

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Brett Harry Ludwig

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

United States District Judge for the Eastern District of Wisconsin

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

United States Bankruptcy Court for the Eastern District of Wisconsin
140 United States Courthouse
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

Residence: Mequon, Wisconsin

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

1969; Marshfield, Wisconsin

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.

1991 – 1994; University of Minnesota Law School; J.D. (*magna cum laude*), 1994
1987 – 1991; University of Wisconsin – Stevens Point; B.A. (with highest honors), 1991

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.

2017 – present
United States Bankruptcy Court for the Eastern District of Wisconsin
140 United States Courthouse

517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

1994; 1995 – 2017
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
Partner (2003 – 2017)
Associate (1995 – 2003)
Summer Associate (1994)

2016 – 2017
Marquette University Law School
1215 West Michigan Street
Milwaukee, Wisconsin 53233
Adjunct Professor

1994 – 1995
Honorable George G. Fagg
United States Court of Appeals for the Eighth Circuit
Federal Courthouse Annex
110 East Court Avenue
Des Moines, Iowa 50309
Law Clerk

Summer 1993
Reinhart, Boerner, Van Deuren, Norris & Rieselbach
1000 North Water Street, Suite 1700
Milwaukee, Wisconsin 53202
Summer Associate

Summers of 1991 and 1992
Pizza Pit
908 Post Road
Plover, Wisconsin 54467
Pizza Maker and Delivery Driver

Other Affiliations (uncompensated)

2014 – 2017
Mequon Thiensville Education Foundation
Post Office Box 514
Mequon, Wisconsin 53092
Member Board of Directors (2014 – 2017)
Vice President (2016 – 2017)

2002 – 2006 (approximately)
Fox Point Foundation
7200 North Santa Monica Boulevard
Fox Point, Wisconsin 53217
Member Board of Directors (2002 – 2006)
Board President (2005 – 2006)

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 registered for the selective service upon turning 18 in 1987.

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

Best Lawyers in America (Insurance Law); 2013, 2014, 2015, 2016, and 2017

Who's Who Legal, Insurance and Reinsurance, 2015

The Legal 500, Leading Lawyers in the United States for Insurance; 2011, 2012, 2014 and 2015

Wisconsin Super Lawyers, Rising Stars; 2006, 2007, and 2008

Order of the Coif, University of Minnesota School of Law, 1994

Minnesota Law Review
Managing Editor 1993 – 1994
Member, 1992 – 1993

Melvin C. Steen Scholar, University of Minnesota Law School, 1991 – 1994

Dean's List, University of Minnesota Law School, all semesters, 1991 – 1994

Top Senior in Political Science Award, University of Wisconsin – Stevens Point, 1991

Dean's List, University of Wisconsin – Stevens Point, all semesters, 1987 – 1991

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

American Bankruptcy Institute (2017 – present)
ABI Central States Bankruptcy Workshop Advisory Board

ARIAS-US (approximately 1999 – 2017)

Eastern District of Wisconsin Bar Association (2002 – present)
Ex-officio Member Board of Directors (2019 – present)
Member Pro Bono Committee (2012 – 2017)
Member Executive Committee (2015 – 2017)
Member Board of Directors (2014 – 2017)
Co-Chair Civil Committee (2013 – 2014)

Eastern District of Wisconsin Local Rules Committee (approximately 2013 – 2017)

Milwaukee Bar Association (1995 – 2017)
Professionalism Committee (2012 – 2013)

National Conference of Bankruptcy Judges (2017 – present)

Ozaukee County Bar Association (approximately 2012 – 2017)

Seventh Circuit Bar Association (1999 – present)

Seventh Circuit Bar Association and Judicial Conference Annual Meeting Planning Committee (2019)

State Bar of Wisconsin (1994 – present)
Judicial Election Steering Committee (2013 – 2017)
2015 Annual Meeting and Conference Planning Committee (2014 – 2015)
Board of Governors (2013 – 2015)
Policy Committee (2013 – 2015)

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.

Wisconsin, 1994
Minnesota, 1998

There have been no lapses in membership in the Wisconsin Bar. I applied and received admission to the Minnesota Bar with the intention of building a practice in that state. My practice took me in other directions, however, and, given the limited number of times I actually appeared in Minnesota state courts, I took inactive status on July 10, 2001. When the Seventh Circuit appointed me to the

Bankruptcy Court bench in 2017, I notified the Minnesota Bar that I was giving up my Minnesota Bar membership altogether.

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

United States Court of Appeals for the Seventh Circuit, 2014

United States Court of Appeals for the Eighth Circuit, 1995

United States District Court for the Eastern District of Wisconsin, 1995

United States District Court for the Western District of Wisconsin, 2012

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.

None.

- 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, I have not been a member of any organization that discriminates or formerly discriminated on the bases of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

In re De Laurentiis Entertainment Group, Inc., Sacrificing Confirmed Chapter 11

Plans to Delinquent Asserted Setoff Rights, 77 Minn. L. Rev. 871 (1993). Copy supplied.

with Eric L. Maassen, *Preserving Privilege in Reinsurance Audits*, FOCUS on the Insurance Industry, Foley & Lardner LLP, Spring 2007. Copy supplied.

Arbitration Deadlines Have Teeth, Legal News: Insurance, Foley & Lardner LLP, Fall 2007. Copy supplied.

Supreme Court Considers Varying Review Standards for Arbitration Awards, co-authored with Linda M. Annoye, Legal News: Insurance, Foley & Lardner LLP, Winter 2007. Copy supplied.

with Max Chester, *The Role of Federal Courts in Consolidating Reinsurance Arbitrations: The Latest Cases – Many Questions Still Unanswered*, New Appleman on Insurance (April 2008). Copy supplied.

Mid-Arbitration is Not the Time for Complaints, Law 360, January 11, 2012. Copy supplied.

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

In 2013, I was named to the State Bar of Wisconsin Judicial Election Steering Committee. The Committee was charged with promoting passage of a proposed amendment to the Wisconsin Constitution that would have changed how Wisconsin Supreme Court Justices are elected. The proposed amendment originated with a State Bar Judicial Task Force, which issued a Report and Recommendation in September of 2013. While I was not on the Task Force and had no role in drafting the Report and Recommendation, a copy of the report is attached as Exhibit 12.b.

- 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.

None.

- 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.

November 7, 2019: Speaker, "By the Court – Author Notes," Wisconsin State Bar's Annual Bankruptcy Update, Milwaukee, Wisconsin. Copy supplied.

November 6, 2019: Speaker, "By the Court – Author Notes," Wisconsin State Bar's Annual Bankruptcy Update, Madison, Wisconsin. Copy supplied.

October 24, 2019: Roundtable Participant, "Roadways to the Federal Bench – Who, Me? A Bankruptcy Judge," Judicial Conference of the United States Committee on the Administration of the Bankruptcy System, Chicago, Illinois. I have no notes, transcripts, or recordings. The address for the Judicial Conference of the United States is c/o Administrative Office of the United States Courts, One Columbus Circle, N.E., Washington, D.C. 20544.

October 22, 2019: Presenter, "Bankruptcy Basics for Insurance Lawyers," QBE Legal Department Retreat, Sun Prairie, Wisconsin. PowerPoint supplied.

September 27, 2019: Speaker, "Doomsday Orders in Chapter 13 Cases: Procedures for Their Enforcement," United States Bankruptcy Court for the Eastern District of Wisconsin's Lou Jones Program, Milwaukee, Wisconsin. Outline supplied.

June 14 – 15, 2019: Moderator, "The Small Business Owner's Chapter 13," American Bankruptcy Institute Central States Workshop, Traverse City, Michigan. Outline supplied.

May 6, 2019: Panel organizer, "The Rule of Law in a Court of Equity," 2019 Annual Meeting of the Seventh Circuit Bar Association and Seventh Circuit Judicial Conference, Milwaukee, Wisconsin. PowerPoint supplied.

February 28, 2019: Panelist, "Case Law Update," State Bar of Wisconsin's Bankruptcy, Insolvency, and Creditor's Rights Section Retreat, Kohler, Wisconsin. Copy supplied.

November 15, 2018: Speaker, "By the Court – Author's Notes," Wisconsin State Bar's Annual Bankruptcy Update, Madison, Wisconsin. Copy supplied.

November 14, 2018: Speaker, "By the Court – Author's Notes," Wisconsin State Bar's Annual Bankruptcy Update, Milwaukee, Wisconsin. Copy supplied.

November 1, 2018: Co-presenter, "Introduction to Bankruptcy Law and the Bankruptcy System: A Primer for State Court Judges," Wisconsin Judicial Counsel Annual Seminar, Lake Geneva, Wisconsin. PowerPoint supplied.

June 26, 2018: Panelist, "Breakfast with the Judges," United States Bankruptcy Court for the Eastern District of Wisconsin's Lou Jones Program, Milwaukee, Wisconsin. Outline supplied.

March 1, 2018: Panelist, "Case Law Update," State Bar of Wisconsin's Bankruptcy, Insolvency, and Creditor's Rights Section Retreat, Kohler, Wisconsin. Copy supplied.

June 29, 2017: Participant and Speaker, "Investiture Ceremony for Brett H. Ludwig, United States Bankruptcy Judge for the Eastern District of Wisconsin," Milwaukee, Wisconsin. Transcript supplied.

March 2, 2017: Panelist, "Case Law Update," State Bar of Wisconsin's Bankruptcy, Insolvency, and Creditor's Rights Section Retreat, Kohler, Wisconsin. Copy supplied.

June 23, 2016: Panelist, "Allocation of Toxic Tort, Asbestos, Environmental, and Other Long-Tail Claims," American Conference Institute Insurance Allocation Conference, New York, New York. This presentation was on allocating insurance claims to reinsurance. I have no notes, transcript, or recording. The address for the American Conference Institute is 45 West 25th Street, 11th Floor, New York, New York 10010.

April 11, 2016: Presenter, "Reinsurance in the Courts," Brokers & Reinsurance Markets Association Committee Rendezvous, Princeton, New Jersey. PowerPoint supplied.

October 16, 2015: Presenter, "Mock Arbitration," Reinsurance Association of America Re Claims 2015: Navigating the World of Reinsurance Protection when Loss Strikes, New York, New York. This presentation was a mock arbitration. I have no notes, transcript, or recording. The address for the Reinsurance Association of America is 331 Newman Springs Road, Suite 143, Red Bank, New Jersey 07701.

April 21, 2015: Presenter, "Program Business: A Primer on the Basics, the Benefits, and the Dangers," Brokers & Reinsurance Markets Association Committee Rendezvous, Princeton, New Jersey. PowerPoint supplied.

December 4, 2014: Panelist, "Kids, Courts, and Citizenship Career Panel," Eastern District of Wisconsin Bar Association, United States Courthouse, Courtroom 253, Milwaukee, Wisconsin. Outline provided.

April 27, 2014: Presenter, "Arbitration v. Litigation," Brokers & Reinsurance Markets Association Committee Rendezvous, Clearwater, Florida. PowerPoint supplied.

September 19, 2013: Presenter, "The In-House Lawyer as Witness – Complicated Issues of Proof and Privilege," Wisconsin Chapter, Association of Corporate Counsel, Milwaukee, Wisconsin. I have no notes, transcript, or recording. The address for the Association of Corporate Counsel is 1001 G Street N.W., Suite 300W, Washington, D.C. 20001.

September 11, 2013: Presenter, "Arbitration – A Short Primer on the Basics," and "Mock Arbitration," Reinsurance Association of America Re Underwriting: Building Professional Expertise Seminar, New York, New York. Copy supplied.

April 30, 2012: Panelist, "Avoiding Ethical Landmines in Reinsurance Arbitration," American Conference Institute's Reinsurance Agreements Conference, New York, New York. This presentation was on ethical issues, including potential conflicts for counsel and arbitrators, in reinsurance arbitration proceedings. I have no notes, transcript, or recording. The address for the American Conference Institute is 45 West 25th Street, 11th Floor, New York, New York 10010.

March 20, 2012: Presenter, "Mock Arbitration," Reinsurance Association of America Re Underwriting: Building Professional Expertise Seminar, Hamilton, Bermuda. This presentation was a mock arbitration. I have no notes, transcript, or recording. The address for the Reinsurance Association of America is 331 Newman Springs Road, Suite 143, Red Bank, New Jersey 07701.

April 12, 2011: Presenter, "Mock Arbitration," Brokers & Reinsurance Markets Association Committee Rendezvous, Princeton, New Jersey. Outline provided.

January 20, 2011: Presenter, "A Reinsurance Dispute Checklist," Association of Insurance and Reinsurance Run-Off Companies, Inc., Newark, New Jersey. PowerPoint supplied.

December 8, 2010: Presenter, "Understanding the Rules of the Game: Differences in Arbitration," Foley and Lardner's 2011 Legal Developments and Their Implications for Wisconsin Businesses, Milwaukee, Wisconsin. This presentation was on the differences in arbitration clauses that can be used in contracts. I have no notes, transcript, or recording. The address for Foley & Lardner LLP is 777 East Wisconsin Avenue, Suite 3800, Milwaukee, Wisconsin 53202.

November 3, 2010: Co-Presenter, "Point/Counterpoint, Arbitration-Silver Bullet or Dud," Foley Business Litigation Seminar, Milwaukee, Wisconsin. PowerPoint supplied.

September 23, 2010; Presenter, "Ethics for In-House Counsel," QBE North America Legal Department CLE Conference, Madison, Wisconsin. This presentation was on legal ethics and common issues facing in-house counsel. I have no notes, transcript, or recording. The address for QBE of the America's Legal Department is One QBE Drive, Sun Prairie, Wisconsin 53590.

April 12, 2010: Presenter, "Arbitration Selection and Bias in Reinsurance Disputes," Brokers & Reinsurance Markets Association Committee Rendezvous, Princeton, New Jersey. PowerPoint supplied.

March 18, 2009: Presenter, "Mock Arbitration," Brokers & Reinsurance Markets Association Committee Rendezvous, Naples, Florida. Outline supplied.

April 29, 2008: Presenter, "Anticipating Reinsurance Disputes: Contract Wordings That Facilitate Resolutions," American Conference Institute's Reinsurance Agreements Conference, New York, New York. The presentation concerned ways of drafting reinsurance agreements to avoid disputes. I have no notes, transcript, or recording. The address for the American Conference Institute is 45 West 25th Street, 11th Floor, New York, New York 10010.

April 9, 2008: Presenter, "Role of Federal Courts in Consolidating Reinsurance Arbitrations," New Appleman's Insurance Coverage Teleconference, Nationwide Teleconference/Webinar. PowerPoint supplied.

April 1, 2008: Presenter, "The Right to Associate," Brokers & Reinsurance Markets Association Committee Rendezvous, Naples, Florida. PowerPoint supplied.

December 6, 2007: Presenter, "Overview of Managing General Agents and Program Writing Business," Foley & Lardner Insurance Industry/Mealey's Teleconference, Nationwide Teleconference/Webinar, Milwaukee, Wisconsin. PowerPoint supplied.

March 26, 2007: Presenter, "Practical Guidance on Avoiding the Consequences of Wording Disputes," Brokers & Reinsurance Markets Association Committee Rendezvous, Naples, Florida. Draft outline supplied.

March 13, 2007: Presenter, "Structuring Claims Provisions," American Conference Institute's Reinsurance Agreements Conference, New York, New York. PowerPoint supplied.

March 20, 2006: Presenter, "Access to Records and Confidentiality," Brokers & Reinsurance Markets Association Committee Rendezvous, Orlando, Florida. PowerPoint supplied.

Since taking the bench, I have presided over 19 Naturalization Ceremonies at the federal courthouse in Milwaukee, 517 East Wisconsin Avenue, Milwaukee, Wisconsin, 53202. A copy of the outline that I use for Naturalization Ceremonies is supplied. The dates that I presided are: October 5, 2017, December 21, 2017, January 4, 2018, February 1, 2018, August 23, 2018, September 6, 2018, September 20, 2018, October 18, 2018, January 10, 2019, February 7, 2019, April 4, 2019, May 9, 2019, June 27, 2019, August 1, 2019, September 5, 2019, December 5, 2019, January 9, 2020, February 6, 2020, and February 20, 2020.

- 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.

Marcia Schwager, "Getting to Know the Ludwigs," Mequon Beacon, May 2017. Copy provided.

"Foley Achieves \$4.9 Million Settlement for Wisconsin Schools," Foley &

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.

The United States Court of Appeals for the Seventh Circuit appointed me to serve as a United States Bankruptcy Judge effective February 27, 2017. The appointment requires me to serve about 60% of my time in the Eastern District of Wisconsin, with a 40% assignment in the Western District of Wisconsin. Pursuant to 28 U.S.C. § 1334 and the orders of reference in both districts, my court has original and exclusive jurisdiction of all cases under title 11, original, but not exclusive jurisdiction of all civil proceedings arising under title 11, or arising in or related to cases under title 11.

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

As of February 1, 2020, I have presided over more than 11,900 bankruptcy cases and adversary proceedings. Due to the nature of bankruptcy cases, each case can involve multiple contested matters or adversary proceedings (actions within a case) that are separately resolved.

- i. Of these, approximately what percent were:

jury trials:	___%
bench trials:	100% [total 100%]
civil proceedings:	100%
criminal proceedings:	___% [total 100%]

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

A list of citations to opinions I have written is included in Appendix 13.b.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *In re Mendiola*, 573 B.R. 758 (Bankr. E.D. Wis. 2017).

This case involved a debtor who was a serial bankruptcy filer. He had filed five previous cases in the preceding five years, all of which were dismissed after he failed to comply with his obligations imposed by the Bankruptcy Code. In this latest case, the Chapter 13 Trustee and the debtor's mortgage creditor, U.S. Bank

N.A., requested extraordinary relief to prevent further abuses of the bankruptcy system. The trustee asked the court to dismiss the case and bar the debtor from refiling for 180 days. The bank requested *in rem* relief from the automatic stay under 11 U.S.C. § 362(d)(4) to avoid having the automatic stay go into effect with respect to the mortgage property if the debtor filed yet another case. After an evidentiary hearing, I granted both motions.

Counsel for the Chapter 13 Trustee:

Scott Lieske
Post Office Box 510920
Milwaukee, Wisconsin 53203
414-271-3943

U.S. Bank N.A.'s Counsel:

Christopher C. Drought, Jr.
Gray & Associates, L.L.P.
16345 West Glendale Drive
New Berlin, Wisconsin 53151
414-224-8404

Debtor's Counsel:

William Nickolai
Nickolai & Poletti, LLC
152 East State Street
Burlington, Wisconsin 53105
262-757-8444

2. *In re Poivey*, No. 17-26408-BHL, 2018 WL 550580 (Bankr. E.D. Wis. Jan. 24, 2018), 2018 WL 2186886 (Bankr. E.D. Wis. May 11, 2018).

This Chapter 7 case involved several disputes over the treatment in bankruptcy of a debtor-wife's inheritance of mineral rights under oil and gas leases in Texas. The case involved two evidentiary hearings concerning whether the inherited mineral rights were excluded from the debtor's bankruptcy estate under 11 U.S.C. § 541(b)(4) and whether royalty payments from those mineral rights could be exempted by the debtor-wife's husband. I resolved the first issue in favor of the trustee and the second in favor of the debtors. The case ended with a discharge.

Counsel for Chapter 7 Trustee:

Susan K. Allen
Stafford Rosenbaum LLP
1200 North Mayfair Road, Suite 430
Milwaukee, Wisconsin 53226
414-982-2867

Debtor's Counsel:

Jennifer L. Riemer
Thorpe & Christian, S.C.
1624 Hobbs Drive, Suite 1
Delavan, Wisconsin 53115
262-740-1971

3. *In re Bailey-Pfeiffer*, No. 1-17-13506-BHL, 2018 WL 1896307 (Bankr. W.D. Wis. Mar. 23, 2018).

This was a Chapter 13 case involving a recently divorced woman with several children and more than \$870,000 in unsecured student loan debts, which she wanted to repay through a Chapter 13 repayment plan. Section 109(e) of the Bankruptcy Code provides that only an individual with noncontingent, liquidated, unsecured debts of less than \$394,725 can be a debtor under Chapter 13. Based on the plain terms of the statute, I ordered that the debtor must either convert the case to a chapter for which she was eligible or the case would be dismissed.

Counsel for Chapter 13 Trustee:
Leslie Broadhead Griffith
Attorney for Chapter 13 Trustee, Mark Harring
131 West Wilson Street, Suite 1000
Madison, Wisconsin 53703
608-256-4320

Debtor's Counsel:
Terry Byrne
115 Forest Street
Post Office Box 1566
Wausau, Wisconsin 54402
715-848-2966

4. *In re Timothy Brennan*, No. 17-12337-BHL (Bankr. W.D. Wis.).

In this Chapter 11 case, a business owner sought bankruptcy protection to prevent the forced foreclosure sale of his former metal fabricating facility. After several contested hearings, I resolved a dispute over the valuation of the building and the debtor was able to confirm a Chapter 11 plan providing for the orderly sale of the real estate. The plan was ultimately confirmed, the real estate sold for \$3.2 million, the secured creditor repaid, and the case closed.

Debtor's Counsel:
Mark L. Metz
Levenson, Lucey & Metz, S.C.
3030 West Highland Boulevard
Milwaukee, Wisconsin 53208
414-539-4217

Counsel for Associated Bank, N.A.:
Michael Rosow & Dan Beck
Winthrop & Weinstine, P.A.
225 South Sixth Street, Suite 3500
Minneapolis, Minnesota 55402
612-604-6400

Counsel for United States Trustee:
Mary R. Jensen
780 Regent Street, Suite 304
Madison, Wisconsin 53208
608-264-5522

5. *In re Bagg*, 17-bk-24668-bhl, 17-adv-02247, 589 B.R. 650 (Bankr. E.D. Wis. 2018).

This was a Chapter 7 case in which a creditor, who had been a neighbor of the debtors, filed an adversary proceeding against them, seeking to have a debt arising from a state court tortious interference with contract judgment declared nondischargeable under 11 U.S.C. § 523(a)(6). After a trial, I concluded that the creditor had not proved that the debt arose from a willful and malicious injury and thus ruled the debt was dischargeable.

Creditor's Counsel:
Carla O. Andres
100 West Lawrence
Appleton, Wisconsin 54911
920-432-9300

Debtors' Counsel:
Dorothy H. Dey
ESSERLAW LLC
11805 West Hampton Avenue
Milwaukee, Wisconsin 53225
414-461-7000

6. *In re Wulff*, 17-31982 (Bankr. E.D. Wis.), 598 B.R. 459 (Bankr. E.D. Wis. 2019).

In this farm bankruptcy case, debtor's counsel failed to provide proper notice to a secured creditor, which, as a result, failed to file its proof of claim timely under Bankruptcy Rule 3002(c). No one noticed and a plan providing for payment of the untimely claim was confirmed without objections. Later, the Chapter 12 trustee objected to the secured creditor's claim as untimely. The creditor and debtor both filed motions seeking to extend the already-expired proof of claim filing deadlines. I ruled that the trustee, who had previously recommended

confirmation of the plan, was precluded from objecting to the claim based on her failure to object to, or appeal from, the order confirming the plan.

Debtor's Counsel:
Paul R. Uttech
N7652 Edgewater Drive
Beaver Dam, Wisconsin 53916
920-887-2783

Chapter 12 Trustee:
Rebecca R. Garcia
Post Office Box 3170
Oshkosh, Wisconsin 54903
920-231-2150

Creditor's Counsel:
Christopher J. Schreiber
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 1000
Milwaukee, Wisconsin 53202
(414) 287-1212

7. *In re Johannes and Olga Wakker*, 18-25331-bhl (Bankr. E.D. Wis).

This Chapter 11 case involved an attempt to reorganize the debts of a couple that runs a very large dairy farming operation and related cheese factory in Kewaunee, Wisconsin. The case involved several disputes over the use of a secured creditor's cash collateral and the valuation of that collateral. Ultimately, the debtors were able to negotiate and confirm a consensual plan of reorganization.

Debtor's Counsel:
Paul G. Swanson
Steinhilber Swanson, LLP
107 Church Avenue
Post Office Box 617
Oshkosh, Wisconsin 54903
920-235-6690

Counsel for United States Trustee:
Michelle Cramer
517 East Wisconsin Avenue, Room 430
Milwaukee, Wisconsin 53203
414-297-4499

Counsel for the United States:
Susan Knepel
Assistant United States Attorney

United States Courthouse
517 East Wisconsin Avenue, Room 530
Milwaukee, Wisconsin 53202
414-297-1700

Counsel for Bank First National:
David Cisar & Christopher Schreiber
von Briesen & Roper, S.C.
411 East Wisconsin Avenue, Suite 1000
414-287-1224

8. *In re Fox Valley Pro Basketball, Inc.*, No. 19-28025-BHL (E.D. Wis. Bankr.).

This Chapter 11 case involves an attempt to reorganize the financial operations of an arena built to host games of a minor league basketball team, the Wisconsin Herd. The parties have worked through interim and final post-petition financing arrangements. The case remains pending and a plan has not yet been confirmed.

Debtor's Counsel:
Jerome R. Kerkman & Evan Schmit
Kerkman & Dunn
839 North Jefferson Street, Suite 400
Milwaukee, Wisconsin 53202
414-277-8200

Counsel for United States Trustee:
Laura D. Steele
517 East Wisconsin Avenue, Room 430
Milwaukee, Wisconsin 53203
414-297-4499

Counsel for Bayland Buildings, Inc.:
Steven Krueger
Law Firm of Conway, Olejniczak & Jerry, S.C.
Post Office Box 23200
Green Bay, Wisconsin 54305
920-437-0476

9. *In re Moon*, Case No. 11-36208, Adversary Proceeding No. AP-18-02249-BHL, 2019 WL 6904138 (Bankr. E.D. Wis. Dec. 18, 2019).

Nearly seven years after receiving her discharge, this debtor moved to reopen her bankruptcy case to seek a ruling that her student loan lender was violating the discharge injunction by attempting to collect on a discharged debt. The debtor maintained that when she consolidated her private student loans, the consolidated loan was no longer of the type generally excluded from discharge under 11 U.S.C. § 523(a)(8). Based on stipulated facts, I concluded that, notwithstanding the loan

consolidation, the debt at issue remained within the plain terms of section 523(a)(8) and, because the debtor conceded she could not show undue hardship, the debt was nondischargeable.

Creditor's Counsel:

Matthew C. McDermott
Belin McCormick, P.C.
666 Walnut Street, Suite 2000
Des Moines, IA 50309
515-283-4643

Debtor's Counsel:

Timothy Hassell
Watton Group
301 West Wisconsin Avenue, 5th Floor
Milwaukee, Wisconsin 53203
414-273-6858

10. *In re Wegnerlann Dairy, LLC*, No. 1-19-13009-BHL (Bankr. W.D. Wis.).

In this large dairy farm bankruptcy case, a farmer in Western Wisconsin fought with his secured lender over post-petition financing necessary to keep his dairy operation in business. After numerous hearings and sometimes heated negotiations, the parties were able to reach agreement on ongoing financing. The debtor and secured creditor were also able to agree upon a consensual plan or reorganization which the court agreed to confirm on February 5, 2020.

Summitbridge National Investments VI, LLC's Counsel:

James D. Sweet
Steinhilber Swanson LLP
8040 Excelsior Drive, Suite 301
Madison Wisconsin 53717
608-310-5501

Virginia Ellen George
Steinhilber Swanson LLP
107 Church Avenue
Oshkosh, Wisconsin 54901
920-235-6690

Debtor's Counsel:

Galen Pittman
Pittman & Pittman Law Offices, LLC
712 Main Street
La Crosse, Wisconsin 54601
608-784-0841

Counsel for Chapter 12 Trustee:
Leslie Broadhead Griffith
Mark Harring
131 West Wilson Street, Suite 1000
Madison, Wisconsin 53703
608-256-4320

- 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. *In re Mendiola*, 573 B.R. 758 (Bankr. E.D. Wis. 2017).

U.S. Bank N.A.'s Counsel:
Christopher C. Drought, Jr.
Gray & Associates, L.L.P.
16345 West Glendale Drive
New Berlin, Wisconsin 53151
414-224-8404

Debtor's Counsel:
William Nickolai
Nickolai & Poletti, LLC
152 East State Street
Burlington, Wisconsin 53105
262-757-8444

Chapter 13 Trustee:
Scott Lieske
Post Office Box 510920
Milwaukee, Wisconsin 53203
414-271-3943

2. *In re Poivey*, No. 17-26408-BHL, 2018 WL 550580 (Bankr. E.D. Wis. Jan. 24, 2018).

Counsel for Chapter 7 Trustee:
Susan K. Allen
Stafford Rosenbaum LLP
1200 North Mayfair Road, Suite 430
Milwaukee, Wisconsin 53226
414-982-2867

Debtor's Counsel:
Jennifer L. Riemer
Thorpe & Christian, S.C.

1624 Hobbs Drive, Suite 1
Delavan, Wisconsin 53115
262-740-1971

3. *In re Bailey-Pfeiffer*, No. 1-17-13506-BHL, 2018 WL 1896307 (Bankr. W.D. Wis. Mar. 23, 2018).

Counsel for Chapter 13 Trustee:
Leslie Broadhead Griffith
Attorney for Chapter 13 Trustee, Mark Harring
131 West Wilson Street, Suite 1000
Madison, Wisconsin 53703
608-256-4320

Debtor's Counsel:
Terry Byrne
115 Forest Street
Post Office Box 1566
Wausau, Wisconsin 54402
715-848-2966

4. *In re Poivey*, No. 17-26408-BHL, 2018 WL 2186886 (Bankr. E.D. Wis. May 11, 2018).

Counsel for Chapter 7 Trustee:
Susan K. Allen
Stafford Rosenbaum LLP
1200 North Mayfair Road, Suite 430
Milwaukee, Wisconsin 53226
414-982-2867

Debtor's Counsel:
Jennifer L. Riemer
Thorpe & Christian, S.C.
1624 Hobbs Drive, Suite 1
Delavan, Wisconsin 53115
262-740-1971

5. *In re Bagg*, 589 B.R. 650 (Bankr. E.D. Wis. 2018).

Creditor's Counsel:
Carla O. Andres
100 West Lawrence
Appleton, Wisconsin 54911
920-432-9300

Debtors' Counsel:

Dorothy H. Dey
ESSERLAW LLC
11805 West Hampton Avenue
Milwaukee, Wisconsin 53225
414-461-7000

6. *In re Wulff*, 598 B.R. 459 (Bankr. E.D. Wis. 2019).

Debtor's Counsel:
Paul R. Uttech
N7652 Edgewater Drive
Beaver Dam, Wisconsin 53916
920-887-2783

Chapter 12 Trustee:
Rebecca R. Garcia (Chapter 12)
Post Office Box 3170
Oshkosh, Wisconsin 54903
920-231-2150

Creditor's Counsel:
Christopher J. Schreiber
von Briesen & Roper, s.c.
411 East Wisconsin Avenue, Suite 1000
Milwaukee, Wisconsin 53202
414-287-1212

7. *In re Morgan*, No. 18-24459-BHL-13, 2019 WL 548532 (Bankr. E.D. Wis. Feb. 11, 2019).

Debtor's Counsel:
Krysta Kerr
Miller & Miller Law, LLC
633 West Wisconsin Avenue
Suite 500
Milwaukee, Wisconsin 53203
414-395-4525

Counsel for Chapter 13 Trustee:
Robert W. Stack
Post Office Box 510920
Milwaukee, Wisconsin 53203
414-271-3943

Creditor's Counsel:
Christopher J. Schreiber
von Briesen & Roper, s.c.

411 East Wisconsin Avenue, Suite 1000
Milwaukee, Wisconsin 53202
414-287-1212

8. *In re Foley*, 606 B.R. 790 (Bankr. E.D. Wis. 2019).

Counsel for Chapter 13 Trustee:
Sandra Baner
Post Office Box 510920
Milwaukee, Wisconsin 53203
414-271-3943

Debtor's Counsel:
Michael Maloney
Watton Group
301 West Wisconsin Avenue, 5th Floor
Milwaukee, Wisconsin 53203
414-273-6858

9. *In re Moon*, No. AP 18-02249-BHL, 2019 WL 6904138 (Bankr. E.D. Wis. Dec. 18, 2019).

Creditor's Counsel:
Matthew C. McDermott
Belin McCormick, P.C.
666 Walnut Street, Suite 2000
Des Moines, Iowa 50309
515-283-4643

Debtor's Counsel:
Timothy Hassell
Watton Group
301 West Wisconsin Avenue, 5th Floor
Milwaukee, Wisconsin 53203
414-273-6858

10. *In re Weyer*, No. 1-18-13665-BHL, 2020 WL 53821 (Bankr. W.D. Wis. Jan. 3, 2020).

Creditor's Counsel:
Justin Bates
Bates Legal Group, LLC
Post Office Box 1473
Wausau, Wisconsin 54402
715-843-5599

Debtor's Counsel:
Dejan Adzic

Byrne Law Office
Post Office Box 1566
Wausau, Wisconsin 54402
715-848-2966

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

None.

- 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.

Only four of my orders have been appealed. None of those appeals has resulted in a reversal to date.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

I make decisions on dozens of motions and objections each week orally at telephonic hearings. These comprise more than 90% of my decisions. Audio recordings of the hearings and oral rulings are maintained by the clerks of court in the districts in which I preside. For cases pending in the Eastern District of Wisconsin, recordings of hearings are posted on the docket of each case. For cases pending in the Western District of Wisconsin, we post a proceeding memo that summarizes the rulings on the docket. The clerk of court for the Bankruptcy Court for the Western District of Wisconsin maintains audio recordings of all hearings, but the audio is not posted on the docket for each case.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not had occasion to rule on any federal or state constitutional issues since being on the bankruptcy bench.

- 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.

None.

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.

I have never been asked to recuse myself from a case. When I arrived at the court, I provided the clerk's office with a list of significant former clients, which, along with my former law firm, trigger a flag for potential conflicts if they appear in a case assigned to me. I have *sua sponte* recused myself from five cases since taking the bench. All five cases involved former clients, Harley-Davidson Motor Company or Harley-Davidson Credit Corporation. Those cases are:

In re Christopher B Klingkammer and Natasha L Klingkammer, Case No. 17-25091 (E.D. Wis. Bankr.).

In re Johnny Junior Winston, Jr. and Samantha Lee Winston, Case No. 18-21605 (E.D. Wis. Bankr.).

Ryan T Stemen and Nicole L Stemen, Case No. 18-30077 (E.D. Wis. Bankr.).

In re Southwest Metal Finishing, Case No. 18-24435 (E.D. Wis. Bankr.).

In re Inventix Manufacturing, Case No. 18-24436 (E.D. Wis. Bankr.).

15. Public Office, Political Activities and Affiliations:

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

From 2009 to 2013, I served as an appointed member of the City of Mequon Board of Appeals. I was appointed by Mayor Christine Nuernberg.

- 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.

None.

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;

I served as a law clerk to the Honorable George G. Fagg, Circuit Judge, United States Court of Appeals for the Eighth Circuit from 1994 to 1995.

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

I have not practiced law alone.

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

1995 – 2017
Foley & Lardner, LLP
777 East Wisconsin Avenue, Suite 3800
Milwaukee, Wisconsin 53202
Associate (1995 – 2003)
Partner (2003 – 2017)

- 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.

b. Describe:

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

After clerking for the Hon. George G. Fagg on the Eighth Circuit Court of Appeals, I spent the next 21 years in the Litigation Department at Foley & Lardner, where I typically represented business entities in civil dispute resolution proceedings. Consistent with the normal law firm model, my

practice evolved as I became more experienced. As a junior associate, I worked for a wide spectrum of partners and clients, handling more of the day-to-day aspects of cases, including legal research, document review, discovery, and brief writing. As I became more senior and earned the trust of my partners and clients, I took on greater responsibilities and oversaw all aspects of cases.

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

In private practice, I represented clients in a variety of industries and was a member of several specialty practice groups. Throughout my time at the firm, I was a member of the Commercial Litigation practice group. I was also a member and for several years served as national Vice Chair of the firm's Insurance and Reinsurance Litigation practice group. In addition, I belonged to the Securities Litigation and Antitrust practice groups. I have substantial experience representing clients in each of these areas.

In terms of typical clients, I had the opportunity very early in my career to represent two different motor vehicle manufacturers, Ford Motor Company and Freightliner Corporation, in a series of disputes under the Wisconsin "Lemon Law," *see* Wis. Stat. § 218.0171. This was my first area of specialization. Even though I was quite "green," I had full responsibility over all aspects of these cases, subject to the supervision of a junior partner.

In the late 1990s, I began representing insurance companies in reinsurance disputes. The disputes typically involved the interpretation of reinsurance contracts, often called "treaties," and were usually resolved through arbitration. Over the next two decades, I handled dozens of reinsurance disputes, including six large matters that were resolved through full arbitration hearings and in which I served as lead or co-lead counsel. My significant reinsurance-related clients included Clarendon National and Clarendon America Insurance Companies, Alea North America Insurance Company, Alea Europe (Ltd.), and Hannover Re.

Starting in 2001 and continuing through 2017, I was part of a team that represented a Swiss-based company, Roche Diagnostics GmbH, in a series of disputes involving the company's intellectual property license rights in a diagnostic-detection technology called electrochemiluminescence. These representations included a large jury trial in the District of Maryland in 2001, two arbitration proceedings, and a lawsuit before the Delaware Chancery Court. I also took the lead in briefing an appeal, defending the Chancery Court's judgment in the Delaware Supreme Court.

A final major client was Harley-Davidson Motor Company. From 2013 to

2017, I had lead responsibility at the law firm for counseling and representing Harley-Davidson and Harley-Davidson Financial Services Corporation in all commercial litigation matters in the United States.

- 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.

More than 95% of my career was spent in litigation and I appeared regularly in court and before private arbitration panels. As my seniority increased, I spent time counseling clients on legal and business issues, but even then the vast majority of my time was in litigation.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-------------------------------|
| 1. federal courts: | 30% |
| 2. state courts of record: | 20% |
| 3. other courts: | 50% (arbitration proceedings) |
| 4. administrative agencies: | ___% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 95% |
| 2. criminal proceedings: | 5% |

- 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 at least 13 cases to verdict, either alone or as part of a team, including cases tried in state and federal courts and before private arbitration panels. I was sole counsel in two jury trials. I was lead or co-lead counsel in six major reinsurance arbitrations.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 25% |
| 2. non-jury: | 75% |

- 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.

I have not practiced before the United States 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. *Conrad v. Ford Motor Company*, Case No. 94-CV-2545 (Waukesha County Circuit Court).

From January through July of 1996, I represented Ford Motor Company in a "Lemon Law" lawsuit brought by the owner of an over-the-road Ford semi-tractor. The case concerned multiple alleged defects in the truck. I handled all pretrial discovery and briefing, with oversight from a junior partner, Brian McGrath. I tried the case solo, with help from a clerical assistant. The trial lasted one week with the jury returning a verdict entirely in Ford's favor. This case was significant to me because it was my first solo jury trial. Plaintiff's counsel was an experienced "Lemon Law" specialist.

Court/Judge:

Hon. Robert Mawdsley

Waukesha County Circuit Court, Waukesha, Wisconsin

Co-Counsel:

Brian McGrath (now retired)

Foley & Lardner LLP

777 East Wisconsin Avenue

Milwaukee, Wisconsin 53202

414-727-7412

Opposing Counsel:

Vincent P. Megna

Lemon Law Justice Center LLC (formerly at Jastroch & LaBarge)

19275 West Capital Drive, Suite 201

Brookfield, Wisconsin 53045

414-225-0260

Hon. William S. Pocan

Milwaukee County Circuit Court (formerly at Jastroch & LaBarge)

901 North 9th Street

Milwaukee, Wisconsin 53233

414-278-4512

2. *IGEN International Inc. v. Roche Diagnostics GmbH*, Civil No. PJM-97-3461 (D.Md.), *aff'd in part, rev'd in part*, 335 F.3d 303 (4th Cir. 2003).

Starting in August of 2001, I was part of a large team of lawyers that represented Roche Diagnostics GmbH, a European diagnostics company, in a multi-billion-dollar intellectual property licensing dispute with IGEN International, Inc. I was a mid-level associate at the time and worked extensively with partners on general trial strategy, damages issues, and witness preparation. The trial began in late October 2001 and lasted ten weeks, with closing arguments in January of 2002. The jury rejected several of the plaintiff's claims but nonetheless returned a verdict in plaintiff's favor and awarded just over \$500 million in damages (1/4 of the amount sought). The Fourth Circuit later reversed several of the District Court's rulings and vacated nearly all of the damages, but affirmed IGEN's right to terminate the license agreement. After the appeal, the parties settled in a complex transaction that gave Roche a fully paid-up license to the disputed technology. While I was not lead counsel, I consider the matter significant to my development as a trial lawyer because it was extremely challenging work, involving complex legal and scientific issues related to a diagnostic detection technology called electrochemiluminescence, along with a substantial damages demand. A large part of my involvement was working with German and Swiss witnesses and preparing them to testify in understandable English to an American jury.

Court/Judge:

Hon. Peter J. Messitte

United States District Court for the District of Maryland

Lead Counsel:

Nancy J. Sennett

John R. Dawson

James T. McKeown

Foley & Lardner LLP

777 East Wisconsin Avenue

Milwaukee, Wisconsin 53202

414-271-2400

Opposing Counsel:

Howard M. Shapiro

Wilmer Hale (then Wilmer Cutler & Pickering)

1875 Pennsylvania Avenue, N.W.

Washington, D.C. 20006

202-663-6606

3. *Clarendon National Ins. Co. v. Lloyds of London* (private arbitration 2004).

From late 2002 through late 2004, I served as co-lead counsel for Clarendon National Insurance Company in a reinsurance arbitration against several syndicates at Lloyd's

of London that refused to pay claims under a series of variable quota share reinsurance treaties. I was responsible for drafting the arbitration demand, conducting document and deposition discovery, and drafting most briefing. At trial, I conducted the direct and cross examinations of several fact and expert witnesses. After a two-week hearing, the arbitrators reduced our client's claim but nonetheless awarded Clarendon more than \$9.7 million in unpaid claims.

Arbitrators:
Christopher Burbidge (umpire)
(Deceased)

Robert M. Hall
150 Russell Avenue
Post Office Box 1110
Rockport, Maine 04856
207-266-2967

Robert M. Mangino
(Deceased)

Co-Counsel:
Paul Monsees
Foley & Lardner LLP
Washington Harbour
3000 K Street, N.W., Suite 600
Washington, D.C. 20007
202-672-5342

Opposing Counsel:
Clive O'Connell (then of Barlowe, Lyde & Gilbert)
McCarthy Denning
Minster House
42 Mincing Lane
London, EC3R 7AE
44 (0) 20 3926 9900

4. *Trustmark Ins. Co. v. Clarendon America Ins. Co.* (International Treaties) (private arbitration 2008).

From approximately 2006 through 2008, I served as lead counsel for Clarendon America Insurance Company in a reinsurance arbitration against Trustmark Insurance Company over Trustmark's attempted retrocession of large blocks of underpriced workers' compensation business. I was primarily responsible for pretrial discovery and briefing. At trial I made the opening statement, cross examined the main adversary witnesses, conducted the direct examination of our primary fact and expert witnesses, and made the closing argument. After a two-week hearing, the arbitrators ruled in Clarendon's favor and reduced the balance claimed by Trustmark from \$39.2

million to \$7 million, an amount that consisted mainly of the return of premium for accounts the arbitrators concluded were not covered. The case is significant in my career because I had primary responsibility for all aspects of trial preparation, strategy, and execution and the result was a major victory for the client.

Arbitrators:

Marty Haber (umpire)
2 East End Avenue
New York, New York 10075
212-879-1270

Mary Ellen Burns
7 Cogswell Lane
Stamford, Connecticut 06902
203-327-4998

Paul C. Thomson III
81 Bay Avenue
Halesite, New York 11743
631-673-1243

Co-Counsel:

Gary Miller Zinkgraf (then of Foley & Lardner)
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington D.C. 20549
202-551-5915

Brian P. Keenan (then of Foley & Lardner)
Wisconsin Department of Justice
17 West Main Street
Post Office Box 7857
Madison Wisconsin 53707
608-266-0020

Opposing Counsel:

David Spector and Everett J. Cygal
Schiff Hardin LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606
312-258-5500

5. *Legion Ins. Co. (In Liquidation) v. Alea Europe Ltd.* (private arbitration 2010).

In 2009 and 2010, I served as lead counsel for Alea Europe Ltd. In defending a reinsurance arbitration brought by Legion Ins. Co., a Pennsylvania-based workers' compensation insurer in liquidation. After not billing Alea for several years, Legion

suddenly demanded more than \$7 million in losses and, when Alea refused to pay, initiated arbitration. I was primarily responsible for pretrial discovery and briefing. After a week-long trial, the arbitrators ruled in Alea's favor (2-1), accepting our interpretation of the treaty terms, ruling that the treaty had been "commuted" years earlier, and ordering Legion to pay Alea more than \$1 million for overdue commutation payments. At trial, I was responsible for the opening statement, closing argument and the direct and cross-examination of both sides' primary fact and expert witnesses. This matter was significant in my career because it was a major victory for a client that I had developed on my own.

Arbitrators:

Debra J. Roberts (umpire)
Debra Roberts & Associates, LLC
445 Park Avenue, 9th floor
New York, New York 10022
917-860-1009

Paul Edward Dassenko
Post Office Box 245
Sharon, Connecticut 06069
860-364-5816

David A. Thirkill
24 Powder Hill Road
Bedford, New Hampshire 03110
603-471-9336

Co-Counsel:

Max Chester
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
414-297-5573

Opposing Counsel:

Debbie Cohen & Joann Hyle
Pepper Hamilton LLP
3000 Two Logan Square
Philadelphia, Pennsylvania 19103
215-981-4000

(Both opposing counsel have since retired from their law firm and I do not have current contact information for them)

6. *Trustmark Ins. Co. v. Clarendon America Ins. Co.* (VQS Treaty) (private arbitration 2011).

In 2010 through 2011, I was lead counsel for Clarendon America Insurance Company in a second two-week arbitration with Trustmark Insurance Company. This was the latter of two related arbitration proceedings between the companies, with Clarendon having prevailed in the earlier 2008 arbitration. I was again primarily responsible for pretrial discovery and briefing and, at the hearing, made the opening statement, cross examined the main adversary witnesses, conducted the direct examination of our primary fact and expert witnesses, and made the closing argument. The arbitrators accepted some of Trustmark's arguments, but reduced Trustmark's claims by \$24 million. This case is significant because it was another victory as lead counsel and put an end to a years-long battle against a challenging adversary.

Arbitrators:

David A. Thirkill (umpire)
24 Powder Hill Road
Bedford, New Hampshire 03110
603-471-9336

Mary Ellen Burns
7 Cogswell Lane
Stamford, Connecticut 06902
203-327-4998

Wendall O. Ingraham
341 Wildrose Lane
Bozeman, Montana 59715
406-587-2056

Co-Counsel:

Peter Steffen (then of Foley & Lardner)
Freeborn Peters LLP
311 South Wacker Drive, Suite 3000
Chicago, Illinois 60606
312-360-6878

Brian P. Keenan (then of Foley & Lardner)
Wisconsin Department of Justice
17 West Main Street
Post Office Box 7857
Madison, Wisconsin 53707-7857
608-266-0020

Opposing Counsel:

David Spector & Everett J. Cygal
Schiff Hardin LLP
233 South Wacker Drive, Suite 7100
Chicago, Illinois 60606

7. *Meso Scale Diagnostics LLC v. Roche Diagnostics GmbH*, C.A. No. 5589-VCP (Del. Ch. June 25, 2014), *aff'd*, 116 A.3d 1244 (Del. 2015).

From 2012 through 2014, I was part of a team of lawyers who represented Roche Diagnostics GmbH in connection with a dispute with Meso Scale Diagnostics. The dispute was a follow-up to a 2001 dispute with IGEN International, Inc. This latest dispute concerned a claim by Meso Scale Diagnostics, a former subsidiary of IGEN formed and created by the son of IGEN's CEO. Meso claimed that it was a party to Roche's license agreement with IGEN, with standing to sue for breach of the license agreement, despite having consented to a transaction in which IGEN had granted Roche the right to use IGEN's patented electrochemiluminescence technology. Meso sought \$436 million in damages along with substantial affirmative injunctive relief. At trial in the Delaware Chancery Court, I had primary responsibility for preparing all of the European-based client witnesses for their direct and cross examinations. In the courtroom, I handled the cross-examination of Meso's damages expert, Daniel Fischel, and conducted the direct examination of a Roche fact witness. After the hearing, the Chancery Court ruled in our favor on liability. When Meso appealed that ruling to the Delaware Supreme Court, I had primary drafting responsibility for our Response Brief. Two days after oral argument in the Delaware Supreme Court, the Chancery Court's ruling was affirmed. The case was significant in the complexity of the issues, the large dollar value at issue, and the quality of opposing counsel.

Court/Judge:

Vice Chancellor Donald F. Parsons, Jr.
Delaware Chancery Court

Co-Counsel:

Nancy J. Sennett
James T. McKeown
Eric L. Maassen
Foley & Lardner LLP
777 E. Wisconsin Avenue
Milwaukee, Wisconsin 53202
414-271-2400

Chancellor Andre G. Bouchard (then at Bouchard & Friedlander)
Leonard L. Williams Justice Center
500 North King Street
Wilmington, Delaware 19801
302-255-0850

Lead Opposing Counsel:

Mark C. Hansen
Michael J. Guzman
Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C. (then Kellogg Huber Hansen)

Sumner Square
1615 M Street, N.W., Suite 400
Washington, D.C. 20036
202-326-7900

8. *International Insurance Company of Hannover Ltd. v. Mary E. Salem*, Civil Case No. 3:13-CV-00431 (D. Conn.).

From 2013 through 2014, I represented the International Insurance Company of Hannover, Ltd. in efforts to secure payment from the estate of the deceased principal of a managing general insurance agency. We had sued the principal previously, after catching him misappropriating several million in insurance premiums. He settled that suit by promising repayment and agreeing to secure the repayment obligation with mortgages on his real property, security interests in his personal property, and assignment of his life insurance proceeds. After defaulting on the repayment, he committed suicide. We then proceeded with litigation to recover for the stolen premium from his assets. I drafted the pleadings and led the negotiations, which led to a settlement that compensated my client for the stolen funds, while allowing some proceeds for the tortfeasor's widow.

Court/Judge:
Hon. Janet C. Hall
United States District Court for the District of Connecticut

Co-Counsel:
Rachel R. Blise
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
414-297-5862

Opposing Counsel:
Thomas M. Cassone
Meister Seelig Fein LLP
140 East 45th Street, 19th Floor
New York, New York 10017
203-348-4244, extension 12

9. *Hartland Lakeside Joint No. 3 Sch. Dist. v. WEA Ins. Corp.*, Case No. 14-CV-2844 (Dane Cnty. Cir. Ct.).

From 2014 to 2016, I was lead counsel for a plaintiff class of Wisconsin school districts that sued their former insurance company over the company's failure to turn over to the districts federal funds it had obtained on their behalf. The case required a detailed analysis of complicated federal regulations, upon which we crafted conversion, civil theft, and other state law claims. The intertwining of federal and state legal concepts led to complicated jurisdictional issues, on which we ultimately

prevailed, *see Hartland Lakeside Joint No. 3 Sch. Dist. v. WEA Ins. Corp.*, 756 F.3d 1032 (7th Cir. 2014), but only after the case had bounced back and forth between the state and federal courts. After finally ending up in state court, we achieved a substantial settlement, after convincing the state court judge to adopt two years of federal court proceedings undertaken under the authority of a federal magistrate judge who mistakenly believed there was federal jurisdiction over our state law claims. The case secured a multi-million dollar recovery for aggrieved Wisconsin school districts, who, but for our work, would not have seen a single dollar of the funds Congress intended them to have.

Court/Judge:
Hon. Peter C. Anderson
Dane County Circuit Court, Madison, Wisconsin

Co-Counsel:
Thomas L. Shriner, Jr.
Philip C. Babler
Foley & Lardner LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202
414-271-2400

Opposing Counsel:
Steve DiTullio & Joseph A. Ranney
DeWitt Ross & Stevens s.c.
2 East Mifflin Street, Suite 600
Madison, Wisconsin 53703
608-283-5612

10. *Kleen Products Inc. v. Packaging Corporation of America, et. al.*, Case No. 1:10CV5711 (N.D. Ill.).

From 2015 to 2017, I was part of a large team of lawyers representing International Paper in a nationwide antitrust class action involving the containerboard industry. I assisted with written discovery, briefing class certification, and took and defended depositions of client representatives and third-party witnesses. In 2017, after I left the law firm to take the bankruptcy court bench, International Paper agreed to a settlement to end its exposure in the case.

Court/Judge:
Hon. Harry D. Leinenweber
United States District Court for the Northern District of Illinois

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

The bulk of my career was devoted to litigation, but I have experience counseling clients outside of specific disputes. Among other things, my insurance and reinsurance clients frequently sought my input on contract drafting, regulatory compliance, and general insurance business matters. In addition, my *pro bono* work for domestic violence agencies included advising those agencies and their employees on their confidentiality obligations under Wisconsin law.

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 taught Insurance law at Marquette University Law School during the Spring semesters of 2016 and 2017. The course covered all aspects of insurance law with a specific emphasis on Wisconsin cases. My syllabus is attached at Exhibit 19.

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.

None.

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.

No.

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).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

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

Attached is my completed 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.

Having served as a bankruptcy judge since 2017, I do not anticipate having many conflicts. I do not have any family members or financial arrangements that are likely to create conflicts. I will evaluate any potential conflict, or relationship that could give rise to an appearance of conflict, on a case by case basis with reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any applicable ethics opinions, laws, rules, guides or practices.

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

If I am confirmed, I will review any real, potential, or perceived conflicts of interest against the requirements of 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any applicable ethics opinions, laws, rules, guides or practices.

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 been an active provider of *pro bono* services. During my last five years at the law firm, I served as the Pro Bono Chair for Foley & Lardner's Milwaukee office. In that role, I was responsible for overseeing and encouraging all of our Milwaukee-based lawyers' participation in and commitment to equal justice efforts. Among other initiatives, I led a "Take it to 20" campaign that saw a substantial increase in the number of attorneys who achieved the firm's goal of contributing at least 20 hours each year to *pro bono* causes.

I also personally undertook a number of pro bono representations. As an associate, I accepted a Seventh Circuit Court of Appeals appointment and represented Anthony D. Ward in connection with an appeal of his sentence on a bank robbery charge. *See United States v. Ward*, 71 F.3d 262 (7th Cir. 1995). As a senior associate and partner, I helped supervise associates on numerous other associates on similar Criminal Justice Act appointments.

In response to recruitment requests from the District Court, I accepted full and limited purpose representations of prison inmates in actions under 42 U.S.C. § 1983. *See Schmidt v. Clarke*, 10-CV-3810-WJG (E.D. Wis.); *Koch v. Does*, 14-CV-00393-PP (E.D. Wis.); *Banks v. Patton*, 2:14-CV-00381-PP (E.D. Wis.). I also worked with associates on two different asylum petitions, both involving young men fleeing persecution in Somalia. We succeeded in obtaining asylum for both clients.

I also provided *pro bono* legal advice and counseling to several organizations serving victims of domestic violence, including The Sojourner Family Peace Center in Milwaukee and The Women's Center, Inc. in Waukesha.

I was an active member of the Eastern District of Wisconsin Bar Association's (EDWBA's) Pro Bono Committee and was a key member of a group that launched the association's Federal Legal Assistance Program, a call-in line staffed by volunteer lawyers to provide basic procedural advice to *pro se* litigants.

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.

On September 16, 2019, Senator Tammy Baldwin and Senator Ron Johnson announced the reestablishment of the Wisconsin Federal Nominating Commission to advance nominations for vacant federal judgeships and U.S. Attorney positions in Wisconsin during the 116th Congress. That announcement also called for applications to fill the vacancy on the United States District Court for the Eastern District of Wisconsin created by the retirement of the late Judge Rudolph T. Randa. I submitted a completed application for the district court vacancy on October 16, 2019, and was interviewed by the Commission on November 25, 2019.

I received a letter from the Commission dated November 26, 2019, stating that the Commission had concluded its deliberations and had forwarded its recommendations for the district court vacancy to Senator Baldwin and Senator Johnson. On December 13, 2019, the Senators announced that they had sent a letter to the White House recommending me and the other three candidates for the vacancy. On that same day, I was contacted by White House Counsel's office to schedule an interview. I interviewed with representatives from the White House Counsel's office and the Department of Justice's Office of Legal Policy the following week, on December 20, 2019, in Washington, D.C.

I received a call from White House Counsel's office on January 30, 2020, informing me that I had been selected for possible nomination to the U.S. District Court for the Eastern District of Wisconsin. I have periodically communicated with individuals in the White House Counsel's office and the Office of Legal Policy since then.

- 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.