

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Frank William Volk
Frank William Volk, Jr.

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

United States District Judge for the Southern District of West Virginia

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.

Robert C. Byrd United States Courthouse
Suite 6408
300 Virginia Street East
Charleston, West Virginia 25301

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

1965; Morgantown, West Virginia.

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.

1989 – 1992, West Virginia University College of Law; J.D., 1992

1988, University of London; no degree

1984 – 1989, West Virginia University; B.A., 1989

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.

2015 – present

United States Bankruptcy Court for the Southern District of West Virginia

300 Virginia Street East
Charleston, West Virginia 25301
Chief Judge

2005 – present
West Virginia University College of Law
101 Law School Drive
Morgantown, West Virginia 25313
Adjunct Lecturer

2004 – 2015
Honorable John T. Copenhaver, Jr.
United States District Court for the Southern District of West Virginia
300 Virginia Street East
Charleston, West Virginia 25313
Law Clerk

1995 – 2004
Honorable Charles H. Haden II
United States District Court for the Southern District of West Virginia
300 Virginia Street East
Charleston, West Virginia 25313
Law Clerk

1994 – 1995
Honorable Margaret L. Workman
West Virginia Supreme Court of Appeals
1900 Kanawha Boulevard East
Charleston, West Virginia 25305
Law Clerk

1994
Steptoe & Johnson PLLC
707 Virginia Street East
Charleston, West Virginia 25301
Associate

1993 – 1994
Honorable M. Blane Michael
United States Court of Appeals for the Fourth Circuit
300 Virginia Street East
Charleston, West Virginia 25301
Law Clerk

1992 – 1993
Honorable Charles H. Haden II

United States District Court for the Southern District of West Virginia
300 Virginia Street East
Charleston, West Virginia 25313
Law Clerk

Summer 1991
Bowles Rice LLP
101 South Queen Street
Martinsburg, West Virginia 25401
Summer Associate

Summer 1989; Summer 1990
Reinman Harrell Graham Mitchell & Wattwood
1825 South Riverview Drive
Melbourne, Florida 32901
Summer Associate (Summer 1990)
Summer Intern (Summer 1989)

Other Affiliations (uncompensated):

2013 – 2015 (estimated)
Boulevard Mobile Homes, Inc.
23 Highland Street
Westover, West Virginia 26501
General Counsel

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 never served in the military. I registered for selective service upon turning 18.

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.

West Virginia University College of Law

Graduated third in my class (1992)
Order of the Coif (1992)
Robert G. Kelly Scholarship (1991 – 1992)
Editor-in-Chief, *West Virginia Law Review* (1991 – 1992)
Best Student Note Award (1991)

West Virginia University

Graduated as an Honors Scholar from West Virginia University (1989)
Honors Program member (1984 – 1989)
Mountain Honorary (1988 – 1992)

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

American Inn of Court, Judge John A. Field, Jr., Master of the Bench (dates unavailable)

American Bankruptcy Institute (2006 – present)

Federal Judicial Center (2016 to present)

Fourth Circuit Judicial Conference, Permanent Member (2009 – present)

National Conference of Bankruptcy Judges (2015 – present)

Cost Containment/Judicial Relations Committee (2016 – 2018)

Technology Committee (2018 – 2019)

West Virginia State Bar Bankruptcy Committee (2005 – present)

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.

West Virginia, 1994

Pennsylvania, 1992

I am unaware of any lapses; I have maintained inactive status at times inasmuch as some of the positions I have held did not require active status.

- 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 Fourth Circuit, 1994

United States District Court for the Southern District of West Virginia, 1994

I am unaware of any lapses.

11. **Memberships:**

- c. 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.

American Bankruptcy Law Journal ("ABLJ") (2019 – present)
Associate Editor (2019 – present)
Editorial Advisory Board Member (2019 – present)

Cross Lanes Baptist Church (1995 – present)
Director of the Men's Ministry (I cannot recall the dates)
Chairman of the Deacons (I cannot recall the dates)
Chairman of the Pastoral Search Committee (2002 – 2003)
Benevolence Ministry (I cannot recall the dates)
Vision Task Force (I cannot recall the dates)

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

To the best of my knowledge, none of the organizations listed 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.

Attorney Compensation for Defending the Appeal of a Stay Violation Order, 33 AM. BANKR. INST. J. 16 (2014). Copy supplied.

The Chapter 7 Trustee Compensation Conundrum, 33 AM. BANKR. INST. J. 34 (2014). Copy supplied.

Closing a Deep Divide: Appealing a Denial of Plan Confirmation, 32 AM.

BANKR. INST. J. 34 (2013). Copy supplied.

Putting the "Household" Back in Order: A Proposal for Congressional Clarification of Section 1325, 31 AM. BANKR. INST. J. 22 (2013). Copy supplied.

First Impressions: Interpreting Stern, 30 AM. BANKR. INST. J. 10 (2012). Copy supplied.

A Debtor's Right of Voluntary Dismissal Under § 1307(b) Following Marrama, 29 AM. BANKR. INST. J. 12 (2011). Copy supplied.

How to Develop Standards Governing the Recovery of Emotional Distress Damages, 27 AM. BANKR. INST. J. 10 (2009). Copy supplied.

What Do Scandal and Defamation Have to Do With the Code? Sealing Orders Under 11 U.S.C. § 107, 26 AM. BANKR. INST. J. 12 (2007). Copy supplied.

Dedication to E. Ann Compton Keel, 95 W. VA. L. REV. 613 (1993). Copy supplied.

Note, *HIV Positive Employees as "Handicapped" Persons Under State and Federal Law: West Virginia Follows the Trend to Cast Aside Irrational Fear and Prejudice in Favor of Competent Medical Evidence and Sound Public Policy*, 93 W. VA. L. REV. 219 (1990). 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.

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.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or

recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

October 29, 2018: Panelist, "Student Loans in Chapter 13," National Conference of Bankruptcy Judges Annual Conference, San Antonio, Texas. Notes supplied.

August 22, 2018: Panelist, "Exploring New Frontiers," American Bankruptcy Institute, Midwest Regional Bankruptcy Seminar, Cincinnati, Ohio. Notes supplied.

August 22, 2018: Panelist, "Ethics of Decision-Making," American Bankruptcy Institute Midwest Regional Bankruptcy Seminar, Cincinnati, Ohio. I discussed with my fellow panelists and the audience certain ethical parameters for judicial decision making. I have no notes, transcript, or recording. The address of the American Bankruptcy Institute is 66 Canal Center Plaza #600, Alexandria, Virginia, 22314.

July 12, 2018: Panelist, "I'll Be The Judge of That," Federal Judicial Center National Workshop for Bankruptcy Judges, Denver, Colorado. Notes supplied.

April 12, 2018: Panelist, International Women's Insolvency and Restructuring Confederation and the Turnaround Management Association, "Views from the Bench," Atlanta, Georgia. Notes supplied.

March 23, 2018: Speaker, "Bankruptcy Jurisdiction and Procedure," West Virginia University College of Law Continuing Legal Education Bankruptcy Seminar, Charleston, West Virginia. Notes supplied.

March 23, 2018: Speaker, "Emerging Consumer Issues," West Virginia University College of Law Continuing Legal Education Bankruptcy Seminar, Charleston, West Virginia. Notes supplied.

March 15, 2018: Panelist, "I'll Be The Judge of That," Federal Judicial Center National Workshop for Bankruptcy Judges, New Orleans, Louisiana. Notes supplied.

August 11, 2017: Panelist, "Financial Fragility in the Middle Class," Federal Judicial Center National Workshop for Bankruptcy Judges, San Diego, California. Notes supplied.

October 23, 2015: Speaker, "Response," Investiture Ceremony of Frank W. Volk, United States Bankruptcy Judge, Charleston, West Virginia. Transcript supplied.

February 3, 2014: Speaker, "Address to New Citizens," United States District Court for the Southern District of West Virginia, Naturalization Ceremony, Charleston, West Virginia. Outline and press report supplied.

January 16, 2014: Panelist, "Persuasive Briefs and Memoranda: Insights, Views and Lessons from the District Court," West Virginia Association for Justice, Charleston, West Virginia. Notes supplied.

February 18, 2012: Speaker, "With All Deliberate Speed: The Courage of Lower Federal Judges in Implementing the Supreme Court's Civil Rights and Racial Equality Decisions in the 1950s and 1960s," Sons of the American Revolution, Charleston, West Virginia. My notes for this address, while unavailable, are materially identical to those used in the Constitution Day address summarized next below.

September 16, 2011: Speaker, "The Federal Courts: Guardians of the Constitution," United States District Court for the Southern District of West Virginia, Constitution Day event, Charleston, West Virginia. Notes supplied.

Unknown date: Panelist, Federal Public Defender's Office for the Southern District of West Virginia Continuing Legal Education Seminar, Charleston, West Virginia. I cannot recall the subject of the panel presentation. I have no notes, transcript, or recording. The address of the Federal Public Defender's Office is Robert C. Byrd United States Courthouse, 300 Virginia Street East, Room 3400, Charleston, West Virginia, 25301.

Unknown date: Speaker, "The History of Our Bankruptcy Laws," Putnam County Rotary Club, Teays Valley, West Virginia. My remarks covered the history of United States Bankruptcy law. I have no notes, transcript, or recording. The address of the Putnam County Rotary Club is 971 WV-34, Hurricane, West Virginia, 25526.

- 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.

Kate White, *Bankruptcy judge named*, Charleston Gazette, June 19, 2015. Copy supplied.

Anna Patrick, *Knight's noble lineage carries on Cross Lanes girl picks - up*

grandfather's legacy, wins Golden Horseshoe, Charleston Gazette, May 17, 2015. Copy supplied.

Samuel Speciale, *Kanawha Spelling Bee; After final round rematch, Lauren Volk takes the bee*, Charleston Gazette, Jan. 11, 2015. Copy supplied.

U.S. District Judge Charles Haden Dies, Associated Press State & Local Wire, Mar. 20, 2004. Copy supplied.

Jennifer Bundy, *Law Review Publishes Glowing Article on Retired Justice Miller*, Charleston Gazette, July 13, 1995. Copy supplied.

Article Surprises Former Justice Thomas Miller Recognized for Contributions to State, Charleston Daily Mail, Jul. 13, 1995. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

From October 2015 to present, I have served as the Chief Bankruptcy Judge for the United States Bankruptcy Court for the Southern District of West Virginia. I was appointed by the Judicial Council of the United States Court of Appeals for the Fourth Circuit following a vote by the Court of Appeals *en banc*. I exercise the jurisdiction conferred by 28 U.S.C. § 1334.

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

I do not recall any cases that I have tried to verdict or judgment. As of September 6, 2018, I had held over 3,000 hearings. As of year-end 2018, I was assigned 1,638 main bankruptcy cases, reduced from 2,083 the previous year. As of March 10, 2019, I have entered final orders granting discharge in 6,224 cases.

- i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100% [total 100%]
civil proceedings:	100%
criminal proceedings:	0% [total 100%]

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

See Appendix 13(b).

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

1. *In re James F. Humphreys & Associates, L.C.*, No. 2:16-bk-20006 (Bankr. S.D. W. Va); *Horne v. James F. Humphreys & Associates, L.C.*, 558 B.R. 764 (Bankr. S.D. W. Va. 2016); *James F. Humphreys & Associates, L.C. v. Horne*, 558 B.R. 758 (Bankr. S.D. W. Va. 2016); *Horne v. James F. Humphreys & Associates, L.C.*, 554 B.R. 355 (Bankr. S.D. W. Va. 2016); *In re James F. Humphreys & Associates, L.C.*, 547 B.R. 190 (Bankr. S.D. W. Va. 2016); *In re James F. Humphreys & Associates, L.C.*, 2018 WL 1597429 (Bankr. S.D. W. Va. Mar. 26, 2018); *In re James F. Humphreys & Associates, L.C.*, 2017 WL 4341333 (Bankr. S.D. W. Va. Sept. 27, 2016); *In re James F. Humphreys & Associates, L.C.*, 2016 WL 6208583 (Bankr. S.D. W. Va. Oct. 21, 2016).

The case involved the insolvency of a longtime Charleston law firm, with thousands of potential litigants and lawsuits. The matter required significant decisions on, *inter alia*, claims, stay relief, noticing, preliminary injunction, legal representation, and abstention. A plan was confirmed.

Lawyers for Debtors:

Julia A. Chincheck
Bowles Rice LLP
600 Quarrier Street
Charleston, West Virginia 25301
(304) 347-1713

Daniel J Cohn
Wells Fargo Bank
301 South College Street, 30th Floor
MAC D1053-300
Charlotte, North Carolina 28202
(704) 383-3399

Judith K. Fitzgerald
Beverly Weiss Manne
Danielle L. Dietrich
Tucker Arensberg, P.C.
1 PPG Place, Suite 1500
Pittsburgh, Pennsylvania 15222
(412) 594-3933

Lawyer for United States Trustee:

Debra Wertman
United States Trustee
2025 Robert C. Byrd United States Courthouse
300 Virginia Street, East
Charleston, West Virginia 25301
(304) 347-3400

Lawyers for Ira and Mavis Horne, Beverly McCormick, Linda Hubbard:

John C. Palmer, IV
Stephen D. Annand
Robinson & McElwee
Post Office Box 1791
Charleston, West Virginia 25326
(304) 347-8324

P. Rodney Jackson
Law Office of P. Rodney Jackson
401 Fifth Third Center
700 Virginia Street East
Charleston, West Virginia 25301
(304) 720-6783

Lawyer for James F. Humphreys (personally):

Thomas B. Bennett
Bailey & Glasser LLP
209 Capitol Street
Charleston, West Virginia 25301
(304) 345-6555

Lawyer for Humphrey, Farrington & McClain, P.C.:

Steven L. Thomas
Kay Casto & Chaney PLLC
Post Office Box 2031
Charleston, West Virginia 25327-2031
(304) 345-8900

2. *In re Dennis Johnson*, 3:16-bk-30227 (Bankr. S.D. W. Va); *In re Sabbatical, Inc.*, 2017 WL 1157120 (Bankr. S.D. W. Va. 2017).

These jointly administered cases involve fifteen debtors in a coal enterprise that resulted in multiple insolvencies. A number of issues have arisen in the cases, including the appointment of a Chapter 11 Trustee. The case is ongoing, with a

major proposed settlement and related matters adjudicated by written opinion on March 31, 2019.

Chapter 11 Trustee:

Thomas H. Fluharty
408 Lee Avenue
Clarksburg, West Virginia 26301
(304) 624-7832

Lawyer for Chapter 11 Trustee:

Joe M. Supple
801 Viand Street
Point Pleasant, West Virginia 25550
(304) 675-6249

Special Counsel to the Chapter 11 Trustee:

Patrick S. Cassidy
Cassidy, Meyers, Cogan & Voegelin, L.C.
1413 Eoff Street
Wheeling, West Virginia 26003
(304) 232-8100

Martin P. Sheehan
Sheehan & Nugent, PLLC
41 Fifteenth Street
Wheeling, West Virginia 26003
(304) 232-1064

Lawyer for Peoples Bank:

Kirk B Burkley
Bernstein-Burkley, P.C.
707 Grant Street
Suite 2200
Pittsburgh, Pennsylvania 15219
(412) 456-8108

Arch W. Riley, Jr.
Bernstein-Burkley, P.C.
Hare Building
48 Fourteenth Street Suite 301
Post Office Box 430
Wheeling, West Virginia 26003-0009

(304) 215-1177

Lawyer for Debtor and others (prior to appointment of Chapter 11 Trustee):

Michael J. Roesenthaler
Whiteford Taylor & Preston LLP
500 Grant Street, Suite 2900
Pittsburgh, Pennsylvania 15219
(415) 515-1422

Lawyer for Appalachian Mining and Reclamation, L.L.C. and others (prior to appointment of Chapter 11 Trustee):

Stephen L. Thompson
Barth & Thompson
Post Office Box 129
Charleston, West Virginia 25321
(304) 342-6215

Lawyer for Dennis Johnson (following appointment of Chapter 11 Trustee):

Ann R. Starcher
Spencer D. Elliott
Lewis, Glasser, Casey & Rollins
Post Office Box 1746
Charleston, West Virginia 25326-1746
(304) 345-2000

Lawyer for Dennis Johnson, Sr.:

Beth G. Kavitz
Kavitz Law PLLC
1204 Virginia Street East
Charleston, West Virginia 25301
(681) 265-9441

Lawyer for the United States Trustee:

Debra A. Wertman
300 Virginia Street East
Suite 2025
Charleston, West Virginia 25301
(304) 347-3400

Attorney for Denise Johnson:

Andrew S. Nason
Pepper & Nason
8 Hale Street
Charleston, West Virginia 25301
(304) 346-0361

Attorney for Zachary Burkons:

Julia A. Chinchek
Zachary Rosencrance
Bowles Rice LLP
600 Quarrier Street
Charleston, West Virginia 25301
(304) 347-1100

Attorneys for Case Dock, LLC:

Steven L. Thomas
Kay Casto & Chaney, PLLC
1500 Chase Tower
707 Virginia Street East
Charleston, West Virginia 25301
(304) 391-8811

Taft A. McKinstry
Fowler Bell PLLC
300 West Vine Street
Suite 600
Lexington, Kentucky 40507
(859) 252-6700

Lawyer for Southern Marine Terminal, LLC:

Carol Smith
Frost Brown Todd LLC
500 Lee Street, East
Suite 401
Charleston, West Virginia 25301
(304) 345-0111

3. *In re Hard Rock Exploration*, 2:17-bk-20459 (Bankr. S.D. W. Va); *In re Hard Rock Exploration, Inc.*, 580 B.R. 202 (Bankr. S.D. W. Va. 2017).

This case, involving multiple debtors, has resulted in the litigation of complicated questions surrounding the Debtors' oil and gas leases. The Court recently approved a sale following an auction of the affected entities' assets. The Court

currently has under consideration various fee petitions and request, which will be adjudicated in due course. The case is winding down.

Lawyers for Chapter 11 Trustee:

William F. Dobbs (Retired)

Elizabeth A Amandus
Jackson Kelly PLLC
500 Lee Street, East, Suite 1600
Charleston, West Virginia 25322
(304) 340-1090

Chapter 11 Trustee:

Robert W. Leasure, Jr.
462 South Fourth Street
Suite 1770
Louisville, Kentucky 40202
(502) 741-0333

Lawyer for the United States Trustee:

Debra A. Wertman
300 Virginia Street East
Suite 2025
Charleston, West Virginia 25301
(304) 347-3400

Steven A. Shay
1103 Broad Street
Summersville, West Virginia 26651
(304) 906-7214

Lawyers for Debtors (prior to appointment of Chapter 11 Trustee):

Christopher S. Smith
Hoyer, Hoyer & Smith, PLLC
22 Capitol Street
Charleston, West Virginia 25301
(304) 344-9821

Taft A. McKinstry
Fowler Bell PLLC
300 West Vine Street, Suite 600
Lexington, Kentucky 40507

(859) 252-6700

Lawyers for Official Committee of Unsecured Creditors:

Charles I. Jones, Jr.
Campbell Woods, PLLC
Post Office Box 1835
Huntington, West Virginia 25719-1835
(304) 529-2391

Brandy M. Rapp
Whiteford Taylor & Preston LLP
10 South Jefferson Street
Suite 1110
Roanoke, Virginia 24011
(540) 759-3577

4. *In re Passage Midland Meadows Operations, LLC*, 3:17-bk-30092 (Bankr. S.D. W. Va); *In re Passage Midland Meadows Ops., LLC*, 578 B.R. 367 (Bankr. S.D. W. Va. 2017).

This case, involving multiple debtors, dealt with healthcare facilities providing assisted living, skilled nursing, independent living, and dementia care to over 400 residents. The case involved, *inter alia*, a difficult question of contract interpretation and required the appointment of a Chapter 11 Trustee. The case also involved appointment of an ombudsman. The Court concluded there was no bar to continuation of the receivership proceeding by the lease holder in service of its state court action to recover possession of the facilities and transition to a new lessee.

Lawyers for Welltower, Inc.:

Michael L. Bernstein
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, District of Columbia 20001
(202) 942-5577

Julia A. Chincheck
Bowles Rice LLP
600 Quarrier Street, Post Office Box 1386
Charleston, West Virginia 25325-1386
(304) 347-1100

Lawyer for Creditor PHSO, LLC:

Kevin M. Capuzzi
Benesch, Friedlander et al.
222 Delaware Avenue, Suite 801
Wilmington, Delaware 19801
(302) 442-7010

Lawyers for the Debtors:

William F. Dobbs (Retired)

Elizabeth A Amandus
Jackson Kelly PLLC
500 Lee Street, East, Suite 1600
Post Office Box 553
Charleston, West Virginia 25322
(304) 340-1090

5. *In re Daily Gazette Company*, 2:18-bk-20028 (Bankr. S.D. W. Va); *In re Daily Gazette Co.*, 584 B.R. 540 (Bankr. S.D. W. Va. 2018).

This case involved the bankruptcy filing and sale of the flagship newspaper in West Virginia. The debtors moved for leave to sell substantially all of their assets outside the ordinary course of business. Following consideration of an objection, the Court promptly entered an opinion approving the sale. The sale was approved and the case is awaiting plan confirmation.

Lawyer for Debtors:

Brian A. Audette
Perkins Coie LLP
131 South Dearborn Street, Suite 1700
Chicago, Illinois 60603
(312) 324-8534

Sarah Ellis
Steptoe & Johnson
707 Virginia Street East, Suite 800
Charleston, West Virginia 25301
(304) 353-8127

Lawyer for United Bank:

Peter M. Pearl
Spilman Thomas & Battle, PLLC
310 First Street, Suite 1100
Roanoke, Virginia 24011

(304) 340-3824

Lawyer for Debtors:

Joe M. Supple
801 Viand Street
Point Pleasant, West Virginia 25550
(304) 675-6249

Lawyer for HD Media Company, LLC:

Thomas H. Gilpin
Dinsmore & Shohl LLP
611 Third Avenue
Huntington, West Virginia 25701
(304) 691-8326

Lawyer for Charleston Publishing Company:

Steven Leftridge Thomas
Post Office Box 2031
Kay Casto & Chaney, PLLC
Charleston, West Virginia 25327-2031
(304) 345-8900

Lawyer for the United States Trustee:

David L. Bissett
United States Trustee's Office
300 Virginia Street East
Room 2025
Charleston, West Virginia 25301
(304) 347-3400

Lawyer for Pension Benefit Guaranty Corporation:

Marc S. Pfeuffer
Pension Benefit Guaranty Corporation
1200 K Street, Northwest
Washington, District of Columbia 20005
(202) 326-4020

6. *In re Royal Automotive Company*, 2:18-bk-20218 (Bankr. S.D. W. Va).

This case involved the filing and proposed sale of a longtime Charleston automobile dealership. A consumer privacy ombudsman was appointed.

Following auction procedures entered by the Court, a high bidder was designated and a sale approved. A plan has been confirmed.

Lawyers for Debtors:

Kevin W. Barrett
Marc R. Weintraub
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209 Capitol Street
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Lawyer for the United States Trustee:

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Lawyer for United Bank:

Zachary Rosencrance
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Lawyer for Subaru of America, Inc.:

Terri L. Gardner
Nelson Mullins Riley & Scarborough LLP
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(919) 329-3882

Lawyer for Public Benefit Guaranty Corporation:

Adrian Zareba
Public Benefit Guaranty Corporation
1200 K Street, Northwest
Washington, District of Columbia 20005
(202) 326-4020

Lawyer for Internal Revenue Service:

Fred B Westfall, Jr
United States Attorney's Office
300 Virginia Street East Suite 4000
Charleston, West Virginia 25301
(304) 345-2200

7. *In re Webb*, 3:15-bk-30498 (Bankr. S.D. W. Va); *Webb v. City Nat'l Bank of W. Va.*, 2018 WL 1615641 (S.D. W. Va. Mar. 30, 2018); *In re Webb*, 2017 WL 730429 (S.D. W. Va. Feb. 23, 2017); *In re Webb*, 2016 WL 2616756 (S. D. W. Va. May 4, 2016).

This consumer case involved multiple proceedings in state and federal court. The debtors and their lender were involved in a loan dispute in the Circuit Court of Wayne County. They entered into a settlement and the circuit court entered their agreed order of dismissal. The lender subsequently moved to enforce that agreement and to hold borrowers in contempt. Bankruptcy proceedings followed, along with the Court lifting the stay on the circuit court litigation. The debtors noticed an appeal following an adverse ruling. The appeal was dismissed by agreement, which appears to likewise have concluded all proceedings in the bankruptcy court.

Lawyers for Debtors:

Loree Stark
American Civil Liberties Union of West Virginia
Post Office Box 3952
Charleston, West Virginia 25339
(304) 345-9246

Colten L Fleu
Jed Nolan
Gary Smith
Mountain State Justice, Inc.
1217 Quarrier Street
Charleston, West Virginia 25301
(304) 344-3144

Lawyer for City National Bank of West Virginia:

Ancil G. Ramey
Steptoe & Johnson, PLLC
Post Office Box 2195
Huntington, West Virginia 25722-2195
(304) 353-8000

8. *In re Dials*, 6:16-bk-60085 (Bankr. S.D. W. Va); *Dials v. HSBC Bank USA, N.A.*, 575 B.R. 137 (Bankr. S.D. W. Va. 2017), *aff'd*, 740 F. App'x 327 (4th Cir. Oct. 25, 2018) and 744 F. App'x 160 (4th Cir. Dec. 3, 2018).

This case involving a *pro se* debtor resulted in a lengthy evidentiary hearing. The Court was called upon to, *inter alia*, control the proceedings, assess the debtor's credibility, and ascertain the existence and authenticity of certain filings, while also attempting to develop a coherent and complete evidentiary record. The decision by the Court was appealed to, and affirmed by, the United States District Court for the Southern District of West Virginia and the United States Court of Appeals for the Fourth Circuit. The case is closed and the Court has set a hearing on a motion to lift stay and the *pro se* debtor's motion to strike.

Chapter 11 Trustee:

Thomas H. Fluharty
408 Lee Avenue
Clarksburg, West Virginia 26301
(304) 624-7832

Lawyer for HSBC Bank USA, N.A.:

Christopher A. Dawson
Reisenfeld & Associates, LPA LLC
3962 Red Bank Road
Cincinnati, Ohio 45227
(513) 322-7000

Lawyer for Wheels Financial Group, LLC:

Thomas L. Canary, Jr.
Reimer Law Co.
9300 Shelbyville Road
Louisville, Kentucky 40222
(502) 371-0060

9. *Standish v. P. Rodney Jackson*, No. 2:15-bk-2008 (Bankr. S.D. W. Va); *In re Albertson*, 548 B.R. 715 (Bankr. S.D. W. Va. 2016).

This case involved a Chapter 7 trustee for the estate of a debtor-attorney who filed an adversary proceeding against a limited liability company that had advanced funds to the debtor. The advance was in exchange for a fee percentage under a contingency fee agreement. The action was designed to recover under usury and preference theories. The Court denied, in part, the defendants' motion to dismiss, and the case was settled.

Lawyers for Trustee:

Ancil G. Ramey
Sarah Ellis
Steptoe & Johnson, PLLC
Post Office Box 2195
Huntington, West Virginia 25722-2195
(304) 353-8000

Lawyers for P. Rodney Jackson and other parties:

William F. Dobbs (Retired)

Ellen Cappellanti
Jackson Kelly PLLC
Post Office Box 553
Charleston, West Virginia 25322
(304) 340-1029

10. *In re Nichols*, No. 2:16-bk-20427 (Bankr. S.D. W. Va); *Nichols v. Nichols*, 2017 WL 4413010 (Bankr. S.D. W. Va. Sept. 30, 2017); *In re Nichols*, 2017 WL 160865 (Bankr. S.D. W. Va. Jan. 13, 2017).

This case with state litigation roots was a heated family dispute. It resulted in a lengthy and fairly acrimonious evidentiary hearing. The Court made a number of evidentiary rulings from the bench and, ultimately, entered opinions dismissing the case for cause and addressing alleged violations of the automatic stay.

Lawyer Clinton N. Nichols:

J. Nicholas Barth
Barth & Thompson
Post Office Box 129
Charleston, West Virginia 25321
(304) 342-7111

Lawyer for United States Trustee:

David L. Bissett
United States Trustee's Office
300 Virginia Street East
Room 2025
Charleston, West Virginia 25301

Lawyer for Debtor:

Hiram C. Lewis, IV
4184 Elk River Road
Procious, West Virginia 26501
(304) 719-0065

Lawyer for the United States Postal Service:

Gary L. Call
90 Lexus Drive
Hurricane, West Virginia 25526
(304) 989-1976

Formerly with:
United States Attorney's Office
Post Office Box 1713
Charleston, West Virginia 25326-1713
(304) 345-2200

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *In re Passage Midland Meadows Operations, LLC*, 578 B.R. 367 (Bankr. S.D. W. Va. 2017).

Lawyers for Welltower, Inc.:

Michael L. Bernstein
Arnold & Porter Kaye Scholer LLP
601 Massachusetts Avenue, Northwest
Washington, District of Columbia 20001
(202) 942-5577

Julia A. Chincheck
Bowles Rice LLP
600 Quarrier Street
Charleston, West Virginia 25325-1386
(304) 347-1100

Lawyer for Creditor PHSG, LLC:

Kevin M. Capuzzi
Benesch, Friedlander et al.
222 Delaware Avenue, Suite 801
Wilmington, Delaware 19801

(302) 442-7010

Lawyers for the Debtors:

William F. Dobbs (Retired)

Elizabeth A Amandus
Jackson Kelly PLLC
500 Lee Street, East, Suite 1600
Post Office Box 553
Charleston, West Virginia 25322
(304) 340-1090

2. *In re Adkins*, 578 B.R. 382 (Bankr. S.D. W. Va. 2017).

Lawyer for Quality Car and Truck Leasing, Inc.:

Thomas H. Vanderford, IV
Pauley, Curry, Sturgeon & Vanderford
Post Office Box 2786
Charleston, West Virginia 25330
(304) 342-6000

Lawyer for Debtor:

Theodore Davitian
420 Market Street
Parkersburg, West Virginia 26101
(304) 428-8207

3. *In re Dials*, 575 B.R. 137 (Bankr. S.D. W. Va. 2017).

Chapter 11 Trustee:

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Lawyer for HSBC Bank USA, N.A.:

Christopher A. Dawson
Reisenfeld & Associates, LPA LLC
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(513) 322-7000

Lawyer for Wheels Financial Group, LLC:

Thomas L. Canary, Jr.
Reimer Law Co.
9300 Shelbyville Road
Louisville, Kentucky 40222
(502) 371-0060

4. *In re Hard Rock Exploration, Inc.*, 580 B.R. 202 (Bankr. S.D. W. Va. 2017).

Lawyers for Chapter 11 Trustee:

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Elizabeth A Amandus
Jackson Kelly PLLC
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(304) 340-1090

Chapter 11 Trustee:

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Lawyer for the United States Trustee:

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Suite 2025
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Steven A. Shay
1103 Broad Street
Summersville, West Virginia 26651
(304) 906-7214

Lawyers for Debtors (prior to appointment of Chapter 11 Trustee):

Christopher S. Smith
Hoyer, Hoyer & Smith, PLLC

22 Capitol Street
Charleston, West Virginia 25301
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Taft A. McKinstry
Fowler Bell PLLC
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Lawyers for Official Committee of Unsecured Creditors:

Charles I. Jones, Jr.
Campbell Woods, PLLC
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Huntington, West Virginia 25719
(304) 529-2391

Brandy M. Rapp
Whiteford Taylor & Preston LLP
10 South Jefferson Street
Suite 1110
Roanoke, Virginia 24011
(540) 759-3577

5. *In re Daily Gazette Company*, 584 B.R. 540 (Bankr. S. D. W. Va. 2018).

Lawyer for Debtors:

Brian A. Audette
Perkins Coie LLP
131 South Dearborn Street, Suite 1700
Chicago, Illinois 60603
(312) 324-8534

Sarah Ellis
Steptoe & Johnson
707 Virginia Street East, Suite 800
Charleston, West Virginia 25301
(304) 353-8127

Lawyer for United Bank:

Peter M. Pearl
Spilman Thomas & Battle, PLLC
310 First Street, Suite 1100

Roanoke, Virginia 24011
(304) 340-3824

Lawyer for Debtors:

Joe M. Supple
801 Viand Street
Point Pleasant, West Virginia 25550
(304) 675-6249

Lawyer for HD Media Company, LLC:

Thomas H. Gilpin
Dinsmore & Shohl LLP
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Lawyer for Charleston Publishing Company:

Steven Leftridge Thomas
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Kay Casto & Chaney, PLLC
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David L. Bissett
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Lawyer for Pension Benefit Guaranty Corporation:

Marc S. Pfeuffer
Pension Benefit Guaranty Corporation
1200 K Street, Northwest
Washington, District of Columbia 20005
(202) 326-4020

6. *Horne v. James F. Humphreys & Associates, L.C.*, 554 B.R. 355 (Bankr. S.D. W. Va. 2016).

7. *Horne v. James F. Humphreys & Associates, L.C.*, 558 B.R. 764 (Bankr. S.D. W. Va. 2016).

8. *James F. Humphreys & Associates, L.C. v. Horne*, 558 B.R. 758 (Bankr. S.D. W. Va. 2016).

Lawyers for Debtors:

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Wells Fargo Bank
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Charlotte, North Carolina 28202
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Judith K. Fitzgerald
Beverly Weiss Manne
Danielle L. Dietrich
Tucker Arensberg, P.C.
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Lawyer for United States Trustee:

Debra Wertman
United States Trustee
2025 Robert C. Byrd United States Courthouse
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Lawyers for Ira and Mavis Horne, Beverly McCormick, Linda Hubbard:

John C. Palmer, IV
Stephen D. Annand
Robinson & McElwee
Post Office Box 1791
Charleston, West Virginia 25326
(304) 347-8324

P. Rodney Jackson
Law Office of P. Rodney Jackson
401 Fifth Third Center
700 Virginia Street East
Charleston, West Virginia 25301
(304) 720-6783

Lawyer for James F. Humphreys (personally):

Thomas B. Bennett
Bailey & Glasser LLP
209 Capitol Street
Charleston, West Virginia 25301
(304) 345-6555

Lawyer for Humphrey, Farrington & McClain, P.C.:

Steven L. Thomas
Kay Casto & Chaney PLLC
Post Office Box 2031
Charleston, West Virginia 25327-2031
(304) 345-8900

9. *In re Reynolds*, 543 B.R. 236, 245 (Bankr. S.D. W. Va. 2015).

Lawyer for Donna L. Brannon:

Jeffrey B Brannon
Christopher J. Sears
Cipriani & Werner
United Center, Suite 750
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Charleston, West Virginia 25301
(304) 341-0500

Lawyer for Thomas Philip Reynolds and Angela Faye Reynolds:

Joe M. Supple
801 Viand Street
Point Pleasant, West Virginia 25550
(304) 675-6249

10. *In re Sabbatical, Inc.*, 2017 WL 1157120 (Bankr. S.D. W. Va. 2017).

Chapter 11 Trustee:

Thomas H. Fluharty
408 Lee Avenue
Clarksburg, West Virginia 26301
(304) 624-7832

Lawyer for Chapter 11 Trustee:

Joe M. Supple
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Point Pleasant, West Virginia 25550
(304) 675-6249

Special Counsel to the Chapter 11 Trustee:

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Cassidy, Meyers, Cogan & Voegelin, L.C.
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Wheeling, West Virginia 26003
(304) 232-8100

Martin P. Sheehan
Sheehan & Nugent, PLLC
41 Fifteenth Street
Wheeling, West Virginia 26003
(304) 232-1064

Lawyer for Peoples Bank:

Kirk B Burkley
Bernstein-Burkley, P.C.
707 Grant Street
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Pittsburgh, Pennsylvania 15219
(412) 456-8108

Arch W. Riley, Jr.
Bernstein-Burkley, P.C.
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48 Fourteenth Street, Suite 301
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(304) 215-1177

Lawyer for Debtor and others (Prior to Appointment of Chapter 11 Trustee):

Michael J. Roesenthaler

Whiteford Taylor & Preston LLP
500 Grant Street, Suite 2900
Pittsburgh, Pennsylvania 15219
(415) 515-1422

Lawyer for Appalachian Mining and Reclamation, L.L.C. and others (prior to appointment of Chapter 11 Trustee):

Stephen L. Thompson
Barth & Thompson
Post Office Box 129
Charleston, West Virginia 25321
(304) 342-6215

Lawyer for Dennis Johnson (following appointment of Chapter 11 Trustee):

Ann R. Starcher
Spencer D. Elliott
Lewis, Glasser, Casey & Rollins
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Charleston, West Virginia 25326-1746
(304) 345-2000

Lawyer for Dennis Johnson, Sr.:

Beth G. Kavitz
Kavitz Law PLLC
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Charleston, West Virginia 25301
(681) 265-9441

Lawyer for the United States Trustee:

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Suite 2025
Charleston, West Virginia 25301
(304) 347-3400

Attorney for Denise Johnson:

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Pepper & Nason
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Attorney for Zachary Burkons:

Julia A. Chincheck
Zachary Rosencrance
Bowles Rice LLP
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(304) 391-8811

Taft A. McKinstry
Fowler Bell PLLC
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Lexington, Kentucky 40507
(859) 252-6700

Lawyer for Southern Marine Terminal, LLC:

Carol Smith
Frost Brown Todd LLC
500 Lee Street East
Suite 401
Charleston, West Virginia 25301
(304) 345-0111

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

None.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

None.

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

I generally take no steps with the publishers to designate an opinion as "published." I thus expect a large percentage of my opinions, perhaps 80 percent, are unpublished. All decisions I render are in .pdf format and retained following upload and entry via the CM/ECF system. The unpublished decisions are also gathered by the major research providers like WESTLAW and available in searchable format.

- 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.

None.

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

I have not sat by designation on a federal court of appeals.

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I maintain a recusal list that is provided to our Clerk and, as I understand the process, I am alerted or screened when those entities appear in a case or adversary proceeding. I also pay heed to the styles of the cases assigned to me as orders are

presented for signature or matters are set for hearing.

No party has ever requested by motion or otherwise that I disqualify myself from presiding. In the following matters, I recused myself *sua sponte*:

1. *Garrett Properties, LLC*, 2:15-bk-20085 (Bankr. S.D. W. Va. Feb. 24, 2015).
2. *In re Gerencir*, 2:15-bk-20260 (Bankr. S.D. W. Va. May 8, 2015).
3. *Lopez Parks v. Medford Trucking, LLC*, 2:15-bk-2020 (Bankr. S.D. W. Va. Jul. 10, 2015).
4. *In re Glover*, 2:15-bk-20368 (Bankr. S.D. W. Va. Jul. 10, 2015).
5. *WV Paving, Inc. et al v. Chapman-Martin Excavating & Grading, Inc.*, 3:15-bk-3010 (Bankr. S.D. W. Va. Jul. 14, 2015).
6. *In re Castelli*, 2:15-bk-20662 (Bankr. S.D. W. Va. Dec. 28, 2015).
7. *In re Goldsmith*, 2:16-bk-20619 (Bankr. S.D. W. Va. Nov. 4, 2016).
8. *In re Rock Branch Mechanical, Inc.*, 3:17-bk-03015 (Bankr. S.D. W. Va. Nov. 15 2016) (and related adversary proceeding).
9. *In re Morgan*, 3:18-bk-30219 (Bankr. S.D. W. Va. May 15, 2018).
10. *In re Gregory*, 3:18-bk-30236 (Bankr. S.D. W. Va. May 25, 2018)(and related adversary proceedings).

Respecting 1–4 and 7–8 above, I recused based upon Canon 2(A), inasmuch as I knew, or inadvertently came to know, a party in interest or facts that might possibly come into controversy. Respecting the remainder, I cannot presently recall the circumstances giving rise to my recusal.

In arriving at the decision to recuse, I reflected upon the applicable ethical Canons, published Advisory Opinions, the Compendium, and, when in doubt as to their application, erred on the side of caution.

15. Public Office, Political Activities and Affiliations:

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

I have never held public office aside from my present position in the Judiciary. I ran for city council in Westover, West Virginia, while attending West Virginia University. I was defeated.

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

None.

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1992 to 1993, I served as a law clerk to the Honorable Charles H. Haden, II, District Judge of the United States District Court for the Southern District of West Virginia. From 1993 to 1994, I served as a law clerk to the Honorable M. Blane Michael, Circuit Judge of the United States Court of Appeals for the Fourth Circuit. From 1994 to 1995, I served as a law clerk to the Honorable Margaret L. Workman, Justice of the West Virginia Supreme Court of Appeals. From 1995 to 2004, I served as a law clerk to the Honorable Charles H. Haden, II, District Judge of the United States District Court for the Southern District of West Virginia. From 2004 to 2015, I served as a law clerk to the Honorable John T. Copenhaver, Jr., District Judge of the United States District Court for the Southern District of West Virginia.

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

I have not practiced law alone.

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

1994
Steptoe & Johnson PLLC
707 Virginia Street E
Charleston, West Virginia 25301
Associate

2013 – 2015 (estimated)
Boulevard Mobile Homes, Inc.
23 Highland Street
Westover, West Virginia 26501
General Counsel

- 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.

While working in the District Court, I recall mediating two straightforward matters for one of our district judges. The first case was *Van Wyck v. Charleston Sanitary Bd.*, 2011 U.S. Dist. LEXIS 112097, 2011 WL 4544074. I cannot now recall the case name or other material identifying information for the second case.

b. Describe:

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

From 1992 until 1993, I served as a term law clerk to the Honorable Charles H. Haden, II in the United States District Court for the Southern District of West Virginia. For the balance of 1993 until 1994, I served as a term law clerk to the Honorable M. Blane Michael in the United States Court of Appeals for the Fourth Circuit. For almost the entire balance of 1994, I worked at Steptoe & Johnson, PLLC, planning to stay there until I assumed a career clerkship with Judge Haden. After learning of a vacancy at the West Virginia Supreme Court of Appeals, however, I departed and spent most of 1995 clerking for the Honorable Margaret L. Workman on the Supreme Court of Appeals of West Virginia. For the balance of 1995 until 2004, I worked as the career law clerk to Judge Haden, until his passing that year. For the balance of 2004 until 2015, I served as the career law clerk to the Honorable John T. Copenhaver, Jr., in the United States District Court for the Southern District of West Virginia. From 2013 until approximately 2015, I served as General Counsel for Boulevard Mobile Homes, Inc. In 2015, I assumed the bench, where I have served since the inception of my term as Chief Judge of the United States Bankruptcy Court for the Southern District of West Virginia in a single-judge district. Nearly my entire legal career has been permeated with federal-court experience essential for a United States District judge, including preparing and participating in plea and sentencing hearings, suppression hearings, civil and criminal trials, resolution of complex evidentiary issues, temporary-restraining-order and preliminary-injunction hearings, *Daubert* hearings, and federal capital cases.

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

During my time at Steptoe & Johnson, PLLC, my files generally involved the defense of employers and insurers. In my work as General Counsel for Boulevard Mobile Homes, Inc., the client was the closely held family corporation for which I worked. Most of my career has been spent working for federal judges, whom I treated as my clients. Since becoming a judge, I have not had clients.

- 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.

From 1992 until 2004, I recollect appearing in court very frequently, and mostly on a weekly basis, in service to Judges Haden and Michael. Those appearances involved the assessment of appellate oral arguments, plea and sentencing hearings, suppression hearings, civil and criminal trials, temporary-restraining-order and preliminary-injunction hearings, and other miscellaneous matters such as *Daubert* hearings. Since 2004, I was in the courtroom less frequently but was still involved in considerable complex litigation, including two capital cases.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 100%
- 2. state courts of record: 0%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 70%
- 2. criminal proceedings: 30%

- 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 not served as counsel in a case that went to trial.

- i. What percentage of these trials were:

- 1. jury: 0%
- 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 never 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.

Although I worked on litigation matters during my time as an associate at Steptoe & Johnson, PLLC, I no longer have records of the matters upon which I worked. My service as a career law clerk generally precluded me from the practice of law. *See* Code of Conduct for Judicial Employees, Canon 4(D). That preclusion was further circumscribed when I assumed the bench. *See* Code of Conduct for United States Judges, Canon 4(A)(5).

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.)

In 1991 and 1992, I served as the Editor-in-Chief for Volume 94 of the *West Virginia Law Review*. I was responsible for publication of the periodical, which included tasks such as issue design, article and topic selection, author recruitment, and management of a staff of nearly 40 individuals. During that same period, I served as a member of the Governing Council of the West Virginia Law Institute, a statutory entity established by the West Virginia Legislature as an official advisory law revision and reform agency in our State.

In 1994 to 1995, I worked in the appellate tribunal of last resort in West Virginia. As a part of my duties, I occasionally appeared before the Justices in conference to summarize significant cases and respond to questions. From 1995 to 2004, I worked as the career law clerk to Charles H. Haden, one of the most skilled chief judges in the Nation. Part of this

period was during Chief Judge Haden's service on the Executive Committee of the United States Judicial Conference and then his tenure as Chairman of that Body. From 2005 to 2015, I worked as career clerk to Judge John T. Copenhaver, Jr. This portion of my district court service was devoted less to judicial administration and more to decisional processes, the crafting of judicial opinions, the consideration of evidentiary rulings, and trial and jury management. During this period I also served informally as counsel to the district court *en banc* and its individual judges. I would be happy to elaborate further on this service, which included substantial responsibilities related to the deconsolidation of our district and bankruptcy courts and as district court reporter for the Local Rules of Bankruptcy Procedure.

It was also during this time period that I began teaching at the West Virginia University College of Law and writing and editing for the *American Bankruptcy Institute Journal*. Regarding the former, I created a course design for my Federal Civil Rights class, including the selection of a text, lecture notes, practical exercises and comprehensive examinations. I later taught both the general offering on bankruptcy and the advanced bankruptcy course at the same institution. Respecting my service to the American Bankruptcy Institute, I wrote articles for the *Journal* and participated in various editorial capacities. I also served during this time on the Bankruptcy Committee of the West Virginia State Bar. From 2010 to 2014, I served as the Employment Dispute Resolution Coordinator for the District Court and Probation Department.

As a capstone, after having worked almost exclusively in the areas of federal trial and appellate practice since graduating from law school in 1992, I assumed in 2015 the role of Chief Bankruptcy Judge in our single-judge district. I was appointed to that position by the fifteen judges on the United States Court of Appeals for the Fourth Circuit. I am responsible for the entire administrative and operational workings of the bankruptcy court. Since my judicial appointment, I have also been fortunate to attract the attention of the Federal Judicial Center ("FJC"). I have served as a plenary presenter at two national FJC workshops for my colleagues and spoken on various other occasions at gatherings of the FJC, the National Conference of Bankruptcy Judges, and the American Bankruptcy Institute. Due to the restrictions imposed upon me as a member of the Judiciary and as a judicial employee, my political activities are essentially nonexistent aside from party affiliation.

I have not served as 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.

From 2005 to date, with the exception of perhaps a few years, I served as an Adjunct Lecturer at the West Virginia University College of Law teaching Federal Civil Rights. The syllabus is attached for 2019, 2012, 2011, 2010, 2009, 2008, 2007, and 2006. In 2006, I taught Advanced Bankruptcy. The syllabus is attached. In 2016, I taught

Bankruptcy. I am unable to locate the syllabus for the Bankruptcy course.

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

I have no such pending arrangements.

21. **Outside Commitments During Court Service**: Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

No.

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

Please see attached Financial Disclosure Statement.

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

Please see attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

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

I would recuse myself from any litigation involving a party or parties in which I own stock. I would also recuse myself from any cases brought by the law firm of my close personal friend Robert Shuman.

- 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 will carefully review and address any real or potential conflicts under 28 U.S.C. § 455, the Code of Conduct for United States Judges, and all

other relevant laws, rules, and practices. I will consult with counsel for all parties to the action where appropriate and necessary.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I have, on occasion, consistent with Judiciary policy, rendered *pro bono* legal services. But unfortunately, both law clerks and members of the Judiciary are somewhat limited when it comes to representing individuals *pro bono*. For example, as a law clerk I was forbidden from entering an appearance in any federal, state, or local court or administrative agency proceeding. See Code of Conduct for Judicial Employees Canon 4(D).

Canon 2 above, however, speaks in terms of serving the disadvantaged. That is something I have taken very seriously over the years. I will share just two ministry projects that I created and implemented with my two young adult children in recent years. First, in 2014, my son and I created the "Promise Pax" project. The project involved collecting a variety of donated items such as toiletries, toothbrushes, beef jerky, deodorant, granola bars, Band-Aids, tissues, socks, a water bottle, and other items and placing them in fifty new, high-quality donated backpacks to distribute to the homeless around Charleston. Some packs were handed out to people living in temporary housing at Union Mission in order to lessen the burden of having to pay for some of their basic needs. A majority of the packs, however, were distributed by us to individuals living in a homeless tent community on the West Side who were in pretty desperate need. We walked into the woods on a Saturday morning, found the homeless folks, and sat down and chatted with them after handing the packs out. We also connected them with a local ministry to help meet their ongoing needs.

In 2014, 2017, and 2018, I created and implemented with my daughter the "Food Truck Project." The project involves leasing a 15–17 foot U-Haul truck, parking it outside the Kroger in Cross Lanes, West Virginia, and handing patrons "shopping lists" to stock the Tyler Mountain Community Services ("TMCS") food pantry. For the 2017 effort, a TMCS Board Member told me that the 6,000 pounds of food collected put the food pantry "in the best shape" it had been "in 37 years." He advised that the 2018 effort broke all previous records and stocked their shelves from November through May.

The two efforts mentioned above are not something I broadcast. But I wanted to provide some sense of how seriously I take the obligation of "serving the disadvantaged."

26. **Selection Process:**

- c. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and

the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On June 21, 2018, I sent a cover letter and resume to Senator Shelley Moore Capito. On June 27, 2018, I sent the same or similar materials to Senator Joe Manchin. On July 4, 2018, I received a telephone call from Senator Manchin. On or about September 18, 2018, I filled out a questionnaire provided to me by Senator Capito's office. On or about September 26, 2018, I interviewed with Senator Capito. On October 1, 2018, I received a call from the Office of White House Counsel, who scheduled a meeting for me at the Eisenhower Executive Office Building to be held October 15, 2018. On that date, I interviewed with lawyers from the White House Counsel's Office and the Department of Justice's Office of Legal Policy. On December 18, 2018, I was contacted by Senator Manchin's office by phone and invited to interview with him. On December 21, 2019, I received a phone call from Senator Capito and, that same day, interviewed with Senator Manchin. In the weeks that followed, Senator Manchin spoke to me briefly by phone on one occasion. Since then, I have periodically communicated with individuals in the White House Counsel's Office and the U.S. Department of Justice. On April 4, 2019, the President submitted my nomination to the Senate.

- d. 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.