

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Gina Marie Groh  
(Former name: Gina Marie Householder)

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

United States District Judge for the Northern 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.

Berkeley County Judicial Center  
380 West South Street, Suite 4400  
Martinsburg, West Virginia 25401

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

1964; Hagerstown, Maryland

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.

July 2007, The National Judicial College, completed general jurisdiction course, received no degree

1986 – 1989, West Virginia University College of Law; J.D., 1989

1982 – 1986, Shepherd University; B.S. (*summa cum laude*), 1986

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.

2006 – Present  
23rd Judicial Circuit  
Berkeley County Judicial Center  
380 West South Street, Suite 4400  
Martinsburg, West Virginia 25401  
Circuit Court Judge

2002 – 2006  
Jefferson County Prosecuting Attorney's Office  
P.O. Box 729  
Charles Town, West Virginia 25414  
Assistant Prosecuting Attorney

1998 – 2002  
Berkeley County Prosecuting Attorney's Office  
380 West South Street  
Martinsburg, West Virginia 25401  
Assistant Prosecuting Attorney

1995 – 1998  
Semmes, Bowen and Semmes  
25 South Charles Street, Suite 1400  
Baltimore, Maryland 21201  
and  
Semmes, Bowen and Semmes  
322 East Antietam Street  
Hagerstown, Maryland 21740  
Litigation Associate

1991 – 1995  
Mell, Brownell & Baker (no longer in existence)  
2031 Florida Avenue, NW  
Washington, DC 20009  
Litigation Associate

1989 – 1991  
Steptoe & Johnson  
1250 Edwin Miller Boulevard  
Martinsburg, West Virginia 25401  
Litigation Associate

Summer 1988  
Steptoe & Johnson (at that time Avey & Steptoe)  
1250 Edwin Miller Boulevard  
Martinsburg, West Virginia 25401  
Summer Intern

Summer 1987  
Kuczynski & Kuczynski  
55 Jonathan Street  
Hagerstown, Maryland 21740  
Summer Intern

1986  
Washington County National Bank  
Williamsport, Maryland  
Teller

Other Affiliations (uncompensated):

2001 – 2002  
Berkeley County West Virginia Bar Association  
c/o Bowles, Rice, McDavid, Graff & Love  
101 South Queen Street  
Martinsburg, West Virginia 25401  
Vice-President

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

I have not served in the military. I was not required to register for selective service.

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

Certificate of Appreciation, Partners in Prevention/Child Welfare League of America,  
2008

McMurrin Scholar, Shepherd University, 1986

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.

Berkeley County West Virginia Bar Association  
Vice-President (2001 – 2002)

District of Columbia Bar Association (approx. 1992 – 2006)

Maryland State Bar (approx. 1990 – 2006)

West Virginia Judicial Association Committee on Constitution and By-Laws (2007 – present)

West Virginia Judicial Association Committee on Membership (2007 – present)

West Virginia Judicial Hearing Board (2010 – present)

West Virginia Robes to School program (2007 – present)

West Virginia State Bar Association (1989 – 2006)

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, 1992

Maryland, 1990

West Virginia, 1989

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 District of Columbia, 1994

United States District Court for the District of Maryland, 1990

United States District Court for the Northern District of West Virginia, 1990

United States District Court for the Southern District of West Virginia, 1989

District of Columbia Court of Appeals, 1992

Maryland Court of Appeals, 1990

Supreme Court of Appeals of West Virginia, 1989

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.

All Star Karate, reached brown belt level (approx. 2003 – 2008)

American Legion Auxiliary Unit 0202 (approx. 1997 – present)

Berkeley County Organization of Democratic Women (2006 – present)

Chevy Chase Athletic Club (approx. 1991 – 1995)

Cress Creek Country Club (1996 – present)

Fountain Head Country Club (1998 – present)

Fraternal Order of Police (2009)

Friends of Shepherdstown Library (approx. 2007 – present)

Friends of the National Zoo (2006 – present)

Jefferson County Cotillion Club (2006 – present)

Jefferson County Organization of Democratic Women (2006 – 2008)

Jefferson County Historical Society (approx. 1998 – present)

Meals With Love Ministry (2005 – present)

National Geographic Society (1999 – present)

National Italian American Foundation (2006 – present)

National Rifle Association (1999 – present)

Order of Sons and Daughters of Italy, Dan Di Mucci Lodge No. 2465 (approx. 2006 – present)

Phi Delta Phi Legal Fraternity (1986 – 1989)

Shepherd University Alumni Board (2007 – present)

Shepherd University Alumni Board, Co-Chair of Nomination Committee (2010 – present)

Shepherd University Wellness Center (2011 – present)

Smithsonian Society (2006 – present)

Local Elementary/Middle School Advisory Board, Secretary (2007 – present)

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

To the best of my knowledge, none of these organizations currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin.

**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.

Press Release on filing candidacy papers and campaign handout, Jan. 2008. During my 2008 judicial campaign, I had a campaign website that was shut down after the election. I do not have copies of the materials posted on it. I remember that the site contained links to news articles about me. I believe it also contained information similar to the attached campaign handout.

Letter to Editor, Martinsburg Journal, Oct. 28, 2004. Copy supplied.

“Jury Selection: Intuition, Statistical Modeling and Non-Verbal Communication.” I wrote this for The Honorable Gray Silver while we were in private practice together at Steptoe and Johnson, and it was distributed at an event sponsored by the Defense Trial Counsel of West Virginia. I have been unable to obtain a copy of this article.

“Shepherdstown Receives All-W.Va. City Status Thanks to Three Shepherd College Seniors,” The Shepherd College Picket, May 2, 1986. Copy supplied.

“Karen Swaim: Definitely the Busiest Woman on Campus,” The Shepherd College Picket, May 2, 1986. Copy supplied.

“Response Low to Scheduling Survey,” The Shepherd College Picket, Mar. 28, 1986. Copy supplied.

"Students Gain Legislative Experience," The Shepherd College Picket, Feb. 28, 1986. Copy supplied.

"Lawmakers, Educators Debate BOR," The Shepherd College Picket, Feb. 14, 1986. Copy supplied.

"Lottery Sells 8.4 Million," The Shepherd College Picket, Jan. 31, 1986. Copy supplied.

"Shepherd Reacts to Shuttle Tragedy," The Shepherd College Picket, Jan. 31, 1986. Copy supplied.

"It Looked Like the Sun Had Fallen to Earth! – Sturges," The Shepherd College Picket, Jan. 31, 1986. Copy supplied.

"Calendar Change Moves Finals into Saturday," The Shepherd College Picket, Dec. 7, 1984. Copy supplied.

"Kontra Shows Motion Sculpture Display, Hagerstown Museum," The Shepherd College Picket, Nov. 9, 1984. Copy supplied.

"Shepherd Foundation Celebrates 20 Years," The Shepherd College Picket, Nov. 9, 1984. Copy supplied.

"Unique Program Coming Nov. 3," The Shepherd College Picket, Oct. 26, 1984. Copy supplied.

"PSA Motivates SC Election '84 Interest," The Shepherd College Picket, Oct. 12, 1984. Copy supplied.

"Alumni Offers Five \$1,000 Scholarship to 'Rising Leaders,'" The Shepherd College Picket, Sept. 28, 1984. Copy supplied.

"Student Program," The Shepherd College Picket, Sept. 14, 1984. Copy supplied.

"Administration Says Parking 'Inconvenient,'" The Shepherd College Picket, Sept. 14, 1984. Copy supplied.

"SC Year in Review," The Shepherd College Picket, May 1984. Copy supplied.

"Carper Named Academic Dean," The Shepherd College Picket, May 1984. Copy supplied.

"Leber Wins National Contest and Journalism Fellowship," The Shepherd College Picket, Apr. 13, 1984. Copy supplied.

With Margaret Chadduck, "A Look at the Basketball Rams' Graduating Seniors," The Shepherd College Picket, Mar. 9, 1984. Copy supplied.

"SGA to Devise Snow Policy," The Shepherd College Picket, Feb. 25, 1984. Copy supplied.

"President Butcher Comments on Shepherd College Snow Policy," The Shepherd College Picket, Feb. 10, 1984. Copy supplied.

From 1984 to 1985, I was co-editor of The Picket, the Shepherd University Campus Newspaper.

- 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.

On January 24, 2002, I appeared before the Berkeley County Commission on behalf of County Prosecuting Attorney Pamela Games-Neely to discuss a Juvenile Accountability Incentive Block Grant. Meeting minutes 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 am frequently called upon to speak extemporaneously before groups, for example during my election campaign in 2008 and when I visit school children or they visit me in my courtroom. The list of events below has been compiled after performing a thorough search of my personal records, public databases and the



Internet. I have attempted to create as complete a list as possible, but there may exist events in which I participated that I have been unable to recall or identify.

September 25, 2010: Morgan County Courthouse Dedication Speech, Berkeley Springs, West Virginia. Remarks supplied.

May 7, 2010: Introduction of Dr. Carolyn Peluso Atkins at Berkeley County Democratic Organization of Women Dinner, Holiday Inn, Martinsburg, West Virginia. Remarks supplied.

February 8, 2009: Martinsburg Elks Club Speech for Local Law Enforcement Appreciation Dinner. Remarks and press coverage supplied.

October 11, 2008: Sons of Italy Columbus Day Dinner Address. Remarks supplied.

October 9, 2008: Administered Oath of Office to Morgan County Magistrate Clerk Cynthia Stotlers. I gave brief remarks prior to administering the oath, but I have no notes, transcript or recording. The address of the Morgan County Magistrate Court is 111 Fairfax Street, Berkeley Springs, West Virginia 25411.

July 21, 2008: Presented attorney Margaret Gordon with Distinguished Service to the Court on Behalf of Children Award. I have no notes, transcript or recording, but press coverage is supplied. The address of the Morgan County Magistrate Court is 77 Fairfax Street, Berkeley Springs, West Virginia 25411.

April 25, 2008: Introduced officials at Governor Manchin's bill-signing ceremony for legislation to help vision-impaired residents, Berkeley County Judicial Center. I have no notes, transcript or recording. The address of the Berkeley County Judicial Center is 380 West South Street, Martinsburg, West Virginia 25401.

April 25, 2008: Remarks after being honored during the Partners in Prevention breakfast. I have no notes, transcript or recording, but press coverage is supplied. Partners in Prevention does not have a physical address.

March 25, 2008: Tribute to Dean John Fisher before Berkeley County West Virginia Bar Association Meeting at Martinsburg, West Virginia Holiday Inn. Remarks supplied.

March 12, 2008: Presentation to Eastern Panhandle Medical Society on West Virginia Cases in Medical Malpractice, Holiday Inn, Martinsburg, West Virginia. Remarks supplied.

October 27, 2007: Lecture at a West Virginia Employment Lawyers Association conference held at the Woods Resort in Berkeley County, West Virginia. Outline supplied.

October 5, 2007: Naturalization Ceremony, U.S. District Court for the Northern District of West Virginia, Martinsburg, West Virginia. Transcript supplied.

February 21, 2007: Investiture as Circuit Court Judge. Recording supplied.

2007: Power Point Presentation on Fourth Amendment issues for West Virginia Magistrates' Training Conference, Morgantown, West Virginia. Presentation slides supplied.

Sept. or Oct. 2003: Presentation on new offenses created by 2002 legislation for the Eastern Panhandle Criminal Defense Lawyers Association. I have no notes, transcript or recording. The contact for the EPCDL is Kevin Mills, 1800 West King Street, Martinsburg, West Virginia 25401.

May 17, 1986: Benediction at Shepherd University Commencement. Remarks supplied.

Since 2007, I have participated in the Robes to Schools program of the West Virginia Supreme Court. I read to local students and also discuss my role as a judge. I have no notes, transcripts or recordings of these events. The program is sponsored by the West Virginia Supreme Court, Capitol Complex, Building One, Charleston, West Virginia 25305 and was the inception of Justice Robin Davis.

Additionally, I have participated once or twice each year since 2007 in the Martinsburg City Police Department's Junior Police Academy, speaking to Berkeley County School children ages nine to fourteen. The police department provides applications to all guidance counselors in the area who help choose the children who will attend. A number of the junior police academy cadets have always been at risk children. In the program the students learn how federal and local government works. When the children visit my courthouse, myself, the elected prosecutor and a defense attorney discuss our roles and answer questions pertaining to them. I have no notes, transcripts or recordings of these events. The address of the Martinsburg City Police is 232 North Queen Street, Martinsburg, West Virginia.

- 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.

Below in this response, I have listed all interviews I can recall. I have searched my records, public databases and the Internet to create as complete a list as possible, but there may exist other articles I have been unable to recall or identify.

Staff, "Judge Groh Recommended for Federal Bench," Herald Mail, Mar. 2, 2011. Copy supplied.

Debra Cornwell, "Mind Your Manners," Spirit of Jefferson, Feb. 23, 2011. Copy supplied.

Katherine Reasons-Pyles, "Above & Beyond the Call," West Virginia Lawyer, Jan. – Mar. 2011. Copy supplied.

"Moms Who Make it Happen; Gina Groh," Panhandle Magazine, May – June 2010. Copy supplied.

Erienne Green, "Democrat Hopes to Keep Her Position in the 23rd Circuit," The Journal, Nov. 3, 2008. Copy supplied.

Matthew Umstead, "Both Candidates in Eastern Panhandle's 23rd Judicial Circuit Race Appear to Have Violated State Campaign Rules," Herald Mail, Oct. 24, 2008. Copy supplied.

Morgan Messenger Candidate Questionnaire, Fall 2008. Copy supplied.

"Groh Files to Retain Circuit Judge's Seat," Morgan Messenger, Feb. 13, 2008. Copy supplied.

Two radio commercial scripts for my election campaign, 2008. Copy supplied.

Jennifer Spataro, "Gina M. Groh '86 Named Third Female Circuit Judge in the State," Shepherd University Alumni Magazine, Fall 2007. Copy supplied.

Matthew Umstead, "Groh to Take Over as W.Va. Circuit Judge," Herald Mail, Jan. 14, 2007. Copy supplied.

John O'Brien, "Groh's First Days as Judge May Be Nomadic," West Virginia Record, Dec. 29, 2006. Copy supplied.

"Groh Appointed to Judgeship," The Spirit of Thanksgiving, Dec. 21, 2006.  
Article available at  
[http://news.google.com/newspapers?id=VVIkAAAAIBAJ&sjid=M\\_gFAAAAIBAJ&pg=987,3597016&dq=gina+groh&hl=en](http://news.google.com/newspapers?id=VVIkAAAAIBAJ&sjid=M_gFAAAAIBAJ&pg=987,3597016&dq=gina+groh&hl=en).

Matthew Umstead, "Assistant Prosecutor Named to Bench," Herald Mail, Dec. 16, 2006. Copy supplied.

Dave McMillion, "Hearing Continued for Man Accused in Slaying at Bar," Herald Mail, Dec. 9, 2006. Copy supplied.

Dave McMillion, "W.Va. Man Faces Prison in Heroin Overdose Case," Herald Mail, Jan. 5, 2006. Copy supplied.

Dave McMillion, "Charge Dropped in Fatal Overdose," Herald Mail, Nov. 15, 2005. Copy supplied.

Dave McMillion, "Jefferson County Murder Trial is Delayed," Herald Mail, Dec. 14, 2004. Copy supplied.

Matthew Umstead, "Caton Guilty of Sex Assault," The Journal, Dec. 10, 2004. Copy supplied.

Dave McMillion, "Hearing Postponed for Former Insurance Agent," Herald Mail, Oct. 5, 2004. Copy supplied.

Dave McMillion, "Man Sought in 2002 Beating in Charles Town," Herald Mail, Feb. 26, 2004. Copy supplied.

Dave McMillion, "Victim Testifies in Ex-Husband's Trial," Herald Mail, Jan. 14, 2004. Copy supplied.

Dave McMillion, "Man Pleads Guilty to Robbery," Herald Mail, Jan. 7, 2004. Copy supplied.

Dave McMillion, "Businessman is Sentenced for Role in Fish Kill Incident," Herald Mail, July 2, 2003. Copy supplied.

"Man Must \$9,000 Fine for Dumping Chemicals in Jefferson County Stream," Associated Press, July 2, 2003. Copy supplied.

Bob Partlow, "Lawyer Accuses Prosecutor of Trying to Quiet Testimony," Herald Mail, Feb. 23, 2001. Copy supplied.

Andrew Schotz, "Berkeley Prosecutors Married to the Job," Herald Mail, Apr. 17, 2000. Copy supplied.

Bryn Mickle, "2nd Bomb Threat Arrest Made," Herald Mail, May 12, 1999. Copy supplied.

Dave McMillion, "Teen Confined to Home on Threat Charge," Herald Mail, May 11, 1999. Copy supplied.

Bryn Mickle, "West Virginia Man Found Guilty of Carjacking Attempt," Herald Mail, Dec. 8, 1998. Copy supplied.

Linda Jones, "Senior Officers Elected This Week," The Shepherd College Picket, approx. Fall 1985. 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 was appointed as a circuit judge in the 23rd Judicial Circuit of West Virginia in December 2006, after being recommended by a merit selection panel. The court is a court of general jurisdiction which handles a variety of civil and criminal matters in addition to juvenile, abuse and neglect proceedings, family court appeals and magistrate court appeals. I also handle grand jury in Morgan and Jefferson counties. In each county, the grand jury meets three times per year.

I was elected in November 2008 to the same position.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? 93

- i. Of these, approximately what percent were:

jury trials:	43%
bench trials:	57%
civil proceedings:	65%
criminal proceedings:	35%

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

Because I sit on a trial court of general jurisdiction, I do not issue formal published opinions, such as courts of appeal issue. Between 2007 and 2010 alone, I handled over approximately 3,400 cases in which I routinely issued orders. Without reviewing each and every case file, I cannot compile a list of every order that contained a detailed analysis of legal issues and findings of fact, such as would appear in an opinion order. Those orders are on file with the clerks of the individual counties.

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

1. State of West Virginia v. Payne, Morgan County Case Number 06-F-60. The defendant was charged with two counts of second degree sexual assault, one count of first degree sexual abuse and two counts of third

degree sexual abuse of a twelve-year-old girl. The defendant was convicted by a jury of all the charges, except for one count of third degree sexual abuse, and sentenced to prison.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
B. Craig Manford, P.O. Box 3021, Martinsburg, WV 25402, (304)263-5698

2. State of West Virginia v. Weinschel, Morgan County Case Number 06-F-48. The defendant was charged with attempted murder, malicious assault and brandishing for stabbing another male with a screwdriver and cutting his throat with a knife. The defendant was convicted by a jury of second degree attempted murder, unlawful assault and brandishing and sentenced to prison.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
Eric Black, 1299 Valley Road, Suite 2, Berkeley Springs, WV 25411, (304)258-2931

3. State of West Virginia v. Simmons, Morgan County Case Number 07-F-20. The defendant was charged with first degree sexual assault and sexual abuse by a custodian for engaging in sexual contact and/or intercourse with a five-year-old girl. The defendant was convicted by a jury of first degree sexual assault and sexual abuse by a custodian and sentenced to prison.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
Paul Lane, defense counsel is deceased

4. State of West Virginia v. Kerns, Morgan County Case Number 07-F-56. The defendant was charged with murder and conspiracy. The State's evidence at trial included a conspiracy between Kerns and a couple of his cousins to murder the victim to cover up their prior criminal activity of which the victim had knowledge. Kerns and his cousins murdered the victim and burned his body in a campground fire pit. The victim was considered a missing person until several years later when a friend of Kerns reported that he had bragged about the murder. The defendant was convicted by a jury of first degree murder and conspiracy and sentenced to life in prison with no mercy.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
Sherman Lambert, P.O. Box 3200, Shepherdstown, WV 25443, (304)263-3548

5. State of West Virginia v. Payne, Morgan County Case Number 07-F-69. The defendant, a co-defendant of Kerns in Morgan County Case Number 07-F-56, was charged with first degree murder and conspiracy. To cover up prior criminal activity, the defendant and several others murdered the victim and burned his body in a campground fire pit. The crime was never discovered until co-defendant Kerns' reported disclosure to a friend. A key witness in the State's case was a Smithsonian forensic anthropologist who was able to identify the body from bits of skeletal remains pieced together and matched to x-rays of prior injuries of the victim. The defendant was convicted by a jury of second degree murder and sentenced to prison.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
B. Craig Manford, P.O. Box 3021, Martinsburg, WV 25402, (304)263-5698

6. State of West Virginia v. Henson, Morgan County Case Number 07-F-52. The defendant was charged with malicious assault, attempted kidnapping and conspiracy for the beating of the victim at the victim's home and Henson's attempt to force the victim into a vehicle for transport. The defendant was convicted by a jury of malicious assault and conspiracy and sentenced to prison on both convictions. However, the malicious assault sentence was suspended for five years supervised probation.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
Paul Lane is deceased  
Christopher Prezioso, Luttrell and Prezioso, 206 West Burke Street, Martinsburg, WV 25401, (304)267-3050

7. State of West Virginia v. Potter, Morgan County Case Number 07-F-70. The defendant was charged, along with Henson in Morgan Case Number 07-F-52, with malicious assault, attempted kidnapping and conspiracy for the beating of the victim at the victim's home and Potter's attempt to force the victim into a vehicle for transport. The defendant was convicted by a jury of malicious assault and conspiracy, but found not guilty of attempted kidnapping. He was sentenced to prison.

Counsel:

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621

B. Craig Manford, P.O. Box 3021, Martinsburg, WV 25402, (304)263-5698

8. State of West Virginia v. Price, Berkeley County Case Number 09-F-52, and State of West Virginia v. Hardesty, Berkeley County Case Number 09-F-49. These two defendants were tried together before a jury, having been charged in a single indictment. Their charges stemmed from their breaking and entering a local car wash and stealing coins and other property, some of which was caught on tape. Price was convicted of breaking and entering, petit larceny, destruction of property and conspiracy. Hardesty was convicted of breaking and entering, petit larceny and conspiracy, but acquitted of destruction of property. They were sentenced to prison.

Counsel:

Timothy Helman, Assistant Prosecuting Attorney for Berkeley County, 380 West South Street, Martinsburg, WV 25401, (304)264-1971

B. Craid Manford, Counsel for Price, P.O. Box 3021, Martinsburg, WV 25402, (304)263-5698

Nicholas Colvin, Counsel for Hardesty, 136 Ritter Drive, Martinsburg, WV 25401, (304)274-0471

9. State of West Virginia v. Sanchez, Berkeley County Case Number 09-F-55. The defendant was charged with child abuse causing serious bodily injury and child neglect creating substantial risk of bodily injury for fracturing the skull of his infant and not obtaining medical attention for the injury. The defendant was convicted by a jury of child abuse causing serious bodily injury and child neglect creating a substantial risk of serious bodily injury and sentenced to prison.

Counsel:

Gregory Jones, Assistant Prosecuting Attorney for Berkeley County, 380 West South Street, Martinsburg, WV 25401, (304)264-1971

Robin Skinner Prinz, P.O. Box 782, Charles Town, WV 2541, (304)725-5325

David Camilletti, 103 West Liberty Street, Charles Town, WV 25414, (304)725-0937

10. State of West Virginia v. Nicholson, Berkeley County Case Number 09-F-92. The defendant was convicted by a jury of fourteen counts of various sexual offenses against two female minors. His convictions included first,



second and third degree sexual assault, sexual abuse by a custodian and incest. Upon his conviction, the defendant was sentenced to prison.

Counsel:

Gregory Jones, Assistant Prosecuting Attorney for Berkeley County, 380 West South Street, Martinsburg, WV 25401, (304)264-1971  
Nicholas Colvin, 136 Ritter Drive, Martinsburg, WV 25401, (304)274-0471

- 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 the Interest of: Kelci P., Morgan County Case Numbers 08-JA-3,4 and 5. Opinion supplied.

Kimberley Crockett, P.O. Box 729, Charles Town, WV 25414, (304)728-3243  
Tracy Weese, P.O. Box 3254, Shepherdstown, WV 25443, (304)264-0595  
Charles Trump, 171 South Washington Street, Berkeley Springs, WV 25411, (304)258-1414

2. In the Interest of: George M., Morgan County Case Number 05-JA-10 and 06-JA-7. Opinion supplied.

Debra McLaughlin, Morgan County Prosecutor, 77 Fairfax Street, Suite 301, Berkeley Springs, WV 25411, (304)258-8621  
Tracy Weese, P.O. Box 3254, Shepherdstown, WV 25443, (304)264-0595  
Margaret Gordon, 380 West South Street, Martinsburg, WV 25401, (304)263-4100

3. U.S. Silica Co. v. ACE Fire Underwriters Ins. Co., Morgan County Case Number 06-C-2. Opinion supplied.

Clarence Martin, P.O. Box 1286, Martinsburg, WV 25401, (304)262-3213  
Charles Printz, P.O. Drawer 1319, Martinsburg, WV 25401, (304)264-4222

4. Siebert v. Martinsburg Planning Commission, Berkeley County Case Number 09-AA-4. Opinion supplied.

Floyd Sayre, P.O. Drawer 1319, Martinsburg, WV 25401, (304)264-4226  
Michael Scales, P.O. Box 6097, Martinsburg, WV 25402, (304)263-0000

5. Soward v. Parker, Berkeley County Case Number 07-C-1221. Opinion supplied.

Both parties were pro se.

6. Bowers. v. New Century Transp., Inc., Berkeley County Case Number 08-C-1047. Opinion supplied.

Susan Snowden, P.O. Box 1286, Martinsburg, WV 25401, (304)262-3220  
Michael Scales, P.O. Box 6097, Martinsburg, WV 25402, (304)263-0000

7. Verizon West Virginia, Inc. v. State Tax Commissioner of West Virginia, Berkeley County Case Number 07-C-524. Opinion supplied.

Michael Caryl, P.O. Drawer 1319, Martinsburg, WV 25401, (304)264-4225  
L. Wayne Williams, Office of the Attorney General, 1900 Kanawha Boulevard,  
East Charleston, WV 25305, (304)558-2522

8. Hilburn v. Lynch, Berkeley County Case Number 09-C-30. Opinion supplied.

William Powell, 310 West Burke Street, Martinsburg, WV 25401, (304)263-8800  
Christine Vaglianti, P.O. Box 8128, Morgantown, WV 26506, (304)598-4199  
James Peterson, 500 Tracy Way, Charleston, WV 25311, (304)345-5667  
Sue Holvey, P.O. Box 100, Flatwoods, WV 26621, (304) 765-3540

9. State of West Virginia v. Askin, Berkeley County Case Number 09-M-3.  
Opinion supplied.

Christopher Quasebarth, Assistant Prosecuting Attorney for Berkeley County, 380  
West South Street, Martinsburg, WV 25401, (304)264-1971  
Defendant was pro se

10. Yoe, et al. v. BB&T, Berkeley County Case Number 10-C-986. Opinion  
supplied.

William L. Hallam, 25 South Charles Street, Suite 2115, Baltimore, MD 21201,  
(410)727-6600  
Herbert Yonkers, pro se  
Kenneth J. Barton, 1250 Edwin Miller Boulevard, Suite 300, Martinsburg, WV  
25402, (304)263-6991  
Michelle L. Bechtel, 1714 Mileground, Morgantown, WV 26505 (304)291-6300

- 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.

The West Virginia Supreme Court has reversed three of my decisions and reversed in part and affirmed in part one decision.

Board of Education of Monongalia County v. The Honorable Gina M. Groh, Case No. 073230, and The State of West Virginia ex rel. The West Virginia Secondary School Activities Commission v. The Honorable Gina M. Groh, (November 1, 2007). The Court granted a writ of prohibition prior to final hearing in a case where I had granted a preliminary injunction in favor of Martinsburg High School. The preliminary injunction prohibited the WVSSAC from enforcing its rulings requiring the high school to forfeit two football games until a final hearing could be held on the issue of whether or not the court should grant a permanent injunction. The order of the West Virginia Supreme Court is supplied.

Largent v. Zoning Board of Appeals for the Town of Paw Paw and the Town of Paw Paw, 222 W. Va. 789, 671 S.E.2d 794 (2008). The Supreme Court held that the town of Paw Paw's adoption of an open space ordinance prior to the adoption of its comprehensive plan rendered the ordinance invalid. A copy of my summary judgment order is supplied.

Wilson v. Wilson, 2010 WL 4723461 (W. Va. 2010). The Supreme Court reversed in part and affirmed in part my decision in a complicated divorce appeal involving marital property. A copy of my order, in which I adopted the proposed order of appellant's counsel, is supplied.

State of West Virginia v. Stanley M. Myers, No. 35672 (2011). The Supreme Court reversed my decision in this case of first impression. In 2003, the defendant pled guilty to three counts of first degree sexual abuse and one count of third degree sexual assault of a male child and was sentenced to prison. At the 2003 sentencing, another judge found the appellant to be a "sexual predator" in accordance with the plea agreement. There is a "sexually violent predator," but not a "sexual predator" designation in the West Virginia Sex Offender Registration Act. In 2009, the State discovered the defendant was not on the state police's sexually violent predator list. Because the Act does not contain a specified time period during which a proceeding must be initiated to examine whether an individual is a sexually violent predator, the State moved for me to initiate proceedings for the purpose of finding the defendant to be a sexually violent predator since I had taken over the other judge's caseload. In its decision, the Supreme Court interpreted the West Virginia Sex Offender Registration Act and held that the trial court erred in granting the prosecutor's motion to permit the State to proceed with a summary proceeding and in making the determination that the defendant was a sexually violent predator subsequent to his release from prison. Copies of my opinion and the Supreme Court's opinion are supplied.

- 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.

As a circuit court judge, I have issued countless orders, many of which are very basic and do not contain any detailed analysis of facts and law on significant issues. I estimate that I have issued orders containing detailed analysis of facts and the law in 30% of all cases I handled. I would have to review each court file to determine which cases had such orders issued in them.

- 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 do not recall issuing any substantive orders containing significant opinions on federal or state constitutional issues.

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

I have not sat by designation on any federal court of 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 am guided by the West Virginia Code of Judicial Conduct in determining whether to recuse myself. As a general rule, I evaluate the necessity of recusal based upon whether I have an actual conflict or whether my impartiality may reasonably be questioned. Factors I consider include whether I am related to or have a close personal

relationship with a party or attorney, my individual and family interests, my former prosecutions or clients, and any other factors that may be suggested from the subject matter involved in the case. My court does not have an automatic recusal system. However, upon a request by a party for recusal, according to our rules, the judge must forward the request along with a response to the Chief Justice of the West Virginia Supreme Court of Appeals for a decision.

The sole case in which a litigant has requested that I recuse myself is a pending civil matter in Berkeley County, styled Sims v. Rosedale Cemetery Company, et al., Case No. 03-C-506. In their first motion to recuse, the plaintiff class moved to recuse me on the basis that I was an assistant prosecutor when the underlying criminal case involving defendants who are not parties to this civil action was prosecuted. I did not recall working on the case or discussing it with the prosecutor who handled it. I confirmed with her that I did not and ran a check of the criminal file in the clerk's office to make sure I did not appear in it. According to our rules, I sent the motion and my response to the Chief Justice advising her that I did not appear or work on the criminal matter and plaintiffs' counsel knew of my employment history because he was my political opponent. This case which was filed in 2003 was finally scheduled for trial the first week in March 2011. Therefore, I perceived the motion to be a delay tactic. Thus, having no reason to recuse myself, I advised the Chief Justice I could continue to preside over the matter. On February 28, 2011, the Acting Chief Justice ordered that I remain in the case. Subsequently, plaintiffs' counsel filed a second motion with additional information which I interpreted as a motion to reconsider. While the rules do not provide for such a motion, I forwarded it to the Supreme Court out of an abundance of caution. On March 4, 2011, the Acting Chief ordered that I remain in the case.

Below are all of the matters to my recollection in which I recused myself sua sponte:

Green v. Hoke, Warden HCC, Berkeley County Case No. 10-C-467. In the defendant's first habeas corpus proceeding, I asked the defendant whether he wanted me to recuse myself because I handled a matter involving him while I was an assistant prosecuting attorney in Berkeley County. He chose to have me remain on the first habeas. Case No. 10-C-467 is the defendant's second habeas. Because I denied his first habeas, I asked the defendant to consider whether he would like for me to voluntarily recuse myself in the second one. Based upon his request, I recused myself voluntarily.

State v. Younkers, Morgan County Case No. 10-F-35. In this case, the victim's family opposed a plea agreement between the State and the defendant. A letter from an attorney stating the family wished to speak through him was included in the pre-plea investigation report prepared by the Court's probation officer. In that letter, the attorney alleged that the defendant's attorney might force the court to accept the plea because the attorney may have been helping me in my potential nomination to the federal bench. This allegation had no basis in fact. Nevertheless, because the family and attorney were not local and because it was not proper for me to comment on my nomination process, I simply recused myself to avoid the appearance of impropriety.

In the Interest of Haley M., Berkeley County Case No. 06-JA-57 and 58. The recusal in this case does not state a reason for my recusal. However, I believe I recused myself because I had prior knowledge of the personal life of the girlfriend of one of the parties because my sister is a friend of her mother.

State v. Myers, Berkeley County Case Nos. 95-F-44, 10-F-22, and 09-F-127. I recused myself because the defendant had just sued me in federal court.

New v. Poland, Berkeley County Case No. 09-C-228. I recused myself because my law clerk had discovered after the fact that the car sales person he had been test driving cars with was the plaintiff.

State v. Sensel, Berkeley County Case No. 10-F-34. I recused myself because I prosecuted the defendant.

Myers v. Owens, Berkeley County Case No. 10-C-2. I recused myself because the plaintiff is the head of security in the Berkeley County Judicial Center, frequently bailiffs for me and I thought he had discussed his problems with the defendants with me in the past.

State ex rel. Bowers, Berkeley County Case No. 03-C-10. I recused myself because I appeared on behalf of the State in the underlying criminal matter.

State v. Munday, Berkeley County Case No. 05-C-4 and 06-C-70. I recused myself because I had knowledge of the case from my employment as an assistant prosecutor.

State v. Catlett, Berkeley County Case No. 06-C-151 and 07-C-60. I recused myself because I had knowledge of the underlying case based upon my employment as an assistant prosecutor.

State v. Evy, Berkeley County Case No. 06-F-307. I recused myself because I prosecuted the defendant previously.

State v. Landon, Berkeley County Case No. 06-F-343. I recused myself because I formerly prosecuted the defendant.

Wadsworth v. Mays, Berkeley County Case No. 06-C-766. I recused myself because my legal assistant is a friend of the plaintiff.

Mulligan v. Faircloth, Berkeley County Case No. 06-C-319. I recused myself because the defendant campaigned for me.

State ex rel. Kilmer, Berkeley County Case No. 07-C-518. I recused myself because I had knowledge of the case based upon my former employment as a prosecutor.

McGill v. Jefferson Security Bank, Berkeley County Case No. 08-C-1194. I recused myself because a third-party defendant in this case is a probation officer for my court.

Timberwalk Property Owners Ass'n, Inc. v. McDermott and McDonough, Berkeley County Case No. 08-C-1359. I recused myself because I prosecuted one of the defendants.

Faircloth v. Berkeley Cnty. Pub. Serv. Water Dist., Berkeley County Case No. 09-C-826. I recused myself because the plaintiff campaigned for me and I consider him a friend.

Top Dollar Inv. v. Berkeley Cnty. Comm'n, Berkeley County Case No. 08-C-903. I recused myself because one of the parties was an active participant in my recent campaign.

Turner v. Micchelli, Berkeley County Case No. 08-C-AP-5. I recused myself because the petitioner is a court reporter for my circuit.

Jack v. Navy Fed. Credit Union, Berkeley County Case No. 09-C-392. I recused myself because one of the witnesses is a bailiff for the Court.

State v. Sala, Morgan County Case No. 10-M-1. I recused myself to avoid the appearance of impropriety because the defendant mistakenly believed there was some collusion between the Court, the prosecutor and his counsel.

Harris v. Sunset Water, Morgan County Case No. 10-C-25. I recused myself because I believed the owner of the defendant company had spoken about me favorably at political events during my campaign.

Beddow v. Warm Springs Pub. Serv. Dist., Morgan County Case No. 08-C-116. I recused myself because one of the plaintiffs is my cousin.

Green Tree Servicing, LLC v. McCarty, Morgan County Case Nos. 07-C-131, and 08-C-42. I recused myself because one of the defendants is an employee of the Morgan County Clerk's Office.

First Am. Title Ins. Co. v. Firriolo, Morgan County Case No. 05-C-94. I recused myself because the father of one of the defendants is a judge in a neighboring county and my assigned mentor.

Chiapella v. Firriolo, Morgan County Case No. 05-C-34. I recused myself because the father of one of the defendants is a judge in a neighboring county and my assigned mentor.

Firriolo v. Lefever, Morgan County Case No. 01-C-8. I recused myself because the father of one of the defendants is a judge in a neighboring county and my assigned mentor.

Rode v. Danley, Jefferson County Case No. 07-C-119 and 07-C-120. I recused myself because my father-in-law recently opposed the defendant in litigation.

Neush v. Danley, Jefferson County Case No. 07-C-160. I recused myself because my father-in-law recently opposed the defendant in litigation.

Neighborhood Welcome v. Keatley, Jefferson County Case No. 07-C-79. To avoid the appearance of judicial partiality, I recused myself when I became aware that the owner of the plaintiff company had children at my child's daycare and we began encountering each other on a daily basis at pick up and drop off.

Argyle Land Co. v. Mahar, Jefferson County Case No. 07-C-90. I recused myself because a fellow judge in my circuit was a party to this lawsuit.

Cardinal Building Sys., Inc. v. Rai Props., LLC, Jefferson County Case No. 07-C-96. I recused myself because the owner of the defendant company is a friend of mine.

Baker v. Delhaize Am. and Food Lion, Jefferson County Case No. 08-C-52. I recused myself because plaintiff's counsel was my current political opponent.

In the following Jefferson County cases, I recused myself pursuant to an administrative order entered when I first took the bench which directed the clerk's office not to assign any cases to me in which the Jefferson County Prosecuting Attorney's Office had made an appearance of record:

Boober v. Shenandoah Constr., Case No. 07-C-182

Orser v. Jefferson Cnty. Comm'n, Case No. 08-C-122

Riggs v. Waid, Case No. 08-C-31

Boober v. Shenandoah Constr., Case No. 07-C-186 and 07-C-182

S&S Group v. Jefferson Cnty. Comm'n, Case No. 07-C-80

Vance v. Dep't of Motor Vehicles, Case No. 08-C-2

I recused myself from the following Jefferson County Cases because I had prosecuted the defendant:

Shane v. French, Case No. 07-c-64

Winchester Med. Ctr. v. Barrow, Case No. 07-C-68

Winston v. Eastern Reg'l Jail, Case No. 07-C-83

Branch Banking v. Oaks, Case No. 07-C-137

I also recused myself from the following Jefferson County Cases because of my former employment with the Jefferson County Prosecutor's Office:

Aubrey v. Jefferson Cnty. Planning Comm'n, Case No. 07-C-63

Nagel v. Brooks, Case No. 07-C-94



Uzan v. Filly's Bar and Grill, Case No. 08-C-96  
Bennett v. Divas, LLC, Case No. 08-C-1  
Urciolo v. Citizens Commc'ns Co., Case No. 07-C-105  
Regester v. Howard, Case No. 10-C-42

**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.

None.

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

In 2000 my husband, Stephen V. Groh, Jr., ran for Jefferson County Magistrate. I was his campaign treasurer. It was a self-financed campaign, so I did not raise money. However, I did attend events to support his candidacy and prepared periodic campaign spending statements.

In 2008, I was a candidate for the position in which I am currently serving. I spoke at political events on my behalf and distributed campaign literature.

**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 did not serve as a clerk to a judge.

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

I never practiced alone.

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

1989 – 1991  
Steptoe and Johnson  
1250 Edwin Miller Boulevard  
Martinsburg, West Virginia 25401  
Litigation Associate

1991 – 1995  
Mell, Brownell and Baker (no longer in existence)  
2031 Florida Avenue, NW  
Washington, D.C. 20009  
Litigation Associate

1995 – 1998  
Semmes, Bowen and Semmes  
25 South Charles Street, Suite 1400  
Baltimore, Maryland 21201  
and  
Semmes, Bowen and Semmes  
322 East Antietam Street  
Hagerstown, Maryland 21740  
Litigation Associate

1998 – 2002  
Berkeley County Prosecuting Attorney's Office  
380 West South Street  
Martinsburg, West Virginia  
Assistant Prosecuting Attorney

2002 – 2006  
Jefferson County Prosecuting Attorney's Office  
110 North George Street  
Charles Town, West Virginia  
Assistant Prosecuting Attorney

- 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 never 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 1989 to 1998, I handled primarily civil litigation. Most of my cases involved workers' compensation defense and personal injury defense. At Mell, Brownell and Baker I also represented the Resolution Trust Corporation on occasion. In addition, I handled criminal appointments for Steptoe and Johnson. The workers' compensation cases involved jury trials on appeals in Maryland and frequent appearances before the Maryland Workers' Compensation Commission and District of Columbia's Department of Employment Services' Hearing Examiners. From 1998 until my appointment to the bench, I devoted my practice to public service, prosecuting felony cases and the occasional misdemeanor. I also handled many abuse and neglect and juvenile cases while at the prosecutor's office in Berkeley County. In addition, while at the prosecutor's office in Jefferson County I handled many matters for the Jefferson County Commission.

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

In private practice, my clients were individuals and businesses. Primarily, I represented insurance companies and self-insured employers in civil liability actions and workers' compensation claims in Maryland and the District of Columbia. In Maryland, the initial workers' compensation hearings were administrative hearings tried before commissioners; however, the appeals were trials de novo in circuit court. In the District of Columbia the workers' compensation matters were administrative hearings at the Department of Employment Services. I did not handle any West Virginia workers' compensation. In public service as a prosecutor, I represented the State of West Virginia in primarily felony cases. However, I also prosecuted misdemeanors and handled forfeitures and abuse and neglect and juvenile proceedings. As an assistant prosecutor in Jefferson County, I also represented the county government in civil matters.

- 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.

During the years 1991 to 1998, I handled more workers' compensation cases before administrative hearing examiners, as opposed to trial work in court. I appeared for workers' compensation hearings about three to four times per week. While in the prosecutors' offices, I appeared in court on a daily basis. I can only estimate the following because I was working as an associate at the law firms and an assistant at the prosecutors' offices, so I would not expect to be listed as counsel of record very often.

i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 2%  |
| 2. state courts of record:  | 65% |
| 3. other courts:            | 3%  |
| 4. administrative agencies: | 30% |

ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 50% |
| 2. criminal proceedings: | 50% |

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 probably tried about 500 cases to verdict before a jury, judge and administrative judge, such as in the workers' compensation cases. However, I can only estimate because I would not expect to be listed as counsel of record on many cases since I was an associate at the private firms and an assistant at the prosecutors' offices. In almost all of these cases, I was sole counsel at trial.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 20% |
| 2. non-jury: | 80% |

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 appeared before the Supreme Court of the United States.

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

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

1. State v. Caton, Case No. 04-F-6 (Jefferson County Circuit Court) (Judge Thomas Steptoe)

I was sole counsel for the State in the trial that occurred December 7-9, 2004. The defendant kidnapped the victim in Berkeley County and transported her first to a location in Berkeley County and then to a location in Jefferson County, where he raped her. The defendant was also charged in Berkeley County around the same time for the rape of the victim in my case and two other separate victims. In my case, he was charged and convicted of two counts of sexual assault in the second degree.

Defendant's Counsel                      William Dehaven, 313 Monroe Street, Martinsburg, WV  
25401, (304) 263-8909.

2. State v. Dunlap, Case No. 03-F-6 (Jefferson County Circuit Court) (Judge Thomas Steptoe)

I served as co-counsel with Larry Crofford for the State in the trial that occurred from April 5-13, 2005. The defendant murdered a young mother by slitting her throat and then left her to die locked in her apartment with an infant and a toddler, one of which was her own child. The defendant was convicted of First Degree Murder and sentenced to life without mercy.

Co-Counsel                                      Larry Crofford, 110 North George Street, Charles Town,  
WV 25414, (304)728-3243.

Defendant's Counsel                      B. Craig Manford, P.O. Box 3021, Martinsburg, WV  
25402, (304) 263-5698.

3. State v. Marshall, Case No. 03-F-62 and 03-F-63 (Jefferson County Circuit Court) (Judge Thomas Steptoe)

I was sole counsel for the State in the trial that occurred from January 13-16, 2004. The defendant hid under his wife's porch until his children left for school, then entered her home with a shotgun in an attempt to murder her. He shot his wife in the leg as she escaped out of a kitchen window. Thereafter, he fled the scene, believing he had killed her. The defendant was convicted of domestic battery, attempted murder in the first degree and malicious assault.

Defendant's Counsel                      James Kent, deceased.

4. State v. Gaskins, Case No. 02-F-36 (Jefferson County Circuit Court) (Judge Thomas Steptoe)

I was sole counsel for the State in the trial that occurred from November 13-14, 2002. The defendant was convicted of delivery of an imitation controlled substance and

delivery of a controlled substance, cocaine. The charges stemmed from a controlled buy which was captured on video tape.

Defendant's Counsel                      Paul Lane, deceased.

5. State v. Fowler, Case No. 99-F-61 (Berkeley County Circuit Court) (Judge Christopher Wilkes)

I was sole counsel for the State in the trial that occurred on or about June 16, 1999. The defendant was convicted of sexual abuse in the first degree for engaging in sexual contact with a minor female.

Defendant's Counsel                      B. Craig Manford, P.O. Box 3021, Martinsburg, WV  
25402, (304) 263-5698.

6. State v. Ellerbe, Case No. 98-F-69 (Berkeley County Circuit Court) (Judge David Sanders)

I was sole counsel for the State in the trial that occurred on or about December 4, 1998. The defendant was the gunman in a robbery of a young male, committed by several individuals at an apartment complex. During the course of the robbery, the defendant attempted to force the victim at gunpoint into a vehicle for transport. The defendant was convicted of aggravated robbery, attempted kidnapping and wanton endangerment with a firearm.

Defendant's Counsel                      Robert C. Stone, Jr., 529 West King Street, Martinsburg,  
WV 25401, (304) 267-7168.

7. State v. Slaton, Case No. 99-F-216 (Berkeley County Circuit Court) (Judge David Sanders)

I served as co-counsel with Hassan Rasheed for the State in the trial that occurred on or about December 20, 2000. The defendant was convicted of sexual assault in the first degree for forcing a five-year-old male to perform oral sex on him.

Co-counsel                                      Hassan Rasheed, 110 North George Street, Charles Town,  
WV 25414, (304) 728-3243.

Defendant's Counsel                      Thomas Stanley, 313 Monroe Street, Martinsburg, WV  
25401, (304) 263-8909  
Thomas Delaney, 202 West Liberty Street, Charles Town,  
WV 25414, (304) 728-7811.

8. State v. McCraine, Case No. 99-F-68 (Berkeley County Circuit Court) (Judge David Sanders)

I was sole counsel for the State in the trial that occurred on or about November 3, 2000. The defendant was convicted of third offense driving under the influence and driving while revoked for DUI. The case was reversed and remanded. See State v. McCraine, 214 W. Va. 188, 588 S.E.2d 177 (2003).

Defendant's Counsel                      Robert C. Stone, Jr., 529 West King Street, Martinsburg,  
WV 25401, (304) 267-7168.

9. State v. Hendrickson, Case No. 00-F-58 (Berkeley County Circuit Court) (Judge David Sanders)

I was sole counsel for the State in the trial that occurred on or about October 20, 2000. The defendant was convicted of unlawful assault and domestic battery for wounding his brother-in-law with a .22 caliber rifle.

Defendant's Counsel                      Robert C. Stone, Jr., 529 West King Street, Martinsburg,  
WV 25401, (304) 267-7168.

10. Shroades v. Food Lion, Berkeley County Case No. 96-C-582 (Berkeley County Circuit Court) (Judge Thomas Steptoe);

Although my most significant litigated matters are the numerous felony trials I handled, I did handle this civil case. The plaintiff sued Food Lion for a back injury he alleged he sustained when a shopping cart hit him in the back. I tried the case in 1999, and the jury rendered a verdict for the plaintiff. I appealed the matter on behalf of Food Lion, and the case was reversed and remanded by the West Virginia Supreme Court of Appeals on February 2, 2000, see 207 W. Va. 195, 530 S.E.2d 456 (2000). The case finally resolved with a settlement.

Plaintiff's Counsel                      Michael Santa Barbara, 518 West Stephen Street,  
Martinsburg, WV 25401, (304) 264-0000.

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 civil practice, I tried many cases as sole counsel before juries and administrative judges. In the cases that did not go to trial, I obtained settlements for my clients.

As an assistant prosecuting attorney, my felony work included not only being sole counsel at jury trials, but also preparation for and presentation to the grand jury. In my felony cases, I often met with the investigating officers, experts, our victims' advocates and victims to prepare for trial. I also responded to habeas corpus petitions. If the cases did not go to trial, I negotiated plea agreements. I have also handled many abuse and neglect and juvenile matters. I also advised officers who had questions about whether their evidence supported certain criminal charges and their investigations, reviewed and analyzed documents and directed officers on whether further follow-up or investigation needed to be performed to prepare a case for trial. I balanced protecting the community's interest, the victims' rights and the defendants' rights throughout the process from the criminal investigation through trial or plea agreement. Ultimately, within my prosecutorial discretion, I made determinations, based upon the evidence and the law, on whether or not to prosecute individuals charged with offenses.

I never performed any lobbying.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

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

None, other than that I anticipate receiving money from two West Virginia state pension programs, PERS and Judicial Retirement, for my public service from 1998 to the present.

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.

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).

See attached Financial Disclosure Report.



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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

My husband is an assistant prosecuting attorney in Jefferson County, West Virginia. I would recuse myself from any case in which he was counsel of record in the same or a closely related matter. I would also recuse myself from any criminal matter if I had previously prosecuted the defendant. I am unaware of any other circumstances that would raise potential conflict of interest. I would resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges and all applicable policies and procedures of the United States Courts.

- 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 resolve any potential conflict of interest by adhering to the Code of Conduct for United States Judges, and all applicable policies and procedures of the United States Courts. I would recuse myself in any matter in which my spouse or I hold a financial interest or in which I have a sufficiently close connection with counsel or parties based upon a business or social relationship. If it is a close call, I would err on the side of recusal so as not to raise the appearance of impropriety.

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.

As an associate for Steptoe and Johnson, I was assigned court appointed criminal defense cases in state and federal courts in West Virginia. In public service as a prosecutor, I was precluded from pro bono work. As a judge, I have the same restrictions, however, I participate in the Robes to Schools program of the West Virginia Supreme Court and participate each year in the Martinsburg City Police Department's Junior Police Academy. Many of the children I speak to in these programs come from lower income homes.

**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.

There is not a selection commission in my jurisdiction to recommend candidates for nomination to the federal courts.

In approximately the summer of 2009, I sent letters to Senator Jay Rockefeller, Senator Robert Byrd and then-Governor Joe Manchin advising them of my interest in a recommendation for any openings in the U.S. District Court for the Northern District if one became available. In February 2011, I received a call from an assistant to Rochelle Goodwin, Senator Rockefeller's state director. The assistant advised that the senator's office was scheduling meetings with people who had expressed such an interest in the opening in the Northern District. On February 9, 2011, Ms. Goodwin interviewed me in the senator's Charleston, West Virginia office. On February 23, 2011, Senator Rockefeller interviewed me in his Washington, D.C. office. On March 1, 2011, Senator Rockefeller called to offer the recommendation to me. Since March 3, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On April 4, 2011, I interviewed with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On May 19, 2011, the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

I, Gina M. Groh, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

May 17, 2011  
(DATE)



Gina M. Groh  
(NAME)

Tracy P. Herron-Rice  
(NOTARY)