

Mr. Asimou likely met the requirements of the contract with the Maricopa County Office of Public Defense Services to provide effective representation.

The contract with the Maricopa County Office of Public Defense Services provides that the contractor must effectively represent the client. Effective representation is defined by the language of the contract to include maintaining reasonable contact with the client until the representation is terminated. *Contract Indigent Representation (Probate) Attorney Services - OCC* at 2.4.1.2. The contract does not define what reasonable contact with the client could be and upon a search there is not caselaw interpreting this requirement in this type of agreement.

Mr. Asimou met with Beverly Johnson in August 2023, after being appointed as court-appointed counsel. During that meeting, Mr. Asimou determined that Ms. Johnson would be

unable to direct him as her legal counsel. This conclusion is supported by the overwhelming and undisputed evidence that Ms. Johnson has diminished capacity. Therefore, as covered further in the following section, Mr. Asimou determined that a permanent legal representative should be appointed to make decisions on her behalf. Pursuant to the comments to Ethical Rule 1.14, where a client has been appointed a legal representative, “the lawyer should ordinarily look to the representative for decisions on behalf of the client.” Cmt. 4.

The facts establish that Mr. Asimou attempted to look to the appointed legal representative of Ms. Johnson in this matter. Where the appointed Guardian and Temporary Conservator was not responsive to the requests for information by Mr. Asimou, he chose to involve the Court to compel action by the Guardian and Temporary Conservator on behalf of his client. As covered in more detail above, this decision was within his discretion pursuant to ER 1.14(b) to act in his client’s best interests.

While Mr. Asimou could have reasonably concluded that Ms. Johnson was unable to direct him regarding the Petitions at issue in this letter and he took action within his discretion to compel communication of the Guardian and Temporary Conservator, this letter does not find that Mr. Asimou is not contractually required to have *some* contact with Ms. Johnson throughout the representation. Given Ms. Johnson’s “severe and global” cognitive impairment, Mr. Asimou’s discontinuance of regular visits is appropriate. While contractually it may be prudent for Mr. Asimou to continue to have a reasonable level of contact with Ms. Johnson throughout the representation as defined by the contract with MCO Public Defenses Services, doing so is a waste of money and may as Dr. Lamoureux stated, be harmful to Ms. Johnson. Thus, visits are an unfortunate expense and pose a risk to Ms. Johnson, such that the probate court may choose to waive further visitation given the circumstances.

B. Petition for Permanent Appointment of Guardian and Conservator and Amended Petition for Permanent Appointment of Guardian and Conservator

Thomas Asimou acted in accordance with his ethical duties to file pleadings to appoint a permanent guardian and conservator for his client.

Mr. Asimou was appointed as court-appointed counsel on August 11, 2023. On August 24, 2023, Mr. Asimou made contact with Ms. Johnson through the nurse’s station at Mayo Clinic. Based on his communications with Ms. Johnson, he concluded that she was unable to direct him as her legal counsel. Mr. Asimou believed that Ms. Johnson was unable to opine on whether a temporary guardian and conservator should be appointed for her, and who should serve in that role. Mr. Asimou filed the *Petition for Permanent Appointment of Guardian and Conservator* on August 31, 2023.

Where a lawyer reasonably believes that the client has diminished capacity “the lawyer may take reasonably necessary protective action, including consulting with individuals or entities

April 23, 2024

Page 15

that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian." E.R. 1.14(b). Ethical Rule 1.0(h) defines "Reasonable belief" or "reasonably believes" when used in reference to a lawyer to denote "that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable."

The facts of this matter support that Mr. Asimou reasonably believed that his client had diminished capacity as of the date he filed the Petition. Beverly Johnson was brought to the hospital in July 2023 because she had tripped and fell. When her neighbors found Ms. Johnson, she was on the floor of her home, which had reached an internal temperature of 90 degrees, and the air conditioning was turned off. After she was admitted to Mayo Clinic, the hospital filed an *Emergency Petition* for a temporary Guardian and Conservator for Ms. Johnson on August 10, 2023, which was granted. The *Physician's Report* filed the same day included that Ms. Johnson "likely has dementia and has been deemed by psychiatry to lack capacity . . . poor memory and cognitive deficits that preclude her from reaching out for assistance."

There is no dispute that Beverly Johnson has diminished capacity and the facts presented throughout this matter support this conclusion. Ms. Johnson had legal representatives appointed to protect her interests on an interim basis on August 30, 2023, and on a permanent basis as to her need for a Guardian on November 9, 2023, and on December 11, 2023. The Investigator's Report October 4, 2023 noted that it "appears Beverly Johnson may benefit from the appointment of a Guardian/Conservator because she appears to be impaired by a diagnosis to the extent she may lack sufficient understanding or capacity to make responsible decisions concerning her person and finances."

Mr. Asimou petitioned the court for a permanent guardian and conservator for his client. At the time, Mr. Asimou could have reasonably believed that it was reasonably necessary to seek the appointment of a permanent guardian and conservator for Ms. Johnson. Therefore, Mr. Asimou acted in accordance with his ethical duties in filing these petitions.

Sincerely,

Edward F. Novak

EFN:agb

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Practice in the area of white-collar crime/special matters, extensive jury, non-jury and appellate experience in criminal defense matters, complex civil litigation and government agency investigations in several areas including healthcare.

EDUCATION

- J.D., DePaul University, *DePaul University Law Review*, Note and Comment Editor
- B.A., Knox College

BAR JURISDICTION

- District of Columbia (Inactive)
- Arizona
- Illinois (Inactive)

COURT ADMISSIONS

- U.S. Tax Court
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Northern District of Illinois

EXPERIENCE

- Antitrust
- Commercial Litigation
- False Claims Act Defense
- Government Investigations
- Health Care Litigation
- Internal Investigations
- Litigation
- Mergers and Acquisitions Litigation

MEMBERSHIPS

April 24, 2024
94485386.1

- American Bar Association (Criminal Justice Section; Antitrust Law Section; Litigation Section)
- Arizona School for the Arts (Board Member, 2012-2020)
- Arizona State University Art Museum (Board Member, 1998-2001)
- Arizona Supreme Court (Committee on Character and Fitness - Chair, 2014-2024; Member, 2009-present)
- ASA Foundation (Board Member, 2017-2022)
- Greater Phoenix Economic Council (Board of Directors, 2012-2018)
- Maricopa County Bar Association
- Maricopa County Commission on Trial Court Appointments, 1994-1998
- National Association of Criminal Defense Lawyers
- State Bar of Arizona (Board of Governors - President, 2008-2009; Member, 1999-2011; Criminal Rules Committee - Chairman, 1993-1997; Criminal Justice Section - Chairman, 1986-1987)
- Superior Court of Arizona (Judge Pro Tempore, 1990-1996, 1999-2018)
- Thunderbird Global Council (Board Member, 2011-2013)
- United States Veterans Initiative, Inc. (Board Member, 2004-present)

RECOGNITIONS

- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Band 1, Litigation: White-Collar Crime & Government Investigations (Arizona), 2010-2023
- Selected by *Arizona Business* magazine as a Leader in Law - Management, 2018 - 2019
- Selected for inclusion in *The Best Lawyers in America*® for Criminal Defense: White-Collar, 1995-2023
- Recognized as a "Litigation Star" by *Benchmark Litigation*, 2015, 2021-2022
- Litigation Counsel of America, Fellow, 2014-present
- Selected by *Arizona Business* magazine as one of Arizona's Top 100 Lawyers, 2015-2016, 2020
- Selected for inclusion in *Southwest Super Lawyers*®, Criminal Defense: White-Collar, 2008-2021
- Selected for inclusion in *Southwest Super Lawyers*®, *Top 50 Arizona*, 2018

EXHIBIT L

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2023-051089

07/22/2024

HONORABLE VANESSA N. SMITH

CLERK OF THE COURT
R. Perman
Deputy

IN THE MATTER OF THE GUARDIANSHIP
OF AND CONSERVATORSHIP FOR:

BEVERLY JOHNSON

THOMAS G ASIMOU

AN ADULT.

MARK EDWIN ANDERSEN
LESLIE MANN DAMON
NO ADDRESS ON RECORD
JAMES D ROHDE
MAYO CLINIC, THE
NO ADDRESS ON RECORD
BRIAN JAMES THEUT

COMM. VANESSA N SMITH

MINUTE ENTRY

Courtroom 109 – Northeast Regional.

10:07 a.m. This is the time set for a Virtual Hearing regarding the *Verified Petition for Declaratory Judgment* (“Petition”) filed on April 26, 2024. Petitioner / Court Appointed Counsel Thomas Asimou is present on behalf of Ward Beverly Johnson who is not present. Guardian ad Litem Brian Theut is present on behalf of Ward Beverly Johnson. Robin O’Connell, a representative of Guardian and Conservator Aspen Grove Fiduciary, is present and represented by Counsel Mark Andersen. Linda Pancheri, a representative of First Interstate Bank, is present and represented by Counsel James Rohde. All parties appear virtually.

A record of the proceedings is made digitally in lieu of a court reporter.

Discussion is held.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

PB 2023-051089

07/22/2024

Based on the information presented, and for reasons as stated on the record,

The Court finds that the Declaratory Judgments Act, as cited in the Petition as ARS § 12-1831 – 34, is not applicable to the request made in the Petition. The Court notes that there is no actual controversy. The Court suggests that, if applicable, Petitioner pursue an ethics advisory opinion.

Discussion continues.

The Court advises Petitioner that the Court has concerns that In re Sleeth, 226 Ariz 171 may be applicable to fees and costs associated with the Petition and that “it is the law of guardianships, anciently and well established, that at all times, the court must be guided by what is in the best interest of the Ward.” The Court continued by reminding Petitioner that In re Sleeth noted, “although the statutes require the protected person to pay for the services of those appointed or hired to assist him, this case illustrates an underlying flaw in the scheme that makes all the more compelling the superior court’s close scrutiny of fee requests.”

IT IS ORDERED denying the Petition for Declaratory Judgment.

LET THE RECORD REFLECT Counsel Asimou makes a second request for the recusal of the Court.

IT IS ORDERED denying the request for recusal of the Court.

THE COURT FINDS that no other matters remain pending in this case and, therefore, enters this order as a final, appealable order pursuant to Rule 54(c), Arizona Rules of Civil Procedure.

HONORABLE VANESSA N. SMITH
JUDICIAL OFFICER OF THE SUPERIOR COURT

10:23 a.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes.
A form may be downloaded at: https://superiorcourt.maricopa.gov/llrc/fc_gn9/

EXHIBIT M



DIVISION ONE
 FILED: 05/22/2025
 MATTHEW J. MARTIN,
 CLERK
 BY: MVW

IN THE
COURT OF APPEALS
 STATE OF ARIZONA
 DIVISION ONE

In the Matter of the)	Court of Appeals
Guardianship and Conservatorship)	Division One
of:)	No. 1 CA-CV 24-0650 PB
)	
BEVERLY JOHNSON,)	Maricopa County
)	Superior Court
An Adult.)	No. PB2023-051089
)	
BEVERLY JOHNSON,)	
)	
Petitioner/Appellant,)	
)	
v.)	
)	
ASPEN GROVE FIDUCIARY SERVICES,)	
LLC, et al.,)	
)	
Respondents/Appellees.)	

CLERK OF THE SUPERIOR COURT
 FILED
 JUN 30 2025 4:44PM
 Deputy

ORDER DISMISSING APPEAL

The court, Presiding Judge Kent E. Cattani, Judge Samuel A. Thumma, and Judge David D. Weinzweig, has reviewed the record and considered the briefing in this matter. For reasons that follow, we dismiss the appeal.

Beverly Johnson is an incapacitated adult who has been subject to a guardianship and conservatorship since 2023. See A.R.S. §§ 14-5101(3), -5304(B), -5401(A)(2). Thomas Asimou was appointed as attorney representing Johnson at the beginning of the proceedings. Several months later, Asimou filed a petition for declaratory judgment asking that the court declare his representation of

Johnson was "appropriate," "not unreasonable," and compensable. The petition and accompanying verification reflect that Asimou himself (not Johnson) was the petitioner. The court denied the petition for want of a controversy, and Asimou timely appealed. See A.R.S. § 12-2101(A)(9); see *In re Guardianship of Sommer*, 241 Ariz. 308, 310, 312, ¶¶ 7, 17-18 (App. 2016).

Asimou did not file a brief on appeal as the appellant. Instead, counsel (including Asimou) submitted an opening brief on behalf of Johnson, the ward, even though Johnson was not a petitioner seeking declaratory judgment. Johnson, however, is not the appellant. The notice of appeal states that Asimou appealed (not that Johnson appealed or that Asimou filed the appeal on Johnson's behalf). And the appeal challenges the denial of a petition for declaratory judgment for which Asimou (not Johnson) was the petitioner. Moreover, given the subject matter of that petition, Johnson was not aggrieved by its denial and thus could not appeal. See ARCAP 1(d); *Gubser v. Gubser*, 126 Ariz. 303, 306 (1980). Because the only proper appellant did not file an opening brief, we dismiss the appeal. See ARCAP 15(a)(1).

Furthermore, even if we were to consider the merits of Asimou's appeal, the record shows no grounds for relief. Asimou's petition for declaratory judgment asked that the court declare his conduct in representing Johnson appropriate and compensable from the assets subject to conservatorship. See Ariz. R. Prob. P.

42(b); Ariz. R. Prof'l Conduct ER 1.14; A.R.S. §§ 14-1105, -5314(B), -5414(B); see also Ariz. R. Prob. P. 33; A.C.J.A. § 3-303. The petition appears to have been prompted by the superior court's on-the-record acknowledgement of a court investigator's report noting conflicting comments about the guardian, the conservator, and Asimou. The court expressed concern about statements that Asimou had only minimal contact with Johnson and might be taking positions contrary to her wishes, then appointed a guardian ad litem to investigate all the accusations (including those about Asimou) and make recommendations as to Johnson's best interests. Asimou's declaratory judgment petition was filed before the GAL's report, which largely supported Asimou's actions on Johnson's behalf.

As the superior court observed, a request for declaratory judgment must be based on a real, not theoretical, justiciable controversy. See *Hunt v. Richardson*, 216 Ariz. 114, 125, ¶ 37 (App. 2007). Asimou's petition attacked the court's "concerns" about what it repeatedly acknowledged were merely "accusations" about his conduct, which Asimou interpreted as concrete findings. But the court's concerns were not findings and instead simply reflected its basis for appointing a GAL to investigate the allegations. Asimou's objections thus remained theoretical at best (and non-justiciable at this time), especially since the GAL largely condoned Asimou's actions. And as to compensation, a

declaratory judgment could not terminate any uncertainty because a separate Rule 33 request for approval of fees would nevertheless be necessary regarding compensation. See Ariz. R. Prob. P. 33(a)(1); A.R.S. § 12-1836; *Merritt-Chapman & Scott Corp. v. Frazier*, 92 Ariz. 136, 139 (1962) (declaratory judgment improper if separate action would still be necessary to settle the matter).

Accordingly,

IT IS ORDERED dismissing this appeal.

/s/
KENT E. CATTANI, Presiding Judge

A copy of the foregoing
was sent to:

Kelley M Jancaitis
Thomas G Asimou
Meagan M Pollnow
Mark E Andersen
Samantha Garber Stirling
Mark W Hawkins
James D Rohde
Lindsi M Weber
Hon Vanessa N Smith (mailed)

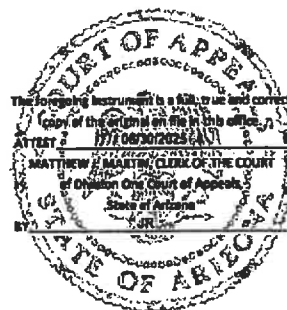


EXHIBIT N

FW: ERS Recording Requests 4

From Vanessa Smith (SUP) <
Date Fri 11/21/2025 4:49 PM
To Elise Jimenez (SUP)

FTK Recordings Ex n

From: Dennis Carpenter (SUP) <
Sent: Thursday, September 25, 2025 10:37 AM
To: V
Subject: ERS Recording Requests

Attached is the list of Electronic Recording Services FTR that have been requested by Asimou & Associates.

Dennis

Dennis D. Carpenter, Jr.
General Counsel
Judicial Branch in Maricopa County
125 W. Washington
Phoenix, AZ 85003

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
137911	8/14/2024	Sarah Richardson	Asimo & Associates	602-604-0011		PB2023-051089	IMO Beverly Johnson						Smith	DROP	D	8/14/2024	6/14/2024	No	RB_NER109 10-13-10-37 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 dropbox req.	
100667	1/23/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2022-001044	IMO Deanna Starzelski	1/20/2023					Bell	CD	D	1/23/2023	1/23/2023	No	TL_ECB 512-VC, 9-05-10-26, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
83738	2/26/2020	Christie France	Asimou & Assoc.	602-604-0011		PB2018-001785	IMO Johnson	2/28/2020					McLaughlin	CD	D			No	IME_NER109 2-26- 2020 93738- 94531	
88527	2/9/2021	Christine France	Asimou & Associate, PLLC	602-604-0011		PB2019-001976	IMO Diaha Litcherman	2/8/2021					McLaughlin	CD	D	2/9/2021	2/9/2021	No	TL_NER 109-VC, 9-37-9-45, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	
83222	1/30/2019	Christa Hallistie France	Asimou & Associates	602-604-0011		PB2019-001937	IMO Edith & Laszlo Racz	1/23/2020					McLaughlin	CD	D			No	IME_NER109 1-23- 2020 133-440	
96547	9/14/2020	Saige Cutler	Asimou & Associates	602-604-0011		PB2020-001391	Thomas Gibson	9/9/2020					Marquitt	cd	d	9/15/2020		No	dh_eob514 938- 947 5050 North 40th Street, Suite 220 Phoenix, AZ 85018	
88971	3/4/2021	Christine France	Asimou & Associates	602-604-0011		PB2020-004781	IMO Polly Sue Cooper	2/12/2021					Palmer	CD	d	3/8/2021	3/4/2021	No	TL_ECB 513-VC, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	
89015	3/8/2021	Christie France	Asimou & Associates	602-604-0011		PB2020-001252	IMO Doyle Family Trust	3/8/2021					Marquitt	cd	d	3/12/2021		No	dh_eob514vc 1001- 1019 5070 North 40th Street, Suite	

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
138352	7/3/2024	Sara Richardson	Asimou & Associates	602-604-0011		PB2024-002089	IMO Angel M. Feiden	7/1/2024					Smith	Drop	7/3/2024		7/3/2024	No	No	135 Phoenix, AZ 85015 dropbox to NER109(200-305) 5070 North 40th Street, Suite 135 Phoenix, AZ 85018
140946	10/11/2024	Sara Richardson	Asimou & Associates	602-604-0011		PB2024-050660	IMO Nina Waterworth	7/1/2024					Smith	Drop	10/14/2024		10/14/2024	No	No	to NER109(900-1202) 5070 North 40th Street, Suite 135 Phoenix, AZ 85018
141866	11/18/2024	Sara Richardson	Asimou & Associates	602-604-0011		PB2024-050010	IMO Loretta Porfillo-Jaurequi	10/21/2024					Bingert	Drop	11/18/2024		11/18/2024	No	No	KY: OCH-002; 1:40-4:57; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
142176	12/4/2024	Sara Richardson	Asimou & Associates	602-604-0011		PB2022-004701	IMO Sharp	12/2/2024					Smith	Drop	12/4/2024		12/4/2024	No	No	to NER109(208-240) 5070 North 40th Street, Suite 135 Phoenix, AZ 85018
142548	12/19/2024	Sara Richardson	Asimou & Associates	602-604-0011		PB2024-050010	IMO Loretta Porfillo-Jaurequi	12/18/2024					Bingert	Drop	12/19/2024		12/19/2024	No	No	to OCH-002(, 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
144697	3/20/2025	Sara Richardson	Asimou & Associates	602-604-0011		PB2024-004971	IMO Aden Anderson	3/20/2025					Rhoades	DROP	3/20/2025		3/20/2025	No	No	FB, NWR122pb 11:00-11:09 5070 North 40th Street, Suite 135 Phoenix, AZ 85018
148632	8/19/2025	Sara Richardson	Asimou & Associates	602-604-0011		PB2025-002440	IMO Beverly Anne Antonick	5/30/2025					Alleri	Drop	8/19/2025		8/19/2025	Yes	Yes	DROPBOX req. to OCH207(231-322) 5070 North 40th Street, Suite 135 Phoenix, AZ 85018
148638	8/19/2025	Sara Richardson	Asimou & Associates	602-604-0011		PB2021-005431	IMO Karl Edmark III	5/3/2025					Smith	Drop	8/19/2025		8/19/2025	No	No	to OCH303(1100-322) 5070 North 40th Street, Suite 135 Phoenix, AZ 85018
94230	1/27/2022	Sara Richardson	Asimou & Associates PLC	604-604-0011		PB2021-005431	IMO Karl Edmark III	1/26/2022					Marquiot	CD	1/31/2022		1/27/2022	No	No	TL EGB 514-VC, 3:34-3:55. 5070 North 40th St, Ste 135, Phoenix, AZ 85018
94336	2/3/2022	Britt Welch	Asimou & Associates PLC	604-604-0011		PB2021-000769	IMO Elizabeth Ansehl	2/2/2022					PIRK	CD	2/4/2022		2/3/2022	No	No	TL EGB 611-VC, 9:42-10:37. 5070 North 40th St, Ste 135, Phoenix, AZ 85018
102136	4/3/2023	Sara Richardson	Asimou & Associates PLC	604-604-0011		PB2014-002257	IMO Richard Bauman	3/24/2023					Harmon	CD	4/3/2023		4/3/2023	No	No	DL EGB 514-VC, 10:01-12:04. 5070 North 40th Street Suite 135 Phoenix, AZ 85018. ELECTRONICALLY SENT
104034	6/27/2023	Sara Richardson	Asimou & Associates PLC	604-604-0011		PB2023-050834	IMO Virginia Wurtz	6/27/2023					Smith	CD	6/29/2023		6/29/2023	No	No	DL NER 109, 9:11-9:32. 5070 North 40th Street Suite 135 Phoenix, AZ 85018.

IER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrg Date 1	Hrg Date 2	Hrg Date 3	Hrg Date 4	Hrg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
108965	2/14/2024	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2024-000382	IMO Maxine Poulton	2/14/2024					Bell	CD	D	2/14/2024		2/14/2024	No	ELECTRONICALLY SENT TL ECB 512, 10:06-10:28, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
137718	6/10/2024	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2023-050691	IMO Champagne Revocable Trust	2/29/2024					Smith	CD	D	6/10/2024		6/10/2024	No	TL NER 109-VC, 1:33-3:18, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
137719	6/10/2024	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2021-051127	IMO Claudette Cave	4/25/2024					Smith	CD	D	6/10/2024		6/10/2024	No	TL NER 109-VC, 10:59-11:48, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
137721	6/10/2024	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2023-050188	IMO Zachary Gressett	6/4/2024					Smith	CD	D	6/10/2024		6/10/2024	No	TL NER 109-VC, 10:00-10:14, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
137882	6/13/2024	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2023-050443	IMO Milton Greenberg	6/7/2023	7/18/2023				Smith	CD	D	6/13/2024		6/13/2024	No	TL NER 109-VC, 6/7/23, 9:15-9:39, 7/18/23, 11:23-11:24, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
139542	8/19/2024	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2024-050081	IMO James Crowe	3/27/2024					Smith	CD	D	8/19/2024		8/19/2024	No	TL NER 109, 11:24-11:26, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
145887	5/5/2025	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2018-002362	IMO Marilyn K Orlando	4/21/2025					Allier	DROP	D	5/5/2025		5/5/2025	No	RB OCHpb 11:11-11:16 5070 North 40th Street Street Suite 135 Phoenix, AZ 85018 DROPBOX, REQ.
146237	5/15/2025	Sara Richardson	Asimou & Associates PLC	602-604-0011		PB2024-001986	IMO Julieta Perez	5/14/2025					Kaiser	DROP	D	5/15/2025		5/15/2025	No	ECR6514vc-cv 10:09-10:26 5070 North 40th Street Suite 135 Phoenix, AZ 85018 dropbox
95204	3/29/2022	Britt Welch	Asimou & Associates, P.L.C.	602-604-0011		PB2020-001391	IMO Thomas Gibson	3/29/2022					Marriot	CD	D	4/6/2022		4/9/2022	No	TL ECB 514-VC, 1:33-1:51 5070 North 40th St, Ste 135, Phoenix, AZ 85018
108879	2/12/2024	Sara Richardson	Asimou & Associates, P.L.C.	602-604-0011		PB2021-051127	Matter of the Estate of Claudette April Cave	12/1/2021					McLaughlin	CD	D	2/12/2024		2/12/2024	No	KY: 10:22-10:27, 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; Electronically Transferred

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrg Date 1	Hrg Date 2	Hrg Date 3	Hrg Date 4	Hrg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
87219	10/28/2020	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2020-003761	IMO Richard Ertell	10/23/2020					Kalman	CD	d	10/29/2020		10/28/2020	No	TL ECB 512, 10:00-11:36, 5050 N 40th St, Ste 220, Phoenix, AZ 85018
80496	2/5/2021	Christie France	Asimou & Associates, PLC	602-604-0011		PB2020-004648	IMO Ma Snayaw Ling Tale	12/15/2020	1/25/2021	2/4/2021			Fink and Palmer	CD	D	2/5/2021		2/5/2021	No	TL 12/15/20, 9:40-2:44-4:54, 2/4/21, 9:37-5:21, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
88520	2/8/2021	Christine France	Asimou & Associates, PLC	602-604-0011		PB2019-052321	IMO The Miguel Trust	2/4/2021					McLaughlin	CD	d	2/9/2021		2/8/2021	No	TL_NER 109, 11:03-12:04, 5070 North 40th St, Ste 135, Phoenix, AZ 85014
85685	4/14/2021	Saige Cutler	Asimou & Associates, PLC	602-604-0011		PB2021-050206	IMO Joan Olliver	4/13/2021					McLaughlin	CD	d	4/19/2021		4/14/2021	No	TL_NER 109-VC, 9:00-9:12, 5070 N 40th St, Ste 135, Phoenix, AZ 85018
90302	5/20/2021	Saige Cutler	Asimou & Associates, PLC	602-604-0011		PB2021-050415	IMO Bernadette Johnson	5/19/2021					McLaughlin	CD	D	5/25/2021		5/20/2021	No	TL_NER 109-VC, 9:01-9:12, 5070 N 40th St, Ste 135, Phoenix, AZ 85018
91985	9/8/2021	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2021-001486	IMO Ruthanne Walker	9/2/2021					Kalman	CD	D	9/9/2021		9/8/2021	No	TL ECB 512-VC, 3:42-3:56, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
92803	10/21/2021	Saige Cutler	Asimou & Associates, PLC	602-604-0011		PB0000-138580	IMO Jason Dillon	10/20/2021					Kalman	CD	D	10/21/2021		10/21/2021	No	TL ECB 512, 3:30-4:00, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
92995	11/3/2021	Saige Cutler	Asimou & Associates, PLC	602-604-0011		PB2021-004516	IMO Vicki Hansen	11/2/2021					Kalman	CD	d	11/4/2021		11/3/2021	No	TL ECB 512-VC, 3:00-4:52, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
93578	12/10/2021	Britt Welch	Asimou & Associates, PLC	602-604-0011		CR2020-129848	ST v Karl Edmark	12/10/2021					Ryan	CD	d	12/16/2021		12/13/2021	No	TL_SCT 5A-VC, 9:12-10:20, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
93604	12/14/2021	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2021-005431	IMO Karl Edmark	12/10/2021					Marquet	CD	d	12/16/2021		12/15/2021	No	TL ECB 514-VC, 1:34-3:35, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
93955	1/10/2022	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2012-002237	IMO James and Myra Baum Trust	12/2/2021					Kalman	CD	D	1/11/2022		1/11/2022	No	TL ECB 512-VC, 2:31-3:49, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
93956	1/10/2022	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2021-005192	IMO Patty Snyder	12/7/2021					Palmer	CD	D	1/11/2022		1/11/2022	No	TL ECB 513-VC, 10:26-11:12, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
94733	3/1/2022	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB1991-003225	IMO Ammie Butree	2/23/2022					Kalman	CD	D	3/2/2022		3/2/2022	No	TL ECB 512-VC, 2:31-2:37, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
94785	3/3/2022	Reami Boone	Asimou & Associates, PLC	602-604-0011		PB2021-004086	IMO Eleanor MacDonald	3/2/2022					Kalman	CD	D	3/3/2022		3/3/2022	No	TL ECB 512-VC, 3:30-5:18, 5070 North 40th St, Ste 135, Phoenix, AZ 85018

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Capiton	Hrsg Date 1	Hrsg Date 2	Hrsg Date 3	Hrsg Date 4	Hrsg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
94855	3/8/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2022-001044	IMO Deanna Starzetski	3/7/2022					Kalman	CD	D	3/14/2022		3/8/2022	No	TL, ECB 512-VC, 332-4-43, 5070 N 40th St, Ste 135, Phoenix, AZ 85018
95138	3/24/2022	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2022-001353	IMO Donald Kaiser	3/24/2022					Palmer	CD	D	4/1/2022		3/30/2022	No	TL, ECB 513-VC, 11-15-12-01, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
95386	4/7/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2022-001545	IMO Helen Nicholas	4/7/2022					Marquitt	CD	D	4/13/2022		4/11/2022	No	TL, ECB 514-VC, 1-31-2-18, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
95876	5/4/2022	Jasmine Canales	Asimou & Associates, PLC	602-604-0011		PB2022-001608	IMO Sophia Guacifides	4/12/2022					Palmer	CD	D	5/9/2022		5/4/2022	No	TL, ECB 513-VC, 1-33-3-10, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
96088	5/17/2022	Britt Welch	Asimou & Associates, PLC	602-604-0011		PB2022-000589	IMO Mark Holder	5/12/2022					Kalman	CD	D	5/19/2022		5/18/2022	No	TL, ECB 512-VC, 11-01-12-19, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
96207	5/25/2022	Kaelyn Stairs	Asimou & Associates, PLC	602-604-0011		PB0000-138580	IMO Jason Dillon	5/24/2022					Kalman	CD	D	5/26/2022		5/25/2022	No	TL, ECB 512-VC, 11-29-11-40, 5070 N 40th St, Ste 135, Phoenix, AZ 85018
96611	6/16/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011		CV2022-006341	Goldwater Institute v Camelback Fiduciary, LLC	6/14/2022					Miktitish	CD	D	6/16/2022		5/15/2022	No	TL, ECB 513-VC, 336-4-13, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
97051	7/15/2022	Kaelyn Stairs	Asimou & Associates, PLC	602-604-0011		PB2019-001410	IMO George Blanda	7/14/2022					Harmon	CD	D	7/15/2022		7/15/2022	No	TL, ECB 514-VC, 2-33-3-48, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
97411	8/4/2022	Kaelyn Stairs	Asimou & Associates, PLC	602-604-0011		PB2021-003988	IMO William Spanko	8/4/2022					Palmer	CD	D	8/8/2022		8/5/2022	No	TL, ECB 513-VC, 11-33-12-03, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
97524	8/9/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2012-002237	IMO Baum Trust	3/5/2021					Kalman	CD	D	8/12/2022		8/11/2022	No	TL, ECB 512-VC, 9-04-10-49, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
97874	8/26/2022	Kaelyn Stairs	Asimou & Associates, PLC	602-604-0011		PB2021-004553	IMO James Family Trust	6/29/2022	7/11/2022				Palmer	CD	D	9/1/2022		8/31/2022	No	TL, ECB 513-VC, 6/29/22, 11-35-11-45, 7/12/22, 9-01-9-07, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
98183	9/12/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2022-003118	IMO Muneia Revocable Trust	9/12/2022					Palmer	CD	D	9/15/2022		9/14/2022	No	TL, ECB 513-VC, 9-30-9-44, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
98412	9/23/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2021-000582	IMO Barbara Van Sittert	9/22/2022					Fink	CD	D	9/27/2022		9/26/2022	No	TL, ECB 611-VC, 10-01-11-01, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
98995	10/24/2022	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2022-0050770	IMO Jane Lowes	9/11/2022	9/29/2022	10/20/2022			Smith	CD	D	10/25/2022		10/26/2022	No	TL, NER 109-VC, 8/1/22, 11-30-11-49, 8/29/22,

IER Orders

ID	Order Date	Ordering Party Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrg Date 1	Hrg Date 2	Hrg Date 3	Hrg Date 4	Hrg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record Returned	Comments
99941	11/9/2022	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2014-002257	IMO Richard Baumann	11/9/2022					Harmon	CD	D	11/15/2022	11/10/2022	No	10:07-10:24, 10/20/22, 10:51-11:06, 5070 North 40th St, Ste 135, Phoenix, AZ 85018 TL ECG 514-VC, 11-15-11-55, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
99968	12/7/2022	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2012-002237	IMO Baum Trust	12/7/2022					Fink	CD	D	12/8/2022	12/7/2022	No	TL ECG 611, 10:00-11:07, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
99911	12/8/2022	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2020-005167	IMO Robert Merna	12/5/2022					Palmer	CD	D	12/28/2022	12/8/2022	No	TL ECG 513-VC, 1-31-4-39, 5070 North 40th St, Ste 135, Phoenix, AZ 85018 RESEND, CUSTOMER DID NOT RECEIVE
100512	11/2/2023	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2022-050770	IMO Jane Lowes	11/11/2023					Smith	CD	D	1/12/2023	11/2/2023	No	TL NER 109-VC, 11-33-11-49, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
100897	2/2/2023	Alex Smith Asimou & Associates, PLC	602-604-0011		PB2021-003551	IMO Lisa Tews	10/21/2022					Bell	CD	D	2/2/2023	2/2/2023	No	TL ECG 512-VC, 9-24-10-13, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
100896	2/2/2023	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2021-005382	IMO Barbara Van Sittert	1/31/2023					Polk	CD	D	2/2/2023	2/2/2023	No	TL ECG 511, 9:05-4:05, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
101171	2/14/2023	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2022-051152	IMO Allen Jessen	11/28/2022	12/1/2022	1/9/2023	2/14/2023		Smith	CD	D	2/14/2023	2/14/2023	No	TL NER 109-VC, 11/28/22, 10:31-11:04, 12/1/22, 2:15-3:34, 1/9/23, 9:01-9:15, 2/14/23, 9:00-9:45, 5070 N 40th St, Ste 135, Phoenix, AZ 85018
101586	3/7/2023	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2022-051152	IMO Allen Jessen	3/7/2023					Smith	CD	D	3/7/2023	3/7/2023	No	TL NER 109-VC, 1-31-2-16, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
101832	3/17/2023	Sara Richardson Asimou & Associates, PLC	602-604-0011		PB2023-000792	IMO Aura Bragg	3/16/2023					Palmer	CD	D	3/17/2023	3/17/2023	No	TL ECG 513-VC, 2-30-3-11, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT

IER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber Returned	Comments	
102206	4/4/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2023-060217	IMO Sara Fleming	4/3/2023					Smith	CD	D	4/5/2023		4/5/2023	No	TL, NER 109-VC, 9:04-9:23, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
103240	5/22/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2022-003006	IMO Dag Gruden	5/22/2023					Fink	CD	D	5/22/2023		5/22/2023	No	TL, ECB 611-VC, 10:02-10:07, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
103233	5/22/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2021-050206	IMO Joan Olliver	5/19/2023					Smith	CD	D	5/22/2023		5/22/2023	No	TL, NER 109-VC, 2:55-5:08, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
103294	5/23/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2022-051152	IMO Allen Jessen	5/23/2023					Smith	CD	D	5/23/2023		5/23/2023	No	TL, NER 109-VC, 10:35-11:10, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
103385	5/30/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2022-051152	IMO Allen Jessen	5/26/2023					Smith	CD	D	5/30/2023		5/30/2023	No	TL, NER 109-VC, 11:00-12:03, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
103455	6/1/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2019-050321	IMO Elizabeth Papp	4/19/2023					Smith	CD	D	6/2/2023		6/2/2023	No	TL, NER 109-VC, 1:30-2:10, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
104346	7/12/2023	Kaelyn Starns	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2022-003012	IMO Kelley Family Trust	7/11/2023					Bell	CD	D	7/12/2023		7/12/2023	No	TL, ECB 512-VC, 2:30-2:34, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
104320	7/12/2023	Kaelyn Starns	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2022-050358	IMO Lynn Warner	6/20/2022	7/14/2022				Smith	CD	D	7/12/2023		7/12/2023	No	TL, NER 109-VC, 6:20/22, 10:45-10:59, 7/14/22, 9:03-9:07, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
104321	7/12/2023	Kaelyn Starns	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2023-050873	IMO Seryozha Stevens	7/11/2023					Smith	CD	D	7/12/2023		7/12/2023	No	TL, NER 109-VC, 10:59-11:31, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
104322	7/12/2023	Kaelyn Starns	Asimou & Associates, PLC	602-604-0011	602-604-0011	PB2023-050834	IMO Virginia Wurtz	7/11/2023					Smith	CD	D	7/12/2023		7/12/2023	No	TL, NER 109-VC, 2:02-3:36, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber Returned	Comments
104635	7/20/2023	Finan O'Halloran	Asimou & Associates, PLC	602-604-0011		PB2022-051004	IMO Colton Weverka	5/4/2023	5/15/2023				Smith	CD	D	7/20/2023	7/20/2023	No	ELECTRONICALLY SENT TL, NER 109-VC, 5/4/23, 9:30-10:13, 6/15/23, 11:00-11:28, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
104648	7/21/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-050443	IMO Milion Greenberg	7/18/2023					Smith	CD	D	7/21/2023	7/21/2023	No	TL, NER 109-VC, 11-23-11-24, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
104594	7/24/2023	Finan O'Halloran	Asimou & Associates, PLC	602-604-0011		PB2021-050325	IMO Virginia Stabile	7/18/2023					Smith	CD	D	7/24/2023	7/24/2023	No	TL, NER 109-VC, 10-51-11-03, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
106673	9/7/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-003145	IMO Patricia Waterman	9/6/2023					Rhoades	CD	D	9/14/2023	9/14/2023	No	TL, ECB 514-VC, 2-15-3-42, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
107032	11/9/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-000792	IMO Aura Bragg	9/11/2023					Palmer	CD	D	11/13/2023	11/13/2023	No	TL, ECB 513-VC, 1-31-4-39, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
107033	11/9/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-000792	IMO Aura Bragg	9/26/2023					Palmer	CD	D	11/13/2023	11/13/2023	No	TL, ECB 513-VC, 11-00-11-22, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
107117	11/13/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051169	IMO Denise Olivas	11/13/2023					Smith	CD	D	11/15/2023	11/15/2023	No	TL, NER 109-VC, 2-05-2-45, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
107730	12/13/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB0000-138580	IMO Jason Dillon	11/28/2023					Bell	CD	D	12/13/2023	12/13/2023	No	TL, ECB 512, 11-23-11-32, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
107976	12/28/2023	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-090853	IMO Hope Silich	12/7/2023					Corral	CD	D	12/28/2023	12/28/2023	No	TL, SEF 302, 11-36-12-50, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT
108339	1/18/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB0000-135580	IMO Jason Dillon	1/17/2024					Bell	CD	D	1/19/2024	1/19/2024	No	TL, ECB 512, 11-22-11-41, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrg Date 1	Hrg Date 2	Hrg Date 3	Hrg Date 4	Hrg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments	L
108505	1/25/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-050000	IMO Dow Family Trust	1/24/2024					Smith	CD	D	1/25/2024	1/25/2024	No		TL NER 109-VC, 2:30-3:33, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	ELECTRONICALLY SENT
108685	2/2/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-070396	IMO Mary Jane Baumgarten	2/1/2024					Seizer	CD	D	2/2/2024	2/2/2024	No		TL, NWR 122-VC, 11:07-11:40, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
108755	2/6/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2014-051066	IMO Doyle Family Trust	2/1/2024					Bell	CD	D	2/7/2024	2/7/2024	No		TL, ECB 512, 10:30-10:36, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
108845	2/9/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2022-005692	IMO Joanne Reilly and Stephen Corwin	7/18/2023	8/21/2023				Palmer	CD	D	2/9/2024	2/9/2024	No		TL, ECB 513-VC, 7/19/23, 9:47-10:46, 8/21/23, 11:32-11:48, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
108955	2/14/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-004885	IMO Robert Crawfis	2/14/2024					Bingert	CD	D	2/15/2024	2/14/2024	No		TL, ECB 513-VC, 10:35-10:47, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
135120	2/29/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	2/28/2024					Smith	CD	D	2/29/2024	2/29/2024	No		TL NER 109-VC, 10:54-11:00, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
135119	2/29/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-003584	IMO Edward Martin	2/28/2024					Ricoates	CD	D	2/29/2024	2/29/2024	No		TL, ECB 514, 10:17-10:38, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
136052	4/5/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	4/5/2024					Smith	CD	D	4/5/2024	4/5/2024	No		TL NER 109-VC, 11:00-11:35, 5070 North 40th St, Ste 135, Phoenix, AZ 85018, ELECTRONICALLY SENT	
136100	4/8/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	8/30/2023					Smith	CD	D	4/9/2024	4/9/2024	No		IKY, NER-109, 10:34-10:46, 5070 North 40th Street, Suite 135, Phoenix, AZ 85018, ELECTRONICALLY TRANSFERRED	
136101	4/8/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	10/25/2023					Smith	CD	D	4/9/2024	4/9/2024	No		IKY, NER-109, 9:17, 5070 North 40th Street, Suite 135, Phoenix, AZ	

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber Returned	Comments
136098	4/8/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	12/11/2023					Smith	CD	D	4/9/2024	4/9/2024	No	85018; ELECTRONICALLY TRANSFERRED KY; NER-109; 10:02-10:12; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
136097	4/9/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-070396	IMO Mary Jane Baumgarten	4/3/2024					Seizer	cd	D	4/9/2024	4/9/2024	No	TL; NWR 122VC(1102-1109) 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
136153	4/11/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-050010	IMO Loretta Portillo-Laurequi	4/9/2024					Bingert	Dropbox	D	4/11/2024	4/11/2024	No	KY; ECB-513; 11:05-11:07; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018
136264	4/16/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2019-051915	IMO Virgil Wise II	4/15/2024					Smith	CD	D	4/16/2024	4/16/2024	No	TL; NER 109-YC; 10:04-10:17; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
136584	4/26/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2021-051127	IMO Claudette April Cave	4/25/2024					Smith	CD	D	4/29/2024	4/29/2024	No	KY; NER-109; 10:59-11:48; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
136597	4/26/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-002695	IMO Jessie Lenore Liverett-Wray	8/9/2023					Palmer	Dropbox	D	4/29/2024	4/29/2024	No	KY; ECB-513; 2:30-4:17; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
136613	4/29/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2019-000489	IMO Alec Petersen	3/28/2024					Allieri	CD	D	4/29/2024	4/29/2024	No	TL; ECB 512; 9:00-9:12; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
137182	5/20/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-001635	IMO Billy Haley	5/16/2024					Rhoades	CD	D	5/20/2024	5/20/2024	No	TL; ECB 514; 1:31-2:38; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
137549	6/3/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2019-002093	IMO Josephine Dudek	5/22/2024					Rhoades	Dropbox	D	6/3/2024	6/3/2024	No	KY; ECB-514; 11:16-11:42; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrmg Date 1	Hrmg Date 2	Hrmg Date 3	Hrmg Date 4	Hrmg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber Returned	Comments	
137573	6/4/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2019-002093	IMO Josephine Dudek	2/9/2024					Rhoades	Dropb	D	6/4/2024		6/4/2024	No	KY: ECB-514; 10:00-10:18; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
137717	6/10/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051614	IMO Hazen Watson	5/9/2024					Smith	CD	D	6/10/2024		6/10/2024	No	TL: NER 109-VC, 11:02-11:57; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT.
137880	6/13/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-080731	IMO Andrea Robinson	6/6/2024					Smith	CD	D	6/13/2024		6/13/2024	No	TL: NER 109-VC, 10:00-10:40; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; VIDEO ONLY; ELECTRONICALLY SENT
137910	6/14/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	6/14/2024					Smith	CD	D	6/14/2024		6/14/2024	No	TL: NER 109-VC, 10:04-10:37; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
138060	6/20/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2014-002257	IMO Richard Baumann	8/16/2022					Harmon	Dropb	D	6/20/2024		6/20/2024	No	KY: ECB-514; 9:44-9:53; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
138062	6/20/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2014-002257	IMO Richard Baumann	12/9/2022					Harmon	Dropb	D	6/20/2024		6/20/2024	No	KY: ECB-514; 10:07-10:29; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
138063	6/20/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2014-002257	IMO Richard Baumann	4/23/2023					Myers	Dropb	D	6/20/2024		6/20/2024	No	KY: ECB-514; 10:46-11:06; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
139121	8/5/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		CR2020-129848	ST v Karl Edmark III	8/2/2024					Myers	CD	D	8/5/2024		8/5/2024	No	TL: COB 1301, 1:30-1:55; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
140271	9/17/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-050188	IMO Zachary Gressett	7/17/2024					Smith	CD	D	9/17/2024		9/17/2024	No	TL: NER 109-VC, 3:01-3:16; 5070 North 40th St, Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
140736	10/3/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB0000-138590	IMO Jason Dillon	10/2/2024					Altieri	CD	D	10/3/2024		10/3/2024	No	TL: ECB 512, 2:10-2:40; 5070 North 40th, Ste 135, Phoenix, AZ 85018.

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrimg Date 1	Hrimg Date 2	Hrimg Date 3	Hrimg Date 4	Hrimg Date 5	Judge	Output Type	Status	CD Completed	Transcriber/Record to Notified	Record Returned	Comments
140900	10/10/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-071319	IMO Tomasa S. Villabos	10/9/2024					Rhoades	Drop	D	10/10/2024	10/10/2024	No	ELECTRONICALLY SENT KY: NWR-122; 1-59-2:17; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED.
141034	10/16/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2023-051089	IMO Beverly Johnson	10/15/2024					Smith	CD	D	10/16/2024	10/16/2024	No	TL: NER 103-VC; 9:44-10:09, 5070 North 40th St. Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
142228	12/3/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2018-001429	IMO Mary Miller	2/18/2020					Kalman	Drop	D	12/5/2024	12/5/2024	No	KY: EGB-512; 9:01-9:06; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
142217	12/5/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-051118	IMO Susam Hoppe	10/17/2024	11/19/2024				Corral	CD	D	12/5/2024	12/5/2024	No	TL: SEF 302 10/17/24, 10:17-10:34, 11/19/24, 11:13-11:32, 5070 North 40th St. Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
142386	12/12/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2022-004701	IMO Simon Sharp	5/11/2023					Smith	CD	D	12/12/2024	12/12/2024	No	KY: NER-108; 9:51-4:42; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
142816	1/7/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2019-050308	IMO Alul Roy	1/7/2025					Smith	CD	D	1/7/2025	1/7/2025	No	TL: NER 109-VC; 11:05-11:21, 5070 North 40th St. Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
142619	1/7/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2021-091598	IMO Michael Benanti	9/30/2022					Corral	CD	D	1/7/2025	1/7/2025	No	TL: SEF 302, 9:00-3:56, 5070 North 40th St. Ste 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
142925	1/13/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2018-001429	IMO Mary Miller	1/6/2025					McCarthy	Drop	D	1/13/2025	1/13/2025	No	jo OCH207; 110215-110637; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
143259	1/27/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2020-002815	IMO Kathleen T. Toerjies	1/15/2025					McCarthy	Drop	D			No	jo OCH002(1106-1110), 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY SENT
143554	2/5/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-000829	IMO Christine Whitehead	2/5/2025					Bingert	CD	D	2/5/2025	2/5/2025	No	TL: OCH 002-PB; 11:30-11:47, 5070 North 40th St. Ste

IER Orders

ID	Order Date	Ordering Party Atty / Firm	Phone 1	Phone 2	Phone Case Number	Caption	Hrg Date 1	Hrg Date 2	Hrg Date 3	Hrg Date 4	Hrg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
144081	2/25/2025	Sara Richardson	602-604-0011		PB2019-050308	IMO Atul Roy	2/25/2025					Smith	CD	D	2/25/2025		2/25/2025	No	135, Phoenix, AZ 85018 TL, NER 109-VC- PB, 128-149, 5070 North 40th St, Ste 135, Phoenix, AZ 85018 ELECTRONICALLY SENT
144314	3/5/2025	Sara Richardson	602-604-0011		PB2022-003192	IMO Angela McDowell	3/22/2022	10/20/2022	11/29/2022	12/15/2022		Palmer	Drop	D	3/5/2025		3/5/2025	No	KY, ECB-513; 10:45-11:00; 11:18-11:39; 3:16-4:00; 10:50-11:09; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018 ELECTRONICALLY TRANSFERRED
144418	3/10/2025	Sara Richardson	602-604-0011		PB2024-004608	IMO Francis Cole	3/7/2025					Selzer	Drop	D	3/11/2025		3/10/2025	No	TL, OCH 108-VC- PB, 130-233, 5070 North 40th St, Ste 135, Phoenix, AZ 85018 ELECTRONICALLY SENT
144657	3/19/2025	Sara Richardson	602-604-0011		PB2025-0011723	IMO Olivia Houghton	3/14/2025					Bingert	CD	D	3/19/2025		3/19/2025	No	TL, OCH 002-VC- FC, 2:35-3:54, 5070 North 40th St, Ste 135, Phoenix, AZ 85018 ELECTRONICALLY SENT
144957	3/31/2025	Sara Richardson	602-604-0011		PB2024-050641	IMO Robert Kuhn	3/28/2025					Smith	DROP	D	3/31/2025		3/31/2025	No	RB, NER109 9:04-9:50 5070 North 40th Street Suite 135 Phoenix, AZ 85018 DROPBOX req.
145092	4/3/2025	Sara Richardson	602-604-0011		PB2024-091111	IMO Jeffrey Malm	4/3/2025					Selzer	DROP	D	4/3/2025		4/3/2025	No	RB, OCH108pb 8:29-8:39 5070 North 40th Street Suite 135 Phoenix, AZ 85018 dropbox req.
145164	4/7/2025	Sara Richardson	602-604-0011		PB2019-050308	IMO Atul Roy	4/7/2025					Smith	Drop	D	4/7/2025		4/7/2025	No	KY, NER-109; 9:33-9:43; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018
145167	4/7/2025	Sara Richardson	602-604-0011		PB2021-070464	IMO Delshad Ali	4/3/2025					Roades	CD	D	4/8/2025		4/7/2025	No	TL, NWR 122-VC- PB, 2:30-2:52, 5070 North 40th St, Ste 135, Phoenix, AZ 85018
145732	4/28/2025	Sara Richardson	602-604-0011		PB2021-005431	IMO Karl Edmark III	4/25/2025					Smith	Drop	D	4/28/2025		4/28/2025	No	KY, NER-109; 1:31:46-2:16:13; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018 ELECTRONICALLY TRANSFERRED
145727	4/28/2025	Sara Richardson	602-604-0011		PB2022-004701	IMO Simon Sharp	4/28/2025					Smith	Drop	D	4/28/2025		4/28/2025	No	KY, NER-109; 10:31:36-10:44:46; 5070 North 40th Street, Suite 135 Phoenix, AZ 85018,

ER Orders

ID	Order Date	Ordering Party	Atty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrg Date 1	Hrg Date 2	Hrg Date 3	Hrg Date 4	Hrg Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
146814	6/6/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-001210	IMO Mildred Callahan	6/5/2025					Rhoades	Drop	D	6/9/2025		6/9/2025	No	ELECTRONICALLY TRANSFERRED KY: NWR-122; 11:06:17-11:11:48; 5070 North 40th Street, Suite 135 Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
147448	7/3/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2025-004678	IMO The Jane Pearson Evans Trust	7/2/2025					Yost	CD	D	7/3/2025		7/3/2025	No	TL OCH 002-VC-PB. 1:32-2:37. 5070 North 40th St, Ste 135, Phoenix, AZ 85018. ELECTRONICALLY SENT
148099	7/29/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2025-000207	IMO Laura Tollestrup	7/3/2025					Selzer	DROP	D	7/29/2025		7/29/2025	No	RB.OCHpb 10:29-10:41 5070 North 40th Street Suite 135 Phoenix, AZ 85018 dropbox req.
102779	4/27/2023	Sara Richardson	Asimou & Associates, PLLC	602-604-0011		PB2012-002237	IMO Baum Trust	4/25/2023					Fink	CD	D	5/1/2023		5/1/2023	No	TL ECB 611, 1:35-2:50, 5070 North 40th St, Ste 135, Phoenix, AZ 85018. ELECTRONICALLY SENT
138814	7/22/2024	Sara Richardson	Asimou & Associates, PLLC	602-604-0011		PB2023-050089	IMO Beverly Johnson	7/22/2024					Smith	CD	D	7/24/2024		7/24/2024	No	TL NER 109VC, 10:08-10:23, 5070 North 40th St, Ste 135, Phoenix, AZ 85018. ELECTRONICALLY SENT
146391	5/22/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2025-001972	IMO Glen Keer	5/21/2025					Selzer	DROP	D	5/22/2025		5/22/2025	No	RB.ZOCH109 1:30-1:44.50 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 DROPBOX req.
146392	5/22/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2025-000207	IMO Laura Tollestrup	3/27/2025					Selzer	DROP	D	5/22/2025		5/22/2025	No	RB.OCH108 9:15-10:08 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 DROPBOX req.
147127	6/20/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-050010	IMO Portillo-Jauregui	6/19/2025					Bingert	DROP	D	6/20/2025		6/20/2025	No	RB.OCH301vc-pb 9:22-9:52 5070 North 40th Street Suite 135 Phoenix, AZ 85018 DROPBOX req.
148098	7/29/2025	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-004971	IMO Aden Anderson	7/19/2025					Rhoades	DROP	D	7/29/2025		7/29/2025	No	RB.NWR122pb 9:41-9:54 5070 North 40th Street Suite 135 Phoenix, AZ 85018 DROPBOX req.
141674	11/8/2024	Sara Richardson	Asimou & Associates, PLC	602-604-0011		PB2024-000829	IMO Christine Whitehead	11/7/2024					Bingert	Drop	D	11/8/2024		11/8/2024	No	KY: OCH-002; 10:49:09-11:01:40; 5070 N 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
85205	6/9/2020	Christie Franco	Asimou & Associates	602-604-0011		PB2020-001391	IMO Thomas Gibson	6/1/2020					Marquitt	CD	D	6/10/2020			No	ME ECB514 204-228 5050 N 40th St

ER Orders

ID	Order Date	Ordering Party Atty / Firm	Phone 1	Phone 2	Case Number	Capiton	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments
144693	3/20/2025	Sara Richardson Asimou & Associates PLC	602-604-0011	602-604-0011	PB2024-004250	IMO Kristina Swanson	3/19/2025					Corral	DROP	D	3/20/2025		3/20/2025	No	STE 220 Phoenix, AZ 85018 RB_SEF302pb 2:07-2:59 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 dropbox req.
137625	6/4/2024	Sara Richardson Asimou and Associates	602-604-0011	602-604-0011	PB2019-002093	IMO Josephine Dudek	2/23/2024					Rhoades	Drop	D	6/6/2024		6/6/2024	No	KY_ECB-514; 9:05-9:12; 5070 North 40th Street, Suite 135, Phoenix, AZ 85018; ELECTRONICALLY TRANSFERRED
100147	12/19/2022	Kaelyn Stars Asimou and Associates PLC	602-604-0011	602-604-0011	PB2022-004106	IMO Leonardo Vasquez	12/12/2022					Fink	CD	D	12/19/2022		12/19/2022	No	DL_ECB 611, 11:11-11:13, 5070 North 40th Street Suite 135 Phoenix, AZ 85018
94294	12/2/2022	Kaelyn Stars Asimou and Associates, PLC	602-604-0011	602-604-0011	PB2022-004317	IMO Barbara Cavanaugh	10/20/2022					Hamon	CD	D	12/2/2022		12/2/2022	No	DL_NER ECB 10:39-10:56, 5070 North 40th Street, Suite 135 Phoenix, AZ 85018.
102223	4/5/2023	Sara Richardson Asimou Associates PLC	602-604-0011	602-604-0011	PB2023-050177	IMO Judith Horn	3/4/2023					Smith	CD	D	4/5/2023		4/5/2023	No	DL_NER 106- VC 10:34- 10:39 5070 North 40th Street Suite 135 Phoenix, AZ 85018.
88804	2/23/2021	Christe France Asimou Law	602-604-0011	602-604-0011	PB2020-051393	IMO Donna Dolovy	2/23/2021					McLaughlin	CD	D	2/24/2021			No	ME_NER109VC 901-925 5070 N 40th St Ste 135 Phoenix, AZ 85018
138218	6/27/2024	Sara Richardson Asimou Law	602-604-0011	602-604-0011	PB2023-050188	IMO Zachary Taylor Gressett	6/27/2024					Smith	CD	D	6/28/2024		6/27/2024	No	RB_NER-109 11:34-11:47 5070 North 40th Street, Suite 135 Phoenix, AZ 85018(RB) dropbox 7/1/24
138218	6/27/2024	Sara Richardson Asimou Law	602-604-0011	602-604-0011	PB2024-001986	IMO Julietta Perez	6/25/2024					Alleri	CD	d	6/28/2024		6/27/2024	No	RB_ECB-512 2:31-3:15 :3:30-4:23 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 (RB) dropbox 7/1/2024
145719	4/28/2025	Sara Richardson Asimou Law	602-604-0011	602-604-0011	PB2019-050308	IMO Atul Roy	4/25/2025					Smith	DROP	D	4/28/2025		4/28/2025	No	RB_NER109 11-14-11-21 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 dropbox req.
146402	5/22/2025	Sara Richardson Asimou Law	602-604-0011	602-604-0011	PB2024-050641	IMO Robert Kuhn	5/21/2025					Smith	DROP	D	5/22/2025		5/22/2025	No	RB_OCH303vc pb 2:30-4:38 5070 North 40th Street, Suite 135 Phoenix, AZ 85018 DROPBOX req
147569	7/9/2025	Sara Richardson Asimou Law	602-604-0011	602-604-0011	PB2023-003584	IMO Edward Meritt	7/9/2025					LeMaire	DROP	ID	7/9/2025		7/9/2025	No	RB_OCHpb 9:36-10:36 5070 North 40th Street Suite 135 Phoenix, AZ 85018 DROPBOX req
148558	8/28/2025	Sara Richardson Asimou Law	602-604-0011	602-604-0011	PB2024-004595	IMO Joseph C Pizzicardi	8/27/2025					LeMaire	DROP	D	8/28/2025		8/25/2025	No	RB_OCH104pb 11:36-11:59 5070 North 40th Street

IER Orders

ID	Order Date	Ordering Party	Alty / Firm	Phone 1	Phone 2	Case Number	Caption	Hrng Date 1	Hrng Date 2	Hrng Date 3	Hrng Date 4	Hrng Date 5	Judge	Output Type	Status	CD Completed	Transcriber Notified	Record to Transcriber	Record Returned	Comments	L
136299	4/17/2024	Sara Richardson	Assimou & Associates PLC	602-604-0011	602-604-0011	PB2024-000254	IMO Teresa Ford	4/16/2024					Allen	CD	D	4/17/2024	4/17/2024	No		Suite 135 Phoenix, AZ 85018 DROPBOX req. RB, ECB512 2:51-3:22 5070 North 40th St, Suite 135 Phoenix, AZ 85018 DROPBOX	
1105352	8/28/2023	Sara Richardson	Assimou & Associates PLC	602-604-0011	602-604-0011	PB2023-051152	IMO Allen Jessen	8/25/2023					Smith	CD	D	8/28/2023	8/28/2023	No		TL, NER 109-VC, 900-12:12, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	
938856	1/4/2022	Britt Welch	Assimou & Associates, PLC	602-604-0011	602-604-0011	PB2021-005192	IMO Patty Snyder	12/7/2021					Palmer	CD	d	1/5/2022	1/4/2022	No		TL, ECB 513-VC, 10:26-11:12, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	
105304	8/24/2023	Sara Richardson	Assimou & Associates, PLC	602-604-0011	602-604-0011	PB2023-001830	IMO Stephen Puritman	8/22/2023					Bell	CD	D	8/24/2023	8/24/2023	No		TL, ECB 512-VC, 10:06-10:19, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	
89866	4/23/2021	Saige Cutler	Assimou & Associates, PLC	602-604-0011	602-604-0011	PB2012-002237	IMO Baum Trust	9/4/2020					Kalman	CD	D	4/28/2021	4/24/2021	No		TL, ECB 512, 1:32-3:10, 5070 North 40th St, Ste 135, Phoenix, AZ 85018	

Paula Collins

Courtroom Services Administrator
175 W. Madison Ave. | 602-506-6440 |

Court, Interpretation and Translation Services, Judicial Branch of Arizona in Maricopa County
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Courtroom Services | Superior Court in Maricopa County



"Committed to excellence and the principles inherent in the rule of law... every person, every day, every time."

EXHIBIT O

1 Edward F. Novak (AZ #006092)
2 enovak@polsinelli.com
3 Polsinelli PC
4 CityScape, One E. Washington St., Ste. 1200
5 Phoenix, AZ 85004
6 Telephone: 602.650.2000
7 Facsimile: 602.264.7033

8 *Attorneys for Defendant Camelback Fiduciary*

9
10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 STATE OF ARIZONA,

Case No. CR2020-129848-001

13 Plaintiff,

14 vs.

NOTICE OF APPEARANCE

15 KARL W. EDMARK III

16 Defendant.

17 Edward F. Novak, of the law firm of Polsinelli PC, hereby enters his limited
18 appearance on behalf of Camelback Fiduciary in the above-referenced matter for the
19 December 10, 2021 sentencing hearing.

20 Dated this 6th day of December, 2021.

21 Polsinelli PC

22 By: /s/Edward F. Novak

23 Edward F. Novak
24 CityScape, One E. Washington St., Ste. 1200
25 Phoenix, AZ 85004
26 602.650.2000

Attorneys for Defendant Camelback Fiduciary

1 ORIGINAL e-filed this 6th day of
2 December, 2021, with the Clerk of
3 the Superior Court.
4 COPY mailed/e-mailed this same
5 date to:
6 Tamara Barnett
7 Deputy County Attorney
8 Maricopa County Attorney's Office
9 225 W. Madison St., 2nd Floor
10 Phoenix, AZ 85003
11 *Attorneys for Plaintiff*
12
13 Dean E. Berkke
14 Berk Law Group, P.C.
15 14220 N. Northsight Blvd.
16 Suite 135
17 Scottsdale, AZ 85260
18
19
20
21
22
23
24
25
26
27
28

/s/ Erika Cano _____

EXHIBIT P

CLERK OF THE
SUPERIOR COURT
FILED
C. CHAVEZ, DEP

25 JAN 29 PM 1:33

1 Edward F. Novak (AZ #006092)
2 enovak@polsinelli.com
3 Polsinelli PC
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5 Phoenix, AZ 85004
6 Telephone: (602) 650-2000
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8 *Attorneys for Thomas Asimou and*
9 *Asimou & Associates, PLC*

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

11 **IN AND FOR THE COUNTY OF MARICOPA**

12 In the Matter of the Guardianship of and
13 Conservatorship for:

14 ZACHARY TAYLOR GRESSETT,
15
16 an adult

Case No. PB2023-050188

**NOTICE OF APPEARANCE FOR
THOMAS ASIMOU AND ASIMOU &
ASSOCIATES, PLC**

(Assigned to the Honorable Vanessa Smith)

17 Edward F. Novak, of the law firm of Polsinelli PC, hereby enters his appearance on
18 behalf of Thomas Asimou and Asimou & Associates, PLC in the above-referenced matter for
19 all subsequent proceeding in this matter.

20 Dated this 29th day of January, 2025.

21 Polsinelli PC *[Signature]*

22 By: _____
23 Edward F. Novak
24 CityScape, One E. Washington St., Ste. 1200
25 Phoenix, AZ 85004
26 602.650.2000
27 *Attorneys for Thomas Asimou and*
28 *Asimou & Associates, PLC*

1 **ORIGINAL** filed this 29th day of
2 January, 2025, with the Clerk of the
3 Superior Court.

4 **COPY** hand-delivered this same
5 date to:

6 Honorable Vanessa Smith
7 Northeast Regional Court Center E/109
8 18380 N 40th St.
9 Phoenix AZ 85032

10 **COPY** mailed this same date to:

11 Daniel J. Mazza, Esq.
12 Mazza & Niro, PLC
13 5425 E. Bell Rd, Suite 104
14 Scottsdale AZ 85254
15 *Counsel for Robin O'Connell, Aspen*
16 *Grove Fiduciary LLC, Katrina J.*
17 *Gressett, Miki M. Gain*

18 Lawrence F. Scaringelli, Esq.
19 8901 E Mountain View Rd, Suite 114
20 Scottsdale, AZ 85258
21 *Attorney for Robin O'Connell*

EXHIBIT 1

Resp Exhibit 1
(Arng 4/25/25)

DEC 04 2025

2025 - 503

2025 - 527

25-503, 25-527

Resp Exhibit 1

Superior Court of Arizona - Maricopa County
Digital Copy of Proceedings



FTR Video

*Electronic Records
Services*

**PB2021-005431
IMO Karl Edmark
April 25, 2025
Hon. Smith**

EXHIBIT 2

EXHIBIT 3

Resp Exhibits 2 + 3
(Hrng 4/5/24, 7/22/24)

DEC 04 2025

2025 - 503

2025 - 527

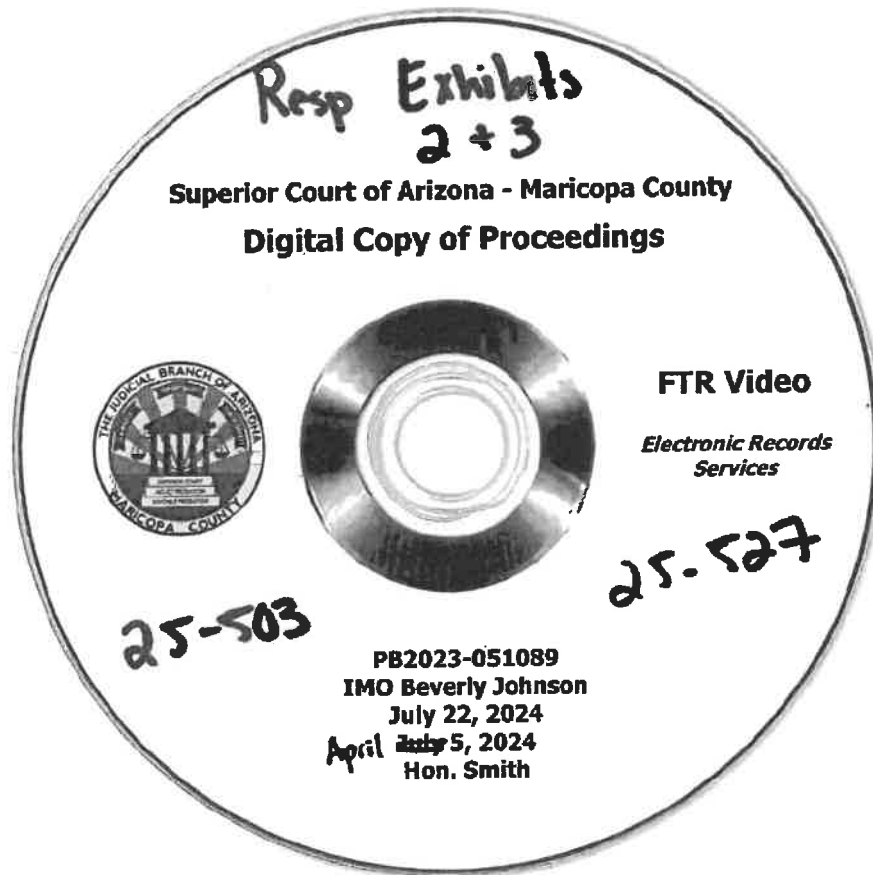


EXHIBIT 4

Resp Exhibit 4
(Hmg 1107125)

DEC 04 2025

2025 - 503

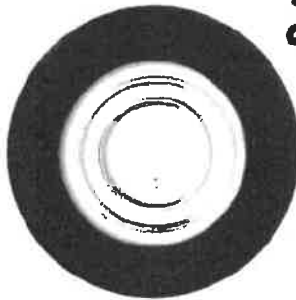
2025 - 527

Resp Exhibit 4

Superior Court of Arizona - Maricopa County
Digital Copy of Proceedings

25-503

25-527



FTR Video

*Electronic Records
Services*

PB2023-051089
IMO Atul Roy
January 7, 2025
Hon. Smith

EXHIBIT 5

Resp Exhibit 5
(Hmg 2/25/25)
DEC 04 2025
2025-503
2025-527



EXHIBIT 6

Resp Exhibit 6
(Hmg 4107bs)

DEC 04 2025

2025 - 503

2025 - 527



EXHIBIT 7

Resp Exhibit 7
(Hrng 4/25/25)

DEC 04 2025
2025 - 503
2025 - 527



EXHIBIT 8

Resp Exhibit 8
(Hmg 8/20/25)

DEC 04 2025

2025-503

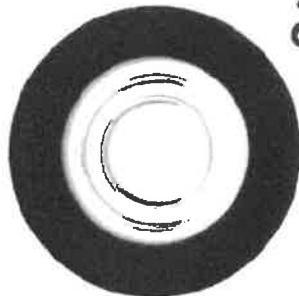
2025-527

Resp Exhibit 8

Superior Court of Arizona - Maricopa County
Digital Copy of Proceedings

25-503

25-527



FTR Video

*Electronic Records
Services*

PB2019-050308
IMO Atul Roy
August 20, 2025
Hon. Smith

Arizona man stole \$150K from his elderly mom. Then a probate judge asked to hug him



Robert Anglen
Arizona Republic

Updated Oct. 8, 2025, 9:00 a.m. MT

Key Points AI-assisted summary

A Maricopa County probate judge is under scrutiny for befriending and hugging a man convicted of financially exploiting his mother.

Commissioner Vanessa Smith offered personal advice and coached the man on how to secure visits with his mother.

Legal experts and the man's siblings described the commissioner's conduct as bizarre, unethical and a subversion of judicial etiquette.

Even veteran litigators say they cannot unsee what transpired inside a Maricopa County courtroom.

In the span of a nearly hour-long hearing, a Superior Court commissioner befriended a man fresh out of prison who was convicted of financially exploiting his 97-year-old mother.

She told him how young and wonderful he looked. She offered career advice and personal growth tips. She talked favorite concerts, weight gain, bucket lists and the quality of In-N-Out french fries. She also coached him on ways to secure visits with his mother.

Then Probate Commissioner Vanessa Smith asked if she could step down from the bench and give him a hug.

"Your honor, I would very much enjoy that," convicted fraudster Karl Edmark III said.

Two of Edmark's siblings called the scene "bizarre" and "appalling." They said Smith seemed to abandon objectivity and professionalism, becoming personally invested in their brother's

case — and his cause.

"It was a surreal situation," Rick Edmark said. "Why should a victim have anything to do with her abuser?"

The case illustrates the insular nature of probate court, where a tight-knit group of judges and lawyers hold sway over the health and wealth of people unable to care for themselves.

Hearings regularly take place in near-empty courtrooms without the public scrutiny or attention given to criminal prosecutions. Nevertheless, decisions on individual freedom and finances can be as consequential as a life sentence, with or without parole.

Commissioners in probate court have many of the same powers as judges. Among other duties, they monitor cases of people ruled to be incapacitated, whose bank accounts, property, possessions and continued care are turned over to third parties known as legal guardians.

Lawyers and legal scholars described Smith's conduct in Edmark's hearing as troubling, with potentially serious ramifications for both the case and the court.

"We are seeing bizarre sympathy for predators," said William Black, associate professor of economics and law at the University of Missouri. "You never, ever do this. ... You don't hug him."

Black, a white-collar criminologist who served as a visiting scholar at the Markkula Center for Applied Ethics, said Smith's hearing appeared to subvert fundamental judicial training and etiquette. He said she should face sanctions.

"This was completely unethical, front to back," he said.

Superior Court officials did not respond to repeated requests for comment. Smith, through a court spokesperson, declined to discuss the case.

Tasya Peterson, the court's communications director, said Smith was ethically prohibited from talking about an ongoing case. Peterson would not answer any questions about the hearing on the record.

This isn't the first time Smith's behavior on the bench has come under scrutiny. Phoenix probate lawyer Tom Asimou filed a judicial conduct complaint in March, accusing Smith of

using a racial slur to describe a man seeking to become his adult son's guardian.

A judicial panel dismissed the complaint, but not before Asimou said Smith targeted the man in subsequent hearings, treating him with a "patronizing demeanor."

Asimou was not in the courtroom April 25, when Smith hugged Edmark. He represented the private fiduciary charged with overseeing the physical and financial well-being of Edmark's mother, Mary Miller, who spent the last months of her life in hospice.

Miller was the former wife of Karl William Edmark, a cardiovascular surgeon who gained international fame for developing the modern defibrillator. He died in 1994.

When Karl Edmark III, their oldest son, got out of prison in March, he immediately sought to see his mother in person.

Miller's fiduciary for months fought to prevent Edmark from visiting his mother without strict supervision. Allowing him to do so risked putting Miller at the mercy of someone who once "used his positions of trust and confidence to his mother to obtain and use her assets for his own benefit," Asimou said in court filings.

"I have spent my entire career helping the most vulnerable," Asimou told The Arizona Republic. "The overarching function of the probate court is to protect vulnerable adults. Mary Miller deserved those protections."

Miller lapsed into a coma and died Oct. 1. It was unclear if she was aware of the legal battle her oldest son was waging to see her.

'I always refer to you in my head as Karl'

Smith lacked the authority to grant Edmark rights to visit his mother. Under the rules of the court, she had little say in who got to see Miller.

That didn't stop her from trying to help him — and using her position on the bench to give Edmark pointers on how to legally make it happen.

"I would very much appreciate any assistance to clear the way to visit my biological mother before she passes," Edmark said in April.

Smith acknowledged Edmark's conviction, referring to "allegations of theft from a vulnerable adult."

She suggested including a letter from the probation department indicating it did not object to Edmark visiting his mother in an emergency petition to the court.

"I certainly would hope we could reach some sort of agreement so Karl could see his mom," Smith said.

Five days later, on May 1, Edmark's representatives filed an expedited petition for contact with Miller.

Judges and commissioners don't typically address people appearing before them by first name. But Smith told Edmark she felt as if she could relate to him.

"Your case has been around a long time; I always refer to you in my head as Karl," she said.

Courts in 2021 first ruled Edmark was unable to care for himself. Smith's role in the case is limited to making sure lawyers and fiduciaries managing his case are acting in his best interests.

Representatives for Edmark did not respond to interview requests.

Smith couldn't grant Edmark visitation rights to see Miller, whose case is overseen by a separate probate court judge.

Miller's court-appointed lawyer had argued in favor of letting Edmark have supervised visits with his mother.

"Karl never physically harmed his mother," Scottsdale lawyer Yvette Banker said in an April 28 email to Asimou. "Allowing Mary to see her child, at least once, before she dies, should be allowed."

Banker said she "didn't care" what Edmark's siblings thought, telling Asimou it was not their call.

Banker did not respond to multiple interview requests. But court documents show Banker previously said Miller felt betrayed by Edmark, who had wasted her assets. Having visitors also overwhelmed the nonagenarian, Banker said.

Although the April 25 hearing had nothing to do with Miller, Edmark repeatedly steered the conversation to visitation while the commissioner questioned him about his probation status and rehabilitation.

Smith expressed empathy for Edmark.

"I cannot imagine coming out of a system where I'm confined, and I have to follow the rules and I'm handcuffed and I can't even pick out my own clothes," she said.

Probate commissioner gets personal — and up close

Edmark clung to Smith's words like a lifeline as her observations became more personal and they exchanged anecdotes.

They talked diet and exercise:

Edmark: "It makes me feel very terrible, being that heavy, because it is so high above my desired weight."

Smith: "I'll tell you, Karl. I am identifying with you because I don't move from this desk all day long, and I need to. What are you doing about it? Are you walking?"

Age:

Edmark: "I'm actually 70-plus."

Smith: "I know, but you don't look it at all."

Edmark: "That's a very nice compliment, your honor."

Smith: "I know you're stressed about that. I get it. But I think you look wonderful. I'm just glad to see you in person."

Fast food:

Smith: "What's the first thing you did when you got out?"

Edmark: "Had my cousin take me to In-N-Out hamburger for lunch."

Smith: "I don't like their french fries. Do you?"

Jobs:

Edmark: "I am a hard-working individual. I would really like to get a job with a local chip manufacturer."

Smith: "I love it. I think if that's a real possibility, then go for it. Have you updated your resume recently?"

They also talked about concerts (Smith saw U2 at the Sphere in Las Vegas; her kids are obsessed with Taylor Swift); hobbies (Edmark enjoys model rocketry and scientific journals); podcasts (Smith recommended "Ear Hustle" about adjusting to life outside prison); and inventions (Edmark wants to develop a blood monitoring device).

Smith said it was "the best hearing I've had in a while," and just before wrapping it up, she told Edmark, "I'm so glad you came to visit." Then she asked if she could hug him. "All right, you just made my day, Karl," she said.

Rising to greet Edmark in the gallery, Smith appeared to acknowledge her unorthodox behavior, if only to herself. The microphone caught her trailing words: "I realize I probably violate judicial behavior code every day ..."

Fraud, theft and a last-minute brain injury claim

Edmark in 2021 took a plea deal and admitted to stealing more than \$150,000 from his mother while acting as her guardian.

He was hours away from sentencing in Maricopa County Superior Court when his estranged wife filed a petition with the court saying Edmark needed a guardian of his own; that he was unable to care for himself.

She claimed Edmark suffered from Alzheimer's disease, dementia and aggressive behavior. By way of explanation, she included a doctor's report saying a car accident years ago had left Edmark with a subdural hematoma on the right side of his brain.

The injury was self-reported, and the doctor later acknowledged basing her assessment on a phone call with Edmark's wife, court records show.

"Despite apparently knocking his head into a rental car windshield in 2016, Karl appeared to live an otherwise normal life until his criminal conduct began to have real consequences,"

Asimou wrote in a June 2025 objection to Edmark's petition to see his mother.

The injuries did not prevent Edmark from using his mother's money to book an \$80,526 world cruise in 2017, Asimou said.

"Despite his 'forgetfulness' and 'mild cognitive impairment' he was able to navigate the use of Mary's credit cards to purchase and ship hundreds of goods to his home ... none of which were for Mary's benefit," Asimou said.

Edmark, 70, is the oldest of six siblings. He has a bachelor's degree in electrical engineering from the University of Colorado at Boulder and worked for some of the biggest names in technology, including Intel, Microsoft and HP, according to court documents.

Edmark's father made millions on his development of the defibrillator. In 1995, Edmark's five siblings successfully contested their brother's inheritance, claiming he manipulated their father into changing his will.

But Edmark in 1997 won on appeal and gained control over the bulk of his father's estate, court records show. His siblings said they could no longer afford the legal costs to continue fighting.

Three of his siblings offered a blistering personal indictment of their brother during his sentencing in their mother's case. They said he ripped off family members for decades. First their grandmother, then their father and now their mother, they told the judge.

"For 50 years, our eldest brother, Karl Edmark, has demonstrated a repeated pattern of predatory behavior towards the finances of our elderly family members," Rick Edmark said.

"He became our father's enabler and drug dealer, helping to procure drugs and alcohol to keep our father intoxicated and dependent upon him," Rick Edmark said. "He leveraged our father's drug-induced paranoia to gain access to his finances and cajole expensive gifts for himself, such as airplanes, a jet, a helicopter, lavish vacations and homes."

The siblings came armed with a 1995 opinion from a probate court judge in Washington, who found "Karl's behavior was motivated by greed and callous indifference to his father's needs."

Rick Edmark said his brother in 2017 began "preying upon our mother's multimillion-dollar retirement fund" and later got himself named as the successor trustee on his mother's trust, where most of her assets were held.

He argued Karl Edmark was completely competent to stand trial and asked the judge to give him up to five years in prison.

"His siblings know him as a brother who lacks love and a conscience when it comes to his family," Rick Edmark said.

It was all just an honest mistake, Karl Edmark said when it was his turn to take the stand — one that he regretted.

"I deeply apologize for all of this trouble that's it's alleged that I have — have caused, and I deeply apologize," he said. "And I want the court to know that I am not a predator."

Karl Edmark said there was no instruction book on how to act as a power of attorney for his mother. He painted himself as a dutiful son who helped both his father and his mother in their waning years. None of his siblings would step up and assume the responsibility for Miller's care and finances, he said.

"All I did was everything in my power to do everything for my mother," he said in court. "I was her surrogate husband — surrogate spouse, and I did everything in my power to do the very best for her."

The judge didn't buy it.

Criminal case ends in withering rebuke

Superior Court Judge Timothy Ryan excoriated Edmark in his ruling.

"I didn't hear you say a single thing about the harm you caused," Ryan said. "You're patting yourself on the back like you're some standup guy, and that's just not what I see."

He described Edmark as a taker — "a person who helped himself, helped himself over and over again" — and said it was embarrassing.

Ryan put the emphasis on restitution, ordering Edmark to repay his family, giving him a deferred jail sentence and three years' supervised probation. He warned Edmark failure to

make payments would land him in jail.

Edmark did end up in prison. But it had little to do with the fraud case and a lot to do with his wife.

That world cruise? It was while globetrotting that Edmark met his wife, a 37-year-old Polish national who managed the ship's spa, court records show. He proposed to her in 2018 with an \$80,000 platinum ring. At 63, Edmark gave up bachelorhood.

After Edmark was sentenced, his wife dropped her petition for guardianship, court records show. She also appeared to drop Edmark, at least on paper. She moved out of their Scottsdale home but periodically returned for visits, including one in 2022.

They went on a date. They got into an argument. Police were called. Officers found a gun in his house. Edmark was arrested in May of that year and was locked up in jail for violating his probation. As a convicted felon, Edmark was not legally allowed to possess a firearm.

Edmark pleaded guilty to the gun charge in 2023 and went to state prison for about two years. While incarcerated, court records show, Edmark reported that he was suffering from seizures and petitioned the court to appoint a guardian.

His wife, meanwhile, got a lawyer and access to hundreds of thousands of dollars in Edmark's accounts, records show.

Asimou, in court filings, called it "poetic justice."

Edmark was released from prison in March. A month later, he was discussing hamburgers with Smith and beseeching the probate commissioner to help him see his mother.

Commissioner accused of using racial slur

Smith, without apparent notice — or explanation — removed herself from several cases in August, all involving Asimou.

Asimou declined comment on Smith's recusal, saying only that he had no idea what prompted it.

The complaint he filed against Smith was dismissed in July. He accused her of demeaning a person of color during an exchange about prior court rulings. Transcripts and recordings

captured what was said in the Jan. 7 hearing.

Asimou: "Not my circus, not my ring, but."

Smith: "Monkeys."

Asimou: "I wasn't going to say that because I think that's disrespectful."

Smith continued the hearing as if nothing had transpired. The phrase originates from a Polish proverb that historically is meant to mean, "not my problem." But it also has been described as racist.

Pool Roy, who is of Indian descent, took it as a slur. He was appearing before Smith to assume care of his incapacitated adult son and get the court's approval to move him to Maryland.

"As a man of darker complexion and with English as my second language, I found it deeply offensive and disheartening," the retired university professor said in a declaration. "In my experience, this term has historically been used to dehumanize people of color."

The utterance made him second-guess whether he was being treated fairly. Roy said he feared speaking out would cause the commissioner to retaliate.

"This experience left me feeling marginalized and discriminated against in a setting where I expected fairness and justice," he said.

Asimou accused Smith in the complaint of continuing to mistreat Roy. During a follow-up hearing, Smith was condescending, raising "concerns" about his intentions, Asimou said.

"The court appeared to assume that Pool Roy would not be able to obtain appropriate services for his son in Maryland — which is clearly contrary to Pool Roy's testimony and training as a guardian," Asimou wrote.

Smith ultimately signed off on putting Roy's son into his father's care.

Commissioners in Maricopa County are chosen by a committee of judges and lawyers and appointed by the court's presiding judge. Their roles are limited compared with judges. But probate court commissioners are given wide latitude to oversee cases.

Smith graduated from law school in 2004 and worked for most of her career in the Maricopa County Office of the Public Defender, according to her biography on the court's website. She became a commissioner in 2022.

She got high marks in her 2024 performance review, with litigants and court staff giving her 100% in surveys on a range of categories.

Her highest scores among attorneys were for maintaining control of the courtroom (96%), knowledge of evidence rules (94%) and clearly written legal decisions (94%). Her lowest score was for "judicial temperament" and being respectful to all individuals (82%).

Smith declined comment on Roy's case. Former Maricopa County Superior Court Presiding Judge Joseph Welty in March disregarded Asimou's complaint as "frivolous" while acknowledging he had not yet reviewed it.

"No reasonable person who understands the context of the statement could find it to be racially motivated or racially insensitive," he said in a statement to The Republic. "My office takes such accusations seriously, but this is a frivolous accusation against a court commissioner who was recently awarded for her integrity."

Lawyers who complain can put cases at risk

Judges and commissioners are rarely held to account for misconduct in their courtrooms, said Black, the legal and ethics scholar.

But those who are most likely to witness such misconduct are lawyers whose cases are on the line, he said. They run the risk of antagonizing the judge and jeopardizing their reputations and, more importantly, their clients' cases.

"Most of the folks who observe it are lawyers who have to practice in front of the judge," he said.

Smith's behavior in the Edmark case should be called out, he said. Fawning and hugging someone whose case you are presiding over goes against the most rudimentary judicial training.

Former State Bar of Arizona President Ed Novak agreed Smith's behavior raises questions.

"It is unusual behavior, I will say that," Novak said. "Judges have been disciplined for less."

Novak has taught ethics at Arizona State University and has served on the Arizona Supreme Court Committee on Character and Fitness. Some of Smith's questions of Edmark could be explained away as part of a careful interview process by the commissioner to gauge his state of mind, he said.

For instance, the exchange about where he went to eat after being released from prison could reveal his awareness of time and place, Novak said.

But other questions and actions, including the hug, were inexplicable, he said.

"That seems inappropriate to me," he said. "I don't know if it necessarily violates the code of judicial conduct."

Novak said he was familiar with Smith and her handling of cases. Asked if he had any opinions on her conduct, Novak replied: "None that I want to be quoted on."

Robert Anglen is an investigative reporter for The Republic. Reach him at robert.anglen@arizonarepublic.com. Follow him on X @robertanglen.

Sierra Allegretto

Scottsdale, AZ 85251

October 17, 2025

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OCT 20 2025
2025-527

VIA U.S. MAIL

Commission on Judicial Conduct
1501 W. Washington Street
Suite 229
Phoenix, AZ 85007

Re: In the Matter of Vanessa Smith

To whom it may concern:

I recently viewed a video where Commissioner Vanessa Smith was not only unprofessional and inappropriate she was CLEARLY overstepping her fiduciary responsibility as a member of the Judicial System. <https://www.instagram.com/reel/DPt-0PXj3r9/?igsh=a3pvd2szNmp3MHVl>

As a proud Arizonan and Maricopa County citizen who pays her taxes dutifully and votes, I am both embarrassed and bothered by such behavior. Let's not think this was the only incident... she even specifically acknowledged her misconduct. In open Court, her acknowledgement was clear she was violating judicial ethics and joked to turn the cameras off.

I think the Maricopa County courts can and should do better. While I understand Commissioners should have some compassion, they should not be blind to Justice for adjudicated the victims. While I do not know the specifics of the case, nor is it important, what is important is Commissioner Smith acted completely inappropriately; she owes all taxpayers an apology for wasting an hour on the hearing when it is represented to the public that dockets are overwhelmed. Should Commissioner Smith wish to give dating advice, food critiques, weight loss advice, Taylor Swift reviews or "hugs"; that should be done on her own time and not my dime.

A clear message must be sent to all members of the public that the integrity of the judicial system is of paramount concern for the public to maintain faith that a fair and dignified judicial officer will preside over their case. It is not too far to call for the removal from office as the remedy for the spectacle that is Vanessa Smith. A fair and thorough review of all (she acknowledged that she had violated the ethical norms daily) her actions are necessary to ensure that all misconduct is reviewed and dealt with.

Very truly yours,

Sierra Allegretto

cc: Thomas Galvan, Chairman, Board of Supervisors, Maricopa County
Hon. Pamela Frasher Gates, Presiding Judge, Maricopa County Superior Court
Hon. Dean M. Fink, Presiding Judge, Probate Court, Maricopa County Superior Court
Hon. Ann Timmer, Chief Justice, Arizona Supreme Court
Warren Petersen, President of The Senate, Arizona