

August 10,2022,

Maret Vessella, Chief Bar Counsel  
State Bar of Arizona  
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Phoenix, AZ 85016  
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*Re: Report and Charge of Ethical Violations by Pima County Attorney Laura Conover*

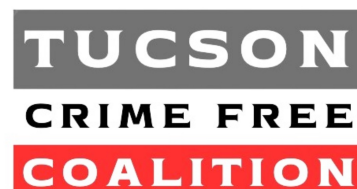
Dear Ms. Vessella:

I write to report misconduct, including a number of ethical violations, committed by Pima County Attorney Laura Conover that raise substantial issues of misconduct . I feel duty bound, as a member of the State Bar of Arizona, to report these ethical violations because they are ongoing, and prior efforts to persuade Ms. Conover to cease these violations have failed. As an Arizona lawyer, I believe that making this report is required of me by the Arizona Rules of Professional Conduct, Arizona Supreme Court Rule 42, Ethical Rule 8.3, and by Arizona Supreme Court Rule 41(c) and the Lawyer's Creed of Professionalism, section (D)(3), incorporated therein.

A timeline with attached exhibits is provided for the events that surround the ethics complaint. I would respectfully urge you to review the timeline prior to the remaining portion of this letter.

Specifically, Ms. Conover's prior and ongoing violations of the Supreme Court's Ethical Rules involve: conflict of interest, interference with a client's authority in settlement negotiations, making false statements, failure to adequately manage and supervise a subordinate practicing law, lack of competence, lack of diligence, conduct prejudicial to the administration of justice, and unprofessional conduct.

xxxx prior and ongoing violations of the Supreme Court's Ethical Rules involve: conflict of interest, interference with a client's authority in settlement negotiations, lack of competence, lack of diligence, conduct prejudicial to the administration of justice, and unprofessional conduct.



## *Conflict of Interest*

Ms. Conover has a conflict of interest that prevents her and subordinates in her office from representing Pima County or the State of Arizona in cases adverse to Louis Taylor relating to murders committed by Mr. Taylor at the Pioneer Hotel. Nevertheless, Ms. Conover has attempted to insert herself into both the civil and criminal cases on this very matter, purportedly on behalf of Pima County and the State of Arizona. Her conflict should have prevented her from involving herself in either case.

Mr. Taylor was arrested in 1970, tried before a jury, and found guilty of 28 counts of felony murder predicated on him committing arson at the Pioneer Hotel in Tucson, intentionally causing a deadly fire that killed 29 hotel patrons (one of whom died after the criminal case was already in progress). After the jury in his case found Mr. Taylor guilty of the murder of 28 victims, he was sentenced by the Maricopa County Superior Court to terms of imprisonment that would likely extend beyond his lifetime.

Later, there were several series of post-conviction proceedings over a period of decades in which Mr. Taylor's conviction was re-evaluated and repeatedly upheld. During one of those periods, in our around 2002-2005, Ms. Conover did legal research on behalf of Mr. Taylor which she has now denied in a recent press release. In a January 6, 2020 post on her campaign web page Ms. Conover was asked if she had ever met Louis Taylor. She stated:

"Yes sir I have. On several occasions. During law school I was able to provide a little legal research to prepare for one parole hearing, but it was sadly minimal as I was only a student. Felt powerless to help. That feeling has stayed with me. I still pray for Louis."

In 2013, there was a new round of post-conviction proceedings presented by Mr. Taylor's legal team that resolved with Mr. Taylor pleading no contest to 28 counts of felony murder. His guilt was affirmed at his change of plea hearing by the Superior Court based upon specific findings of fact that were put on the record. There was no objection by Mr. Taylor or his legal team to any of those findings of fact, nor to the Court's judgment of guilt based upon those facts. Mr. Taylor was then sentenced by the Court, under his 28 new convictions, to a total of 42 years in prison. Because Mr. Taylor had, by then, already served 42 years in prison, he was released from prison custody.

Mr. Taylor did not initiate any further post-conviction proceedings in his criminal case following his 2013 convictions and sentencing.

However, Mr. Taylor filed a civil suit against Pima County and the City of Tucson in federal court( No. 15-CV-00152-TUC-RM ) claiming there had been civil rights violations in connection with his convictions and sentences, seeking millions of dollars in money damages from Pima County and the City of Tucson. His claim also included a claim for attorneys fees which are substantial.

Mr. Taylor's federal civil case against Pima County was pending when Ms. Conover was running for the office of Pima County Attorney and remains pending to this day. Pima County has vigorously denied Mr. Taylor's claims and defended against his lawsuit.

Ms. Conover made numerous statements during her campaign in support of Mr. Taylor's claims in his civil lawsuit and contrary to Pima County's position in defending against that suit. She publicly expressed professional and personal loyalty to Mr. Taylor and stated support for his claims against Pima County and the State of Arizona, including by devoting an entire page of her campaign website to her support for Mr. Taylor's claims and by making statements to the media and in public forums on behalf of Mr. Taylor. Advocating publicly for Mr. Taylor was politically advantageous for Ms. Conover, attracting funds for her campaign as well as Democratic voters for her as a candidate.

Based upon her working on Taylor's behalf while in law school in the criminal case in which he was convicted of 28 counts of murder arising out of the Pioneer Hotel fire, and based upon public statements she made in support of Mr. Taylor's claims against Pima County, Ms. Conover has a direct conflict of interest that precludes her from switching sides to represent Pima County in Mr. Taylor's civil case against the County or represent the State in any post conviction proceeding that might be pursued in Mr. Taylor's criminal case.

Ms. Conover's conflict in the criminal case is significant beyond the fact that she previously worked on behalf of Taylor in his criminal case. The court of appeals in the civil case has indicated that compensatory damages are not available to Taylor UNLESS HIS CRIMINAL CASE IS OVERTURNED (emphasis added). In other words, post-conviction proceedings in Mr. Taylor's criminal case would directly and negatively affect the position of Pima County in the civil case. Conover indicated as late as June of 2022 that she intended to attempt to overturn that conviction. That would have resulted in Pima County (her client) being subject to millions of dollars in compensatory damages and her previous declaration that her former client should be compensated would have been realized.

On August 2, 2022 the Pima Board of Supervisors met in executive session and voted 4 to 1 to take certain action in the Louis Taylor case. The next day Ms. Conover did an about face and sent out a press release indicating that she found no evidence of innocence in the Taylor case and would not set aside his conviction. In that press release she falsely claimed that she never did any work on the Taylor case, that she had no conflict, that she was never aware of the previous administration's decision to send the Taylor case to outside counsel, and that she never took any action in the civil case detrimental to her client Pima County.

As will be demonstrated in this complaint each one of her statements were false.

Ms. Conover's obvious conflict of interest was on the horizon months before she was sworn into office as the Pima County Attorney on January 1, 2021. After Ms. Conover prevailed in the

August 2020 Democratic Primary Election, she had no general election opponent, so it was clear she would be elected Pima County Attorney in the November election. At that time in August 2020, then-Pima-County-Attorney Barbara LaWall directed her senior deputies to begin activities to facilitate a smooth transition, and as part of those transition activities to conduct a routine “conflicts check” to determine whether there were any criminal or civil cases that would present a conflict of interest for Ms. Conover once she was sworn in and assumed the office of Pima County Attorney on January 1, 2021.( see Exhibit 1)

One of the cases in which a conflict for Ms. Conover was identified was *Louis Taylor v. Pima County*, the civil case pending in the U.S. District Court for the District of Arizona alleging civil rights violations that purportedly occurred during the previous criminal case against Mr. Taylor for his arson and murder of 28 victims at the Pioneer Hotel, *State of Arizona v. Louis Taylor*.

Chief Ethics Counsel Nassen informed Ms. Conover in the fall of 2020 that conflicts had been identified in multiple cases, one of which was the *Taylor* case, and that the Pima County Attorney’s Office (PCAO) on behalf of Pima County was going to send the *Taylor* civil case to outside counsel. Conover confirmed with Regina Nassen that she knew that the Louis Taylor case was being conflicted out ( see Exhibit 2,BN033BN023,BN037). I have confirmed with Ms. Nassen that she talked to Conover about the conflict and that Conover was supportive of sending the Louis Taylor case to outside counsel.

Ms. Nassen informed Ms. Conover, this decision had been made by then County Attorney Barbara LaWall, along with input and advice from her Chief Deputy Amelia Craig Cramer, Chief Criminal Deputy David Berkman (the undersigned), Chief of the Conviction Integrity Unit Rick Unklesbay, as well as Chief Civil Deputy Andrew Flagg, Chief Ethics Counsel Nassen, and Tort Unit Supervisor Nancy Davis.

Ms. LaWall, along with her senior attorneys and her Ethics Committee on which all those senior attorneys served, determined Ms. Conover to be diametrically at odds with and adverse to Pima County’s position in defending against Taylor’s claims in his civil suit against the County. Ms. Conover’s conflict of interest in the *Taylor* case was widely known and evident based upon two factors revealed through public statements she had made:

First, during her campaign seeking election to the position of Pima County Attorney Ms. Conover made public multiple statements directly and expressly adverse to Pima County in relation to the *Taylor* case, including but not limited to oral statements made during debates and forums, as well as written statements published on her campaign website ( <https://lauraconover.com/the-pioneer-hotel-fire-50-years-later/>) and on her campaign Facebook page.

Ms. Conover’s positions and public statements regarding the Taylor case included the following taken from Conover for County Attorney’s public Facebook page dated January 6, 2020:

- a. When asked by a member of the public whether Louis Taylor should have been financially compensated by Pima County, Ms. Conover stated, “Yes. He should have been compensated in my humble opinion.”
- b. When that person further inquired as to what could be done. Conover replied: “A very good question. I believe his case is on appeal in the 9<sup>th</sup> circuit. I will check in with *his* large legal team.”
- c. In response to another question from a different person, Ms. Conover stated, in part, that “Louis was 16 and he did not get a fair trial. And he became the 30<sup>th</sup> victim [of the Pioneer Hotel Fire], in my humble review of the evidence.”
- d. Ms. Conover further replied to a question about whether she had ever personally met Louis Taylor with: “Yes, sir. I have. On several occasions. During law school I was able to provide a little research to prepare for one parole hearing, but it was sadly minimal as I was only a student. I felt powerless to help. That feeling has stayed with me. I still pray for Louis.”
- e. Ms. Conover also stated that the County Attorney’s office had seen its fair share of mistakes, including the way she believed it “mishandled Louis’ exoneration (sic) and further harmed him.”
- f. During the campaign in 2020, Stanley Feldman, one of the plaintiff’s lawyers representing Louis Taylor in his civil suit against Pima County endorsed Ms. Conover for County Attorney. Ms. Conover posted his endorsement on her Conover for County Attorney Facebook page and referred to Feldman as her “own personal hero and warrior.” In addition, he prior co-counsel on the Taylor criminal case Andy Silverman gave her \$300.00 in campaign contributions. Silverman still represents Taylor.

( All these statements a-f can be provided if disputed by Ms. Conover)

Second, as related in comment (d) above, Ms. Conover at one time was part of Taylor’s legal team in his related criminal case involving precisely the same facts and issues that are the subject of the pending civil case Taylor is pursuing against Pima County in Federal District Court. It should be noted that, although Ms. Conover was a law student and not a lawyer at the time she was involved as part of the legal team representing Louis Taylor. In addition ,she was working with Any Silverman who has been Defendant Taylor’s lawyer to this day.

Based on all of the above, it was clear to senior leadership in the Pima County Attorney’s Office and to Pima County’s client representatives that Ms. Conover had a significant conflict of interest that would prevent her from assuming appropriate representation of Pima County in the *Taylor* case.

Pima County’s client representatives, the Pima County Administrator and Pima County Risk Manager, were informed and concurred that outside counsel should be engaged to represent Pima County in the *Taylor* case. It was decided that the Pima County Attorney’s Office should file a motion to withdraw shortly prior to Ms. Conover taking office.

Ms. Conover was informed by Chief Ethics Counsel Regina Nassen three months before taking office that the *Taylor* case against Pima County was determined to present a conflict of interest for Ms. Conover and was being sent to outside counsel. On September 28, 2020 Nassen e-mailed Ms. Conover and told her *Taylor* would be sent out to outside counsel. The e-mailed said in part:

WE ARE ARE ALREADY SENDING TO OUTSIDE COUNSEL TWO CIVIL CASES IN WHICH YOU REPRESENTED THE PLAINTIFF; MURILLO AND TAYLOR (See Exhibit 2 BN033)

Five days later on October 2, 2020 Nassen sent an e-mail to the ethics committee of the PCAO indicating that Conover agreed with the analysis explained by Ms. Nassen and understood Ms. LaWall's decision to conflict out the case. The e-mail from Nassen to the ethics committee states in part:

“ LAURA WAS APPROVING OF THAT DECISION, BY THE WAY, AS WELL AS OUR DECISION TO SEND OUT THE LOUIS TAYLOR CASE ” (See Exhibit 2, BN023)

In the early fall of 2020, Nicholas Acedo of Struck, Love, Bojanowski & Acedo, PLC was retained by Pima County to serve as Pima County's outside counsel in the *Taylor* case. Mr. Acedo's contract with Pima County, approved by the Pima County Board of Supervisors, provided that he would initially serve as co-counsel along with the Pima County Attorney's Office. This was so that he could be brought up to speed on the *Taylor* case by the assigned civil deputies who would remain involved in the case until they would have to withdraw in late December 2020, just prior to Ms. Conover taking office as the new Pima County Attorney. Once Ms. Conover became the Pima County Attorney, Mr. Acedo would be the sole counsel for Pima County in the *Taylor* case.

In late December, 2020, the Pima County Attorney's Office filed its formal motion to completely withdraw from representing Pima County in the *Taylor* case because of the conflict, leaving Mr. Acedo as sole counsel of record for Pima County in that case. (See Exhibit 3, Motion to Withdraw)

On January 6, 2021, the United States District Court granted the Pima County Attorney's Office's motion to withdraw and ordered that the Pima County Attorney's Office was removed from the *Taylor* case, leaving Mr. Acedo as sole counsel for Pima County in the *Taylor* case. Ms. Conover and her office were served with that federal court order on January 7, 2021. (See Exhibit 3, Judge Marquez Order)

Notwithstanding her personal conflict of interest, notwithstanding her knowledge of the decision to conflict the *Taylor* case, notwithstanding Mr. Acedo's engagement by Pima County as the sole attorney in the *Taylor* case, notwithstanding the formal withdrawal filed by the Pima County Attorney's Office, notwithstanding her failure to seek her client's permission to negotiate, not withstanding her failure to confer with the civil division lawyer who had handled

the Taylor civil case ,and in contravention of the federal court order, Ms. Conover surreptitiously sent her subordinate employee or agent xxxx, to enter into inappropriate settlement negotiations with counsel for Louis Taylor in his case against Pima County outlined in a letter from plaintiff's lawyer Stanley Feldman.( See Exhibit 4 )

In late January, xxxx finally talked to Nancy Davis ,who had previously handled the defense of the Taylor case and was told that Conover's office had been conflicted off the Taylor case. xxxx must have confronted Conover concerning the conflict that he allegedly had just become aware of . ( xxxx could have discovered the conflict if he had just bothered to review the pleadings or talk to Nancy Davis. ) Conover doubles down and tells xxx she was never made aware that her office had been conflicted off the case.despite the September and October e-mails where she acknowledges the conflict and the plan to get outside counsel. Conover was caught and must have realized that xxxx could not protect her. xxxx was also caught and when confronted by the County risk manager . He denied negotiating with Stanley Feldman. His problem is Feldman filed a pleading and a letter with the federal court affirming the negotiations. It is hard to believe that a former supreme court justice would file a false pleading and attachment to a pleading in a contested federal civil case. (See Exhibit 4, letter from Feldman to xxxx ; attachment to Feldman pleading in federal court))

Conover finally acknowledged the conflict but continued to meddle in the civil case by her continued heavy involvement in the criminal case . Her involvement in the criminal case was just as significant a conflict as her involvement in the civil case. xxxx was her front man in that involvement.

State v. Marner, 487 P. 3rd 631 states that " the possibility of public suspicion will outweigh any benefits that might accrue due to continued representation ." Gomez,149 Ariz.226. This case;clearly indicates that the appearance of impropriety is a clearly legitimate reason to conflict a lawyer off of a case. Ms. Conover ignored her actual conflict as well as the obvious appearance of impropriety to forge ahead with her attempt to assist Mr. Taylor in both his civil and criminal case. xxxx forged ahead with his efforts to assist in the criminal case. ER 1.7 clearly demonstrate Ms. Conover's and Mr. xxxx violation of the ethics rules. Comment [21] states that paragraph (b)(3)prohibits representation of opposing parties in the same litigation. Conover had represented Taylor in the criminal case and now was supposed to represent the state in both the civil and criminal case. Her violation is clear and is imputed to xxxx.

I filed a public records law suit against Conover concerning the Taylor records (See Pima County Superior case C20215593). I won the law suit and Judge Metcalf addressed the same conflict and his concern . In his denial of a new trial. He stated :

"Plaintiff seeks these documents because he wants to show the public that the County Attorney was working on the Louis Taylor criminal case even though attorneys in that office had concluded she had a conflict of interest in that case , as she had participated in a law clinic in law school that represented Louis Taylor in his criminal case. Importantly, and perhaps



dispositively the County Attorney does not dispute Plaintiff's contention that she participated in a clinic in law school that represented Louis Taylor in his criminal case.(See Exhibit 8)

IT IS A MATTER OF GREAT PUBLIC CONCERN (emphasis added) whether the County Attorney has her staff working on a case ,on behalf of the State of Arizona as the plaintiff , where she previously represented the defendant in the same case.This concern is further heightened because any action that could vacate Mr. Taylor's conviction in the criminal case could negatively affect the defense in the pending civil case brought by Mr. Taylor . " ( see Pima County Superior Court case C20215593 , ruling on Motion for New Trial) (See Exhibit 8).

Conover and xxxx continue to be involved in the Taylor criminal case. The evidence of their involvement is not disputed by Conover or xxxx and her recent denial of her participation in the defense of Louis Taylor when in law school was not contested in my law suit.

*Allocation of Authority Between Lawyer and Client, Lack of Competence, Lack of Diligence, Failure to Adequately Manage and Supervise a Subordinate*

xxxx, who had not yet been admitted to practice law in Arizona at the time, was volunteering or employed in the County Attorney's Office under the direct supervision of Ms. Conover. In January 2021, Conover initiated, through xxxx, negotiations to settle the Taylor civil case .She led Chin to believe that he was representing Pima County in the *Taylor* case and sent him out to commence settlement negotiations with one of Taylor's attorneys, Stanley Feldman. Ms. Conover and Mr. xxxx did so without authorization from Pima County's attorney in the *Taylor* case, Mr. Acedo, and without client consent from the Pima County Board of Supervisors, the Pima County County Administrator, or the Pima County Risk Manager. This was a failure by Ms. Conover and Mr. xxxx to allocate authority properly between lawyer and client and a failure to allow the client to control settlement negotiations.(See Exhibit 5, Defendant's Pima County Response to Order to Show Cause.)

Ms. Conover assigned Mr. xxxx to initiate settlement negotiations in this complex civil rights case in federal court despite knowing he lacked experience handling such cases and despite her own lack of experience handling such cases. Ms. Conover and Mr. xxxx did not consult with Nancy Davis an experienced civil attorney within Ms. Conover's office who had previous responsibility for the Taylor case nor did they consult with with Mr. Acedo, Pima County's private outside counsel. Neither did they tell the client what they were up to . This demonstrates either a lack of lack of competence.. or Conover's deliberate deceit.(See Exhibit 5)

Ms. Conover and xxxx initiated these negotiations, asserting that they and the Pima County Attorney's Office represented Pima County in the *Taylor* case, despite the fact that the case file contained records reflecting the withdrawal of the Pima County Attorney's Office from the *Taylor* case and the federal court order removing the Pima County Attorney's Office from the case, and despite the fact that Ms. Conover and her office, including xxxx, had no authority from



Pima County to represent it, much less to negotiate a potential settlement, in the *Taylor* case. (See Exhibit 5) This demonstrates a lack of competence and lack of diligence by Ms. Conover and Mr. xxxx, and a lack of adequate supervision by Ms. Conover of her subordinate xxxx. All that xxxx needed to do was review the file or talk to Nancy Davis who he thought was handling the defense of the Taylor case to understand that he could not be involved. The fact that Conover never told xxxx about the conflict and the fact that both Conover and xxxx kept their negotiations a secret from Nancy Davis ,the civil division, and their client and the fact that neither Conover or xxxx reviewed the file show at a minimum a lack of competence and a lack of diligence . Based on all the circumstances their conduct may be more sinister than just incompetence.

If Conover truly believed that no conflict was declared, one must ask why she assigned a complete novice to negotiate , in secret , a settlement with Taylor’s civil attorney rather than enlist the person who she thought was the attorney assigned to the case ,Nancy Davis. The only rational conclusion is that Conover knew the conflict existed and she was trying to circumvent her conflict. If you believe Conover’s ongoing claim that she was unaware of the conflict ,then her assigning the task of negotiating with Feldman to xxxx without telling the client constitutes a failure to consult with the client , a failure to supervise , and incompetence.

#### *Conduct Prejudicial to the Administration of Justice*

I am informed and believe that the negotiations undertaken in the *Taylor* case by Ms. Conover and xxxx purportedly on behalf of Pima County were not only without Pima County’s consent or authorization, but also were contrary to the interests of Pima County. (See Exhibit 5)

#### *False Statements, Incompetence , and failure to consult with counsel for Pima County or the client*

Mr. xxxx communications with Mr. Feldman, at Ms. Conover’s direction and under her supervision, resulted in the filing of a motion with the federal District Court falsely accusing the former Pima County Attorney administration of “manufacturing” a conflict of interest to prevent Taylor’s civil lawyers from reaching a monetary settlement with Ms. Conover and Mr. xxxx and requesting that the court conduct an evidentiary hearing on the matter. The District Court properly declined to do so and affirmed that Mr. Acedo was the only attorney representing Pima County in the *Taylor* case.

Ms. Conover and Mr. xxxx did not have permission nor authority from the Pima County Board of Supervisors, the Pima County Administrator, or the Pima County Risk Manager to represent Pima County in settlement negotiations in the *Taylor* case. Only Mr. Acedo would have had such authority. Moreover, I am informed and believe that Pima County did *not* wish to negotiate a potential settlement in the *Taylor* case.(See Exhibit 5)

The Chief Civil Deputy Andrew Flagg emailed Ms. Conover the day he resigned and outlined her various acts of misconduct:

- 1.He pointed out her obvious conflict and her improper continuation in the Taylor case
- 2.xxxx improper conversations with Taylor's lawyers
3. xxxx failure to get Pima County's permission to talk to the Taylor lawyers
- 4.xxxx deception in not telling Pima County lawyers he was talking with Taylor lawyers (See Exhibit 6, Flagg resignation e-mail)

Accordingly, the assertion to Mr. Feldman by Mr. xxxx and Ms. Conover that they represented Pima County and had authority to negotiate a potential settlement on behalf of Pima County in the *Taylor* case was patently false or constituted incompetence. The e-mails from Nassen in September and October(See Exhibit 2, BN023,BN033) clearly show Conover knew the case would be conflicted out. Notwithstanding her knowledge of the conflict , if Conover or xxxx had read the pleadings of talked to Nancy Davis the lawyer who had been assigned the case , they would have known that they could not talk to Feldman. under any circumstances In addition, failure to consult the client prior to entering plea negotiations constitutes a significant ethical violation.

#### *Evidence of Knowledge and Intent*

This ethical misconduct by Ms. Conover was no accident resulting from her being a novice at the job of Pima County Attorney. It did not result solely from her incompetence, lack of diligence, and failure to allocate authority properly between lawyer and client, which she may claim were unintentional mistakes. Ms. Conover was not under any mistaken impression that she was or could be counsel for Pima County in the *Taylor* case.

Prior to assuming office as the new Pima County Attorney, Ms. Conover had been expressly informed that the *Taylor* case had been conflicted out and was being handled by private, outside counsel due to her conflict of interest. (See Exhibit 2)

Chief Ethics Counsel Nassen informed Ms. Conover during the transition period before Ms. Conover took office that the *Taylor* case had been conflicted out and was being handled by outside counsel due to Ms. Conover's conflict of interest. Indeed, months prior to taking office, Ms. Conover communicated her approval of conflicting out the *Taylor* case. And after taking office, she confirmed to Ms. Nassen that she had known the *Taylor* case was conflicted out. (See all of Exhibit 2 ,including e-mails)

I am informed and believe that then Pima County Attorney Barbara LaWall also mentioned to Ms. Conover during the transition period the fact that the *Taylor* case was being conflicted out. This communication took place in an oral conversation between Ms. LaWall and Ms. Conover before Ms. Conover was sworn in and took office.

Moreover, I am informed and believe that then Chief Deputy County Attorney Amelia Craig Cramer met virtually in late November or early December, 2020 with Ms. Conover and Ms. Conover's nominee for Chief Deputy, Tamara Mulembo - another criminal defense attorney who would be joining the Pima County Attorney's Office. During that meeting Ms. Cramer discussed the conflict check process that was ongoing for both Ms. Conover and Ms. Mulembo. Ms. Conover confirmed during that meeting that she approved of that process and that she had been in communication with Ms. Nassen to ensure that cases in which she had conflicts of interest would be sent to outside counsel before she took office.

The *Taylor* case file in Ms. Conover's office contained copies of the motion to withdraw and the federal court order removing that office from the case. Ms. Conover and Mr. xxxx had actual or constructive knowledge of those records and of the fact that the Pima County Attorney's Office had acknowledged Ms. Conover's conflict, had withdrawn, and that the court had ordered the Pima County Attorney's Office off the case. Yet, she persisted.

It is incontrovertible that Ms. Conover knew full well before she took office as Pima County Attorney that she and her office were conflicted off of the *Taylor* case and that Pima County had engaged outside counsel to represent it in that case. Accordingly, it is clear that Ms. Conover engaged in the improper conduct involving her conflict of interest knowingly and intentionally.

*Ethical Rules Violated*

Based upon the foregoing, I believe Ms. Conover has engaged in ethical misconduct violating Rule 42 of the Arizona Rules of Supreme Court, Ethical Rules (ER) 1.1, 1.2(a), 1.3, ER 1.7, ER 1.9, ER 1.10, ER 1.11(c)(1), ER 1.13, ER 4.1(a), ER 5.1, ER 5.3, ER 7.1, and ER 8.4(a), (c), (d), and (e). Additionally, I believe Ms. Conover has engaged in unprofessional conduct violating Rule 41(a), (b)(5), and (c) of the Arizona Rules of the Supreme Court.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX involves other party  
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

**Additional False Statements**

On March 6, 2021, news reporter Tim Steller of the Arizona Daily Star published an article in which he quoted Ms. Conover falsely asserting that she had been unaware the *Taylor* case had been conflicted out or that Pima County was represented by outside counsel, and making the false and defamatory allegation that the former Pima County Attorney and the senior attorneys under the prior administration had engaged in an effort to undermine her by facilitating Pima

County's engagement of outside counsel in the *Taylor* case. (Here is a link to that article: [https://tucson.com/news/local/govt-and-politics/tim-stellers-opinion-lawall-tied-hands-of-new-county-attorney-on-key-case/article\\_c3e2654f-55e6-5f28-a2ee-cad5cae7b795.html](https://tucson.com/news/local/govt-and-politics/tim-stellers-opinion-lawall-tied-hands-of-new-county-attorney-on-key-case/article_c3e2654f-55e6-5f28-a2ee-cad5cae7b795.html)). (See Exhibit 7) The truth is that the former Pima County Attorney and the senior attorneys under the prior administration had engaged in efforts to support a successful transition for Ms. Conover and had recommended to Pima County that it engage outside counsel in the *Taylor* case with Ms. Conover's knowledge and agreement before she took office.

Based upon these false and defamatory statements unfairly impugning the reputation of the former County Attorney and other senior attorneys from the Pima County Attorney's Office, including myself, I believe Ms. Conover engaged in further misconduct that violates Rule 41(b) (5) and (8); Rule 41(c); and Rule 42, ER 8.4(a) and (c).

On March 8, 2021 Regina Nassen wrote a memo to Conover urging her to correct her false statements in the Steller article. (see Exhibit 2) Conover refused. In that memo Nassen outlined all the ethical rules violated by Conover. She also documented that Conover knew of the conflict and the decision to get outside counsel prior to her taking office.

Shortly after Ms. Conover falsely maligned my integrity and the integrity of my former colleagues in her interview with reporter Tim Steller that was reported in the Arizona Daily Star, (See Exhibit 7) and after I learned of the resignations of Mr. Flagg and Ms. Nassen, I made a public records request to the Pima County Attorney and the Pima County Attorney's Office to obtain copies of documents relating to Ms. Conover's conflict of interest and her improper involvement in the *Taylor* case. I submitted my public records request on March 17, 2021. I made two additional requests for related records on May 17, 2021 and June 26, 2021. I was entitled to receive copies of all the requested records promptly under Arizona's Public Records Law. A.R.S. 39-121.01(E).

However, in furtherance of her ongoing attempted cover-up, and in violation of the public records law Ms. Conover wrongly withheld the records from access by me and other members of the public and the media for nearly a year until I filed a Special Action in the Superior Court in and for Pima County to obtain them.

More than a year after filing the first of my public records requests, I have now prevailed through the Special Action in obtaining the records held by Ms. Conover and her office relating to her ethical misconduct involving her conflict of interest in the *Taylor* case and her false statements attempting to cover-up that misconduct. Additionally, I have prevailed through the Special Action in obtaining a Superior Court Order requiring Ms. Conover to produce copies of all the requested records. (Ms. Conover has not yet complied fully with the Superior Court Order.

### *Ongoing Misconduct*

Unfortunately, and most concerning, the records obtained via the Special Action and recent statements by Ms. Conover reveal that Ms. Conover's xxxx xxxx ethical misconduct involving conflict of interest and violation of the federal court order in the *Taylor* case has been ongoing. Ms. Conover's public position is that she has no conflict of interest. In her press release concerning her complete turn-around on the Taylor exoneration she conceded that in making her decision she "remained fully cognizant of the fact that I have a duty to represent my client, Pima County, against which Louis Taylor has brought a civil lawsuit" (See Exhibit 9). The problem with her statement is that she does not represent Pima County in the civil case and if she is taking that into consideration in deciding to not exonerate Taylor she is violating her ethics responsibility as a prosecutor. A prosecutor must never take into consideration the interests of a civil client in determining the guilt or innocence of a criminal suspect. Conover's press release (See Exhibit 9) is a confession her violations of the ethics rules.

It is possible that Ms. Conover's most recent ethics in her about-face in the Taylor criminal case was a misguided effort to rectify her previous ethics violations in the civil case. However, Ms. Conover has only compounded her ethics violations, not rectified them.

Clearly, given their ongoing actions and statements, Conover xxxx xxxx will not cease and desist from engaging in conduct involving this -and possibly other - conflict of interest. Their conduct has undermined the public trust in the justice system and the County Attorney.

### *Request for State Bar Investigation and Appropriate Remedial Action*

I urge the State Bar of Arizona to fully investigate this matter, including but not limited to undertaking a thorough review of all the attached records, including emails, the contract between Pima County and Mr. Acedo, and federal court filings, as well as conducting interviews of Mr. Flagg, Ms. Nassen, Ms. Davis, Ms. LaWall, Ms. Cramer, Mr. Acedo, Ms. Coleen Clase (attorney for Taylor victims) xxxx, and Ms. Conover. Following the completion of its investigation, I urge the Bar to take appropriate remedial action as necessary to protect the public, to improve the administration of justice, and to assure the competency, ethics, and professionalism xxxxxxxxxx of Ms. Conover as a lawyer practicing in Arizona and manager of a large, public law office.

Sincerely,

David L. Berkman

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