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Pro Se

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF MARICOPA**

In the Matter of the Conservatorship for,  
  
**DAVID WAYNE REDKEY,**  
an adult

NO. PB2009-002224

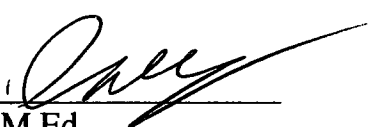
**NOTICE OF ERRATA**

**Hon. Lisa Ann Vandenberg,**  
**Probate Judge**

**PLEASE TAKE NOTICE**, David Wayne Redkey, pro se, hereby submits this Notice of Errata to correct the MEMORANDUM AND POINTS OF AUTHORITIES to the MOTION TO DISQUALIFY THE MARICOPA COUNTY SUPERIOR COURT BENCH AND THE PROBATE DIVISION, filed on September 4th, 2024.

The attached MEMORANDUM AND POINTS OF AUTHORITIES should replace the one filed on September 4th, 2024. The proceeding MOTION TO DISQUALIFY THE MARICOPA COUNTY SUPERIOR COURT BENCH AND THE PROBATE DIVISION upon which the Memorandum is attached shall remain the same.

RESPECTFULLY SUBMITTED this 11th day of September, 2024.

*/s/ David Redkey*   
David Wayne Redkey, M.Ed.



1 Further court documents, including her bankruptcy before the United States  
2 District of Arizona, In re: LISA ANN VANDENBERG, Debtor, 09-bk-23387, and  
3 Honorable Sarah Shaver Curley's statement of "The discrimination is not proposed in  
4 good faith;" and "The Debtor has not proceeded in good faith" (p.13), which illustrates  
5 Judge Vandenberg's character and conduct by trying her attempt to avoid fully  
6 discharging a debt in a timely fashion.  
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8

9 Due to Judge Vandenberg's prominence within the Probate Division, and her  
10 connection to serving in Probate, Criminal, Family Court, and Juvenile, she is a  
11 colleague of those currently on the Maricopa County Superior Court bench. This raises  
12 objective appearance of partiality and impropriety for those currently on the bench to  
13 review claims, hear evidence, and untimely decide on whether the case should be  
14 reassigned from their colleague.  
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17 **I. Relevant Background**

18 Judge Vandenberg has denied Mr. Redkey's right to a jury as prescribed by  
19 A.R.S. 14-1306, Art. 6 § 17, and U.S. Const. Amends. 14.  
20

21 Judge Vandenberg is aware of the Mark J. Theut, the Guardian ad Litem, of  
22 Theut, Theut & Theut is the brother of Paul J. Theut of Theut, Scaringelli &  
23 Kupiszewski, thus has a conflict of interest with the Paul J. Theut law firm.  
24

25 Judge Vandenberg is aware Lawrence F. Scaringelli, attorney for Stephanie  
26 McCollum, Conservator, is the law partner of Paul J. Theut, and thus has a conflict of  
27 interest with Mark J. Theut.  
28

1 After appointment as Court-Appointed Counsel, Daniel J. Mazza's two  
2 associates, attorneys Stephen & Jennifer Kupiszewski, joined Theut & Scaringelli to  
3 form Theut, Scaringelli & Kupiszewski.  
4

5 When Stephen Kupiszewski was serving as a Probate Commissioner and Judge  
6 Pro Tem from October 2003 to March 2013, Mr. Kupiszewski would be a former work  
7 colleague of Judge Lisa Ann Vandenberg.  
8

9 This was not disclosed.

10 **II. Judge Vandenberg's Denial of Jury Trial, Approval of Court Fees by**  
11 **William A. Clarke, Rick Kilfoy, William A. Clarke, and the approval of budget by**  
12 **Stephanie McCollum Creates Extraordinary Concerns of Partiality and Bias,**  
13 **Mandating Disqualification of the Maricopa County Superior Court Bend.**

14 The denial of Mr. Redkey's jury trial, allowing the Conservator to raise the  
15 budget to an excessive approximately \$300,000 to be spent in the span of 18 months,  
16 most going to professional fees and not to the benefit of David Redkey, who exceeded  
17 expectations after being awarded three million dollars in an accident settlement in 2009,  
18 who went on to graduate summa cum laude from Arizona State University with a  
19 Bachelor of Arts in English and a Bachelor of Arts in Communication in 2016, who  
20 graduate from Arizona State University in 2019 with a Master in Secondary Education  
21 and is licenses as a public school teacher until September 7, 2032, who graduated from  
22 Northern Arizona University with Graduate Certificate in Rhetoric, Writing & Digital  
23 Media Studies.  
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1 During a hearing Judge Vandenberg showed bias and partiality by stating that a  
2 person “with capacity” can be placed into a Conservatorship, suggesting that the only  
3 factor to be placed into a Conservatorship is to have assets that can be exploited by  
4 professionals in the probate community, suggesting bias and partiality by Judge  
5 Vandenberg.  
6

7 Because of Judge Vandenberg’s connection, and her denial of Mr. Redkey’s  
8 constitutional rights, plus her connection to other Judicial officers in Maricopa County,  
9 plus her connection to the Theut law firms, specifically the Kupiszewskis, under both an  
10 subjective and objective standard, Judge Vandenberg and the Maricopa County Superior  
11 Court bench should be disqualified.  
12  
13

14 **A. Both the Subjective and Objective Inquiry into Bias Raise Serious Doubt as**  
15 **to Maricopa County Superior Court’s Ability to Remain or Appear**  
16 **Impartial Requiring Disqualification.**

17 The right to a judge who is “impartial and free of bias or prejudice” is  
18 “indispensable,” as quoted from *State v. Brown*, 124 Ariz. 99, 97, 602 P.2d 478, 480  
19 (1979); Arizona Code of Judicial Conduct Preamble. This represents a way to promote  
20 due process and maintain public trust in judiciary—or the consent of the govern. For  
21 Arizona and federal courts require a judge to recuse themselves when there appears to be  
22 an objective standard upon which there appears to be bias or the potential bias. *See*  
23 *Caperton v. A.T. Massey Coal Co., Inc.*, 556 U.S. 868, 881, 886 (2009). This explains  
24 that recusal may be required “whether or not actual bias exists or can be proved.”  
25  
26  
27  
28

1 The United States Supreme Court further explains the heighten measured upon  
2 which this should be measured in *William v. Pennsylvania*, 579 U.S., 1, 15-16 (2016) by  
3 stating “[a]n insistence on the appearance of neutrality is not some artificial attempt to  
4 mask imperfection in the judicial process, but rather an essential means of ensuring the  
5 reality of a fair adjudication,” a fair adjudication that has been denied to Mr. Redkey.  
6

7  
8 **1. The transfer from Commissioner Rhoades to Judge**  
9 **VandenBerg after bringing up Clarke’s dual-representation,**  
10 **misconduct by Rick Kilfoy, and request for a Jury Trial, the**  
11 **Denial of Change of Judge for Cause by Judge Fink disparages**  
12 **the impartiality of the Maricopa County Superior Court Bench.**  
13

14 Because A.R.S. § 14-1306 was unanimously passed in 2023 to help circumvent  
15 widespread financial exploitation and provide due process to people in Conservatorship  
16 and Guardianships, Mr. Redkey’s request for a jury trial was not met with allowance, but  
17 transfer and denial.  
18

19 Additionally, Judge Lisa Ann VandenBerg refused to allow Mr. Redkey to  
20 represent himself pro se, suggested that competent people can be placed into  
21 Conservatorships against their will when she acknowledge Mr. Redkey’s Associate of  
22 Arts in General Education, earned in 2014 from Glendale Community College, his two  
23 Bachelor of Arts degrees earned concurrently in 2016 from Arizona State University, his  
24 capacity to earn a Master of Secondary Education from Arizona State University in  
25 2019, his capacity to earn Standard Teacher Certification which was issued in 2019, his  
26  
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1 capacity to manage a approximately 100 students and instruct them, his capacity to earn  
2 a Rhetoric, Writing & Digital Media from Northern Arizona University in 2023, who  
3 has the capacity to get married in 2014 to his wife for over 10 years, his capacity to have  
4 an 8-year old Son, his capacity to raise his 17-year old daughter, but then Judge  
5 VandenBerg states capacity does not preclude nor prevent a person from being placed  
6 into Conservatorship, thus violating the victim's rights as prescribed by both the United  
7 States and the Arizona Constitutions, suggesting that Judge VandenBerg and the  
8 Maricopa County Superior Court bench and the Probate Division lack the ability of  
9 neutrality, impartiality and to be unbiased in this matter, requiring the Bench of  
10 Maricopa County should be disqualified.

14 Furthermore, Mr. Redkey filed and served a Change of Judge for Cause to the  
15 Presiding Judge of the Probate Division, the Current Judge, and all parties of record, but  
16 that reference was denied, suggesting partiality and bias by the Presiding Judge of the  
17 Probate Division, further warranting a transfer from the Maricopa County Superior  
18 Court and out of the Probate Division as required by A.R.S. § 12-409, Rule 42.2, Rules  
19 of Civil Procedure for the Superior Courts of Arizona, Rule 4, Arizona Rules of Probate  
20 Procedure.

23 **III. Under these Conditions, Engagement of the Presiding Judge of this Court**  
24 **or the Chief Justice of the Arizona Supreme Court Provides the**  
25 **Appropriate Method for Reassignment.**

1 As seen in No. CR2010-137021-001, where Victor Ted Hernandez was allowed  
2 to have his case transferred to another County for post-conviction relief, because in both  
3 of our cases, keeping Mr. Redkey's Probate matter in Maricopa County and in the  
4 Probate Division would result in objective and subjective impropriety and partiality,  
5 creating substantial bases for disqualifying the Probate Division and the entire Maricopa  
6 County Superior Court bench. Under these unusual circumstances of Mr. Redkey  
7 probate case and employment lawsuit with Phoenix Union High School District, the  
8 Arizona Code of Judicial Conduct calls for disqualification per Rule 2.11(A).

9  
10  
11 Immediate referral is warranted to the Presiding Judge of Maricopa County  
12 Superior Court or the Chief Justice of the Arizona Supreme Court. *See generally, State v.*  
13 *Miranda*, 3 Ariz. App. 550, 416 P.2d 444 (1966). Upon referral of this matter to either the  
14 Presiding Judge or the Chief Justice, it should be promptly set for a hearing as to  
15 reassignment to a sitting or retired judge from outside of Maricopa County, and one who  
16 never served in the Probate division. *See generally, State v. Eastlack*, 180 Ariz. 243,  
17 254-55 (1994); *State v. Victor Ted Hernandez*; *Miranda*, 3 Ariz. App. At 552, 416 P.2d at  
18 446 (reassignment to a judge recommended by the defense after presiding judge was  
19 removed due to bias).

#### 20 21 22 23 **IV. Conclusion**

24 In light of the evidence of the appearance of misconduct and bias allegations  
25 regarding the Probate Division and the interconnection to the Maricopa County Superior  
26 Court Bench requires disqualification, and Mr. Redkey's probate matter be reassigned to

1 a sitting or retired judge from outside of Maricopa County and outside of the Probate  
2 Division. For the foregoing reasons, the Court should grant this motion.

3  
4 RESPECTFULLY SUBMITTED this 11th Day of September, 2024.

5 */s/ David Redkey*

6 David Redkey, M.Ed.  
7 Public Educator  
8 Filing Pro Se  
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**CERTIFICATE OF SERVICE**

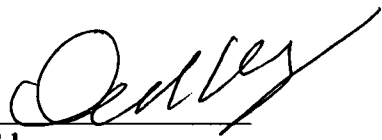
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<p><b>Name(s):</b> <u>Mark J. Theut</u></p> <p><b>Address and/or Email:</b> <u>mark@theutlaw.com</u></p> <p><b>Date of Service:</b> <b>September 11, 2024</b></p>	<p><b>Method of serving this document (please check one):</b> <input checked="" type="checkbox"/> Electronic service (e.g., email or electronic service through TurboCourt)</p>
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<p><b>Name(s):</b> <u>William A. Clarke</u></p> <p><b>Address and/or Email:</b> <u>wclarke@spencerfane.com</u></p> <p><b>Date of Service:</b> September 11, 2024</p>	<p><b>Method of serving this document (please check one):</b> <input checked="" type="checkbox"/> Electronic service (e.g., email or electronic service through TurboCourt)</p>
<p><b>Name(s):</b> <u>Rick Kilfoy</u></p> <p><b>Address and/or Email:</b> <u>kilfoyr@yahoo.com</u></p> <p><b>Date of Service:</b> September 11, 2024</p>	<p><b>Method of serving this document (please check one):</b> <input checked="" type="checkbox"/> Electronic service (e.g., email or electronic service through TurboCourt)</p>

/s/ David Wayne Redkey   
David Wayne Redkey, M.Ed.