

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Daniel Mack Traynor

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

United States Circuit Judge for the Eighth Circuit

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.

United States District Court
William L. Guy Federal Building and U.S. Courthouse
220 East Rosser Avenue, Unit 411
Post Office Box 670
Bismarck, North Dakota 58502-0670

4. Birthplace: State year and place of birth.

1970; Devils Lake, North Dakota

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.

1994 – 1997, University of North Dakota School of Law; Juris Doctorate (With Distinction), 1997

1993 – 1994, University of North Dakota; Bachelor of Arts, 1994

1993, University of Mary; no degree.

1988 – 1992, University of North Dakota; no degree

1986 – 1988, Lake Region State College; no degree

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.

Affiliations (Compensated)

January 2020 – Present

United States District Court for the District of North Dakota
William L. Guy Federal Building and U.S. Courthouse
220 East Rosser Avenue, Unit 411
Post Office Box 670
Bismarck, North Dakota 58502-0670
United States District Judge

2006 – Present

Traynor Properties, LLC
Post Office Box 670
Bismarck, North Dakota 58502-0670
Unit Holder, Vice President

2018 – 2020

North Dakota University System
State Board of Higher Education
10th Floor, State Capitol
600 East Boulevard Avenue, Department 215
Bismarck, North Dakota 58505
Chair, Governance Committee (2019 – 2020)
Chair, North Dakota University System Foundation (2018 – 2020)
Member (2018 – 2020)

1998 – 2020

Traynor Law Firm, P.C.
509 5th Street Northeast, Suite 1
Devils Lake, North Dakota 58301
Shareholder (2006 – 2020)
Associate (1998 – 2005)

1998 – 2020

City of Devils Lake
423 6th Street Northeast
Devils Lake, North Dakota 58301
Assistant City Attorney

1997 – 1998

Hon. Gerald VandeWalle, Chief Justice
North Dakota Supreme Court

Judicial Wing, First Floor
600 East Boulevard Avenue
Bismarck, North Dakota 58505
Law Clerk

January 1996 – May 1996
Olger Burtness Scholar Internship
University of North Dakota School of Law
215 Centennial Drive, Stop 9003
Grand Forks, North Dakota 58202
Intern

May 1996 – August 1996
Traynor, Rutten & Traynor
509 5th Street Northeast, Suite 1
Devils Lake, North Dakota 58301
Law Clerk

Affiliations (Uncompensated)

2022 – Present
Estate of John T. Jack Traynor
Post Office Box 670
Bismarck, North Dakota 58502-0670
Co-Personal Representative of Estate

2014 – Present
American Bar Association
321 North Clark Street
Chicago, Illinois 60654
2014 – 2022 ABA State Bar Delegate, North Dakota
2022 – Present ABA State Delegate, North Dakota
Member, House of Delegates

2014 – 2022
State Bar Association of North Dakota
1661 Capitol Way, Suite 104LL
Bismarck, North Dakota 58501
ABA State Bar Delegate, North Dakota
Member, Board of Governors

2000 – 2020
Republican National Lawyers Association
Post Office Box 18965
Washington, District of Columbia 20036
Chair, North Dakota Chapter

2016 – 2020

American Bar Foundation
750 North Lake Shore Drive
Chicago, Illinois 60611
State Chair (2017 – 2020)
Fellow (2016 – 2020)

2014 – 2015

National Conference of Lawyer Disciplinary Boards
(No Physical Address)
Member

2010 – 2015

Disciplinary Board
North Dakota Supreme Court Judicial Wing, First Floor
600 East Boulevard Avenue
Bismarck, North Dakota 58505
Chairman (2012 – 2015)
Member (2010 – 2012)

2007 – 2015

North Dakota Economic Development Foundation
c/o North Dakota Department of Commerce
1600 East Century Avenue, Suite 2
Post Office Box 2057
Bismarck, North Dakota 58502
Member (2007 – 2015)
Chairman (2010 – 2012)

2004 – 2009

Lake Region Community College Foundation of Devils Lake, North Dakota
1801 College Drive North
Devils Lake, North Dakota 58301
Members, Board of Directors

2001 – 2003

North Dakota Republican Party
1029 North 5th Street Bismarck, North Dakota 58501
State Chairman

1999 – 2001

North Dakota Catholic Conference
103 South Third Street, Suite 10
Bismarck, North Dakota 58501
Board Member

1998 – 2001
District 15 Republican Party
Devils Lake, North Dakota 58301
District Chairman

June 1995 – August 1995
Hon. Patrick A. Conmy, United States District Judge
United States District Court for the District of North Dakota
220 East Rosser Avenue
Bismarck, North Dakota 58501
Extern

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 did not serve in the military. I registered for the 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.

Distinguished Service Award, State Bar Association of North Dakota (2025)

Certificate of Appreciation, American Bar Association, Judicial Division,
National Conference of Federal Trial Judges (2025)

Award of Appreciation, American Bar Foundation (2020)

Super Lawyer, Super Lawyers (2015 – 2020)

AV Preeminent Rated, Martindale Hubbell (2017)

Great Plains Super Lawyer, Super Lawyers (2015)

Order of the Coif (1997)

Olgar Burtness Scholar (1996)

Book Award, Conflicts of Laws (1996)

UND School of Law, Dean's List (1995)

Book Award, Contracts (1995)

William Holland Foundation Law Prize (1994 – 1995)

Varsity Bachelors Club Scholarship (1992)

Phi Delta Theta Fraternity Scholarship (1992)

Ted Maragos Scholarship (1991)

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.

State Bar Association of North Dakota (1997 – Present)

Board of Governors, ABA State Bar Delegate (2014 – 2022)

Judicial Nominating Committee for the Northeast Judicial District Vacancy (2017)

Judicial Nominating Committee for the Northeast Judicial District Vacancy (2006)

Gavel Editorial Board (1999 – 2001)

American Bar Association

Member, Standing Committee on Lawyer Referral and Information Services (2016 – 2018)

House of Delegates (2014 – Present)

American Law Institute (Elected 2003)

Big Muddy (Burleigh County) Bar Association (2020 – Present)

Bruce Van Sickle Inn of Court, Bismarck-Mandan, North Dakota (2020 – Present)

St. Raymond Catholic Lawyers Association (2020 – Present)

Lake Region Bar Association

Member (1998 – Present)

Secretary-Treasurer (1999 – 2002)

American Bar Foundation

State Chair (2017 – 2020)

Fellow (2016 – 2020)

Minnesota State Bar Association (1998 – 2020)

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.

North Dakota (1997)

Minnesota (1997 – 2020)

I voluntarily allowed my license to practice law in Minnesota lapse in October 2020 after taking judicial office.

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.

United States Court of Appeals for the Eighth Circuit (2006)

United States District Court for the District of Minnesota (2017)

United States District Court for the District of North Dakota (1997)

There have been no lapses in membership.

Three Affiliated Tribes Tribal Court, New Town, North Dakota (2015)

Spirit Lake Tribal Court, Fort Totten, North Dakota (1998)

Turtle Mountain Tribal Court, Belcourt, North Dakota (1998)

My tribal court admissions occasionally lapsed, as I would pay license fees only when matters are pending. As a sitting judge, I no longer take cases so my licenses in these jurisdictions have lapsed.

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.

Federal Judge Association (2020 – Present)

Judge Bruce M. Van Sickle American Inn of Court (2020 – Present)

Federalist Society for Law and Public Policy Studies (2016 – Present)

Saint Thomas More Society of North Dakota (2014 – 2022)

Friends of Sully's Hill National Game Preserve (2010 – 2022)

Friends of Fort Totten State Historic Site (2008 – 2020)

Knights of Columbus (2000 – Present)
4th Degree Member (2014 – Present)

Republican National Lawyers Association (1999 – 2020)

North Dakota Defense Lawyers Association (1999 – 2020)
Board of Directors (2015 – 2017)

Bismarck Mandan Rotary Club (2020 – Present)

Devils Lake Rotary Club (1998 – 2020)
President (2015 – 2016)

Benevolent and Protective Order of Elks (1991 – Present)

Pheasants Forever (1991 – 2020)

Ducks Unlimited (1984 – 2022)

Board Member, Sunshine Memorial Foundation (2015 – 2018)

Defense Research Institute (2010 – 2017)
DRI Professionalism Committee (2015 – 2017)

United States Supreme Court Historical Society (2002 – Present)

Christian Legal Society (1994 – 1998)

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.

The Rotary Club did not allow women until 1987. The policy changed before I became a member of my local Rotary Club.

The Benevolent and Protective Order of Elks is an American fraternal order founded in 1868. The Elks did not admit non-white members until the 1970's. The policy changed before I became a member of my local Elks Lodge.

The Knights of Columbus is a Roman Catholic service organization that limits their membership to men. There is an equivalent service organization for women.

To the best of my knowledge, none of the other 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.

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 copies of all published material to the Committee.

Juror Mental Health Challenges in Difficult Cases and Possible Solutions, Judge's J. (forthcoming 2026). Copy supplied.

A Tribute to Chief Justice Gerald Vandewalle, 99 N.D. L. Rev. 1 (2024).

Leadership Changes in the North Dakota Delegation, Gavel (Fall 2022). Copy supplied.

Leadership Changes at the ABA, Gavel (Summer 2022). Copy supplied.

Free Speech in American Law Schools, Gavel (Spring 2022). Copy supplied.

ABA House Debates International Law, Gavel (Winter 2022). Copy supplied.

2021 ABA Profile of the Legal Profession, Gavel (Fall 2021). Copy supplied.

The ABA's New Normal, Gavel (Spring 2021). Copy supplied.

ABA Midyear Meeting Via Zoom, Gavel (Winter 2021). Copy supplied.

The Virtual Future of the ABA, Gavel (Fall 2020). Copy supplied.

ABA Annual Meeting Goes Virtual, Gavel (Summer 2020). Copy supplied.

ABA Highlights Resources for Lawyers During COVID-19 Pandemic, Gavel (Spring 2020). Copy supplied.

ABA Urges Action on Voting in Indian Country and the Marijuana Mess, Gavel (Winter 2020). Copy supplied.

Hey, I Know Your Chief!, Gavel (Fall 2019). Copy supplied.

ABA Revamps Membership Structure and Improves Benefits, Gavel (Summer 2019). Copy supplied.

Zachary Pelham & Daniel M. Traynor, *Great Leader for UND School of Law*, Grand Forks Herald (N.D.), March 7, 2019. Copy supplied.

ABA and SBAND Support for Legal Services Funding, Gavel (Spring 2019). Copy supplied.

Legal Education: Deal or No Deal, Gavel (Winter 2019). Copy supplied.

The Imperfect Process of Judicial Ratings, Gavel (Fall 2018). Copy supplied.

The ABA Annual Meeting: Lollapalooza and Lawyer Advertising, Gavel (Summer 2018). Copy supplied.

The Farm Bill and Facebook Compete with ABA Fly-In, Gavel (Spring 2018). Copy supplied.

The ABA Wins for Lawyers on Tax Reform, Gavel (Winter 2018). Copy supplied.

ABA Implements Disaster Plans for Hurricane Response, Gavel (Fall 2017). Copy supplied.

The Lights and Lawyers on Broadway, Gavel (Summer 2017). Copy supplied.

Spring Brings Lawyers to Washington, Gavel (Spring 2017). Copy supplied.

ABA Delegates Gather in Miami for Mid-Year Meeting, Gavel (Winter 2017). Copy supplied.

"The Coldest Winter I Ever Spent was a Summer in San Francisco", Gavel (Fall 2016). Copy supplied.

Disciplinary Sanctions for the Politically Incorrect, Gavel (Summer 2016). Copy supplied.

Kelly Armstrong et al., *Endorsed Ticket Deserves Support*, Bismarck Trib. (May 29, 2016). Copy supplied.

ABA Day, Gavel (Spring 2016). Copy supplied.

Opening Arms and Opening Minds, Gavel (Spring 2016). Copy supplied.

If He Looks Like a Lawyer, And He Talks Like a Lawyer, He May be a Limited License Legal Technician, Gavel (Winter 2016). Copy supplied.

ABA is Showing North Dakota Lawyers Some Love, Gavel (Fall 2015). Copy supplied.

North Dakota's Justice Crothers Leads on ABA Ethics Committee, Gavel (Summer 2015). Copy supplied.

SBAND Members Visit Capitol Hill, Gavel (Spring 2015). Copy supplied.

Dan Traynor, Gavel (Spring 2015). Copy supplied.

It Happens Here, Too, Gavel (Winter 2015). Copy supplied.

Whistling Past the Graveyard, Gavel (Fall 2014). Copy supplied.

Letter to the Editor, Forum (Feb. 9, 2012). Copy supplied.

Chief Justice Gerald W. Vanderwalle: Stories of a Man Who has Touched Many, 84 N.D. L. Rev. 973 (2008). Copy supplied.

Roberts Excellent Choice to Replace a Great Justice, Forum (Sep. 11, 2005). Copy supplied.

Open Records—Agencies or Custodians Affected: The North Dakota Supreme Court Expands the Scope of North Dakota's Open Records Law, 72 N.D. L. Rev. 745 (1996). Copy supplied.

b. Supply 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.

Contributing Editor, Am. Bar Ass'n, *Principles for Juries and Jury Trials* (2023). Copy supplied.

c. Supply 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.

On April 29, 2026, I met with Senator Kevin Cramer to discuss the condition of federal courthouses. I have supplied copies of materials relevant to that meeting.

Letter to Columbia University President Minouche Shafik, May 6, 2024. Contributing Author and Signor. Copy supplied.

From 2014 to 2022, I served as member of the State Bar of North Dakota Board of Governors. I have supplied minutes from meetings during my tenure including a meetings at of the Joint Committee on Attorney Standards at which I appeared.

From 2018 to 2020, I served as a member of the North Dakota State Board of Higher Education. I have supplied minutes from meetings during my tenure through July 2, 2019. I have requested the minutes for meetings after that date, but they are in the State Archives and have not been received by the date of this filing. Copies of those minutes can be supplied upon request.

From 1998 to 2020, I served as Assistant Devils Lake City Attorney. On rare occasions, I attended City Commission Meetings, which were generally held on the first and third Monday of each month. I estimate that I attended less than 15 such meetings. During the meetings I provided communication to the City Commission on matters of public policy or legal interpretation. I have no notes from these meetings and do not recall which meetings I may have attended over the years. To the extent these meetings were reported on by local media, I have provided copies:

Testimony before Interim Industry, Business and Labor Committee, August 21, 2008.
Copy supplied.

d. Supply 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.

February 20, 2026: Speaker, "Juror Mental Health Challenges and Solutions," University of Mary, Bismarck, North Dakota. PowerPoint supplied.

February 20, 2026: Speaker, "Requesting a Third Article III Judge," Big Muddy Bar Association, Bismarck, North Dakota. PowerPoint supplied.

June 12, 2025: Speaker, "SBAND Distinguished Service Award Acceptance Speech," State Bar Association of North Dakota, Bismarck, North Dakota. Copy supplied.

June 2, 2025: Speaker, "Remarks at Doug Mattson Retirement," North Central District Court, Bismarck, North Dakota. Copy supplied.

June 20, 2024: Moderator, "Rapidly Developing Issues in Third Party Litigation Funding," Law & Economics Center, Antonin Scalia Law School, George Mason University, Fairfax, Virginia.

October 23, 2024: Speaker, "VandeWalle Courtroom Opening Ceremony," University of North Dakota School of Law, Grand Forks, North Dakota. Copy supplied.

September 27, 2023: Speaker, "Remarks to Native American Steering Committee," United Tribes Technical College Board of Directors, Bismarck, North Dakota. Copy supplied.

September 21, 2023: Speaker, "Remarks Regarding Michael Hoffman," Attorney Michael Hoffman's Funeral, Bismarck, North Dakota. Copy supplied.

March 28, 2023: Speaker, "Honoring Chief Justice Gerald W. VandeWalle upon His Retirement from the North Dakota Supreme Court," North Dakota Supreme Court, Bismarck, North Dakota. Copy supplied.

February 27, 2023: Speaker, "Remarks at Justice Bahr Investiture," North Dakota Supreme Court, Bismarck, North Dakota. Copy supplied.

December 2, 2022: Speaker, "Keeping Tribal Communities Connected Even When a Loved One Is Incarcerated: Why North Dakota Needs a Federal Bureau of Prisons Facility," Executive Committee of United Tribes Technical College, Bismarck, North Dakota. Notes supplied.

October 5, 2022: Speaker, "Remarks to National Sober Living Association," National Sober Living Association, Las Vegas, Nevada. Notes supplied.

May 6, 2021: Speaker, "Right to Jury Trial in Civil Cases," North Dakota Association for Justice, Fargo, North Dakota. Notes supplied.

May 11, 2019: Speaker, "Spring Commencement Address," Valley City State University, Valley City, North Dakota. Video available at:
https://www.youtube.com/watch?v=tucCN_1GdB0

May 4, 2019: Speaker, "Spring Commencement Address," University of North Dakota School of Law, Grand Forks, North Dakota. Video available at:
<https://www.youtube.com/watch?v=9sJ2uOeT76o>

December 8, 2018: Speaker, "Winter Professional Commencement Address," University of North Dakota, Grand Forks, North Dakota. Copy supplied.

March 27, 2017: Speaker, "Nominating Joel W. Gilbertson to Receive SBAND Distinguished Service Award," State Bar Association of North Dakota, Bismarck, North Dakota. Copy supplied.

June 16, 2016: Moderator, "Diversity and Bias in the Legal Profession," University of North Dakota Law School, Grand Forks, North Dakota. I have no notes, transcript, or recording. The address of the University of North Dakota Law School is 215 Centennial Drive, Stop 9003, Grand Forks, ND 58202.

July 1, 2015: Speaker, "Breakfast with ABA President-elect Linda Klein," State Bar

Association of North Dakota, Fargo, North Dakota. I have no notes, transcript, or recording. The address of the State Bar Association of North Dakota is 1661 Capitol Way, Suite 104LL, Bismarck, North Dakota 58501. Event announcement supplied.

February 6-7, 2015: Moderator, "Perspectives on the Appropriate Sanction in Attorney Discipline Cases," National Council of Lawyer Disciplinary Boards Annual Meeting, Crowne Plaza Hotel, Houston, Texas. PowerPoint and press release supplied.

October 25, 2013: Speaker, "Remarks at investiture of Judge Paul W. Jacobson," Williston, North Dakota. I have no notes, transcript, or recording. The address of Judge Jacobson's chambers is Williams County Courthouse, Post Office Box 2047, Williston, North Dakota 58802-2047. Press report supplied.

February 11, 2002: Appearance, "Scott Hennen show on WDAY Radio," Fargo, North Dakota. I have no notes, transcript, or recording. The address of WDAY is 2852 Thunder Road South, Fargo, North Dakota 58104. Press report supplied.

In addition to the events listed above I note the following:

From 2015 to 2016, I served as President of the Devils Lake Rotary Club. In that capacity I would have provided brief remarks at meetings including, for example, introducing the principal speaker. I do not have any notes, transcripts, or recordings of these meetings. The address of the Devil Lakes Rotary Club is Post Office Box 12, Devils Lake, ND 5830.

From 2001 to 2003 I served as the chairman of the North Dakota Republican Party. In this capacity I would on occasion make brief remarks at Party events. I do not have any notes, transcripts, or recordings of my remarks. The address of the North Dakota Republican Party is 1029 North 5th Street, Bismarck, ND 58501

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 copies of the clips or transcripts of these interviews where they are available to you.

Blake Nicholson, *Case Involving Judge and His Dog Threatens to Bite Federal Court System in Bismarck*, Bismarck Trib., May 9, 2024. Copy Supplied.

Sydney Mook, *Denny Elbert, Casey Ryan Named Co-Chairs for UND Presidential Search Committee*, Grand Forks Herald (N.D.), May 31, 2019. Copy Supplied.

April Baumgarten, *'Crisis on Campus'*, Daily News (Wahpeton, N.D.), May 31, 2019. Copy Supplied.

Sydney Mook, *State Board Member, Chancellor Split on How to Move Forward with UND President's Search*, Grand Forks Herald (N.D.), May 19, 2019. Copy Supplied.

Sydney Mook, *Decision Day for Mark Kennedy: Presidential Search Controversies Not Limited to Colorado*, Grand Forks Herald (N.D.), May 2, 2019. Copy Supplied.

Korrie Wenzel, *Traynor: Letter to Kennedy Meant to 'Protect the State'*, Williston Daily Herald (N.D.) Apr. 16, 2019. Copy Supplied.

Sydney Mook, *Board Member Rejects Kennedy Decisions on Chief of Staff Controversy*, Grand Forks Herald (N.D.), Feb. 26, 2019. Copy Supplied.

Why I Voted for Donald Trump, WashingtonPost.com, Nov. 12, 2016. Copy supplied.

John Hageman, *Stenehjem Built a Political Foundation over Decades of Experience*, Grand Forks Herald (N.D.), May 1, 2016. Copy Supplied.

James MacPherson and Dave Kolpack, *Cruz Has Head Start with North Dakota's National Delegates*, Associated Press State & Local, Bismarck, N.D., Apr. 4, 2016. Copy Supplied.

Shane Goldmacher, *Cruz Tops Trump in North Dakota Delegate Race*, Politico, Apr. 3, 2016. Copy Supplied.

Rotary Club Presented with Unsung Hero Award, Devils Lake J. (N.D.), Nov. 11, 2014. Copy Supplied.

Traynor Family Lawyers Date Back to 1903, Gavel (N.D.), Summer 2012, Copy Supplied.

Rebecca Beitsch, *Pharmacy Measure in ND Supreme Court's Hands After Arguments*, Bismarck Trib., Sept. 2, 2010. Copy Supplied.

Dale Wetzel, *Pharmacy Bill Debate Heats Up*, Bismarck Trib., Feb. 11, 2009. Copy Supplied.

Dale Wetzel, *N.D. Lawmakers Undecided on Pharmacy Law*, Bismarck Trib., Jan. 7, 2009. Copy Supplied.

Brian Duggan, *No Headline in Original*, Bismarck Trib., Jan. 4, 2009. Copy Supplied.

Dale Wetzel, *Republicans Say Dorgan, Conrad Should Support High Court Choice*, Associated Press State & Local Wire, July 20, 2005. Copy Supplied.

ND Republicans Look for Convention Fun, Worry About Demonstrators, Associated Press State & Local Wire, Aug. 28, 2004. Copy Supplied.

Clayburgh Clears Out of House Race, Nat'l J. House Race Hotline, Dec. 5, 2003. Copy Supplied.

Deena Winter, *Clayburgh Says Not to Congress*, Bismarck Trib., Dec. 5, 2003. Copy Supplied.

Minnesota: Never a Bad Thing for a Republican to be Compared to; Ronald Reagan, Hotline, May 6, 2003. Copy Supplied.

GOP Decides to Meet in Williston, Bismarck Trib., May 1, 2003. Copy Supplied.

Blake Nicholson, *Public Service Commissioner Leo Reinbold Resigning*, Associated Press State & Local Wire, May 1, 2003. Copy Supplied.

Pomeroy Comments May Not Be USDA-Approved, but They're Forum-Approved!, Nat'l J. House Race Hotline, Apr. 15, 2003. Copy Supplied.

Fireside Heard From, Bismarck Trib., Mar. 8, 2003. Copy Supplied.

Dave Kolpack, *Democrats Push Radio Host to Run for Office*, Bismarck Trib., Mar. 7, 2003. Copy Supplied.

North Dakota Governor: Dems Turning to the Airwaves for a Candidate?, Hotline, Mar. 7, 2003. Copy Supplied.

Briefly, Bismarck Trib., Mar. 4, 2003. Copy Supplied.

Dale Wetzel, *Bush Wants Schafer to Seek Senate*, Bismarck Trib., Dec. 22, 2002. Copy Supplied.

North Dakota, Nat'l J. CongressDaily, Nov. 25, 2002. Copy Supplied.

Dale Wetzel, *GOP Looks at Taking on Dorgan; State's Toughest Democrat Suddenly Looks Vulnerable*, Bismarck Trib., Nov. 11, 2002. Copy Supplied.

North Dakota: GOP to Slay Lord Byron?, Hotline, Nov. 11, 2002. Copy Supplied.

Dave Kolpack, *Youth Initiative Supporters Stand by Plan*, Bismarck Trib., Nov. 7, 2002. Copy Supplied.

Dale Wetzel, *Democrats Accuse Republicans of Arrogance*, Bismarck Trib., Nov. 2, 2002. Copy Supplied.

Ralph Z. Hallow, *GOP Sees Hawaii as Good Prospect in Governor's Race*, Wash. Times, Oct. 29, 2002. Copy Supplied.

Dale Wetzel, *Flood of Absentee Ballot Applications Coming as Parties, Interest Groups Try to Get Out Vote*, Associated Press State & Local Wire, Oct. 6, 2002. Copy Supplied.

North Dakota Senate '04: Two Years Out, Just 8% Undecided In; Dorgan-Schafer Matchup, Hotline, Sept. 4, 2002. Copy Supplied.

Dale Wetzel, *Schafer Establishes PAC*, Bismarck Trib., Aug. 28, 2002. Copy Supplied.

Gordon Weixel, *State GOP Gathers on Shores of DL for Strategy Session*, Devils Lake J. (N.D.), Aug. 23, 2002. Copy supplied.

Lauren Donovan, *Pomeroy Enjoying the Ride*, Bismarck Trib., June 6, 2002. Copy Supplied.

Lauren Donovan, *Conrad: 'I Go Until I Drop'*, Bismarck Trib., June 5, 2002. Copy Supplied.

Lauren Donovan, *Dorgan Juggles Work, Family*, Bismarck Trib., June 4, 2002. Copy Supplied.

N.D. Democrats Attracting Out-of-State Donors, Bismarck Trib., May 13, 2002. Copy Supplied.

Lauren Donovan, *Money Surging to N.D. Political Parties*, Bismarck Trib., Apr. 17, 2002. Copy Supplied.

Dale Wetzel, *Parties Fill Most Legislative Tickets*, Bismarck Trib., Apr. 13, 2002. Copy Supplied.

Republicans Pick Tax Official to Compete Against Pomeroy, Nat'l J. CongressDaily, Apr. 9, 2002. Copy Supplied.

Briefly, Bismarck Trib., Apr. 7, 2002. Copy Supplied.

Clayburgh Puts It Blunt-ly, Nat'l J. House Race Hotline, Apr. 1, 2002. Copy Supplied.

Oklahoma's J.C. Watts to Address Republican Convention, Bismarck Trib., Mar. 17, 2002. Copy Supplied.

Dale Wetzel, *Democrats Failed to Report Money, GOP Chairman Says*, Bismarck Trib., Mar. 6, 2002. Copy Supplied.

Briefly, Bismarck Trib., Feb. 16, 2002. Copy Supplied.

Lauren Donovan, *Authorities Launch Investigation of Governor's Ex-Political Director*, Bismarck Trib., Feb. 9, 2002. Copy Supplied.

Dale Wetzel, *Governor Fires His Political Director*, Bismarck Trib., Feb. 8, 2002. Copy Supplied.

Legislators May Boycott Fund-Raiser, Bismarck Trib., Nov. 30, 2001. Copy Supplied.

Briefs from the North Dakota Legislature's Special Session, Associated Press State & Local Wire, Nov. 29, 2001. Copy Supplied.

Taking Another Time Out?, Nat'l J. House Race Hotline, Oct. 9, 2001. Copy Supplied.

Put Me in Coach, I'm Ready to Play, Nat'l J. House Race Hotline, Oct. 2, 2001. Copy Supplied.

Mary Foster, *Former LSU Coach Seriously Considering Running for U.S. Congress*, Associated Press State & Local Wire, Oct. 1, 2001. Copy Supplied.

Dale Wetzel, *Former Hoops Coach Ponders House Contest*, Bismarck Trib., Sept. 29, 2001. Copy Supplied.

Sportscope: It's Easier Than Selling Basketball in Louisiana, Daily Press (Newport News, Va.), Sept. 29, 2001. Copy Supplied.

Dale Wetzel, *New Post Helps Pomeroy Raise Funds*, Bismarck Trib., Aug. 13, 2001. Copy Supplied.

Briefly, Bismarck Trib., July 12, 2001. Copy Supplied.

Dale Wetzel, *Clayburgh Considering Run for House*, Bismarck Trib., June 11, 2001. Copy Supplied.

Dale Wetzel, *GOP Elects Devils Lake Attorney as Chairman*, Bismarck Trib., June 9, 2001. Copy Supplied.

Curly Haugland Rules Out New Term as GOP Chairman, Bismarck Trib., June 2, 2001. Copy Supplied.

North Dakota: Curly Out, Hotline, June 1, 2001. Copy Supplied.

Dale Wetzel, *Democrats Refund Cost of Rally Invitations After Republicans Complain*, Bismarck Trib., Sept. 1, 2000. Copy Supplied.

Quotes from North Dakota Delegation on Bush Speech, Associated Press State & Local Wire, Aug. 3, 2000. Copy Supplied.

Gordon Weixel, *Traynor, Nicholas Prepare for Trip*, Devils Lake J. (N.D.), July 26, 2000. Copy Supplied.

Gordon Weixel, *Dist. 15 Duo Help Choose a President*, Devils Lake J. (N.D.), July 21, 2000. Copy Supplied.

Don Canton, *Reflections on What Happened and Why*, Bismarck Trib., Apr. 3, 2000. Copy Supplied.

John MacDonald, *Delegates Say Convention Had a Youthful Feel Others Have Lacked*, Associated Press State & Local Wire, Apr. 2, 2000. Copy Supplied.

Hoeven Holds Organizational Edge in Republican Race for Governor, Bismarck Trib., Jan. 9, 2000. Copy Supplied.

In GOP Race for Governor, Former Democrat Finds Loyalty Questioned, Associated Press State & Local Wire, Jan. 8, 2000. Copy Supplied.

U.S. Justice to Speak at UND Commencement, Bismarck Trib., Oct. 24, 1996. Copy Supplied.

Terry J. Aman, *Traynor to Clerk for N.D. Supreme Court*, Devils Lake J. (N.D.), Aug. 8, 1996. Copy Supplied.

Frederic Smith, *GOP Panel OKs 'Parental Rights'*, Bismarck Trib., Mar. 30, 1996. Copy Supplied.

Frederic Smith, *Panel Wants No State Role in Goals 2000*, Bismarck Trib., Mar. 30, 1996. Copy Supplied.

John MacDonald, *It's No to Tax Hikes*, Bismarck Trib., Mar. 29, 1996. Copy Supplied.

Press Releases

From 2001 to 2003 I served as the chairman of the North Dakota Republican Party. From time to time the Party would issue press releases in which I was quoted. I have included those press releases that are available in publicly available digital archives.

Kevin Cramer Named to PSC, June 16, 2003. Copy supplied.

Pomeroy Insults AG Secretary, April 12, 2003. Copy supplied.

Chamber Poll Gives Hoeven 75% Job Approval, March 19, 2003. Copy supplied.

U.S. Senate Held Hostage, March 3, 2003. Copy supplied.

Senate Democrats Need to Pass Disaster Bill, Oct. 15, 2002. Copy supplied.

Republicans Endorse Susan Wefald to another Term on PSC, Apr. 7, 2002. Copy supplied.

North Dakota Republicans to Highlight Women in Leadership, Apr. 3, 2002. Copy supplied.

Republican Whip to Headline NDGOP State Convention on Sunday, March 29, 2002. Copy supplied.

North Dakota Delegation to Farmers: "Eastward Ho!", March 6, 2002. Copy supplied.

North Dakota Delegation to Farmers: "Go East Young Man!", March 4, 2002. Copy supplied.

North Dakota Republicans Say Look at the Numbers, Feb. 23, 2002. Copy supplied.

In addition, in my capacity as State Chairman I would on occasion make brief appearances in local North Dakota media outlets. I do not have any notes, transcripts, or recordings of these appearances. The address of the North Dakota Republican Party is 1029 North 5th Street, Bismarck, ND 58501

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.

United States District Judge for the District of North Dakota. Appointed. The District's jurisdiction is the State of North Dakota. I primarily handle cases in the District's western division.

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

I have presided over approximately 24 cases that have gone to verdict or judgment. Of these trials, 10 were civil and 14 were criminal while 22 were jury trials and 2 were bench trials.

- i. Of these cases, approximately what percent were:

jury trials:	92%
bench trials:	8%

- ii. Of these cases, approximately what percent were:

civil proceedings:	42%
criminal proceedings:	58%

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

According to a search of the Court's electronic filing system CM/ECF, I have issued over 4,000 orders in my cases. Please see the attached list of citations for the opinions I have authored available on Westlaw and from a search of the Court's filing system.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *North Dakota v. United States*, 785 F. Supp. 3d 473 (D.N.D. 2025).

This case involved the Dakota Access Pipeline Protests from late 2016 to early 2017. After an 18-day bench trial, I found that, under the Federal Tort Claims Act and North Dakota law, the United States was liable for damages North Dakota sustained during the DAPL Protests because the United States invited and encouraged protestors in their illegal and destructive behavior. The United States' appeal is currently stayed pending settlement. To facilitate this settlement, at the Parties' joint request, I entered an indicative order stating that, upon remand, I intended to grant a motion to vacate the judgment, my findings of fact and conclusions of law, the United States' Motion for Summary Judgment and Motion to Dismiss.

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2. *United States v. Dornsbach*, Case No. 22-CR-00048, 2023 WL 2252580 (D. Minn. Feb. 17, 2023) (ordering denying motion to dismiss); 2023 WL 6476391 (D. Minn. Oct. 5, 2023) (order denying motion for permanent injunction).

This case involved an alleged bid rigging scheme between the defendants and various municipal and public educational entities in the western suburbs of the Twin Cities in Minnesota. When applying for concrete bids with these entities, the defendant would have his co-conspirator submit dummy bids higher than the defendant's to comply with Minnesota law. The jury found the Defendants not guilty of the federal offense. After the verdict, the defendants moved to permanently enjoin the United States Department of Justice from continuing to post an article indicating the defendants were indicted with a note at the top stating they were acquitted of the crimes charged. I denied the motion, concluding the Court lacked ancillary jurisdiction over the issue. This was affirmed on appeal. *See United States v. Dornsbach*, No. 23-3258, 2025 WL 1554133 (8th Cir. June 2, 2025) (per curiam).

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3. *United States v. Brown*, Case No. 1:22-cr-134 (D.N.D. 2025).

In June 2022, law enforcement stopped a known dealer, Walter Holmes, Jr., as he entered North Dakota, traveling from Tennessee. Kwamesha Brown was driving and another male was in the back seat with Brown's young son. Brown identified herself as Sylena Cowart, later found to be Brown's mother. After a search, 100 g of fentanyl was found on Brown's person. She was not arrested but her phone was taken. A phone dump showed the phone was associated with Brown, text messages were found between the two asking for the car rental agreement and birthdates to give law enforcement. At the 4-day trial, defense argued mistaken identity, that the woman in the dashcam video was in fact Selena Cowart. Counsel pointed out that the woman in the video had lighter skin and Brown had darker skin. The jury returned a verdict of guilty on both counts. Copy of judgment provided.

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4. *Breckheimer v. Jacobson*, Case No. 3:23-cv-00188, 2025 WL 2712428 (D.N.D. Feb. 5, 2025). *See also Breckheimer v. Jacobson*, Case No. 3:23-cv-00188, 2024 WL 6845345 (D.N.D. Oct. 21, 2024); *Breckheimer v. Jacobson*, Case No. 3:23-cv-00188, 2024 WL 1994047 (D.N.D. May 6, 2024).

This was a partition action between two siblings over family farmland in North Dakota that resulted in a bench trial. The case was in federal court because Defendant Commodity Credit Corporation was a government corporation with a lien on portions of the land. There was a settlement agreement that was subject to enforcement but was found to be without support during the bench trial. As a result, I entered an order partitioning the land in a way that was fair and equitable to both Plaintiff and Defendants. I have attached a copy of the Findings of Fact, Conclusions of Law, and Order for Judgment.

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5. *FA ND Chev v. Kupper*, Case No. 1:20-cv-138, 2024 WL 3650098 (D.N.D. August 5, 2024).

In 2019, Bob Kupper sold several motor vehicle and service businesses a Canadian corporation Foundation Automotive through an Asset Purchase Agreement. After the sale, several employees left the entities to follow Mr. Kupper. Additionally, Foundation believed the inventory levels were not accurate, they overpaid for the dealership and, therefore, did not pay required earnout payments. Several lawsuits ensued and were consolidated.

On summary judgment, I ruled Kupper was owed \$3 million. At the 7-day jury trial held in November 2024, Foundation argued Kupper's breaches of contract excused them from paying. I excluded Foundation's expert testimony for misrepresenting comingled data as from a single source. The jury found in favor of Kupper on all counts. This case is still on-going post-judgment disputes as to collection of the judgment.

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6. *EEOC v. East 40, Inc.*, Case No. 1:18-cv-00260, 2022 WL 22905239 (D.N.D. Nov. 23, 2022).

This was a sex discrimination case under Title VII brought by the EEOC against East 40, Inc., which runs a local steakhouse in Bismarck, North Dakota. It was alleged that the complaining party—who subsequently intervened in the case—was terminated as a server at the restaurant because she was pregnant. It was alleged the manager told the servers they needed to work harder but that the intervenor would not work harder because she was pregnant. The manager then walked her outside and EEOC alleged told the intervenor her termination was due to her pregnancy. The jury did not believe the EEOC or intervenor and found the defendant's pregnancy was not a motivating factor in her discharge. No damages were, therefore, awarded.

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7. *United States v. Wolter*, Case No. 1:19-cr-00048 (D.N.D. 2023).

Robert Wolter was accused of committing bank robbery in Bismarck, North Dakota. Prior to trial, he moved to dismiss the indictment on speedy trial grounds, which I denied. He represented himself with the Federal Public Defender's Office as standby counsel. It was alleged the defendant walked into a local bank wearing a mask, sunglasses, wig, and black hooded sweatshirt. When asked to take his mask and sunglasses off, he announced "this is a robbery." A bank employee filled defendant's duffel bag with \$6,885.72. Before leaving the bank, defendant stated, "I tried to make this as less traumatic as possible." He was ultimately apprehended at Newark Liberty International Airport trying to fly to Ghana with more money than allowed. He testified at trial that he was trying to get \$50,000 to move to Ghana. A jury found him guilty as charged. It came out at sentencing that when he was stopped at the airport a hitlist with individuals in Ghana was found with him. The defendant appealed the denial of the motion to dismiss. The Eighth Circuit affirmed. *See United States v. Wolter*, 112 F.4th 567 (8th Cir. 2024). Copies of the order denying motion to dismiss and judgment provided.

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8. *United States v. Glatt*, Case No. 1:19-cr-00159 (D.N.D. 2021).

Defendant was charged with Bank Fraud, Interstate Sale of Stolen Livestock, and Interstate Transportation of stolen Livestock from incidents occurring in 2017. He would rebrand cattle that was not his, transport them to South Dakota, and use the stolen cattle to defraud a bank. The jury found him guilty on the Bank Fraud and Interstate

Transportation of Stolen Livestock charges and not guilty as to the Interstate Sale of Stolen Livestock charge. The defendant did not appeal. Copy of the judgment provided.

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9. *McMahan v. Emerson Electric Co.*, Case No. 2:15-cv-00022 (D.N.D. 2021).

This was a tragic case involving a hot water heater explosion that destroyed a home severely injuring the occupants. All the defendants settled with the plaintiff except for Emerson Electric Co. They made the valve that was allegedly faulty and contributed to causing the explosion. The jury found Emerson Electric not negligent and awarded no damages as a result. Copy of amended judgment provided.

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10. *Gonzalez v. Shahin*, Case No. 1:17-cv-00157, 2021 WL 5112003 (D.N.D. Sept. 15 2021).

This was a medical malpractice case that involved a case of Stevens-Johnson Syndrome (SJS), a rare and potentially life-threatening reaction to common antibiotics. The Defendant began taking the antibiotic Bactrim after being prescribed it for a urinary tract infection. He began having side-effects from the drugs and went to several emergency rooms and walk-in clinics in Northwest North Dakota. At one point, one of the defendants noted in his medical chart the plaintiff was having a severe reaction to Bactrim, but advised him to continue the medication until told otherwise by the prescribing doctor. After several days, one defendant recognized the symptoms as SJS and immediately had him flighted to the foremost experts in SJS treatment in Colorado. The plaintiff described his pain as though getting cut with a thousand knives whenever he blinked. The jury found the defendants not negligent and plaintiff recovered nothing as a result. He appealed the judgment. The Eighth Circuit affirmed. *See Gonzalez v. Shahin*, 77 F.4th 1183 (8th Cir. 2023).

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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.

1. *Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, Case No. 1:21-cv-00095, 2022 WL 909317 (D.N.D. Mar. 11, 2022), *aff'd sub nom., N.D. Retail Ass'n v. Bd. of Governors of the Fed. Rsrv. Sys.*, 55 F.4th 634 (8th Cir. 2022), *rev'd*, 603 U.S. 799 (2024); *see also Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, 794 F. Supp. 3d 610, 640 (D.N.D. 2025), *appeal docketed*, No. 25-3000 (8th Cir. Oct. 8, 2025).

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2. *Wilansky v. Morton Cnty.*, Case No. 1:18-cv-00236, 2024 WL 1543020 (D.N.D. Apr. 5, 2024), *appeal docketed*, No. 24-1911 (8th Cir. April 30, 2024).

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3. *Firearms Regul. Accountability Coal. v. Garland*, Case No. 1:23-cv-00003, 2025 WL 1780570 (D.N.D. Feb. 18, 2025), *vacated in part*, 2025 WL 2270048 (D.N.D. Aug. 1, 2025).

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4. *Indiana v. Mayorkas*, Case No. 1:23-cv-00106, 2024 WL 5358932 (D.N.D. Nov. 26, 2024), *vacated as moot sub nom., Indiana v. Noem*, No. 25-1130, 2025 WL 2318929 (8th Cir. Aug. 7, 2025).

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5. *Iowa v. Council on Env't Quality*, 765 F. Supp. 3d 859 (D.N.D. 2025), *vacated as moot*, Nos. 25-1641, 25-1705, 2025 WL 2205808 (8th Cir. July 29, 2025).

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6. *Catholic Benefits Ass'n v. Lucas*, Case No. 1:24-cv-00142, 2025 WL 1144768 (D.N.D. Apr. 15, 2025).

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7. *North Dakota v. United States*, 785 F. Supp. 3d 473 (D.N.D. 2025), *appeal docketed*, No. 25-2276 (8th Cir. June 26, 2025) (stayed pending settlement negotiations).

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8. *Carera v. Bondi*, Case No. 1:26-cv-00039, 2026 WL 508084 (D. Minn. Feb. 24, 2026).

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9. *United States v. Wilkinson*, Case No. 1:24-cr-00161, 2026 WL 593928 (D.N.D. March 3, 2026).

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10. *AbbVie Inc. v. Wrigley*, — F. Supp. 3d. —, 2026 WL 1133457 (D.N.D. 2026)

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- e. Provide a list of all cases in which certiorari was requested or granted.

Corner Post, Inc. v. Bd. of Governors of the Fed. Rsrv. Sys., Case No. 1:21-cv-00095, 2022 WL 909317 (D.N.D. Mar. 11, 2022), *aff'd sub nom.*, *N.D. Retail Ass'n v. Bd. of Governors of the Fed. Rsrv. Sys.*, 55 F.4th 634 (8th Cir. 2022), *rev'd*, 603 U.S. 799 (2024).

United States v. White Owl, Case No. 1:19-cr-00068, Doc. No. 226 (D.N.D. June 13, 2023) (order denying motion to dismiss), *aff'd*, 93 F.4th 1089 (8th Cir. 2024), *rehearing denied*, Case No. 23-2431, 2024 WL 1519874 (8th Cir. April 9, 2024) *cert. denied*, 145 S. Ct. 268 (2024).

- 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.

Thunderhawk v. Morton Cnty., 483 F. Supp. 3d 684 (D.N.D. Sep. 1, 2020), *rev'd*, Nos. 20-3052, 20-3053, 2022 WL 2441323 (8th Cir. July 5, 2022).

Protestors of the Dakota Access Pipeline ("DAPL") blocked a bridge. During the operation to clear the bridge, some protestors were injured and sued in a class action. I denied motions to dismiss, finding that qualified immunity analysis would be better

decided at the summary judgment stage. The Circuit reversed, holding that to deny qualified immunity both prongs of the test must be found in the government's favor, and remanded for further analysis.

Mitchell v. Kirchmeier, Case No. 1:19-cv-149, 2020 WL 8073625 (D.N.D. Dec. 10, 2020), *aff'd in part, and rev'd, in part*, 28 F.4th 888 (8th Cir. 2022), *remanded to Case No. 1:19-cv-149*, 2024 WL 4163193 (D.N.D. Aug. 1, 2024), *appeal docketed*, No. 24-2755 (Aug. 29, 2024).

Native American arrestee brought § 1983 action against various county and state officials, alleging violations of his First, Fourth, and Fourteenth Amendment rights in connection with his arrest while protesting against construction of oil pipeline across tribal land. I granted motion to dismiss for failure to state a claim, including that *Heck v. Humphrey* barred First Amendment claims, following a Third Circuit reading of the case. The Circuit reversed these dismissals because Mitchell was never sentenced and *Heck* does not apply to pretrial diversion agreements, following the Tenth and Eleventh Circuits. However, these claims were dismissed on their merits. The Circuit also reversed the dismissal of excessive force against those who shot a lead-filled bean bag at him because it was clearly established gentler treatment was still more than *de minimis* force, the *Monell* claim against the county was also sufficiently pled, and an officer was not clearly entitled to qualified immunity for failure to intervene. All other dismissals were upheld. On remand, I granted motions for summary judgment by the defendants.

Poemoceah v. Morton Cnty., Case No. 1:20-cv-00053, 2020 WL 8363156 (D.N.D. Dec. 29, 2020), *aff'd, in part, and rev'd, in part*, 117 F.4th 1049 (8th Cir. 2024).

Protester, who was arrested for physical obstruction of a government function (later dismissed) at a protest against the construction of a pipeline, brought action against the county, its sheriff, and several police officers, asserting 1983 claims alleging his First, Fourth, and Fourteenth Amendment rights were violated, as well as state law claims for intentional infliction of emotional distress. I granted defendants' motion to dismiss, and protester appealed. The Circuit affirmed dismissal of all counts except the excessive force claim against a police officer who allegedly violently tackled him from behind. On remand, summary judgment granted for defendant. *Poemoceah v. Swenson*, — F. Supp. 3d —, 2026 WL 867414 (D.N.D. 2026).

United States v. White Owl, Case. No. 1:19-cr-00068, 512 F. Supp. 3d 934 (D.N.D. Jan. 12, 2021), *rev'd*, 39 F.4th 527 (8th Cir. 2022).

Defendant was charged with arson and felony murder in Indian country arising from allegations that he started a cabin fire that killed the occupant. I granted Defendant's motion in limine to bar the United States from using comments he made to his wife after the fire. The Circuit reversed and held the statements fell within third-person/spousal-victim exception to the marital-communications privilege because he was committing a crime against her at the time, an argument not presented in full before the district court.

“We have discretion, however, to consider a new issue on appeal if it is purely legal and requires no additional factual development.”

United States v. Schneider, Case. No. 1:19-cr-00124 (D.N.D.), *aff’d*, 40 F.4th 849 (8th Cir. 2022).

The specific sentencing guidelines ranges are not set during a change of plea and can change based on later evaluation. However, I said during a change of plea that “I’ll sentence him within the guidelines under a 37—so we’re looking at 210 to 262 months.” The Circuit found these comments were plain error. However, the Circuit did not find this affected the defendant’s substantial rights and, therefore, affirmed. A copy of the original judgment is provided.

United States v. Dickson, Case No. 1:17-cr-00036 (D.N.D.), *aff’d, in part, and rev’d, in part*, 70 F.4th 1099 (8th Cir. 2023).

Defendant was convicted of conspiracy to distribute and possess with intent to distribute heroin and methamphetamine. I adopted the presentence investigation report and then varied upward without notice based on findings that contradicted the report. The Circuit held relying on clearly erroneous facts, miscalculating the guidelines range, and the lack of prior notice resulted in a significant procedural error and vacated the judgment. On remand, I gave the same sentence, adopting the report in part. The judgment was affirmed on a second appeal. 127 F.4th 722 (8th Cir. 2025). A copy of the original judgment is provided.

Chase v. Andeavor Logistics, L.P., 686 F. Supp. 3d 854 (D.N.D. 2023), *aff’d and remanded*, 165 F.4th 1102 (8th Cir. 2026).

In 2013, Andeavor’s interest expired in an oil pipeline that crossed federal lands held in trust for the Mandan, Hidatsa, and Arikara Nation (“Three Affiliated Tribes”), and yet the company continued to operate the pipeline. In 2017, the Three Affiliated Tribes agreed to renew the interest for tribal trust land; however, negotiations with individual allottees were unsuccessful. Several allottees sued for trespass. I held individual allottees do not have an independent right to a federal common law claim of trespass because they do not constitute a tribe alleging aboriginal title to the land. The Circuit affirmed but criticized the seven years of litigation and case management.

United States v. Litson, Case. No. 1:20-cr-00108 (D.N.D.), vacated, No. 22-3013, 2023 WL 3410591 (8th Cir. 2023).

Defendant pled guilty to abusive sexual contact with a minor. At sentencing, Defendant objected to the presentence investigation report, specifically that it included unproved allegations. I relied on those allegations in sentencing. A split panel held relying on unproven allegations was a significant procedural error. The Circuit vacated and remanded for resentencing. A copy of the original judgment is provided.

Whatley v. Canadian Pac. Ry. Co., Case No. 1:16-cv-00074, 2024 WL 63044 (D.N.D. Jan. 5, 2024), *rev'd*, 142 F.4th 1030 (8th Cir. 2025).

Assignee of crude oil shipper's claims under Carmack Amendment to Interstate Commerce Act brought action against railroad which transported the oil prior to a fatal explosion that occurred during second railroad's transport of the oil. Defendant railroad moved to apply judgment-reduction provision of second railroad's Chapter 11 bankruptcy plan, under which parties that had not entered into settlement agreement with second railroad, including defendant railroad, would not be responsible for more than their proportionate share of the liability. I declined to address merits of motion, finding issue was properly reserved to bankruptcy court. Defendant railroad appealed. The Circuit reversed and held that: (1) after previously accepting joint stipulation of fact in its entirety, district court abused its discretion in setting aside portion of stipulation, and (2) judgment-reduction provision of second railroad's bankruptcy plan acted to reduce a non-settling defendant's liability in proportion with second railroad's comparative fault and thus required that any judgment against defendant railroad be reduced to zero.

United States v. Nesdahl, Case Nos. 1:22-cr-00076 (D.N.D. June 27, 2024), *aff'd in part, vacated in part*, 140 F.4th 474 (8th Cir. 2025).

Defendant was convicted, pursuant to guilty plea, of two counts of receipt of child pornography and seven counts of sexual exploitation of a minor, sentenced to 600 months' imprisonment, and ordered to pay \$3,000 in restitution for each of the nine identified victims. The Circuit held that: (1) district court committed plain error when it imposed restitution for each of defendant's seven counts of sexual exploitation of a minor, but (2) defendant's 600-month sentence was not substantively unreasonable. Affirmed in part and vacated in part. Judgment amended on remand. A copy of the original judgment is provided.

Short v. Billings Cnty., 722 F. Supp. 3d 959 (D.N.D. 2024), *vacated*, 138 F.4th 1072 (8th Cir. 2025).

Landowners brought action in diversity against county and members of county board of commissioners, asserting claims including breach of contract, promissory estoppel, and claims for declaratory judgment, arising from county's use of quick take eminent domain process to condemn their land for construction of river bridge despite parties' settlement agreement stating county would not condemn any of the property. I granted landowners' motion for preliminary injunction, and county appealed. The Circuit held the Court abused its discretion in preliminarily enjoining county and its agents from entering landowners' property. Vacated and case voluntarily dismissed on remand.

United States v. Sam, Case No. 1:23-cr-00093 (D.N.D. Jan. 13, 2025), *vacated and remanded*, 170 F.4th 670 (8th Cir. 2026).

The Defendant pled guilty to aggravated sexual abuse of a minor by force. At sentencing, there were allegations in the presentence report that indicated multiple other instances of

sexual abuse of other minors. At the opening of the hearing, I asked if there were any objections to the presentence investigation report and defense counsel stated there were none. When I imposed sentencing, I relied on the unobjected to conduct from the presentence report, but counsel then asserted her objection in the middle of pronouncing sentence. The Court of Appeals reversed on the grounds that I relied on objected-to unproven facts in the presentence investigation report. The matter is currently set for resentencing. A copy of the original judgment is provided.

United States v. Agbaje, Case No. 1:22-cr-00041, 2024 WL 3673104 (D.N.D. Aug. 6, 2024), *rev'd and remanded*, --- F.4th ---- (8th Cir. 2026). A jury found the Defendant guilty of money laundering and aiding and abetting mail fraud and wire fraud. During trial, I excluded certain evidence relating to the government's witness preparation of an alleged accomplice. I subsequently denied a motion for acquittal or new trial on various grounds, including the exclusion of this testimony. I found there was no evidence the United States was improper in their witness preparation, including witness coaching and providing the witness with facts. The Eighth Circuit concluded this exclusion was not harmless because the evidence was admissible, highly probative of the witness's bias in favor of the government and against the Defendant, and the witness provided a necessary link between the Defendant and the fraud scheme in North Dakota. The Eighth Circuit reversed and remanded for a new trial.

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.

I have issued over 4000 unpublished orders and opinions since I first became a US District Judge. The unpublished opinions and orders comprise approximately 99% of the opinions and orders I have authored. Most of them are routine, standard form and text-only orders. They are stored in the Court's electronic filing system CM/ECF and available through PACER.

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.

Iowa v. Council on Environmental Quality, 765 F. Supp. 3d 859 (D.N.D. 2025), vacated by, Case No. 25-164, 2025 WL 2205808 (8th Cir. July 29, 2025)

Stanfield v. Liberty Oilfield Services, LLC, Case No. 1:24-cv-00004, 2025 WL 901805 (D.N.D. March 25, 2025)

Kansas v. United States, Case No. 1:24-cv-00150, 2024 WL 5220178 (D.N.D. Dec. 9, 2024), *denying stay*, 124 F.4th 529 (8th Cir. 2024), *dismissing appeal*, Case No. 24-3521, 2025 WL 3773895 (8th Cir. Oct. 1, 2025)

Catholic Benefits Ass'n v. Burrows, 732 F. Supp. 3d 1014 (D.N.D. 2024)

Splonskowski v. White, 714 F. Supp. 3d 1099 (D.N.D. 2024)

Maixner v. Eidsness, Case No. 3:25-cv-00038, Doc. No. 32 (D.N.D. May 19, 2025)
appeal pending, Case No. 25-2101. Copy provided.

Short v. Billings County, 722 F. Supp. 3d 959 (D.N.D. 2024), *rev'd & remanded*, 138 F.4th 1072 (8th Cir. 2025)

United States v. Cartwright, Case No. 1:22-cr-00081, 2024 WL 837030 (D.N.D. Feb. 28, 2024)

Thunderhawk v. County of Morton, North Dakota, 701 F. Supp. 3d 849 (D.N.D. 2023)

Dundon v. Kirchmeier, 577 F. Supp. 3d 1007 (D.N.D. 2021), *aff'd*, 85 F.4th 1250 (8th Cir. 2023)

Drake v. Stenehjem, Case No. 1:23-cv-00231, 2023 WL 6049251 (D.N.D. Sept. 15, 2023)

Spoofcard v. Burgum, 499 F. Supp. 3d 647 (D.N.D. 2020)

Thunderhawk v. County of Morton, 483 F. Supp. 3d 684 (D.N.D. 2020), *rev'd*, Case No. 20-3053, 2022 WL 2441323 (8th Cir. July 5, 2025)

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.

I have not sat by designation.

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:

- 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.

The District of North Dakota uses an automated conflict-check system. The Clerk's Office maintains a list of companies, individuals, and law firms whose cases I cannot preside over because of an actual conflict of interest or an appearance of one. I receive an automated weekly report on conflicts. If a case appears on the list, I enter an order of recusal.

I have been asked to recuse in the following cases:

Thunderhawk v. County of Morton, North Dakota, Case No. 1:18-cv-00212 (D.N.D.).

The Plaintiffs asked that I recuse due to my signing onto Judge Ho's Columbia University letter when one attorney for the plaintiffs was a graduate of Columbia Law School. In denying the motion, I reaffirmed my lack of bias towards any student or Columbia's faculty or initiatives of its law school. I even noted the boycott was not intended to question the quality of any Columbia student or graduate. I therefore found a reasonable person who knew the circumstances and why it came into existence would not question my impartiality. I denied the motions.

United States v. Lazalde, Case Nos. 1:19-cr-00045 & 1:19-cr-00136 (D.N.D.).

Counsel represented the defendant on a Motion to Vacate pursuant to 28 U.S.C. § 2255 in these cases. The sole ground was that his attorney failed to file a notice of appeal when requested by the Defendant. His attorney filed an affidavit indicating that on the day in question, he joined myself and the AUSA on the case to give a brief presentation to a school group that came to observe court that day. Defense counsel argued I had personal knowledge of the disputed evidentiary facts. I concluded nothing in the record showed I had any partiality in deciding the case and denied the motion.

United States v. Heart, 1:19-cr-00231 (D.N.D.). Defense counsel asked that I recuse twice due to comments I made in a separate matter regarding counsel's actions in that other case. I denied both motions. After reconsidering the second request due to additional information that came to light, I recused. The two motions and orders denying them remain under seal.

The following are the cases I recused *sua sponte*:

United States v. Tate, 1:22-cr-194 (D.N.D.)

United States v. Anderson, 1:22-cr-196 (D.N.D.)

United States v. Holt, 1:21-cr-71 (D.N.D.)

United States v. Blackdog, 1:23-cr-97 (D.N.D.)

United States v. Lowe, 1:18-cr-215 (D.N.D.)

United States v. Davis-Jenkins, 1:21-cr-176 (D.N.D.)

United States v. Williams, 1:21-cr-176 (D.N.D.)

United States v. Howe, 1:21-cr-176 (D.N.D.)

In all these cases, I recused due to a conflict I had with the Bismarck Police Department relating to an investigation and charge for having my dog off its leash. Because the BPD was involved in these cases, I recused due to a conflict or perceived conflict

United States v. Bentz, 1:22-cr-218 (D.N.D.)

United States v. Marks, 1:23-cr-209 (D.N.D.)

United States v. One Feather, 1:22-cr-170 (D.N.D.)

United States v. Johs, 1:21-cr-231 (D.N.D.)

In this group of cases, I recused because I retained counsel for the dog leash law incident who was the same defense counsel for one of the defendants in the case before me. As such, I had a conflict of interest that necessitated recusal.

Lastra v. Sage, 1:23-cv-71 (D.N.D.)

I recused because I retained counsel for the dog leash law incident who was the same counsel for one for the plaintiffs in this case. As such, I had a conflict of interest that necessitated recusal.

Weflen v. Hess Bakken Investments II, LLC, 1:23-cv-161 (D.N.D.)

Penman v. Hess Bakken Investments, 1:22-cv-97 (D.N.D.)

Skarphol v. Amerada Hess, 1:21-cv-228 (D.N.D.).

For this group of cases, I inherited Chevron stock and they were in merger talks with Hess. Once I learned this, I thought there was a conflict and I recused from all the Hess cases assigned to me.

Northland Royalty v. XTO, 1:23-cv-194 (D.N.D.)

Steele v. ExxonMobil, 1:23-cv-133 (D.N.D.)

I inherited stock in Exxon Mobil and XTO is its operation in North Dakota. I thought this created a conflict, so I recused.

Bamiller v. United States, 1:23-cv-16 (D.N.D.).

This case involved a slip and fall outside the post office in the federal building where my chambers in the federal courthouse are located. Several of our Court Security Officers were witnesses in this case and we work with them fairly closely as they provide security for our building. As a result, I thought that I had a conflict or at least there would be an appearance of one. I, therefore, recused.

North Star Mutual v. Fryer, 1:22-cv-51 (D.N.D.)

A former law firm associate of mine before I became a judge was counsel for the plaintiff in this case. Additionally, I previously had represented North Star Mutual Company. I recused to avoid the appearance of a conflict.

Hystad Ceynar v. Continental Resources, 1:22-cv-139 (D.N.D.)
Brodal Farms v. ADM, 1:21-cv-203 (D.N.D.).

For these two cases, my family and I had to hire an attorney for a probate matter relating to my father's estate. The firm representing us was also the firm representing one of the parties. I recused because of a potential conflict of interest and to avoid the appearance of one.

Sullivan v. Meyerson, 3:19-cv-257 (D.N.D.)
Life Insurance Co. v. Rod, 1:21-cv-125 (D.N.D.)
Caldwell v. Arlo G. Lott Trucking, 1:21-cv-107 (D.N.D.)
Highline v. QEP, 1:19-cv-134 (D.N.D.)
Wave Petroleum v. New IPT, 1:19-cv-272 (D.N.D.)
Berkley v. XTO, 1:18-cv-195 (D.N.D.)

I recused from this group of cases not because of a conflict of interest, but to balance out the workload with our senior judge in Bismarck.

Holm v. MDU Resources, 1:20-cv-38 (D.N.D.).

When I was first named to the bench, I held stock in MDU Resources. As soon as I realized I was assigned to this case, I recused for the conflict of interest.

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.

Member, North Dakota State Board of Higher Education (2018 – 2020). I was appointed by then-Governor Doug Burgum. In 2006, I was a finalist for the same position but was not selected.

Member, State Bar Association Board of Governors. I was selected to fill an unexpired term as ABA State Bar Delegate by State Bar of North Dakota President Jack McDonald in 2013. The ABA State Bar Delegate represents the licensed lawyers in the ABA House of Delegates. In North Dakota, the position also serves on the Board of Governors of the state Bar of North Dakota. I was reelected to the position by the lawyers in North Dakota in 2014, 2016, 2018, 2020.

In 2013, I applied to the North Dakota Judicial Nominating Committee for an open seat on North Dakota Supreme Court. I was not selected.

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.

District Chairman, District 15, North Dakota Republican Party (1998 – 2001)

State Chairman, North Dakota Republican Party (2001 – 2003)

Chair, North Dakota Chapter, Republican National Lawyers Association (2000 – 2020)

In either 2000 or 2004 I believe I served as Chair or Co-Chair of Lawyers for Bush.

I served on the finance committee for Kevin Cramer's 2012 campaign for the United States House of Representatives.

In 1990 I managed my father's successful campaign for the North Dakota State Senate. I do not recall holding any specific position within any other campaigns. However, I was a volunteer and activist on dozens of Republican campaigns for local, state or federal office. I also made contributions, attended and hosted campaign fundraisers for several campaigns.

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 1997 to 1998, I served as a law clerk to the Honorable Gerald VandeWalle, Chief Justice of the North Dakota Supreme Court.

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

I have never practiced 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;

1998 – 2020

Traynor Law Firm P.C.
509 5th Street Northeast, Suite 1
Devils Lake, North Dakota 58301
Associate (1998 – 2005)
Shareholder (2006 – 2020)

1998 – 2020
City of Devils Lake
423 6th Street Northeast
Devils Lake, North Dakota 58301
Assistant City Attorney

2018 – 2020
North Dakota University System
10th Floor, State Capitol
600 East Boulevard Avenue, Department 215
Bismarck, North Dakota 58505
Member, State Board of Higher Education

- 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.

I have not served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

After graduation from law school, I clerked for the Chief Justice of the North Dakota Supreme Court for one year. In 1998 I returned to my hometown of Devils Lake, North Dakota, to practice with Traynor, Rutten & Traynor, which later changed to Traynor Law Firm, PC. I handled prosecutions for the City of Devils Lake and various other civil matters. The first five or eight years of practice included criminal prosecutions in municipal and state district court, family law matters, and other civil claims.

In 2005, my practice became nearly entirely focused on civil litigation in personal injury matters. I represented both plaintiffs and defendants in such cases. My practice was statewide and included cases in federal, state and tribal court. I also handled matters before the U.S. Department of Labor and some state boards and commissions. During the oil boom, and for several years following, I handled the defense of several significant

personal injury matters as either insurance defense counsel or privately retained.

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

My typical client was a person involved in a personal injury lawsuit as either a plaintiff or defendant. I was also retained to handle various business litigation matters.

- 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.

When I was in private practice, I was a trial lawyer. I appeared in court frequently.

- i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 10% |
| 2. | state courts of record: | 78% |
| 3. | other courts: | 10% |
| 4. | administrative agencies: | 2% |

- ii. Indicate the percentage of your practice in:

- | | | |
|----|-----------------------|-----|
| 1. | civil proceedings: | 75% |
| 2. | criminal proceedings: | 25% |

- 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.

I estimate I tried 80 cases to verdict, judgment, or final decision in courts of record, including cases before administrative law judges. Approximately 15 of those cases were jury trials in which I was chief counsel.

- i. What percentage of these trials were:

- | | | |
|----|-----------|-----|
| 1. | jury: | 20% |
| 2. | non-jury: | 80% |

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

I never practiced before or appeared before the Supreme Court of the United States.

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. *Grabanski v. Evangelical Lutheran Church in America*, Cass County Civil No.: 09-2016-CV-00022; Supreme Court No.: 20160154 (Hon. Frank Racek, District Court Judge, and the Hon. Chief Justice Gerald W. VandeWalle and Justices Dale V. Sandstrom, Lisa Fair McEvers, and Carol Ronning Kapsner) (Representation: 2015 – 2016)

I was lead counsel for Norman Lutheran Church in rural Kindred, North Dakota. Norman Lutheran is a member of the Evangelical Lutheran Church in America ("ELCA"). Parishioners Raymond and Joan Grabanski objected to the position of the ELCA allowing homosexual clergy. Grabanski led an unsuccessful effort to have Norman Lutheran leave the ELCA. Grabanski then sued Norman Lutheran and the ELCA for slander and defamation, intentional infliction of emotional distress, and the dependent claims of respondeat superior and negligent supervision. I filed a motion to dismiss for lack of subject matter jurisdiction and to stay discovery pending a judicial determination regarding jurisdictional questions. When the state district court denied the motion to dismiss, I filed a Petition for Writ of Supervision before the North Dakota Supreme Court requesting the Court supervise the district court and to conclude the state court is without jurisdiction over matters of private religious doctrine. The case settled shortly before scheduled oral argument before the North Dakota Supreme Court.

Counsel for Co-Defendant ELCA

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(formerly of Miller, Norman & Associates, Ltd.)
O'Keeffe O'Brien Lyson Foss
720 Main Avenue
Fargo, North Dakota 58103
(218) 233-2495

Counsel for Plaintiff

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303 Roberts Street
Fargo, North Dakota 58102
(701) 293-7612

2. *Winer v. Penny Enterprises, Inc.*, Benson County Civil No.: 01-C-0010; Supreme Court No.: 20030114 (Hon. Lee A. Christofferson, District Court Judge) (Hon. Chief Justice Gerald W. VandeWalle and Justices William A. Neumanp, Dale V. Sandstrom, Mary Muehlen Maring, and Carol Ronning Kapsner) (Representation: 2000 – 2003)

I was lead counsel for Penny Enterprises, Inc., Jerrod Mudgett, Sr., and Jerrod Mudgett, Jr., relating to a personal injury lawsuit initiated by Gary Winer. Winer sued Jerrod Mudgett, Sr., individually and as guardian of his son, and Penny Enterprises in state district court for his personal and bodily injuries received in a vehicle collision with Jerrod Mudgett, Jr. The Mudgetts and Penny Enterprises moved to dismiss for lack of subject matter jurisdiction because the Mudgetts are enrolled members of the Spirit Lake Tribe and the incident occurred within the exterior boundaries of the Reservation. The state district court granted the requested dismissal. On appeal, Winer argued the district court erred in ruling it did not have subject-matter jurisdiction over his personal injury action against the Mudgetts. The North Dakota Supreme Court affirmed the district court's decision.

Counsel for Plaintiff

Hon. Peter K. Halbach, Municipal Court Judge
316 Sixth Street Southeast
Devils Lake, North Dakota 58301
(701) 665-5135

3. *Thompson v. Jaeger*, Supreme Court No.: 20100272 (Chief Justice Gerald W. VandeWalle, Justices Dale V. Sandstrom, Daniel J. Crothers, and Mary Muehlen Maring, and Surrogate Judge William F. Hodny) (Representation: 2010)

I was lead counsel in an original jurisdiction matter before the North Dakota Supreme Court against North Dakota Secretary of State Alvin A. Jaeger. The Secretary of State had rejected my client's petitions, which sought a measure on the upcoming ballot, due to my client's failure to include the full text of the measure on the petition. The North Dakota Supreme Court denied my client's request, concluding the circulated petitions were legally insufficient.

Counsel for Respondent

Attorney General Wayne K. Stenehjem
Office of Attorney General
600 East Boulevard Avenue, Department 125

Bismarck, North Dakota 58505
(701) 328-2210

4. *In re Removal of Steven Kukowski, Sheriff*, Case No.: 12-GOV-01 (Special Commissioner Karen K. Klein) (Representation: 2017)

I was appointed by Governor Doug Burgum to take over the civil removal proceeding of Ward County Sheriff Steven Kukowski. Under North Dakota law, sheriffs are charged with managing their respective county jails, and Kukowski was tasked with administrating the jail in Ward County. An inmate under Kukowski's care died because of withdrawal from drugs after jail staff failed to provide proper medical care or attention. As a result, the inmate languished for three days in his cell and died shortly after he was transferred to another agency. The Governor requested I take over the civil removal proceeding after a motion to dismiss the proceeding was filed by prior counsel. I withdrew the dismissal motion and prosecuted the case until the sheriff resigned to avoid his removal.

Counsel for Respondent

Hon. Peter D. Welte, United States District Judge
(previously of Vogel Law Firm)
United States District Court for the District of North Dakota
Quentin N. Burdick United States Courthouse
655 First Avenue North, Suite 410
Fargo, North Dakota 58102
(701) 297-7040

5. *Haider v. Moen*, Ward County Civil No.: 51-2014-CV-00890; Supreme Court No.: 20170348 (Hon. Todd L. Cresap, District Judge, and Hon. Chief Justice Gerald W. VandeWalle, and Justices Daniel J. Crothers, Jon J. Jensen, and Jerod E. Tufte) (Representation: 2014 – 2018)

I represented Jeff Moen in a lawsuit initiated by Plaintiff Jason Haider. Moen farmed acreage next to a rural farmstead owned by Haider. The acreage was owned by Haider and Moen farmed it with his permission. Branches from trees and brush growing along a dike protecting the farmstead damaged farm implements of Moen. Without asking Haider's permission, Moen knocked down the trees and piled them along the dike. Haider sued Moen for timber trespass. The matter was tried to a jury with a verdict in favor of Haider. The Court trebled the damage award without notifying the jury that their award could be tripled depending on how they answered the special verdict form. Moen appealed, arguing the jury had a right to know the consequence of their verdict, specifically that the damage award could be tripled. The North Dakota Supreme Court agreed and reversed and remanded the case for a new trial. The matter settled prior to the second trial.

Counsel for Plaintiff

Seth A. Thompson
Vogel Law Firm
U.S. Bank Building
200 North Third Street, Suite 201
Bismarck, North Dakota 58501
(701) 258-7899

6. *Ziegler v. Meadowbrook Insurance Group, Inc.*, Ramsey County Civil No.: 36-08-C-00252; Supreme Court No.: 20090141 (Hon. Donovan J. Foughty, District Judge, and Hon. Chief Justice Gerald W. VandeWalle, and Justices Daniel J. Crothers, Mary Muehlen Maring, and Carol Ronning Kapsner) (Representation: 2008 – 2011)

I was lead counsel in a matter where James Ziegler and his livestock auction were sued by a financial institution for losses incurred when a livestock auction customer committed fraud without the knowledge of the auction. The customer was prosecuted by federal authorities. Following settlement of the underlying lawsuit, we sued the livestock auction's insurer, asserting breach of the duty to defend and indemnity under the insurance contract, along with insurance bad faith. The district court granted a declaratory judgment in favor of the livestock auction concluding the insurer breached its duty to defend and indemnify in the underlying lawsuit. When the insurer attempted an appeal, we moved to dismiss the appeal arguing the declaratory judgment order was not a final order and not appealable. After briefing and argument, North Dakota Supreme Court agreed, concluding the district court must decide damages for the breach and bad faith. The matter settled as a result of mediation before trial.

Counsel for Defendant

Bradford S. Moyer
Plunkett Cooney, P.C.
950 Trade Centre Way, Suite 310
Kalamazoo, Michigan 49002
(269) 382-5935

7. *Garcia v. Farden Construction, Inc.*, No.: 1:15-CV-93 (D.N.D.) (Hon. Charles S. Miller, United States Magistrate Judge) (Representation: 2015 – 2016)

I defended a North Dakota construction company and their semi driver relating to a motor vehicle collision with a pickup truck driven by an oil-field employee. The collision resulted in a fire in the pick-up cab causing substantial injury to the Plaintiff. We challenged jurisdiction in federal court asserting lack of complete diversity. Before the federal court decided the jurisdictional issue the case settled following a mediation.

Counsel for Plaintiff

David S. Maring

Maring Williams Law Office, P.C.
1661 Capitol Way, Suite 103 LL
Bismarck, North Dakota 58501
(701) 224-0430

8. *Joshua v. Backstrom*, Benson County Civil No.: 03-2013-CV-00028 (Hon. Michael G. Sturdevant) (Representation: 2013 – 2014)

I was lead counsel in defense of Paul Backstrom and his hired farm employee, Mark Tandeski. Backstrom provided variable application of anhydrous ammonia fertilizer through his company Precision Ag Results, Inc. Karen Joshua claimed she was injured by what she described as a cloud of anhydrous ammonia. The matter was tried to a jury. Based upon the time when the Plaintiff made a cell phone call, satellite information from the variable applicator was able to establish that the Plaintiff was more than half a mile away from the anhydrous application. After a multi-day trial, the jury returned a defense verdict.

Counsel for Plaintiff

Mark V. Larson
Larson Law Firm, P.C.
1020 North Broadway
Minot, North Dakota 58703
(701) 484-4878

9. *Sura vs. National Oilwell Varco, L.P.*, No.: 1:15-cv-00127 (D.N.D.) (Hon. Daniel L. Hovland, United States District Judge, and United States Magistrate Judge John T. Johnston, District of Montana) (Representation: 2012 – 2017)

I was local counsel in defense of a lawsuit against National Oilwell Varco, L.P., and ConocoPhillips Company. Plaintiff Michael Sura was employed as a derrick hand when he claims he was injured as a result of inhalation of cement kiln dust, a product used to solidify and dry waste fluid from drilling operations. The drying operation was conducted by National Oilwell on a ConocoPhillips drilling rig. Sura brought suit in the United States District Court in Bismarck, North Dakota, asserting injuries relating to the exposure. After extensive discovery, the matter settled after a second mediation directed by United States Magistrate Judge John T. Johnston of Great Falls, Montana.

Co-Counsel for Defendants

Christopher L. Evans
Adams and Reese LLP
LyondellBasell Tower
1221 McKinney Street, Suite 4400
Houston, Texas 77010
(713) 308-0110

Counsel for Plaintiff

A. Clifford Edwards
John W. Edwards
Edwards, Frickle & Culver
1648 Poly Drive, Suite 206
Billings, Montana 59102
(406) 256-8155

10. *EOG Resources, Inc. v. Badlands Power Fuels, LLC*, No.: 4:08-CV-038 (D.N.D.) (Hon. Daniel L. Hovland, United States District Court Judge) (Representation: 2008 – 2009)

At the start of the oil boom in North Dakota, EOG Resources, Inc., initiated a declaratory judgment action in federal court to interpret master service contracts used throughout the oil industry. The master service contracts provide contractual indemnity provisions that cause the employer of an injured employee to pay for the defense and indemnification of third parties. I was lead counsel for Badlands Power Fuels, LLC, in this declaratory judgment action. Following an interpretation of the master service contract by the United States District Court finding them enforceable in North Dakota, my client settled the underlying injury claim of its employee.

Counsel for Co-Defendants

William P. Harrie
Nilles Law Firm
1800 Radisson Tower
201 Fifth Street North
Fargo, North Dakota 58102
(701) 237-5544

Counsel for Plaintiff

Larry L. Boschee
Pearce Durick PLLC
314 East Thayer Avenue
Bismarck, North Dakota 58501
(701) 223-2890

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.)

In 2010, I was appointed to the Disciplinary Board of the North Dakota Supreme Court. In 2012, I was selected as Chair. At the time I became Chair, the docket contained in excess of 30 pending matters, including several disciplinary matters where an interim suspension had been entered with no final adjudication. The failure to finally conclude matters left lawyers in limbo and clients without a final hearing and determination of their complaint. An additional problem with failure to adjudicate cases is that victims of lawyer misconduct are unable to make a claim against the client protection fund until final adjudication. Finally, I believed it was inappropriate for a board predominantly made up of lawyers to fail to promptly and fully decide matters involving lawyer discipline.

With the assistance of the Board and the North Dakota Supreme Court, I led an effort to clean up the docket and resolve all stale matters. When I completed my term on the Board, the pending matters had been reduced to approximately ten and all were allegations of misconduct that occurred within the prior two years. The Board also established an improved docketing and calendaring system and, with the assistance of the ABA, the Board coordinated a review and overhaul of the state's lawyer disciplinary system. These structural changes will hopefully prevent a future backlog of cases and will safeguard the public's expectation of competence and professionalism for attorneys.

In 2009, I served as a registered lobbyist for Walmart, which sought to repeal a regulation that restricted the growth of pharmacies in the state. I later served as legal counsel for ballot measures campaign which sought to do the same. I also served as a lobbyist for Ducks Unlimited, a sportsman and conservation group, during the 2015 North Dakota legislative session.

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 copies to the committee.

I have not taught any courses.

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 do not expect to have any such income.

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 do not have any plans, commitments, or agreements to pursue outside employment.

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 will recuse in cases where I have had a role in representing or providing counsel to any of the parties, or where I preside or have presided as a district judge.

If confirmed, if a potential conflict arose, either real or perceived, I would assess each potential conflict on a case-by-case basis, seeking input of the parties and counsel and would recuse where warranted. I will adhere to the Code of Conduct for United States Judges and would seek guidance in doing so.

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 will continue to adhere to the Code of Conduct for United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. Section 455 and other relevant authority.

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.

Prior to becoming a judge, I performed pro bono services for several clients, including Roman Catholic priests of the Diocese of Fargo, and other churches and pastors in the community. I did not charge for wills or other transactional legal services. I also established several corporations and obtained tax exempt status for charitable or civic organizations in our community.

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.

There is no judicial selection process for federal judicial positions in the State of North Dakota. On April 3, 2026, the White House Counsel's Office contacted me to arrange a time for me to submit to an interview at the White House complex. I was interviewed by White House Counsel on April 9, 2026, for a vacancy on the Eighth Circuit Court of Appeals. On April 13, 2026, I was contacted by White House Counsel who informed me they planned to recommend my nomination to the President. Since that date, I had periodic communication with White House Counsel and the Justice Department to assist me in preparation of this and other documents in support of my nomination. I then completed various forms and disclosures in preparation for the vetting process. On May 8, 2026, President Trump contacted me personally to inform me that he planned to nominate me to the Eighth Circuit Court of Appeals. On May 12, 2026, 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, Daniel Mack Traynor, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

7 May 2026

(DATE)

[Signature]

(NAME)

[Signature]

(NOTARY)

