

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Robert Edwin Bacharach

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

United States Circuit Judge for the Tenth 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.

Federal Courthouse
200 Northwest Fourth Street, Room 1305
Oklahoma City, Oklahoma 73102

Residence: Edmond, Oklahoma

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

1959; Clarksdale, Mississippi

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.

1982 – 1985, Washington University School of Law; J.D., 1985

1978 – 1981, University of Oklahoma; B.A. (with high honors), 1981

1977 – 1978, Washington University; no degree received

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.

1999 – present

United States District Court for the Western District of Oklahoma
Federal Courthouse

200 Northwest Fourth Street, Room 1305

Oklahoma City, Oklahoma 73102

United States Magistrate Judge

1987 – 1999

Crowe & Dunlevy, P.C.

20 North Broadway, Suite 1800

Oklahoma City, Oklahoma 73102

Associate (1987 – 1994)

Shareholder (1994 – 1999)

1997 – 1999

University of Oklahoma School of Law

300 West Timberdell Road

Norman, Oklahoma 73071

Adjunct Professor

1985 – 1987

United States Court of Appeals for the Tenth Circuit

Federal Courthouse

200 Northwest Fourth Street, Room 2301

Oklahoma City, Oklahoma 73102

Law Clerk to the Honorable William J. Holloway, Jr.

Summer 1984

McAfee & Taft

Two Leadership Square, Tenth Floor

211 North Robinson

Oklahoma City, Oklahoma 73102

Summer Associate

Summer 1983

Fagin, Hewett, Mathews & Fagin

Bank of Oklahoma Tower, 26th Floor

Oklahoma City, Oklahoma 73102

Summer Associate

Spring and Summer 1982

Stanley Kaplan Test Preparation

5117 North Shartel Avenue

Oklahoma City, Oklahoma 73118

L.S.A.T. Course Instructor and Clerk

Other Affiliations (uncompensated):

2011 – present
LHL Foundation
Oklahoma Bar Association
119 North Robinson, Suite 240
Oklahoma City, Oklahoma 73102
Board of Directors

2004 – present
Federal Bar Association
1220 North Fillmore Street, Suite 444
Arlington, Virginia 22201
Vice-President for the Tenth Circuit (national) (2007 – present)
President, Oklahoma City Chapter (2005 – 2006)
Vice-President, Oklahoma City Chapter (2005)
Board of Directors, Oklahoma City Chapter (2004 – 2005; 2006 – 2009)

2004 – 2007
Oklahoma County Bar Association
119 North Robinson, Suite 240
Oklahoma City, Oklahoma 73102
Board of Directors

1998 – 2001
Big Brothers Big Sisters of Greater Oklahoma City
4101 Perimeter Center Drive, Suite 235
Oklahoma City, Oklahoma 73112
Director, Executive Committee Member

1998 – 2001
Temple B'nai Israel
4901 North Pennsylvania
Oklahoma City, Oklahoma 73112
Board of Trustees

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

I have not served in the military. I did not register for selective service because men born in 1959, as I was, were not required to register.

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.

Professional Honors

Leadership in Law Award, The Journal Record (2007)
Earl W. Kintner Award for Distinguished Service, Federal Bar Association (2006)
Special President's Award, Federal Bar Association (2006)

Law School Honors:

Order of the Coif
Executive Editorial Board & Developments Editor, *Washington University Law Quarterly*
Mary Collier Hitchcock Prize (best writing for the law review)
Honor Scholar Awards (two) (achievement in the top 10% in the first and second years in law school)
Breckenridge Scholarship (second highest grade point average in third year of law school)
American Jurisprudence Awards (two) (Civil Procedure, Professional Responsibility)
Order of the Barristers
Golden Gavel Award, Wiley Rutledge Moot Court Competition (1984)

Undergraduate Honors:

Tom Lottinville Award (outstanding essay in the History Department of the University of Oklahoma)
Graduated with High Honors
Honors Club

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.

American Bar Association

Federal Bar Association

Vice-President for the Tenth Circuit (national) (2007 – present)
Chairperson, Chapter Activity Grant Committee (national) (2010 – present)
President, Oklahoma City Chapter (2005 – 2006)
Vice-President, Oklahoma City Chapter (2005)
Board of Directors, Oklahoma City Chapter (2004 – 2005; 2006 – 2009)

Federal Magistrate Judges Association

Oklahoma Bar Association

Lawyers Helping Lawyers ("LHL") Assistance Program Committee (2011)
LHL Foundation, Board of Directors (2011)

Oklahoma County Bar Association

Board of Directors (2004 – 2007)

The Ruth Bader Ginsburg American Inn of Court

Supreme Court Historical Society

United States District Court for the Western District of Oklahoma

Chairperson, A.D.R. Advisory Group (2005 – 2010)

Chairperson, Criminal Justice Act Committee (2002 – 2005)

Chairperson, Local Civil Rules Committee (2006 – 2009)

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.

Oklahoma, 1985

There have been no lapses in membership.

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

Supreme Court of the United States, 1989

United States Court of Appeals for the Tenth Circuit, 1986

United States District Court for the Southern District of Texas, 1996

There have been no lapses in membership.

11. **Memberships:**

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

Big Brothers Big Sisters of Greater Oklahoma City (1998 – 2001)
Director, Member of the Executive Committee (1998 – 2001)

The Greens Country Club (2005 – present)

Temple B'nai Israel (1969 – present)
Board of Trustees (1998 – 2001)

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

To the best of my knowledge, none of the organizations listed in response to Question 11a currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin.

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

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

Robert Bacharach, *Spotlight on San Nguyen, Court Clerk's Office, Western District of Oklahoma*, The Federal Bar Association Oklahoma City Chapter (Jan. 20, 2012). Copy supplied.

Robert Bacharach, *Spotlight on Carrie McKee—Human Resources Administrator, Western District of Oklahoma*, The Federal Bar Association Oklahoma City Chapter (Dec. 1, 2011). Copy supplied.

Robert Bacharach & Lyn Entzeroth, *Judicial Advocacy in Pro Se Litigation: A Return to Neutrality*, 42 Ind. L. Rev. 19 (2009). Copy supplied.

Federal Bar Association Is On the Move, Briefcase (published by Oklahoma County Bar Association) (Dec. 2008). Copy supplied.

FBA Chapter Provides Needed Legal Assistance, 78 Okla. Bar J. 731 (2007). Copy supplied.

A Message from the Chapter President, Federal Bar Association, Oklahoma City Chapter (2006). Copy supplied.

Motions in Limine in Oklahoma State and Federal Courts, 24 Okla. City U. L. Rev. 113 (1999). Copy supplied.

Section 1983 and an Administrative Exhaustion Requirement, 40 Okla. L. Rev. 407 (1987). Copy supplied.

Section 1983 and the Availability of a Federal Forum: A Reappraisal of the Police Brutality Cases, 16 Memphis St. U. L. Rev. 353 (1986). Copy supplied.

Post-Trial Juror Interviews by the Press: The Fifth Circuit's Approach, 62 Wash. U. L.Q. 783 (1985). Copy supplied.

Dirks v. SEC's Footnote Fourteen: Horizontal and Vertical Reach, 62 Wash. U. L.Q. 477 (1984). Copy supplied.

In addition to the above, I drafted a section on appeals in civil and habeas cases in the Tenth Circuit Court of Appeals for a treatise on Oklahoma Appellate Practice. Clyde Muchmore & Harvey Ellis, *Oklahoma Appellate Practice* (1999). My work was acknowledged by the authors in prefatory remarks, stating that I had provided "almost all of the initial drafting of the lengthy chapter on Tenth Circuit appellate procedure." I do not know the extent to which this section was edited or redrafted by the authors. Copy of the section supplied, annotated to indicate those portions of the section that I am certain I did not draft.

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

As the chairperson of the Western District of Oklahoma's Local Civil Rules Committee, I drafted annual reports in 2006, 2007, 2008, and 2009. The recommendations reflect approval by a majority of the committee members. Inclusion in the annual report does not necessarily indicate my approval of individual recommendations. Copies of the four annual reports and the amended reports are supplied.

In 2008 and 2009, the Federal Bar Association – Oklahoma City Chapter requested that the national organization clarify several provisions in the Bail Reform Act and Prison Litigation Reform Act. On behalf of the chapter, I drafted the two letters. Copies supplied.

In 2008, I signed the Sedona Conference Cooperation Proclamation. Copy supplied.

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

To the best of my recollection, I have not given testimony, made official statements, or engaged in communications relating, in whole or in part, to matters of public policy or legal interpretation to public bodies or public officials.

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

I have not kept a comprehensive list of the presentations I have made. The following list is compiled from my calendars and other sources and is my best effort to recreate my history of speaking engagements. It is possible I have omitted presentations for which I did not retain records.

October 20, 2011: Presentation of Book to Judge Holloway, Federal Bar Association – Oklahoma City Chapter, Sixth Annual William J. Holloway, Jr. Lecture. The book presented to Judge Holloway consisted of tributes by over 40 of his former and current law clerks. Remarks supplied.

October 4, 2011: Presentation at District Court Workshop, Western District of Oklahoma, regarding the Federal Bar Association – Oklahoma City Chapter. In this presentation, I discussed the upcoming “Holloway Lecture” by Jonathan Turley and the status of the Federal Bar Association – Oklahoma City Chapter. I have no notes, transcript, or recording. The sponsor was the Western District of Oklahoma, 200 Northwest Fourth Street, Oklahoma City, Oklahoma.

July 28, 2011: Remarks regarding magistrate judges, Federal Bar Association – Oklahoma City Chapter, Summer Associates Courthouse Tour. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

May 3, 2011: Introduction and Closing Remarks, Federal Bar Association – Oklahoma City Chapter, Program by Mickey Edwards. I have no notes,

transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

December 10, 2010: Federal Bar Association – Hawaii Chapter, “Ethical Issues in Judicial Settlement Conferences,” (presented jointly with Magistrate Judge Michelle Burns). The sponsor was the Federal Bar Association – Hawaii Chapter. Written materials supplied.

October 27, 2010: Presentation for Judge Barbara Swinton’s Class at Oklahoma City University Law School. The presentation covered suggestions for interviewing and tips for legal practice. Remarks supplied.

October 19, 2010: Presentation at District Court Workshop, Western District of Oklahoma, regarding the Federal Bar Association – Oklahoma City Chapter. Remarks supplied.

August 27, 2010: Participation in Naturalization Ceremony, Western District of Oklahoma. Remarks supplied.

August 19, 2010: Remarks regarding magistrate judges and question-and-answer session, Third Thursday Lunch with Judge Bacharach. The sponsor was the Federal Bar Association – Oklahoma City Chapter. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

June 29, 2010: Remarks regarding magistrate judges, Federal Bar Association – Oklahoma City Chapter, Summer Associates Courthouse Tour. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

April 13, 2010: Presentation for Speaker Series, Federal Bar Association – Student Chapter, Oklahoma City University School of Law. The presentation covered suggestions for interviewing and tips for legal practice. I used the same materials as supplied for the Oct. 27, 2010 event.

December 14, 2009: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter, Fourth Annual William J. Holloway, Jr. Lecture. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

November 5, 2009: Speaker at Federal Bar Association – Oklahoma City Chapter, Attorney Admissions Swearing-In Ceremony regarding judicial settlement conferences. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

July 16, 2009: Remarks regarding magistrate judges and question-and-answer session, Federal Bar Association – Oklahoma City Chapter, Third Thursday Lunch with Judge Bacharach. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

May 21, 2009: Speaker at Attorney Admissions Swearing-In Ceremony regarding the Federal Bar Association – Oklahoma City Chapter. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

April 24, 2009: Presentation at Federal Bar Association, Leadership Training Program, “Issues, Concerns and Opportunities.” Presentation slides supplied.

March 12, 2009: Presentation for Judge Barbara Swinton’s Class at Oklahoma City University School of Law. This presentation generally involved the function of magistrate judges. I have no notes, transcript, or recording. The School of Law is located at 2501 North Blackwelder, Oklahoma City, Oklahoma 73106.

February 25, 2009: Presentation on Local Civil Rules Report for Crowe & Dunlevy Litigation Section Meeting. I have no notes, transcript, or recording. The sponsor was Crowe & Dunlevy, 20 North Broadway, Suite 1800, Oklahoma City, Oklahoma 73102.

December 30, 2008: Presentation at Federal Bar Association – Oklahoma City Chapter Program, entitled “Habeas Corpus and Other Prisoner Litigation.” This presentation was part of the general program entitled “The Tenth Circuit’s 2008 Decisions.” My presentation addressed *Crawley v. Dinwiddie*, 533 F.3d 1226 (10th Cir. 2008), and *Kilgore v. Attorney General of Colorado*, 519 F.3d 1084 (10th Cir. 2008). I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

November 13, 2008: Remarks at Federal Bar Association – Oklahoma City Chapter, Third Annual William J. Holloway, Jr. Lecture. At this event, I made a tribute to Judge Holloway and presented him with a presidential letter of congratulations. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

November 6, 2008: Speaker at Federal Bar Association – Oklahoma City Chapter, Attorney Admissions Swearing-In Ceremony regarding judicial settlement conferences. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

October 23, 2008: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Mock Oral Argument on the Constitutionality of the Death Penalty.” My remarks involved an introduction of the participants and presentation of thank-you gifts at the conclusion. I have no notes, transcript, or

recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

October 21, 2008: Presentation at District Court Workshop, Western District of Oklahoma, regarding Local Civil Rules Update. I have no notes, transcript, or recording. The sponsor was the Western District of Oklahoma, 200 Northwest Fourth Street, Oklahoma City, Oklahoma 73102.

June 13, 2008: Presentation for Central Oklahoma Association of Legal Assistants. The remarks involved the importance of teamwork between attorneys and paralegals in litigation. Remarks supplied.

April 25, 2008: Presentation at Federal Bar Association, Leadership Training Program, “Bench Bar Relationships.” Presentation slides supplied.

April 25, 2008: Presentation at Federal Bar Association, Leadership Training Program, “Best Practices and Best Programs.” I have no notes, transcript, or recording. Federal Bar Association, 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

April 4, 2008: Introductory Remarks at Federal Bar Association – Northern/Eastern Oklahoma Chapter Seminar, “The Constitution: Does It Matter Any More?” My remarks involved an introduction of the speaker and presentation of a thank-you gift at the conclusion. I have no notes, transcript, or recording. The Federal Bar Association – Northern/Eastern Oklahoma Chapter has no physical address.

March 19, 2008: Remarks at Federal Bar Association – Northern/Eastern Oklahoma Chapter Seminar, “Famous Oklahoma Cases by the Attorneys in *National Collegiate Athletic Association v. Board of Regents of the University of Oklahoma, et al.*, 468 U.S. 85 (1984); *Karen Silkwood v. Kerr-McGee Corp.*, 485 F. Supp. 566 (W.D. Okla. 1979); and *United States v. Governor David Hall*, 424 F. Supp. 508 (W.D. Okla. 1975).” My remarks included an introduction of the speakers and expression of gratitude at the conclusion of the program. Remarks supplied.

January 15, 2008: Presentation at Oklahoma City Commercial Law Attorneys Association Program, “Ethical Issues in Settlement Negotiations.” The presentation involved an interactive dialogue with the attendees about ethical issues in judicial settlement conferences. Written materials supplied.

December 18, 2007: Presentation at Oklahoma County Bar Association Program, “Ethical Issues in Settlement Negotiations.” This presentation involved an interactive dialogue with the attendees about ethical issues in judicial settlement conferences. I have no notes, transcript, or recording. The sponsor was the

Oklahoma County Bar Association, 119 North Robinson, Suite 240, Oklahoma City, Oklahoma 73102.

November 9, 2007: Remarks regarding magistrate judges, Federal Bar Association – Student Chapter of Oklahoma City University School of Law, “Lunch with the Judges.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

October 25, 2007: Presentation at District Court Workshop, Western District of Oklahoma, “Update on New Federal Rules.” I have no notes, transcript, or recording. The sponsor was the Western District of Oklahoma, 200 Northwest Fourth Street, Oklahoma City, Oklahoma 73102.

October 24, 2007: Co-moderator of “Open World Program” discussion between Russian Judges and Criminal Jurors. Judge Stephen Friot and I led a discussion between visiting Russian judges and a number of individuals who had recently served as jurors in criminal cases. I have no notes, transcript, or recording. The sponsor was the Open World Leadership Center, 101 Independence Avenue SE, John Adams Building, Room 144, Washington, D.C. 20540.

July 26, 2007: Remarks regarding magistrate judges, Federal Bar Association – Oklahoma City Chapter, Summer Interns Courthouse Tour. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

June 28, 2007: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Visual Aids in the Courthouse: A Hands-On Primer” by Rhonda Reynolds, Chief Deputy, Court Clerk for the Western District of Oklahoma and Legal Graphics. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

April 27, 2007: Presentation at Federal Bar Association, Leadership Training Program, “Bench Bar Relationships.” Presentation slides supplied.

March 6, 2007: Presentation at Lions Club Luncheon. My remarks involved the function of magistrate judges. I have no notes, transcript, or recording. The sponsor was the Oklahoma City Downtown Lions Club, 520 West Main Street, Oklahoma City, Oklahoma 73102.

December 22, 2006: Speaker at Crowe & Dunlevy Christmas Breakfast. Remarks supplied.

December 15, 2006: Presentation at Oklahoma Employment Lawyers Association Program, “Ethical Issues in Settlement Negotiations.” My presentation involved an interactive dialogue with the attendees about ethical

issues in judicial settlement conferences. I have no notes, transcript of recording. The Oklahoma Employment Lawyers Association has no physical address.

October 16, 2006: Presentation at District Court Workshop, Western District of Oklahoma, "Local Civil Rules." Outline supplied.

September 19, 2006: Participated in Federal Bar Association – Oklahoma City Chapter Colloquium with the Russian Judiciary (five Russian judges and Professor Jonathan Turley and Professor Susan Estrich). Professors Estrich and Turley and the Russian judges discussed their respective legal systems with respect to civil procedure and commercial litigation. My remarks consisted of introductory and closing remarks. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

September 14, 2006: Introductory Remarks at Federal Bar Association – Northern/Eastern Oklahoma Chapter Program, "With Justice For All." I introduced the speaker and expressed appreciation to him at the conclusion of the program. I have no notes, transcript, or recording. The Federal Bar Association – Northern/Eastern Oklahoma Chapter has no physical address.

August 30, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter, "Visual Aids in the Courthouse: A Hands-On Primer." I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

August 26, 2006: Acceptance Speech for the Earl W. Kintner Award for Distinguished Service, Federal Bar Association. I have no notes, transcript, or recording. The sponsor was the Federal Bar Association, 1220 North Fillmore Street, Suite 444, Arlington, Virginia 22201.

July 20, 2006: Remarks regarding magistrate judges, Federal Bar Association – Oklahoma City Chapter, Summer Associates Courthouse Tour. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

July 7, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, "DNA Evidence – From the Crime Scene to the Courtroom - Identifying Issues in DNA Evidence." I introduced the speaker and presented a thank-you gift at the conclusion. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

June 29, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, "The New Oklahoma Uniform Arbitration Act." I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

June 1, 2006: Speaker at Attorney Admissions Swearing-In Ceremony, regarding the Federal Bar Association – Oklahoma City Chapter. I provided a background on the Federal Bar Association. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

May 23, 2006: Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Mock Oral Argument on Whether *Roe v. Wade/Planned Parenthood v. Casey Should Be Overturned*.” I introduced the program and the participants and provided closing remarks upon the conclusion of the mock oral argument. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

May 16, 2006: Remarks at Federal Bar Association – Oklahoma City Chapter, William J. Holloway, Jr. Lecture. I introduced the program and the special guests, made a tribute to Judge Holloway, and provided closing remarks. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

May 3, 2006: Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Do’s and Don’ts for Social Security Practice.” I introduced the program and speakers and provided closing remarks. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

April 19, 2006: Remarks regarding magistrate judges and question-and-answer session, Federal Bar Association – Oklahoma City Chapter, “Lunch with the Judges,” for Oklahoma University Law Students at Oklahoma University Law School. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

April 12, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Dealing with Inappropriate Conduct in Depositions.” I introduced the speakers and expressed appreciation to them at the conclusion of the program. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

April 4, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, Presentation by Seth Waxman, 41st Solicitor General of the United States. I introduced the speaker and expressed appreciation to him at the conclusion of the program. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

March 26, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Judicial Reception. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

March 23, 2006: Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Effective Pretrial Practice in Federal Court.” My remarks included introduction of the program and speakers and presentation of closing remarks. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

March 15, 2006: Remarks regarding magistrate judges and question-and-answer session, Federal Bar Association – Oklahoma City Chapter, “Lunch with the Judges,” for Young Lawyers. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

February 22, 2006: Presentation at Federal Bar Association – Oklahoma City Chapter Program, “Ethical Issues in Settlement Negotiations.” I conducted an interactive dialogue with the attendees about ethical issues in judicial settlement conferences. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

February 16, 2006: Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Lunch with the Law Clerks.” My remarks included introduction of the speakers and closing remarks. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

February 10, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “The Domestic War on Terror: Challenges and Pitfalls at Home,” with Governor Frank Keating. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

February 7, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Lunch with the Law Clerks.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

January 24, 2006: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Recollections of the McVeigh Case.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

December 19, 2005: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “A Review of the Tenth Circuit’s Decisions in 2005.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

December 2, 2005: Remarks at Federal Bar Association – Oklahoma City Chapter Program, Debate About the Patriot Act. My remarks included introduction of the program and closing remarks. I have no notes, transcript, or

recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

November 17, 2005: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, Debate About the Death Penalty. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

November 17, 2005: Speaker at Attorney Admissions Swearing-In Ceremony, regarding the Federal Bar Association – Oklahoma City Chapter. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

October 27, 2005: Presentation at District Court Workshop, Western District of Oklahoma, “ADR.” Outline supplied.

October 7, 2005: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “A Review of the Supreme Court’s 2004-05 Term and a Preview of 2005-06.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

September 14, 2005: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “*Booker and Beyond*.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

August 18, 2005: Introductory Remarks at Federal Bar Association – Oklahoma City Chapter Program, “Recollections of *United States v. David Hall*.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

July 22, 2005: Remarks regarding magistrate judges and question-and-answer session, Federal Bar Association – Oklahoma City Chapter, Summer Intern Tour of Courthouse. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

June 2, 2005: Presentation at Oklahoma Bar Association Program, “The Criminal Justice Act Panel – How to Get On It and What To Do Once You’re There.” I have no notes, transcript, or recording. The sponsor was the Oklahoma Bar Association, 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

June 2, 2005: Speaker at Attorney Admissions Swearing-In Ceremony, regarding the Federal Bar Association – Oklahoma City Chapter. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

March 10, 2005: Welcoming Remarks, Federal Bar Association – Oklahoma City Chapter, Tenth Circuit CLE Program. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

February 28, 2005: Presentation for Judge Robin Cauthron's class at the University of Oklahoma School of Law, "Trial Practice in the Western District," Oklahoma University Law School. My remarks involved suggestions for effective discovery practice. Outline supplied.

January 20, 2005: Master of Ceremonies for Joint Program of the Tenth Circuit Historical Society and the Federal Bar Association – Oklahoma City Chapter. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address. The address for the Tenth Circuit Historical Society is 1550 Seventeenth Street, Number 500, Denver, Colorado 80202.

December 10, 2004: Presentation at Federal Bar Association – Oklahoma City Chapter Seminar, "Ethical Issues in Judicial Settlement Conferences." Written materials supplied.

December 6, 2004: Presentation at Bricktown Rotary Club, "Functions of U.S. Magistrate Judges." I have no notes, transcript, or recording. The Bricktown Rotary Club has no physical address.

October 19, 2004, Presentation at Oklahoma City Commercial Law Attorneys Association. I conducted an interactive dialogue with the attendees about ethical issues in judicial settlement conferences. I have no notes, transcript, or recording. The Oklahoma City Commercial Law Attorneys Association has no physical address.

October 1, 2004: Presentation at Oklahoma Bar Association Program, "Judicial Settlement Conferences," as part of the program, "Civil Pretrial Practice in Federal Court: A Practitioner's Guide." Outline supplied.

May 7, 2004: Remarks regarding magistrate judges and question-and-answer session, Federal Bar Association – Oklahoma City Chapter, "Lunch with the Judges." I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

December 9, 2003: Panel Discussion by Magistrate Judges on settlement conferences. I have no notes, transcript, or recording. The sponsor was the Oklahoma Bar Association, 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

December 1, 2003: Presentation at Oklahoma County Bar Association Program, "Judicial Settlement Conferences: Effective Techniques." I have no notes.

transcript, or recording. The sponsor was the Oklahoma County Bar Association, 119 North Robinson Avenue, Suite 240, Oklahoma City, Oklahoma 73102.

January 24, 2003: Presentation at Federal Bar Association – Oklahoma City Chapter Program, “Prisoner Rights Litigation: Nuts and Bolts.” I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

November 7, 2002: Speaker at Attorney Admissions Swearing-In Ceremony, regarding magistrate judges in the Western District of Oklahoma. I have no notes, transcript, or recording. The sponsor was the Western District of Oklahoma, 200 Northwest Fourth Street, Oklahoma City, Oklahoma 73102.

October 7, 2002: Presentation at District Court Workshop, Western District of Oklahoma, “Diversity.” My remarks summarized the level of diversity among courthouse employees in the Western District of Oklahoma. Written materials supplied.

September 13, 2002: Presentation for Central Oklahoma Association of Legal Assistants, “Practice Before a U.S. Magistrate.” Video recording supplied.

June 20, 2002: Presentation at Federal Bar Association – Oklahoma City Chapter Luncheon regarding work as a magistrate judge. I have no notes, transcript, or recording. The Federal Bar Association – Oklahoma City Chapter has no physical address.

May 23, 2002: Presentation at Kingfisher County Bar Association, “Settlement Conferences in the Western District of Oklahoma.” I have no notes, transcript, or recording. The Kingfisher County Bar Association has no physical address.

November 2, 2001: Presentation at Oklahoma Bar Association Seminar, Federal Magistrate Judge Panel Discussion: “Understanding the Changing Practice Before the U.S. Magistrate Judges.” I have no notes, transcript, or recording. The sponsor was the Oklahoma Bar Association, 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

October 16, 2001: Presentation at Oklahoma City Commercial Law Attorneys Association, “Ethical Issues in Settlement Negotiations.” I conducted an interactive dialogue with the attendees about judicial settlement conferences in the Western District of Oklahoma. I have no notes, transcript, or recording. The Oklahoma City Commercial Law Attorneys Association has no physical address.

April 27, 2001: Presentation at Federal Civil Litigation Seminar. I have no notes, transcript, or recording. I do not recall the entity that sponsored this program.

April 11, 2001: Presentation for Oklahoma University Law School ADR Class, "Judicial Settlement Conferences in the Western District of Oklahoma." I have no notes, transcript, or recording. The sponsor was the University of Oklahoma School of Law, 300 West Timberdell Road, Norman, Oklahoma 73071.

December 21, 2000: Presentation at Oklahoma Bar Association Seminar on Advanced Litigation, "New Approaches in Federal Court Settlement Conferences and ADR." I have no notes, transcript, or recording. The sponsor was the Oklahoma Bar Association, 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

May 25, 2000: Speaker at Attorney Admissions Swearing-In Ceremony, "Magistrate Judges in the Western District of Oklahoma." I have no notes, transcript, or recording. The sponsor was the Western District of Oklahoma, 200 Northwest Fourth Street, Oklahoma City, Oklahoma 73102.

February 16, 2000: Presentation at Bohanon Inn of Court. My remarks involved the function of magistrate judges. I have no notes, transcript, or recording. The Bohanon Inn of Court has no physical address.

November 4, 1999: Presentation at Crowe & Dunlevy Litigation Section Meeting, "Settlement Conferences in the Western District of Oklahoma." I have no notes, transcript, or recording. The sponsor was Crowe & Dunlevy, 20 North Broadway, Suite 1800, Oklahoma City, Oklahoma 73102.

September 21, 1999: Presentation at Oklahoma Employment Lawyers Association Event, "Meet the New Magistrates." I have no notes, transcript, or recording. The Oklahoma Employment Lawyers Association has no physical address.

March 26, 1999: Presentation at Oklahoma Bar Association Seminar, "A New Look for the U.S. Magistrates – Meet the Magistrate Judges and the Magistrate Nominees." I have no notes, transcript, or recording. The sponsor was the Oklahoma Bar Association, 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

February 19, 1999: Presentation at Oklahoma Bar Association Program on Effective Discovery and Winning Motion Practice in Civil Cases, "Motions in Limine." I have no notes, transcript, or recording. The sponsor was the Oklahoma Bar Association, 1901 North Lincoln Boulevard, Oklahoma City, Oklahoma 73105.

May 25, 1988: Presentation at Oklahoma Association of Municipal Attorneys, Spring Workshop, "Oklahoma City Police Brutality Cases Since 1985 (*Tennessee v. Garner*)."

I have no notes, transcript, or recording. The Oklahoma Association of Municipal Attorneys has no physical address.

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

Professor Jonathan Turley Delivers the Sixth Annual Holloway Lecture, The Federal Bar Association Oklahoma City Chapter (Nov. 28, 2011). Copy supplied.

Nicholas J. Patterson, *Hon. William J. Holloway Jr.: Senior U.S. Circuit Judge, Tenth Circuit Court of Appeals*, Fed. Law. (Nov./Dec. 2008). Copy supplied.

Kevin Gordon, *A Lawyer Loving Retirement: L.E. 'Dean' Stringer*, Briefcase (published by Oklahoma County Bar Association) (Mar. 2008). Copy supplied.

Staff, *Okla. Leadership in Law Profile: Hon. Robert Bacharach, U.S. District Court, Western District*, J. Record (Oklahoma City, OK) (May 1, 2007). Copy supplied.

Lyn Entzeroth, *Hon. Bana Roberts: U.S. Magistrate Judge, Western District of Oklahoma*, Fed. Law. (May 2007). Copy supplied.

Regan Beatty, *FBA Pro Bono Program Seeks Volunteer Lawyers*, Briefcase (published by Oklahoma County Bar Association) (Apr. 2007). Copy supplied.

Sharon O'Roke, *Hon. Doyle W. Argo: U.S. Magistrate Judge, Western District of Oklahoma*, Fed. Law. (Nov./Dec. 2006). Copy supplied.

Christina Good Voice, *Civil Rights Advocate Speaks to Lawyers*, Associated Press (Sept. 15, 2006) (reprinted in multiple outlets). Copy supplied.

A. John Norberto, *Who's Who*, Western Wire, U.S. Probation Office for the Western District of Oklahoma (June 2001). Copy supplied.

John Perry, *STOP Taxes Goes Too Far*, Southwest Jewish Chron. (Sept. 1990). Copy supplied.

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.

Since March 29, 1999, I have served as a United States Magistrate Judge for the Western District of Oklahoma. This position was appointed. In this district, United States Magistrate Judges are generally granted jurisdiction that is coextensive with the powers authorized under the Federal Magistrates Act, 28 U.S.C. § 636(b)-(c) (2006).

Magistrate Judges in this district have jurisdiction to enter a report and recommendation in all dispositive matters in every non-capital habeas proceeding, prisoner civil rights case, social security appeal, and post-judgment proceedings. For all nondispositive matters in these areas, magistrate judges are authorized to enter orders. Upon consent of the parties and transfer by the district judge, magistrate judges enjoy authority to conduct trials and enter judgment in civil cases.

In felony cases, magistrate judges have jurisdiction to issue warrants and conduct a variety of pretrial proceedings, including detention hearings, preliminary examinations, and identity hearings. In addition, magistrate judges are authorized to conduct all proceedings in misdemeanor cases upon the parties' consent.

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

i. Of these, approximately what percent were:

jury trials:	33%
bench trials:	67%
civil proceedings:	100%
criminal proceedings:	0%

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

See attached list.

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. *Giannetti v. City of Stillwater*, Case No. CIV-04-926-BA (W.D. Okla.). The Tenth Circuit Court of Appeals affirmed my summary judgment ruling. *See Giannetti v. City of Stillwater*, 216 Fed. Appx. 756 (10th Cir. 2007) (unpublished op.).

An arrestee died while in police custody, and her personal representative attributed the death to "positional asphyxiation" as a result of overly aggressive conduct by law enforcement officers. The claims arose under 42 U.S.C. § 1983 and Oklahoma law. I issued rulings on the admissibility of expert testimony and ultimately granted summary judgment to the defendants on all claims. *See Giannetti v. City of Stillwater*, Case No. CIV-04-926-BA, 2006 WL 5100544 (W.D. Okla. Jan. 26, 2006) (unpublished op.) (admissibility of expert testimony);

Giannetti v. City of Stillwater, Case No. CIV-04-926-BA, 2006 WL 290583 (W.D. Okla. Feb. 6, 2006) (unpublished op.) (summary judgment ruling).

Counsel for Plaintiff: Jeremy Beaver
Gotcher & Belote
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Telephone: (918) 423-0412

Counsel for Defendant: David W. Lee
Lee Law Center, P.C.
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2. *Stanphill v. Health Care Service Corp.*, Case No. CIV-06-985-BA (W.D. Okla.).

This case involved a labor dispute. The employer reorganized, terminating the plaintiff and refusing to rehire her. She sued, claiming discrimination in her termination and refusal to rehire her. The parties consented to trial by a magistrate judge, and I denied the employer's motion for partial summary judgment and granted the employee's motion for sanctions based on spoliation of evidence. *See Stanphill v. Health Care Service Corp.*, Case No. CIV-06-985-BA, 2008 WL 2359730 (W.D. Okla. June 3, 2008) (unpublished op.) (sanctions for spoliation of evidence); *Stanphill v. Health Care Service Corp.*, 627 F. Supp. 2d 1244 (W.D. Okla. 2008) (summary judgment ruling); *Stanphill v. Health Care Service Corp.*, Case No. CIV-06-985-BA, 2008 WL 4056284 (W.D. Okla. Aug. 22, 2008) (unpublished op.) (summary judgment ruling). The case ultimately settled.

Counsel for Plaintiff: Mark E. Hammons
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Counsel for Defendant: Elaine Turner
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3. *Pierce v. Gilchrist*, Case No. CIV-05-1519-C (W.D. Okla.).

This civil rights action was brought by a man sentenced to 65 years in prison for rape. He was exonerated by D.N.A. testing after he had spent twelve years in prison. The suit arose under 42 U.S.C. § 1983 and the defendants included a long-time district attorney, the City of Oklahoma City, and a former chemist who had worked for the city for ten years. The chemist's work was questioned by federal investigators in numerous cases. Shortly before the trial, I conducted a day-long judicial settlement conference. The case settled at the conference.

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Guy A. Fortney
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Counsel for Defendant
Gilchrist: Melvin Hall
Riggs Abney Neal Turpen Orbison Lewis
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Counsel for Defendant
Macy: Honorable John Jacobsen
Special Judge, Oklahoma County
Oklahoma County District Court
Oklahoma County Courthouse
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Counsel for Defendant
City of Oklahoma City: Richard C. Smith
Municipal Counselor's Office
The City of Oklahoma City
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Telephone: (405) 297-2451

4. *Meyer v. City of Buffalo*, Case No. CIV-02-1691-F (W.D. Okla.).

This action involved tort claims against law enforcement officers arising out of the plaintiff's forced admission to a psychiatric hospital. She sued the county and a number of county officials for violation of her civil rights and state law. The presiding district judge granted summary judgment to the defendant, and the Tenth Circuit Court of Appeals reversed. After the reversal, I conducted multiple settlement conferences and a summary jury trial. The case settled shortly after the summary jury trial was conducted.

Counsel for Plaintiff: Phyllis L. Walta
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Counsel for Defendant: Jodi Casey
Collins, Zorn, and Wagner
429 Northeast 50th Street
Second Floor
Oklahoma City, OK 73105
Telephone: (405) 524-2070

5. *Kishore v. Federal Bureau of Investigation*, Case No. CIV-06-330-BA (W.D. Okla.).

This case involved a civil rights claim regarding a failure to advise an Austrian citizen of his rights under the Vienna Convention on Consular Relations after an arrest. I conducted a bench trial and entered judgment for the two agents of the Federal Bureau of Investigation, finding that they had orally advised the plaintiff of his right to consular notification. Order supplied.

Counsel for Plaintiff: Christine M. Cave
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Counsel for Defendant: Steven K. Mullins
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6. *Vague v. City of Shawnee*, Case No. CIV-02-910-BA (W.D. Okla.).

This action involved a claim for overtime pay under the Fair Labor Standards Act. The issue involved the characterization of time spent in the care and maintenance of police dogs. After conducting a bench trial, I found that the city had not violated the Fair Labor Standards Act because it had complied with the terms of a collective bargaining agreement. Order supplied.

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Counsel for Defendant: Margaret McMorrow-Love
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7. *Morris v. Crete Carrier Corp.*, Case No. CIV-04-888-T (W.D. Okla.).

This case involved a serious vehicle accident. A driver crossed the center median on a busy interstate, resulting in a collision. At some point, this driver died. Another driver, injured in the accident, sued. The central factual issue was whether the first driver had crossed the center median because he had fallen asleep or had experienced a heart attack. To facilitate settlement, I conducted a summary jury trial shortly before the conventional trial was scheduled. The case settled upon the conclusion of the summary jury trial.

Counsel for Plaintiff: Robert C. Smith, Jr.
Monnet Hayes Bullis Thompson & Edwards
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Counsel for Defendant: Robert B. Mills
Earl D. Mills Attorney at Law
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8. *Petzold v. Jones*, Case No. CIV-06-1317-HE (W.D. Okla.).

This case involved a habeas petition by a state prisoner. He claimed ineffective assistance at trial and at a hearing on his motion to withdraw a guilty plea. I conducted an evidentiary hearing and recommended denial of habeas relief. *Petzold v. Jones*, Case No. CIV-06-1317-HE (W.D. Okla. Aug. 29, 2008); *Petzold v. Jones*, Case No. CIV-06-1317-HE (W.D. Okla. Sept. 26, 2008). The presiding district judge agreed and adopted my report and recommendations. *Petzold v. Jones*, Case No. CIV-06-1317-HE, 619 F. Supp. 2d 1143 (W.D. Okla. Dec. 18, 2008). The Tenth Circuit Court of Appeals affirmed and the Supreme Court denied *certiorari*. *Petzold v. Jones*, Case No. 09-6002, 349 Fed. Appx. 295 (10th Cir. 2009), *cert. denied*, 130 S. Ct. 3394 (2010). My orders are supplied.

Counsel for Petitioner: Honorable Howard R. Haralson
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Telephone: (405) 713-1451

Counsel for Respondent: Diane L. Slayton
Attorney General's Office
313 Northeast 21st Street
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9. *Goodner v. Parker*, Case No. CIV-08-1095, 2009 WL 2003395 (W.D. Okla. May 29, 2009).

In a state court trial, the judge granted the defendant's motion for a mistrial. The second trial resulted in a conviction, and the defendant sought habeas relief on grounds of a double jeopardy violation. His theory was that he had been goaded into the request for a mistrial by the prosecutor's misconduct. I conducted an evidentiary hearing and, based on the evidence elicited, rejected the double jeopardy claim. *Goodner v. Parker*, Case No. CIV-08-1095-R (W.D. Okla. May 29, 2009). The district judge adopted my report and recommendation. *Goodner v. Parker*, Case No. CIV-08-1095, 2009 WL 2003395 (W.D. Okla. July 2, 2009).

Counsel for Petitioner: Mack K. Martin
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Counsel for Respondent: Donald D. Self
Attorney General's Office
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10. *Chrisman v. Mullins*, Case No. CIV-04-1226-L (W.D. Okla.).

This action involved a habeas claim for ineffective assistance of counsel and involuntariness of a guilty plea. I conducted an evidentiary hearing and rejected the claims based on the evidence presented. *Chrisman v. Mullins*, Case No. CIV-04-1226-L (W.D. Okla. Dec. 30, 2004) (evidentiary hearing); *Chrisman v. Mullins*, Case No. CIV-04-1226-L (W.D. Okla. Aug. 30, 2005) (recommended denial of habeas relief). The Tenth Circuit Court of Appeals affirmed, and the Supreme Court denied *certiorari*. *Chrisman v. Mullins*, Case No. 06-6182, 213 Fed. Appx. 683 (10th Cir. 2007), *cert. denied*, 551 U.S. 1150 (2007). My opinions are supplied.

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Counsel for Respondent: Diane L. Slayton
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Telephone: (405) 521-3921

- 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. *Fleming v. Miller*, Case No. CIV-05-690-C, 2008 WL 4866167 (W.D. Okla. Sept. 26, 2008).

Counsel for Petitioner: Joseph L. Wells
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2. *Walck v. Edmondson*, Case No. CIV-05-430-R, 2005 WL 1356481 (W.D. Okla. June 7, 2005).

Counsel for Petitioner: Steven M. Presson
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John J. Foley
Mitchell Foley & Jencks
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3. *Threadgill v. Boone*, Case No. CIV-99-1887-T (W.D. Okla. May 31, 2001) (Doc. 31). Opinion supplied.

Counsel for Petitioner: Steven M. Presson
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Counsel for Respondent: James E. Kelly
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4. *Moore v. Newton-Embry*, Case No. CIV-09-985-C, 2011 WL 5143080 (W.D. Okla. Sept. 7, 2011); (W.D. Okla. Sept. 7, 2011) (Doc. 132). Order supplied.

Counsel for Petitioner: Christine M. Cave
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5. *Worthen v. Wackenhut Correctional Corp.*, Case No. CIV-99-1417-W (W.D. Okla. Sept. 29, 2000) (Doc. 93). Opinion supplied.

Plaintiff: Sidney Allen Worthen, Deceased

Counsel for Defendant: Barbara C. Stoner
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200 Northwest Fourth Street
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6. *Petzold v. Jones*, Case No. CIV-06-1317-HE (W.D. Okla. Aug. 29, 2008) (Doc. 63). Opinion supplied in response to 13(c).

Counsel for Petitioner: Honorable Howard Haralson
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Counsel for Respondent: Diane L. Slayton
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7. *Chrisman v. Mullins*, Case No. CIV-04-1226-L (W.D. Okla. Aug. 30, 2005) (Doc. 49). Opinion supplied in response to 13(c).

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8. *Goodner v. Parker*, Case No. CIV-08-1095-R, 2009 WL 2003395 (W.D. Okla. May 29, 2009).

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Counsel for Respondent: Donald D. Self
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9. *Suarez-Tejeda v. United States*, Case No. CIV-01-96-F (W.D. Okla. July 30, 2002) (Doc. 61). Opinion supplied.

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Counsel for Respondent: Papu Sandhu
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10. *Stanphill v. Health Care Service Corp.*, Case No. CIV-06-985-BA, 2008 WL 2359730 (W.D. Okla. June 3, 2008).

Counsel for Plaintiff: Mark Hammons
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Counsel for Defendant: Elaine Turner
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- e. Provide a list of all cases in which certiorari was requested or granted.

Certiorari Granted

None.

Certiorari Pending

Kerchee v. Smith, Case No. CIV-11-459-C (W.D. Okla.), Case No. 11-6058 (10th Cir.), *petition for cert. filed*, Case No. 11-7042 (Oct. 18, 2011). (This case has not

been adjudicated by the Tenth Circuit Court of Appeals. The petitioners are *pro se* litigants.)

Certiorari Denied

Knox v. Workman, Case No. 10-1181-W (W.D. Okla. Jan. 14, 2011), *adopted* (W.D. Okla. Feb. 11, 2011), *aff'd*, Case No. 11-6042 (10th Cir. June 13, 2011), *cert. denied*, __ U.S. __, __ S. Ct. __, 2011 WL 4534902 (U.S. Oct. 3, 2011).

White v. Mullin, Case No. CIV-10-1114-M (W.D. Okla. Dec. 23, 2010), *adopted* (W.D. Okla. Jan. 19, 2011), *aff'd*, Case No. 11-6024 (10th Cir. May 31, 2011), *cert. denied*, __ U.S. __, __ S. Ct. __, 2011 WL 4536089 (U.S. Oct. 3, 2011).

Bell v. LeSure, Case No. CIV-08-1255-R (W.D. Okla. Apr. 30, 2009), *adopted* (W.D. Okla. May 6, 2009), *aff'd*, Case No. 09-6099 (10th Cir. June 25, 2009), *cert. denied*, __ U.S. __, 130 S. Ct. 221 (U.S. Oct. 5, 2009).

Breedlove v. Costner, Case No. CIV-08-1065-D (W.D. Okla. Dec. 8, 2009), *adopted* (W.D. Okla. Jan. 11, 2010), *aff'd*, Case No. 10-6043 (10th Cir. Dec. 16, 2010), *cert. denied*, __ U.S. __, 131 S. Ct. 2162 (U.S. Apr. 25, 2011).

Staten v. Parker, Case No. CIV-08-655-F (W.D. Okla. Feb. 3, 2009), *adopted* (W.D. Okla. Mar. 2, 2009), *aff'd*, Case No. 09-6050, 334 Fed. Appx. 166 (10th Cir. June 18, 2009), *cert. denied*, __ U.S. __, 130 S. Ct. 628 (U.S. Nov. 16, 2009).

Mukes v. Warden, Case No. CIV-08-560-W (W.D. Okla. June 27, 2008), *adopted* (W.D. Okla. Aug. 5, 2008), *aff'd*, Case No. 08-6182 (10th Cir. Dec. 3, 2008), *cert. denied* (U.S. Apr. 20, 2009).

Clark v. Jones, Case No. CIV-08-05-C (W.D. Okla. July 22, 2009), *adopted* (W.D. Okla. Sept. 14, 2009), *aff'd*, Case No. 09-6219 (10th Cir. Dec. 29, 2010), *cert. denied* (U.S. May 2, 2011).

Rockwell v. Parker, Case No. CIV-07-330-R (W.D. Okla. June 19, 2007), *adopted* (W.D. Okla. Aug. 17, 2007), *aff'd*, Case No. 07-6222, 267 Fed. Appx. 783 (10th Cir. Feb. 29, 2008), *cert. denied*, 555 U.S. 878 (U.S. Oct. 6, 2008).

Petzold v. Jones, Case No. CIV-06-1317-HE (W.D. Okla. Sept. 26, 2008), *adopted* (W.D. Okla. Dec. 18, 2008), *aff'd*, Case No. 09-6002, 349 Fed. Appx. 295 (10th Cir. Oct. 15, 2009), *cert. denied*, __ U.S. __, 130 S. Ct. 3394 (U.S. June 7, 2010).

Barber v. Jones, Case No. CIV-06-1260-W (W.D. Okla. May 3, 2007), *adopted* (W.D. Okla. July 10, 2007), *aff'd*, Case No. 07-6170, 279 Fed. Appx. 710 (10th Cir. May 28, 2008), *cert. denied*, __ U.S. __, 129 S. Ct. 461 (U.S. Oct. 20, 2008).

Parker v. Jones, Case No. CIV-06-1107-T (W.D. Okla. Dec. 20, 2006), *adopted* (W.D. Okla. Mar. 20, 2007), *aff'd*, Case No. 07-6068, 260 Fed. Appx. 81 (10th Cir. Jan. 7, 2008), *cert. denied*, 553 U.S. 1082 (U.S. June 2, 2008).

Terry v. Jones, Case No. CIV-06-840-F (W.D. Okla. Jan. 8, 2007), *adopted* (W.D. Okla. Mar. 30, 2007), *aff'd*, Case No. 07-6099, 259 Fed. Appx. 85 (10th Cir. Dec. 13, 2007), *cert. denied*, 554 U.S. 924 (U.S. June 23, 2008).

VanDusen v. Mullin, Case No. CIV-06-295-M (W.D. Okla. Nov. 7, 2006), *adopted* (W.D. Okla. Dec. 14, 2006), *aff'd*, Case No. 06-6376 (10th Cir. July 27, 2007), *cert. denied* (U.S. May 12, 2008).

Clark v. State of Oklahoma, Case No. CIV-05-1285-C (W.D. Okla. Dec. 30, 2005), *adopted* (W.D. Okla. Jan. 10, 2006), *aff'd*, Case No. 06-6046, 468 F.3d 711 (Nov. 13, 2006), *cert. denied*, 551 U.S. 1149 (U.S. June 25, 2007).

Folsom v. State of Oklahoma, Case No. CIV-05-1240-W (W.D. Okla. Apr. 28, 2006), *adopted* (W.D. Okla. May 9, 2006), *aff'd*, Case No. 06-6172 (May 17, 2007), *cert. denied* (U.S. Jan. 7, 2008).

Worthen v. Franklin, Case No. CIV-05-1090-C (W.D. Okla. Jan. 9, 2006), *adopted* (W.D. Okla. Jan. 25, 2006), *aff'd*, Case No. 06-6058, 186 Fed. Appx. 835 (June 30, 2006), *cert. denied*, 549 U.S. 1034 (U.S. Nov. 13, 2006).

Moyer v. Miller, Case No. CIV-05-1085-R (W.D. Okla. Oct. 28, 2005), *adopted* (W.D. Okla. Nov. 15, 2005), *aff'd*, Case No. 06-6119 (Apr. 12, 2006), *cert. denied*, 549 U.S. 959 (U.S. Oct. 10, 2006).

Collins v. State of Oklahoma, Case No. CIV-05-585-W (W.D. Okla. Jan. 31, 2006), *adopted* (W.D. Okla. Feb. 24, 2006), *aff'd*, Case No. 06-6106, 200 Fed. Appx. 827 (Oct. 17, 2006), *cert. denied*, 549 U.S. 1215 (U.S. Feb. 20, 2007).

Bullock v. Franklin, Case No. CIV-05-215-W (W.D. Okla. Nov. 23, 2005), *adopted* (W.D. Okla. Jan. 18, 2006), *aff'd*, Case No. 06-6051 (10th Cir. Oct. 24, 2006), *cert. denied*, 549 U.S. 1309 (U.S. Mar. 26, 2007).

Rich v. Peterson, Case No. CIV-05-65-C (W.D. Okla. Feb. 23, 2005), *adopted* (W.D. Okla. Mar. 14, 2005), *aff'd*, Case No. 05-6171, 158 Fed. Appx. 160 (10th Cir. Jan. 6, 2006), *cert. denied*, 547 U.S. 1120 (U.S. May 1, 2006).

Chrisman v. Mullins, Case No. CIV-04-1226-L (W.D. Okla. Aug. 30, 2005), *adopted* (W.D. Okla. Apr. 26, 2006), *aff'd*, Case No. 06-6182, 213 Fed. Appx. 683 (10th Cir. Jan. 17, 2007), *cert. denied*, 551 U.S. 1150 (U.S. June 25, 2007).

Breedlove v. Mullin, Case No. CIV-04-826-F (W.D. Okla. Nov. 24, 2004), *adopted* (W.D. Okla. Jan. 3, 2005), *aff'd*, Case No. 05-6026, 148 Fed. Appx. 728 (10th Cir. Sept. 20, 2005), *cert. denied*, 547 U.S. 1133 (U.S. May 15, 2006).

Harmon v. Booher, Case No. CIV-04-235-C (W.D. Okla. Aug. 30, 2006), *adopted* (W.D. Okla. Apr. 12, 2007), *aff'd*, Case No. 07-6117, 271 Fed. Appx. 704 (10th Cir. Mar. 25, 2008), *cert. denied*, ___ U.S. ___, 129 S. Ct. 197 (U.S. Oct. 6, 2008).

Dawson v. Miller, Case No. CIV-03-1161-T (W.D. Okla. Nov. 23, 2004), *adopted* (W.D. Okla. Apr. 28, 2005), *aff'd*, Case No. 05-6182, 171 Fed. Appx. 739 (10th Cir. Mar. 22, 2006), *cert. denied*, 549 U.S. 924 (U.S. Oct. 2, 2006).

Walters v. Guilfoyle, Case No. CIV-01-1690-R (W.D. Okla. Aug. 28, 2002), *adopted* (W.D. Okla. Jan. 8, 2003), *aff'd*, Case No. 03-6022, 68 Fed. Appx. 939 (10th Cir. July 21, 2003), *cert. denied*, 540 U.S. 1117 (U.S. Jan. 12, 2004).

- 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.

To the best of my recollection, none of my orders have been reversed.

When a party objects to a report, the district judge typically determines whether to adopt or decline my recommendation. The decision to “decline” my suggested ruling does not operate as a reversal. Many times, for example, the district judge may decline to adopt my recommendation based on newly presented information. Below I have listed those instances in which a district judge has reached a different outcome or expressed significant criticism of my analysis.

Parker v. Standifird, Case No. CIV-10-1395-W, 2011 U.S. Dist LEXIS 129966, 2011 U.S. Dist LEXIS 130107 (W.D. Okla. Apr. 8, 2011). I recommended denial of a motion to dismiss, reasoning that the petitioner had asserted a “class of one” equal protection theory and that the petitioner’s allegations would reasonably support liability for purposes of Fed. R. Civ. P. 12(b)(6). The district judge disagreed.

Johnson v. Astrue, Case No. CIV-10-487-M (W.D. Okla. Jan. 28, 2011). In a report, I concluded that the Court should affirm the administrative law judge’s finding in a social security case. I concluded that the judge had considered all of the probative evidence and had a substantial record to support this finding. The district judge disagreed. Opinions supplied.

Thornton v. Hill, Case No. CIV-08-575-D, 2009 U.S. Dist. LEXIS 81651, 2009 U.S. Dist. LEXIS 81256 (W.D. Okla. May 27, 2009). I construed the complaint

to include official capacity claims. The district judge disagreed with this reading of the complaint based on a subsequently filed document.

Kincannon v. Astrue, Case No. 07-563-D, 2008 U.S. Dist. LEXIS 1640 (W.D. Okla. Nov. 29, 2007). I concluded that the administrative agency had erred and recommended a remand with instructions to award benefits because of exceptional circumstances. The district judge disagreed with the remedy that I had recommended. A copy of my opinion is supplied.

Rockwell v. Parker, Case No. CIV-07-330-R, 2007 U.S. Dist. LEXIS 64539, 2007 U.S. Dist. LEXIS 60721 (W.D. Okla. June 19, 2007). I recommended denial of the respondent's motion to dismiss on timeliness grounds. I reasoned that the petitioner had alleged facts which, if proven, could have supported equitable and statutory tolling. The district judge agreed that some equitable tolling was warranted, but believed that I had allowed too much time. The district judge concluded that the petitioner had become aware of counsel's abandonment on a date certain and had not been diligent in seeking leave to appeal out of time.

Jolly v. Astrue, Case No. CIV-07-243-HE, 2007 U.S. Dist. LEXIS 96109, 2008 U.S. Dist. LEXIS 7779 (W.D. Okla. Nov. 21, 2007). I concluded that the administrative agency had erred and recommended a remand with instructions to award benefits based on exceptional circumstances. The district judge disagreed with my recommendation to award benefits.

Jones v. State of Oklahoma, Case No. CIV-05-630-L (W.D. Okla. Aug. 26, 2005). In this habeas action under 28 U.S.C. § 2254, I recommended denial of the respondent's motion for summary judgment on grounds of timeliness. In particular, I relied on the petitioner's certification of mailing, which indicated that he had "filed" the petition on a date certain under the "mailbox rule." In his objection, the respondent provided evidence that petitioner had not actually mailed his petition on that date. Additionally, the district judge regarded the petitioner's declaration as inadequate. Consequently, the district judge declined to adopt the report and recommendation. Opinions supplied.

Deatherage v. Workman, Case No. CIV-04-1716-L (W.D. Okla. Feb. 24, 2005). I recommended dismissal of a habeas petition as untimely, rejecting the petitioner's claims of equitable tolling. The district judge disagreed, finding that the petitioner had demonstrated active pursuit of judicial remedies. Opinions supplied.

Thomas v. Jordan, Case No. CIV-04-876-R (W.D. Okla. Apr. 25, 2005). I recommended denial of the prison officials' motion for summary judgment, concluding that a genuine dispute of material fact existed regarding whether the defendants had been aware of a substantive risk of harm from exposed wires. The district judge disagreed, concluding that a reasonable juror could not have found culpability on the part of prison officials. Opinions supplied.

Ball v. Fatkin, Case No. CIV-02-610-HE (W.D. Okla. Nov. 19, 2002). A prisoner filed a civil rights claim after being found guilty of a prison disciplinary misconduct. In part, the plaintiff sought expungement of the misconduct conviction and restoration of earned credits which had been revoked as punishment. I recommended dismissal of these claims because the proper remedy could only be obtained if the plaintiff had sought a writ of habeas corpus. The district judge declined to adopt my recommendation. Instead, he liberally construed the complaint and recharacterized it as one seeking habeas relief. Opinions supplied.

Henry v. Stewart, Case No. CIV-01-1374-R (W.D. Okla. Sept. 10, 2003). In my report and recommendation, I concluded that the plaintiff's allegations and evidence were sufficient on the claims against ten defendants with respect to interference with court access, retaliation, conspiracy, denial of equal protection, and intentional infliction of emotional distress. The district judge disagreed with these conclusions and believed that the plaintiff's allegations were insufficient on the claims involving denial of court access and that the evidence was insufficient on the claims involving retaliation, conspiracy, denial of equal protection, and intentional infliction of emotional distress. Opinions supplied.

Umoren v. McPharron, Case No. CIV-01-1071-M (W.D. Okla. Aug. 21, 2001). In a report, I recommended denial of class certification, concluding that the plaintiffs could not adequately represent the class. Subsequently, I entered an order denying the plaintiffs' motion for appointment of counsel, concluding that the claims were not sufficiently complex to merit counsel. The plaintiffs appealed that ruling. The district judge concluded that the issues involving class certification and appointment of counsel were interrelated and should be decided together. Thus, the district judge declined to adopt my recommendation concerning class certification and remanded the matter for reconsideration of both issues. Opinions supplied.

Brookman v. Apfel, Case No. CIV-00-876-C (W.D. Okla. Feb. 28, 2001). In a report, I recommended partial reversal and remand of an administrative decision to deny disability benefits. In the administrative decision, the agency had considered the claim for disability benefits by proceeding through a five step sequential analysis. I recommended a remand at step four. The district judge adopted my recommendation to reverse and remand, but concluded that the remand should not be limited to reconsideration at step four. Opinions supplied.

Washington v. Oklahoma State Department of Corrections, Case No. CIV-00-836-A (W.D. Okla. Oct. 24, 2000). In a report, I recommended dismissal without prejudice for failure to timely effect service on the defendant. The district judge declined to adopt the recommendation, concluding that good cause existed to allow additional time for service. Opinions supplied.

Green v. Owens, Case No. CIV-99-1827-L (W.D. Okla. May 12, 2000). In a report, I recommended dismissal of claims for monetary and injunctive relief based on the plaintiff's failure to exhaust administrative remedies prior to filing the lawsuit. The district judge disagreed with my conclusion regarding the monetary claims and declined to adopt my recommendation with respect to those claims. Opinions supplied.

Harvey v. State of Oklahoma, Case No. CIV-99-1807-A (W.D. Okla. Sept. 13, 2000). In this civil rights case by an inmate, one defendant filed a motion to dismiss based on the plaintiff's failure to exhaust the available administrative remedies. I declined to address this portion of the motion to dismiss, as dismissal was appropriate on other grounds. The defendant objected and the district judge concluded that determination of the issue was appropriate and that the motion to dismiss should be granted for failure to exhaust available administrative remedies. Opinions supplied.

Davenport v. Stradley, Case No. CIV-99-1457-R (W.D. Okla. May 18, 2000). I recommended summary judgment to the defendants on the plaintiff's claim that his constitutional rights had been violated through the prison's restrictions on visitation between the plaintiff/pre-trial detainee and the plaintiff's children. The district judge declined to adopt this portion of my recommendation, concluding that the restriction violated the Fourteenth Amendment and that the restriction was not reasonably related to a legitimate governmental objective. Opinions supplied.

Powers v. Apfel, Case No. CIV-99-1170-L (W.D. Okla. Sept. 22, 2000). In a report, I recommended affirmance of the administrative decision to deny benefits. The district judge declined to adopt my recommendation, concluding that the administrative law judge had erred in his analysis of subjective complaints and the opinion of a treating physician. Opinions supplied.

Scarberry v. Blanchard Police Department, Case No. CIV-98-1300-L (W.D. Okla. June 8, 1999). In this suit, I required the plaintiff to show cause why the claims against one defendant should not be dismissed for lack of service and capacity to be sued. Thereafter, the plaintiff sought voluntary dismissal as to that defendant and I recommended that the Court grant the motion. The district judge believed that dismissal should instead be based on the lack of service and the defendant's lack of capacity to be sued. Opinions supplied.

- 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.

Civil: In accordance with the practice in our district, I have not authorized publication in the conventional reporter system. One decision – *Petzold v. Jones*, 619 F. Supp. 2d 1143 (W.D. Okla. 2008) – has been published. Virtually all of

my other decisions are publicly available through the court's electronic filing system.

Criminal: As a magistrate judge I preside over a broad range of matters, such as preliminary hearings, detention hearings, and presentation of applications for warrants. In the Western District of Oklahoma, none of these decisions have been published in the conventional reporter system. Unless sealed, however, these decisions are publicly available through the court's electronic filing system.

- 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.

Since March 1999, I have issued hundreds of opinions on constitutional issues. Most of these opinions could arguably be considered "significant" on issues involving the federal constitution. I have tried to be selective and list only those which are particularly significant.

1. *Walck v. Edmondson*, Case No. CIV-05-430-R, 2005 WL 1356481 (W.D. Okla. June 7, 2005) (Doc. 25), *adopted*, Case No. CIV-05-430-R, 2005 WL 1907347 (W.D. Okla. Aug. 10, 2005), *aff'd*, 472 F.3d 1227 (10th Cir. 2007).

2. *Threadgill v. Boone*, Case No. CIV-99-1887-T (W.D. Okla. May 31, 2001), *adopted*, Case No. CIV-99-1887-T (W.D. Okla. July 6, 2001), *aff'd*, 49 Fed. Appx. 773 (10th Cir. 2002). My opinion was supplied in response to 13(d) and the District Judge's opinion is supplied.

3. *Suarez-Tejeda v. United States*, Case No. CIV-01-96-F (W.D. Okla. July 30, 2002), *adopted*, Case No. CIV-01-96-F (W.D. Okla. Aug. 29, 2002), *appeal dismissed*, Case No. 02-6341, 2004 WL 68758 (10th Cir. 2004). My order was supplied in response to 13(d) and the District Judge's opinion is supplied.

4. *Lemes v. Ashcroft*, Case No. CIV-02-890-HE (W.D. Okla. Dec. 11, 2002), *adopted*, Case No. CIV-02-890-HE (W.D. Okla. Jan. 31, 2003). Copies of these opinions are supplied.

- 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 on a federal court of appeals.

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 Western District of Oklahoma employs an “automatic” recusal system. Under this system, the assigned judge receives a report stating whether a potential issue of disqualification exists. However, I do not rely solely on this system.

When a case is referred or transferred to me, I review the parties and counsel to consider the possibility of a disqualifying association. When a potential issue arises, I review the Code of Judicial Conduct and the pertinent advisory opinions. I also have consulted informally with officers of the General Counsel’s Office for the Administrative Office of the United States Courts.

In *Lampley v. United States*, Case No. CIV-01-976-T (W.D. Okla.), a *pro se* plaintiff moved for my recusal on grounds that I had “determined to prejudicially view this Case, outside properly enacted laws of the Constitution for the United States of America; codes, rules, and regulations which have never conformed to the Contractual Agreement of that Constitution” Motion to Correct the Record and Motion for the Recusal of Magistrate Judge, *Lampley v. United States*, Case No. CIV-01-976-T (W.D. Okla. July 13, 2001). I denied the motion for recusal. *Lampley v. United States*, Case No. CIV-01-976-T (W.D. Okla. July 16, 2001).

In *Evitt v. Durland*, Case No. CIV-98-1712-A (W.D. Okla.), the plaintiff requested recusal. The matter involved post-judgment proceedings to collect on a judgment. According to the plaintiff, the judgment debtor – Jack Durland, Jr. – had boasted of his close relationship with me when the two of us were practicing law at Crowe & Dunlevy. Mr. Durland was an attorney at Crowe & Dunlevy for a few years while I was there, but the two of us barely knew one another. I denied the motion for recusal because there was no basis for disqualification.

In *Moore v. Newton-Embry*, Case No. CIV-09-985-C (W.D. Okla. July 19, 2011), the respondent filed a limited motion for recusal. At the time, I was considering

the petitioner's request for an evidentiary hearing. The respondent stated that if an evidentiary hearing were required, it would need to call my sister-in-law as a witness. Thus, the respondent conditionally moved for recusal in the event that an evidentiary hearing were ordered. I separately denied the petitioner's motion for an evidentiary hearing. As a result, the limited motion for recusal became moot and I denied it on this ground. Order: Limited Motion for Recusal, *Moore v. Newton-Embry*, Case No. CIV-09-985-C (W.D. Okla. Sept. 7, 2011); see *Moore v. Newton-Embry*, Case No. CIV-09-985-C (W.D. Okla. July 15, 2011) (my disclosure of my sister-in-law's involvement in the underlying events based on my review of the parties' exhibits).

In *Clapp v. National Bureau of Collections, Inc.*, Case No. CIV-01-331-P (W.D. Okla.), I recused because the defense attorney's wife had previously employed my wife.

For several years following my resignation from Crowe & Dunlevy, I recused from cases involving my former law firm. These cases included *Knight v. Conner*, Case No. CIV-00-621-R (W.D. Okla. July 10, 2000), *Hampton v. Keating*, Case No. CIV-00-2061-T (W.D. Okla. Aug. 15, 2001), *Nautilus Insurance Co. v. SOL & Sons Corp.*, Case No. CIV-01-826-BA (W.D. Okla. Sept. 27, 2001), *Jones v. Pace American, Inc.*, Case No. CIV-99-1368-A (W.D. Okla. Aug. 3, 2000), and *Shamrock Drilling Fluids, Inc. v. Oklahoma Federal Savings & Investment Association*, Case No. CIV-89-1818-A (W.D. Okla. Sept. 23, 1999).

Approximately three years after my appointment, I employed the remittal procedure in Canon III(D) of the Code of Judicial Conduct when my former law firm, Crowe & Dunlevy, was involved. *Doe 1 v. Dominion, Inc.*, Case No. CIV-01-1855-F (W.D. Okla. Feb. 11, 2002), and *Doe 1 v. Dominion, Inc.*, Case No. CIV-01-1855-F (W.D. Okla. Mar. 5, 2002). In this case, the parties jointly consented – outside of my presence – to my participation and I continued participation as the assigned judge. Joint Consent, *Doe 1 v. Dominion, Inc.*, Case No. CIV-01-1855-F (W.D. Okla. Mar. 27, 2002). When fewer than all parties consented in *Scott v. John Alden Life Insurance Co.*, Case No. CIV-03-880-T (W.D. Okla. May 13, 2004), I recused.

I also employed this procedure in *Clark v. Penn Square Mall Limited Partnership*, Case No. CIV-10-29-C (W.D. Okla. July 11, 2011). This case was referred to me for discovery disputes. One of the disputes involved the plaintiff's request for documents involving other crimes at a mall owned by Simon Properties Group, Inc. While I was in private practice, I had represented Simon Properties Group, Inc. in a case involving a similar discovery dispute. I disclosed the prior representation and stated that I would recuse unless all parties filed a joint remittal of the disqualification. *Id.* The parties filed a joint consent, and I continued to act as the assigned judge. Joint Remittal of Disqualification, Order, *Clark v. Penn Square Mall Limited Partnership*, Case No. CIV-10-29-C (W.D. Okla. July 15, 2011).

For similar reasons, I employed the remittal procedure in *Pendergraft v. Simon Property Group, Inc.*, Case No. CIV-04-1450-T (W.D. Okla. Sept. 2, 2005). Because fewer than all parties consented, I recused. Joint Response, *Pendergraft v. Simon Property Group, Inc.*, Case No. CIV-04-1450-T (W.D. Okla. Sept. 15, 2005); Order, *Pendergraft v. Simon Property Group, Inc.*, Case No. CIV-04-1450-T (W.D. Okla. Sept. 19, 2005).

This procedure was also employed in *Reinhardt v. Brinker Oklahoma, Inc.*, Case No. CIV-10-549-BA (W.D. Okla.). My wife had recently been involved in a vehicle accident and the other driver and her husband had been represented by the attorney representing the plaintiff in *Reinhardt v. Brinker Oklahoma, Inc.*, Case No. CIV-10-549-BA (W.D. Okla.). I disclosed this situation to the attorneys and announced that I would recuse in the absence of a joint remittal of disqualification. Order, *Reinhardt v. Brinker Oklahoma, Inc.*, Case No. CIV-10-549-BA (W.D. Okla. June 17, 2011). The parties filed a joint remittal of disqualification, and I continued to act as the assigned judge. Joint Remittal of Disqualification, *Reinhardt v. Brinker Oklahoma, Inc.*, Case No. CIV-10-549-BA (W.D. Okla. July 1, 2011).

I recused in *Chesapeake Panhandle Limited Partnership v. Kinder Morgan, P.C.*, Case No. CIV-00-397-F (W.D. Okla. Nov. 30, 2001). I had presided over a judicial settlement conference, and one party moved for enforcement of the settlement agreement. This referral was erroneous because I was not the assigned magistrate judge and I had expressed an opinion on the issue to counsel during my efforts to resolve the dispute by agreement.

I recused in *Environmental Safety & Health, Inc. v. Integrated Pro Services, LLC*, Case No. CIV-08-1215-BA (W.D. Okla. Sept. 2, 2011), because of my association with one of the attorneys in the case.

I recused in *Logsdon v. Harvanek*, Case No. CIV-11-1471-F (W.D. Okla. Dec. 19, 2011). This habeas action was brought by a person convicted on charges involving fraudulent conduct. A friend of mine was one of the alleged victims, and he and I had discussed some of the underlying incidents prior to the filing of the habeas action.

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

- a. List chronologically any public officers 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.

My only public office has involved service as a United States Magistrate Judge. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

In about 1998, I served on the Finance Committee for Ms. Laura Boyd, who was the Democratic nominee for governor. My wife was a volunteer for Ms. Boyd, and I agreed to serve on the Finance Committee. My responsibility involved solicitation of funds for Ms. Boyd's campaign. I do not recall the dates of my involvement on this committee, but believe that it covered a few months in 1998.

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 1985 to 1987, I served as a law clerk to the Honorable William J. Holloway, Jr., Circuit Judge of the United States Court of Appeals for the Tenth Circuit. At the time of my clerkship, Judge Holloway was serving as the Chief Judge for the 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.

1987 – 1999
Crowe & Dunlevy
20 North Broadway
Suite 1800
Oklahoma City, OK 73102
Associate (1987 – 1994)
Shareholder (1994 – 1999)

- 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.

Throughout my tenure at Crowe & Dunlevy, I practiced primarily in commercial litigation, focusing largely on antitrust and franchise litigation. From 1996 to 1998, I also handled a considerable number of cases involving the Employee Retirement Income Security Act.

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

In my work involving commercial litigation, my typical clients involved large businesses such as Simon Properties Group, Inc., Continental Illinois National Bank, Liberty National Bank, and NEC Corporation. A typical client, when I handled ERISA litigation, would have been an insurer such as MetLife Insurance Company or John Alden Life Insurance Company.

- 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.

My practice was exclusively in litigation from 1987 to 1999.

From 1987 to about 1990, I did not frequently appear in court because most of my practice involved legal research and writing. From about 1990 to 1999, I appeared in court with increasing frequency.

From 1994 to 1999, I appeared in federal court occasionally. In federal district court, the judges did not frequently entertain oral argument. Thus, my federal court appearances generally involved trial participation. During this period, I also appeared frequently in state court.

- i. Indicate the percentage of your practice in:

- | | |
|----------------------------|-----|
| 1. federal courts: | 50% |
| 2. state courts of record: | 50% |

- 3. other courts: 0%
- 4. administrative agencies: 0%

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 100%
- 2. criminal proceedings: 0%

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 have tried approximately ten cases to verdict. In two, I served as sole counsel. In roughly eight other cases, I served at trial as associate counsel.

i. What percentage of these trials were:

- 1. jury: 90%
- 2. non-jury: 10%

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

In the United States Supreme Court, I have filed only one *certiorari* petition for a former client, Mr. Lawrence Wolfberg. I believe this document was filed in the late 1980s, and I have not been able to obtain a copy. I have never presented oral argument in the Supreme Court.

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. *Herron v. Herron Lumber, Inc.*, Case No. C-88-505 (McCurtain Co. Dist. Ct., State of Okla.).

This case involved a dispute between two factions of a family. Our clients were limited partners of a limited partnership. This entity owned 26,775 acres of timberlands in Oklahoma and Arkansas. From its inception, the limited partnership was managed by its general partner, Herron Lumber, Inc. The officers of Herron Lumber, Inc. (the general partner) were the principal defendants. Herron Lumber, Inc. bought timber from the limited partnership. We claimed that: (1) the officers had manipulated the timber prices – as principals of both the buyer and seller – to exclude our clients from a fair share of the profit; (2) the defendants took advantage of business opportunities that should have been made available to the limited partnership; (3) the officers jeopardized the assets of the limited partnership by executing a guaranty on behalf of that entity even though it had been excluded from any of the profits for the relevant business venture; and (4) the defendants breached their fiduciary duties by withholding distributions and secretly purchasing life insurance for one of the officers out of the limited partnership's assets.

The representation covered the period December 1988 to May 1992. I participated as associate counsel in the trial and was one of the attorneys of record. However, my principal role in the case involved briefing on the numerous legal issues prior to and during the trial. After approximately one week of trial, the parties settled.

The case was assigned to Judge Hack Welch.

Contact Information

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John Shipp, Deceased

Counsel for Defendants: Joe Stamper, Deceased

Michael Burrage
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2. *Dollar Systems, Inc. v. Bluewater Leasing, Inc.*, Case No. 92-CV-1118 (N.D. Okla.).

From approximately November 1992 to January 1995, I served as lead counsel for the franchisor, Dollar Systems, Inc., in this action and was counsel of record. The suit began as a collection matter on Dollar's part. The franchisee filed a substantial counterclaim and aggressively pursued various tort theories against Dollar. Through informal investigation, I discovered that the franchisee had actively concealed the existence of several rent-a-car locations in order to avoid payment of franchise fees. This discovery led to the franchisee's relinquishment of its counterclaim and consent to a judgment in Dollar's favor.

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Counsel for Defendant: Charles Shipley
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3. *Suiter v. Mitchell Motor Coach Sales, Inc.*, Case Nos. 96-5152, 96-5159 (10th Cir.).

From early 1996 to late 1998, I served as lead counsel for the plaintiff in this case, which involved claims under the Motor Vehicle Information and Cost Savings Act (commonly known as the "Odometer Act"). I was hired to defend the plaintiff's favorable judgment on appeal. Our client purchased a motor coach, and the odometer understated the actual mileage by at least 42,000 miles. My work involved supervision of the drafting of appellee's brief and presentation of oral argument in the Tenth Circuit Court of Appeals. My client's judgment was affirmed in *Suiter v. Mitchell Motor Coach Sales, Inc.*, 151 F.3d 1275 (10th Cir. 1998).

Counsel for Defendant: James Tilly
Tilly Law Firm

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4. *Burghart v. Frisch's Restaurants, Inc.*, Case No. 86-2045 (10th Cir.).

The underlying suit involved a claim under the state's forcible entry and detainer statutes. I was asked to represent the landlord after the underlying judgment had already been affirmed. The landlord sought recovery for losses by the tenant's continued presence on the property during the pendency of the prior appeal. The defendant had lost this issue in the federal district court prior to my engagement in the case. At that point, the plaintiff's lead counsel asked me to prepare the brief for the second appeal and to present oral argument in the Tenth Circuit Court of Appeals. I did so, but the effort was unsuccessful. *See Burghart v. Frisch's Restaurants, Inc.*, 865 F.2d 1162 (10th Cir. 1989) (*per curiam*).

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Counsel for Defendant: Robert H. Warren
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5. *Bucklin Equipment Co. v. John Deere Industrial Equipment Co.*, Case No. 84-1602-P (W.D. Okla.).

My law firm represented the plaintiff in three trials. The first trial ended in a defense verdict, and the second and third trials resulted in awards of \$1,000,000 and \$850,000 for our client. I represented the plaintiff in the second and third trials, but not in the first one.

Our client, Bucklin Equipment Co., was a distributor for John Deere Industrial Equipment Co. The owner was convicted of a felony involving bribery, and John Deere terminated his dealership. I was not involved in the first trial. At that trial, Bucklin Equipment's theory involved wrongful termination. There was a defense verdict, but the Tenth Circuit Court of Appeals reversed and remanded for a new trial.

In 1986, Tony Rupert and I became the new attorneys for Bucklin Equipment. We declined to pursue the theory of wrongful termination. Instead, we relied on a

promise to reasonably approve prospective purchasers and to assist in a sale of the business as a going concern. John Deere rejected a prospective buyer as a dealer, and we argued that this decision was unreasonable. We also claimed that John Deere had undermined Bucklin's ability to sell his business to another dealer. After a six-day trial, the jury returned a verdict of \$1,000,000 for our client.

The federal district court granted a new trial based on a determination that the verdict was against the greater weight of the evidence. Mr. Rupert and I again represented the plaintiff at the third trial, which resulted in another favorable verdict. This time, the award totaled \$850,000. The defendant agreed to pay this judgment, and our client agreed to forego an appeal on the vacatur of the earlier award of \$1,000,000. My representation ended on November 1, 1989.

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Counsel for Defendant: John C. Harrington, Jr.
Lytle Soule & Curlee
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6. *McAlister v. McAlister*, Case No. 88836 (Okla.).

From January 1997 to April 1998, I represented the mother in an appeal over the loss of custody of her son. At trial, the mother sought to present evidence that her ex-husband was unfit for custody because he had abused her during their marriage. The trial judge excluded the evidence.

I served as lead counsel for the mother in an appeal. The intermediate appeals court affirmed, and the state supreme court denied *certiorari* in a 5-4 decision. See Docket Sheet at p. 4, *McAlister v. McAlister*, Case No. DF-88836 (Okla.).

Counsel for Defendant: Arnold Fagin
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7. *Comcoa Inc. v. NEC Telephones Inc.*, Case No. CIV-85-1436-C (W.D. Okla.).

This case involved a suit for price-discrimination under the Robinson-Patman Act and tort theories under state law. I served as associate counsel for the defendant, NEC Telephones, Inc., from the Fall of 1987 to January 1994. I had substantial involvement in the extensive briefing prior to trial, during the trial, and on an appeal to the Tenth Circuit Court of Appeals. In addition, I participated in the two trials conducted in this case.

Prior to trial, the federal district court granted summary judgment to the defendant on the claim involving breach of the implied duty of good faith and fair dealing. The trial resulted in a defense verdict on the claims involving price-discrimination and intentional interference with prospective economic relations. The summary judgment ruling was reversed on appeal. *Comcoa v. NEC Telephones, Inc.*, 931 F.2d 655 (10th Cir. 1991). At the retrial, the plaintiffs obtained a judgment for \$2,690,000. See Docket Sheet at p. 12 No. 524, *Comcoa v. NEC Telephones Inc.*, Case No. CIV-85-1436 (W.D. Okla. June 25, 1992). I drafted the brief on the second appeal. The case settled during the pendency of this appeal.

Counsel for Plaintiff: (Second Trial)	John T. Edwards Monnet Hayes Bullis Thompson & Edwards 120 North Robinson Suite 1719W Oklahoma City, OK 73102 Telephone: (405) 232-5481
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(First Trial)	Joseph Giffin (retired) Chicago, IL
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Co-Counsel for Defendant:	D. Kent Meyers Crowe & Dunlevy 20 North Broadway Suite 1800 Oklahoma City, OK 73102 (405) 235-7700
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	Mack J. Morgan III Crowe & Dunlevy 20 North Broadway Suite 1800 Oklahoma City, OK 73102 (405) 235-7700
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8. *John A. Henry & Co. v. T.G. & Y. Stores Co.*, 941 F.2d 1068 (10th Cir. 1991).

From approximately 1990 to 1991, I served as associate counsel for the plaintiff, John A. Henry & Co., the landlord for a large local retailer. The landlord claimed breach of contract and wrongful interference with contract. According to the landlord, the retail tenant withheld lease payments to obtain consent to cancel the lease.

In federal district court, we obtained a jury verdict for \$100,000 in actual damages and \$2,000,000 in punitive damages. I participated in the trial and did virtually all of the briefing in the federal district court and in the appeal. Our \$2,100,000 judgment was affirmed in *John A. Henry & Co. v. T.G. & Y. Stores Co.*, 941 F.2d 1068 (10th Cir. 1991).

Co-Counsel for Plaintiff: Anton J. Rupert
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Counsel for Defendant: John T. Edwards
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9. *Cassan Enterprises Inc. v. Dollar Systems Inc.*, Case No. 93-CV-1077-BJR (W.D. Wash.).

From approximately 1993 to 1996, I served as associate counsel for Dollar Systems Inc. in a suit brought by its earliest franchisee for statutory and common law tort claims under Washington law. According to the franchisee, the franchisor failed to provide support for a bid to maintain a presence at the Seattle airport. I had principal responsibility for the extensive briefing prior to and during the trial, for preparing our witnesses prior to and during the trial, for preparing the requested jury instructions and objections to the plaintiffs' proposed jury instructions, and for conducting oral argument on these issues. However, I did not participate in the trial.

The trial resulted in a substantial judgment for the plaintiffs. However, that judgment was overturned on appeal. *Cassan Enterprises, Inc. v. Dollar Systems, Inc.*, 131 F.3d 145 (9th Cir. 1997). I did not participate in the appeal.

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Seattle, WA

Co-Counsel for Defendant: James L. Kincaid
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10. *Continental Illinois National Bank v. Bell*, Case No. CIV-84-2386-C (W.D. Okla.).

My law firm represented Continental Illinois National Bank in a suit brought against a guarantor on a loan that was in default. Beginning in October 1987, when I joined Crowe & Dunlevy, I had principal responsibility for the extensive briefing in federal district court. However, I did not participate in the two trials that took place. Our client sued on various guaranties, and the guarantor counterclaimed on various theories of lender liability.

The first trial resulted in an award of \$51,604,074 for the guarantor on his counterclaim against Continental Illinois National Bank. This judgment was appealed, but I did not participate at that stage. In the appeal, the judgment was vacated and remanded for retrial on damages on a claim involving nonregistration of securities. *See FDIC v. Bell*, 1990 WL 58108 (10th Cir. Apr. 24, 1990) (unpublished op.).

At the second trial, the court found no damages for the guarantor. In a subsequent appeal, I was substantially involved in the briefing. That effort proved successful, as the Tenth Circuit Court of Appeals affirmed. *See Continental Bank v. Burke*, 1993 WL 360664 (10th Cir. Sept. 14, 1993) (unpublished op.). My involvement in the case ended with the second appellate decision in September 1993.

Counsel for Plaintiff: Murray Cohen (retired)
(First Trial)

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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 organization(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

The most significant legal activities, outside of the cases I have handled in private practice and as a judge, involve mentoring, legal writing, and participation in bar activities.

I have served for approximately three years on the Oklahoma Bar Association's committee, "Lawyers Helping Lawyers." I also have been recently appointed as a director for a related foundation, called "LHL Foundation." Lawyers Helping Lawyers is devoted to assisting attorneys who are experiencing personal problems. These problems include depression, alcoholism, and drug dependency. I have served as a mentor for several young men, and this experience has proven to be an invaluable learning experience for me. I hope it has helped these young men as well.

I also greatly enjoy the academic aspect of the law and have engaged in extensive legal writing outside of my legal practice or judicial service. For example, I have authored or coauthored six law review articles and drafted a section for a legal treatise on "Oklahoma Appellate Practice," authored by two fellow shareholders at Crowe & Dunlevy.

Finally, I have spent considerable time and energy in various bar organizations. This work has included presidency of the local chapter of the Federal Bar Association. In this capacity, I increased the membership of the organization from roughly 140 members to over 330 members in less than eighteen months. For my service as the president of the Federal Bar Association – Oklahoma City Chapter, I was awarded the national organization's most prestigious honor, the Earl Kintner Award. In addition, I have served on the county bar's board of directors and the national leadership of the Federal Bar Association. Through these bar activities, I have tried to promote the ideals of civility and professionalism that are natural by-products of organizations that unite lawyers in a common purpose.

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

I was a co-instructor in 1997, 1998, and 1999 for "Civil Pretrial Litigation" at the University of Oklahoma School of Law. I have not retained a syllabus for this class.

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

I have no deferred income arrangement, stocks, options, uncompleted contracts or other future benefits that I expect to derive from previous business relationships, firm memberships, former employers, clients or customers.

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 currently have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court.

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.

I do not anticipate conflicts of interest from family members or other persons, parties, categories of litigation, or financial arrangements. If confirmed, I would carefully review cases and parties to determine if any actual or potential conflicts of interest were present. I would adhere to the Code of Conduct for United States Judges and the pertinent advisory opinions.

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

If confirmed, I would handle all matters involving actual or potential conflicts of interest through careful application of the Code of Conduct for United States Judges and the pertinent advisory opinions. I would continue to recuse when appropriate.

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.

I have attempted to fulfill this obligation through bar activities and representation of individuals without compensation.

I have served on the Oklahoma Bar Association's committee, "Lawyers Helping Lawyers," for approximately three years. Through this committee, I have served as a mentor for several young men experiencing personal problems involving alcoholism, marital conflict, bipolar disorder, and lack of professional guidance. I meet periodically with these young men and try to provide encouragement, advice, and friendship. In this manner, I have tried to help attorneys disadvantaged by personal difficulties.

When I was in private practice, I also provided *pro bono* representation to a number of individuals. For example, at the request of different federal judges, I agreed to represent three prisoners in civil rights cases. One went to trial, and two settled. I spent roughly 550 hours on these cases without any compensation.

I also provided *pro bono* representation for a mother who had lost custody of her minor son. At trial, her counsel attempted to present evidence of domestic abuse to demonstrate her ex-husband's lack of fitness as a sole custodian. The evidence was excluded. I agreed to represent her, without pay, in an appeal. For the appeal, I not only drafted the briefs for the mother but also solicited an *amicus* brief by the Family Violence and Sexual Assault Institute and Oklahoma Coalition Against Domestic Violence. After an unsuccessful result in the state's intermediate court, I petitioned for *certiorari* in the Oklahoma Supreme Court. That court denied *certiorari* in a 5-4 decision. In this case, I spent approximately 118 hours without any compensation.

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 selection commission in the State of Oklahoma for federal judicial vacancies.

In January 2010, I wrote to Attorney General Holder, expressing an interest in the position. This letter was referred to the Justice Department Office of Legal Policy.

I met with Congressman Boren in approximately February 2010, Governor Henry on March 2, 2010, Congressman Cole on August 9, 2011, Congressman Sullivan on August 23, 2011, and Congressman Lankford on September 30, 2011. I had

initiated each meeting to request consideration for the vacancy in the Tenth Circuit Court of Appeals.

I spoke with an attorney from the White House Counsel's Office on October 19, 2011. Since October 31, 2011, I have been in contact with officials from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. On December 1, 2011, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On January 23, 2012, 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.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) Bacharach, Robert E.	2. Court or Organization Western District of Oklahoma	3. Date of Report 01/23/2012
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. Magistrate Judge-fulltime	5a. Report Type (check appropriate type) ☒ Nomination, Date 01/23/2012 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2011 to 12/31/2011
7. Chambers or Office Address 200 NW 4th Street Room 1305 Oklahoma City, OK 73102	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

I. POSITIONS. (Reporting individual only; see pp. 9-13 of filing instructions.)

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. 10th Circuit Vice President	National Federal Bar Association
2.	
3.	
4.	
5.	

II. AGREEMENTS. (Reporting individual only; see pp. 14-16 of filing instructions.)

☒ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☒ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1.		
2.		
3.		
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☒ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1.	
2.	
3.	
4.	

IV. REIMBURSEMENTS — *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. EXEMPT				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐ NONE *(No reportable gifts.)*

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. EXEMPT		
2.		
3.		
4.		
5.		

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☒ NONE *(No reportable liabilities.)*

<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.		
2.		
3.		
4.		
5.		

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. VARIABLE ANNUITY #1					Exempt				
2. - Vanguard Equity Index Portfolio	A	Int./Div.	K	T					
3. - Vanguard Diversified Value Portfolio	A	Int./Div.	K	T					
4. - Vanguard Growth Portfolio	A	Int./Div.	K	T					
5. - Vanguard International Portfolio	A	Int./Div.	L	T					
6. - Vanguard Mid-Cap Index Portfolio	A	Int./Div.	L	T					
7. - Vanguard REIT Index Portfolio	A	Int./Div.	K	T					
8. IRA #1									
9. - American Funds EuroPacific Growth Fund	A	Int./Div.	J	T					
10. - Columbia Mid Cap Index Fund	A	Int./Div.	J	T					
11. - DFA International Small Cap Portfolio	A	Int./Div.	J	T					
12. - DFA US Large Company Portfolio	A	Int./Div.	J	T					
13. - Longleaf Partners Fund	A	Int./Div.	J	T					
14. - Schwab Money Market Fund	A	Int./Div.	J	T					
15. - Weitz Value Fund	A	Int./Div.	K	T					
16. IRA #2									
17. - American Funds The Growth Fund of America	A	Int./Div.	K	T					

1. Income Gain Codes:

(See Columns B1 and D4)

A = \$1,000 or less

F = \$50,001 - \$100,000

B = \$1,001 - \$2,500

G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000

H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000

H2 = More than \$5,000,000

E = \$15,001 - \$50,000

2. Value Codes

(See Columns C1 and D3)

J = \$15,000 or less

N = \$250,001 - \$500,000

K = \$15,001 - \$50,000

O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000

P1 = \$1,000,001 - \$5,000,000

M = \$100,001 - \$250,000

P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes

(See Column C2)

P3 = \$25,000,001 - \$50,000,000

Q = Appraisal

U = Book Value

R = Cost (Real Estate Only)

V = Other

S = Assessment

W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. - DFA Emerging Markets Value Portfolio	B	Int./Div.	K	T					
19. - DFA International Small Cap Portfolio	A	Int./Div.	K	T					
20. - DFA US Large Company Portfolio	A	Int./Div.	K	T					
21. - DFA US Small Cap Value Portfolio	B	Int./Div.	L	T					
22. - Legg Mason Capital Management Value Trust	A	Int./Div.	J	T					
23. - Schwab Money Market Fund	A	Int./Div.	J	T					
24. - Selected American Shares Fund	A	Int./Div.	K	T					
25. - Weitz Value Fund	A	Int./Div.	K	T					
26. IRA #3									
27. - DFA International Value Portfolio	B	Int./Div.	K	T					
28. - DFA Real Estate Securities Fund	A	Int./Div.	K	T					
29. - Dodge & Cox International Fund	A	Int./Div.	J	T					
30. - Eaton Vance Floating-Rate Fund	A	Int./Div.	K	T					
31. - Invesco Equally-Weighted S&P 500 Fund	A	Int./Div.	K	T					
32. - Legg Mason Capital Management Value Trust	A	Int./Div.	J	T					
33. - Loomis Sayles Bond Fund	B	Int./Div.	K	T					
34. - Lingleaf Partners Fund	B	Int./Div.	K	T					

1. Income Gain Codes:

(See Columns B1 and D4)

2. Value Codes

(See Columns C1 and D3)

3. Value Method Codes

(See Column C2)

A = \$1,000 or less

F = \$50,001 - \$100,000

J = \$15,000 or less

N = \$250,001 - \$500,000

P3 = \$25,000,001 - \$50,000,000

Q = Appraisal

U = Book Value

B = \$1,001 - \$2,500

G = \$100,001 - \$1,000,000

K = \$15,001 - \$50,000

O = \$500,001 - \$1,000,000

R = Cost (Real Estate Only)

V = Other

C = \$2,501 - \$5,000

H1 = \$1,000,001 - \$5,000,000

L = \$50,001 - \$100,000

P1 = \$1,000,001 - \$5,000,000

P4 = More than \$50,000,000

S = Assessment

W = Estimated

D = \$5,001 - \$15,000

H2 = More than \$5,000,000

M = \$100,001 - \$250,000

P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
35. - Pimco Total Return Fund	A	Int./Div.	J	T					
36. - Schwab Money Market Fund	A	Int./Div.	J	T					
37. - Selected American Shares Fund	A	Int./Div.	K	T					
38. - TCW Select Equities Fund	A	Int./Div.	K	T					
39. - Transamerica WMC Diversified Growth Fund	A	Int./Div.	K	T					
40. IRA #4									
41. - Schwab Money Market	A	Int./Div.	J	T					
42. - DFA International Value Portfolio	A	Int./Div.	J	T					
43. BROKERAGE ACCOUNT #1									
44. - American Funds The Growth Fund of America	A	Int./Div.	J	T					
45. - DFA International Small Cap Portfolio	B	Int./Div.	K	T					
46. - DFA International Value Portfolio	A	Int./Div.	J	T					
47. - DFA Tax-Managed US Marketwide Value Portfolio	A	Int./Div.	L	T					
48. - DFA US Large Company Portfolio	A	Int./Div.	J	T					
49. - DFA US Small Cap Value Portfolio	A	Int./Div.	K	T					
50. - Schwab Money Market Fund	A	Int./Div.	J	T					
51. - Vanguard Mid-Cap Value Index Fund	A	Int./Div.	K	T					

1. Income Gain Codes: A=\$1,000 or less B=\$1,001 - \$2,500 C=\$2,501 - \$5,000 D=\$5,001 - \$15,000 E=\$15,001 - \$50,000
(See Columns B1 and D4) F=\$50,001 - \$100,000 G=\$100,001 - \$1,000,000 H1=\$1,000,001 - \$5,000,000 H2=More than \$5,000,000
2. Value Codes J=\$15,000 or less K=\$15,001 - \$50,000 L=\$50,001 - \$100,000 M=\$100,001 - \$250,000
(See Columns C1 and D3) N=\$250,001 - \$500,000 O=\$500,001 - \$1,000,000 P1=\$1,000,001 - \$5,000,000 P2=\$5,000,001 - \$25,000,000
P3=\$25,000,001 - \$50,000,000 P4=More than \$50,000,000
3. Value Method Codes Q=Appraisal R=Cost (Real Estate Only) S=Assessment T=Cash Market
(See Column C2) U=Book Value V=Other W=Estimated

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

VII. INVESTMENTS and TRUSTS – income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1)	(2)	(1)	(2)	(1)	(2)	(3)	(4)	(5)
	Amount Code 1 (A-H)	Type (e.g., div., rent, or int.)	Value Code 2 (J-P)	Value Method Code 3 (Q-W)	Type (e.g., buy, sell, redemption)	Date mm/dd/yy	Value Code 2 (J-P)	Gain Code 1 (A-H)	Identity of buyer/seller (if private transaction)
52.									
53.									
54.									

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000

D = \$5,001 - \$15,000

E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000

H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

P4 = More than \$50,000,000
S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Bacharach, Robert E.

Date of Report

01/23/2012

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature

Robert E. Bacharach

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		10	634	Notes payable to banks-secured (auto)		3	598
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		980	851	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		228	260
Real estate owned – personal residence		278	213	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		37	000				
Cash value-life insurance							
Other assets itemize:							
				Total liabilities		231	858
				Net Worth	1	074	840
Total Assets	1	306	698	Total liabilities and net worth	1	306	698
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax		20	000				
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

American Funds EuroPacific Growth Fund	\$ 6,483
American Funds The Growth Fund of America	29,539
Columbia Mid Cap Index Fund	7,448
DFA Emerging Markets Value Portfolio	46,783
DFA International Small Cap Portfolio	50,340
DFA International Value Portfolio	67,320
DFA Real Estate Securities Fund	26,194
DFA Tax-Managed US Marketwide Value Port.	51,707
DFA US Large Company Portfolio	40,899
DFA US Small Cap Value Portfolio	130,771
Dodge & Cox International Fund	12,684
Eaton Vance Floating-Rate Fund	11,605
Invesco Equally-Weighted S&P 500 Fund	30,216
Legg Mason Capital Management Value Trust	23,554
Longleaf Partners Fund	38,444
Loomis Sayles Bond Fund	21,968
PIMCO Total Return Fund	14,578
Selected American Shares Fund	50,483
TCW Select Equities Fund	31,500
Transamerica WMC Diversified Growth Fund	27,725
Vanguard Diversified Value Portfolio	24,706
Vanguard Equity Index Portfolio	28,705
Vanguard Growth Portfolio	25,117
Vanguard International Portfolio	51,014
Vanguard Mid-Cap Index Portfolio	54,893
Vanguard Mid Cap Value Index Fund	22,683
Vanguard REIT Index Portfolio	15,189
Weitz Value Fund	38,303
Total Listed Securities	\$ 980,851

AFFIDAVIT

I, Robert E. Bacharach, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

January 24, 2012
(DATE)

Robert E. Bacharach
(NAME)

Ann Baskin
(NOTARY)

My Commission Expires:
3/25/2015