



ANDREW G. PAPPAS



Reflections

An interview with Chief Justice Ann A. Scott Timmer

**INTERVIEW BY ANDREW G. PAPPAS & ERIC M. FRASER
PHOTOGRAPHY BY JOHN HALL**

In June, Chief Justice Timmer of the Arizona Supreme Court sat down with Andrew G. Pappas and Eric M. Fraser for a wide-ranging discussion regarding her strategic agenda for the Court, its public-outreach efforts, her role as Chief Justice and the state of the judiciary. A transcript of their conversation, edited for clarity and length, follows.

A portrait of Eric M. Fraser, a man with glasses, wearing a dark blue suit, white shirt, and a patterned tie. He is sitting at a wooden desk with a brass clock and a pen holder. The background shows a window and a bookshelf.

ERIC M. FRASER

A portrait of Honorable Ann A. Scott Timmer, a woman with blonde hair, wearing a dark grey blazer over a patterned top. She is sitting at a wooden desk with a computer monitor and keyboard. The background shows a bookshelf and a framed picture.

HONORABLE ANN A. SCOTT TIMMER

THE HONORABLE ANN A. SCOTT TIMMER has served as Chief Justice of the Arizona Supreme Court since July 1, 2024. She served as a Judge on the Arizona Court of Appeals, Division I, from 2000 to 2012, including as Chief Judge from 2008 to 2011. Before her judicial service, she was in private practice in Phoenix from 1985 to 2000.

ANDREW G. PAPPAS and **ERIC M. FRASER** are members of Osborn Maledon, P.A. in Phoenix, where their practice focuses on civil appeals. Fraser and Pappas co-author the civil “Appellate Opinion Highlights” that appear in *Arizona Attorney Magazine* each month. Additionally, Pappas edits, and Fraser is an editor emeritus, of the AzApp Blog (azapp.com).

Eric M. Fraser: Let’s begin with the strategic agenda for the court that you put out, “... And Justice for All.” First question: is this the first strategic agenda that is named after a Metallica album? And were you aware of that?

Chief Justice Timmer: Yes—I was, actually. But that’s not why I picked it. Although I did appreciate the connection to Metallica, because who wouldn’t?

EMF: The strategic agenda’s first two priorities are expanding and promoting access

to justice, and maintaining public trust and confidence. Do you view those objectives as linked?

Chief Justice Timmer: No, I hadn’t until you mentioned it. I viewed them as separate considerations. One, access to justice is really *meaningful* access to justice. We all know that people have difficulty navigating our system and resolving their problems and even identifying that their problems are *legal* problems. They don’t know that their inability to get medical help may be because it’s a legal problem, not a medical problem

or such. But if the court is able to close that gap, that would promote trust in the judiciary itself. So, they really do dovetail into each other.

EMF: If people feel like they don’t have a way to get their problems solved, they think that the judicial system is made for other people—is that right?

Justice Timmer: Exactly. We have discovered that the more people have access to the courts and see them in action, whether as litigants or jurors or observers, the more

trust they have in the courts. We know from juror surveys that they might lack trust or confidence in the courts at the outset. And then they do jury duty, and they say, well, this was a really fair system. They got a fair shake. The judge did a good job. We know that the more people interact with the justice system, the better they feel about it. So, I believe that the more we give people an ability to access support to resolve their own problems, the better view they will have of the court system.

EMF: The court has been issuing the news releases and AI videos in connection with its decisions. Who is the target audience for those release and videos?

Justice Timmer: Everybody is the target audience. The news releases came about last fall. I had been frustrated that when we issue opinions, the lawyers and parties probably understand what we're doing, but it's a lot to digest for members of the media or members of the public. Over the years, we tried to make it easier by giving a nutshell description of each decision in its opening paragraph. But that wasn't doing it.

We decided we wanted a summary, and we called it a press release because we didn't want it to be viewed as a supplement to the decision. It is addressed to the media. It is addressed to attorneys and to judges and others interested. And it's also aimed for the greater public. We really try to make it as simple as possible. The authoring justice writes the summary and then tries to simplify it. When I do it, I write the summary, put it in ChatGPT, ask that it be simplified to an eighth grade reading level and then edit it for accuracy. When the opinion is finalized and circulated to everyone for approval, so is the summary. Everyone has to approve it, so you know when you see the summary, that's coming from the full court.

In addition to the opinion and press release, I wanted a video component. I've got kids—they, like most people, get their news on their phones. So, I wanted a video of 45–60 seconds. We struggled with the question of who would make the videos. One of the justices? Our public information officer suggested we could license an AI avatar to do this. That's why Victoria and Daniel were born. They're exclusive to the court, so no one can go buy one off the shelf and imitate it. The authoring justice drafts a voice

script, and every justice has to approve that. For my summaries, I use AI to help with simplicity and tone, using my prior scripts as examples.

Overwhelmingly, the feedback has been positive. The media are reporting on and quoting from our press releases, which is what we were hoping for. The media, of course, can cast a decision however they choose—that's up to them. But at least it's accurate. The avatars have been very successful, I think, because people are inter-

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ested in them. Whereas before we would get maybe two hits a day on our video platform, now we get hundreds of hits when a case is released.

We've also improved the news features on our website and hope to expand our presence on social media. It's a noisy, busy world, and people don't understand what the courts do and what they don't do. It's not because they're not intelligent. It's just they haven't been taught about the courts since maybe high school civics. Even then it was a blip, and it was focused on the federal system. No one talks about the state system, which is a bugaboo of mine.

EMF: That seems like a civics gap. Do you think videos about individual decisions will help close that gap in civics understanding?

Justice Timmer: A little bit. It's going to take more than that. We have a committee of mostly of non-judges and non-lawyers—we're talking videographers, media people, and journalists—to advise us on what we should be doing in terms of public outreach. Justice James Beene is

chairing that committee.

People don't really think about how vital the courts are to every community in this state. One thing I've seen as I go around the state is the footprint that the court system has for daily life in communities. To give you an example, we were just in Yuma for Justice Maria Elena Cruz's investiture. While we were there, we had lunch with the local judges. We had oral argument for the public to see and answer questions. And then we went to the probation department, which is part of the judicial branch but partners with medical and social service providers. It's phenomenal to see what they've done in terms of turning lives around and keeping people off the street so they don't re-offend.

Andrew G. Pappas: Do the courts have any sort of formal civic education initiative for Arizona schools?

Justice Timmer: Yes, we do. One of my goals is to get state-specific information in the schools, not just about courts but about state and local government more generally. That is the government that affects you most in your daily life. That is true for state courts too. About 98% of cases in the U.S. are in state courts. Yet schools teach people nothing about the

state court system.

The Supreme Court goes out twice a year to high schools. We try to pick places where there aren't a lot of families with lawyers, so students don't know a lot about the practice of law and the court system. We'll have oral arguments there. We invite members of the community, and people are allowed to ask questions, and the students ask pretty darn good questions. And then we'll usually have lunch with a group of students, people interested in law and answer their questions more casually just around the table.

The Court of Appeals also does a program like that within their respective districts. And, of course, we also go out to the law schools and have argument and answer the law students' questions.

One of the things you might have seen in the strategic agenda is I'd like to have an adult civics education program. We've just reached out recently to Mohave County, which has a civics academy that they conduct. We don't want to reinvent the wheel, so we're checking to see what other counties are currently doing and trying to build on that.

Six or seven years ago, Justice John Pelander shepherded a program in which we developed a whole curriculum for teaching about the courts, and the idea was to get volunteer judges into the schools. Much to our disappointment, although we had plenty of judges who signed up, very few schools wanted them. We have all the material still, so I have thought about restarting that and reaching out to school districts.

I've been in this building for 25 years, at the Court of Appeals and now the Supreme Court. The first five years or so, we had a steady stream of fourth graders coming through. They would go first to the Capitol, then they would come over here. And it was great. They would come into the courtroom, and we'd all take turns on talking to these kids. But we never see them anymore. Occasionally, we'll get the high schools, but only if you have a motivated teacher. There's one teacher who has come for the past few years with an AP class, and man, are they sharp. And the questions they ask! They're not asking, "Oh, what do you do all day?" They're asking, "Do you think *Marbury v. Madison* was correctly decided?" They're

so well prepared, and I applaud teachers like that. It breaks my heart there are not more out there pushing at that level for those kids. Because I think there is a thirst out there. For this generation coming up, as for prior generations, we all want to make our society better. To do that, you have to have information. And so, I think there's an appetite for it.

EMF: Arizona courts live stream all arguments and record the videos. That is about as direct public access as you can get. If Chief Justice John Roberts called you and asked, "How's Arizona's experience been with that been? Have you seen problems? Have you seen lawyers, judges, grandstanding? Do you see the media taking snippets out of context?" What would you tell him about live streaming and having oral argument videos posted online?

Justice Timmer: I would tell him that, for us, we've had no problems with it at all. No one has done anything corrupt. Nobody has tried to make little avatars of us or cut and slice to take things out of context. I've never seen a lawyer or judge grandstand because of

the cameras. You forget they're there. I forget the audience is there. You're so focused and thinking that who has time to grandstand? And why would you? That's what I've always wondered about his comments.

There have been a few times—I can count on one hand—when we've had a high-profile case, and you get a little bit of grandstanding that I know the lawyer knows has no persuasive value to us. I never chalked it up to the cameras, though. I attributed it to the fact that their client is sitting there, and their client can't appreciate that the rhetoric is not going to have any sway with the judges. As a lawyer, you're wasting your time even mentioning it.

AGP: Does the court monitor things like how often oral argument videos are watched?

Justice Timmer: I don't know. I watch them because I don't usually take notes in oral argument unless I have a question, because I really want to listen. So very often, I'll go back and look at the argument video.

AGP: How does your role make you think differently about the Court as an institution

compared to before you became Chief Justice?

Justice Timmer: Have I thought differently? I don't know that I have, and probably because I was the Vice Chief for five years, so you're already involved in the administration of the court. But as the Chief, I see more of the importance of the court in our communities beyond just the decision-making.

Before becoming chief I traveled around the state with Chief Justice Robert Brutinel. So much of what we do is regulation of the courts, and what works in Maricopa County might not work in Cochise, and I don't want the rural areas left behind. You look at a lot of things like that when making decisions on rules or procedures and such. In going around the state in preparation for this role, it really struck me how seeped in the court system all our communities are in a way that we probably take for granted.

For example, we have really gotten away from just locking kids up, which is a good

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thing. I've seen a real shift to juvenile probation officers really asking, "How can we resolve whatever your problem is?" How can we make being on probation a success, so you don't re-offend? The juvenile folks in Apache County have a beautiful juvenile facility with basketball courts, video games, a recording studio, and things that the kids can go do after school, like get homework help. That's also where they can meet with a probation officer, if they wish. But it's meant to keep them busy in a productive way. And

it's open not only to juvenile offenders but to everybody in the community, so it's become a center for all the kids in the town there. They just do great things, and it's now this core part of their community. So, the institutional reach of courts has made an impression on me and evidences yet another reason why we need to preserve people's confidence in courts.

AGP: Does that broader institutional perspective inform your judicial decision making?

Justice Timmer: No. The law is the law, really. So, the decisions you make are the decisions that are directed by the Constitution, the law and the application to particular facts. What it probably does inform, though, is how we deliver decisions and how we react. The way we've written decisions has really changed over the years. That's true nationwide. There's real emphasis on getting rid of the legalese, making things understandable, putting things up front.

The speed at which we do things is one

thing that keeps me up at night, because I'm very well aware that people are waiting for these decisions. That's especially true if it's a family thing or something that affects people's daily life or business—that's the kind of law I used to practice. They need a decision so they can plan and move on. It's a bit of my thing to push these things out. So, even if we can't get the fully vetted opinion out, perhaps can we get an order out saying what we've decided. Stay tuned for the opinion that's going to explain in detail, but at least this allows you to go on.

AGP: You've talked a lot, we've talked a lot, about preserving trust. The last several years, of course, there have been lots of attacks on the federal judiciary across the political spectrum and all the way up to the President of the United States. What do you make of those attacks?

Justice Timmer: I find them upsetting and disturbing, of course. It's open season for criticisms of judicial opinions, and that's fine. That's fair. Judges aren't perfect. They're going to get it wrong, which is why we have appellate courts. And when we get

it wrong, the legislature can change the law. That's how our system was meant to work. So, it's fine to be criticized. But I have been disturbed about the personal attacks on particular judges and courts. It has gone on in the states as well, but it seems to have ramped up a bit on the federal side, and I am disturbed by it. When you single out a judge for making a decision and then cast that decision as a matter of his or her policy preferences, that undermines people's faith in the judiciary, and it may put that judge and his or her family in jeopardy.

That intimidation factor, fortunately, is rare, and I hope that it remains rare. But that's a concern, and it's a concern on the state side, too. We saw something like that in the last election, with people saying, "We don't like this decision, so we're going after you."

And why is that a concern? Well, for the reasons that probably are obvious. One, who's going to want this job? My law clerk will make more money than I do when she goes to a law firm. So, to be a judge, you give up your practice, you give up your clientele, you may give up a lot of money. For

what? To do what you think is the right thing and then in two years, and every four or six years after that, you're going to be targeted, your family might be intimidated, and you might lose your job. We're noticing that it's difficult to convince people to want to be a judge, and it's vital that we get bright people to do this job. Especially at the trial level, it has become difficult.

EMF: What role do you think lawyers should play in light of the attacks on judges?

Justice Timmer: Lawyers are officers of the court. In my view, that means they should be telling people about what the courts do. And they're in the best position because they're all over the state. They have many, many friends and neighbors and such. That is not to say that they have to be cheerleaders for the court. Certainly, they can disagree with a decision. And I know I have as well. When I was an attorney, I wondered, how can they be thinking that? But I never said it's because they were appointed by a Republican or a Democrat, or they're clearly just doing what they want to do. I would tell my client they got it wrong. But I think it's incumbent upon

lawyers to explain to friends and neighbors and everybody that grouches about a case or a court system to set the record straight about what a court is. Judges are not allowed to make policy decisions. That's up to the legislature. News stories often refer to "Judge so-and-so, who was appointed by a Republican governor or a Democrat governor." That communicates to the people reading it that it matters to the decision that the judge is a Republican or a Democrat, or that they were appointed by this particular governor. But of course, it doesn't matter. It's not supposed to matter. You take an oath to uphold the Constitution of the United States and the constitution and laws of the State of Arizona. You don't make an oath to who appointed you and how they think the world should work or how the laws should be interpreted. That's the kind of thing we fight against. That's what lawyers could help us do—just accurately explain how the system is supposed to work.

AGP: One of the recent attacks from the executive branch has been that the courts are insufficiently deferential to the political

branches. What do you make of that?

Justice Timmer: We always hear that. That's the uncomfortable struggle between branches that was intended when our Constitution set up checks and balances. You always hear from the legislature, "Well, you should have deferred to us; this is what we meant." And our answer is always, "This is what we thought you meant because this is the way you wrote it."

Years ago, Justice Brutinel and I went to the new legislators' orientation to talk about statutory interpretation. Through that experience and others, I realized that legislators are at the 30,000-foot level proposing policy, and things are just flying a mile a minute. As a judge, I would assume legislators are sitting down and reading bills word for word, considering grammar and syntax before voting on them, and they're not. They don't have time for that, and they can't do that. It's the big idea, and it's in there. Yet the Court is over here saying, "Well, gosh, they put a semicolon here, and they changed this comma." They must have meant something. So, we're approaching these things at different levels. What courts are trying to

do is understand what did the legislature intend by the words used? Sometimes we get it wrong, and then the legislature can go back and change the law. That's how it's supposed to work. So, should we defer? We do in terms of policy, of course, because that's the legislature's role. But from the court's perspective, we're just interpreting what the legislature said or how we view the Constitution. And the Constitution might be against what the legislature has done. So, we're not going to defer to legislation or an executive order that violates the Constitution. Our oath is to uphold the Constitution.

AGP: The legislature referred a measure to the voters, Prop. 137, that would have ended judicial retention elections. The very same electorate that retained every judge on the ballot also defeated that referendum by a huge measure. How do you interpret that?

Justice Timmer: I think they're consistent, actually. The public probably doesn't have complete trust in any government institutions, but state courts are doing better than other institutions. The public isn't willing to let go of the ability to give a thumbs up or

thumbs down to a judge. So, I think that it's consistent for them to want to maintain the retention elections and at the same time vote to retain everybody.

I get where the bill came from. I know there have been efforts to reform retention elections, because they cause ballots to be so long, especially in Maricopa County. I think they'd be better off just extending the judicial terms. We have short terms compared to other states. Even most supreme courts are more like 10 or 12 years. But a four-year term for a Maricopa County superior court judge means there are always many judges on the ballot, and it's a lot to ask voters to really give deep thought to these folks.

EMF: Is there anything you want to talk about that we haven't talked about?

Justice Timmer: One thing worth repeating is how little ideology matters. When appellate court judges and justices get in a conference room to talk about a case, it's never a *fait accompli*. Judges really do have a great dis-

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cussion about the case. And judges change their minds more than people would think, even after oral argument. I think that happens more at the Supreme Court than the Court of Appeals. Many times, it's because of what the litigants have said, and many times it's because a fellow justice has asked a question that puts the case in a different light. I think people would be reassured—I would be—to know that judges are listening not only to the lawyers but also to their colleagues to try to get it right. That's really

what they're trying to do—get it right under the law.

EMF: I think that's reassuring both to litigants and also their lawyers, who put a lot of time into trying to get it right themselves.

Justice Timmer: Well, lawyers have to push a position. It's funny, I remember as a lawyer thinking, "Gee, isn't that amazing that I always happen to be on the correct side?" Because you could convince yourself that yours is the right side. When you get on the

bench, you say, "I can really see both sides of this," and it's very different.

EMF: I think it's true that judges want to get it right, but getting it right looks different to different judges. The federal system has had more party switches over time, so you have judges appointed by presidents of different political parties. Even if judges are not letting their own personal views on policy issues come into their decisions, different presidents are looking for differ-



ent things in terms of interpretive methods and the ways we think about the law, the ways we think about the Constitution, the way we think about statutes and executive power and things like that. So those things do play a role.

Justice Timmer: They do play a role. What doesn't play a role is that because you're a Republican, you're going to go with whatever the Republican Party wants to do. But how you view constitutional interpretation does make a difference. How strict are you in looking at just the words? Are you more focused on understanding the intent so that you aren't just going to a dictionary for each word? There's a whole level of gray separating what people think is appropriate. And that's fine, because people have different sensibilities.

When you're up on the ballot, groups will send questionnaires asking, which Supreme Court justice do you most identify with? I always send back something saying, I'm not going to be pigeonholed. Who am I most like? I have no idea, because I'm not that invested in trying to identify with anybody, particularly. So, I'll write a letter saying, you want to know my judicial phi-

losophy, so let me tell you: This is what I think, and this is how I do things, and there you have it.

EMF: Judicial philosophy does drive decisions, and different judges have different views on which tools or methods are legitimate or illegitimate or even outcome-driven, right?

Justice Timmer: Methodological questions are usually where our court splits. For example, Justice Clint Bolick and I go back and forth all the time about the role of common law in Arizona. I've written a couple of decisions where I even wrote, "Judges make law. It's called the common law," and by statute, Arizona is a common-law state.

Another difference in methods has to do with corpus linguistics. I'm not sold on corpus linguistics yet. A lot of my colleagues are and have cited it. And I'm not saying it's not accurate. I just don't know. It might be the greatest thing since sliced cheese, but no one has really demonstrated it. I think of it almost like expert testimony: you need to lay some foundation that this isn't junk science. But that hasn't been done. And the lawyers don't seem to weigh in at all

on it. We've also had discussions about the validity of dictionaries. Who wrote the dictionary? Who decided this is the definition? Sometimes, I feel like I'm back in my dorm room, debating the great issues of the day.

Another thing I would add is that, at least from the appellate court's perspective, we're lucky here that the lawyers do a really good job, for the most part. I am very pleased with the caliber of the people that come into the courts and argue.

EMF: Do you sense that it's a pretty collegial appellate bar?

Justice Timmer: I sense that, yes. I hope it is. And maybe that's part of the reason I go to their appellate section and quaff a few beers with them. They seem pretty friendly.

It's always an interesting debate between appellate lawyers and trial lawyers who then do their own appeals about who does the best job. I was more of a trial lawyer who did my own appeals. You know the record. But then the lawyers who do the appeals are always very smooth, very organized in their thoughts, very responsive. But for the most part, all the lawyers do a good job, I think. **AZ**