

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY
QUESTIONNAIRE FOR JUDICIAL NOMINEES
PUBLIC

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

Geoffrey William Crawford

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

United States District Judge for the District of Vermont

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

Office: Vermont Supreme Court
109 State Street
Montpelier, VT 05609

Residence: Burlington, VT

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

1954; Ann Arbor, MI

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.

1977 – 1980, Harvard Law School; J.D. (*cum laude*), 1980

1972 – 1973, 1974 – 1977, Yale University; B.A. (*cum laude*), 1977

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.

2013 – present
Vermont Supreme Court
109 State Street
Montpelier, VT 05609
Associate Justice

September – June 2013
The Blue Bird Tavern
86 St. Paul Street
Burlington, VT 05401
Unpaid prep cook

2002 – 2013
State of Vermont
Vermont Superior Court
109 State Street
Montpelier, VT 05609
Superior Court Judge

2000 – 2001
The Iron Wolf
86 St. Paul Street
Burlington, VT 05401
Unpaid prep cook

1987 – 2002
O'Neill, Crawford & Green
159 Bank Street
Burlington, VT 05401
Partner

1984 – 1987
Manchester & O'Neill
95 Saint Paul Street
Burlington, VT 05401
Associate

1981 – 1984
Burlingham, Underwood & Lord
(firm dissolved)
New York, NY
Junior Associate

1980 – 1981
United States District Court for the District of Vermont
11 Elmwood Avenue

Burlington, VT 05401
Law clerk to the Honorable Albert W. Coffrin

Summer 1980
Palmer and Dodge
One Beacon Street
Boston, MA 02199
Summer law clerk

Summer 1979
Cades, Schutte, Fleming and Wright
100 Bishop Street
Honolulu, HI, 96813
Summer law clerk

Summer 1978
American Civil Liberties Union
4301 Connecticut Avenue, NW
Washington, D.C. 20008
Summer law clerk

Summer 1977
Bickel/Weed family
Nauset Heights Road
Orleans, MA 02653
Personal Chef/Cook

Other affiliations (uncompensated):

2010 – present
New England Organ Bank
60 First Avenue
Waltham, MA 02451
Board Member (2010 – present)
Vice-Chair (2013 – present)

2010 – present
Dismas of Vermont (Burlington Board)
103 East Allen Street
Winooski, VT 05404
Board Member (2010 – present)
Board President (2012 – 2013)

1993 – 2002
Fletcher Free Library
235 College Street

Burlington, VT 05401
Board Member (1993 – 1996)
Chair (1996 – 2002)

1991 – 1993
Green Mountain Audubon Society
255 Sherman Hollow Road
Huntington, VT 05462
Board Member

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. I did timely register 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.

Dismas of Vermont, Rev. Jack Hickey Award (2014)
Mercy Connections, Catherine McAuley Award (2008)
Howard Center, Thibodeau-Wall Award for Community Service (2008)
Harvard Law School, Board of Student Advisors (1978 – 1980)
Harvard Law School, Student Funded Fellowships (1978 – 1980)
Yale College, Departmental Honors in English (1977)
Yale College, Scroll and Key Society (1976 – 1977)

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

American Bar Association (1984 – 2002)
American Maritime Law Association (1981 – 1984)
American Trial Lawyers Association (now named American Association for Justice)
(1984 – 2002)
State Delegate (1986 – 1990)
Central Vermont Inns of Court, (2003 – 2004, 2013 – present)
New York Bar Association (1981 – 1984)
Vermont Bar Association (1981 – 2002)
Vermont Judicial Conduct Board (2009 – 2013)
Vermont Supreme Court Advisory Committee on Rules of Civil Procedure (2003 – 2011)
Vermont Supreme Court Advisory Committee on Criminal Rules (2014 – present)
Vermont Supreme Court Liaison member

Vermont Supreme Court Advisory Committee on Criminal Oversight (2014 – present)
Vermont Supreme Court Liaison member
Vermont Trial Lawyers Association (now named the Vermont Association for Justice)
(1984 – 2002)
Vermont Trial Judges Association (2002 – 2014)

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.

Massachusetts, 1980 (inactive)
New York, 1981 (inactive)
Vermont, 1984

There have been no lapses in membership, although as indicated, my memberships in Massachusetts and New York are inactive.

- 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 Second Circuit, 1995
United States District Court for the Northern District of New York, 1981
United States District Court for the Southern District of New York, 1981
United States District Court for the Eastern District of New York, 1981
United States District Court for the Western District of New York, 1981
United States District Court for the District of Vermont, 1984

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.

Burlington Tennis Club (1989 – 2002)
Burlington Committee on Open Government (2008)
Dismas of Vermont, Burlington (2010 – present)
Board Member (2010 – present)
Local President (2012 – 2013)

Fletcher Free Library (1993 – 2002)
Board Member (1993 – 2002)
Chair (1996 – 2002)
Green Mountain Audubon Society (1984 – 1998)
Board Member (1991 – 1993)
New England Organ Bank (2010 – present)
Vice-Chair (2013 – 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, 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 my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

Between November 2009 and February 2012, I wrote a wine blog. I am the sole author. The blog reviews individual bottles of wine and makes an effort to provide some historical context (without losing all the fun.) The blog is located at Tutawine.com. A copy of the entire content is attached.

Geoffrey Crawford, *Making a Case for Civil Justice System*, Burlington Free Press (1995). Copy supplied.

James Spink and Geoffrey Crawford, *Trial Advocacy in Vermont*, National Business Institute (1990). Copy supplied.

Note, *The Fire Statute: Burden of Proving the Shipowner's "Design or Neglect" is on the Cargo Interests*, 14 J. MAR. L. & COM. 118 (1983). 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.

Annual Reports of Vermont Civil Rules Committee (2006 – 2011). Copies supplied. I have been unable to obtain reports from previous years.

- 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.

May 7, 2014: Testimony at Judicial Confirmation Hearing before the Vermont Senate Judiciary Committee for appointment as an Associate Justice, Vermont Supreme Court. Recording supplied.

February 5, 2014: Testimony at House Judiciary Committee hearing on H.731 and H.545. Recording supplied.

February 9, 2010: Testimony at House Judiciary Committee hearing on mediation in foreclosure cases. Recording supplied.

February 26, 2009: Testimony at Judicial Retention Hearing before the Joint Committee on Judicial Retention. Recording supplied.

February 19, 2009: Testimony at Judicial Retention Hearing before the Joint Committee on Judicial Retention. Recording supplied.

February 11, 2009: Testimony at Judicial Retention Hearing before the Joint Committee on Judicial Retention. Recording supplied.

October 2008: Burlington Committee on Open Government's Report to City Council. Copy supplied.

March 12, 2003: Testimony at Judicial Retention Hearing before the Joint Committee on Judicial Retention. Recording supplied.

February 27, 2003: Testimony at Judicial Retention Hearing before the Joint Committee on Judicial Retention. Recording supplied.

February 19, 2003: Testimony at Judicial Retention Hearing before the Joint Committee on Judicial Retention. Recording supplied.

January 24, 2003: Testimony at Judicial Confirmation Hearing before the Vermont Senate Judiciary Committee for appointment as a Superior Court Judge. Recording supplied.

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

May 9, 2014: Panelist, "Tips for Appellate Practice," Vermont Association for Justice, Burlington, VT. Notes supplied.

April 14, 2014: Speaker, Undergraduate Course on Legal Issues, "Life of a Trial Lawyer," Champlain College, Burlington, VT. Notes supplied.

April 5, 2014: Awards address, Dismas of Vermont, Burlington, VT. Notes and video recording available at: <http://www.cctv.org/watch-tv/programs/burlington-dismas-house-annual-dinner-auction>.

March 20, 2014: Speaker, Bridge the Gap Program, Vermont Bar Association Mid-Year Meeting, Hilton Hotel, Burlington, VT. Handout supplied.

March 18, 2014: Panelist, "Electronic Discovery" and "Access to Vermont Court Records On-Line," Central Vermont Inns of Court, Richmond, VT. Notes supplied.

October 16, 2013: Speaker, swearing-in ceremony for Vermont Supreme Court, Burlington, VT. Remarks and press coverage supplied and video available at <http://www.wcax.com/story/23705080/judge-crawford-to-be-sworn-in-as-supreme-court-justice>.

March 2013: Speaker, Bridge the Gap Program, Vermont Bar Association Mid-Year Meeting, Sheraton Hotel, South Burlington, VT. I have no notes, transcript or recording but my remarks would have been substantially similar to those I made at the event on March 20, 2014, for which a handout has been supplied.

June 2012: Speaker, "Literature and the Law," Scrivener's Quill, Burlington, VT. Notes supplied.

June 2012: Speaker, Annual Vermont Judicial College, Vermont Supreme Court, Vergennes, VT. The presentation was on recent civil decisions by the Vermont Supreme Court. I have no notes, transcript or recording. The address of the Vermont Supreme Court is 109 State Street, Montpelier, VT 05609.

March 2012: Speaker, Bridge the Gap Program, Vermont Bar Association Mid-Year Meeting, Hilton Hotel, Burlington, VT. I have no notes, transcript or recording but my remarks would have been substantially similar to those I made at the event on March 20, 2014, for which a handout has been supplied.

January 27, 2012: Panelist, Continuing Legal Education: Blockbuster Evidence Seminar, Vermont Association for Justice, Burlington, VT. Notes and video supplied.

January 14, 2012: Panelist, "A Fresh Look at the Public Records Act," Vermont Bar Association, Mid-Winter Thaw, Montpelier, VT. The presentation concerned recent rulings and developments in the area of transparency and access to public records. I have no notes, transcript or recording. The address for the Vermont Bar Association is 35-37 Court Street, Montpelier, VT 05602.

December 14, 2010, Panelist, "Atticus Finch and the Professional Practice of Law," Vermont Bar Association, Montpelier, VT. The other panelists and I led a group discussion of the character Atticus Finch as a role model and influence in our own lives. I have no notes, transcript or recording. The address for the Vermont Bar Association is 35-37 Court Street, Montpelier, VT 05602.

September 10, 2010: Speaker, "Role of the Judge in Drug Court," United States Attorney's Office, Burlington, VT. Video supplied.

June 2010: Speaker, Presentation on Judicial Ethics, Annual Vermont Judicial College, Vermont Supreme Court, Basin Harbor Club, Vergennes, VT. Remarks supplied.

February 2010: Speaker, "Vermont Guardian Ad Litem in the 21st Century," Vermont Bar Association. I discussed the role of the GAL in Family Court. I have no notes, transcript or recording, but press coverage is supplied. The address for the Vermont Bar Association is 35-37 Court Street, Montpelier, VT 05602.

Approximately 2006 – 2009: Speaker, Law Day, Burlington School District, Burlington, VT. I would discuss the American legal system and answer questions from elementary school students. I have no notes, transcript or recording. The address of the Burlington School District is 150 Colchester Avenue, Burlington, VT 05401.

April 3, 2009: Panelist, Continuing Legal Education: Views from the Bench and Jury Box, Vermont Association for Justice, Burlington, VT. This panel discussion concerned common problems and issues in attorney performance as seen by judges and a former juror. I have no notes, transcript or recording. The address of the Vermont Association for Justice is 1 Main Street, Burlington, VT 05401.

March 19, 2009: Panelist, Continuing Legal Education Seminar: Handling Medical Malpractice Cases, Vermont Association for Justice, Burlington, VT. This event concerned issues experienced by practitioners in presenting medical malpractice cases. I have no notes, transcript or recording. The address of the Vermont Association for Justice is 1 Main Street, Suite 305, Burlington, VT 05402.

June 5, 2008: Speaker, "Big Night," Howard Center, Burlington, Vermont. Remarks and press coverage supplied.

May 8, 2008: Panelist, Vermont Association for Justice Annual Conference: Case Obstacles Panel, Vermont Association for Justice, Burlington, VT. This was a "practice pointer" event intended for attorneys involved in litigation. I have no notes, transcript or recording. The address of the Vermont Association for Justice is 1 Main Street, Suite 305, Burlington, VT 05402.

May 8, 2008: Speaker, Mercy Connections Annual Meeting, recipient of the Catherine McAuley Award, Burlington, VT. Remarks supplied.

June 16, 2006: Moot Court Participant, Moot Court Reenactment of the Extradition Trial of Bennett Young, Vermont Bar Association, Barre, VT. I have no notes, transcript or recording, but press coverage is supplied. The address of the Vermont Bar Association is 35-37 Court Street, Montpelier, VT 05602.

June 2004: Speaker, Annual Vermont Judicial College, Vermont Supreme Court, Bread Loaf Campus, Ripton, VT. This was a presentation on claims of intentional infliction of emotional distress. I have no notes, transcript or recording. The address of the Vermont Supreme Court is 109 State Street, Montpelier, VT 05609.

Approximately 2000 – 2002: Speaker, Law Day, Burlington School District, Burlington, VT. I would discuss the American legal system and answer questions from elementary school students. I have no notes, transcript or recording. The address of the Burlington School District is 150 Colchester Avenue, Burlington, VT 05401.

January 29, 1991: Speaker, Evidence in Trial Practice, National Business Institute, Burlington, VT. I discussed practical evidentiary problems at trial. I have no notes, transcript or recording. The address of the National Business Institute is 1218 McCann Drive, Altoona, WI 54720.

March 23, 1990: Speaker, Trial Advocacy, National Business Institute Burlington, Vermont. I discussed the preparation and presentation of personal injury trials. I have no notes, transcript or recording. The address of the National Business Institute is 1218 McCann Drive, Altoona, WI 54720.

- 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.

Donoghue, Mike, *Crawford Recommended for Judgeship on Vermont's U.S. District Court*, Burlington Free Press, March 24, 2014. Copy supplied.

Donoghue, Mike, *Two Named Finalists for Federal Judgeship in Vermont*, Burlington Free Press, March 13, 2014. Copy supplied.

With Wit and Intellect, Burlington Free Press, October 17, 2013. Copy supplied.

Governor Shumlin Appoints Judge Geoffrey Crawford to Vt. Supreme Court, St. Albans Messenger, September 21, 2013. Copy supplied.

Hirschfeld, Peter, *Crawford Elevated to Vt. High Court*, The Times Argus, September 21, 2013. Copy supplied.

Crawford Appointed to the Vermont Supreme Court, Burlington Free Press, September 20, 2013. Copy supplied.

Nancy Remsen, *Governor Peter Shumlin Names Geoffrey Crawford to Vermont Supreme Court*, Vermont Buzz, September 20, 2013. Copy supplied.

Vermont Public Radio, "Plans for Recount are Finalized," September 3, 2010. Article and audio recording available at:
http://www.vpr.net/news_detail/88751/interview-plans-for-recount-are-finalized/.

Vanessa Kittell and Erin Heins, *Mastering the Rules of Evidence: A Pragmatic View*, Vermont Association for Justice Spring 2012 newsletter. Copy supplied.

Huff, Mel, *A Judge Who Sees Clients, Not Offenders*, Summer 2009. Copy supplied.

Howard Center to Hold Big Night on Thursday, Burlington Free Press, May 31, 2008. Copy supplied.

Adam Silverman, *Vermont Justices Hit the Road*, Burlington Free Press, October 22, 2007. Copy supplied.

Kevin Picard, *A Kinder Court: Chittenden County rethinks its approach to Mentally Ill Offenders*, Seven Days, December 6, 2006. Copy supplied.

Associated Press, *Burlington Retailer Agrees to Turn Down Music to Abide by City Ordinance*, September 27, 2000. 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.

Between 1990 and 2000, I served as an acting judge in the small claims division of the Chittenden Superior Court, Burlington, Vermont. This was a volunteer position, in which I was appointed by the Administrative Judge for the Trial Courts. I served as needed, approximately six to eight times per year. Between 1992 and 1994, I served as a temporary hearing officer for the Vermont Department of Labor and Industry in Montpelier, Vermont hearing workers compensation appeals. I was appointed by the Commissioner of Labor and Industry (now the Department of Labor). I heard six cases and provided a recommended decision in each case to the Commissioner.

I was appointed as a Vermont Superior Court judge by Governor Howard Dean in November 2002 and confirmed by the Vermont Senate in 2003. I was retained in 2003 and 2009 by a vote of both houses of the Vermont legislature. The Vermont Superior Court is a general jurisdiction trial court including civil, family and criminal divisions. My time was divided evenly among these three divisions.

I was appointed as a Vermont Supreme Court associate justice by Governor Peter Shumlin in October 2013 and confirmed by the Vermont Senate in May 2014. The Vermont Supreme Court is the appellate court for all Vermont trial courts and certain state agencies.

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

I presided over several hundred cases in the 11 years that I served as a state trial judge. The majority were bench trials, such as divorces, juvenile cases, mental health commitment and involuntary cases, property tax appeals, and civil cases with no jury demand. My time was divided among family, criminal and civil divisions in roughly equal proportions. There are no jury trials in the family division. In the criminal and civil divisions, I tried six to eight jury trials to verdict per year.

- i. Of these, approximately what percent were:

jury trials:	15%
bench trials:	85%
civil proceedings:	65%
criminal proceedings:	35%

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

Since joining the Vermont Supreme Court in October 2013, I have written 11 decisions. The citations are:

Pahnke v. Pahnke, 2014 VT 2 (2014)

In re Bjerke Zoning Permit Denial, 2014 VT 13 (2014)

Lathrop v. Town of Monkton, 2014 VT 9 (2014)

Paine v. Buffa, 2014 VT 10 (2014)

State v. Reynolds, 2014 VT 16 (2014)

In re Grievance of John Aleong, 2014 VT 15 (2014)

In re Programmatic Changes to the Standard-Offer Program, 2014 VT 29 (2014)

Cameron v. Rollo, 2014 VT 40 (2014)

Hament v. Baker, 2014 VT 39 (2014)

Lasek v. Vermont Vapor Inc., 2014 WL 33 (2014)

Stone v. Town of Irasburg, 2014 VT 43 (2014)

Prior to joining the Vermont Supreme Court, I wrote two dissenting opinions while sitting by designation:

Vermont Studio Center, Inc. v. Town of Johnson, 2010 VT 59, 188 Vt. 223, 5 A.3d 904 (2010)

DeSantis v. Pegues, 2011 VT 114, 190 Vt. 457, 35 A.3d 152 (2011)

Although Vermont trial court decisions are not published, there is an informal database located at

<https://www.vermontjudiciary.org/MasterPages/tcdecisioncvl.aspx>. These decisions also appear in Westlaw. Decisions are submitted on an occasional basis. The list of my decisions in that database is:

Heco v. Johnson Controls, Inc., No. S0869-10 CnC, 2013 WL 6978697 (March 14, 2013); 2013 WL 2155550 (May 15, 2013); 2013 WL 6978689 (June 4, 2013); 2013 WL 6978688 (June 11, 2013); 2013 WL 6978661 (June 17, 2013); 2013 WL 6978662 (July 24, 2013); 2013 WL 6978667 (Nov. 1, 2013).

Mylan Technologies, Inc. v. Zydus Noveltech, Inc., No. S0041-09 CnC, 2012 WL 609864 (Feb. 15, 2012); 2012 WL 3638877 (Aug. 9, 2012); 2012 WL 5830108 (Oct. 2012); 2012 WL 6760836 (Dec. 21, 2012); 2013 WL 4478936 (June 10, 2013)

Aurora Loan Services, LLC v. Kirkpatrick, No. S0498-09 CnC, 2013 WL 3288062 (June 2013)

Alvarez v. Katz, No. 536-5-13 Cncv, 2013 WL 3288061 (May 31, 2013)

Osier v. City of Burlington, No. S1588-09 CnC, 2013 WL 1943095 (Apr. 30, 2013)

Technine, Inc. v. Simonds, No. S1210-09 CnC, 2013 WL 6978695 (March 27, 2013)

Demag v. Better Power Equipment, Inc., No. S955-11 CnC, 2013 WL 6978727 (March 7, 2013)

JW, LLC v. Ayer, No. S0721-12 CnC, 2013 WL 4860127 (Feb. 22, 2013)

Walsh v. Cluba, No. S0022-10 CnC, 2013 WL 1926373 (Feb. 21, 2013)

In re Robert Jones, No. S0036-09 CnC, 2013 WL 1926352 (Feb. 19, 2013)

Vt. Fed. Credit Union v. Noel, S0703-12 CnC, 2013 WL 861568 (Feb. 8, 2013)

Hoplite, LLC v. Catholic Univ. of Am., No. 1226-12-12 Cnsc, 2013 WL 592026 (Feb. 7, 2013)

Wake Robin Corp. v. Town of Shelburne, No. S0133-11 Cnc, 2013 WL 2295855 (Jan. 14, 2013)

Moraska v. Moraska, No. S0279-11 CnC, 2012 WL 6760837 (Dec. 10, 2012)

Atkins v. City of Burlington School Dist., No. S0463-11 CnC, 2012 WL 6649356 (Dec. 2012)

In re Burt Allen, No. S0898-10 CnC, 2012 WL 5830094 (Nov. 2012)

Clarendon & Pittsford R.R. Co. v. Richardson, No. S0071-09, 2012 WL 8133602 (Oct. 30, 2012)

Prive v. Vt. Asbestos Group, No. S1216-07 CnC, 2012 WL 8978099 (Oct. 11, 2012)

Mahoney v. Tara, LLC, No. S1543-07 CnC, 2012 WL 5379926 (Oct. 5, 2012)

Gero v. Davis, No. S0513-12 CnC, 2012 WL 5830109 (Oct. 2012)

Demarest v. Town of Underhill, No. S0937-10 Cnc, 2012 WL 8418573 (Sept. 7, 2012)

Fenton v. Bernstein, No. S0814-10 CnC, 2012 WL 4294070 (Aug. 31, 2012)

Mathieu v. Town of Westford, No. S0354-12 CnC, 2012 WL 3638920 (Aug. 13, 2012)

In re Colchester Leased Land Appeals, No. S1297-11, 2012 WL 9092646 (Jul. 19, 2012)

Marasch v. Trepanier, No. S1020-08 CnC, 2012 WL 2946710 (Jun. 19, 2012)

Cate v. City of Burlington, No. S0302-10 CnC, 2012 WL 8393560 (May 23, 2012)

Lafrance Arch. v. PointFive Dev. S. Burlington LLC, No. S0640-11 CnC, 2012 WL 8978072 (Apr. 27, 2012)

In re Ellen Ducharme, No. S0319-10 CnC, 2012 WL 3064515 (Feb. 10, 2012)

Johnson v. Fletcher Allen Health Care, No. S1508-08 CnC, 2012 WL 3064511 (Jan. 26, 2012)

Green Mountain Nursing Home v. Carlisle, No. S1568-10 CnC, 2012 WL 3134497 (2012)

Acquired Capital I, L.P. v. Griffin, No. 916-11 CnC, 2011 WL 8472945 (Dec. 1, 2011)

Regan v. Pomerleau, No. S0239-11 CnC, 2011 WL 8472944 (Oct. 27, 2011)

Foti Fuels, Inc. v. Kurrle Corp., Nos. 326-5-09 Wncv, 149-3-10 Wncv, 2011 WL 9159803 (Jul. 20, 2011)

S.C. Ireland Concrete Const. Corp. v. Dep't of Taxes, No. 925-12-10 Wncv, 2011 WL 8472938 (Jul. 1, 2011)

Northern Security Ins. Co. v. Pratt, No. 838-11-10 Wncv, 2011 WL 8472930 (May 19, 2011)

Vt. Small Business Dev. Corp. v. Fifth Son Corp., No. 293410, 2011 WL 10949238 (Mar. 31, 2011)

Vt. Human Rights Commission v. State, No. 32-1-10 Wncv, 2011 WL 1732771 (Feb. 7, 2011)

Emery v. Shell Oil Co., No. 80-2-09 Wncv, 2011 WL 197654 (Jan. 14, 2011)

Vt. State Employees Ass'n v. Vt. Agency of Nat. Res., Nos. 517-7-10 Wncv, 518-7-10 Wncv, 2011 WL 121649 (Jan. 6, 2011)

State v. Green Mountain Future, No. 758-10-10 Wncv, 2011 WL 8472923 (2011)

North Country Fed. Credit Union v. Carpenter, Nos. 392-6-10 Wncv, 2010 WL 8357562 (Nov. 23, 2010)

Voog v. Pallito, No. 174-3-10 Wncv, 2010 WL 6593300 (Nov. 5, 2010)

Wood v. Pallito, Nos. 947-12-09 Wncv et al., 2010 WL 4567692 (Nov. 3, 2010)

Rutland Herald v. Vt. State Police, No. 595-8-10 Wncv, 2010 WL 8544457 (Nov. 2, 2010)

Franco v. Tremblay, No. 740-10-10 Wncv, 2010 WL 4567691 (Oct. 27, 2010)

McGoff v. Acadia Ins. Co., No. 192-3-07 Wncv, 2010 WL 4064963 (May 7, 2010)

City of Montpelier v. Barnett, No. 145-3-10 Wncv, 2010 WL 6588550 (Aug. 25, 2010)

Coutu v. Town of Cavendish, No. 911-12-09 Wncv, 2010 WL 3302168 (Mar. 26, 2010)

Gundlah v. Pallito, No. 180-3-09 Wncv, 2010 WL 2259002 (Mar. 18, 2010)

Montpelier School Dist. v. Morrison-Clark, Inc., No. 540-7-09 Wncv, 2010 WL 1943801 (Mar. 8, 2010)

Felix v. Spaulding High School Union Dist., No. 411-6-08 Wncv, 2010 WL 1935670 (Mar. 3, 2010)

McGee v. State, No. 733-11-06 Wncv, 2010 WL 2324108 (Feb. 12, 2010)

Barraby v. Vt. State Employees Ass'n, No. 342-6-05 Wncv, 2010 WL 1943800 (Jan. 29, 2010)

Rand v. AJ's Sunoco, No. 438-6-09 Wncv, 2010 WL 1935672 (Jan. 28, 2010)

Weiler v. Hooshiari, No. 129-2-08 Wncv, 2009 WL 6769853 (Dec. 8, 2009)

State v. OneBeacon Am. Ins. Co., No. 485-7-07 Wncv, 2009 WL 6557344 (Nov. 5, 2009)

Campbell v. Stafford, No. 689-10-07 Wncv, 2009 WL 6565305 (Oct. 20, 2009)

Kane v. Lamothe, No. S 41-05 FC, 2006 WL 4958603 (Mar. 30, 2006)

State v. Swift, Nos. 1191-8-00 Wncr, 2006 WL 2627322 (Mar. 24, 2006)

Yates v. Cioffi, No. S 236-05 Fe, 2006 WL 4958602 (Feb. 17, 2006)

Atkins v. Labarge, No. S662-03 CnC, 2006 WL 4958605 (Feb. 16, 2006)

Gregoire v. Gregoire, No. S317-05 CnC, 2006 WL 7090950 (Feb. 2, 2006)

Sperling v. Allstate Indem. Co., No. 1393-04 CnC, 2006 WL 4911249 (Jan. 18, 2006)

Gabree v. Beauregard, No. S 343-04 Fe, 2005 WL 6369943 (Dec. 9, 2005)

Day v. Sullivan, No. 812-12-02 Wncv, 2004 WL 5025144 (Dec. 16, 2004)

Bettis v. George, No. 424-8-03 Wncv, 2004 WL 5575819 (Jul. 1, 2004)

Vt. Agency of Nat. Res. v. Wellman, No. 101-6-04 Vtec, 2004 WL 5452901 (Vt. Env'tl. Ct. 2004)

Levine v. Wyeth, No. 670-12-01 Wncv, 2004 WL 5456809 (July 30, 2004)

Drown v. Granite Importers, Inc., No. 217-4-02 Wncv, 2004 WL 6033879 (Jan. 28, 2004)

Badgley v. Walton, No. 538-11-02 Wmcv, 2003 WL 25941246 (Apr. 30, 2003)

- 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. *State v. Williams*, No. 3624-8-06 CnCr. (Unpublished decisions supplied.)

This criminal case was tried in Chittenden District Court in 2008. It concerned a shooting in Essex Junction that left two people dead and two seriously injured. The case raised many issues, including suppression of the defendant's statements to police, questions of competency and sanity, and the elements of the lesser-included offense of manslaughter. After a week-long jury trial, the defendant was convicted of first degree homicide. I imposed a life sentence without parole. The judgment was affirmed in *State v. Williams*, 188 Vt. 413 (2010).

State's counsel was Mary Morrissey, Chittenden Co. State's Attorney's Office, 32 Cherry Street, Burlington, VT 05401, 802.863.2865.

Defendant's counsel was Margaret Jansch, Chittenden Co. Public Defender, 192 College Street, 3rd Floor, Burlington, VT 05401, 802.863.6323.

2. *State v. Green Mountain Future*, No. 758-10-10 WnCv, 2011 WL 8472923.

This civil case concerned the application of Vermont campaign finance disclosure requirements to a PAC operated by the Democratic Governors Association. I found the statute to be constitutional, and I imposed a civil fine for the PAC's failure to register. On appeal, the Vermont Supreme Court affirmed my ruling on the constitutionality of the campaign finance statute. The Court identified an additional factor to be considered in setting the level of the fine, and remanded as to this aspect of the case. *See State v. Green Mountain Future*, 2013 Vt. 87 (2013). The parties later reached a settlement on an increased fine.

State's counsel were Megan Shafritz and Eve Jacobs Carnahan, Vermont Attorney General's Office, 109 State Street, Montpelier, VT 05609, 802.828-3187.

Defendant's counsel was Joshua Diamond, P.O. Box 1460, Montpelier, VT 05601, 802.223.6182.

3. *Levine v. Wyeth*, No. 670-12-01 WnCv, 2004 WL 5456809, *aff'd*, 183 Vt. 76 (2006), *aff'd*, 555 U.S. 555 (2009).

This was a tort case arising from the loss of a medical patient's arm following a prescription drug injection. The case resulted in a jury verdict of \$8 million. I was assigned to the case shortly before trial when it was discovered that the presiding judge had a conflict. I was responsible for drafting the charge and overseeing the week-long trial. My principal responsibility, however, was ruling

on the post-trial motion for judgment as a matter of law. The motion raised questions of federal preemption relating to FDA approval of pharmaceutical labeling. The U.S. Supreme Court affirmed the ruling at the trial court and state supreme court level that the FDA action did not preempt state tort law remedies.

Plaintiff's counsel was Richard Rubin, 237 N. Main Street, Suite 3, Barre, VT 05641, 802.479.2514.

Defendant's local counsel was R. Joseph O'Rourke, P.O. Box 310, Rutland, VT 05702, 802.786.1010.

4. *Trudell v. State*, No. 612-8-10 WnCv (unpublished decision supplied), *aff'd* by 2013 VT 18, _____ Vt. _____, 71 A.3d 1235 (Vt. 2013).

This case in Washington Superior Court challenged the early deadline for independent candidate registration for state-wide office in Vermont. As a result of federal election law requirements growing out of the Iraq war, Vermont moved the date for its primary elections into late August. At the same time, it moved the registration deadline for all candidates, including independent and small party candidates not running to primaries, to a date in June. Several independent candidates challenged the rule as an unnecessary burden on the exercise of their right to run for office. I upheld the legislation. The Vermont Supreme Court affirmed, agreeing that the deadline was a reasonable measure that did not unduly burden independent candidates.

Plaintiff's counsel was Charles Merriman, P.O. Box 1440, Montpelier, VT 05601, 802.223.1112 x104.

Defendant's counsel was Keith Aten, P.O. Box 1278, Montpelier, VT 05601, 802.225.6495.

5. *Heco v. Johnson Controls*, No. 869-10 CnCv. Multiple trial court rulings appear at 2013 WL 6978697, 2013 WL 2155550, 2013 WL 6978689, 2013 WL 6978688, 2013 WL 6978661, 2013 WL 6978662, 2013 WL 6978667.

This was a products liability case brought against the manufacturer of a car seat in Chittenden Superior Court, Civil Division. The case was filed by a motorist who alleged that the driver's seat failed to protect her from quadriplegic injury in a rear-end collision. It raised issues of component manufacturer liability, indemnification of the auto manufacturer, seat belt use and admission of expert testimony. After a two-week trial, the jury rendered a verdict of approximately \$43 million for the plaintiff. It is currently on appeal.

Plaintiff's counsel were James Gilbert, 5400 Ward Road, Suite 200, Arvada, CO 80002, 303.431.1111, and Robert Langdon, 911 Main Street, Lexington, MO 64067, 800.397.4910.

Defendant's counsel were Richard Wray, Reed Smith, 10 S. Wacker Drive, #4000, Chicago, IL 60606, 312.207.3891, and Thomas McCormick, P.O. Box 638, Burlington, VT 05402, 802.863.3494.

6. *In Re Ambassador Ins. Co.*, No. S444-83 WnCv. (Unpublished decision supplied.)

This is a long-running insurance insolvency in Washington Superior Court. I was specially assigned to the case from 2009 until I left the trial court. During that period, I heard and decided the bar date issue, which set a deadline for claims in one of Vermont's oldest cases. The bar date established a deadline for policyholders to give notice of claims against their companies. It was the first step in bringing a case that has been pending for 30 years to an orderly close. The bar date ruling is currently on appeal to the Vermont Supreme Court.

Counsel of insurer was George K. Bernstein, 5335 Wisconsin Avenue NW, Ste. 440, Washington, D.C. 20015, 202.452.8010.

Parties opposing the bar date were represented by Andre Bouffard, P.O. Box 190, Burlington, VT 05402, 802.863.2375.

7. *Wake Robin Corp. v. Town of Shelburne*, No. SO133-11 CnC. (Unpublished decision supplied.)

This was a property tax appeal in Chittenden Superior Court filed by a large retirement community, which included independent living and nursing care facilities. The case presented complex issues of business appraisal. These included the requirement that the appraisal exclude "going concern" value not related to the value of the land and buildings. Since the appraisers relied to a large extent on income-based methods, it was difficult for both sides to develop a satisfactory methodology for separating out income from the service or caregiving side of the business. My decision set the appraised value of the retirement community at \$40 million for property tax purposes. My decision issued in December 2012. It was not appealed.

Plaintiff's counsel was Eric Miller, P.O. Box 66, Burlington, VT 05402, 802.864.9891.

Defendant's counsel was Robert Fletcher, P.O. Box 1507, Burlington, VT 05402, 802.660.2555 x214.

8. *Drumheller v. Drumheller*, No. 668-9-04 CnFc, (unpublished decision supplied), *aff'd in part, rev'd in part*, 185 Vt. 417 (2009).

This was a divorce case in Chittenden Family Court that raised significant appraisal issues in the context of a large marital estate. The division of property between the spouses required that I value a large national printing company and the underlying real estate. It was the first reported case in Vermont concerning the valuation of an “ESOP” corporation, which is a company whose shares are held by its employees. The appellate decision affirmed the trial court on almost all issues and established principles of business and real estate appraisal that were unsettled. The case was remanded for further consideration of the parties’ children’s savings accounts.

Plaintiff’s counsel was Karen McAndrew, P.O. Box 988, Burlington, VT 05402, 802.864.5751.

Defendant’s counsel was Robert O’Neill, P.O. Box 369, Burlington, VT 05402, 802.658.0220.

9. *Century Partners, LP v. Lesser Goldsmith Enterprises*, No. 1116-04 CnC (unpublished decisions supplied), *aff'd*, 184 Vt. 215 (2008).

This was a commercial lease dispute filed in Chittenden Superior Court that raised novel questions under Vermont law concerning the application of the implied covenant of good faith and fair dealing. The case concerned a claim by the landlord that the commercial tenant, the operator of a natural foods grocery store, had failed to obtain zoning approval for certain modifications. Because the landlord had blocked zoning permission by refusing to sign an application for a building permit, I ruled that the landlord’s actions violated the implied duty to cooperate in good faith. My opinion was affirmed on appeal.

Plaintiff’s counsel was Christina Jensen, P.O. Box 728, Burlington, VT 05402-0728, Burlington, VT 05402, 802.864.5756.

Defendant’s counsel was Robert O’Neill, P.O. Box 369, Burlington, VT 05402, 802.658.0220.

10. *In re Racine*, No. 619-8-10 Wncv, (Vt. Super. Ct.)

This case was the state-wide recount for the Democratic primary race in 2010. The Washington Superior Court, where I was the presiding judge, is by statute the court which oversees state-wide counts. I convened a meeting of the four candidates and reached agreement on the process. The clerk and I were responsible for overseeing the vote count in our own county and collecting and tallying the vote counts from the other 13 counties. Over the course of a week-long vote count, there were no significant disputes. The winner, then State

Senator Peter Shumlin, now serves as governor. Other candidates included Deb Markowitz, now Secretary of the Agency of Natural Resources and Douglas Racine, now Secretary of Administration.

The candidates represented themselves.

- 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. *Levine v. Wyeth*, No. 670-12-01 Wncv, 2004 WL 5456809 (July 30, 2004), *aff'd by* 2006 VT 107, 183 Vt. 76, 944 A.2d 179, *aff'd by* 555 U.S. 555 (2009).

Plaintiff's counsel was Richard Rubin, 237 N. Main Street, Suite 3, Barre, VT 05641-4124, 802.479.2514.

Defendant's local counsel was R. Joseph O'Rourke, P.O. Box 310, Rutland, VT 05702, 802.786.1010.

2. *State v. Green Mountain Future*, No. 758-10-10 Wncv, 2011 WL 8472923 (2011), *aff'd in part and reversed and remanded in part by* 2013 Vt. 87 (2013).

State's counsel were Megan Shafritz and Eve Jacobs Carnahan, Vermont Attorney General's Office, 109 State Street, Montpelier, VT 05609, 802.828-3187.

Defendant's counsel was Joshua Diamond, P.O. Box 1460, Montpelier, VT 05601, 802.223.6182.

3. *State v. Williams*, No. 3624-8-06 CnCr (unpublished motion to suppress decision previously supplied in response to 13c), *aff'd by* 2010 VT 83, 188 Vt. 413, 8 A.3d 1053 (Vt. 2010).

State's counsel was Mary Morrissey, Chittenden Co. State's Attorney's Office, 32 Cherry Street, Burlington, VT 05401, 802.863-2865.

Defendant's counsel was Margaret Jansch, Chittenden Co. Public Defender, 192 College Street, 3rd Floor, Burlington, VT 05401, 802.863.6323.

4. *State v. Reynolds*, 2014 VT 16, __ Vt. __, __ A.3d __, 2014 WL 840813 (Vt. 2014).

State's counsel was Christopher Moll, P.O. Box 38, Hyde Park, VT 05655, 802.318.0027.

Defendant's counsel was Matthew Valerio, 6 Baldwin Street, 4th Floor, Montpelier, VT 05633, 802.828.3168.

5. *Stone v. Town of Irasburg*, 2014 VT 43 (2014)

Plaintiff- Appellant's counsel was Charles Merriman, Tarrant, Gillies, Merriman & Richardson, 44 E. State St., P.O. Box 1440, Montpelier, VT 05601, (802) 223-1112 x104.

Defendant- Appellee's counsel was Philip Woodward, Woodward & Kelley, PLLC, 1233 Shelburne Road, Ste. D-3, S. Burlington, VT 05403, (802) 652-9699.

6. *Hogaboom v. Jenkins*, No. 80779-11 CnCV (unpublished decision supplied), *aff'd* by 2014 VT 11, __ Vt. __, __ A.3d __, 2014 WL 840761 (Vt. 2014).

Plaintiff's counsel was Grant Rees, 30 Kimball Avenue, Ste. 306, South Burlington, VT 05403, 802.660.9000.

Defendant's counsel was Ebenezer Punderson, 99 Maple Street, Ste. 10B, Middlebury, VT 05753, 802.989.7342.

7. *Wake Robin Corp. v. Town of Shelburne*, No. S0133-11 Cnc, 2013 WL 2295855 (Vt. Super. Ct. Jan. 14, 2013) (unpublished decision previously supplied in response to 13c).

Plaintiff's counsel was Eric Miller, P.O. Box 66, Burlington, VT 05402, 802.864.9891.

Defendant's counsel was Robert Fletcher, P.O. Box 1507, Burlington, VT 05402, 802.660.2555 x214.

8. *Drumheller v. Drumheller*, No. 668-9-04 CnFc (unpublished decision previously supplied in response to 13c), *aff'd in part and rev'd and remanded in part* by 2009 VT 23, 185 Vt. 417, 972 A.2d 176 (Vt. 2009).

Plaintiff's counsel was Karen McAndrew, P.O. Box 988, Burlington, VT 05402, 802.864.5751.

Defendant's counsel was Robert O'Neill, P.O. Box 369, Burlington, VT 05402, 802.658.0220.

9. *Heco v. Johnson Controls, Inc.*, No. S0869-10 CnC

- a. Summary Judgment Decision, 2013 WL 6978697 (March 14, 2013)
- b. Summary Judgment Decision, 2013 WL 2155550 (May 15, 2013)
- c. Motions in Limine, 2013 WL 6978689 (June 4, 2013)
- d. Motion for Interlocutory Appeal, 2013 WL 6978688 (June 11, 2013)
- e. Ruling on Seat Belt Use, 2013 WL 6978661 (June 17, 2013)
- f. Order re: Final Judgment, 2013 WL 6978662 (July 24, 2013)
- g. Final Judgment Order, 2013 WL 6978663, 2013 WL 6978668 (Aug. 2, 2013)
- h. Post-Judgment Motions, 2013 WL 6978667 (Nov. 1, 2013)
- i. Amended Final Order, 2013 WL 6978657 (Nov. 8, 2013)

Plaintiff's counsel were James Gilbert, 5400 Ward Road, Suite 200, Arvada, CO 80002, 303.431.1111, and Robert Langdon, 911 Main Street, Lexington, MO 64067, 800.397.4910.

Defendant's counsel were Richard Wray, 10 S. Wacker Drive, #4000, Chicago, IL 60606, 312.207.3891, and Thomas McCormick, P.O. Box 638, Burlington, VT 05402, 802.863.3494.

10. *Trudell v. State*, No. 612-8-10 WnCv (unpublished decision previously supplied in response to 13c), *aff'd* by 2013 VT 18, __Vt.__, 71 A.3d 1235 (Vt. 2013).

Plaintiff's counsel was Charles Merriman, P.O. Box 1440, Montpelier, VT 05601, 802.223.1112 x104.

Defendant's counsel was Keith Aten, P.O. Box 1278, Montpelier, VT 05601, 802.225.6495.

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

Levine v. Wyeth, 183 Vt. 76 (2006), *cert. granted*, 552 U.S. 1161, 128 S. Ct. 1118, *aff'd*, 555 U.S. 555, 129 S. Ct. 1187 (2009).

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.

In Re Jones, 2013 Vt. Unpub. Lexis 221 (2013). This case was a post-conviction relief case seeking relief on the basis of ineffective assistance of counsel. The pro se complaint raised a double jeopardy issue and other claims. The state filed a motion for summary judgment on the double jeopardy issue. I understood the petitioner to state at the hearing that the only claim he was pursuing was the double jeopardy claim, and I granted final judgment to the state. The Vermont Supreme Court affirmed my ruling on the double jeopardy issue but remanded for consideration of the remaining claims.

State v. Green Mountain Future, 2013 Vt. 87 (2013). This case concerned the enforcement of campaign finance disclosure requirements established by state legislation. My decision upholding the disclosure requirements on constitutional grounds was affirmed. The case was remanded for consideration of an additional factor in assessing a civil penalty against the defendant. (Trial Court Decision: 2011 WL 8472923 (2011)).

O'Brien v. Synnott, 72 A.3d 331 (2013). This case involved a motorist who was shot by the police after he attempted to run over an officer. He was taken to the emergency room for treatment. He claimed that he was beaten in his hospital bed by a group of police officers and that his blood was drawn without permission. This case concerned his lawsuit against the hospital for alleged failure to protect him from assault and against the nurse for battery. I granted summary judgment on both counts. The Vermont Supreme Court affirmed the summary judgment against the hospital. It reversed the summary judgment in favor of the nurse on the ground that there was a factual dispute as to whether the defendant had consented to the blood draw through his silence. (Copy of trial court decision supplied).

Ying Ji v. Heide, 2013 Vt. 81 (2013). When plaintiff's counsel failed to appear for a hearing, previously rescheduled at his request, I dismissed the case. In a three-two decision, the Vermont Supreme Court reinstated the case and required prior notice of the potential sanction of dismissal for failure to appear.

Lesage v. Town of Colchester, 81 A.3d 1142 (2013). The issue in this case was whether the "amenity value" of vacation camps can be added to the value of the structure. I ruled that because the "amenity value" was captured in the cost of the underlying land, which is appraised and taxed separately, the proper measure of appraisal was the value of the structure. The Vermont Supreme Court reversed, holding that municipalities can add the amenity value to the appraisal because this value was reflected in the history of sales of the summer camps.

Allen v. Moorcroft, 2012 WL 1293691 (2012). This trial concerned a dispute over the sale of a used car. I entered judgment in favor of the purchasers on the

majority of their claims, as well as for attorneys' fees. The appeal concerned both the merits of the decision and a pre-judgment attachment. The judgment was affirmed in all respects except that it was reversed and remanded as to my denial of the seller's claim for certain insurance proceeds. (Trial court decision supplied).

Eaton v. Prior, 192 Vt. 249 (2012). This was a negligence claim filed against a lie detector operator by the subject of the exam. I ruled that the plaintiff's claims were subject to the three-year statute of limitations for personal injury. The Vermont Supreme Court reversed on the ground that some of the claims were contractual in nature and subject to the longer six-year period. (Copy of trial court decision supplied).

City of Montpelier v. Barnett, 191 Vt. 44 (2012). This case concerned control over a town reservoir. It had been the subject of two prior Vermont Supreme Court decisions holding that the city could exclude swimmers and other recreational users from the waters. I agreed with these prior decisions. The Vermont Supreme Court reversed after determining that a recent change in the regulation of state waters deprived the city of exclusive control over the reservoir. (Trial court decisions: 2010 WL 6588549 (Jan. 28, 2010); 2010 WL 6588531 (Apr. 22, 2010)).

Weiler v. Hooshiari, 189 Vt. 257 (2011). This was a tort case involving a fall of snow and ice from a roof onto the tenant's car. She filed suit against the landlord seeking damages under the implied warranty of habitability. I held a bench trial and awarded damages on that theory. The Vermont Supreme Court ruled that the implied warranty was limited to claims of personal health and safety and did not extend to property damage claims. (Trial court decisions: 2009 WL6769852 (Dec. 18, 2009) and 2009 WL 6769853 (Dec. 8, 2009)).

Coutu v. Town of Cavendish, 189 Vt. 336 (2011). Plaintiff, a private helicopter pilot, sued the town and the state aeronautical board for injunctive relief when he was unable to obtain approval to land on his property. I dismissed both actions on the ground that plaintiff had missed the deadline for an appeal of municipal or agency action. The Vermont Supreme Court agreed that the claim against the town was time-barred. The Court reversed on the claim against the state board on the ground that no ruling – rather than an actual denial – had issued and that in the case of no ruling, injunctive relief was still potentially available. (Trial court decision: 2010 WL 3302168 (2010)).

State v. Albarelli, 189 Vt. 293 (2011). This was a disorderly conduct case brought against a man who shouted at volunteers at a voter registration table on a public street. The jury convicted. I denied a motion for acquittal filed on insufficiency of evidence grounds. The Vermont Supreme Court reversed on the ground that although the volunteers testified that they felt threatened and afraid, the conduct

viewed from an objective perspective was insufficient to cause a reasonable person to fear injury.

Bashara v. Caton, 2011 WL 4976845 (2011). This was a dispute between neighbors over a boundary. Defendant failed to appear at a merits hearing concerning injunctive relief. I ordered injunctive relief as sought by the plaintiff and asked the plaintiff's attorney to advise the court within days whether his client continued to seek money damages. When I received nothing from the plaintiff within the time-frame, I entered final judgment in his favor. He later filed a motion to reopen the case in order to present a money damage claim. I denied the request. The Vermont Supreme Court reversed on the ground that I had not advised the plaintiff's attorney that dismissal was a possible sanction if he missed the deadline.

Hawkes v. Spence and Lacaillade v. Hardaker 178 Vt. 161 (2005). This appeal concerned two cases in which parents filed post-judgment motions to modify their parental rights and responsibilities ("PRR") due to a proposed move by the custodial parent. The cases were consolidated for purposes of appeal. The case in which I had ruled was *Lacaillade v. Hardaker*. Vermont precedent at the time of my decision had allowed the custodial parent to move, even out of state, without reconsideration of the PRR decision. This important ruling changed the rule and permitted the non-custodial parent to seek a modification of PRR upon a demonstration that the move would have a substantial impact on his or her relationship with the child. (Trial court decision supplied).

State v. Memoli, 189 Vt. 237 (2011). The Vermont Supreme Court reversed my ruling in the course of trial that questioning the victim about her prior sexual conduct was barred by the rape shield statute. The case was remanded for a new trial at which the defense could introduce testimony about the victim's alleged practice of exchanging sex for drugs. (Trial court decision supplied).

Drumheller v. Drumheller, 2009 VT 23, 185 Vt. 417, 972 A.2d 176 (Vt. 2009). This divorce decision was affirmed in all respects but one. It was reversed and remanded for further consideration of whether savings accounts established for the parties' children were marital property. (Trial court decision supplied).

Northern Security Ins. Co. v. Mitec Electronics, 184 Vt. 303 (2008). This case concerned claims for insurance coverage for environmental pollution. It has a very long history that predated my involvement. In 1999 the insurer filed a declaratory action seeking a judgment that it had no obligation to cover the losses. In 2004 the trial court ruled in favor of the insurer on the merits. The insurer then sought to amend the complaint to recover its legal fees. A different trial judge granted the motion to amend in 2005. I entered the case subsequently and entered a judgment for the legal fees. This judgment was reversed on the ground that the court lacked authority to permit the amendment of the complaint after it issued its original ruling in 2004. (Trial court decision supplied).

Forney v. Terjelian, 2007 WL 5313524 (2007). In this parentage case, the father-plaintiff sought to prove that the mother of his child and her new boyfriend were engaged in sexual abuse of the parties' three-year-old daughter. I heard from both sides and issued a ruling in favor of the mother. The father appealed, and the Vermont Supreme Court remanded for additional hearing time.

Solemno v. Phillips, 2007 WL 5313382 (2007). The plaintiff was the ex-son-in-law of the defendant. He sought a restraining order after an incident in which he believed that the defendant had threatened to hit him with his automobile. I issued a relief from abuse order. The court reversed on the ground that my findings on the record were insufficient to demonstrate that the plaintiff's fear was reasonable and grounded in a history of prior threatening conduct.

Brumstead v. Murtha, 2007 WL 5314743 (2007). This post-judgment divorce dispute concerned the interpretation of a provision in the stipulated divorce decree that required the father to pay various expenses after age 18. I construed the reference to college expenses (not in dispute) and the reference to medical and other expenses in pari materia and of equal duration. The Vermont Supreme Court found the decree to be ambiguous and remanded it for further fact-finding. (Trial court decision supplied).

Gregoire v. Gregoire, 2006 WL 5924243 (2006). This was a dispute over ownership of a family business. As the parents neared retirement, they placed the property in their son's name with the understanding that he would operate the business for their benefit as well as his own. After he married, he ceased making payments to his parents. They sued him on a theory of constructive trust. I conducted a bench trial and ruled that the son was liable on a theory of resulting trust. The son appealed on the ground that he and his attorneys were unprepared at trial to respond to a claim of resulting trust. The case was remanded for a second trial. (Trial Court Decision: 2006 WL 7090950 (Feb. 2, 2006)).

LeBarron v. Spence, 2006 WL 5847249 (2006). This was a post-judgment motion to modify parental rights and responsibilities ("PRR") and parent-child contact ("PCC"). The hearing followed a prior appeal on the issue of PRR only. The defendant (non-custodial parent) dropped his motion to modify PRR shortly before the hearing and continued to seek a modification of PCC only. The custodial parent moved to dismiss the post-judgment case on the ground that the only live issue was PRR. I disagreed and held the hearing on PCC. On appeal, the Vermont Supreme Court ruled that principles of collateral estoppel barred the relitigation of the PCC issue. (Trial court decision supplied).

O'Brien Bros. v. Plocienik, 182 Vt. 409 (2005). I found that the course of the parties' conduct, including providing personal financial information at the time the second lease was signed, was sufficient evidence of the parties' intent to provide a personal guaranty. The Vermont Supreme Court reversed on the

ground that a guaranty cannot be implied and that in the absence of a signed document, the president had no personal liability for the lease payments. (Trial court decision supplied).

Hopkinton Scout Leaders Assoc. v. Town of Guilford, 176 Vt. 577 (2004). This was a case involving failure of taxpayer to comply with specific statutory requirements for tax exemption of Boy Scout property, which resulted in denial of exemption. Several Massachusetts boy scout troops formed an umbrella corporation to hold title to their scout camp in southern Vermont. By statute, property belonging to a scouting organization is tax-exempt so long as the organization is chartered. The member troops were all chartered; their umbrella corporation was not. I ruled that they were entitled to the exemption since any one of them could have held sole title and have been exempt. The Vermont Supreme Court applied the tax exemption provision more strictly and denied the exemption since the title owner did not meet the statutory criteria.

- 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.

Decisions of the full Vermont Supreme Court (five justices) are published in Vermont Reports, Atlantic Reports, and on Westlaw. The three-justice summary decisions are unpublished but are available on Westlaw. Although all Vermont trial court decisions are unpublished, certain opinions can be located at the informal database at <https://www.vermontjudiciary.org/MasterPages/tcdecisioncvl.aspx>. Any decisions that I issued as an acting small claims judge for the Chittenden Superior Court are located in individual case files at the Vermont public records repository in Middlesex, Vermont. The six recommendations that I made as a temporary hearing officer for the Vermont Department of Labor and Industry are stored in case files at the renamed Department of Labor in Montpelier, Vermont.

- 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.

Cameron v. Rollo, 2014 VT 40 (2014)

Hament v. Baker, 2014 VT 39 (2014)

Stone v. Town of Irasburg, 2014 VT 43 (2014)

State of Vermont v. Green Mountain Future, No. 758-10-10 Wncv, 2011 WL 8472923 (Vt. Super. Ct. 2011), *aff'd in part and rev'd in part*, 2013 VT 87, 2013 WL 5387153 (2013)

Wood v. Pallito, Nos. 947-12-09 Wncv et al., 2010 WL 4567692 (Nov. 3, 2010)

State v. Williams, No. 3624-8-06 CnCr (unpublished decision previously supplied in response to 13c), *aff'd*, 188 Vt. 413 (2010)

Trudell v. State, 2013 VT 18 (2013)

Hogaboom v. Jenkins, No. S0779-11 CnCv (unpublished decision previously supplied in response to 13d), *aff'd*, 2014 WL 840761, 2014 VT 11 (2014)

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on any federal court of appeal.

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.

Our Vermont recusal system operates as follows: a judge may grant a recusal motion but he or she may not deny it. Instead, if there is a dispute over recusal, the judge refers the matter to the Administrative Judge.

Over the years I have granted recusal motions in a small number of cases involving parties or lawyers I know personally. More frequently, I disqualify myself in advance when I first review the file. My practice is to disqualify myself in all cases involving my two former law partners and to disclose the potential conflict in the case of a small number of lawyers who are personal friends. If a party objects to my participation after the disclosure, I always grant the recusal motion. These conflicts are relatively rare. Occasionally a party, often pro se, will file a recusal motion on grounds such as prior rulings in related cases which do not justify disqualification. If I do not grant the motion, I refer it to the Administrative Judge. I do not recall an instance when she granted a recusal motion after referral. I do not maintain a record of the cases in which I have disqualified myself.

Since becoming an appellate judge in October 2013, the cases on which I am disqualified has grown to include cases I heard or participated in as a trial court judge. The great majority are identified by staff who mark me as disqualified without any action on my part. Occasionally I disqualify myself if my prior involvement escaped the notice of our staff. I do not maintain a record of the cases in which I have disqualified myself.

15. Public Office, Political Activities and Affiliations:

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

In addition to judicial office, I served as a board member on the Fletcher Free Library Board from 1993 to 2002, after I was appointed by the Burlington City Council. I served as chair from approximately 1996 to 2002.

- 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.

I have never held an office in any political party, nor have I held a position or played a role in a political campaign.

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 Judge Albert W. Coffrin, United States District Court Judge for the District of Vermont, from 1980 to 1981.

- 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.

1981 – 1984
Burlingham, Underwood & Lord
(firm dissolved)
New York, NY
Junior Associate

1984 – 1987
Manchester & O'Neill
95 Saint Paul Street
Burlington, VT 05401
Associate

1987 – 2002
O'Neill, Crawford & Green
159 Bank Street
Burlington VT 05401
Partner

- 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 Honorable Albert W. Coffrin, I then worked for three years at Burlingham Underwood & Lord, a maritime law firm in New York City, from 1981 to 1984. As a junior associate, I spent two years with the litigation department and one year with the ship finance department. I worked on charter party disputes concerning the lease and hire of merchant ships and collision cases involving property damage to ships, shoreline facilities, and barges. I also worked on ship mortgage and registration transactions.

In 1984, I returned to Burlington, Vermont, to join Jerome O'Neill, a former law clerk for the same judge I had clerked for and his partner, Robert Manchester. My primary responsibility at Manchester & O'Neill was writing briefs for both partners, both at the trial and appellate levels, although I participated in some trials. My cases included negligence claims, wrongful death actions, and workers compensation appeals.

In 1987, Mr. O'Neill and I formed O'Neill, Crawford & Green. We specialized in personal injury litigation on the plaintiff's side, as well as in commercial litigation. My practice focused on civil lawsuits and workers compensation claims. I tried cases to verdict in most years. In the 1980s, I also took on appointed federal criminal defense assignments through the CJA program. I represented about six to eight felony defendants in total. By 1990, I turned entirely to civil litigation and the work of building and running the law firm.

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

The clients of Burlingham Underwood & Lord were primarily ship owners and banks which lent to ship owners.

While at Manchester & O'Neill, I represented plaintiffs involved in personal injury cases.

At O'Neill Crawford & Green, I represented plaintiffs involved in personal injury cases. Between 1987 to approximately 1990, I also represented criminal defendants in federal court through the CJA assigned counsel program. I also represented commercial clients in two constitutional challenges to state legislation and in one significant bankruptcy case.

- 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.

As a young lawyer in New York City, I appeared in court about once per month. When I returned to Vermont in 1984, I appeared in court frequently. My work from 1984 to 2002 was entirely taken up with litigation. I was in court in Vermont on a weekly basis for trials, motions hearings, and status conferences. During this time I also handled workers compensation appeals before the Vermont Department of Labor and Industry.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 10% |
| 2. state courts of record: | 75% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 15% |

- 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.

Over the course of 15 years of practice with my former firm, I tried up to four cases per year. In some years no cases went to trial. Although I do not have an exact count, I tried approximately a dozen cases to verdict. Between 1987 and 1990, I tried two to three cases as a junior lawyer with the help of my senior partner Jerome O'Neill. Starting in 1990, I either appeared as sole counsel or co-counsel. The greatest number of verdicts in one year was four, but one or two was more common. In a few years no cases went to trial.

- i. What percentage of these trials were:

- | | |
|--------------|------|
| 1. jury: | 100% |
| 2. non-jury: | 0% |

- 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 Supreme Court of the United States.

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

The information requested dates back over twenty-four years, and I no longer have access to the records relating to my private practice. Upon becoming a judge, I left my records with my former law firm. Paper records have been discarded, and the computerized records which the firm now maintains do not exist for my time in private practice. As a result, I was only able to find records for eight cases.

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

1. *National Electrical Mfrs. Ass'n v. Sorrell*, No. 1:99CV203, 72 F.Supp. 2d 449 (D.Vt. 1999), *rev'd*, 272 F.3d 104 (2d Cir. 2001).

This was a constitutional challenge to mandatory labeling. In this case, the product was the fluorescent light bulb. The label in dispute concerned a recycling notice which would appear on every fluorescent tube sold in Vermont. Our client's Commerce Clause objection to the notice was that it was burdensome to provide a special label for fluorescent bulbs for sale in a single state. I served as local counsel for the National Electrical Manufacturers Association. We won at a bench trial at the District Court level but lost on appeal.

Lead counsel for plaintiffs was Steven Rosenbaum, Covington & Burling, 1201 Pennsylvania Avenue, NW, Washington, D.C. 20004, 202.662.5568.

Opposing counsel for the State was Assistant Attorney General Ronald Shems, Vermont Natural Resources Board, Dewey Building, National Life Drive, Montpelier, VT 05602, 802.828.3309

2. *Guil v. Allstate Insurance Co.*, 170 Vt. 464 (2000).

I represented the plaintiff-appellee. This was a declaratory action against the plaintiff's auto insurer. I had previously represented Ms. Guil at trial against several motorists responsible for her injuries. Allstate, as Ms. Guil's insurer, had paid medical bills through her "medical payments" coverage. The purpose of the declaratory action was to obtain recognition from the courts that Allstate as a subrogated insurer was required to reduce its claim for repayment to reflect a pro rata share of the costs of recovery (legal fees and expenses). At the trial court level and on appeal, the Vermont Courts agreed that the "common fund doctrine" required the insurer to share in the costs of recovery, thereby reducing the cost of repayment to Ms. Guil. The Vermont Supreme Court decision established the common fund doctrine in our state. My representation lasted for about two years between 1998 and 2000.

The defendant was represented by Charles Platto (retired).

3. *Mumley v. Lenco Industries, Inc.*, No. 97-9575 (D.Vt.), 173 F.3d 845 (2d Cir. 1999).

This was a product liability case involving the death of an armored car guard in a single vehicle accident. It presented significant issues of crashworthiness and defect in the automotive setting. I tried it with co-counsel Bradley Stetler in 1997 before Judge J. Garvan Murtha in United States District Court for the District of Vermont. My adversary was now Chief Justice Paul Reiber of the Vermont Supreme Court. The result was a defendant's verdict – a defeat for our side – which was affirmed on appeal.

I served as co-counsel with Bradley Stetler, 95 Saint Paul Street, Burlington, VT 05401, 802.660.8646.

Defendant's counsel was now Chief Justice Paul Reiber, Vermont Supreme Court, 109 State Street, Montpelier, VT 05609, 802.828.3278 and Shannon Bertrand, P.O. Box 578, Rutland, VT 05702, 802.665.2680.

4. *International Dairy Foods Ass'n v. Amestoy*, No. 2:94CV119, 898 F.Supp. 246, vacated and remanded, 92 F.3d 67 (2d Cir. 1996).

This was a constitutional challenge under the Commerce Clause to the mandatory labeling of dairy products from herds treated with the medication bST. Our client's position was that mandatory labeling violated its members' right to commercial free speech. Our client's position was that the addition of the bST warning suggested there might be something wrong with the product despite FDA approval of its use. I was local counsel at the trial court level for the International Dairy Foods Association. We lost at a bench trial at the District Court level. The case was reversed in favor of our clients by the Second Circuit.

Lead counsel for plaintiffs was Steven Rosenbaum, Covington & Burling, 1201 Pennsylvania Avenue, NW, Washington, D.C. 20004, 202.662.5568.

The State was represented by Assistant Attorney General Julie Brill, now a Commissioner on the Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, D.C. 20580, 202.326.2021.

5. *Robitaille v. Rubin*, 159 Vt. 152 (1992).

I represented a small home builder in a dispute over a purchase and sale agreement. My representation included a trial before the Vermont Superior Court and an appeal to the Vermont Supreme Court. The buyer sought to cancel the purchase and sale agreement because he had not been shown a copy of the state land use permit approving the subdivision before he signed the agreement. Although the land use law requires disclosure of permits in advance, this was a non-material breach because there had never been any controversy about the permit which had issued years before. The Vermont Supreme Court upheld my client's claim that in the absence of unfairness or harm to the buyer, a break of the permit requirement does not provide a basis for rescission of the contract.

Opposing counsel was Vincent Illuzzi, P.O. Box 226, Orleans, VT 05860, 802.754.2200.

6. *In re Summit Ventures*, Bankruptcy Nos. 90-00213-90-00221, 135 B.R. 478 (Bankr. D.Vt. 1991).

This bankruptcy case concerned the Mt. Ascutney ski resort. I was local counsel for the principal secured lender Lloyds Bank. As the case developed, my principal role and that of my law partner Jerome O'Neill was to defend against lender liability

claims filed in the bankruptcy court by the debtor. These claims were ultimately dismissed with prejudice and the bankruptcy proceeded through the liquidation process.

Local counsel debtor Summit Ventures was Douglas Wolinsky, P.O. Box 1489, Burlington, VT 05402, 802.864.0880. Co-party counsel was Sheldon Prentice, NBT Bank, 52 South Broad Street, Norwich, NY 13815, 607.337.6530

The interim trustee was John Canney, P.O. Box 6626, Rutland, VT 05702, 802.773.3325.

Lead counsel for Lloyds Bank was Jeffrey Schwartz, Hahn & Hessen, 488 Madison Avenue, New York, NY 10022, 212.478.7330.

Lead counsel for the debtor was Peter Fine (deceased) and Steven Manchel, 199 Wells Avenue, Newton, MA, 617.796.8920.

7. *Estate of Sawyer v. Crowell*, 151 Vt. 287 (1989).

We represented an estate that had lost money through a bad investment in a real estate investment trust. The executor had specifically instructed the investment manager not to place the money in a real estate investment trust (“REIT”). The trial court entered judgment for the estate. On appeal, the issues were whether there was sufficient evidence to support the judgment, whether the executor had independent knowledge of the REIT investment sufficient to establish ratification, and whether the damages were correctly assessed. We prevailed on all issues. Although the Vermont Supreme Court originally entered an opinion adverse to our client’s interest, the Vermont Supreme Court ruled in favor of the estate upon our motion for reconsideration. My role was to write the briefs on appeal in the period 1988 to 1989.

Opposing counsel was David Putter, 15 E. State Street, Montpelier, VT 05602, 802.229.0932 and Norman Watts, P.O. Box 270, Woodstock, VT 05091, 802.457.1020.

8. *Cavanaugh v. Abbott Laboratories*, 145 Vt. 516 (1985).

Immediately after joining O’Neill and Manchester in 1984, I wrote the briefs in this case on behalf of the plaintiff-appellee. This was a claim against the manufacturers of the anti-miscarriage drug DES, which was widely distributed in the 1950s and 1960s and was found to cause certain types of cancer in women whose mothers had received the drug. The case presented a statute of limitations problem because the drug was administered prior to the birth of the plaintiff. It also presented issues of market share liability because the drug was manufactured by many companies and the identity of the manufacturer of the particular product used by the plaintiff’s mother was no longer known. My work on the case concerned only the briefing before the Vermont Supreme Court and encompassed the six months from May 1984 – October 1984. In

Cavanaugh, the Vermont Supreme Court adopted the discovery rule in statute of limitations cases. It overturned the case of *Murray v. Allen*, 103 Vt. 373 (1931), which held that a cause of action accrued at the time of the defendant's last negligent act.

Opposing counsel were John Sartore, Paul Frank & Collins, P.O. Box 1307, Burlington, VT 05402, 802.658.2311, and William Quinn (retired).

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.)

As a judge in the Criminal Division, I have become engaged in the treatment courts. In Chittenden County where I presided for three years from 2005 to 2008, I was the judge assigned to the drug court and the mental health court. With the support of the prosecutor and the local community mental health system, we were able to expand the mental health court significantly. This court serves defendants suffering from serious mental illness, most of whom were charged with misdemeanors, often multiple. Violent people were not admitted. Although the program took some court time – about two and a half hours per week – it paid off in a substantial decrease in recidivism at least while people were in the program. The court attracted a good deal of public attention and support. In drug court, I entered a more established program with strong support again from the prosecution and the substance abuse treatment community. I met weekly with the participants. The hearings were public, and the rest of the drug court participants listened intently as each person discussed their progress over the course of the week with me. I provided encouragement but also issued sanctions when necessary, including weekends in jail. As with the mental health court, the response was remarkably positive and the community support was strong.

I have never been a lobbyist.

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.

None.

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.

I have no such plans, commitment or agreements if confirmed.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

At this time I do not anticipate any conflicts-of-interest from family members, other persons or financial agreements if confirmed.

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

If confirmed, I would carefully follow 28 U.S.C. 455 and Canon 3 of the Code of Conduct for United States Judges. I would also engage in prompt and immediate review of the parties, their affiliates, and the issues in any litigated matter to come before me so that I could make a prompt, informed decision regarding the propriety of my participation in the matter.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in

serving the disadvantaged.” Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Since returning to Vermont in 1984, I have volunteered in various ways in community groups. In 1993 I joined the board of the Burlington public library where I was very active for almost a decade. We met monthly and in committees during the month. During the 1990s, I also served on a volunteer basis as a hearing officer for the Department of Labor and Industry. I heard workers compensation appeals and issued written rulings from approximately 1990 to 1994. I estimate that I heard and decided six to ten cases during a period when the Department was without a full-time hearing officer. I also volunteered from about 1990 to 2000 as a small claims judge in the Chittenden Superior Court. I served about once a month for a day or half-day.

In 2008, I served on the Burlington Committee on Open Government. In addition, as a lawyer in a small firm, I frequently provided help and advice without charge to clients, and family members of clients. Part of the job of representing an individual in an injury case is becoming their “family lawyer” for many purposes.

Since becoming a judge, I have become involved in two boards. One is the local (Burlington area) Dismas House board. Dismas is a halfway house for prisoners. We operate a home in Burlington and Winooski, Vermont. There are two other local boards in Hartland and Rutland, Vermont. I served as president of the board for a year between 2012 and 2013, but I found that certain aspects of the position were too public. Because I cannot engage in fundraising and cannot negotiate with partners such as the Department of Corrections, I have taken a back-seat role and help at meetings of the board. Dismas has a long history of support from Vermont judges, and I am very proud of my involvement.

In 2010 I also joined the board of the New England Organ Bank (“NEOB”). The NEOB is responsible for the procurement of organs for transplant throughout much of New England. I became involved after we lost a child in an accident in 2007. I now serve as vice chair of the NEOB. Much of the work is technical and medical in nature. I try to bring the knowledge and perspective of a donor parent to our meetings.

I have also taken a role in educating the community both before and after becoming a judge by serving as a Law Day speaker in the Burlington public schools from 2000 to 2002 and again from 2006 to 2009 when I was located in Burlington.

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 2014, I submitted an application to the Vermont Judicial Selection Commission convened by Senators Leahy and Sanders. On March 14, 2014, I interviewed with the Commission in Burlington, Vermont. On March 19, 2014, I interviewed with Senator Leahy in Burlington, Vermont. He later notified me by telephone that he intended to recommend me for the vacancy. Since March 24, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On May 8, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On May 19, 2014, the President announced his intent to nominate me to serve on the U.S. District Court for the District of Vermont.

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

No.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Crawford, Geoffrey W.	2. Court or Organization U.S. District Court for the District of Vermont	3. Date of Report 05/19/2014
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge	5a. Report Type (check appropriate type) ☒ Nomination Date 05/19/2014 ☐ Initial ☐ Annual ☐ Final	6. Reporting Period 01/01/2013 to 04/30/2014
	5b. ☐ Amended Report	
7. Chambers or Office Address Vermont Supreme Court 111 State St Montpelier, Vermont 05601		
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.		

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

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Board Member	Dismas of Vermont (Burlington board)
2. Board Member; Vice Chair	New England Organ Bank
3.	
4.	
5.	

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

☐ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1. 2002	VT SERS pension plan
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Crawford, Geoffrey W.

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2012	salary; Vermont Judiciary	\$121,903.00
2. 2013	salary; Vermont Judiciary	\$129,438.00
3. 2014	salary; Vermont Judiciary	\$47,714.00
4.		

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

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

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

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Crawford, Geoffrey W.

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

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

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

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

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Name of Person Reporting

Crawford, Geoffrey W.

Date of Report

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Vanguard European Stock Index Fund	A	Dividend	K	T	Exempt				
2. Vanguard Growth and Income Fund	D	Dividend	N	T					
3. Vanguard International Growth Fund	C	Dividend	M	T					
4. Vanguard REIT Index Fund	B	Dividend	L	T					
5. Vanguard Total Stock Market Index Fund	D	Dividend	N	T					
6. Vanguard 500 Index Fund	C	Dividend	M	T					
7. People's United Bank, cash account		None	J	T					
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Crawford, Geoffrey W.

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Crawford, Geoffrey W.

Date of Report

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IX. CERTIFICATION.

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

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

Signature: s/ Geoffrey W. Crawford

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

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		3	676	Notes payable to banks-secured			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule	1	272	739	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		39	579
Real estate owned – see schedule		800	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		55	000				
Cash value-life insurance							
Other assets itemize:							
Vermont SERS		90	456				
				Total liabilities		39	579
				Net Worth	2	182	292
Total Assets	2	221	871	Total liabilities and net worth	2	221	871
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

Vanguard 500 Index Fund	\$ 121,195
Vanguard European Stock Index Fund	26,148
Vanguard Growth and Income Fund	365,557
Vanguard International Growth Fund	209,597
Vanguard REIT Index Fund	61,516
Vanguard Total Stock Market Index Fund	488,726
Total Listed Securities	\$ 1,272,739

Real Estate Owned

Personal residence	\$ 650,000
Family vacation property (50% interest)	150,000
Total Real Estate Owned	\$ 800,000

AFFIDAVIT

I, Geoffrey W. Crawford, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

May 19, 2014 Geoffrey W. Crawford
(DATE) (NAME)

Catherine Graftone
(NOTARY)