

ROUND VALLEY JUSTICE COURT – APACHE COUNTY  
130 S. Mountain Avenue / PO Box 1356 Springerville, AZ 85938

STATE OF ARIZONA Plaintiff Vs	CASE NO	DEFENDANT'S NOTICE OF RIGHT TO APPEAL (CRIMINAL)
Defendant		

This notice explains your rights and responsibilities to file an appeal to Superior court from an order or final judgment and your right to an attorney to represent you.

**YOUR RIGHT TO A LAWYER DURING THE APPEAL STAGE**

You have a constitutional right to a lawyer to represent you during the appeal stage of your case. This means that (a) you have the right to hire a private lawyer, and (b) in certain situations, you may be eligible for a court-appointed attorney to represent you. Normally, if you had a court-appointed attorney for the trial, you will continue to have court-appointed counsel for the appeal. If you are appealing a case where the trial court sentence included jail time or probation, and you cannot afford to hire a private lawyer, you may fill out a financial statement for a court-appointed attorney. Depending on your income and financial situation, an attorney may be appointed, your request may be declined, or you may have an attorney appointed with the requirement that you pay some amount in contribution to the cost of the attorney's services. The procedure to apply for a court-appointed attorney is set forth in Rules of Criminal Procedure, Rule 6. If you wish to look into this process, ask the clerk for further instructions.

**THE APPEAL PROCESS IN GENERAL**

There are two separate stages to the appeal process. The first stage begins in this court; the second stage takes place in the Superior Court. Remember, you must complete all steps at both stages or you run the risk of having your appeal dismissed. This notice does not set forth all the rules on criminal appeals. To read them entirely, you may review the Arizona statutes, rules of criminal procedure, and in particular, the "Superior Court Rules of Appellate Procedure - Criminal" at the library. It is recommended you keep a copies of all documents.

**STAGE ONE - THE TRIAL COURT**

- A. THE NOTICE OF APPEAL. To appeal, you must file a "Notice of Appeal" with the trial court clerk within 14 calendar days from the date of the appealable order or final judgment. If you do not file a "Notice of Appeal" within these 14 days, you lose the right to appeal. The notice of appeal must specifically state the judgment or ruling that is being appealed. Within the time to file your notice of appeal you also file an original and one copy of the "designation of the record." This is your list of items in the court record that you want to include in the appeal.
- B. THE RECORD. Within 14 calendar days after you file your notice of appeal, you must also arrange to pay for a copy of the proceedings at the hearing. The Copy may be a recording or a transcript. The clerk will explain which type of record is required. Payment must be in cash or other method explained by the clerk. If you cannot afford to pay for the record, ask the clerk for information about a possible waiver or extension ("deferral") to make payment later. If you fail to pay for the record or transcript, your appeal may be dismissed. Additional copies of the trial or proceeding record or transcript may be obtained for an additional charge.
- C. THE CONDITIONS OF RELEASE PENDING APPEAL. You cannot be forced to post an appeal bond in order to exercise your right to appeal. If you have been released on your own recognizance during the trial stage of your case, this will be your status during the appeal also. If the trial court required a bond during the trial stage, however, you may still be

required to post this bond during the appeal to ensure your appearance at further court proceedings and to make sure you prosecute the appeal diligently.

- D. **THE WRITTEN APPELLANT'S MEMORANDUM.** If you appeal, you are called the "Appellant." After the record or transcript is prepared, the court will contact you to pick up your record. You will need the record for this next step - the "Appellant's Memorandum." The appellant's Memorandum is your written "brief" or explanation why the trial court ruling was legally wrong. Normally, the Memorandum will refer to specific portions of the record of the hearing to point out where there was error by the court. (That is why a party who appeals pays for a copy of the record.) The Memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length, not counting any exhibits from the trial or proceeding you want to attach to the Memorandum. Pursuant to Rule 31.13, Appellate Briefs, a victim identifier in place of the victim's name in any case which the defendant was charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in any case in which the victim was a juvenile at the time of offense. Format for the victim identifier will be the first letter of the victim first name and the first letter of the victim last name. In the event that two or more victims have the same first and last initials, a number following the initials will need to be added.
- E. **FILING THE APPELLANT'S MEMORANDUM WITHIN 60 CALENDAR DAYS.** The Appellant's Memorandum must be filed with the court within 60 calendar days of the deadline to file the notice of appeal. Type the words "Appellant's memorandum" below the caption of the case so the court can identify it. You must file the original and one copy of the Memorandum with the court. (The copy you file is sent to the other side. The other side then has 30 days to file and "Appellee's Memorandum.") (If you are represented by an attorney, you file only the original memorandum; your attorney will send copies as necessary.)
- F. **WAIT FOR FURTHER INSTRUCTIONS.** Once the Memorandum has been filed, you should await further instructions from the Superior court as outlined in the next stage. To keep you informed, remember that the trial court must have your current mailing address at all times. Even if you hire an attorney, your address is still required for legal notifications.

### STAGE TWO - THE SUPERIOR COURT

- G. **NOTIFICATION FROM THE SUPERIOR COURT.** If you have completed all of the first stage, your case moves to Superior Court where an appeals judge will look at the case. About 60 days after you file your Memorandum, you will receive notification that your case has been sent to Superior Court. Next, you will receive a second notice from the Superior Court assigning a Superior Court case number to use in all further correspondence, and telling you what will happen next.
- H. **SUPERIOR COURT ACTION ON THE APPEAL.** If you have now completed all these steps, you will receive a ruling from the Superior Court. The Superior Court has the right to affirm the trial court, overrule the trial court, modify some of the trial court decision, or, if record is not clear, order a new trial in the Superior Court. If the final outcome of your case is that the ruling stands, or if your appeal is dismissed for any other reason, remember that the court may apply any bond, deposit, or payments already made and that you may have to return to the trial court to be given other instructions in person.

Date: \_\_\_\_\_

\_\_\_\_\_  
Defendant's Signature

Person Filing: \_\_\_\_\_

Address (if not protected): \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Representing  Self or  Lawyer for \_\_\_\_\_

Lawyer's Bar Number: \_\_\_\_\_

\_\_\_\_\_ COURT OF ARIZONA  
IN \_\_\_\_\_ COUNTY

STATE OF ARIZONA

Case Number: \_\_\_\_\_

-vs-

**DEFENDANT'S NOTICE OF RIGHT  
TO APPEAL**

\_\_\_\_\_  
Defendant

**(CIVIL TRAFFIC / CIVIL BOATING /  
CIVIL MARIJUANA / PARKING OR  
STANDING)**

A party may appeal a final order or final judgment entered in a civil traffic, civil boating, civil marijuana, or parking or standing case. This notice explains your rights and responsibilities to file an appeal from such an order or judgment.

There are two separate stages to the appeal process. The first stage begins in this court; the second stage takes place in the county superior court. Remember, you must complete all steps at both stages, or you run the risk of having your appeal dismissed. This notice does not set forth all the rules on appeals. To read them entirely, you may review at the library the Arizona statutes and rules of court procedure for civil traffic, civil boating, civil marijuana, and parking or standing violations. It is recommended that you keep a copy of all your documents and receipts during the appeal.

**STAGE ONE—TRIAL COURT**

(A) **THE NOTICE OF APPEAL.** To appeal, you must file a "Notice of Appeal" with the trial court clerk within 14 calendar days from the date of the final order or final judgment. If you do not file a "Notice of Appeal" within these 14 days, you lose the right to appeal.

(B) **THE RECORD.** On or before the 14-day deadline to appeal, you must also pay for a copy of the proceedings at the hearing. The copy may be a recording or a transcript. The clerk will explain

which type of record is required. Payment must be in cash or other method explained by the clerk. If you cannot afford to pay for the record, ask the clerk for information about a waiver or extension (“deferral”) to make payment later. If you fail to pay for the record or transcript, your appeal may be dismissed. Additional copies of the hearing may be obtained for an additional charge.

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(C) **POSTING A BOND ON APPEAL TO STAY JUDGMENT.** You cannot be forced to post a bond in order to exercise your right to appeal. However, the civil judgment normally includes a monetary sanction or penalty and, for moving traffic violations, points on your license. In some traffic cases, the court may have suspended your license or registration as part of its decision. These penalties are NOT stopped just because you have filed a timely notice of appeal. In order to stop these penalties from being imposed while your appeal is pending, you must “post bond” with the trial court. The amount of the bond is the total amount of the sanction or penalty ordered by the court unless the trial court orders that the bond be reduced or waived. If you do not post bond to stay enforcement, then the order to pay is still in force and must be complied with.

(D) **THE WRITTEN APPELLATE MEMORANDUM.** Within a few days after you have paid for the record to be prepared, the court will contact you to pick up your record. You will need the record for this next step—the “Appellate Memorandum.” ~~The appellate memorandum is your written “brief” or explanation why the trial court ruling was legally wrong.~~ Normally, the memorandum will refer to specific portions of the record of the hearing to point out where there was error by the court. (That is why a party who appeals pays for a copy of the record.) The memorandum should be typed or printed on letter-sized white paper, double spaced, and not exceed 15 pages in length, plus any exhibits from your hearing you want to attach to the memorandum.

(E) **FILING THE APPELLATE MEMORANDUM WITHIN 60 DAYS.** The appellate memorandum must be filed with the court within 60 calendar days of the deadline to file the notice of appeal. You must file the original and 1 copy of the memorandum with the court. (The other side then has 30 days to file an “Appellee’s Memorandum.”)

(F) **WAIT FOR FURTHER INSTRUCTIONS.** Once the memorandum has been filed, you should await further instructions from the superior court as outlined in the next stage. To keep you informed, remember that the trial court must have your current mailing address at all times. Even if you hire an attorney, your address is still required for legal notifications.

## STAGE 2—THE SUPERIOR COURT

(G) **PAYING THE SUPERIOR COURT FILING FEE.** If you have completed all of the first stage, your case moves to the superior court where an appeals judge will look at the case. About 60 days after you file your memorandum, you will receive a notice from the superior court. This notice will (1) assign a superior court case number to use in all further correspondence, and (2) instruct you to pay the superior court appeal filing fee. You must pay this filing fee or your appeal may be dismissed and your case sent back to the trial court. Again, if you cannot afford to pay the filing fee, contact

Case Number: \_\_\_\_\_

the superior court clerk for information about a waiver or extension (“deferral”) to make payment later.

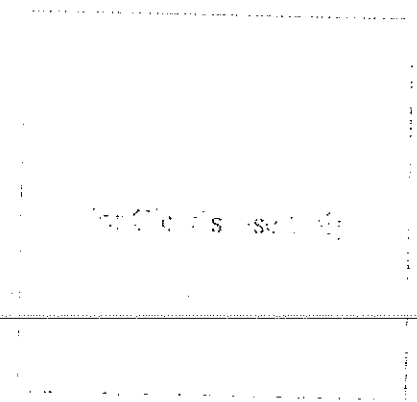
(H) SUPERIOR COURT ACTION ON THE APPEAL. If you have now completed all these steps, you will receive a ruling from the superior court. The superior court can affirm the trial court, overrule the trial court, modify some of the trial court decision, or, if record is not clear, order a new trial in the superior court. If the final outcome of your case is that the ruling stands, or if your appeal is dismissed for any other reason, remember that the court may apply any bond, deposit, or payments already made and that you may have to return to the trial court to be given other instructions in person.

I acknowledge receipt of a copy of this Notice.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant’s signature

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Representing [ ] Self or [ ] Lawyer for \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_



\_\_\_\_\_ COURT OF ARIZONA  
IN \_\_\_\_\_ COUNTY

STATE OF ARIZONA  
-vs-

Case Number: \_\_\_\_\_

**DEFENDANT'S NOTICE OF  
APPEAL**

\_\_\_\_\_  
Defendant

**(CIVIL TRAFFIC / CIVIL BOATING /  
CIVIL MARIJUANA / PARKING OR  
STANDING)**

The undersigned appeals from the final order or final judgment in the above case. Appellant understands: (1) the instructions set forth in the "Notice of Right to Appeal," including payment for a copy of the record or transcript, the right to post bond to stay enforcement of the judgment, filing an appellate memorandum with the trial court, and paying a filing fee to the superior court; and (2) failure to complete all stages in the appeal may result in the dismissal of the appeal and reinstatement of the trial court judgment.

The following address may be used for all court notices. I must notify the court IN WRITING of any change of address.

Defendant's current mailing address must be PRINTED here, even if the defendant is represented by counsel:

Street \_\_\_\_\_  
City, State \_\_\_\_\_  
Daytime Phone ( ) \_\_\_\_\_

Apt/Unit No. \_\_\_\_\_  
Zip \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
Defendant's signature

COURT  
COUNTY

STATE OF ARIZONA	[CASE NUMBER:]
-VS-	
Defendant (FIRST, MI, LAST)	<b>NOTICE OF RIGHT TO APPLY TO HAVE CONVICTION SET ASIDE; RESTORE CIVIL RIGHTS AND RIGHT TO POSSESS A FIREARM</b>

**RIGHT TO APPLY TO SET ASIDE A CONVICTION**  
(A.R.S. § 13-905)

On fulfillment of the conditions of probation or sentence and discharge by the court, you may apply to the court where you were sentenced to have the judgment of guilt set aside. Your attorney or probation officer may apply on your behalf.

If you were convicted of multiple offenses, the court must act on each individual case and each individual count. If you have more than one case number, you must file a separate application for each case number. Note that a conviction for certain offenses cannot be set aside and the granting of an application to set aside a conviction will not remove a penalty, driver license restriction, or limitation, imposed by the Department of Transportation.

**SUSPENSION OF CIVIL RIGHTS AND OCCUPATIONAL DISABILITIES**  
(A.R.S. § 13-904)

A conviction for a felony suspends the following civil rights of the person sentenced; the right to vote; the right to hold office; the right to serve as a juror; the right to possess a firearm; and during any period of imprisonment any other civil rights the suspension of which is reasonably necessary for the security of the institution in which the person sentenced is confined or for the reasonable protection of the public.

**RIGHT TO AUTOMATIC RESTORATION OF CIVIL RIGHTS (FIRST OFFENDERS)**  
(A.R.S. § 13-907)

On final discharge ("final discharge" means completion of probation or the receipt of an absolute discharge from the State Department of Corrections of the United States Bureau of Prisons), any person

who has not previously been convicted of a felony offense shall automatically be restored any civil rights that were lost or suspended as a result of the conviction if the person pays victim restitution imposed. A person entitled to automatic restoration of civil rights pursuant to A.R.S. § 13-907 is not required to file an application. If you have not paid victim restitution at time of discharge from probation, you may apply for restoration of civil rights pursuant to A.R.S. § 13-908 (see below). Restoration of the right to possess a firearm requires an application pursuant to A.R.S. § 13-910 (see below).

**RESTORATION OF CIVIL RIGHTS (SECOND OR SUBSEQUENT OFFENSE)**  
(A.R.S. §§ 13-906, 13-907 and 13-908)

If you have previously been convicted of a felony you may apply for restoration of any civil rights that were lost or suspended as a result of the conviction on final discharge from probation or no sooner than two (2) years from the receipt of an absolute discharge from the State Department of Corrections or the United States Bureau of Prisons. Your attorney or probation officer may apply on your behalf. The restoration of civil rights is in the discretion of the judicial officer.

**RESTORATION OF RIGHT TO POSSESS A FIREARM**  
(A.R.S. § 13-910)

If you were convicted of a dangerous offense under § 13-704 or an offense committed in another state that would be a dangerous offense under § 13-704 you may not file for restoration of the right to possess a firearm.

If you were convicted of a serious offense as defined in § 13-706 or an offense committed in another state that would be a serious offense under § 13-706 you may not file for restoration of the right to possess a firearm for ten (10) years from the date of absolute discharge from the State Department of Corrections or the United States Bureau of Prisons. The restoration of the right to possess a firearm is in the discretion of the judicial officer.

If you were convicted of any other felony offense you may not file for the restoration of your right to possess a firearm for two (2) years from the date of completion of probation or upon receipt of an absolute discharge from the State Department of Corrections or the United States Bureau of Prisons. The restoration of civil rights is in the discretion of the judicial officer.

**RECEIPT BY DEFENDANT**

I received a copy of this notice explaining my rights to apply for restoration of my right to possess a firearm, conviction set aside, and restoration of civil rights.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant



Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Representing  Self or  Lawyer for \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_

For Clerk's Use Only

COURT OF ARIZONA

IN \_\_\_\_\_ COUNTY

STATE OF ARIZONA

Case Number: \_\_\_\_\_

-vs-

APPLICATION TO SET ASIDE  
CONVICTION  
(A.R.S. § 13-905)

Defendant (FIRST, MI, LAST)

Date of Birth: \_\_\_\_\_

Applicant is:

- Defendant  
 Attorney for Defendant  
 Probation Officer

**Note:** Your application may entitle you to restoration of the right to possess and carry a firearm pursuant to A.R.S. § 13-905(J)

**SECTION I. CONVICTION(S)**

A Judgment of Guilt was entered in the \_\_\_\_\_ Court against the defendant on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, on the conviction of:

1. Count I: \_\_\_\_\_
2. Count II: \_\_\_\_\_
3. Count III: \_\_\_\_\_
4. Count IV: \_\_\_\_\_

Additional counts continue on a separate page.

**SECTION II. SENTENCE COMPLIANCE**

1.  I have complied with all required terms of the **sentence** (including all probation, employment, classes, community restitution, victim restitution or other monetary obligations, drug/alcohol testing, or other requirements).  **Yes**  **No**. If no, please explain:  
\_\_\_\_\_  
\_\_\_\_\_

2.  I received a certificate of absolute discharge from the Arizona Department of Corrections.  
 **Yes**  **No**.

3. Victim restitution  has  has not been paid in full or  was not ordered.

If victim restitution has not been paid in full, please explain:

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4. All other court-ordered monetary obligations  have  have not been paid in full or  were not ordered.

If all other monetary obligations have not been paid in full, please explain:

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In some circumstances, you may be eligible to apply to the court to modify the amount owed or convert monies owed to community restitution.

**SECTION III. PRIOR SET ASIDE(S)**

1. Have you previously applied to set aside any conviction?  Yes  No. If so, what was the date of your last application? \_\_\_\_\_
2. Have you previously been granted a set aside?  Yes  No.
3. Have you previously been denied a set aside?  Yes  No.

**SECTION IV. PENDING CASES**

1. Are there any open criminal cases against you?  Yes  No. If yes, please explain:

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**SECTION V. OTHER INFORMATION FOR THE COURT**

1. Is there anything you would like the court to take into consideration?

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2.  Attached is other pertinent documentation. List attached documents:

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3. The defendant, prosecutor, or the victim may request a hearing, but the court is not required to set a hearing. Do you request a hearing?  Yes  No.

Case Number: \_\_\_\_\_

I understand that even if I am granted the right to possess and carry a firearm pursuant to this application I may still be prohibited from possessing and carrying a firearm under other state or federal laws.

~~I understand that this application may be denied if information in this application is found to be inaccurate.~~

I declare under penalty of perjury that, to the best of my knowledge, the information provided in this application and any attachments is true and correct.

\_\_\_\_\_  
Print Defendant's Name

\_\_\_\_\_  
Defendant's Signature

\_\_\_\_\_  
Address

**OR**

**AUTHORIZATION TO PROCEED ON BEHALF OF DEFENDANT**

I authorize \_\_\_\_\_ [ ] Attorney, or [ ] Probation Officer to

petition the \_\_\_\_\_ Court in \_\_\_\_\_ County, to take the above-indicated action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Defendant's Signature

To the best of my knowledge, the information provided in this application is true and correct.

\_\_\_\_\_  
Print Attorney/Probation Officer Name

\_\_\_\_\_  
Attorney/Probation Officer Signature

\_\_\_\_\_  
Attorney/Probation Officer Address

Person Filing: \_\_\_\_\_  
Address (if not protected): \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Representing  Self or  Lawyer for \_\_\_\_\_  
Lawyer's Bar Number: \_\_\_\_\_

Confidential Use Only

**ROUND VALLEY JUSTICE COURT OF ARIZONA**  
**IN APACHE COUNTY**

STATE OF ARIZONA, Plaintiff

Case Number: \_\_\_\_\_

-vs-

\_\_\_\_\_  
Defendant (FIRST, MI, LAST)

Date of Birth: \_\_\_\_\_

**ORDER REGARDING**  
**APPLICATION TO SET ASIDE**  
**CONVICTION AND RESTORATION**  
**OF FIREARM RIGHTS**

A.R.S. §§ 13-905 & 13-910

Based upon the information presented to the Court, **THE COURT FINDS THAT:** (only those items marked)

The prosecutor has received a copy of the Application to Set Aside Conviction.

- The defendant **has met** all statutory requirements for setting aside the conviction; AND  
 The defendant **has met** all statutory requirements for a certificate of second chance.  
 The defendant **has not met** all statutory requirements for a certificate of second chance.

**OR**

- The defendant **has not met** all the statutory requirements for setting aside the conviction.  
 The defendant was convicted of a criminal offense not eligible to be set aside due to:  
 a dangerous offense.  
 an offense for which the person is required or ordered by the court to register pursuant to A.R.S. § 13-3821.  
 an offense for which there has been a finding of sexual motivation pursuant to A.R.S. § 13-118.  
 a felony offense in which the victim is a minor under fifteen years of age.

**IT IS ORDERED:**

- DENYING** the application to set aside conviction for the following reasons:

- The defendant **has not met** all statutory requirements for the application.
- The defendant was convicted of a criminal offense **not eligible** for a conviction to be set aside.
- Other reasons:

- 
- GRANTING** the application setting aside the judgment of guilt, dismissing the complaint, information, or indictment, and that the applicant be released from all penalties and disabilities resulting from the conviction **except those imposed by**:
    - a. The **Department of Transportation** pursuant to A.R.S. §§ 28-3304, 28-3305, 28-3306, 28-3307, 28-3308, 28-3312, and 28-3319.
    - b. The **Game and Fish Commission** pursuant to A.R.S. §§ 17-314 or 17-340.
  - The applicant's right to possess a firearm is also **restored**.
- OR**
- The applicant's right to possess a firearm is **DENIED** due to the applicant's conviction for a serious offense as defined in section 13-706.

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**CERTIFICATE OF SECOND CHANCE**

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**IT IS FURTHER ORDERED:**

- DENYING** a certificate of second chance.
- OR
- GRANTING** a certificate of second chance, and accordingly, pursuant to A.R.S. § 13-905(K):
    1. Unless specifically excluded by A.R.S. § 13-905(K), the defendant is released from all barriers and disabilities in obtaining an occupational license issued under title 32 that resulted from the conviction if the defendant is otherwise qualified;
    2. An employer of the defendant is provided with all of the protections that are provided pursuant to section A.R.S. § 12-558.03;
    3. Another person or an entity that provides housing to the defendant is provided with all of the protections limiting the introduction of evidence that are provided to an employer pursuant to A.R.S. § 12-558.03, subsection b; and
    4. This certificate of second chance is not a recommendation or sponsorship for or a promotion of the defendant when applying for an occupational license, employment or housing.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Judicial Officer