

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

David Bruce Barlow

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

United States District Judge for the District of Utah

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.

Dorsey & Whitney LLP
111 South Main Street, Suite 2100
Salt Lake City, Utah 84111

Residence: South Jordan, Utah

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

1971; Provo, Utah

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.

1995 – 1998, Yale Law School; J.D., 1998

1989 – 1990; 1992 – 1995, Brigham Young University; B.A. (*summa cum laude*), 1995

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.

2018 – Present
Dorsey & Whitney LLP
111 South Main Street, Suite 2100

Salt Lake City, Utah 84111
Partner

2017 – 2018
Walmart
702 SW Eighth Street
Bentonville, Arkansas 72716
Vice President, Compliance

2014 –2017
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
Partner

2011 – 2014
United States Attorney's Office, District of Utah
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111
United States Attorney

2011 – 2011
United States Senate
Office of Senator Michael S. Lee
316 Hart Senate Office Building
Washington, D.C. 20510
General Counsel and Chief Counsel, Judiciary

2000 –2010
Sidley Austin LLP
1 South Dearborn Street
Chicago, Illinois 60603
Partner (2006-2010)
Associate (2000-2006)

1998 – 2000
Locke Lord Bissell & Liddell LLP (then Lord Bissell & Brook)
111 South Wacker Drive
Chicago, Illinois 60606
Associate

1997 –1998
Judge Peter Dorsey
U.S. District Court for the District of Connecticut
141 Church Street
New Haven, Connecticut 06510

Intern (Unpaid)

Summer 1997

Lewis & Roca LLP

40 North Central Avenue, Suite 1900

Phoenix, Arizona 85004

Summer Associate

Summer 1997

Steptoe & Johnson LLP

201 East Washington Street, Suite 1600

Phoenix, Arizona 85004

Summer Associate

1996 – 1997

United States Attorney's Office, District of Connecticut

157 Church Street, Floor 23

New Haven, Connecticut 06510

Intern (Unpaid)

Summer 1996

Locke Lord Bissell & Liddell LLP (then Lord Bissell & Brook)

111 South Wacker

Chicago, Illinois 60606

Summer Associate

1995

U.S. Department of Health and Human Services

Office of Child Support Enforcement

370 L'Enfant Promenade, S.W.

Washington, D.C. 20447

Truman Scholar Intern to the Policy Director

Other Affiliations (uncompensated)

2015 – 2018

National Association of Former United States Attorneys

27 Oakland Park

Pleasant Ridge, Michigan 48069

Member, Board of Directors

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

I have not served in the U.S. Military. I have registered for selective service.

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

Recognition from federal and state law enforcement agencies for service as United States Attorney: Bureau of Alcohol, Tobacco and Firearms; Drug Enforcement Agency; Federal Bureau of Investigation; U.S. Forest Service; U.S. Postal Inspection Service; Utah Department of Public Safety (2014)

NAACP Distinguished Service Award (Utah Chapter) (2014)

Legal 500 (multiple)

Pro Bono Advocates Lawyer of the Year Award (1999)

James T. Babb Scholar (Yale Law School) (1996)

Phi Kappa Phi Graduate Fellowship (1995)

Brigham Young University Political Science Valedictorian (1995)

Degree from Brigham Young University conferred *summa cum laude* (1995)

Golden Key Most Outstanding BYU Senior Award (1995)

Edwin S. Hinckley Scholar (1994)

Harry S. Truman Scholar (1994)

USA Today All-USA Award (1994)

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.

Aldon J. Anderson Inn of Court
Master of the Bench (2013 – 2017)

American Bar Association

D.C. Bar Association

Defense Research Institute

Federal Bar Association

National Association of Former United States Attorneys
Board of Directors (2015 – 2018)

United States Attorney General's Advisory Committee

U.S. Department of Justice Local Government Coordination Working Group
Founding Chair (2013 – 2014)

U.S. Department of Justice White Collar Crime Subcommittee (2012 – 2014)

U.S. Department of Justice Health Care Fraud Working Group (2012 – 2014)

Utah Bar Association

Utah State Bar Diversion Committee

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.

District of Columbia (2015)
Illinois (1998)
Utah (2010)

There have been no lapses in membership.

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

United States District Court for the Northern District of Illinois (2005)
United States District Court for the District of Utah (2010)

There have been no lapses in membership.

11. **Memberships:**

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

Boys Scouts of America

Chartered Organization Representative (2015 – 2017)

Eleven-Year-Old Scout Leader (2018 – 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.

The Boys Scouts of America previously limited membership to boys.

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.

None.

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.

None.

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

Letter to Senators Charles Grassley and Diane Feinstein, Bipartisan Endorsement of Donald W. Washington to be Director of the U.S. Marshals Service from Former United States Attorneys, November 27, 2018. Copy supplied.

Letter to Senators Charles Grassley and Diane Feinstein, Confirmation of Rod J. Rosenstein for Deputy Attorney General of the United States, March 6, 2017. Copy supplied.

Letter to Senators Charles Grassley, Patrick Leahy, and Diane Feinstein, Confirmation of Senator Jeff Sessions for Attorney General of the United States, December 16, 2016.

Copy supplied.

Statement of David B. Barlow, Hearing on the Nomination of the Honorable Loretta E. Lynch to Serve as Attorney General of the United States, January 29, 2015. Video available at <https://www.c-span.org/video/?323994-1/us-attorney-general-nominee-confirmation-hearing-day-2-in-recess-votes&live=>.

Letter to Senators Charles Grassley and Patrick Leahy, Loretta Lynch, January 22, 2015. Copy 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.

I have not kept a list of the speeches and talks I have delivered, but I have done my best to identify all items called for in this question, including a thorough review of my personal files. I also sometimes do not speak from any prepared text or notes or retain any text or notes. I have located the following:

June 7, 2019: Remarks, Retirement Dinner for Dr. David Magleby, Brigham Young University, Provo, Utah. I have no notes, transcript, or recording. I offered brief remarks on the impact Dr. Magleby has made on BYU college students. The address for Brigham Young University is 1142 SWKT, Provo, Utah 84602.

May 10, 2019: Moderator, Federal Bar Association, Utah Chapter, St. George, Utah. I have no notes, transcripts or recordings. I moderated a panel of federal district court judges on the topic of federal court practice. The address of the Federal Bar Association, Utah Chapter, Post Office Box 11543, Salt Lake City, Utah 84147.

March 7, 2019: Speaker, BYU Career Lecture Series, Brigham Young University, Provo, Utah. Video available at <https://www.youtube.com/watch?v=wal4hFuoQgs>. Notes supplied.

November 16, 2018: Speaker, Brown Bag Lunch, United States Attorney's Office, Salt Lake City, Utah. Notes supplied.

June 15, 2014: Panelist, Community Benefits of Reentry Courts, Department of Justice, Washington, D.C. Notes supplied.

January 20, 2014: Speaker, Martin Luther King Jr. Day Luncheon, NAACP, Salt Lake City, Utah. I have no notes, transcript, or recording. I offered remarks on the importance

of the day and Dr. King's legacy. The address of the NAACP Salt Lake Branch is Post Office Box 25414, Salt Lake City, Utah 84125.

December 12, 2013: Speaker, U.S. Attorney's Law Enforcement Awards Ceremony, Salt Lake City, Utah. I have no notes, transcript, or recording. I spoke on the important work of federal, state, and local law enforcement. The address for the United States Attorney's Office for the District of Utah is 111 Main Street, Suite 1800, Salt Lake City, Utah 84111.

April 2013: Speaker, Convocation, College of Family, Home, and Social Sciences, Brigham Young University, Provo, Utah. Copy supplied.

January 22, 2013: Speaker, Martin Luther King Jr. Day Luncheon, NAACP, Salt Lake City, Utah. Press account supplied.

October 10, 2012, Speaker, Rocky Mountain Investor Fraud Summit, Denver, Colorado. I have no notes, transcript or recording. I delivered remarks regarding investor fraud. The event was sponsored by the Department of Justice; the American Association of Retired People Foundation/AARP Elderwatch, 303 East 17 Avenue, Denver, Colorado 80203; and the Better Business Bureau, 3801 East Florida Avenue, Suite 350, Denver, Colorado, 80210.

September 21, 2012: Panelist, Bench and Bar Conference, University of Colorado Law School, Denver, Colorado. Notes supplied.

August 28, 2012: Speaker, 20th Annual Four Corners Indian Country Conference, Pojoaque, Pueblo, New Mexico. I have no notes, transcripts or recordings. I spoke about federal law enforcement on tribal lands. The conference was co-hosted by the United States Attorneys' Offices for the Districts of Arizona, Colorado, New Mexico, and Utah. The address for the United States Attorney's Office for the District of Utah is 111 Main Street, Suite 1800, Salt Lake City, Utah 84111.

May 4, 2012: Panelist, Federal Bar Association, Utah Chapter, St. George, Utah. I have no notes, transcripts or recordings. I was a panelist on two panels, both of which were with the federal district court judges. The first panel was an update on federal practice in Utah. The second panel was on being effective in federal court. The address of the Federal Bar Association, Utah Chapter, Post Office Box 11543, Salt Lake City, Utah 84147.

April 9, 2012: Speaker, Trafficking in Persons Symposium, Salt Lake City, Utah. I have no notes, transcripts or recordings. I spoke on the importance of human trafficking investigations and cases. The conference was sponsored by the Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530.

April 2, 2012: Speaker, NAACP Educational Forum, Salt Lake City, Utah. Video available at <https://www.ksl.com/article/19840241/police-chief-talks-trayvon-martin-at->

community-forum.

February 2012: Speaker, Utah Federal Public Defender Brown Bag Lunch, Salt Lake City, Utah. I spoke about the U.S. Attorney's Office and our work with the Federal Public Defenders. I have no notes, transcripts or records. The address of the Utah Federal Public Defender is 46 West Broadway, Suite 110, American Towers Plaza, Salt Lake City, Utah 84101.

January 16, 2012: Speaker, Martin Luther King Jr. Day Luncheon, NAACP, Salt Lake City, Utah. I have no notes, transcript, or recording. I offered remarks on the importance of the day and Dr. King's legacy. The address of the NAACP Salt Lake Branch is Post Office Box 25414, Salt Lake City, Utah 84125.

December 9, 2011: Speaker, United States Attorney Investiture, District Court for District of Utah, Salt Lake City, Utah. Copy and press reports supplied.

May 2011: Speaker, Federal Bar Association, Utah Chapter, St. George, Utah. Notes supplied.

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.

I have done my best to identify all items called for in this question, including a thorough review of my personal files. As United States Attorney, I periodically gave interviews, provided quotes for press releases, or participated in press conferences. I do not recall or have records of all the interviews, press releases, or press conferences.

Naomi Jeffrys, *Dorsey Adds Ex-Government Official in Utah*, Com. Dispute Resol. News, Oct. 25, 2018. Copy supplied.

Ryan Lovelace, *Boutiques Blossom as Big Law Defectors Launch New DC Firms*, Nat'l L.J., Oct. 19, 2018. Copy supplied.

Former U.S. Attorney David Barlow Joins Dorsey in Salt Lake City, Dorsey LLP, Oct. 16, 2018. Copy supplied.

Pamela Manson, *Triumvirate of Women Take Lead in Federal Law Enforcement in Utah*, Salt Lake Trib., Dec. 29, 2014. Copy supplied.

Defendant in Procurement Fraud Case Involving Services in Afghanistan Sentenced to 42 Months in Federal Prison, United States Attorney's Office for the District of Utah, June 13, 2014. Copy supplied.

Dennis Romboy, *Man Acquitted of Murder Calls New Federal Charges Double*

Jeopardy, Deseret News (UT), May 1, 2014. Copy supplied.

Carolinas Home Medical Equipment: Gov't to Orbit: We Want Our Money Back, News Bites, April 18, 2014. Copy supplied.

Utah Man Pleads Guilty to Religious-Motivated Attack on Synagogue and Gun Charges, United States Attorney's Office for the District of Utah, April 16, 2014. Copy supplied.

Government Intervenes in Lawsuit Against Medical Equipment Supplier Orbit Medical Inc. and Former Vice President Jake Kilgore, U.S. Department of Justice, April 14, 2014. Copy supplied.

Statement of U.S. Attorney David B. Barlow, United States Attorney's Office for the District of Utah, April 10, 2014. Copy supplied.

Morgan Jacobsen, *Man Gets 15 Years for Possession of Child Porn*, Deseret News (UT), April 4, 2014. Copy supplied.

Jed Boal, *Man Arrested in Connection with 3 Bank Robberies*, ksl.com, Feb. 25, 2014. Video available at <https://www.ksl.com/article/28847531/man-arrested-in-connection-with-3-bank-robberies>.

Salt Lake City Man Charged with Credit Union Robbery in Connection with January Robbery of Transwest Credit Union, United States Attorney's Office for the District of Utah, Feb. 24, 2014. Copy supplied.

Marjorie Cortez, *Feds, State Officials Partner with Community Leaders to Fight Immigration Services Scam*, Deseret News (UT), Jan. 22, 2014. Copy supplied.

Lee Davidson, *Prosecutors Say Utah Immigration Scams are Increasing*, Salt Lake Trib., Jan. 22, 2014. Copy supplied.

U.S. Attorney's Office Collects \$4,613,846 through Civil and Criminal Actions in FY 2013, United States Attorney's Office for the District of Utah, Jan. 9, 2014. Copy supplied.

Zander Sentenced to 68 Months in Prison for Fraud, Money Laundering, Tax Charges in Case Involving Scheme to Defraud Paiute Indian Tribe, United States Attorney's Office for the District of Utah, Nov. 21, 2013. Copy supplied.

Dudley Sentenced to 60 Months in Federal Prison in connection with Investment Fraud Scheme, United States Attorney's Office for the District of Utah, Nov. 15, 2013. Copy supplied.

Christine McCarthy, *Acquitted Man Arraigned on Federal Charges for Deputy's Shooting*, November 7, 2013. Video available at <https://kutv.com/archive/acquitted-man->

arraigned-on-federal-charges-for-deputys-shooting.

Barnett Pleads Guilty to Introducing Pollutant into a Sewer System Knowing It Would Damage Property, United States Attorney's Office for the District of Utah, Nov. 1, 2013. Copy supplied.

Tiffany DeMasters, *Former War Veteran Sentenced in Child Porn Case*, Fox-13 KSTU, September 13, 2013. Copy supplied.

Brooke Adams & Jessica Miller, *Man Acquitted of Killing Utah Deputy Faces New Federal Charges*, Salt Lake Trib., Sept. 5, 2013. Copy supplied.

Scam Alert: Caller Using Ruse Involving Federal Grand Jury Duty in Attempt to Victimize Utahns, United States Attorney's Office for the District of Utah, Aug. 8, 2013. Copy supplied.

Pleasant Grove Man Sentenced to Prison after Pleading Guilty to Unlicensed Wholesale Distribution of Prescription Drugs, United States Attorney's Office for the District of Utah, August 1, 2013. Copy supplied.

Sequestration Is Starting to Take Toll on S. Utah, Spectrum, July 29, 2013. Copy supplied.

UT Leads Nation in Drug Convictions on Public Land, Associated Press, July 14, 2013. Copy supplied.

Pat Reavy, *Feds Make Multimillion-Dollar Spice Bust in So. Utah*, ksl.com, June 26, 2013. Copy supplied.

Fourteen Individuals Charged with Conspiracy to Distribute a Controlled Substance in Major Utah Spice Case, United States Attorney's Office for the District of Utah, June 26, 2013. Copy supplied.

Taylorville Woman Charged with Bank Fraud, Identity Theft in Federal Indictment, United States Attorney's Office for the District of Utah, May 29, 2013. Copy supplied.

Brittany Green-Miner and Gene Kennedy, *Man Arrested in Boise on Multiple Federal Terrorism Charges*, May 17, 2013. Video available at <https://fox13now.com/2013/05/16/man-arrested-in-boise-on-multiple-federal-terrorism-charges>.

Boise Man Arrested; Terrorism Charges Filed in Idaho and Utah, United States Attorney's Office for the District of Utah, May 16, 2013. Copy supplied.

Jury Finds Zander Guilty of Fraud, Money Laundering, Tax Charges in Case Involving Scheme to Defraud Paiute Indian Tribe, United States Attorney's Office for the District

of Utah, March 1, 2013. Copy supplied.

Paul Foy, *Businessman Accusing AG of Bribery to End Tirade*, Associated Press, Feb. 2, 2013. Copy supplied.

Paul Foy, *Lawyers for Businessman Accusing AG Seek Removal*, Associated Press, Feb. 1, 2013. Copy supplied.

Jury Convicts Juarez-Sanchez Following Trial Involving Marijuana Grow Operation in Iron County, United States Attorney's Office for the District of Utah, Jan. 29, 2013. Copy supplied.

Tom Harvey, *Jeremy Johnson Headed to Trial as Fraud Plea Deal Unravels*, Salt Lake Trib., Jan. 12, 2013. Copy supplied.

US Attorney Collects \$31M in 2012, AP Alert, Dec. 22, 2012. Copy supplied.

Brooke Adams, *Utah's First Lady Regrets Letter Sent on Behalf of Child Pornographer*, Salt Lake Trib., Dec. 21, 2012. Copy supplied.

Johnson Sentenced to 25 Years in Federal Prison After Pleading Guilty to Production of Child Pornography, United States Attorney's Office for the District of Utah, Dec. 14, 2012. Copy supplied.

Brittany Green-Miner, *Ogden Businesses Raided for Alleged Food Stamp Fraud*, FOX – 13KTSU, Dec. 12, 2012. Copy supplied.

Authorities: Utah Winning War vs Marijuana Farming, Associated Press, Nov. 3, 2012. Copy supplied.

Nate Carlisle, *DEA: Dramatic Drop in Pot Grown in Utah*, Salt Lake Trib., Nov. 3, 2012. Copy supplied.

Michael McFall, *Airplane Passenger Who Says He Was Drunk for 50 Days Appears in Court*, Salt Lake Trib., Oct. 17, 2012. Copy supplied.

Cabibi Sentenced to 240 Months in Prison for Assault on a Federal Officer, Firearms Convictions, United States Attorney's Office for the District of Utah, Oct. 1, 2012. Copy supplied.

Grand Jury Returns Indictment Charging Three Individuals, Corporation, in Alleged \$54 Million Procurement Fraud, Bribery Case Involving Contract for Services in Afghanistan, United States Attorney's Office for the District of Utah, Aug. 22, 2012. Copy supplied.

Pat Reavy, *\$54M Military Contract Results in Fraud, Bribery Indictment with Utah Ties*,

Deseret News (UT), Aug. 22, 2012. Copy supplied.

Brooke Adams, *Feds in Utah and Three Other States Shutdown 70 Websites Selling Fake Goods*, Salt Lake Trib., July 14, 2012. Copy supplied.

Dennis Romboy, *Feds Crackdown on Sites Allegedly Selling Fake Jerseys*, Deseret News (UT), July 13, 2012, at B01. Copy supplied.

Jonathan Hafen, *Member Profile: David Barlow, U.S. Attorney for the District of Utah*, Federal Bar Association (Utah Chapter), Spring 2012. Copy supplied.

ATK Launch Systems Inc. Settles False Claim Product Substitution Case for Nearly \$37 Million, United States Attorney's Office for the District of Utah, April 23, 2012. Copy supplied.

Jessica Miller, *Ex-Utah Deputy Faces Federal Charges in Strip Search Case*, Salt Lake Trib., April 20, 2012. Copy supplied.

Ben Winslow, *Mine Operator Pleads Guilty, Fined \$500,000 in Crandall Canyon Disaster*, FOX – 13KTSU (Salt Lake City, UT), March 14, 2012. Copy supplied.

Ken Ward, Jr., *Utah Plea Deal Brings Call for Tougher Mine Safety – Sanctions*, Charleston Gazette (WV), March 10, 2012, at 8A. Copy supplied.

Two-Count Information, Filed in U.S. District Court in Salt Lake City Friday Afternoon, Charges Genwal Resources, Inc., the Corporate Owner of a Coal Mine at Crandall Canyon, with Two Criminal Violations of Mandatory Health and Safety Standards under the Federal Mine Safety and Health Act, United States Attorney's Office for the District of Utah, March 9, 2012. Copy supplied.

Statement of U.S. Attorney David B. Barlow on the Crandall Canyon Case, United States Attorney's Office for the District of Utah, March 9, 2012. Copy supplied.

Amy Joi O'Donoghue, *Feds Charge Crandall Canyon Mine Operators in Mine Collapse*, ksl.com, March 8, 2012. Video available at <https://www.ksl.com/article/19522448/feds-charge-crandall-canyon-mine-operators-in-mine-collapse>.

Defendants in Child Exploitation Cases Plead Guilty to Charges; Face Substantial Federal Sentences, United States Attorney's Office for the District of Utah, March 2, 2012. Copy supplied.

Genwal Pleads Guilty Ending Crandall Canyon Investigation, Coal Age, March 2012, at 4. Copy supplied.

Justice Department Settles Disability Discrimination Case Involving Disabled Veteran in Utah, United States Attorney's Office for the District of Utah, Feb. 27, 2012. Copy

supplied.

Melinda Rogers, *ACLU of Utah's New Legal Boss Called 'Capable, Committed'* Salt Lake Trib., Feb. 22, 2012. Copy supplied.

Melinda Rogers, *New U.S. Attorney for Utah Looks Forward to 2012*, Salt Lake Trib., Jan. 7, 2012. Copy supplied.

U.S. Attorney for Utah David Barlow, Salt Lake Trib., Dec. 19, 2011. Video available at <https://www.youtube.com/watch?v=0waNEU7KfRA>.

Dennis Romboy, *Convicted Brigham City Pain Pill Doctor Trying to Avoid Prison*, Deseret News (UT), Dec. 19, 2011. Copy supplied.

Melinda Rogers, *New U.S. Attorney for Utah Takes Helm*, Salt Lake Trib., Dec. 9, 2011. Copy supplied.

Attorney General Recognizes District of Utah Employees at Ceremony in Washington, D.C., United States Attorney's Office for the District of Utah, Dec. 9, 2011. Copy supplied.

U.S. Attorney's Office Collects \$5,880,445 through Civil and Criminal Actions in FY 2011, United States Attorney's Office for the District of Utah, Nov. 28, 2011. Copy supplied.

Kevin Jenkins, *Top Federal Prosecutor Visits St. George*, Spectrum, Nov. 20, 2011. Copy supplied.

Nineteen Individuals Face Charges in Utah after Narcotics Trafficking Investigation of Belizean Bloods Gang, United States Attorney's Office for the District of Utah, Nov. 4, 2011. Copy supplied.

Bond Sentenced to 87 Months in Federal Prison after Starting Fires at Two Utah Businesses, Federal Bureau of Investigation, Oct. 13, 2011.

Bugman Pest and Lawn, Inc. and Coleman Nocks Plead Guilty to Unlawful Use of Pesticide, United States Attorney's Office for the District of Utah, Oct. 11, 2011. Copy supplied.

Jury Convicts Six Tongan Crip Gang Members of Violent Crimes; Three Convicted of RICO Conspiracy, United States Attorney's Office for the District of Utah, Oct. 7, 2011. Copy supplied.

Matt Canham, *Obama Picks Republican Barlow as U.S. Attorney for Utah*, Salt Lake Trib., Aug. 4, 2011. Copy supplied.

Benjamin Wood, *Obama Nominates David Barlow as U.S. Attorney for Utah*, Deseret News (UT), Aug. 2, 2011. Copy supplied.

Shawn Zeller, *The Door Keeps Spinning*, Cong. Q. Wkly., March 28, 2011. Copy supplied.

On the Move in the Senate: Stokes, Barlow, Cong. Q. Wkly., Nov. 29, 2010. 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.

I have not held judicial office.

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

i. Of these, approximately what percent were:

jury trials: %
bench trials: % [total 100%]

civil proceedings: %
criminal proceedings: %[total 100%]

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

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).

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.

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

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.

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.

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

i. 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.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;

b. a brief description of the asserted conflict of interest or other ground for recusal;

c. the procedure you followed in determining whether or not to recuse yourself;

d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have not held judicial office.

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.

United States Attorney, District of Utah, 2011 – 2014. I was nominated by President Barack Obama on August 2, 2011 and confirmed by the United States Senate on September 26, 2011. I took the oath of office on October 5, 2011.

I have not been a candidate for elective office. In 2016, the Utah Appellate Court Nominating Commission nominated me and six others for the Utah Court of Appeals. I was not selected by the Governor.

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 had occasional contact with Senator Mike Lee and others on his campaign team when he was running for the Senate and I supported his campaign, but I did not have a formal position.

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 have not served as a judicial law clerk.

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

I have not practiced alone.

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

1998 – 2000

Locke Lord Bissell & Liddell LLP (then Lord Bissell & Brook)

111 South Wacker Drive

Chicago, Illinois 60606

Associate

2000 – 2010

Sidley Austin LLP

1 South Dearborn Street

Chicago, Illinois 60603

Partner (2006 – 2010)

Associate (2000 – 2006)

2011 – 2011

United States Senate

Office of Senator Michael S. Lee
316 Hart Senate Office Building
Washington, D.C. 20510
General Counsel and Chief Counsel, Judiciary

2011 – 2014
United States Attorney's Office, District of Utah
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111
United States Attorney

2014 – 2017
Sidley Austin LLP
1501 K Street, N.W.
Washington, D.C. 20005
Partner

2017 – 2018
Walmart
702 SW Eighth Street
Bentonville, Arkansas 72716
Vice President

2018 – present
Dorsey & Whitney LLP
111 South Main Street, Suite 2100
Salt Lake City, Utah 84111
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.

From my graduation from law school in 1998 until the end of 2010, I was a litigator in private practice. I litigated a variety of different civil cases in state and federal court, including consumer and industrial product, contract, defamation, domestic violence, eminent domain, First Amendment, insurance, medical device, pharmaceutical, and Section 1983 claims.

During the first part of 2011, I served as General Counsel and Chief Counsel on the Senate Judiciary Committee for Senator Mike Lee. I reviewed numerous bills before the Judiciary Committee and the U.S. Senate, including bills addressing criminal law, national security, intellectual property, and civil liberties. I also reviewed judicial and executive branch nominations before the Judiciary Committee.

From 2011 to 2014, I served as the United States Attorney for the District of the Utah. I led the office; supervised the civil and criminal investigations and cases; participated in investigations, indictments, pre-trial motion practice and hearings, trials, sentencing, and post-trial motions; and participated in various DOJ committees. The investigations and cases included arson, asset forfeiture, aviation safety, bank fraud, bank robbery, bankruptcy fraud, child pornography, civil rights, commodities and securities fraud, conspiracy, consumer fraud, disability discrimination, hate crimes, embezzlement, employment discrimination, environmental litigation, false claims, gun crimes, health care fraud, immigration, insurance fraud, mining safety, money laundering, mortgage fraud, murder, narcotics trafficking, obstruction of justice, organized crime, national security, procurement fraud, public corruption, tax crimes, torts, violent crime, and welfare fraud.

From late 2014 to mid-2017, I rejoined the partnership at Sidley LLP, where I focused on government enforcement actions and investigations involving potential civil and criminal issues.

From late 2017 to mid-2018, I worked as a Vice President in Compliance for Walmart, where I led a team of compliance professionals in Walmart's Health and Wellness businesses.

From late 2018 to the present, I have been a partner at Dorsey LLP focusing on government enforcement actions and investigations involving potential civil and criminal issues.

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

During my internships with the United States Attorney's Office and the United States District Court for the District of Connecticut, my client was the United States.

In my private practice work, my clients were usually companies, though I have represented individuals as well. In my pro bono work, I usually represented individuals.

During my service as United States Attorney, my client was the United States.

During my work at Walmart, my client was Walmart.

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.

Prior to 2011, my practice was entirely litigation and I appeared in court frequently.

During my service as United States Attorney from 2011 – 2014, supervision of, and personal participation, in litigation was a significant part of my work and I appeared in court frequently.

During my work in the Senate and at Walmart, my work did not involve litigation and I did not appear in court.

In my private practice work from 2014 to the present, my practice has focused on government enforcement representations and investigations in anticipation of or in response to federal and state civil and criminal actions. These matters typically have not involved appearances in court, though they sometimes involve litigation and often involve the production and presentation to federal and state prosecutors or enforcement agencies documents and witnesses that may appear in court.

i. Indicate the percentage of your practice in:

1. federal courts; 50% (approximate)
2. state courts of record; 50% (approximate)
3. other courts; 0%
4. administrative agencies 0%

ii. Indicate the percentage of your practice in:

1. civil proceedings; 70% (approximate)
2. criminal proceedings. 30% (approximate)

d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I have had approximately 18 cases go to verdict, judgment, or final decision (not settled), including six criminal and civil jury verdicts and about a dozen other judgments or decisions after motion practice. I was chief counsel in a minority of the cases and co-counsel or associate counsel in the majority.

Additionally, as United States Attorney, I had supervisory responsibility for many other cases that were tried to verdict. My involvement varied from case to case, including: screening cases for prosecution or declination; seeking indictments before the grand jury;

meeting with AUSAs, defense counsel, and agents from various federal investigative agencies; reviewing documentary evidence; interviewing witnesses; mooted cases pretrial; reviewing key pretrial motions; and appearing in court for detention proceedings, motion practice, evidentiary hearings, parts of trial, sentencing, and other post-trial proceedings.

In my previous private practice as national or regional counsel, I also have supervised or otherwise participated in other cases resulting in judgment or final decision, though I do not know how many cases that entailed out of the many hundreds for which I had responsibility.

i. What percentage of these trials were:

1. jury; 33%
2. non-jury. 67%

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:

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

1. *SEC v. Rust Rare Coin, Inc.*, No. 1:18-cv-00147 (D. Utah); *CFTC v. Rust Rare Coin, Inc.*, No. 2:18cv-00892 (D. Utah).

These are parallel cases. In the SEC case, the government alleges that Rust Rare Coin and one or more individuals fraudulently solicited approximately \$86 million from about 300 investors during 2017 and 2018. The government contends that the defendants' actions constituted a scheme to defraud, fraud in the offer or sale of securities, and the offer and sale of unregistered securities, in violation of the Securities Act and the Exchange Act.

In the CFTC/State of Utah Division of Securities case, the government alleges that defendants fraudulently solicited and received over \$200 million from more than 400 investors from at least 17 states, including Utah. The government contends that the defendants' actions constituted fraud, misrepresentations and omissions in the sale of securities, business fraud, and the employing of an unlicensed agent or broker/dealer in the sale of unregistered securities, in violation of the federal Commodity Exchange Act and the Utah Uniform Securities Act.

In both cases, Mr. Steve Waterman and I represent Zions Bank, where the defendants banked. The CFTC/State of Utah Division of Securities case temporarily has been stayed pending a federal criminal investigation of Rust Rare Coin.

There also is a separate action pending against Zions Bank where we serve as Utah counsel, which is before Chief Judge Robert Shelby.

Dates of Representation: 2018 – present

Presiding Judge

The Honorable Tena Campbell, United States District Court, District of Utah

Co-Counsel

Steven T. Waterman

Dorsey LLP

111 South Main Street, Suite 2100

Salt Lake City, Utah 84111

(801) 933-7365

Court-Appointed Receiver

Jonathan O. Hafen

Parr Brown Gee & Loveless

101 South 200 East, Suite 700

Salt Lake City, Utah 84111

(801) 257-7915

Counsel for Plaintiffs

Amy J. Oliver

Securities and Exchange Commission

351 South West Temple, Suite 6.100

Salt Lake City, Utah 84101

(801) 524-5796

Thomas M. Melton

State of Utah Division of Securities

160 East 300 South, Fifth Floor

Salt Lake City, Utah 84114

(801) 366-0310

Thomas I. Simek
Commodity Futures Trading Commission
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Kansas City, Missouri 64112
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Counsel for Defendants

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Federal Public Defender, District of Utah
46 West Broadway Suite 110
American Towers Plaza
Salt Lake City, Utah 84101
(801) 524-4010

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Snow Christensen & Martineau
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Salt Lake City, Utah 84145
(801) 521-9000

Walter F. Bugden
Bugden & Isaacson LLC
445 East 200 South, Suite 150
Salt Lake City, Utah 84111
(801) 467-1700

Andrew G. Deiss
Deiss Law PC
10 West 100 South, Suite 425
Salt Lake City, Utah 84101
(801) 433-0226

Counsel for the United States

Jacob J. Strain
United States Attorney's Office, District of Utah
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 524-5682

2. *United States v. Kurbanov*, 2:13cr327 (D. Utah)

The grand jury charged the defendant with teaching and demonstrating the making and use of improvised explosive devices ("IEDs") in Utah, including distributing information regarding the preparation of an explosive or weapon of mass destruction. These activities were alleged to have included conducting trips to determine where the necessary components could be purchased,

providing written recipes for IEDs, giving verbal instructions regarding same, and showing certain internet videos.

Because the defendant was a resident of Idaho, he was tried and convicted there first on related charges of conspiring and attempting to provide material support to a foreign terrorist organization. At trial, evidence was presented that the defendant was in touch with a foreign terrorist organization, discussed possible U.S. targets, including military bases, and how he might provide software and money to the foreign terrorist organization.

I worked on all aspects of the Utah case, including coordination with the Idaho case, with another senior leader in the office, John Huber, from long before the indictment in 2013 until I left the office in 2014. After the Idaho conviction in 2015, the Utah case was terminated after the defendant agreed to dismiss the appeal of the Idaho conviction.

The defendant is serving a 45-year sentence, comprised of his original conviction and a subsequent attempt to kill a federal prison warden.

Dates of Representation: 2012 – 2014

Presiding Judge

The Honorable Dee V. Benson, United States District Court, District of Utah

Co-Counsel

The Honorable John Huber
United States Attorney's Office, District of Utah
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 524-5682

Counsel for Defendant

Kathryn Nester
225 Broadway, Suite 900
San Diego, California 92101
(619) 234-8467

3. *United States v. Roman*, 2:13-CR-602 (D. Utah)

In this case, the grand jury alleged that the defendant used an AK-47 rifle to shoot and kill a deputy sheriff who had apprehended him after a drug deal. The indictment charged the defendant with illegal reentry, distributing controlled substances, possession of a firearm in furtherance of drug trafficking, use of a firearm during a crime of violence, and killing of a law enforcement officer to avoid apprehension.

The defendant already had been tried and convicted of certain state crimes, but was not convicted of the state crime of aggravated murder. Defense counsel moved to dismiss many of the federal charges on the grounds that the Fifth Amendment's Double Jeopardy Clause barred the counts

due to the earlier state charges and trial. The District Court denied the motion to dismiss based on the dual sovereignty doctrine. The 10th Circuit Court of Appeals affirmed.

At trial, the federal jury convicted the defendant of all charges to which he had not already pled guilty, including the killing of a law enforcement officer. The District Court sentenced the defendant to life plus 80 years in federal prison. Defendant appealed his conviction and the United States Court of Appeals for the Tenth Circuit denied the appeal.

Together with the other members of the team, I worked on all aspects of the case from 2012 until my departure from the office in 2014. The team tried the case after I left.

Dates of Representation: 2012 – 2014

Presiding Judge

The Honorable David Nuffer, U.S. District Court, District of Utah

Co-Counsel

Felice J. Viti

Trina A. Higgins

Andrew R. Choate

111 South Main Street, Suite 1800

Salt Lake City, Utah 84111

(801) 524-5682

The Honorable Diana Hagen

450 State Street

Salt Lake City, Utah 84114

(801) 238-3940

Counsel for Defendant

Stephen R. McCaughey

9 Exchange Place, Suite 600

Salt Lake City, Utah 84111

(801) 364-6474

4. *United States v. Zander*, 2-10-CR-1088 (D. Utah)

The defendant was the general counsel and trust resources director for the Paiute Indian Tribe of Utah and a former Marine Judge Advocate General. As part of his responsibilities, the defendant handled grant monies awarded to the Tribe to assist it in developing and executing Integrated Resource Management Plans (IRMPs), which are meant to support the Tribe in using tribal resources to further the economic and non-economic interests of members of the Tribe.

The grand jury indicted the defendant on counts of mail fraud, wire fraud, money laundering, and willful failure to file tax returns. Evidence was presented at trial that defendant converted the grants intended for the Tribe to his own personal use. Instead of hiring expert outside

consultants to support the Tribe's resource management efforts, he created fictitious invoices, submitted them for payment by the Tribe, and then deposited the Tribe's checks into his personal accounts. He also prepared reports to the Bureau of Indian Affairs showing that the funds were being spent for consultants, though he actually was taking the funds himself.

Co-counsel and I tried the case. The defendant was convicted by the federal jury on all counts and subsequently was sentenced to 63 months in prison and to pay restitution.

Dates of Representation: 2012 – 2013

Presiding Judge

The Honorable David Nuffer, United States District Court, District of Utah

Co-Counsel

Scott Thorley
United States Attorney's Office
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111
(801) 524-5682

Scott Romney
Prestige Financial Services
351 West Opportunity Way
Draper, Utah 84020
(801) 844-2470

Counsel for Defendant

Steven Killpack
Steven Killpack, Attorney at Law
43 East 400 South
Salt Lake City, Utah 84111
(801) 656-5221

5. *United States v. McCoy*, 2:12-CR-218 (D. Utah)

The grand jury charged the defendant with possession of illicit drugs with intent to distribute, possession of a firearm in furtherance of a drug trafficking crime, and being a felon in possession of a firearm and ammunition. After extensive motion practice and a trial, the jury convicted the defendant of all counts. The United States Court of the Appeals for the Tenth Circuit later affirmed the convictions.

I tried the case with Mr. Drew Yeates, who handled the case from the investigation forward.

Dates of Representation: 2013

Presiding Judge

The Honorable Ted Stewart, United States District Court, District of Utah

Co-Counsel

J. Drew Yeates

United States Attorney's Office

111 South Main Street, Suite 1800

Salt Lake City, Utah 84111

(801) 524-5682

Counsel for the Defendant

Kim Cordova

Utah Commission on Criminal and Juvenile Justice

Senate Building, Suite 330

Salt Lake City, Utah 84114

(801) 425-7346

6. *Baker v. AstraZeneca Pharms. LP*, MIDL 1099 07 MT 274 (N.J. Super. Ct.)

This was the first case to go to trial involving Seroquel, an atypical antipsychotic. Over a period of many years, more than 10,000 state and federal cases were filed against AstraZeneca involving Seroquel, alleging that the medication caused diabetes or other illnesses.

The plaintiff in this case contended that he developed diabetes as a result of taking Seroquel and that the company had not provided an adequate warning about the risk of diabetes. After a four-week trial, the jury found for AstraZeneca, with seven of eight jurors determining that the company had not failed to warn.

I was on the trial team and supported the lead trial lawyers, Diane Sullivan and Mike Brock, at the trial, though I did not present evidence. On the Seroquel cases generally, over a period of about 7 years, I played a significant role in the overall defense of the litigation nationwide, including serving on the cross-firm leadership team, co-leading the Sidley Austin team, and working on expert and scientific issues, dispositive motions, other motion practice, pleadings, case management, and other aspects of the litigation in some of the state court cases, federal cases, and the MDL.

Dates of Representation: 2013 (*Baker*) and 2003 – 2010 (Seroquel cases)

Presiding Judge

The Honorable Jessica R. Mayer, Superior Court of New Jersey

Co-Counsel

Mike Brock

Kirkland & Ellis

1301 Pennsylvania Avenue, N.W.

Washington, D.C. 20004

(202) 389-5991

Diane P. Sullivan
Weil, Gotshal & Manges LLP
17 Hulfish Street, Suite 201
Princeton, New Jersey 08542
(609) 986-1120

Michael W. Davis (retired partner)
Sidley Austin LLP
One South Dearborn Street
Chicago, Illinois 60603
(312) 853-7731

Plaintiff's Counsel

Paul Pennock
Weitz & Luxenberg
700 Broadway
New York, New York 10003
(212) 558-5500

7. *Meyers v. Ethicon, Inc.*, No. 03 L 004931 (Ill. Cir. Ct.)

This case arose from a surgery performed by co-defendant Dr. Charles Miller and the videobroadcast of that surgery to a symposium at the American College of Obstetricians and Gynecologists ("ACOG"). Plaintiff originally filed suit against Dr. Miller alone in 2003, alleging medical malpractice on the ground that Dr. Miller breached his duty of care in the surgery he performed.

In 2005, plaintiffs added Ethicon, Inc. to the suit, alleging that Ethicon's broadcast of the surgery to ACOG was a misappropriation of her identity for commercial purposes. Plaintiffs further contended that Ethicon was medically negligent by acting as a partner or joint venturer of Dr. Miller. This claim was based in part on the alleged presence of an Ethicon representative in the surgical suite.

For four years the case underwent extensive written discovery, fact witness depositions, expert depositions, motion practice, and trial preparation. Ethicon obtained summary judgment in 2008 just before trial. The remainder of the case was tried and the jury found for the defendant, Dr. Miller. Plaintiff appealed. In 2009, the appeal was dismissed.

Dates of Representation: 2005 – 2009

Presiding Judge

The Honorable Kathy Flanagan, Circuit Court of Cook County
The Honorable Deborah Dooling, Circuit Court of Cook County

Co-Counsel

Michael W. Davis (retired partner)
Stephen C. Carlson (retired partner)
Sidley Austin LLP
1 South Dearborn Street
Chicago, Illinois 60606
(312) 853-7731

James R. M. Hemmings
Tucker Ellis LLP
233 South Wacker Drive, Suite 6950
Chicago, Illinois 60606
(312) 624-6324

Counsel for Dr. Miller

Luisa Trujillo
Anderson, Rasor & Partners, LLP
150 South Wacker Drive, Suite 350
Chicago, Illinois 60606
(312) 673-7802

Counsel for Plaintiffs

Thomas Nathan
The Law Offices of Munday & Nathan
33 North Dearborn Street, Suite 2200
Chicago, Illinois 60602
(312) 346-5678

8. *In re Asbestos Litig.*, 77-C-ASB-2 (Del. Super. Ct.)

Over a period of about eight years, I had responsibility for hundreds of cases filed in several state and federal courts against the General Electric Company (“GE”) involving the alleged use of asbestos in products sold by GE. The cases alleged that plaintiffs had developed mesothelioma, lung cancer, asbestosis or other illnesses as a result of exposure to asbestos. The GE products at issue typically were marine or land steam turbines.

These cases were filed in state courts, the Northern District of Illinois, and the MDL. Together with state-specific counsel, I handled and supervised the pretrial work of pleadings, written discovery, depositions, dispositive motions, other motion practice, and settlement negotiations with plaintiffs’ counsel. The matter cited here involves the Delaware asbestos litigation.

Dates of Representation: 2000 – 2008

Presiding Judge

The Honorable Joseph R. Slights, III, Delaware Superior Court

Co-Counsel

Timothy E. Kapshandy
Sidley Austin LLP
One South Dearborn
Chicago, Illinois 60603
(312) 853-7643

The Honorable Lynne M. Parker
Delaware Superior Court
500 North King Street
Wilmington, Delaware 19801
(302) 255-0681

Counsel for Plaintiffs

Robert Jacobs
Jacobs & Crumplar, P.A.
750 Shipyard Drive, Suite 200
Wilmington, Delaware 19801
(302) 600-1935

9. *Terre Haute First Nat'l ex rel. Estate of Dreher v. IMC Salt, Inc.*, No. TH01-275-C (S.D. Ind.)

This case, and a companion case, involved the death of one man and injury to another caused by a railcar divider door that collapsed on the men. Plaintiff sued the manufacturer of a roller system that failed on the railcar door in question, the installer of the system, and the lessor of the railcars (IMC Salt). As to IMC Salt, plaintiff alleged that the company negligently allowed the carriage system on the railcar door to be replaced with a defective roller system, failed to inspect the door after the replacement was made, and failed to warn about the dangerous condition that existed.

Over the next 1-1/2 years, the parties conducted significant fact and expert discovery. After I prepared a motion for summary judgment, the Court informally mediated the case. Settlement was reached and the case concluded. I led the representation of IMC Salt in all respects, together Tim Kapshandy.

Dates of Representation: 2001 – 2003

Presiding Judge

The Honorable William Hussman, United States District Court, S.D. Indiana

Co-Counsel

Timothy Kapshandy
Sidley Austin LLP
1 South Dearborn Street
Chicago, Illinois 60606
(312) 853-7643

Counsel for Duffie's Railcar Repair

Scott Kyroutac
Wilkinson, Goeller, Modesitt, Wilkinson & Drummy LLP
333 Ohio Street
Terre Haute, Indiana 47807
(812) 917-2804

Counsel for Plaintiff

Robert Wright
Wright, Shagley & Lowry
500 Ohio Street
Terre Haute, Indiana 47807
(812) 232-3388

10. *Hoekenga v. Makita Corp.*, No. 96 L 1334 (Ill. Cir. Ct.)

Plaintiff brought this personal injury claim for severe damage to his hand, including partial amputation of fingers, while using a Makita miter saw. Plaintiff alleged that the articulated guard of the saw was designed defectively and that a gravity guard would have been safer.

Mr. Bruce Duffield, who was lead counsel, and I tried the case together, including the preparation of motions, jury instructions, fact and expert witness outlines, and other materials for the case. We obtained an unanimous defense verdict from the twelve-person jury.

Dates of Representation: 1998

Presiding Judge

The Honorable Kenneth Moy, Circuit Court of DuPage County

Co-Counsel

Bruce Duffield
Bryan Cave LLP
161 North Clark Street, Suite 4300
Chicago, Illinois 60601
(312) 602-5087

Plaintiff's Counsel

Timothy McLean
Clingen, Callow & McLean LLC
2300 Cabot Drive, Suite 500
Lisle, Illinois 60532
(630) 871-2162

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.)

Over the past five years, I have handled numerous government enforcement actions and internal investigations in the United States and internationally, including matters involving California, Florida, Illinois, Maine, Minnesota, New York, North Carolina, Texas, Utah, as well as Belgium, China, Czech Republic, India, Ireland, Japan, Singapore, Spain, Switzerland, and the United Kingdom. Some of these matters have involved civil or criminal litigation, while others have not. These matters have included responding to federal grand jury subpoenas, Civil Investigative Demands (CIDs), and state subpoenas; preparing witnesses for interviews by federal prosecutors, other federal attorneys, or for grand jury testimony; investigating and determining the facts of the matters in question; and analyzing potential issues under a variety of different federal and state civil and criminal laws. The matters have varied in size and scope, but typically have been large, multi-jurisdictional matters, with the last few involving an aggregate of \$580 million at issue.

Earlier in my career, I handled a large number of domestic violence cases on a pro bono basis. The cases involved both women and men, included numerous clients who spoke other languages, and varied greatly in their nature and potential resolution. The work involved meeting with the potential clients, screening out potential clients who would not qualify for representation, referring those who did not qualify to other private services or public agencies that might be able to help, understanding and organizing each client's story and the supporting evidence, preparing the clients for court, and then representing each client in court, including the presentation of documentary and testamentary evidence.

I have not 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.

I have an ERISA-qualified cash balance retirement plan from Sidley Austin LLP, which I funded and which is fully vested.

21. **Outside Commitments During 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.

None.

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

When my nomination is submitted to the Senate, I will file my mandated Financial Disclosure Report and provide a copy to this Committee.

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, affiliations, pending and categories of litigation, financial arrangements or other factors 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.

The parties likely to present potential conflicts of interest during my initial service as a District Court Judge would include Dorsey & Whitney LLP and individuals and entities with whom I have a financial, familial, or personal relationship. To identify parties which present an actual or potential conflict of interest and to address any conflict were it to arise, I would consult the Code of Conduct for United States Judges, 28 U.S.C. § 455, and the relevant rules, practices, procedures, and personnel of the District Court, the Tenth Circuit, the Administrative Office of the United States Courts, and the Judicial Conference.

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

I would carefully review and address any real or potential conflict by applying 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any all other laws, rules, and practices governing such circumstances.

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. If you are not an attorney, please use this

opportunity to report significant charitable and volunteer work you may have done.

I spent a few hundred hours handling a large number of domestic violence cases on a pro bono basis. The work involved meeting with the potential clients, understanding and organizing each client's story, preparing the clients and the evidence for evidentiary hearings in court, and then representing each client in court and presenting the evidence in order to obtain orders of protection. I received Pro Bono Advocates' Lawyer of the Year award for this work.

I estimate that I spent one to two hundred hours in the pro bono representation of a prisoner asserting civil rights and due process claims in federal court. The work involved asserting the claims, conducting discovery, reviewing the evidence, and motion practice.

I also have spent many dozens of hours reviewing briefs and participating in moot court sessions for pro bono criminal defenses cases being handled by others. Additionally, I have assisted in a variety of other pro bono matters at the request of others.

I have had other opportunities to participate in pro bono and other charitable work over the years, including assisting with child custody, immigration, housing, and other issues. I also have given hundreds of hours of service to religious and non-religious charitable efforts to provide food, clothing, shelter, and other necessities and aid to those in need.

Finally, I was appointed by the Utah Supreme Court to serve on the Diversion Committee. Together with the Utah State Bar's Office of Professional Conduct, the Diversion Committee considers certain cases of alleged attorney misconduct.

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.

The District of Utah does not have a selection commission to recommend candidates for federal district court nomination. In late January 2019, Senator Mike Lee informed me that a current federal district court judge was taking senior status and that I was invited to be a candidate for the position. Soon after, the Office of White Counsel contacted me to arrange an interview. In February 2019, I was interviewed by a panel of attorneys from the Office of White House Counsel and the Department of Justice. In May 2019, the White House announced the intent of the President to nominate me. I have been in periodic contact with personnel from the Department of Justice and the White House throughout this time.

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 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		337	905	Notes payable to banks-secured (auto)			
U.S. Government securities		169	000	Notes payable to banks-unsecured			
Listed securities – see schedule	2	450	330	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 – see schedule		637	580
Real estate owned – see schedule	1	060	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		57	208				
Cash value-life insurance							
Other assets itemize:							
				Total liabilities		637	580
				Net Worth	3	436	863
Total Assets	4	074	443	Total liabilities and net worth	4	074	443
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

State Street S&P 500 Index Fund	\$292,285
Vanguard Developed Markets Index Fund	\$73,225
Vanguard Emerging Markets Index Fund	\$235,951
Schwab Total Stock Market Index Fund	\$51,238
Sidley Cash Balance Plan for Partners	\$261,304
Vanguard Total Stock Market Index Fund	\$247,281
Vanguard Prime Money Market Fund	\$28,294
Vanguard Short-Term Tax Exempt Fund	\$679,466
Vanguard Total International Stock Market Fund	\$377,220
Vanguard Interest Accumulation Fund	\$54,379
Vanguard Federal Money Market Fund	\$68,367
Vanguard Index Equity Fund	\$75,139
Vanguard Short-Term Investment Grade Bond Index Fund	\$3,439
Oppenheimer Developing Markets Index Fund	\$2,742
Total Listed Securities	<u>\$2,450,330</u>

Real Estate Owned

Personal Residence	<u>\$1,060,000</u>
Total Real Estate Owned	<u>\$1,060,000</u>

Real Estate Mortgages Payable

Personal Residence – Mortgage	<u>\$637,580</u>
Total Real Estate Mortgages Payable	<u>\$637,580</u>

AFFIDAVIT

I, David B. Barlow, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

6/5/19

(DATE)

David B. Barlow

(NAME)



Karen Bingham

(NOTARY)