

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Terrence Jon Campbell

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

United States District Judge for the District of Kansas

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.

Barber Emerson, L.C.
1211 Massachusetts Street
Lawrence, Kansas 66044

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

1970; Fargo, North Dakota

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

1994 – 1997, University of Kansas; J.D. (*Order of the Coif*), 1997
1988 – 1992, Concordia College, Moorhead, Minnesota; B.A. in Mathematics (*magna cum laude*), 1992
Summer 1989, Aims Community College; 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
Barber Emerson, L.C.
(formerly Barber Emerson, Springer, Zinn & Murray, L.C.)
1211 Massachusetts Street

Lawrence, Kansas 66044
Member (2005 – Present)
Associate (1999 – 2004)

Fall 2001, Spring 1997, Fall 1995
University of Kansas School of Law
Green Hall
1535 West 15th Street
Lawrence, Kansas 66045
Adjunct Professor of Contracts (Fall 2001)
Student Tutor (Spring 1997)
Teaching Assistant (Fall 1995)

1997 – 1999
The Honorable John W. Lungstrum
United States District Court for the District of Kansas
Robert J. Dole United States Courthouse
500 State Avenue
Kansas City, Kansas 66101
Law Clerk

Summer 1997, 1995 – 1996
Stevens & Brand, L.L.P.
(formerly Stevens, Brand, Golden, Winter, & Skepnek, L.L.P.)
900 Massachusetts Street, Suite 500
Lawrence, Kansas 66044
Law Clerk

Summers 1997, 1996
Spencer Fane Britt & Browne
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106
Summer Associate

1992 – 1994
Lewis & Ellis, Inc.
11225 College Boulevard, Suite 320
Overland Park, Kansas 66210
Actuarial Student (full time, salaried position)

Other Affiliations (uncompensated except as otherwise noted):

2014 – Present
Kansas Bar Foundation
1200 Southwest Harrison Street
Topeka, Kansas 66612

Board of Trustees

2012 – Present

Douglas County Legal Aid Society, Inc.

Green Hall

1535 West 15th Street

Lawrence, Kansas 66045

Board of Directors

2005 – Present

BESCO, L.L.C.

1211 Massachusetts Street

Lawrence, Kansas 66044

Member (20% profit share)

(real estate entity held by members of law firm)

2005 – Present

Park Rental, L.C.

1211 Massachusetts Street

Lawrence, Kansas 66044

Member (20% profit share)

(real estate entity held by members of law firm)

2004 – Present

CZH Holdings, L.C.

1211 Massachusetts Street

Lawrence, Kansas 66044

Member

(entity held by three families for collective purchase of university athletics tickets)

2011 – 2014

Theatre Lawrence, Inc.

4660 Bauer Farm Drive

Lawrence, Kansas 66049

Board of Directors

2009 – 2011

Douglas County Judge Hugh Means American Inn of Court

P.O. Box 1152

Lawrence, Kansas 66044

Board of Directors

Board President (2009 – 2010)

2008 – 2010

Chamber of Commerce of Lawrence, Kansas

646 Vermont Street, Suite 200

Lawrence, Kansas 66044
Board of Directors

2006 – 2010
United Way of Douglas County, Inc.
2518 Ridge Court, Suite 200
Lawrence, Kansas 66046
Board of Directors

2007
First Presbyterian Church of Lawrence
2415 Clinton Parkway
Lawrence, Kansas 66047
Elder

1997 – 2005
Boys and Girls Club of Lawrence
1520 Haskell Avenue
Lawrence, Kansas 66044
Board of Directors
Board President (2004)

2000 – 2001
Lawrence Breakfast Optimist Club
2017 Quail Creek Drive
Lawrence, Kansas 66047
(Address varies – current mailing address shown)
Secretary/Treasurer

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 timely registered for selective service.

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.

Martindale-Hubbell AV rating (2009 – Present)
Best Lawyers in America (2012 – Present)
Super Lawyers Missouri and Kansas (2014 – Present)
Super Lawyers Missouri and Kansas Rising Stars (2008 – 2010)
Note and Comment Editor, University of Kansas Law Review (1996 – 1997)
Order of the Coif, University of Kansas School of Law (1997)

Faculty Scholarship, Concordia College (1988 – 1992)
Omicron Delta Kappa Leadership Honor Society, Concordia College (1991 – 1992)
Magna Cum Laude graduate, Concordia College (1992)

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 Association for Justice (formerly American Trial Lawyers Association)
American Bar Association
Bench-Bar Committee, Douglas County District Court
Bench-Bar Committee, United States District Court for the District of Kansas
Bench and Bar Conference, United States Court of Appeals for the Tenth Circuit
Defense Research Institute
Douglas County Bar Association
 Proposed Public Education Committee Member (2006 – 2007)
Douglas County Judge Hugh Means American Inn of Court
 Board of Directors (2009 – 2011)
 Board President (2009 – 2010)
Fair Courts Project
Federal Bar Association
Kansas Association of Defense Counsel
Kansas Association for Justice (formerly Kansas Trial Lawyers Association)
 Public Affairs Committee Member (2012 – 2015)
Kansas Bar Association
 President-Elect, Criminal Section (2004 – 2005)
 Secretary/Treasurer, Criminal Section (2003 – 2004)
Kansas Bar Foundation
 Board of Trustees (2014 – Present)
Kansas City Metropolitan Bar Association
 Federal Court Advocates Section Officer Selection Panel (2008)
Missouri Bar Association
National Association of Criminal Defense Lawyers
Rule 1 Efficiency Committee, United States District Court for the District of Kansas
SOABS Association of Kansas Justices, Judges, and Lawyers

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.

Kansas, 1997
Missouri, 1999

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.

United States Supreme Court, 2003

United States Court of Appeals for the Tenth Circuit, 2002

United States District Court for the District of Kansas, 1997

United States District Court for the Western District of Missouri, 1999

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.

Boys and Girls Club of Lawrence (1997 – 2005)

Board of Directors (1997 – 2005)

Board President (2004)

Chamber of Commerce of Lawrence, Kansas (2000 – Present)

Board of Directors (2008 – 2010)

Co-Vice Chair Communications/Operations (2010)

Co-Vice-Chair Communications (2009)

CEO Search Advisory Committee (2008)

Douglas County Legal Aid Society, Inc. (2012 – Present)

Board of Directors (2012 – Present)

First Presbyterian Church of Lawrence (2005 – 2012)

Elder (2007)

Good Shepherd Lutheran Church (1993 – 1999)

Kansas Bar Foundation (2004 – Present)

Board of Trustees (2014 – Present)

KU Alumni Association (2000 – Present)

Lawrence Breakfast Optimist Club (1998 – 2001)

Board Secretary/Treasurer (2000 – 2001)

Lawrence Central Rotary Club (2003 – 2004)

Lawrence Country Club (2010 – Present)

Lawrence Rotary Club (2005 – 2008)

Leadership Lawrence Class of 2002

Plymouth Congregational Church (1999 – 2005, 2012 – Present)

Theatre Lawrence, Inc. (2010 – Present)

Board of Directors (2011 – 2014)

United Way of Douglas County, Inc. (2000 – Present)

Board of Directors (2006 – 2010)

Professionals Division Chair (2002)

Williams Educational Fund (University of Kansas) (2002 – Present)

- 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, 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.

Lawrence Country Club was formed in 1914, and I believe it may have been exclusionary at some point in its history. My family joined Lawrence Country Club in 2010, and the club has not had a policy or practice of discrimination in the years we have been members. I believe Rotary and Optimist clubs have been exclusionary at some point in their histories, although none of the Rotary or Optimist clubs with which I have been associated had a policy or practice of discrimination in the years I was a member or thereafter. To the best of my knowledge, the other organizations listed do not, and have not, discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

material to the Committee.

Pay For Play, Letter to the Editor, Lawrence Journal World (February 20, 2010). Copy supplied.

Fair Judiciary, Letter to the Editor, Lawrence Journal World (April 5, 2005). Copy supplied.

Evolving Downtown, Letter to the Editor, Lawrence Journal World (November 17, 1996). Copy supplied.

SPRC System Best Way to Allocate, Letter to the Editor, The Concordian (college student newspaper) (December 6, 1991). Copy supplied.

SA Offers War Contemplations, Op-Ed Submission, The Concordian (February 1, 1991). Copy supplied.

It's Time to Quit Pointing Fingers and Do Something Right, Op-Ed Submission, The Concordian (October 12, 1990). Copy supplied.

SA Welcomes Cobbers Back, Op-Ed Submission, The Concordian (September 7, 1990). Copy supplied.

Students Choose To Endorse Lanning; Urge Others to Vote, Letter to the Editor, The Concordian (November 3, 1989). Copy supplied.

My law firm maintains a website (www.barberemerson.com). The content was prepared by other attorneys in my firm and our firm's outside web development professionals, but I either edited or contributed some of the content contained on the following pages:

<http://www.barberemerson.com/index.html>;

<http://www.barberemerson.com/attorneys.html>;

<http://www.barberemerson.com/terrence-campbell.html>;

<http://www.barberemerson.com/clients.html>;

<http://www.barberemerson.com/publications.html>;

<http://www.barberemerson.com/practice-areas.html>.

As Co-Vice Chair of Communications for the Lawrence Chamber of Commerce, I contributed to the development of the Chamber's website (www.lawrencechamber.com) in 2009. I believe the Chamber has redesigned its web presence since the time I was on the board, and I do not believe I contributed to any of the current website content, but it is possible that I may have.

- 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.

I contributed to the report of "Working Group 1" of the Rule 1 Efficiency Committee, United States District Court for the District of Kansas (June 2012). Copy supplied.

As a board member of the Lawrence Chamber of Commerce from 2008 to 2010, I voted on an April 28, 2010 press release explaining why the Lawrence Chamber had refused to join in a coalition of other local chambers in Kansas who were advocating a tax increase. I have not been able to locate a copy of the press release, but press coverage is supplied.

On October 22, 2008, the Chamber board voted to express public support for a proposed local sales tax that was intended to promote public infrastructure, but take no position on two other proposed local sales taxes that were intended to promote public transportation and enhanced public transportation. I have not been able to locate a copy of the press release, but press coverage is supplied.

As a member of the Bench-Bar Committee of the United States District Court for the District of Kansas, I presented a July 31, 2007 memorandum to the Committee that had been prepared under my instruction and guidance, which led to a local rule change recommendation to the district court. 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.

Letter to Kansas Supreme Court Nominating Commission in support of the candidacy of Caleb Stegall for a position on the Kansas Supreme Court (July 17, 2014). Copy supplied.

Emails to Kansas State Representative Tom Sloan (March 25, 2014; March 19, 2014; March 18, 2014; March 12, 2014). Copies supplied.

Emails to Kansas State Representatives Tom Sloan and Paul Davis (February 21, 2014). Copies supplied.

Letter to the City of Lawrence on behalf of a client (October 10, 2013). Copy supplied.

Letter to Governor Sam Brownback and Kansas State Senator Jeff King in support of the candidacy of Caleb Stegall for a position on the Kansas Court of Appeals (June 18, 2013). Copy supplied.

Letter to Kansas Supreme Court Nominating Commission in support of the candidacy of Caleb Stegall for a position on the Kansas Court of Appeals (September 18, 2012). Copy supplied.

Letter to United States Senator Jerry Moran in support of the candidacy of Steve Six for a position on the United States Court of Appeals for the Tenth Circuit. (June 17, 2011). Copy supplied.

Email chain to Kansas State Representative Tom Sloan re House Bill 2101 (February 24, 2011). Copy supplied.

Email chain to Kansas State Representative Lance Kinzer re House Bill 2101 (February 22, 2011). Copy supplied.

Letter to Governor Mark Parkinson in support of the candidacy of James McCabria for a position on the District Court of Douglas County, Kansas (November 23, 2010). Copy supplied.

On December 16, 2009, the Lawrence Chamber of Commerce board approved the Chamber's 2010 "Program of Work" which outlined the Chamber's 2010 action items. I believe Chamber staff communicated the "Economic Development" portion of the 2010 Program of Work to the City of Lawrence and to Douglas County, Kansas. I have been unable to locate a copy.

Email to Kansas State Representatives Tom Sloan and Paul Davis re adequacy of court funding (December 14, 2009). Copy supplied.

Letter to Kansas State Disciplinary Administrator Stan Hazlett regarding privacy redaction rule issues raised by Bench-Bar Committee for United States District Court for the District of Kansas (April 16, 2009). Copy supplied.

On December 17, 2008, the Lawrence Chamber of Commerce board approved the Chamber's 2009 "Program of Work" which outlined the Chamber's 2009 action items. Chamber staff presented the "Economic Development" portion of the 2009 Program of Work to the City of Lawrence and to Douglas County, Kansas. Copy supplied.

Letter to Governor Kathleen Sebelius in support of the candidacy of Peggy Kittel for a position on the District Court of Douglas County, Kansas (March 17, 2008). Copy supplied.

Letters to United States Senators Pat Roberts and Sam Brownback, and United States Representative Dennis Moore, regarding 2007 Farm Bill in response to call to action request from colleagues at the First Presbyterian Church of Lawrence, Kansas (June 22, 2007). Copies supplied.

Testimony on behalf of a client before Lawrence Board of Zoning Appeals re setback and other requirements for a commercial restaurant drive-through (March 1, 2007). Minutes supplied.

Letter to Governor Kathleen Sebelius in support of the candidacy of Robert Nicholson for a position on the District Court in the Sixth Judicial District of Kansas (July 26, 2006). Copy supplied.

Testimony on behalf of a client before Lawrence City Commission (July 11, 2006). Minutes supplied.

Letter to the Federal Highway Administration regarding the South Lawrence Trafficway project (May 23, 2006). Copy supplied.

Letter to City of Lawrence regarding proposed text amendments to Lawrence City Code. Although I was not the author of this letter, I contributed to its preparation in my capacity as a trial attorney in the litigation referenced in the letter (October 24, 2005). Copy supplied.

Testimony on behalf of a client before Lawrence-Douglas County Planning Commission (January 24, 2005). Minutes supplied.

Letter to Governor Kathleen Sebelius in support of the candidacy of Steve Six for a position on the District Court of Douglas County, Kansas (December 15, 2004). Copy supplied.

I recall speaking on behalf of a client on a land use planning matter at a Leavenworth City Commission or Planning Commission meeting or meetings in late 2004. I have no notes, transcript, or recording, but a copy of a December 15, 2004 letter that I submitted on behalf of the client in connection with the meeting(s) is supplied.

Letter to Seventh District Judicial Nominating Commission of Kansas in support of the candidacy of Steve Six for a position on the District Court of Douglas County, Kansas (November 4, 2004). Copy supplied.

Letter to Lawrence Public Schools Superintendent on behalf of Boys and Girls Club of Lawrence (September 9, 2004). Copy supplied.

I spoke on behalf of the Campaign for Adam Taff for United States House of Representatives at a Douglas County Board of Canvassers Meeting in Lawrence, Kansas (August 6, 2004). Minutes and press coverage supplied.

In approximately 2004, I may have written letters to representatives of the City of Lawrence that were made available to the public, regarding a client's position on

the City's building permit fees. I have been unable to locate a copy of any such communications, but press coverage is supplied.

Comments to Lawrence Assistant City Manager/City Attorney on behalf of a client. Letters dated October 7, 2003; September 12, 2003; and September 9, 2003 are supplied.

Testimony on behalf of a client before the Lawrence City Commission (August 19, 2003). Minutes and written memorandum supplied.

Letter to Kansas State Senator Sandra Praeger (March 13, 2000). Copy supplied.

I have made a diligent search of my records and the internet and have not been able to locate or recall other written communications or testimony made to public officials on matters of public policy or legal interpretation. It is possible that I may have presented materials or testimony to public officials that I do not recall and that I was unable to identify through diligent search. Any omission is unintentional.

- 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 searched my files and the following paragraphs identify information responsive to this question to the best of my recollection. It is possible that I may have omitted an event but if I have done so, it is inadvertent.

Approximately 1996 – Present: Speaker, Douglas County Judge Hugh Means American Inn of Court, Lawrence, Kansas. On intermittent occasions throughout my nearly 20-year association with the organization, I participated in group or team discussions or presentations focusing generally on ethics, professionalism, and mentorship in the practice of law. I estimate that I participated in approximately six or seven presentations during this time period that are not otherwise listed below. I do not have the exact dates of these presentations, nor have I been able to locate any notes, transcripts, or recordings. The address for the Douglas County Judge Hugh Means American Inn of Court is P.O. Box 1152, Lawrence, Kansas 66044.

November 14, 2015: Judge, Regional Round of National Moot Court Competition, University of Kansas School of Law, Lawrence, Kansas. I

evaluated and commented upon student oral arguments in a moot court competition among several regional law schools. I have no notes, transcript, or recording. The address for the University of Kansas School of Law is Green Hall, 1535 West 15th Street, Lawrence, Kansas 66045.

February 27, 2014: Presenter, "Mentorship Moment," Douglas County Judge Hugh Means American Inn of Court, Lawrence, Kansas. I spoke about my views on the importance of and best practices in mentoring attorneys. I have no notes, transcript, or recording. The address for the Douglas County Judge Hugh Means American Inn of Court is P.O. Box 1152, Lawrence, Kansas 66044.

January 23, 2014: Speaker, Douglas County Judge Hugh Means Inn of Court, Lawrence, Kansas. I introduced United States District Court Judge John R. Tunheim of the United States District Court for the District of Minnesota, who spoke at a regularly-scheduled meeting about his work as Chair of the Kennedy Assassination Records Review Board. I have no notes, transcript, or recording. The address for the Douglas County Judge Hugh Means American Inn of Court is P.O. Box 1152, Lawrence, Kansas 66044.

November 4, 2013: Speaker, Douglas County Republican Committee Meeting, Lawrence, Kansas. My remarks to fellow committee members during a group debate about proposed by-law changes consisted of explaining potential pitfalls associated with a proposed local party loyalty clause. I have no notes, transcript, or recording. The address for the Douglas County Republican Committee is 4000 West Sixth Street, Suite B #135, Lawrence, Kansas 66049.

June 12, 2013: Presenter, "Independent Judiciary," Lawrence Central Rotary Club Regular Meeting, Lawrence, Kansas. Outline supplied.

June 13, 2012: Speaker, Annual Meeting, SOABS Association of Kansas Justices, Judges, and Lawyers, Leawood, Kansas. I introduced Shon Qualseth as a new member of SOABS. I have no notes, transcript, or recording. The address for the SOABS Association of Kansas Justices, Judges, and Lawyers is 115 West Pine Avenue, El Dorado, Kansas 67402.

January 26, 2012: Speaker, Douglas County Judge Hugh Means Inn of Court, Lawrence, Kansas. I introduced Federal Election Commissioner Cynthia L. Bauerly, who spoke at a regularly scheduled meeting about her work on the Commission. I have no notes, transcript, or recording. The address for the Douglas County Judge Hugh Means Inn of Court is P.O. Box 1152, Lawrence, Kansas 66044.

February 24, 2011: Speaker, Douglas County Judge Hugh Means Inn of Court, Lawrence, Kansas. I introduced Thomas V. Murray, who spoke on the subject of mentorship at a regularly scheduled meeting. I have no notes, transcript, or recording. The address for the Douglas County Judge Hugh Means Inn of Court

is P.O. Box 1152, Lawrence, Kansas 66044.

Early 2010: Speaker, Ribbon Cutting Celebration for the Oread Hotel, Lawrence Chamber of Commerce, Lawrence, Kansas. My remarks consisted of a welcome and congratulations on behalf of the Chamber. I have no notes, transcript, or recording. The address of the Lawrence Chamber of Commerce is 646 Vermont Street, Suite 200, Lawrence, Kansas 66044.

Approximately January 6, 2010: Speaker, Video by Chamber Board Members for the 2010 Annual Meeting, Lawrence Chamber of Commerce, Lawrence, Kansas. I have been unable to locate a copy of the video, but an outline of its contents, prepared by Chamber staff, is supplied.

March 25, 2009: Co-Team Leader, Presentation, Douglas County Judge Hugh Means American Inn of Court, Lawrence, Kansas. Our team gave an untitled presentation on the ethics and effectiveness of waivers and releases in the context of reality movie and television shows. Presentation outline supplied.

February 22, 2007: Panelist, Leadership Lawrence Economic Development Day, Lawrence, Kansas. Outline supplied.

June 7, 2006: New Member, Annual Meeting, SOABS Association of Kansas Justices, Judges, and Lawyers, Overland Park, Kansas. I responded orally to biographical questions in connection with my introduction as a new member of the association. I have no notes, transcript, or recording. The address for the SOABS Association of Kansas Justices, Judges, and Lawyers is 115 West Pine Avenue, El Dorado, Kansas 67402.

May 21, 2004: Joint Presenter, "The Ethics of Flat Fee Arrangements" and "Where Criminal and Civil Law Meet: Navigating the Boundary for Criminal Defense Lawyers and General Practitioners" Continuing Legal Education Presentations, Kansas Trial Lawyers Association, Lawrence, Kansas. Presentation outline supplied.

April 25, 2002: Joint Presenter, "Recent Decisions and Hot Issues," United States District Court Spring Management Retreat, Wichita, Kansas. Seminar handout supplied.

October 8, 1999: Presenter, "Traps for the Unwary: Tips on Federal District Court Practice and Procedure for the Kansas General Practitioner," Continuing Legal Education, Kansas Bar Association, Topeka, Kansas. Presentation outline supplied.

Mid-1990s: Speaker, Lay Sermon, Congregation of Good Shepherd Lutheran Church, Lawrence, Kansas. Sermon notes supplied.

Mid-1990s: Speaker, Indian Hills Elementary School, Topeka, Kansas. I spoke to my wife's students about the Preamble to the United States Constitution. I have no notes, transcript, or recording. The address of the Indian Hills Elementary School is 7445 Southwest 29th Street, Topeka, Kansas 66614.

- 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.

Laura Ice, *A New Scholarship and Meet Your Trustees*, Journal of the Kansas Bar Association (November/December 2015). Copy supplied.

Giles Bruce, *Local Accident Victims Advocate Against Texting While Driving*, Lawrence Journal-World (August 19, 2013). Copy supplied.

Scott Lauck, *Western District of Missouri Enters a \$660K Judgment for Undervalued Quarry*, Missouri Lawyers Media (May 20, 2009). Copy supplied.

Chad Lawhorn, *Settlement in Works with Builders*, Lawrence Journal-World (May 17, 2006). Copy supplied.

Chad Lawhorn, *City, Home Builders May Settle Suit*, Lawrence Journal-World (January 27, 2006). Copy supplied (reprinted in multiple outlets).

Chad Lawhorn, *City Seeks Dismissal of Builders' Suit*, Lawrence Journal-World (September 20, 2005). Copy supplied.

Eric Weslander, *New Drug Sentencing Guidelines Take Effect*, Lawrence Journal-World (February 7, 2005). Copy supplied.

Eric Weslander, *Grandparents Gain Custody of Child*, Lawrence Journal-World (November 6, 2004). Copy supplied (reprinted in multiple outlets).

Eric Weslander, *Autopsy Confirms Savagery of Slaying*, Lawrence Journal-World (October 9, 2004). Copy supplied.

Nick Kowalczyk, *Bail Lowered in Murder Case; Investigation Reveals 17 Stab Wounds*, Kansas City Star (October 8, 2004). Copy supplied.

Erin Adamson & Matt Moline, *Child to Live with Victim's Parents*, Topeka Capital-Journal (October 6, 2004). Copy supplied (reprinted in multiple outlets).

Eric Weslander, *Inquisition Opened Into 2003 Homicide*, Lawrence Journal-World (July 16, 2004). Copy supplied.

Dave Ranney, *Youth Club Goes Through Growing Pains*, Lawrence Journal-World (March 15, 2004). Copy supplied.

Mid-2000s: I was interviewed by a Kansas City, Missouri television station (KMBC) about a legal development associated with a murder in a matter in which I represented the murder victim's family. I have been unable to obtain a copy of the interview.

Unknown author, *Congratulations to the Class of 2002*, Lawrence Journal-World (April 20, 2002). Copy supplied.

Allen Drees, Jr., *SA Passes Resolutions; New Senate Elected*, The Concordian (April 12, 1991). Copy supplied.

Derek Wolden, *Campbell and Drewes Reflect on Year*, The Concordian (April 12, 1991). Copy supplied.

Jen Nagel, *Student Reimbursements Set*, The Concordian (March 15, 1991). Copy supplied.

Jen Nagel, *Knutson/Meek Ticket Wins 1991 SA Election*, The Concordian (February 15, 1991). Copy supplied.

Bob Lundblad, *650 Participate in Candlelight Vigil*, The Concordian (January 18, 1991). Copy supplied.

Kelby K. Halone, *Bauerly Elected Vice-President at Conference*, The Concordian (December 7, 1990). Copy supplied.

Kirk D. Johnson, *Activity Fee Increase Sought*, The Concordian (November 16, 1990). Copy supplied.

Katja Stromnes, *Student Senate Forced Into Budget Decision*, The Concordian (October 12, 1990). Copy supplied.

Lori Eastlund, *SA May Eliminate Stipends*, The Concordian (October 5, 1990). Copy supplied.

Guy Kittelson, *SA Faces Budget Crunch*, The Concordian (September 21, 1990). Copy supplied.

Katja Stromnes, *Senate Compromises with SA on Stipends Proposal*, The Concordian (September 14, 1990). Copy supplied.

Jen Boldt, *SA Computer Missing*, The Concordian (September 14, 1990). Copy supplied.

Laura Seim, *Students Form VOICE to Address Campus Needs*, The Concordian (March 16, 1990). Copy supplied.

Kirk D. Johnson, *Campbell/Drewes Ticket Claims Top SA Prize*, The Concordian (February 23, 1990). Copy supplied.

Kirk D. Johnson, *Campbell, Halverson Proceed to General Election*, The Concordian (February 16, 1990). Copy supplied.

Marla Temanson, *With Work, Long-Distance Relationships Can Survive*, The Concordian (February 9, 1990). Copy supplied.

Karl Krueger, *Student Association Candidates Explain Positions*, The Concordian (February 9, 1990). Copy supplied.

Multiple Authors, *Meet Student Association Candidates*, The Concordian (February 9, 1990). Copy supplied.

Lori Eastlund, *Funding Allocations Defended*, The Concordian (October 6, 1989). Copy supplied.

Carla Tonsfeldt, *Students Gain Insights from Leadership Conference*, The Concordian (September 29, 1989). Copy supplied.

David Gibbons, *Homecoming Buttons Offer Chances for Prizes*, The Concordian (September 29, 1989). Copy supplied.

Multiple Authors, *Vote for Student Senate Representatives Wednesday*, The Concordian (February 17, 1989). Copy supplied.

Multiple Authors, *Eleven Enthusiastic Freshmen Compete for Four Senate Seats*, The Concordian (September 16, 1988). 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.

From 2005 to 2008, I served one day per month (approximately 2005 to 2006) or one day every two months (approximately 2007 to 2008) as Traffic Judge Pro Tem for the District Court of Douglas County, Kansas. In this capacity, I presided over scheduling and heard pleas in matters involving alleged traffic misdemeanors and infractions, as well as alleged violations of state fish and game laws. Occasionally, I conducted bench trials and rendered verdicts in these matters.

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

or judgment?

I estimate that I rendered a verdict in approximately 15 to 20 bench trials.

i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100%

civil proceedings:	0%
criminal proceedings:	100%

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

I did not issue any published opinions, so there are no citations available.

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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

Because the nature of the judicial assignment involved a system of rotating pro tem judges who conducted proceedings on cases that were officially identified as having been assigned to a duly appointed district court judge, I do not believe the court maintained searchable records that would identify which pro tem judge presided over traffic trials. To the best of my recollection, I issued one unpublished opinion, in the case described below. I did not maintain any records concerning cases in which I rendered a verdict, and I do not recall the names of any parties beyond the case identified.

1. *State v. Simpkins*, Case No. 2006 CR 183 in the District Court of Douglas County, Kansas. Decision supplied.

The case involved a defendant who had been charged with the crime of driving while suspended, in violation of K.S.A. § 8-262. The defendant argued that he should be acquitted because he did not receive notice of the suspension. The state argued that it had duly mailed the necessary notice to the defendant at the appropriate address. I found the defendant guilty.

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785-296-3071

Counsel for defendant:

John Solbach
Solbach Law Office
700 Massachusetts Street, Suite 203
Lawrence, KS 66044
785-841-3881

- 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. *State v. Simpkins*, Case No. 2006 CR 183 in the District Court of Douglas County, Kansas. Decision previously supplied in response to Question 13c.

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Counsel for defendant:

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

To the best of my knowledge, 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.

To the best of my knowledge, none.

- 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.

To the best of my recollection, I issued one unpublished opinion, in *State v. Simpkins*.

- 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.

State v. Simpkins, Case No. 2006 CR 183 in the District Court of Douglas County, Kansas. Decision previously supplied in response to Question 13c.

- 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.

The Kansas Code of Judicial Conduct governs the duties and responsibilities of judges in Kansas. Pursuant to Rule 2.11 of the Code, a judge is required to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. I complied with the requirements of the Code, making determinations on a case-by-case

basis.

To the best of my recollection, no one ever asked me to recuse myself. I recall recusing myself *sua sponte* on one occasion when a traffic court defendant appeared before me even though the court clerk had attempted to reschedule his hearing. I recused because the defendant was either a current or a prior client of my law firm. I do not recall the name of the defendant or the specific circumstances involved.

On the day prior to each occasion when I served as traffic judge, my practice was to obtain a list of cases set for the traffic court docket and have my law firm staff run conflict checks through my firm's conflict check system. I also reviewed the list personally to confirm that none of the cases involved defendants with whom I had a personal acquaintance. Where potential conflicts of interest were detected, I notified the court clerk's office so that these cases could be rescheduled and heard by one of the other pro tem traffic judges.

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.

I was elected as Republican Party Precinct Committeeman for Douglas County Precinct 13 in 2002, and I have been re-elected every two years since that time. I resigned my position as a precinct committeeman on February 1, 2016.

I was elected to serve as an unpaid member of the Douglas County Republican Executive Committee in the mid-2000s. I believe I served in this capacity from 2004 until 2006. In 2004, I was elected to serve as an unpaid delegate to the Republican Convention for Kansas' Third Congressional District, which I was unable to attend.

- 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 September 2015, Governor John Kasich's campaign for President contacted me about the possibility of assisting the campaign in putting together a leadership team in Kansas in advance of the March 2016 Kansas Republican Presidential caucus. Following that contact, I reached out to a handful of Republican acquaintances to gauge their interest in assisting Governor Kasich. I ended my involvement in the campaign after learning several weeks later that my name had

been forwarded to the White House to be considered for nomination as a United States District Court Judge.

In the spring of 2014, I provided information about local county issues to Senator Pat Roberts' United States Senate campaign.

In 2010, I served in a volunteer capacity as county chair of then-Representative Jerry Moran's campaign for United States Senate. My involvement included participating in campaign conference calls, appearing at local campaign events, and coordinating with full-time campaign staff. I co-hosted fundraisers for Senator Moran both before and after the 2010 election, on the following dates: April 10, 2010; February 25, 2012; and March 2, 2013.

I may have held a designated local office as a volunteer in the campaigns of Greg Musil (2000) and Adam Taff (2002, 2004) for Kansas' Third Congressional District. I spoke on Mr. Taff's behalf at a Board of County Canvassers meeting on August 6, 2004.

I authorized various candidates to use my name in political advertisements wherein community members were enlisted to demonstrate support. The candidates I recall are Mike Amyx for City Commission (2009), Charles Branson for District Attorney (2008), Scott Morgan for State Senate (2008), Mike Dever for City Commission (2007), Christine Kenney for District Attorney (2004), and Phyllis Tiffany for State House (2000).

I recall knocking on doors and distributing campaign literature on behalf of a candidate for the Minnesota House of Representatives in approximately 1990. I do not recall the candidate's name.

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

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

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

From 1997 to 1999, I served as law clerk to District Judge John W. Lungstrum of the United States District Court for the District of Kansas.

- 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.

1999 – Present
Barber Emerson, L.C.
1211 Massachusetts Street
Lawrence, Kansas 66044
Associate (1999 – 2004)
Member (2005 – Present)

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

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 completing my judicial clerkship, I began private practice in 1999 at Barber Emerson, L.C. I worked as an associate with the firm from 1999 through 2004 and became a full member of the firm on January 1, 2005. Although the firm is a general practice law firm, nearly all of my work has been on litigation matters before federal, state, local, and administrative tribunals.

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

From 1999 through approximately 2003, my practice was divided almost equally between civil/administrative matters on the one hand, and criminal defense matters on the other. On the civil and administrative side during this time period, I handled or assisted in the handling of disputes including insurance defense matters for commercial entities, commercial contract disputes, land use litigation for property owners, and defense of employment litigation matters for public and private employers. In these cases I appeared in court regularly, handling motion practice and arguments before federal and state courts, conducting deposition and discovery practice, and examining witnesses as second-chair counsel at trials and administrative hearings. Because my firm was supportive of my desire to obtain ample trial experience as a lead attorney, I also sought inclusion on court-appointed counsel lists for criminal defense matters in both federal and state court, and accepted retained criminal defense matters as well. I defended federal court felony cases including large multi-defendant drug conspiracy, felon-in-possession, counterfeit

currency, and counterfeit trademark matters. I tried cases to federal juries and handled contested sentencing hearings, all as lead counsel. I handled state court misdemeanor and low-level felony matters as well, appearing in court regularly to argue motions and conduct plea hearings, and trying two state court criminal matters as lead counsel.

At some point in 2003, I decided to de-emphasize the criminal defense aspect of my practice so that I could focus more on civil work. I stopped accepting court-appointed criminal defense matters at the trial court level, so my criminal case load gradually diminished, as my civil case load grew in scope and in my level of responsibility.

From approximately 2004 through 2006, my practice was approximately 70 percent civil/administrative and 30 percent criminal defense. On the civil and administrative side during this time period, I took over a complex family trust and estate litigation matter, and that case began my regular representation of families in federal and state court trust and estate litigation matters that continues to the present day. The firm's insurance defense practice diminished with the departure of the partner in charge of most insurance defense matters, and I began accepting both commercial cases for small-to-medium-sized businesses and plaintiff's personal injury cases. During this time period I appeared in court frequently in both appellate and trial courts, and almost always as lead counsel.

From 2007 to the present day, my practice has been approximately 95 percent civil/administrative and 5 percent criminal defense. In 2007, I began an engagement as local counsel in a federal court patent litigation matter that has since led to my regular representation of large national and multi-national corporations, and the research foundation of a tier one research university, as local counsel in federal court litigation matters involving complex telecommunication and pharmaceutical patents. As the financial crisis of 2008 and 2009 arose, I began assisting large single asset real estate entities and their guarantors in finance workout litigation. More recently, I have represented family businesses and medical professionals in disputes centering around business breakups, and the other areas of my practice (including especially plaintiff's personal injury and family trust and estate litigation) have continued to grow. During this time period I have continued to appear in court frequently as lead counsel.

- 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.

Throughout my career in private practice, I have always appeared in court frequently, although the frequency of my court appearances decreased to some extent after I decided to de-emphasize the criminal defense aspect of my practice.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 49% |
| 2. state courts of record: | 48% |
| 3. other courts: | 1% |
| 4. administrative agencies: | 2% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 78% |
| 2. criminal proceedings: | 22% |

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 18 cases to verdict, final decision, or contested preliminary injunction. Nine were jury trials and nine were non-jury trials. I was lead counsel for our firm's client in 15 of these 18 cases. In ten of the 15 cases in which I served as lead counsel, I was sole trial counsel. In one of the 15 cases in which I served as lead counsel, I shared responsibilities approximately equally with another member of my firm as co-lead counsel. In the three cases in which I did not serve as lead counsel, I served as associate counsel.

i. What percentage of these trials were:

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

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

Part VI of the Criminal Justice Act Plan adopted by the United States Court of Appeals for the Tenth Circuit provides as follows: "Counsel must file a petition for a writ of certiorari if the client requests that such a review be sought, and, in counsel's considered judgment, there are grounds for seeking Supreme Court review that are not frivolous and are consistent with the standards for filing a petition contained in the Rules of the Supreme Court and applicable case law." To the best of my knowledge, I have filed petitions for certiorari on court-appointed criminal defense matters in the following four cases pursuant to Part VI of the CJA Plan for the Tenth Circuit. The petitions were denied in each case. I do not recall filing petitions for certiorari in any other cases, although it is possible that I did so.

United States v. Oscar Garcia-Delira, Case No. 13-6240 in the Supreme Court of

the United States. Copy supplied.

United States v. Antonio Robertson, Case No. 09-7404 in the Supreme Court of the United States. Copy supplied.

United States v. Maleek Lashawn Hughes, Case No. 04-5043 in the Supreme Court of the United States. Copy supplied.

United States v. John Mark Hannum, Case No. 02-10540 in the Supreme Court of the United States. My firm's file on this matter has been destroyed pursuant to the firm's document retention practice, so I do not have a copy of this petition for certiorari, and it is not available on any electronic databases.

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. *Abilene Retail #30, Inc. v. Six*, 641 F. Supp. 2d 1185 (D. Kan. 2009) (Judge Julie A. Robinson).

Shortly after the United States District Court for the Western District of Missouri upheld a Missouri statute restricting the placement of highway signs advertising sexually-oriented businesses, the State of Kansas enacted a statute that closely tracked the language of the Missouri statute. Later, the United States Court of Appeals for the Eighth Circuit reversed the district court and found the Missouri statute to be an unconstitutional infringement on commercial speech under the First Amendment. In 2009, *Abilene Retail #30, Inc.*, the owner of a sexually-oriented business in Kansas, sued the Kansas Attorney General seeking to invalidate the Kansas statute in reliance upon the Eighth Circuit's opinion. The Attorney General hired me to defend as outside counsel. I briefed and argued the constitutional issues, and conducted an evidentiary hearing on the Attorney General's behalf. After the evidentiary hearing, the court entered a preliminary injunction enjoining enforcement of the Kansas statute. In light of the preliminary injunction ruling, the parties settled. The court entered a final order and judgment that permanently enjoined the enforcement of the Kansas statute.

The court's order noted the plaintiff's agreement to forego any claim for attorneys' fees or costs against the state and the defendant's agreement to waive appeal.

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2. *Apple Tree Homes, Inc. v. City of Lawrence*, Case No. 04-C-337 in the District Court of Douglas County, Kansas (Judge Michael J. Malone).

In 2003, the Lawrence Home Builders Association ("LHBA") engaged me to challenge the legality of building permit fees charged by the City of Lawrence, Kansas. LHBA argued that the city unlawfully collected more money than was necessary to run its building inspection program, using the excess to finance other city operations. The city argued that the fees were legitimate charges. I filed suit on behalf of a small group of builders, seeking class action status for other builders. I took substantial discovery and filed a motion to certify the matter as a class action. The court granted the motion. The case settled in 2006 and the city adopted a new building permit fee ordinance.

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Opposing Counsel:

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3. *Century Surety Company v. Med James, Inc.*, Case No. 01-cv-2037-JWL in the United States District Court for the District of Kansas (Judge John W. Lungstrum).

In late 2000, our firm began representing Century Surety Company. Century Surety sued its commercial underwriter, Med James, Inc., for issuing a \$1 million commercial liability insurance policy that did not comply with Century Surety's contractual underwriting guidelines. After a horrific traffic accident, Century Surety paid substantial liability claims to third parties under the policy. Century Surety sought reimbursement from Med James, Inc. for issuing the policy erroneously. I conducted extensive written and oral discovery on behalf of the client, briefed motions, and examined witnesses as associate counsel at the 2002 jury trial. The jury rendered a verdict for our firm's client in excess of \$1 million.

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4. *United States v. Foote*, 238 F. Supp. 2d 1271 (D. Kan. 2002) (Judge Kathryn H. Vratil), *aff'd in part, rev'd in part*, 413 F.3d 1240 (10th Cir. 2005) (Judges Stephanie K. Seymour, John C. Porfilio, and Michael R. Murphy).

The government indicted Mr. Foote on 44 counts of federal criminal trademark infringement, conspiracy, and money laundering. The government alleged that Mr. Foote conspired to trade in counterfeit name-brand merchandise. I began representing Mr. Foote in April 2002, nearly one year after his original indictment was unsealed. After pursuing a motion to suppress that was successful in part, I tried the case to a jury. The jury found Mr. Foote guilty on several counts, but the court granted a post-trial motion for judgment of acquittal in large part, and entered judgment against Mr. Foote on the two remaining counts. I handled the contested sentencing hearing, and later briefed and argued Mr. Foote's appeal to the United States Court of Appeals for the Tenth Circuit. Mr. Foote's sentence was reduced after a successful sentencing appeal.

Government Counsel:

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913-551-6730

5. *In re Hjersted Revocable Trust*, 135 P.3d 192 (Kan. Ct. App. 2006); *In re Estate of Hjersted*, 135 P.3d 216 (Kan. Ct. App. 2006); 135 P.3d 202 (Kan. Ct. App. 2006) (Judges Gary W. Rulon, Jerry G. Elliott, and Richard D. Greene), *aff'd in part, rev'd in part*, 175 P.3d 810 (Kan. 2008).

These cases arose following the death of N. Hjersted. They involved disputes between N. Hjersted's surviving spouse on the one hand, and her stepchildren on the other. The disputes raised issues of first impression in Kansas. The primary dispute centered upon the valuation of a 96% limited partnership interest that N. Hjersted conveyed to his son, L. Hjersted, approximately one year before N. Hjersted died. Claiming under the Kansas Spousal Elective Share Statute, N. Hjersted's surviving spouse argued that the limited partnership was a sham entity, and that the 96% limited partnership interest was worth approximately 96% of the partnership assets. The son argued that the 96% limited partnership interest was worth much less than 96% of the partnership assets, because the limited partnership interest did not allow its owner to control the partnership and because there was an extremely limited market for this type of closely held limited partnership interest. I became involved on behalf of the son, L. Hjersted, in 2004, after Judge Gunnar Sundby of the District Court of Leavenworth County, Kansas, made findings at trial that were largely in line with the claims of N. Hjersted's surviving spouse. I handled post-trial matters as lead counsel, including a collateral trial before Judge Sundby. I also briefed and argued three appeals to the Kansas Court of Appeals and one appeal to the Kansas Supreme Court. The Kansas Supreme Court ultimately remanded the case to Judge Sundby in line with L. Hjersted's arguments.

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6. *Honsinger v. UMB Bank, N.A.*, Case No. 06-0018-CV-W-ODS, 2007 WL 4287683 (W.D. Mo. Dec. 4, 2007); 2007 WL 3256251 (W.D. Mo. Nov. 2, 2007) (Judge Ortrie D. Smith).

My firm represented Mrs. Honsinger and Ms. Albright, who were beneficiaries of trusts created under the will of Mrs. Honsinger's mother. In 2006, I filed suit on the clients' behalf against their trustees. The suit alleged that the trustees committed a breach of trust by selling the trust's rock quarry property to a rock quarrying company in reliance upon an appraisal that did not account for the property's value as a quarry. I conducted extensive discovery and motion practice, along with my associate. We tried the case to the court in late 2008. The court rendered a verdict in favor of the beneficiaries.

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7. *Meyer v. Christie*, 634 F.3d 1152 (10th Cir. 2011) (Judges Michael R. Murphy, Monroe G. McKay, and Terrence L. O'Brien) and related case, *Corefirst Bank & Trust v. First Management, Inc. (In re The Bluffs, LLC)*, Adversary Case No. 10-5263, 2011 WL 2414212 (Bankr. D. Kan. June 13, 2011) (Judge Robert E. Nugent).

The Bluffs, LLC owned a large and successful apartment complex in Junction City, Kansas, serving military families. The Bluffs, LLC was owned equally by two groups of investors. A third group of investors claimed that it had entered a joint venture with the first investor group (but not the second investor group) to create and own the apartment complex, and argued that it was entitled to damages because it had been unlawfully excluded from participating as an owner and builder. The third investor group sued both the first investor group and the entity, The Bluffs, LLC, and won a judgment after a jury trial in excess of \$9 million. I was not involved in the trial. After the \$9 million verdict, the second investor group asked me to assist in protecting its interests, because even though the second investor group was not liable for the \$9 million, it owned half of the entity that was liable. In light of the verdict, and in the wake of the nationwide financial crisis, the banking group that held the debt on the apartment complex elected to seek foreclosure, and The Bluffs, LLC sought bankruptcy protection. I was the lead attorney representing The Bluffs, LLC on appeal of the \$9 million judgment to the United States Court of Appeals for the Tenth Circuit, which reversed the judgment against the entity and remanded the case to the district court. I was also the lead attorney for the second investor group in the bankruptcy case, and tried an adversary proceeding to the bankruptcy court where the banking group sought to invalidate a mechanics lien in excess of \$870,000 that had been filed upon the apartment complex by a construction firm associated with the second investor group. The bankruptcy court found the mechanics lien to be invalid.

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8. *Murphey v. Mid-Century Insurance Company*, Case No. 13-CV-2598, 2014 WL 2619073 (D. Kan. June 12, 2014) (Judge Julie A. Robinson).

This case was a dispute about a settlement agreement. I represented the plaintiff, Ms. Murphey, who suffered severe injuries in a 2013 automobile collision with a teenage driver. I began negotiations with the teenage driver's automobile liability insurer in the fall of 2013. When the negotiations had reached a point where the parties were approximately \$200,000 apart, I inquired whether the insurance company had information about whether its young insured had been sending text messages while driving. The insurance company immediately increased its offer by \$105,000, and Ms. Murphey formally accepted the offer the following day. The insurance company then claimed that the offer was a clerical mistake; it argued that it only intended to increase its offer by \$5,000 and not \$105,000. I filed suit on Ms. Murphey's behalf seeking to enforce the settlement agreement. The court granted summary judgment in Ms. Murphey's favor, enforcing the settlement agreement in the amount Ms. Murphey had accepted.

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9. *Ross v. Murray*, Case No. 04 CV 577 in the District Court of Douglas County, Kansas (Judge Michael J. Malone); *In the Matter of the Conservatorship of Ross-Murray*, Case No. 04 GC 52 in the District Court of Riley County, Kansas (Judge Meryl D. Wilson).

Ms. Ross was murdered at her home in late 2003. No arrest was made for nearly one year. My firm began representing the family of Ms. Ross in early 2004. Ms. Ross and her ex-husband, Mr. Murray, had a young child. Ms. Ross's parents asked a court to appoint them as conservators of the assets that the child was to inherit from her deceased mother. Mr. Murray opposed the request and instead asked the court to appoint a trust company of his choosing as conservator. I handled the evidentiary hearing. My examination of Mr. Murray included questions about whether he was responsible for the murder. The court appointed the trust company that Mr. Murray had nominated.

Approximately one month later, the Douglas County District Attorney charged Mr. Murray with murder. The district attorney was defeated in an election the following month. I advocated for the family with the newly-elected district attorney, who had criticized certain aspects of the previous district attorney's handling of the case. The new district attorney decided to take the case to trial, and Mr. Murray was convicted of murder. I was not directly involved in the criminal trial.

Shortly after Mr. Murray's arrest, I filed a wrongful death and survivorship lawsuit against Mr. Murray on the family's behalf. Immediately after Mr. Murray's conviction, I asked the civil court to authorize prejudgment garnishments of Mr. Murray's non-exempt assets pending final disposition of the civil case. The court granted the request. I prepared and litigated the prejudgment garnishments. After a partial settlement and a lengthy stay while Mr. Murray pursued multiple appeals from his conviction, the parties reached a final settlement in 2014.

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10. *Sprint Communications Co., L.P. v. Time Warner Cable Inc.*, Case No. 11-2686-JWL in the United States District Court for the District of Kansas, at times consolidated with *Sprint Communications Co., L.P. v. Comcast Cable Communications LLC*, Case No. 11-2684-JWL in the United States District Court for the District of Kansas (Judges John W. Lungstrum, J. Thomas Marten, and Magistrate Judge James P. O'Hara). Various opinions available at 2015 WL 5883716 (D. Kan. Oct. 8, 2015); 2015 WL 5999216 (D. Kan. Oct. 6, 2015); 2015 WL 4066689 (D. Kan. July 2, 2015); 2015 WL 3949185 (June 29, 2015); 2014 WL 5581274 (D. Kan. Oct.

31, 2014); 2014 WL 5089402 (D. Kan. Oct. 9, 2014); 2014 WL 3611665 (D. Kan. July 22, 2014); 2014 WL 1794552 (D. Kan. May 6, 2014); 2014 WL 1569963 (D. Kan. Apr. 18, 2014); 2014 WL 545544 (D. Kan. Feb. 2, 2014); 2013 WL 6589564 (D. Kan. Dec. 16, 2013); and 2013 WL 237788 (D. Kan. Jan. 22, 2013).

In this case, the plaintiff alleges that home telephone service offered by Time Warner Cable, Inc. and its affiliates (“TWC”) infringes several of plaintiff’s patents concerning voice over internet protocol (“VoIP”) technology. I began representing TWC as local counsel before the United States District Court for the District of Kansas in 2011. I have participated actively with lead counsel from other law firms in all aspects of the preparation of this case for discovery, motion practice, and trial. Discovery has concluded, and the parties have filed dispositive motions. The case has been stayed pending the appeal of a District of Delaware decision that declared some of the same patents to be invalid.

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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.)

While in private practice, my focus has been on litigation, including numerous matters that have not progressed to trial. I have also served on several boards and committees related to the law and legal profession.

Because of my experience as an attorney who has a breadth of experience in both criminal defense matters and in matters involving the pursuit of civil tort claims, I commonly advise and advocate as counsel for victims of crime – beginning most notably with the family of murder victim Ms. Ross and continuing to the present day on other privileged matters.

Beginning in law school and continuing to the present day, I have actively supported and participated in organizations that seek to promote collegiality, ethics, and professionalism among members of the bar. I sought membership in the Douglas County Judge Hugh Means American Inn of Court in 1996, when I was in law school, and my membership in the organization has spanned nearly 20 years. The organization takes seriously its responsibility to mentor young attorneys and promote a culture of professionalism and ethics in the state and local bar. On approximately a bi-annual basis, I lead or participate actively on pupillage teams to prepare group presentations or present accomplished speakers that allow younger attorneys to learn and experienced attorneys to teach these values. I served as president of the organization during the 2009 to 2010 academic year. Likewise, I have also been an active member of both the federal and local bench-bar committees, and more recently I began service to the Kansas Bar Association through the Kansas Bar Foundation Board of Trustees.

I have spoken and written on both the importance and attendant responsibility of an independent and impartial judiciary because of my strong belief that judges and the entire judicial system should be vigilant about fostering a culture that promotes the public's faith in its system for resolving disputes.

I have never provided services as a registered lobbyist. From time to time, I have written correspondence to elected officials on my own accord or represented clients appearing before local governmental bodies as reflected in Question 12. This includes, for example, correspondence with state legislators on matters of interest to the Kansas Bar Association. Clients for whom I recall providing representation before local government bodies include the Lawrence Chamber of Commerce, my father-in-law, and local property developers.

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 a traditional Contracts course to first year students at the University of Kansas School of Law in Fall 2001. Syllabus supplied.

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.

My law firm has a 401(k) and profit sharing plan in which I am fully vested. Those vested funds can be rolled over into another qualified retirement plan in the event that I should be confirmed and leave the firm. I also hold membership interests in the limited liability companies that own the office building and related ground upon which the firm conducts its practice. I will be compensated for these membership interests under an established valuation agreement. No agreement exists regarding the payment of any additional compensation upon separation from the firm.

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).

See Financial Disclosure Report.

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

See 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.

Over the years, I have occasionally represented the University of Kansas and some of its associated entities on limited matters. I have also provided financial support to the University of Kansas and its associated entities in more than a de minimus amount. The University of Kansas and its associated entities are frequently parties in litigation pending before the District of Kansas. Depending on the duration of time that has passed, cases involving the University of Kansas and any other former clients may present a potential conflict of interest, and I would recuse myself whenever necessary to avoid the appearance of a conflict of interest. I would handle all matters concerning recusal by consulting the rules and decisions that address what constitutes a conflict of interest, including 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other relevant ethical canons or rules. Among other steps, I would recuse myself from any litigation in which my law firm represents a party, at least for several years. I would also recuse myself from any litigation in which the University of Kansas or its associated entities is a party, at least for several years.

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

In order to avoid any potential conflict of interest, I would consult the rules and decisions that address what constitutes a conflict of interest, including 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any other relevant ethical canons or rules. Based on these sources, I would compile a comprehensive list of matters, clients or other persons so that I could readily identify potential conflicts of interest. In close cases, I would also consult other judges and any person designated by the court or the Administrative Office of the United States Courts to provide advice on these issues.

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 work load, 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 devoted nearly 1,000 hours to representing defendants in court-appointed federal and state criminal matters over the years, at rates that were a fraction of my then-normal hourly rate. From 2000 to 2002, I was a member of the Criminal Justice Act appointment panel for the United States District Court for the District of Kansas, accepting appointments from the court at significantly reduced rates. I took these matters to jury trial, contested sentencing, and appeal where necessary. During approximately the same time period, I was also on a rotating panel of attorneys willing to accept criminal misdemeanor appointments from the District Court of Douglas County, Kansas at significantly reduced rates. I took these matters to bench and/or jury trial, contested sentencing, and appeal where necessary. I temporarily stopped accepting new appointments from the federal panel during the fall of 2001 while I taught a class at the University of Kansas, but continued to handle my existing court-appointed case load during that time. I resumed full service on the federal panel after my teaching responsibilities had concluded. I did not keep a record of the date when I asked the court to remove me from the state misdemeanor appointment list.

In 2007, I applied for and was accepted to membership on the Criminal Justice Act panel for the United States Court of Appeals for the Tenth Circuit. I served on the panel until December 31, 2015. During this time frame, I was appointed to handle approximately one federal criminal appeal per year at significantly reduced rates.

From 2012 to the present, I have served on the Board of Directors for the Douglas County Legal Aid Society, Inc. This organization assists in coordinating the provision of legal services to local residents who cannot otherwise afford them. From 2014 to the present, I have served on the Board of Trustees for the Kansas Bar Foundation, which supports programs that provide access to the legal system for low-income Kansans, advocacy for children in need of care, and victims of domestic violence.

From 1997 through 2005, I served on the Board of Directors for the Boys and Girls Club of Lawrence, including service as Board President in 2004 during a period of tremendous growth for the organization. The Boys and Girls Club of Lawrence seeks to serve the youth of the community, especially underprivileged youth. From 2006 through 2010, I served on the Board of Directors of Douglas County United Way, raising and allocating funds to organizations that serve disadvantaged citizens.

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.

In February 2012, Senator Jerry Moran asked me if I was interested in the position of United States District Court Judge, and I told him that I was. I met with Senator Pat Roberts' staff in December 2012 in Lenexa, Kansas for a preliminary interview and to express my interest. In February 2014, Senator Moran asked me if I remained interested, and we discussed the position that would be coming available in light of Chief Judge Kathryn Vratil's intention to take senior status in April 2014. From March 2014 and into 2015, I remained in contact with the staffs of both Senators, and provided them with detailed information about my background and qualifications. On October 23, 2015, Senator Moran's staff informed me via telephone that my name had been forwarded to the White House for consideration. I spoke with Senator Roberts in Lenexa, Kansas on November 11, 2015 and again via telephone on November 13, 2015. I have been in contact with the White House Counsel's Office since November 9, 2015, and I have been in contact with officials from the Office of Legal Policy at the Department of Justice since November 13, 2015. On January 6, 2016, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On January 28, 2016, 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.