

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

Mark Raymond Hornak

2. **Position:** State the position for which you have been nominated.

United States District Judge for the Western District of Pennsylvania

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: Buchanan Ingersoll & Rooney PC  
One Oxford Centre  
301 Grant Street, 20th Floor  
Pittsburgh, Pennsylvania 15219



4. **Birthplace:** State year and place of birth.

1956; Homestead, Pennsylvania

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1978 – 1981, University of Pittsburgh School of Law; J.D. (*summa cum laude*), 1981  
1974 – 1978, University of Pittsburgh; B.A. (*cum laude*), 1978

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

1982 – Present  
Buchanan Ingersoll & Rooney PC  
One Oxford Centre  
301 Grant Street, 20th Floor  
Pittsburgh, Pennsylvania 15219  
Shareholder / Partner (1989 – present)  
Associate (1982 – 1988)

1989 – 1993  
University of Pittsburgh School of Law  
3900 Forbes Avenue  
Pittsburgh, Pennsylvania 15260  
Adjunct Professor of Law

1981 – 1982  
United States Court of Appeals for the Fourth Circuit  
United States Courthouse  
500 Quarrier Street  
Charleston, West Virginia 25301  
Judicial Law Clerk to the Honorable James M. Sprouse

Summer 1980  
Buchanan Ingersoll PC (now known as Buchanan Ingersoll & Rooney PC)  
One Oxford Centre  
301 Grant Street, 20th Floor  
Pittsburgh, Pennsylvania 15219  
Summer Associate

Summers 1978 & 1979  
United States Steel Corporation  
Homestead District Works  
Homestead, Pennsylvania 15120  
Summer Management Trainee in Labor Relations (1979)  
Summer Trainee, Employment Services, Labor Relations Division (1978)

Other Affiliations (uncompensated except as noted)

2009 – Present  
The Pittsburgh Foundation  
5 PPG Place  
Pittsburgh, Pennsylvania 15222  
Director

2009 – Present  
Leadership Pittsburgh  
425 Sixth Avenue, Suite 1120  
Pittsburgh, Pennsylvania 15219  
Director

2008 – Present  
Pennsylvania Economy League of Southwestern Pennsylvania, LLC  
Regional Enterprise Tower  
425 Sixth Avenue, Suite 1100  
Pittsburgh, Pennsylvania 15219  
Director

2005 – Present  
WQED Multimedia  
4802 Fifth Avenue  
Pittsburgh, Pennsylvania 15213  
Director

1995 – Present  
Academy of Trial Lawyers of Allegheny County  
350 Jonquil Place  
Pittsburgh, Pennsylvania 15228  
Board of Governors (2002 – 2003, 2009 – 2010)

1994 – Present  
Sports & Exhibition Authority of Pittsburgh and Allegheny County  
Regional Enterprise Tower  
425 Sixth Avenue, Suite 2750  
Pittsburgh, Pennsylvania 15219  
Assistant Secretary (position held in client of my firm, for which my firm is paid)

1999 – 2005  
Girl Scouts of America, Western Pennsylvania Council  
30 Isabella Street  
Pittsburgh, Pennsylvania 15212  
Director

1993 – 1999  
Make-A-Wish Foundation of Western Pennsylvania  
707 Grant Street  
Pittsburgh, Pennsylvania 15219  
Director (1993 – 1999)  
Vice Chairman (1997 – 1999)

1983 – 1993  
Steel Valley School District  
220 East Oliver Road  
Munhall, Pennsylvania 15120  
Director (1983 – 1993)  
President (1987 – 1988)  
Vice President (1985 – 1986)

1974 – 1993  
Munhall Volunteer Fire Department  
3401 Main Street  
Munhall, Pennsylvania 15120  
Battalion Chief (1983)  
Captain (1980)  
Lieutenant (1977 – 1978)  
Assistant Engineer (1976)  
Second Vice President (1975)

1987 – 1990  
Allegheny Intermediate Unit  
475 East Waterfront Drive  
Homestead, Pennsylvania 15120  
Member, Board of School Directors

1989  
Carnegie Library of Homestead  
510 East 10th Avenue  
Munhall, Pennsylvania 15120  
Chairman, Citizen's Transition Committee

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. Military. I registered for Selective Service upon turning 18.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

“Best Lawyers in America” (2006 – 2010)  
“Pennsylvania Super Lawyer” (2004 – 2010)  
“Top 50 Lawyers in Pittsburgh” (2004 – 2010)  
“America’s Leading Lawyers for Business,” *Chambers International* (2003 – 2010)  
Martindale-Hubbell, “AV” rating

“Client Service All-Star,” BTI Consulting Group, Inc. (2006)  
Distinguished Alumnus and “Friend of Steel Valley School District,” Steel Valley High School (2004)  
Life Fellow, American Bar Foundation (since 1998)  
Fellow, Allegheny County Bar Foundation (since 2002)  
Fellow, Academy of Trial Lawyers of Allegheny County (since 1995)  
Distinguished Service to Public Education Commendation, Pennsylvania House and Senate (1993)

Law School

Order of the Coif

University Scholar

University of Pittsburgh Law Review (Volume 42 Editor-in-Chief)

Allegheny County Bar Association Prize

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Academy of Trial Lawyers of Allegheny County

Board of Governors (2002 – 2003, 2009 – 2010)

Chairman, Program Committee (2010)

Chairman, Retreat Committee (2007)

Chairman, Federal Practice Committee (2001)

Allegheny County Bar Association

Allegheny County Bar Foundation

American Bar Association

Forum on Communications Law

Forum on Construction Law

Labor and Employment Law Section

Litigation Section

American Bar Foundation

American Inns of Court, University of Pittsburgh Chapter (1999 – 2001)

American Law Institute

Consultative Committee on The Restatement (Third) of Employment Law.

(I am listed as a member of the Consultative Committee on the Model Penal Code, but have not participated in its work.)

Media Law Resource Center

ALI Task Force

Co-Chair, Jury Verdict Study Committee (2004 – 2006)

Defense Counsel Section

Ethics Committee

U.S. District Court for the Western District of Pennsylvania

Advisory Committee on Practice and Procedure (2001 – Present)

West Virginia Bar

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Pennsylvania, 1981  
West Virginia, 1983

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 1996  
United States Court of Appeals for the Third Circuit, 1981  
United States Court of Appeals for the Fourth Circuit, 1982  
United States Court of Appeals for the Seventh Circuit, 1996  
United States District Court for the Western District of Pennsylvania, 1981  
United States District Court for the Southern District of West Virginia, 1983  
United States District Court for the Northern District of West Virginia, 1991

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Allegheny Intermediate Unit (1987 – 1990)  
Board of School Directors (1987 – 1990)  
Carnegie Institute and Museums (Pittsburgh, PA) family membership (approx. 1992 – Present)  
Carnegie Library of Homestead Citizen's Transition Committee (1989)  
Chairman (1989)  
Girl Scouts of America, Western Pennsylvania Council (1999 – 2005)  
Director (1999 – 2005)  
The Law Club of Pittsburgh (2009 – Present)  
Leadership Pittsburgh (2009 – Present)  
Director (2009 – Present)

Make-A-Wish Foundation of Western Pennsylvania (1993 – 1999)  
     Director (1993 – 1999)  
     Vice Chairman (1997 – 1999)  
 Mon Valley Commission (1986)  
 Munhall Volunteer Fire Department (1974 – 1993)  
     Battalion Chief (1983)  
     Captain (1980)  
     Lieutenant (1977 – 1978)  
     Assistant Engineer (1976)  
     Second Vice President (1975)  
 National Geographic Society (via magazine subscription) (approx. 1965 – Present)  
 Pennsylvania Economy League of Southwestern Pennsylvania (2008 – Present)  
     Director (2008 – Present)  
 Pennsylvania School Boards Association (1983 – 1993)  
 Pittsburgh Cultural Trust (2010 – Present)  
 The Pittsburgh Foundation (2009 – Present)  
     Director (2009 – Present)  
 Pittsburgh (PA) Zoo, family membership (approx. 1992 – Present)  
 The Rivers Club (approx. 1991 – Present)  
 Southpointe Golf Club (2001 – 2004)  
 Steel Valley School District (1983 – 1993)  
 Transition Advisory Committee on Judicial Issues, Pennsylvania Governor-elect Edward G. Rendell (2002 – 2003)  
 United Way of Allegheny County  
     Leadership Giving Committee (2003 – 2004)  
     Toqueville Society (approx. 2001 – Present)  
 University of Pittsburgh Athletic Department “Panther Club” (approx. 2006 – Present)  
 University of Pittsburgh School of Law “Law Fellows” and “Chancellor’s Circle” (approx. 2001 – present)  
 Upper St. Clair Township (PA) Municipal Recreation Center, family membership (2009 – Present)  
 Woodland Hills (Upper St. Clair, PA) Swim Club, family membership (approx. 1999 – Present)  
 The World Affairs Council of Pittsburgh (approx. 2001 – Present)  
 WQED-TV, family membership (approx. 1992 – Present)  
 WQED Multimedia (2005 – Present)  
     Director (2005 – Present)

Over the years, I have made charitable contributions to organizations which have considered me a member solely by virtue of those contributions, such as the United Way’s Tocqueville Society and the University of Pittsburgh “Panther Club,” “Law Fellows” and “Chancellor’s Circle.” There may be other such organizations that consider me a member without my knowledge.

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies. The Girl Scouts of America have no membership restrictions on adult members, over age 18. Scouting membership is limited to girls and young women, kindergarten to twelfth grade. The Munhall Volunteer Fire Department had restrictive membership practices in the past. I participated in the development of the Department's non-discrimination policies.

**12. Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

This list represents the published material I have identified through searches of my files and Internet databases. I have tried my best to list all of them here, although there may be some that I have not been able to identify or locate.

Mark Hornak & Emilie R. Hammerstein, *Annual Survey of Pennsylvania Employment Privacy Law*, in MLRC 50-STATE SURVEY: EMPLOYMENT LIBEL AND PRIVACY LAW, 2010. I published substantially similar articles from 2005 to 2009 with other co-authors. Copies supplied.

Mark Hornak, Mathew J. Feeley & Kathleen Jones Goldman, *Touching A Hot Stove, Twice*, MEDIA LAW LETTER (Media Law Resource Center, N.Y.), December 2009. Copy supplied.

Mark Hornak & Kathleen Jones Goldman, *Hello Iqbal, Goodbye Lawsuit – West Virginia Federal Court Dismisses Defamation Action Against Author and Publisher Filed by a Convicted Felon*, MEDIA LAW LETTER (Media Law Resource Center, N.Y.), August 2009. Copy supplied.

*Reviving the GOP* (Letter to the Editor), TIME, November 5, 2007. Copy of both submitted and edited letter supplied.

*Lost Opportunity* (Letter to the Editor), PITTSBURGH POST-GAZETTE, March 12, 2004. Copy supplied.

*To Cyril A. Fox, jr. – Counselor and Friend*, 65 U. PITT. L. REV. 697 (2004). Copy supplied.

*Clarifying the Fair Labor Standards Act*, TEQ, August 2003. Copy supplied.

*Avoiding Defamation in the Workplace, Giving References and Disciplining Employees While Avoiding Liability*, Buchanan Ingersoll Professional Corporation client “White Paper Series,” 1999. Copy supplied.

Mark Hornak & Gregory A. Miller, *Third Circuit Affirms Summary Judgment in Civil Rights Action Brought Against Joseph Wambaugh*, LIBELLETTER (Libel Defense Resource Center, N.Y.), October 1999. Copy supplied.

*New Law Expands Paperwork Burden and Liability Threat for Employers*, LEGAL BACKGROUNDER, February 6, 1998. Copy supplied.

Mark Hornak, Judi Lewis & P. Jerome Richey, *3<sup>rd</sup> Circuit Designs Blueprint for Changing Employee Benefits*, PENNSYLVANIA LAW WEEKLY, June 16, 1997. Copy supplied.

Mark Hornak, Judi Lewis & P. Jerome Richey, *Modifying Employee Benefits; Third Circuit Places Employers on a Slippery Slope in Disclosing Amendments to Benefits Plans*, NATIONAL LAW JOURNAL, February 24, 1997. Copy supplied.

*The Employment Paper Trail: Using Documentation and Performance Appraisals to Avoid the Potholes*, Buchanan Ingersoll Professional Corporation client “White Paper Series,” 1996. Copy supplied.

*Minimizing Risks in References and Employee Discipline*, Buchanan Ingersoll Professional Corporation client “White Paper Series,” 1996. Copy supplied.

*Go Back to School, Governor*, PITTSBURGH POST-GAZETTE, March 21, 1992. Copy supplied.

*How Do You Set Up a Substance Abuse Program for Your Company? . . . Very Carefully!*, DYNAMIC BUSINESS, April 1990. Copy supplied.

*Re-Employment Rights Activated With the Reserves*, DYNAMIC BUSINESS, 1990. Copy supplied.

*Editor’s Desk*, 42 U. PITT. L. REV., reverse of masthead page (1980). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

In October 2002, I submitted comments regarding the ALI International Jurisdiction and Judgments Project/Council Draft No. 2 of the American Law Institute in conjunction with Thomas Leatherbury of Vinson & Elkins LLP. Supplied are a copy of my Memorandum and a short article prepared by Mr. Leatherbury which includes the text of his submission, which I joined.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

February 6, 2008 – Mary Conturo, Executive Director of the Sports & Exhibition Authority, was invited to testify before the Committee on Public Safety of the Allegheny County Council regarding a floor collapse that had occurred at the David L. Lawrence Convention Center. As Solicitor of the Sports & Exhibition Authority, I attended the Committee meeting as well. During the meeting, I was recognized by the Committee and answered questions asked of me. Minutes supplied.

October 20, 2003 – Letter to U.S. Senate Committee on the Judiciary in support of D. Michael Fisher’s nomination as Circuit Judge for the Third Circuit. Copy supplied.

I served on Governor Edward G. Rendell’s Transition Committee on Judicial Issues, which delivered reports to Governor Rendell entitled “Report on Process for Filling Interim Judicial Vacancies,” dated January 24, 2003, and “Final Report of Transition Committee on Judicial Issues,” dated February 20, 2003. Reports supplied.

February 25, 2002 – Letter to U.S. Senate Committee on the Judiciary in support of D. Brooks Smith’s nomination as Circuit Judge for the Third Circuit. Copy supplied.

From approximately 1973 to 1983 and from approximately 2003 to 2007, I occasionally attended public meetings of the local municipal council or the local school board. During several of those meetings, I provided unsolicited citizen comments during the portion of the meeting designated for such comments. I have been able to locate meeting minutes for two public meetings of the Upper St. Clair School Board, dated June 29, 2006 and February 20, 2006. On June 29,

2006, I commented on a bill for legal fees submitted by a law firm that was representing the school district. On February 20, 2006, I commented on the IB program. At other public meetings for which I am unsure of the date, I recall commenting on the need for a new Steel Valley High School, the importance of an advanced life support emergency medical system in the Borough of Munhall, the importance of a quality public school curriculum, and my personal appreciation for the work of teachers and administrators and for the local school board's recognition of student involvement at such public meetings. Copies of the referenced meeting minutes are supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

This list represents the speeches and talks I have identified through searches of my files and Internet databases. I have tried my best to list all such events, although there may be some that I have not been able to identify or locate.

July 6, 2010: Pittsburgh Technology Council/Carnegie Mellon University (Pittsburgh, PA). I gave brief remarks introducing the speakers, and moderated a brief question and answer session, at a program entitled "Technological Advancements in Mine Safety." I have no notes, transcripts or recordings. The address of the Council is 2000 Technology Drive, Pittsburgh, PA 15219. The address of the University is 5000 Forbes Avenue, Pittsburgh, PA 15213.

June 15, 2010: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I gave brief remarks introducing Mr. Kim Eisler, the speaker at a program related to his book, "Masters of the Game—Inside the World's Most Powerful Law Firm." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

March 18, 2010: American Inns of Court (Pittsburgh, PA). I participated in a panel presentation on the use of "early neutral evaluation" as an ADR tool. Group presentation outline supplied.

December 11, 2009: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I gave a presentation on the new Local Civil Rules of the United States District Court for the Western District of Pennsylvania. Presentation slides supplied.

November 17, 2009: Pennsylvania Bar Institute Employment Law “West” Program (Pittsburgh, PA). Gregory Miller and I gave a presentation entitled “Non-Compete Agreements: The ‘Top Ten’ List of Hot Issues.” Presentation slides supplied.

October 7, 2009: University of Pittsburgh School of Law (Pittsburgh, PA). I gave a presentation to a Media Law Class entitled “Newsgathering and the Law.” Presentation slides supplied.

September 29, 2009: Allegheny County Bar Association (Pittsburgh, PA). I participated in a panel discussion entitled “Valuing Employment Cases.” Program materials supplied.

June 16, 2009: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I gave brief remarks introducing David B. Fawcett III and Bruce Stanley, speakers at a program entitled “The Harman Case – Due Process Clause and the Right to an Impartial Tribunal.” I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

May 13, 2009: National Employment Lawyers Association – Pittsburgh Chapter (Pittsburgh, PA). I gave a presentation on the mediation process. Presentation outline supplied.

May 6, 2009: Buchanan Ingersoll & Rooney PC (Warrendale, PA). Jaime Tuite and I gave a presentation to some of our firm’s clients entitled “The Lily Ledbetter Fair Pay Act of 2009: Is Your Company At-Risk?” Presentation slides supplied.

February 19, 2009: Allegheny County Bar Association, Association of Municipal and School Solicitors (Pittsburgh, PA). I gave a presentation on the construction of major public venues in Pittsburgh. Presentation slides supplied.

May 26, 2008: Steel Valley Memorial Day Committee (Homestead Cemetery, Munhall, PA). Memorial Day remarks. Notes supplied.

May 22, 2008: Pennsylvania Bar Institute (Philadelphia, PA). I taught CLE segments on Punitive Damages in Defamation and Privacy Actions, Defamation and Privacy Law in the Pennsylvania Workplace, and Defamation, Jurisdiction and the Internet, at a seminar entitled “Defamation, Libel and Slander.” Materials and presentation slides supplied. I gave the same presentation at the same seminar in Pittsburgh on May 16, 2008, using the same materials and presentation slides.

May 8, 2008: Buchanan Ingersoll & Rooney PC (Warrendale, PA). I participated in a panel discussion entitled “Employment Law Update – Recent Developments

and Hot Topics” during a program for some of my firm’s clients. Materials and presentation slides supplied.

October 6, 2007: Academy of Trial Lawyers of Allegheny County (Farmington, PA). I gave remarks honoring Judge John J. McLean, Jr. Notes supplied.

September 21, 2007: Annual Retreat of United States District and Magistrate Judges, Western District of Pennsylvania (Bedford, PA). I gave a presentation to the Board of Judges entitled “Report on the Work of the Advisory Committee on the Rules of Practice.” Presentation slides supplied.

April 12, 2007: American Bar Association Forum on the Construction Industry (San Juan, PR). Stephen Leeper and I gave a presentation entitled “Lessons Learned – A Report Card for Major Public Venues in Pittsburgh and Cincinnati.” Materials and presentation slides supplied.

November 16, 2006: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of former judges entitled “A Candid Look Backwards: What Former Judges Can Teach Us About Trying Employment Cases.” I have no notes, transcripts or recordings. The address of the Institute is 5080 Ritter Road, Mechanicsburg, PA 17055.

October 10, 2006: National Union/AIG Insurance (Pittsburgh, PA). I participated in a panel discussion on the topic of preventing sexual harassment in the workplace, and investigating and documenting claims. Group presentation materials supplied.

May 23, 2006: Pennsylvania Bar Institute (Philadelphia, PA). I taught CLE segments on Punitive Damages in Defamation and Privacy Actions, Defamation and Privacy Law in the Pennsylvania Workplace, and Defamation, Jurisdiction and the Internet, at a seminar entitled “Defamation, Libel and Slander.” Materials supplied. I gave the same presentation at the same seminar in Pittsburgh on May 4, 2006, using the same materials and presentation slides.

November 17, 2005: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of federal judges entitled, “Litigating and Resolving Employment Cases – Views From The Bench.” Topical outline supplied.

November 18, 2004: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of federal judges entitled, “Your Day in Court – Effective Trial and Motions Practice in Federal Employment Litigation.” Topical outline supplied.

June 9, 2004: Steel Valley Senior High School (Munhall, PA). Commencement address. Notes supplied.

December 11, 2003: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I participated in a panel discussion entitled "New Local Rule 16 and New Local Rule 56." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

December 3, 2003: Carnegie-Mellon University's H. John Heinz III College (Pittsburgh, PA). I gave an informal presentation on current Media Law/FCC issues to a Media & Politics class. I have no notes, transcripts or recordings. The address of the University is 5000 Forbes Avenue, Pittsburgh, PA 15213.

November 19, 2003: Pennsylvania Bar Institute (Pittsburgh, PA). I moderated a panel discussion of federal judges and lawyers entitled "Summary Judgment in Employment Cases." Topical outline supplied.

November 25, 2002: Carnegie-Mellon University's H. John Heinz III College (Pittsburgh, PA). I gave an informal presentation on current Media Law/FCC issues, Media & Politics class. One-page handout supplied.

October 4, 2002: American Bar Association, Tort and Insurance Practice Section, Self-Insurers and Risk Managers Committee (San Francisco, CA). Colleagues gave a presentation entitled "Construction Litigation Trends & Strategies, Project Labor Agreements – An Update." I did not attend the conference, but I contributed a portion of the program paper. Materials supplied.

November 8, 2001: Industrial Relations Research Association of Southwestern Pennsylvania (Pittsburgh, PA). I participated in a presentation with Arthur J. Rooney II on the construction of Heinz Field. I have no notes, transcripts or recordings. The Association is now known as the Labor and Employment Relations Association, and its address is One Oxford Centre, 301 Grant Street, Suite 2570, Pittsburgh, PA 15219.

November 1, 2001: Buchanan Ingersoll PC (Pittsburgh, PA). I participated in a series of presentations, along with several colleagues, to some of our firm's clients entitled "Employment Law: An Update on Significant Developments," "Performance Appraisals and Workplace Policies to Minimize Risk," "How to Downsize and Stay Out of Trouble," "Workplace Crises," and "Human Resources Management." Materials and presentation slides supplied.

July 2001: Pennsylvania Newspaper Association (Hershey, PA). Shana Anderson and I gave a presentation to the 9th Annual Media Lawyers Conference on "Defamation & Invasion of Privacy Update." Materials supplied.

April 26, 2001: American Bar Association Forum on the Construction Industry (New Orleans, LA). Stephen G. Leeper and I gave a presentation entitled, "Big Building Boom in the 'Burgh: Pirates, Steelers, Conventions and More." Materials and presentation slides supplied.

March 20, 2001: Lorman Education Services (Pittsburgh, PA). I participated in a seminar presented by this organization entitled "Government Contracts in Pennsylvania" and, along with then-colleague James F. Glunt, spoke regarding "Bid Protest and Litigation" and "MBE/WBE/DBE Provisions in Public Contracts." Materials supplied.

December 14, 2000: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I co-moderated a panel discussion of federal judges entitled "Magistrates Roundtable" at the Academy's Annual Federal Practice Program. Topical outline supplied.

December 14, 2000: American Inns of Court, University of Pittsburgh Chapter (Pittsburgh, PA). I participated with others in a program entitled "An Introduction to Bankruptcy Court." I have no notes, transcripts or recordings. The address of this organization is University of Pittsburgh School of Law, 3900 Forbes Avenue, Pittsburgh PA 15260.

December 5, 2000: Pennsylvania Bar Institute (Pittsburgh, PA). I presented a segment in a "Employment Law Institute-West" program entitled, "Defamation in the Workplace: Drawing the Boundary Lines." Materials and presentation slides supplied.

September 28, 2000: Buchanan Ingersoll PC (Pittsburgh, PA). I gave a presentation to some of my firm's clients entitled "The Paper Trail – What Information Can Be Discovered in Employment Litigation." Presentation slides supplied.

April 13, 2000: American Inns of Court, University of Pittsburgh Chapter (Pittsburgh, PA). I participated with others in a program entitled "Deposition Dilemmas." I have no notes, transcripts or recordings. The address of this organization is University of Pittsburgh School of Law, 3900 Forbes Avenue, Pittsburgh PA 15260.

December 16, 1999: Academy of Trial Lawyers of Allegheny County (Pittsburgh, PA). I moderated a panel discussion of federal judges entitled "How to Make the Most of Your Court Conferences and Motions Practice." Topical outline supplied.

May 18, 1999: Buchanan Ingersoll PC (Pittsburgh, PA). I gave a presentation to some of my firm's clients on the topic of "Employee Privacy/Electronic Surveillance." I have no notes, transcripts or recordings. The address of the firm is One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, PA 15219.

March 20, 2001: Lorman Education Services (Pittsburgh, PA). I participated in a seminar presented by this organization entitled "Government Contracts in Pennsylvania" and, along with then-colleague James F. Glunt, spoke regarding "Bid Protest and Litigation" and "MBE/WBE/DBE Provisions in Public Contracts." Materials supplied.

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October 22, 1998: University of Pittsburgh School of Law (Pittsburgh, PA). I gave an informal presentation to law students regarding judicial clerkships. Invitation memorandum and discussion questions supplied.

July 12, 1998: International Society of Weekly Newspaper Editors (Edinboro, PA). I gave a presentation on current issues in media law. Discussion hypotheticals supplied.

May 19, 1998: Buchanan Ingersoll PC (Hershey, PA). I gave a presentation to some of my firm's clients entitled "Knowing When to Put Up and When to Fold: Thinking Through Settlement." Outline supplied.

April 28, 1998: Catholic Diocese of Pittsburgh (St. Ferdinand Parish, Cranberry, PA). I gave a presentation on performance appraisals to the Parish Business Managers. Materials supplied.

February 24, 1998: Mt. Lebanon Democratic Civic Association (Mt. Lebanon, PA). I participated in a panel discussion on legal issues involved in the impeachment of the President. I have no notes, transcripts or recordings. I am unable to locate an address or other contact information for this organization.

December 3, 1996: Pennsylvania Bar Institute (Pittsburgh, PA). I gave a presentation entitled "Handling the Media Effectively and Ethically," a segment in a program entitled "Ethics Potpourri." I have no notes, transcripts or recordings. The address of the Institute is 5080 Ritter Road, Mechanicsburg, PA 17055.

October 24, 1996: South Hills Area School Districts Association (Perryopolis, PA). I gave a presentation on Effective School Board/Administrator Relationships. I have no notes, transcripts or recordings. The address of the Association is 4900 Curry Road, Pittsburgh, PA 15236.

April 24, 1996: Western Area Superintendents Meeting (Coraopolis, PA). I gave a presentation on Effective School Board/Administrator Relationships. I have no notes, transcripts or recordings. I believe that this was an informal ad hoc meeting and not organized by a single association or organization.

March 29, 1996: Buchanan Ingersoll PC (Hershey, PA). I gave presentations to some of my firm's clients entitled "Gone But Not Forgotten: References and Related Legal Traps," and "Making Sense Out of Performance Appraisals and Other Employment Documentation." I have no notes, transcripts or recordings. The address of the firm is One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, PA 15219.

February 23, 1996: Quaker Valley (PA) School District (Sewickley, PA). I gave a presentation on Effective School Board Operations. Overhead projector transparencies supplied.

October 7, 1994: Academy of Trial Lawyers of Allegheny County (Farmington, PA). I participated in a panel discussion entitled "Masterson v. LaBrum & Doak." I have no notes, transcripts or recordings. The address of the Academy is P.O. Box 14744, Pittsburgh, PA 15234.

June 1992: Steel Valley School District (Munhall, PA). I gave brief remarks introducing Hon. Thomas J. Ridge, United States Representative, as the high school commencement speaker. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

June 1988: Steel Valley School District (Munhall, PA). I gave brief congratulatory remarks as School Board President at the high school commencement. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

June 1987: Steel Valley School District (Munhall, PA). I gave brief remarks introducing William V. Campbell, Jr., Senior Vice President of Apple Computer, Inc., as the high school commencement speaker. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

September 1986 (approx.): Pennsylvania School Boards Association (King of Prussia, PA). I was a panelist for a presentation on public-private educational partnerships. I have no notes, transcripts or recordings. The address of the Association is 400 Bent Creek Boulevard, Mechanicsburg, PA 17050.

April 1986 (approx.): National School Boards Association (New Orleans, LA). I was a panelist for a presentation on public-private educational partnerships. I have no notes, transcripts or recordings. The address of the Association is 1680 Duke Street, Alexandria, VA 22314.

March 1986: American Bar Association, Committee on Individual Rights and Responsibilities in the Workplace (Palm Desert, CA). I was a panelist on a program regarding the release of employment claims. I have no notes, transcripts or recordings. The address of the Association is 541 N. Fairbanks Court, Chicago, Illinois 60611.

September 1985 (approx.): West Virginia Bar (Morgantown, WV). I made a presentation on Current Issues in Employment Litigation. I have no notes,

transcripts or recordings. The address of the West Virginia State Bar is 2006 Kanawha Boulevard, East, Charleston, WV 25311.

In approximately the mid-1980's, I gave informal classroom presentations on then-current issues in employment law to graduate business classes at Carlow College (now University) and the Katz School of Business of the University of Pittsburgh. I have no notes, transcripts or recordings. The address of Carlow University is 3333 5th Avenue, Pittsburgh, PA 15213. The address of the School of Business is University of Pittsburgh, Mervis Hall, Pittsburgh, PA 15260.

June 1974: Steel Valley School District (Munhall, PA). I gave brief welcoming remarks as Senior Class President at my high school commencement. I have no notes, transcripts or recordings. The address of the School District is Administration Building, East Oliver Road, Munhall, PA 15120.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

In conjunction with my services as a lawyer and my prior service as a school director, I have from time to time been asked *ad hoc* questions by reporters and have had short quotes in response to them included in news articles. Such news articles that I could locate from public sources are listed below and are supplied.

Gina Passarella, *Steel Resolve: Pittsburgh Emerges from 2009 Eager to Grow*, LEGAL INTELLIGENCER, Mar. 2, 2010, at 1.

Mark Belko, *Settlement Reached in Collapse at Convention Site: Contractors Admit No Liability in Case*, PITTSBURGH POST-GAZETTE, Dec. 18, 2009.

Dan Monk & Lucy May, *Viewing Cincinnati Attorney's Billings in Context of Big Picture*, CINCINNATI BUSINESS COURIER, July 3, 2009.

Press Release, *Mark Hornak Elected to Buchanan's Executive Committee*, Buchanan Ingersoll & Rooney PC, Dec. 4, 2008.

Mark Belko, *Design, Construction Flaws Led to Floor Collapse*, PITTSBURGH POST-GAZETTE, Feb. 5, 2008, at B1.

Ron DaParma & Karen Roebuck, *Penguins Agree to Stay Until 2040*, PITTSBURGH TRIBUNE-REVIEW, Sept. 21, 2007.

Lynn Shea, *Mento Defends the Job He's Done*, PITTSBURGH POST-GAZETTE, June 23, 2004, at W1.

Brian C. Rittmeyer, *Suspended Schools Chief Claims Retaliation*, PITTSBURGH TRIBUNE-REVIEW, June 16, 2004.

Staff, *School News, Montour*, PITTSBURGH POST-GAZETTE, Apr. 21, 2004, at W2.

Corilyn Shropshire, *It's Cars Over Jets for Some Execs*, PITTSBURGH POST-GAZETTE, February 7, 2004, at A1 (re-published in THE AUGUSTA CHRONICLE, Feb. 27, 2004).

Dan Fitzpatrick, *Lawrenceville, PA, Contractor Sues Owners of Pittsburgh Convention Center*, PITTSBURGH POST-GAZETTE, Sept. 30, 2003.

Dan Fitzpatrick, *Convention Center Sued by Steelmaker Over Payments*, PITTSBURGH POST-GAZETTE, Sept. 19, 2003, at B11.

Tom Barnes, *Construction Firm Sues Pittsburgh's Convention Center Agency for Payment*, PITTSBURGH POST-GAZETTE, Aug. 5, 2003.

Staff, *Contractor Sues Sports Authority Over Demolition Work*, ASSOCIATED PRESS, Aug. 5, 2003.

Kevin Murphy, *Audit: University Misclassified Staff; Workers Wrongly Exempted from Overtime*, KANSAS CITY STAR, May 4, 2003, at B1.

Lynn Glover, *Labor Office Prepares Overtime Overhaul*, PITTSBURGH BUSINESS TIMES, Apr. 11, 2003.

Brian Rittmeyer, *Board, Suspended Official Settle*, PITTSBURGH TRIBUNE-REVIEW, Nov. 22, 2002.

Tom Barnes, *Unhappy Steelers Ticket Holders Punt to Commonwealth Court*, PITTSBURGH POST-GAZETTE, May 9, 2002, at B4.

Tom Barnes, *Fallen Truss Headed Back to Canada*, PITTSBURGH POST-GAZETTE, Mar. 1, 2002, at C2.

Tom Barnes, *Questions Surround Iron Worker's Death*, PITTSBURGH POST-GAZETTE, Feb. 14, 2002, at A1.

David M. Brown, *Private Lawyers Get Public Millions*, PITTSBURGH TRIBUNE-REVIEW, Nov. 18, 2001.

Karen Kovatch, *Local Firm Gives Bosses Prying Eyes*, PITTSBURGH BUSINESS TIMES, July 28, 1997.

Julian Neiser, *Klett Lieber in Union with Philadelphia Labor Lawyers*, PITTSBURGH BUSINESS TIMES, Apr. 14, 1997, at 9.

Ralph Vigoda, *Supreme Court Won't Dismiss Suit by Ex-Inmate Against Author Wambaugh*, PHILADELPHIA INQUIRER, Dec. 16, 1996.

Tom Barnes, *Democrats Make First Payment for Rally*, PITTSBURGH POST-GAZETTE, Nov. 17, 1995, at B7.

Tom Barnes, *Democrats Get 10 Days to Pay Debt for '94 Rally*, PITTSBURGH POST-GAZETTE, Oct. 13, 1995, at B2.

Tom Barnes, *Party Rally Still Unpaid For*, PITTSBURGH POST-GAZETTE, Sept. 22, 1995, at B1.

John M.R. Bull, *Firing Suit Draws County's Rebuttal*, PITTSBURGH POST-GAZETTE, Feb. 23, 1995, at C1.

Brian R. Harris & Michael A. Riccardi, *High Court Orders Courtroom Open*, PENNSYLVANIA LAW WEEKLY, Jan. 30, 1995, at 3.

Ken Fisher, *Hearing Set on Petition for Election by District*, PITTSBURGH POST-GAZETTE, Jan. 12, 1995, at W2.

Ken Fisher, *Representation Overhaul Pressed*, PITTSBURGH POST-GAZETTE, Dec. 15, 1994, at W2.

Associated Press, *Murder Ruling Overturned, Smith Presses Libel Case*, THE ALLENTOWN MORNING CALL, June 24, 1994, at B05.

Julia Cass, *Jay Smith Is Pushing To 'Clean Up' His Name*, THE PHILADELPHIA INQUIRER, May 18, 1994, at B01 (republished in THE BUFFALO NEWS, May 22, 1994).

Julia Cass, *Jay Smith Wants Suit Reinstated*, THE PHILADELPHIA INQUIRER, Apr. 20, 1994, at B04.

Suzanne Elliot, *Law School Grads Face Lean Market, Smaller Paycheck*, PITTSBURGH BUSINESS TIMES, Oct. 12, 1992, at 16.

Staff, *Steel Union's Bloody Stand*, PITTSBURGH POST-GAZETTE, June 29, 1992, at A1.

Maureen Morrissey, *Retired IU Administrator Appointed to Fill In for Longo*, PITTSBURGH POST-GAZETTE, Dec. 5, 1991, at S12.

Maureen Morrissey, *Schools' Growth Defies Job Loss*, PITTSBURGH POST-GAZETTE, Nov. 21, 1991, at S1.

Maureen Morrissey, *Longo's Steel Valley Departure Date at Issue*, PITTSBURGH POST-GAZETTE, Nov. 14, 1991, at S2.

Scott Robertson, *Drug Testing Gets Boost From Ruling*, PITTSBURGH BUSINESS TIMES, Apr. 17, 1989, at 1S.

Mary Kane & Ellen M. Perlmutter, *Charles Wins Mon Valley with 'Getting to Know You,'* THE PITTSBURGH PRESS, Mar. 5, 1988, at A1.

Lawrence Walsh, *Symphony, Union Reach Agreement Limiting Picketers*, THE PITTSBURGH PRESS, Dec. 7, 1985.

Dana Scarton, *Plan to Cut 9 Steel Valley Courses Prompts First Timers' Election Bids*, THE PITTSBURGH PRESS, May 9, 1985.

Colleen Johnson, *Court Postponement Angers Bethel Teachers, Parents*, THE PITTSBURGH PRESS, Aug. 9, 1984, at S6.

Phillip Davis, *Worker Group Sues ConAgra Over Food Ads*, PITTSBURGH POST-GAZETTE, June 8, 1984.

Marcia Bennett, *Munhall No. 4—75 Years of Firefighting*, PITTSBURGH POST-GAZETTE, June 25, 1981.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I have not held judicial office.

a. Approximately how many cases have you presided over that have gone to verdict or judgment? \_\_\_\_\_

i. Of these, approximately what percent were:

jury trials: \_\_\_\_\_%

bench trials: \_\_\_\_\_%

civil proceedings: \_\_\_\_\_%

criminal proceedings: \_\_\_\_\_%

b. Provide citations for all opinions you have written, including concurrences and dissents.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
  - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
  - e. Provide a list of all cases in which certiorari was requested or granted.
  - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
  - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
  - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
  - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not served as a judge.

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;

- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

**15. Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In May 1975, I unsuccessfully sought the nomination in the primary for election to the Board of School Directors in the Steel Valley School District.

On December 21, 1983, I was appointed by the Board of School Directors of the Steel Valley School District as a member to fill a vacancy. In 1985 and 1989, I was elected to the same body after nomination on the Democratic and Republican ballots. In May 1993, I was again nominated by both parties, but relinquished the nominations when our family moved away from the District.

Effective July 1, 1987, I was elected to the Board of School Directors of the Allegheny Intermediate Unit for a three-year term that concluded on June 30, 1990. I did not seek re-election.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

In 1987 and 1991, I played an informal volunteer role assisting colleagues in their efforts to seek re-election or election to the Board of School Directors of the Steel Valley School District.

In 1989, I ran successfully for nomination and election as a School Director in the Steel Valley School District, along with two colleagues. We campaigned, raised, and expended funds for our election with one another through an election committee.

In 1988, I unsuccessfully sought election as a Delegate to the 1988 Democratic National Convention.

From approximately 1990 to 1999, I chaired Buchanan Ingersoll & Rooney's state and federal political action committees.

In 2007, I lent my name to the support of the candidacy of five candidates for election to the Board of School Directors of the Upper St. Clair School District.

In 2008, I served as an Election Day legal volunteer for the "Pennsylvania Campaign For Change."

In 2008, and then again in 2010, I was listed as a member of the host committee for a campaign picnic in support of the election of Matt Smith, a member of the Pennsylvania House of Representatives.

In 2009, I served as a volunteer member of the "Lawyers Committee" and "Finance Committee" in support of the election of Philip A. Ignelzi to the Court of Common Pleas of Allegheny County.

16. **Legal Career:** Answer each part separately.

a. Describe chronologically your law practice and legal experience after graduation from law school including:

i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1981 to 1982, I served as law clerk to the Honorable James Marshall Sprouse, United States Court of Appeals for the Fourth Circuit.

ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced law alone.

iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1982 – Present  
Buchanan Ingersoll & Rooney PC  
One Oxford Centre  
301 Grant Street, 20th Floor  
Pittsburgh, Pennsylvania 15219  
Associate (1982 – 1988)  
Shareholder/Partner (1989 – Present)

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

In the Western District of Pennsylvania, most civil cases are subject to mandatory ADR. The parties attempt to agree on a neutral, and if they are unable to agree, the court appoints a neutral. I am a member of the panel of approved ADR neutrals for the court, and have served frequently over the years. I have also served as a neutral in state court when selected by the parties. All told, I estimate that I have served as a neutral approximately 130 times, and in most cases I served as a mediator.

1. White v. United Steelworkers, Civil Action No. 02-0183; U.S. District Court for the Western District of Pennsylvania (Hon. Arthur J. Schwab)

I served as Special Master in this complex state/federal age discrimination collective and class action involving the shutdown of the J&L Steel Co. Pittsburgh Works, the negotiation of the Master Labor Agreement between the United Steelworkers and the national steel industry, and the resolution of legal claims as to which there was little settled law. I was responsible for pretrial proceedings and mediating the ultimate settlement of the matter, which was approved by the Court.

2. In re St. Francis Hosp., No. 5695 of 2002; Orphans Court Division, Court of Common Pleas of Allegheny County (Hon. Frank A. Lucchino)

I was appointed Special Master by the Administrative Judge of the Orphans Court Division of the Allegheny Court of Common Pleas, which had jurisdiction over the receivership and dissolution of the St. Francis Hospital. My responsibilities were to serve as a Special Master to conduct hearings as necessary on 36 underlying claims asserted against the hospital ranging from general business disputes to medical malpractice cases, and as part of that process to mediate and resolve by settlement those claims which could be settled. Thirty-five of the 36 claims were resolved by settlement.

3. Wissler v. Cerberus Capital Mgmt., Civil Action No. 06-cv-01042; U.S. District Court for the Western District of Pennsylvania (Hon. David S. Cercone)

This was an action brought under the Worker Adjustment and Retraining Notification (WARN) Act regarding the plant closing of a glass manufacturing facility in Western Pennsylvania. I served as the mediator over three mediation sessions which resulted in the resolution of the case. The matter involved questions of first impression at the intersection of the

WARN Act and the doctrine of “joint employer,” where the defendant was not the “actual” employer of the plaintiffs.

4. Coolspring Stone Supply Inc. v. Stone & Co., Civil Action 2:07-cv-0372; U.S. District Court for the Western District of Pennsylvania (Hon. Nora Barry Fischer)

This was a business dispute involving claims under various contracts related to the business operations of both the plaintiff and defendant. I served as mediator in the resolution of the case.

5. Cajarelli v. Sears Roebuck & Co., G.D. 03-1735 and G.D. 07-19720; Court of Common Pleas of Allegheny County (Hon. Robert Horgos)

I was appointed a mediator by the Allegheny County Court of Common Pleas. This case was a collective action filed under federal and state wage and hour laws. The case presented issues of first impression regarding compensation for certain preparatory time under the wage and hour laws.

6. Clarit Realty Ltd., assignee, v. RIDC, Civil Action 2:08-cv-01540; U.S. District Court for the Western District of Pennsylvania (Hon. David S. Cercone)

I was appointed to serve as a mediator in this commercial dispute regarding leasehold and development rights of an assignee under a lease for industrial property at a former industrial site in Western Pennsylvania which had been redeveloped by the RIDC, a regional industrial development corporation. The case settled after multiple in-person mediation sessions and involved questions of interpretation of commercial leases and development and redevelopment agreements.

7. Ardent Res. Inc. v. EXCO, Civil Action 2:09-cv-00585; U.S. District Court for the Western District of Pennsylvania (Hon. David S. Cercone)

I was appointed to serve as the mediator of this civil action which involved gas drilling rights, pricing for extracted gas, and maintenance/repair obligations for natural gas drilling and transmission facilities located widely throughout Western Pennsylvania. This case settled after two extended mediation sessions.

8. Career Educ., Corp. v. Perilman Enters., No. G.D. 04-015110; Court of Common Pleas of Pennsylvania (Hon. R. Stanton Wettick)

I was selected by the parties to mediate this commercial dispute regarding “follow along” obligations of the parties subsequent to a sales and lease

transaction involving a proprietary technical and business school and related real property.

9. EEOC v. Redstone Highland Pers. Care Ctr., Civil Action No. 2:06-cv-1057; U.S. District Court for the Western District of Pennsylvania (Hon. Terrence F. McVerry)

I was appointed to serve as the mediator of a case in which the plaintiff was the United States Equal Employment Opportunity Commission. The matter involved claims of unlawful employment discrimination. The matter settled after an extended mediation session and follow-up consultation with the parties.

10. Curiale v. Hershey Entm't & Resorts Co., Civil Action 1:07-cv-00651; U.S. District Court for the Middle District of Pennsylvania (Hon. Yvette Kane)

I was appointed to serve as the mediator of this class action brought on behalf of putative plaintiffs who claimed to have been harmed by the failure of the defendant to redact certain identifying information from credit and debit card receipts. The case settled after an extended mediation proceeding.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

The majority of my practice consists of representation of employers, public agencies and officials, authors and media organizations in litigation matters, the negotiation of collective bargaining and commercial agreements, representation before federal and state courts of record and before administrative agencies, and legal counseling. From 1982 through approximately 1987, my practice focused on general civil and employment litigation; beginning in 1988, it expanded to include collective bargaining for, and representation of, broadcasters and publishers; beginning in approximately 1992, it expanded to also include representation of governmental bodies and officials, and construction litigation.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

During the various periods as set forth in (i) above, my typical client has been an employer, media organization/author/publisher or government official or agency. I have represented these clients in various administrative, counseling, and litigation situations. My areas of specialty are labor and employment law, media defense, construction law, and governmental/municipal/school law.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

Over 29 years of practice, civil litigation has at any one time ranged from 40% to 70% of my practice, with more frequent court appearances when it has been at the higher levels. I have been lead counsel in approximately 120 actions filed in state and federal courts of record.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 70% |
| 2. state courts of record:  | 20% |
| 3. other courts:            |     |
| 4. administrative agencies: | 10% |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 99% |
| 2. criminal proceedings: | 1%  |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

Not counting cases in which judgment was rendered on the pleadings or by summary judgment, and not including matters involving only temporary restraining orders and/or preliminary injunctions, I have tried approximately six cases to verdict, 4 as lead counsel and 2 as co-counsel.

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 50% |
| 2. non-jury: | 50% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

In Wambaugh v. Smith, No. 96-642, I served as counsel of record in a petition for certiorari to the Supreme Court on behalf of our client, Joseph Wambaugh. The petition was not granted.

In Caperton v. A. T. Massey Coal Co., 122 S. Ct. 2252 (2009), I was a member of the legal team at Buchanan Ingersoll & Rooney PC representing the petitioner, Harman Development Company. I assisted in the preparation of the successful petition for certiorari and the merits briefs, and I assisted in the preparation of lead counsel Theodore Olson for his oral argument.

Copies of the relevant petitions and briefs in these two matters are supplied.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. Sanders v. HUD, Civ. No. 88-1261; U.S. District Court for the Western District of Pennsylvania (Hon. Gustave Diamond); reported at Sanders v. HUD, 872 F. Supp. 216 (W.D. Pa. 1994).

In 1993, I was retained as lead trial counsel by the County of Allegheny six weeks prior to trial of a federal civil action challenging public housing practices against the County, its Housing Authority, and the United States, and seeking mandatory injunctive relief and substantial monetary damages relating to 40 years of public housing operations. I successfully negotiated a settlement agreement involving the United States Department of Justice at the Assistant Attorney General level that expanded community development funding for seven impacted communities, and at the same time insulated the County from mandatory injunctive remedies and the payment of any funds from the County's general treasury. From 2004 to 2005, I was lead negotiator for all defendants for termination of the consent decree.

Co-counsel: Ira Weiss (former County Solicitor), Law Offices of Ira Weiss, 503 Fort Pitt Commons, 445 Fort Pitt Boulevard, Pittsburgh, Pennsylvania 15219, Telephone: (412) 391-9890; Michael Wojcik, Solicitor, Allegheny County Law Department, 300 Fort Pitt Commons, 445 Fort Pitt Boulevard, Pittsburgh, Pennsylvania 15219,

Telephone: (412) 350-1128; John Hansberry, Pepper Hamilton, LLP, One Mellon Center, 500 Grant Street, 50th Floor, Pittsburgh, Pennsylvania 15219, Telephone: (412) 454-5000; Clare Harrigan, U.S. Dept. of Housing and Urban Development, 451 7th Street, S.W., Room 10258, Washington, D.C. 20410, Telephone: (202) 708-0614 Ext. 5102.

Opposing counsel: Donald Driscoll, Community Justice Project, 1705 Allegheny Building, 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219, Telephone: (412) 434-6002.

2. Medure v. New York Times Co., Civ. No. 99-0953; U.S. District Court for the Western District of Pennsylvania (Hon. Maurice Cohill); reported at Medure v. New York Times Co., 60 F. Supp. 2d 477 (W.D. Pa. 1999).

I was lead trial counsel for the New York Times Company and its newspaper, The Santa Rosa Press-Democrat, in this libel/privacy litigation instituted by the putative developer of an Indian Reservation gaming facility in Santa Rosa, California. The plaintiff sought \$54 million in damages relating to the failure of the project to come to fruition. I successfully obtained summary judgment for The New York Times Company.

Co-counsel: George Freeman, Assistant General Counsel, The New York Times Company, 229 West 43rd Street, New York, New York 10036, Telephone: (212) 556-1558; David J. Porter, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 562-1318.

Opposing counsel: Richard DiSalle & Susan Malone, Rose, Schmidt, Hasley & DiSalle, PC, 535 Oliver Building, Pittsburgh, Pennsylvania 15222, Telephone: (412) 434-8600.

3. Smith v. Wambaugh, Civ. No. 95-8043; U.S. District Court for the Middle District of Pennsylvania (Hon. James McClure); reported at Smith v. Wambaugh, 29 F. Supp. 2d 222 (M.D. Pa. 1998), aff'd, 189 F. 3d 464 (3d Cir. 1999).

From 1994 to 1999, I was lead trial counsel for best-selling author Joseph Wambaugh in the defense of libel, privacy, copyright and civil rights litigation. The plaintiff had been convicted of the triple murder that was the subject of the book and movie "Echoes in the Darkness." The plaintiff was later released from death row as a result of evidence that allegedly had been suppressed by prosecutors and, as the plaintiff asserted, with the assistance of Mr. Wambaugh. I defended him in the United States District Court for the Middle District of Pennsylvania, the United States Court of Appeals for the Third Circuit (twice) and the Supreme Court of the United States. I also defended Mr. Wambaugh in related proceedings in the Court of Common Pleas of Huntingdon County, Pennsylvania, No. 88-1399, and then on appeal to the

Pennsylvania Superior Court (twice), and the Pennsylvania Supreme Court. All claims against Mr. Wambaugh were ultimately dismissed.

Co-counsel: Gregory Neuhauser, Senior Deputy Attorney General, Office of the Attorney General, Litigation Section, 15th Floor, Strawberry Square, Harrisburg, Pennsylvania 17120, Telephone: (717) 783-1471; Gregory A. Miller, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 562-3960; John Havas, 6121 Stephen's Crossing, Mechanicsburg, Pennsylvania 17055, Telephone: (717) 697-2294.

Opposing counsel: Gerald J. Williams, Williams Cuker Berezofsky, 1515 Market Street, Suite 1300, Philadelphia, Pennsylvania 19102, Telephone: (215) 557-0099; Stephen E. Skovron, Bochetto & Lentz, 1524 Locust Street, Philadelphia, Pennsylvania 19102, Telephone: (215) 735-3900.

4. Sports & Exhibition Auth. of Pittsburgh and Allegheny Cnty. v. ADF Int'l Inc., Civil Action G.D. 09-013342; Pennsylvania Court of Common Pleas, Allegheny County (no judge assigned).

I served as lead counsel on behalf of the plaintiff, the Sports & Exhibition Authority of Pittsburgh and Allegheny County (SEA) against nine defendants, who were the design and engineering professionals and construction companies involved in the design and erection of the David L. Lawrence Convention Center located in Pittsburgh, Pennsylvania, which was completed in 2004. In February 2007, a portion of the loading dock area of the Convention Center collapsed, causing significant harm to the building. As a consequence, the Convention Center was required to undergo multiple engineering reevaluations and this litigation was filed to recover damages incurred by the SEA as a result of the design and construction flaws identified in the building and which resulted in the partial loading dock collapse. The parties agreed to enter into non-binding mediation and, after three extensive mediation proceedings conducted both in Pittsburgh and Philadelphia, the parties achieved a global settlement which resulted in the SEA recovering through the mediation and the successful prosecution of its insurance claims in excess of 90% of its remediation costs.

Mediator: John S. Freud, Mediation Solutions, Inc., Museum Tower, 150 West Flager Street, #2700, Miami, Florida 33130, Telephone: (305) 371-9120.

Co-counsel: Brian Simmons, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 51219, Telephone: (412) 392-2048; James F. Glunt (formerly of Buchanan Ingersoll & Rooney PC), Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 444 Liberty Avenue, Suite 400, Pittsburgh, Pennsylvania 15222, Telephone: (412) 394-3339.

Counsel for Travelers Indemnity Company (co-plaintiff/subrogation claimant/SEA property insurer): Patrick J. Moran, Francis R. Gartner & Associates, 10 Sentry Parkway, Suite 301, Blue Bell, Pennsylvania 19422, Telephone: (215) 274-1701.

Counsel for Rafael Vinoly Architects, P.C. (Defendant): Mark Seiden, Milber Makris, 3 Barker Avenue - Sixth Floor, White Plains, New York 10601, Telephone: (914) 681-8700.

Counsel for Dewhurst MacFarlane and Partners (Defendant): Carol J. Patterson, Zetlin & DeChiara, LLP, 801 2nd Avenue, New York, New York 10017, Telephone: (212) 682-6800.

Counsel for Turner Construction Company, P.J. Dick Inc. and ATS, Inc., a joint venture (Defendant): John K. Gisleson and Michael G. Bock, Schnader Harrison Segal & Lewis, Fifth Avenue Place, 120 Fifth Avenue, Suite 700, Pittsburgh, Pennsylvania 15222, Telephone: (412) 577-5200.

Counsel for ADF International, Inc. (Defendant): Joseph H. Bucci, Houston Harbaugh, Three Gateway Center, 401 Liberty Avenue, 22nd Floor, Pittsburgh, Pennsylvania 15222, Telephone: (412) 281-5060; Jeffrey M. Olszewski, Cipriani & Werner, Suite 700, 605 Washington Road, Pittsburgh, Pennsylvania 15228, Telephone: (412) 563-2500; Stuart H. Sobel, Siegfried, Rivera, Lerner, De La Torre & Sobel, P.A., Suntrust Plaza, 201 Alhambra Circle, Suite 1102, Coral Gables, Florida 33134, Telephone: (305) 442-3334.

Counsel for Dick Corporation (Defendant): Michael T. Ambroso, P.O. Box 10896, Pittsburgh, Pennsylvania 15236, Telephone: (412) 384-1287; Kevin P. Lucas, Esquire, Manion, McDonough & Lucas, P.C., US Steel Tower, 600 Grant Street, Suite 1414, Pittsburgh, Pennsylvania 15219, Telephone: (412) 232-0200.

Counsel for SMI-Owen Steel Company, Inc. (Defendant): Dennis A. Watson, Grogan Graffam, Four Gateway Center, 444 Liberty Avenue, 12th Floor, Pittsburgh, Pennsylvania, Telephone: (412) 553-6339.

5. Ivanac v. Langeloth Metallurgical Co., Docket No. 99-971; U.S. District Court for the Western District of Pennsylvania (Hon. Robert Cindrich, Hon. David Cercone & Hon. Kenneth Benson).

From 2000 to 2005, I was lead trial counsel for Langeloth Metallurgical Company, a metals refining and processing company, in a class action alleging employment discrimination. The case is significant because it involved complicated issues regarding class identification and class certification, the resolution of unsettled principles of federal employment discrimination law, challenges to the scope and admissibility of statistical expert testimony, and protracted mediation. The matter was ultimately resolved through a court-annexed mediation process.

Co-counsel: Paul Amato, previously of Buchanan Ingersoll PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219.

Opposing counsel: Gregory Kunkel, Kunkel & Fink, LLP, 1208 Allegheny Building 429 Forbes Avenue, Pittsburgh, Pennsylvania 15219, Telephone: (412) 391-7299.

Court-Annexed Mediator: Louis B. Kushner, Rothman Gordon, PC, 300 Grant Building, Pittsburgh Pennsylvania 15219, Telephone: (412) 338-1103.

6. Boysza v. Thompson, Civ. No. 2:03-cv-01526; U.S. District Court for the Western District of Pennsylvania (Hon. Terrence McVerry); reported at 2005 WL 2467617 (W.D. Pa. 2005).

In 2005, I was retained by the City of Pittsburgh School District and its former Superintendent in the defense of a civil rights action brought by a teacher who had been disciplined and suspended amid allegations of improprieties regarding her administration of standardized tests. Prior to our retention, partial summary judgment on liability had been entered in favor of the plaintiff by Magistrate Judge Robert Mitchell. I was responsible for the preparation and presentation of all motions before the court. At the conclusion of the presentation of the evidence, I prepared and argued the motion for judgment as a matter of law in favor of all defendants. The court initially entered an order vacating its prior grant of summary judgment on liability in favor of the plaintiff and subsequently, prior to sending the case to the jury, granted the motion for judgment as a matter of law, dismissing all claims and entering judgment in favor of all defendants.

Co-counsel: Gregory A. Miller (lead counsel) & Lisa Passarello, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephones: 412-562-3960 (Miller), (412) 562-1828 (Passarello).

Opposing counsel: Adrian N. Roe, Adrian N. Roe PC, Gulf Tower, Suite 1331, 707 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 434-5544.

7. Tripp v. PPG Indus., Inc., Civ. No. 2:93-cv-01382-RJC; U.S. District Court for the Western District of Pennsylvania (Hon. Robert Cindrich).

I was retained as lead trial counsel by the defendant PPG Industries in 1993 to defend a civil action alleging dismissal from employment in violation of federal statutory prohibitions of discrimination based on race and age. After a six-day jury trial in 1997, the jury entered a verdict on all counts in favor of my client, PPG Industries.

Co-counsel: Lisa G. Silverman, previously of Buchanan Ingersoll PC, One Oxford Centre, 301 Grant Street, 20th Floor, Pittsburgh, Pennsylvania 15219.

Opposing counsel: Colleen Ramage Johnston, Rothman Gordon, PC, Grant Building, Third Floor, 310 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 338-1131.

8. Carver v. Foerster, Civ. No. 2:93-cv-00912-DWA; U.S. District Court for the Western District of Pennsylvania (Hon. Donetta Ambrose); affirmed on appeal at 102 F.3d 96 (3rd Cir. 1996).

From 1994 to 1997, I served as lead counsel for both Tom Foerster, Chairman of the Allegheny County Board of Commissioners, and the County of Allegheny, in the defense of a civil action alleging that Foerster deprived the plaintiff of his civil rights by dismissing him for engaging in political activities. The case involved the assertion of governmental and legislative immunity. The District Court rejected those arguments, as did the Court of Appeals. The case was ultimately resolved through court-ordered mediation in March 1997.

Co-Counsel: Gregory A. Miller, Buchanan Ingersoll & Rooney PC, 20th Floor, One Oxford Centre, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 562-3960.

Opposing Counsel: Paul D. Boas, Law & Finance Building, Fifth Floor, 429 Fourth Avenue, Pittsburgh, Pennsylvania 15219, Telephone: (412) 391-7707.

9. Bargar v. PPG Indus., Inc., Docket No. GD92-03203; Pennsylvania Court of Common Pleas, Allegheny County (Hon. Joseph James).

I was retained as lead trial counsel for PPG Industries in this wrongful discharge action filed in the Court of Common Pleas of Allegheny County, Pennsylvania. The plaintiff claimed he was dismissed from employment because he was a whistleblower for opposing alleged financial improprieties in the preparation of certain accounting and financial statements by PPG Industries. At the conclusion of the plaintiff's evidence during a jury trial in September 1993, I successfully argued for an involuntary nonsuit, resulting in the dismissal of the plaintiff's claims and entry of judgment in favor of my client. All of the plaintiff's motions for post-trial relief were denied.

Co-Counsel: Mark J. Neuberger (formerly of Buchanan Ingersoll & Rooney PC), Foley & Lardner LLP, Two South Biscayne Boulevard, Suite 1900, Miami, Florida 33131, Telephone: (305) 482-8408.

Opposing counsel: James H. Logan, Logan & Logan, Grant Building, Suite 3201, 301 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 765-0983.

10. Clarke v. Bethel Park Sch. Dist., Docket No. GD84-12866; Pennsylvania Court of Common Pleas, Allegheny County (Hon. Emil Narick (deceased)).

In 1984, I was lead trial counsel for the Bethel Park School District in a case seeking the removal of nine elected School Directors. The citizen petitioners alleged that the Directors had acted contrary to law in making revisions to the curriculum of the Bethel Park School District and consequently should be removed from office pursuant to the provisions of the Public School Code of 1949, as amended. The case came to a six-day bench trial, at the conclusion of which the trial judge denied all relief and refused to remove the School Directors from office.

Co-counsel: A. Bruce Bowden, Duane Morris LLP, US Steel Tower, Suite 5010, 600 Grant Street, Pittsburgh, Pennsylvania 15219, Telephone: (412) 497-1050.

Opposing counsel: F. Peter Dixon (deceased), Laughlin, Dixon & Schlass, 40 Ft. Pitt Commons Building, Pittsburgh, Pennsylvania 15219.

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

Principal Lawyer, Regional Destination Financing Plan

Since 1995, I have served as Solicitor for the Sports & Exhibition Authority of Pittsburgh and Allegheny County ("SEA"). In that role, I have acted as the principal attorney representing the Western Pennsylvania public entities (the SEA, City of Pittsburgh, County of Allegheny) in the financing and construction of approximately \$1.8 billion in public infrastructure, including PNC Park, home of the Pittsburgh Pirates; Heinz Field, home of the Pittsburgh Steelers and the University of Pittsburgh Panthers; the David L. Lawrence Convention Center, the largest LEED "Gold" certified "green" convention facility in the world and venue of the 2009 G-20 Summit; Consol Energy Center, Pittsburgh's new LEED "Gold" certified multi-purpose arena; and the North Shore Riverfront Park.

My engagement with the SEA has included development of a comprehensive risk and cost management program that shielded the public from unanticipated financial risk, the negotiation of leases and development agreements with the NFL/NHL/MLB major league franchises, acting as trial and/or supervising counsel on construction and related litigation claims, and serving as principal legal counsel of the joint city/county public body responsible for the projects. I served as counsel, with other lawyers at our law firm, for the City and County in conjunction with the 1999 bankruptcy of the Pittsburgh Penguin National Hockey League franchise, including the negotiation of revised lease and

development agreements, and litigation in the federal bankruptcy court in which a court, for the first time, specifically enforced a non-relocation covenant of a major league sports franchise.

In February 2007, a portion of the David L. Lawrence Convention Center collapsed. As lead attorney for the Authority, I was responsible for advising it on matters related to the investigation of the collapse, the ensuing structural survey of the entire building, prosecution of insurance claims, and development of the overall strategy that enabled the Authority to recover, through mediation involving multiple parties, in excess of 90% of its building recovery and restoration costs.

#### National Labor and Employment Counsel, Hearst-Argyle Television, Inc.

Beginning in 1987 and through 2008, I represented Hearst-Argyle Television, Inc., an owner and operator of television stations across the nation. My representation involved formulation of labor/employment strategy, the negotiation and administration of approximately forty collective bargaining agreements with various labor unions, and litigation and counseling regarding employment matters.

#### Service as a Judicial/ADR Neutral

I have served as a special master, mediator, evaluator, arbitrator or hearing officer in approximately 130 matters, including employment and general civil litigation, class action/collective action litigation, and business, civil rights, employment and other civil proceedings. I am a member of the panel of approved ADR neutrals for the United States District Court for the Western District of Pennsylvania.

#### Law Firm Leadership

Since my election as a Shareholder in 1989, I have also devoted significant time and energy to various firm leadership roles within my law firm. This includes serving as a member of its Executive Committee and Board of Directors, as chair of its Conflicts Resolution and Recruiting Committees and its Labor and Employment Practice Group, and as co-chair of its Compensation and Promotions Committee.

#### Lobbying

I have not engaged in lobbying activity.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

From 1989 through 1993, I taught a course at the University of Pittsburgh School of Law entitled "Employment Discrimination Litigation." In 1989 and 1990, I co-taught the course with a colleague, P. Jerome Richey, and thereafter I taught the course alone.

Syllabi supplied for 1989, 1990 and 1993. I have been unable to find a copy of the syllabi from 1991 or 1992, but I believe that they were substantially the same as those that are provided.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have capital and capital unit accounts with my law firm, Buchanan Ingersoll and Rooney PC, which would be returned to me should my employment with the Firm terminate by appointment or otherwise, and I am eligible for an additional compensation payment (as are other shareholders) resulting from a previously received fee upon the firm's achieving certain budgetary goals. Otherwise, I have no arrangements to be compensated in the future for any financial business interest.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I have no such plans, commitments, or agreements.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

If confirmed, I initially would be conflicted from any case in which my present firm appears. While I would carefully review each case for conflict or appearance of conflict, I do not anticipate any other conflicts upon becoming a judge.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I would carefully follow the federal recusal statutes and Canon 3 of the Code of Conduct for United States Judges. I would also engage in a prompt and immediate review of the parties, their affiliates, and the issues in any litigated matter to come before me so that I may make a prompt, informed decision regarding the propriety of my participation in the matter.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During the course of my legal career, I have undertaken pro bono legal representation in a number of ways. By way of example, I have represented the mother/plaintiff in two pro bono paternity actions in the Court of Common Pleas of Allegheny County. I have also provided pro bono legal advice or services, both formally and informally, to a number of local non-profit, civic or community organizations, including the Pittsburgh Chapter of the American Red Cross, the Allegheny County League of Women Voters, the Allegheny County Parks Foundation, the Make-A-Wish Foundation of Western Pennsylvania, The Pittsburgh Children's Museum, the Fort Pitt Museum Society, Miryam's Shelter, the Carnegie Library of Homestead, the Munhall Volunteer Fire Department, the Upper St. Clair PTA/PTSO, USC-WAVES, and the Borough of Munhall in the organization of its emergency medical services (Munhall Area Pre-Hospital Services). I also represented several students on a pro bono basis in expulsion or student disciplinary hearings before the Pittsburgh Board of Public Education.

From 1983 to 1993, I was a member, Vice President and President of the Board of School Directors of the Steel Valley School District, a school district comprised of the communities of Munhall, Homestead, and West Homestead, Pennsylvania, then with an approximate population of 27,000 people. I served without compensation. During the time of my service, the Homestead Works of the United States Steel Corporation closed, displacing approximately 13,000 workers, many of whom lived in these three communities, reducing the tax base of those communities by approximately one-third and creating high local unemployment.

During that time period, the School District entered into important public-private partnerships to provide additional educational opportunities for its young people. Among the accomplishments of the School District were "win/win" collective bargaining agreements with its teachers and other labor unions (against a backdrop which had

included the longest teacher strike in Pennsylvania history), a nationally-recognized partnership with Apple Computer, and an increase of the rate at which young people entered post-high school education from approximately 35% to approximately 90%. During my tenure as President, the District received the "Governor's Award for Labor-Management Cooperation," and was recognized by the Pennsylvania Auditor General for excellence in financial management. That service averaged approximately 10-15 hours a week for nine and one-half years.

In the mid-1980s, I was appointed by the Board of Commissioners of Allegheny County to its "Mon-Valley Commission," an ad hoc volunteer advisory body whose members were asked to advise them on a coordinated response to the social and economic impact of the closure of the Homestead and Duquesne Works of U.S. Steel, the Mesta Machine Co., and related supporting industries.

I served as the Chairman of the transition committee charged with moving control and operation of the Carnegie Library of Homestead from U.S. Steel-appointed trustees to community-selected trustees.

In more recent years, I have served as an officer or director of several non-profit civic, community and charitable organizations. My service in those organizations averages 4-8 hours a week. I believe that, in particular, my service as a school director was direct service to the community in which I then lived. My more recent service in civic and community organizations has focused on organizations which provide services to young people or which are aimed at improving the economic, social, and educational position of the communities in Western Pennsylvania.

**26. Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

I submitted an application to the Judicial Selection Commission appointed by Senators Specter and Casey, and was interviewed by that Commission, in March 2010. In July 2010, I was advised by a member of Senator Casey's staff that I had been recommended to the White House for nomination as a United States District Judge.

Since August 2010, I have been in contact with pre-nomination officials at the Department of Justice regarding my candidacy. On September 22, 2010, I met

with representatives of the Office of Legal Policy and the White House Counsel's Office in Washington, DC. On December 1, 2010, the President submitted my nomination to the Senate.

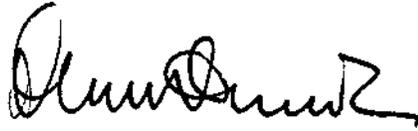
- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

AFFIDAVIT

I, Mark Raymond Hornak, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

November 30, 2010  
(DATE)



\_\_\_\_\_  
(NAME)



\_\_\_\_\_  
(NOTARY)

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal  
Dorothy A. Mitsdarfer, Notary Public  
City of Pittsburgh, Allegheny County  
My Commission Expires Jan. 17, 2014  
Member, Pennsylvania Association of Notaries

MARK R. HORNAK

January 5, 2011

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

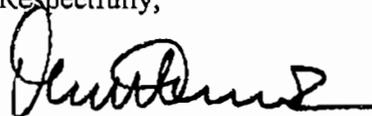
I have reviewed the Senate Questionnaire I previously filed in connection with my nomination on December 1, 2010 to be a United States District Judge for the Western District of Pennsylvania. With the following exception, I certify that the information contained in those documents is, to the best of my knowledge, true and correct.

Under the listing, Other Affiliations (uncompensated except as noted), on page 3, I have learned that the address of an organization with which I am affiliated has changed. The offices of the Pennsylvania Economy League of Southwestern Pennsylvania, LLC have now moved, and the new address is: 11 Stanwix Street, 17th Floor, Pittsburgh, PA 15222.

I have also enclosed an updated Net Worth Statement and Financial Disclosure Form.

I thank the Committee for its consideration of my nomination.

Respectfully,



Mark R. Hornak

cc: The Honorable Charles Grassley  
Ranking Member  
Committee on the Judiciary  
United States Senate  
Washington, DC 20510