

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Gregory Alan Phillips

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

United States Circuit Judge for the Tenth Circuit

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.

Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, Wyoming 82002

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

1960; Littleton, Colorado

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.

1984 – 1987, University of Wyoming College of Law; J.D. (with Honors), 1987

1978 – 1983, University of Wyoming; B.S., 1983

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.

2011 – Present  
Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, Wyoming 82002  
Wyoming Attorney General

2010 – 2011

Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, Wyoming 82002  
Special Assistant to the Governor for Legislative Affairs

2003 – 2010

United States Attorney's Office  
2120 Capitol Avenue  
Cheyenne, Wyoming 82001  
Assistant United States Attorney

2001 – 2002

Phillips Law Office  
2515 Warren Avenue, Suite 501  
Cheyenne, Wyoming 82001  
Owner

1998 – 2001

Mead & Phillips  
2515 Warren Avenue, Suite 501  
Cheyenne, Wyoming 82001  
Partner

1993 – 1999

Wyoming State Senate  
State Capitol  
Cheyenne, Wyoming 82002  
Senator from Uinta County

1989 – 1998

Phillips Law Offices  
912 Main Street  
Evanston, Wyoming 82001  
Partner

1990 – 1991

Uinta County Attorney's Office  
Uinta County Courthouse  
225 Ninth Street  
Evanston, Wyoming 82930  
Part-time Deputy County Attorney

1987 – 1989

Honorable Alan B. Johnson

United States District Court Judge  
District of Wyoming  
2120 Capitol Avenue  
Cheyenne, Wyoming 82001  
Law Clerk

Summer 1986  
Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, Wyoming 82002  
Summer Associate assigned to the Criminal Division

Summer 1985  
Phillips Law Offices  
912 Main Street  
Evanston, Wyoming 82930  
Summer Associate

1984  
W.F. Anderson Electrical  
No address available  
Evanston, Wyoming 82930  
Laborer

1983  
Overthrust Constructors, Inc.  
No address available  
Evanston, Wyoming 82930  
Laborer

Other Affiliations (uncompensated unless otherwise indicated):

2011 – Present  
Wyoming Peace Officers Standards and Training Commission  
1710 Pacific Avenue  
Cheyenne, Wyoming 82002  
Commissioner

1995 – 2002  
Wyoming Community Development Authority  
155 North Beech  
Casper, Wyoming 82601  
Member, Board of Directors (received nominal compensation and per diem)

1995 – 1997 (approx.)  
Evanston Chamber of Commerce

1020 Front Street  
Evanston, Wyoming 82930  
Member, Board of Directors

1990 – 1992  
Pioneer Counseling (local non-profit mental health center)  
350 City View Drive, #302  
Evanston, Wyoming 82930  
Member, Board of Directors

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

I did not serve in the military. In 1980, I timely registered for selective service.

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

U.S. Postal Service Certificate of Appreciation for Assistance in Prosecution of Fraud Case (2005)

Invited to and attended “Program for Emerging Political Leaders” at the University of Virginia (1994)

Special Recognition Award: Wyoming Public Employees Association (1993)

Voted by media as the Outstanding Freshman Senator (1993)

Order of the Coif

Land and Water Law Review

Thurman Arnold academic scholarship in law school

Williams, Porter, Day & Neville academic scholarship in law school

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.

Federal Bar Association

Laramie County State Bar Association

Uinta County Bar Association

Wyoming State Bar Association

Wyoming Trial Lawyers Association

**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.

Wyoming, 1987

There has been no lapse in membership.

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

United States Supreme Court, 2011

United States Tenth Circuit Court of Appeals, 1990

United States District Court for the District of Wyoming, 1987

Wyoming Supreme Court, 1987

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.

American Inns of Court, Ewing T. Kerr Inn (2011 – present)

Cheyenne Country Club (2004 – present)

Evanston Chamber of Commerce

Board of Directors (approximately 1995 – 1997)

Law Enforcement Academy Advisory Board (2011 – present)

National Association of Attorneys General (2011 – present)

Pioneer Counseling

Board of Directors (1990 – 1992)

Rocky Mountain Presidential Primary Task (1998 – 1999)

Rotary Club in Evanston, Wyoming (approximately 1995 – 1998)

Wyoming Community Development Authority  
Board of Directors (1995 – 2002)

Wyoming Peace Officers Standards and Training Commission  
Commissioner (2011 – present)

Wyoming Task Force on Medicaid Costs (1993 – 1994)

- 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.

Prior to my membership, the Rotary Club limited membership to men. Otherwise, to the best of my knowledge, none of the organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, or 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.

Letter to the Editor, *Giving Credit Where Credit Is Due*, Uinta County Herald, October 27, 1998. Copy supplied.

Letter to the Editor, *Sen. Phillips Says Candidate Weston Misstating His Position*, Uinta County Herald, October 7, 1994. Copy supplied.

In 1992, in the midst of my general election campaign for state senate, I wrote a letter to the editor addressing misrepresentations that had been made about my positions on certain issues. I have been unable to locate a copy of this letter.

Case Note, *Improper Comment Upon Post-Arrest Silence: Wyoming Returns to the Prejudicial Per Se Rule*, XXI Land & Water L. Rev. 231 (1986). 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.

Wyoming Attorney General's Office FY12 Annual Report, 2012. Copy supplied.

Wyoming Attorney General's Office FY11 Annual Report, 2011. Copy supplied.

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

On February 5, 2013, I appeared before the Wyoming House Judiciary Committee to testify about a bill modifying Wyoming's wiretap statutes. Because the legislature records only joint interim committee meetings, no recording of this session exists. I have no notes, transcript, or recording.

On January 14, 2013, I appeared before the Wyoming Senate Judiciary Committee to testify about a bill modifying Wyoming's wiretap statutes. Because the legislature records only joint interim committee meetings, no recording of this session exists. I have no notes, transcript, or recording.

On December 11, 2012, I appeared before the Joint Appropriations Interim Committee to testify about the proposed budget for the attorney general's office and its divisions. Audio recording supplied.

On November 20, 2012, I joined 41 other attorneys general in a letter to Congressional leadership, urging passage of legislation extending tax relief for citizens who had mortgage debt canceled or forgiven because of financial hardship or a decline in housing values. Copy supplied.

On November 2, 2012, I joined 45 other attorneys general in a letter to Congressional leadership, urging funding to combat human trafficking and modern day slavery in accordance with the Trafficking Victims Protection Reauthorization Act of 2008. Copy supplied.

On October 25, 2012, I appeared before the Joint Judiciary Interim Committee to testify about proposed amendments to Wyoming's wiretap statutes and needed changes in Wyoming's life-without-parole laws for juvenile offenders to comply with recent case law from the United States Supreme Court. Audio recording supplied.

On October 22, 2012, I authored and issued Attorney General's Formal Opinion 2012-001, which interpreted Wyoming statutes and case law in an effort to clarify the respective powers of certain county officers. Copy supplied.

On October 5, 2012, I joined 40 other attorneys general in a letter to Congressional leadership, urging opposition to a bill known as the Consumer Credit Access, Innovation, and Modernization Act, because in our view it would preempt state consumer lending laws and undermine longstanding state consumer protection laws. Copy supplied.

On September 25, 2012, I appeared before the Joint Judiciary Interim Committee to testify about proposed amendments to Wyoming's wiretap statutes. Only a small portion of the hearing was recorded, and is supplied.

On September 24, 2012, I appeared before the Joint Judiciary Interim Committee to testify about the 24/7 sobriety program and about needed changes in Wyoming's life-without-parole laws for juvenile offenders to comply with a recent case from the United States Supreme Court. Audio recording supplied.

On July 31, 2012, I appeared before the Joint Judiciary Interim Committee to testify about the committee possibly sponsoring a bill to establish a 24/7 sobriety program as presently used in Montana and South Dakota. Audio recording supplied.

On July 31, 2012, I appeared before the Joint Judiciary Interim Committee to testify about my proposed eight percent reduction to general fund expenditures for the attorney general's office and its individual divisions. Audio recording supplied.

On May 8, 2012, I joined 37 other attorneys general in a letter to Viacom, Inc., urging that Paramount Pictures eliminate depictions of smoking in movies rated PG-13 or below. Copy supplied.

On May 8, 2012, I joined 50 other attorneys general in a letter to Congressional leadership, urging that the cap be increased on the Crime Victims Fund created under the Victim of Crimes Act of 1984. Copy supplied.

On April 25, 2012, I joined 22 other attorneys general in a letter to Congressman Cliff Stearns and Congressman Heath Shuler, supporting the National Right-to-Carry Reciprocity Act. Copy supplied.

On February 24, 2012, I appeared before the Wyoming Senate Labor Committee at its invitation to testify about the positions set forth in the briefing of the parties in the Affordable Care Act case. Because the legislature records only joint interim committee meetings, no recording of this session exists. I have no notes, transcript, or recording.



On February 22, 2012, I appeared before the Wyoming House Labor Committee at its invitation to testify about the positions set forth in the briefing of the parties in the Affordable Care Act case. Because the legislature records only joint interim committee meetings, no recording of this session exists. I have no notes, transcript, or recording.

On January 11, 2012, I joined 52 other attorneys general in a letter to members of Congress, urging reauthorization of the Violence Against Women Act. Copy supplied.

On January 10, 2012, I appeared before the Joint Appropriations Interim Committee at its invitation to testify about the budget for the Attorney General's office and its divisions. Audio recording supplied.

On December 7, 2011, I joined 53 other attorneys general in a letter to members of Congress, urging opposition to the Mobile Informational Call Act of 2011, which we worried would cause a flood of solicitation, marketing, debt collection, and other unwanted calls and texts to cell phones. Copy supplied.

On November 16, 2011, I joined 34 other attorneys general in a letter to the Secretary of the Federal Trade Commission, responding to a request for public comments on the marketing of high volume, sweetly flavored alcoholic drinks. We expressed concerns about the societal effects of binge drinking and excessive alcoholic consumption. Copy supplied.

On November 9, 2011, I appeared before the Joint Management Audit Committee at its invitation to testify about the Victims Services Division's actions taken in response to an audit report completed before I became attorney general. The staff of the Legislative Service Office has informed me that its recorders were inoperable at this time and thus that this meeting was not recorded.

On November 4, 2011, I joined 38 other attorneys general in a letter to the Federal Trade Commission and the Director of the Bureau of Competition, urging that they consider how Section 5 of the Federal Trade Commission Act could be used to help defeat unfair foreign competition built upon stolen information technology. Copy supplied.

On October 28, 2011, I joined 42 other attorneys general in a letter to the Chairman and Ranking Member of the Senate Committee on Finance, urging that federal laws be amended to allow more access to state attorneys general and state charity officials to obtain certain information possessed by the IRS to enable them to better protect the public interest. Copy supplied.

On October 28, 2011, I joined 43 other attorneys general, seeking funding for programs critical to fighting human trafficking. Copy supplied.

On October 18, 2011, I joined 36 other attorneys general in a letter to the Senate Majority Leader and Minority Leader, supporting former Ohio attorney general Richard Cordray to head the Consumer Financial Protection Bureau. Copy supplied.

On October 10, 2011, I authored and issued Attorney General's Formal Opinion 2011-003, which interpreted federal and state law bearing on two questions: (1) whether the legislature had power to allow holdover state senators (those having served half of their four-year terms at legislative reapportionment) to serve the remaining two years of their term without immediately seeking re-election, and (2) whether the holdover state senators could compel this result if the legislature chose to end the terms of all state senators in its upcoming reapportionment law. Copy supplied.

On October 10, 2011, I authored and issued an informal Attorney General's opinion, which addressed two issues: (1) whether compensation was necessary to move employees voluntarily from permanent to at-will status, and (2) whether unrelated pay adjustments could be withheld to employees who might decline additional compensation and refuse to move to at-will status. Because the agency director requesting the opinion wanted it released, I put this informal opinion on the office's website. Ordinarily informal opinions are covered by the attorney-client privilege and would not be disclosed. Copy supplied.

On August 31, 2011, I joined 45 other attorneys general in a letter written to the attorney for a company known as Backpage.Com, LLC, regarding our views that it served as a hub for human trafficking, including minor children trafficked for sexual exploitation. The letter sought information on the company's policies and practices. Copy supplied.

On August 26, 2011, I joined 41 other attorneys general in a letter written to Congressional leadership, supporting a specific broadband spectrum for wireless communications for law enforcement and emergency responders. Copy supplied.

On August 25, 2011, I authored and issued Attorney General's Formal Opinion 2011-002, which interpreted Wyoming law to determine whether elected officials have power to hire employees "at will" for positions previously held by "permanent" employees. Copy supplied.

On June 28, 2011, I authored and issued Attorney General's Formal Opinion 2011-001, which interpreted Wyoming statutes governing nepotism. Copy supplied.

On June 27, 2011, I joined 45 other attorneys general in a letter written to the Acting Comptroller of the Currency, expressing concerns with the proposed

regulations under Dodd-Frank that in our view might preempt state law and the exercise of state enforcement powers over consumer protection. Copy supplied.

On June 8, 2011, I joined 28 other attorneys general in a letter to the Chairman and Ranking Member of the Senate Judiciary Committee, supporting former Kansas attorney general Steve Six for an appointment to the Tenth Circuit Court of Appeals. Copy supplied.

On May 18, 2011, I joined 13 other attorneys general in a letter to the U.S. Attorney General, continuing to express concerns about the ongoing lack of availability of the drug sodium thiopental. Copy supplied.

On May 16, 2011, I joined 41 other attorneys general in a letter sent to Senator Patrick Leahy, Senator Chuck Grassley, Representative Lamar Smith, and Representative John Conyers, Jr., urging introduction and enactment of rogue site legislation. The letter commended the recipients for their efforts against counterfeiting and piracy of U.S. products on rogue websites. Copy supplied.

On April 26, 2011, I joined 23 other attorneys general in a letter to the Federal Trade Commission, commenting on information collected from alcohol advertisers on their compliance with advertising placement restrictions, sales and marketing expenditures, and alcohol data collection practices. The letter expressed concern with the large number of underage drinkers and the role of advertising in promoting that. Copy supplied.

On April 21, 2011, I appeared before the Joint Judiciary Interim Committee at its invitation to testify about a proposed bill expanding the coverage of the Wyoming Governmental Claims Act. Only a small portion of the hearing was recorded, and is supplied.

On February 25, 2011, I appeared before the Wyoming Senate Judiciary Committee for my confirmation hearing. I introduced myself and talked about my past legal experiences and interest in the job of attorney general. I was approved unanimously by the committee and the full Senate. Because the legislature records only joint interim committee meetings, no recording of this session exists. I have no notes, transcript, or recording.

In 2000, I appeared before the Wyoming Legislature's Joint Judiciary Committee at its request to answer questions about the state's sexual assault statutes and specifically about the effect of statutory changes that I had gotten passed while I was in the legislature. As I remember it, I met with the Committee informally and on an impromptu basis at the end of the legislative session, when the Committee was considering interim topics. I have no notes, transcript, or recording.

In 1999, I appeared before the Wyoming Legislature's Senate and House Committees on Labor, Health, and Social Services to explain amendments sought

by the Office of Medicaid to Wyoming's statutes governing Medicaid benefit recovery. Because the legislature records only joint interim committee meetings, no recording of this session exists. I have no notes, transcript, or recording.

Likely in 1997 or 1998, as a member of the Wyoming Senate Education Committee, I commented during a committee meeting that a state assessment was a way to ensure accountability and value for the money spent to educate students. I have no notes, transcript or recording, but press coverage is 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.

October 6, 2012: I spoke at a Silent Witness ceremony in Kemmerer, Wyoming, sponsored by the Victims Services Division of my office, honoring slain victims of domestic abuse. My comments recognized the dedicated people working on this societal problem and sought to comfort family members gathered together to remember slain victims. I have no notes, transcript, or recording. The Victims Services Division is located at Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002.

July 13, 2012: I gave congratulatory remarks to graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My remarks generally congratulated the graduates and commented upon the importance of law enforcement to society. I have no notes, transcript, or recording. The Wyoming Law Enforcement Academy is located at 1556 Riverbend Drive, Douglas, Wyoming 82633.

July 12, 2012: I gave a congratulatory speech at the Investiture of Kelly H. Rankin as Wyoming's chief federal magistrate judge, held in Cheyenne, Wyoming. I have no notes, transcript or recording. The Joseph C. O'Mahoney Federal Building is located at 2120 Capitol Avenue, Cheyenne, Wyoming 82001.

May 18, 2012: I gave congratulatory remarks to graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My remarks generally congratulated the graduates and commented upon the importance of law enforcement to society. I have no notes, transcript, or recording. The Wyoming Law Enforcement Academy is located at 1556 Riverbend Drive, Douglas, Wyoming 82633.

March 29, 2012: I gave congratulatory remarks to graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My remarks generally congratulated the graduates and commented upon the importance of law enforcement to society. I have no notes, transcript, or recording. The Wyoming Law Enforcement Academy is located at 1556 Riverbend Drive, Douglas, Wyoming 82633.

June 23, 2011: I gave congratulatory remarks to graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My remarks generally congratulated the graduates and commented upon the importance of law enforcement to society. I have no notes, transcript, or recording. The Wyoming Law Enforcement Academy is located at 1556 Riverbend Drive, Douglas, Wyoming 82633.

May 20, 2011: I gave a short speech at a memorial ceremony for fallen officers at the Wyoming Law Enforcement Academy in Douglas, Wyoming. This event is commemorated annually across the country. I have no notes, transcript, or recording. The Wyoming Law Enforcement Academy is located at 1556 Riverbend Drive, Douglas, Wyoming 82633.

May 18, 2011: I gave welcoming remarks at a conference run by the Division of Victims Services, which is within the attorney general's office, praising the work the attendees have done and continue to do to protect children. The conference was held in Cheyenne, Wyoming. I have no notes, transcript, or recording, but press coverage is supplied. The Victims Services Division is located at Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002.

March 31, 2011: I gave congratulatory remarks to graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My remarks generally congratulated the graduates and commented upon the importance of law enforcement to society. I have no notes, transcript, or recording. The Wyoming Law Enforcement Academy is located at 1556 Riverbend Drive, Douglas, Wyoming 82633.

On March 14, 2011, I spoke at my swearing-in ceremony at the Wyoming Supreme Court building in Cheyenne, Wyoming. Audio recording supplied.

April 16, 2010: I gave a lecture on federal sentencing in Cheyenne, Wyoming. My lecture was sponsored by the Criminal Justice Panel and the Federal Public Defender's office. Materials supplied.

April 22, 2009: I gave a lecture entitled "Statutory and Guideline Sentencing Enhancements: Crimes of Violence and Violent Felonies" at the U.S. Probation Office in Casper, Wyoming. My lecture was sponsored by the Criminal Justice Panel and the Federal Public Defender's office. Materials supplied.

August 10, 2005: I gave a lecture entitled "Law of Custodial Interrogations: Fifth and Sixth Amendments" at the Native American Conference held at the Best Western Inn, 200 Grandview Drive, Lander, Wyoming 82520. This lecture was to law enforcement officers and other conference attendees. Materials supplied.

Fall 1999: I gave a lecture with Matthew Mead entitled "Third Party Liability Reimbursement" at the Wyoming State Bar Association Meeting held in Moran, Wyoming. The lecture sought to educate the state bar members on duties and procedures in reimbursing Medicaid as the payer of last resort. I have no notes, transcript, or recording. The Wyoming State Bar is located at 4124 Laramie Street, Cheyenne, Wyoming 82003.

Summer 1999: I gave a lecture with Matthew Mead entitled "Third Party Liability Reimbursement" at the Wyoming Trial Lawyer's Association Meeting held in Lander, Wyoming. The lecture sought to educate members of the trial lawyers' association on duties and procedures in reimbursing Medicaid as the payer of last resort. I have no notes, transcript, or recording. The Wyoming Trial Lawyer's Association is located at 2111 Warren Avenue, Cheyenne, Wyoming 82001.

May 1997: I gave the commencement address at the graduation ceremony held at Evanston High School in Evanston, Wyoming. As best I can recollect, my speech congratulated the graduates and emphasized the importance of the graduates continuing their education to ensure their futures in the rapidly changing world. I have no notes, transcript, or recording. Evanston High School is now located at 701 West Cheyenne Drive, Evanston, Wyoming 82930.

February 12, 1996: I participated at a meeting sponsored by the Evanston Education Association at a school in Evanston, Wyoming. I predicted how the legislature might continue to respond to a state supreme court decision declaring the state's school financing system unconstitutional. I have no notes, transcript, or recording, but press coverage on February 16, 1996 is supplied in response to Question 12e. The Evanston Education Association is located at 209 Dean Avenue, Evanston, Wyoming 82930.

October 17, 1994: I appeared in a roundtable debate on Wyoming Public Television with my general election opponent. The roundtable debate took place at the studio of Wyoming Public Television in Riverton, Wyoming. I remember the chief topic of discussion being the Watt-Donley proposal to invest state revenues into a low-interest loan program for Wyoming businesses. I have no notes, transcript, or recording. Wyoming Public Television is located at 2660 Peck Avenue, Riverton, Wyoming 82501.

December 2, 1993: I and two other legislators spoke at a League of Women Voters forum before attending the 1994 legislative session. The forum occurred at the city council chambers in Evanston, Wyoming. I have no notes, transcript, or

recording, but press coverage on December 7, 1993 is supplied in response to Question 12e. The League of Women Voters has no physical address.

In addition to the above, I participated at candidate forums in my two legislative races, giving brief comments and taking questions. I believe that the League of Women Voters sponsored each of these forums, which took place soon before the primary and general elections in August and November of 1992 and 1994. The forums included candidates for state and local offices. As I recall, each candidate got a brief time for introductory comments and then answered any questions from the audience. I have no notes, transcript, or recording. The League of Women Voters has no physical address.

I also met with groups of constituents after each of my six legislative sessions to review changes in the law and obtain feedback. For instance, after each session I met with local law enforcement agencies, advising them of changes in the statutes and seeking input for possible future statutory changes. I held similar post-session meetings with local government officials, school officials, and service clubs. These meetings took the form of a general summary of the legislative session, followed by questions and answers. I do not know any dates of these meetings, and I have no notes, transcript, or recordings.

- 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.

Interviews:

Chuck Raasch, *States on Guard for Pot Incursion*, Gannett News Service, January 14, 2013. Copy supplied.

Ben Neary, *U.S. Supreme Court Sets Aside Wyo Teen's Sentence*, Associated Press, October 26, 2012. Copy supplied.

Trevor Brown, *Program Seeks to Protect Military from Consumer Fraud*, Wyo. Trib. Eagle, October 3, 2012. Copy supplied.

Joan Barron, *Consumer Protection Official Urges Financial Education for Service Members*, Casper Star-Trib., October 3, 2012. Copy supplied.

Joan Barron, *Plaintiff Settles for \$25,000 in Torrington First Amendment Lawsuit*, Casper Star-Trib., August 14, 2012. Copy supplied.

Laura Hancock, *New Report Slams Wyoming for Lack of Human Trafficking Law*, Casper Star-Trib., August 13, 2012. Copy supplied.

Trevor Brown, *Does Wyo. Need Laws for Human Trafficking?*, Wyo. Trib. Eagle, August 7, 2012. Copy supplied.

Jeremy Pelzer, *Most 'Tree Street' Residents Accept State Settlements*, Casper Star-Trib., June 18, 2012. Copy supplied.

Jeremy Pelzer, *Senator Under a Microscope*, Casper Star-Trib., February 19, 2012. Copy supplied.

Aerin Curtis, *Legislator Wants Dept. of Education Audited*, Wyo. Trib. Eagle, February 12, 2012. Copy supplied.

Editorial Board, *State Should Have Settled Tree Street Claims Long Ago*, Casper Star-Trib., January 24, 2012. Copy supplied.

Jeremy Pelzer, *Rock Springs Residents, State Enter Mediation on Mine Subsidence Damage*, Casper Star-Trib., January 23, 2012. Copy supplied.

Ben Neary, *Lawyer Wants Hearing for Sheridan Teen in Hearing*, Associated Press, December 22, 2011. Copy supplied.

Ben Neary, *Wyoming Prosecutors Dispute Critical Report*, Casper Star-Trib., December 11, 2011. Copy supplied.

Joan Barron, *Wyoming Attorney General Joins Fight Against Sex Trafficking Ads*, Casper Star-Trib., September 2, 2011. Copy supplied.

Joan Barron, *Wyoming Murder Conviction May Be in Jeopardy*, Casper Star-Trib., June 16, 2011. Copy supplied.

Jeremy Pelzer, *Wyoming Supports Secret Service Agents in Lawsuit*, Casper Star-Trib., April 19, 2011. Copy supplied.

Deborah Demander, *Evanston Resident Sworn in as Wyo. Attorney General*, Uinta County Herald, March 15, 2011. Copy supplied.

Ben Neary, *Mead Announces Greg Phillips to Serve as State AG*, Associated Press, November 23, 2010. Copy supplied.

Tom Morton, *Man Sentenced to 124 Years in Prison after Casper Chase*, Casper Star-Trib., February 7, 2007. Copy supplied.

Cameron Mathews, *Federal and State Agents Hunt Those 'Lying for Money,'* Wyo. Trib. Eagle, February 5, 2007. Copy supplied.



Tom Morton, *Troopers Nab Speeder with 112 Pounds of Pot*, Casper Star-Trib., November 13, 2005. Copy supplied.

Jessica Lowell, *Tax Preparer Sentenced for Fraudulent Returns*, Wyo. Trib. Eagle, July 20, 2005. Copy supplied.

Staff, *Area Meth Sealers Sentenced to Federal Penitentiary*, Uinta County Herald, October 8, 2004. Copy supplied.

Juliette Rule, *Man Gets 7 Years in Standoff*, Wyo. Trib. Eagle, December 30, 2003. Copy supplied.

Staff, *No Democratic Challengers Have Stepped Up to Face Cubin, Thomas*, Associated Press, February 7, 2000. Copy supplied.

Staff, *Former Evanston Senator Receives Appointment to Governor's Rocky Mountain Primary Task Force*, Uinta County Herald, Aug. 11, 1998. Copy supplied.

Tony Monterastelli, *Senate Rejects Pay Raises for DAs*, Wyo. Trib. Eagle, March 10, 1998. Copy supplied.

Staff, *Wyoming Senate Kills Revenue Bond Measure for Schools*, Capital Markets Report, February 19, 1998. Copy supplied.

Staff, *Wyoming Senate Gives Final OK to School Construction Bills*, Capital Markets Report, February 17, 1998. Copy supplied.

Staff, *Wyoming Lawmakers Reviewing Oversight of School Construction*, Capital Markets Report, October 17, 1997. Copy supplied.

Staff, *Accord Reached in Welfare Reform Wyoming Senate, House Iron Out Differences as Session Nears End*, Denver Post, February 28, 1997. Copy supplied.

Staff, *Wyoming Senate Considers Expanding Veterans Tax Exemption*, Capital Markets Report, January 21, 1997. Copy supplied.

Staff, *Wyoming Finance Panel Rejects Statewide Mill Levy Proposal*, Capital Markets Report, December 13, 1996. Copy supplied.

Staff, *Wyo. Panel Approves Local-Control Capital Construction Plan*, Capital Markets Report, September 30, 1996. Copy supplied.

David Carkhuff, *Sen. Phillips Predicts More Money for Local School District*, Uinta County Herald, February 16, 1996. Copy supplied.

Staff, *Phillips Quells Rumors of Run for U.S. Senate*, Uinta County Herald, February 16, 1996. Copy supplied.

On November 8, 1994, a reporter from my local newspaper, the Uinta County Herald, interviewed me after I had won re-election. I have been unable to locate a copy of any resulting article.

In 1993 or 1994, a local television reporter interviewed me for a short clip about the Senate's refusing confirmation for a nominee sent to the Senate by Governor Sullivan. I had supported the nomination. I have been unable to obtain a copy of the recording.

Staff, *Sen Phillips: State Must Be More Diligent in Collecting Money Owed It*, Uinta County Herald, August 5, 1994. Copy supplied.

George Hammond-Kunke, *Sen. Phillips Says Watt-Donley Benefits 'Illusionary at Best,'* Uinta County Herald, April 5, 1994. Copy supplied.

Shawn Hubbel, *Legislators Bash Watt-Donley Plan*, Uinta County Herald, December 7, 1993. Copy supplied.

Staff, *Phillips Named Freshman Senator of the Year by Media*, Uinta County Herald, March 19, 1993. Copy supplied.

I remember being interviewed in January 1993 by the Cheyenne Tribune Eagle about my experiences as a new legislator. I have been unable to locate a copy of any resulting article.

From 1993 to 1998, including the times listed above, I remember television and radio reporters interviewing me about five times for short video and audio clips about legislative issues. I have been unable to obtain a copy of any of the news stories or tapes.

Press Releases:

Press release, *Settlement with Tobacco Companies Protects Wyoming's Tobacco Settlement Payments*, Office of Attorney General Greg Phillips, December 19, 2012. Copy supplied.

Press release, *Governor Appoints New Director of DCI*, Office of Governor Matt Mead, July 17, 2012. Copy supplied.

Press release, *Attorney General Greg Phillips Joins 54 Other Attorneys General in Fight Against Robo-Calls to Cell Phones: Federal Bill Erodes Americans'*

*Telephone Privacy*, Office of Attorney General Greg Phillips, December 7, 2011. Copy supplied.

Press release, *Governor and Attorney General Appoint New Head of Victims' Services*, Office of Governor Matt Mead, November 21, 2011. 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.

My brother, John Phillips, served as the municipal judge for Evanston and Lyman, Wyoming. From about 1990 to 1996, I was appointed assistant municipal judge to serve in his absence. Accordingly, I sat as the municipal judge about five times, taking pleas at arraignments. I did not issue any opinions or decisions.

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

None.

- i. Of these, approximately what percent were:

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

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

None.

- 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).

None.

- 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.

None.

- 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.

None.

- 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.

None.

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

As an assistant municipal judge, I never recused or was asked to recuse.

- 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.

**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.

1990 – 1991

Half-time Deputy Uinta County Attorney, Evanston, Wyoming  
Appointed by Uinta County Attorney Scott W. Smith

1993 – 1994

Wyoming Task Force on Medicaid Costs  
Appointed by Governor Mike Sullivan

1997 – 1998

Precinct Committeeman for Uinta County Democratic Party  
Elected by voters

1998 – 1999

Rocky Mountain Presidential Primary Task Force  
One of six members from Wyoming  
Appointed by Governor Jim Geringer after being nominated by State Senate President Bob Grieve

1995 – 2002

Wyoming Community Development Authority  
Board of Directors  
Appointed in 1995 and reappointed in 2000 by Governor Jim Geringer and unanimously confirmed by the state senate

1993 – 1999

Wyoming State Senator (Uinta County, Democrat)  
Elected in 1992 (two-year term after redistricting) and in 1994 (four-year term), but I did not seek re-election in 1998

2010 – 2011

Wyoming Attorney General's Office

Special Assistant to the Governor for Legislative Affairs  
Appointed by Governor Matthew H. Mead

2011 – Present  
Wyoming Attorney General  
Appointed by Governor Matthew H. Mead

I have had no unsuccessful candidacies for elected office or unsuccessful nominations for appointed office.

- 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 1992 and 1994 I was the candidate in two state senate campaigns in Uinta County, Wyoming. In 1992, I had opponents in the primary and general election, and in 1994 I had an opponent in the general election. I prevailed in each election and served as a state senator from January 1993 until January 1999. From 1996 to 1998 I served as minority caucus chairman for the Democrat state senators. In 1996 I was elected for a two-year term (1997-1998) to the office of Precinct Committeeman in Uinta County, Wyoming.

Beginning at age 10, I have distributed campaign literature for many candidates and have continued doing so through several campaigns including those for U.S. Senator Gale McGee's re-election campaign in 1970, Mike Sullivan for Governor in 1986 and U.S. Senate in 1994, and Paul Hickey (co-chairman) and Dave Freudenthal (volunteer) for Governor in 2002.

I have done testimonial radio commercials for Dave Freudenthal and Paul Hickey, and also for Mark Madia, a candidate for city council in Evanston, Wyoming. My mother served six four-year terms as the clerk of district court for the Third Judicial District Court in Evanston, Wyoming. During her races in 1974, 1978, 1982, 1986, 1990, and 1994, I assisted her by addressing mailings and distributing 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 served as a law clerk to the Honorable Alan B. Johnson, U.S. District Judge, District of Wyoming, from August 1987 to August 1989.

- 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.

1990 – 1991  
Uinta County Attorney's Office  
Uinta County Courthouse  
225 9th Street  
Evanston, Wyoming 82930  
Part-time Deputy County Attorney

1989 – 1998  
Phillips Law Offices  
912 Main Street  
Evanston, WY 82001  
Partner

1993 – 1999  
Wyoming State Senate  
State Capitol  
Cheyenne, WY 82002  
Senator from Uinta County

1998 – 2001  
Mead & Phillips  
2515 Warren Avenue, Suite 501  
Cheyenne, WY 82001  
Partner

2001 – 2002  
Phillips Law Office  
2515 Warren Avenue, Suite 501  
Cheyenne, WY 82001  
Owner

2003 – 2010  
United States Attorney's Office  
2120 Capitol Avenue

Cheyenne, WY 82001  
Assistant United States Attorney

2010 – 2011  
Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, WY 82002  
Special Assistant to the Governor for Legislative Affairs

2011 – Present  
Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, WY 82002  
Wyoming Attorney General

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

I have not served as a mediator or arbitrator.

b. Describe:

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

When I practiced law in Evanston, Wyoming, which is a town of about 10,000 residents, I practiced a wide variety of law, including in the areas of personal injuries, wills and estates, real property, contracts, workers' compensation, employment, domestic relations, and bankruptcy. For a few months, until a new county attorney could be elected to hire his or her own staff, I served as a part-time deputy county attorney, mostly prosecuting misdemeanor crimes.

In 1998, Matthew H. Mead and I opened a law office in Cheyenne, Wyoming. We handled Medicaid third-party and estate reimbursement for the State of Wyoming as special assistant attorneys general, and we had a broad-ranging practice, including some work in insurance law, banking law, and federal tort claims law. In addition, we defended the State of Wyoming in a tort suit involving an electrocution.

When I began working at the U.S. Attorney's Office in 2003, I split my time between civil and criminal cases. On the civil side, I was co-counsel in a Federal Tort Claims Act case, and I sought civil recovery in other miscellaneous cases. On the criminal side, I prosecuted crimes involving controlled substances, firearms, child exploitation, immigration, fraud, and



violence. After about a year in the office, I began working exclusively on criminal cases.

As the Wyoming Attorney General, I supervise five law divisions—civil, criminal, human services, tort litigation, and water and natural resources. I actively edit briefs and regularly participate in the moot courts preceding our arguments to the Wyoming Supreme Court and Tenth Circuit Court of Appeals. I write AG opinions in cases where I believe that the state official, state agency, or legislature needs to hear directly from the attorney general. I am handling two high-profile cases, one involving term limits on state officials, and another involving a challenge to the Wyoming Legislature’s 2012 redistricting law.

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

I have not specialized in any particular area in my career. My typical clients in private practice were Wyoming citizens with all manner of legal needs. In government practice, I have prosecuted a wide array of offenses, handled appeals to the Tenth Circuit Court of Appeals (where I argued 19 cases), and responded to habeas petitions.

- 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.

The percentage of my practice that has involved litigation and court appearances has varied over the years. Although I appeared regularly in state district court while practicing law my first several years, I litigated and appeared in court much more as an Assistant United States Attorney. I estimate that about 50% of my private practice was litigation and 90% of my practice as an AUSA was litigation.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 50%
- 2. state courts of record: 50%
- 3. other courts: \_\_\_%
- 4. administrative agencies: \_\_\_%

- 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 estimate that I tried about 50 cases to final decision. I was lead counsel in about 95% of these cases and associate counsel in about 5% of them.

- 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.

My office filed a petition for certiorari in *State of Wyoming v. United States Department of Agriculture*, No. 11-1378, *cert. denied*, 133 S. Ct. 417 (2012). The brief can be found at 2012 WL 1773032.

My office filed a brief in opposition to the petition for certiorari in *Bear Cloud v. Wyoming*, No. 11-10616, *cert. granted*, 133 S. Ct. 183 (2012). After granting the petition for certiorari, the Supreme Court vacated the Wyoming Supreme Court's judgment and remanded for further consideration in light of *Miller v. Alabama*, \_\_\_ U.S. \_\_\_, 132 S. Ct. 2455 (2012). Copy supplied.

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

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

- 1. *Maxfield v. State*, No. S-12-0084 (Wyo., argued October 24, 2012).

I represented the State of Wyoming, defending its statute imposing term limits on state officials against challenge under the Wyoming Constitution. In 2004, the Wyoming Supreme Court struck down legislative term limits under the Wyoming Constitution. I briefed and argued the case on different legal grounds than the State had argued in 2004, and I asked that

the Court abandon the reasoning used in the 2004 case. The case is now pending before the Wyoming Supreme Court.

Wyoming Supreme Court: Chief Justice Marilyn S. Kite, Justice William U. Hill, Justice Barton R. Voigt, Justice E. James Burke, and Justice Michael K. Davis.

Counsel for Plaintiff/Appellant:  
Bradley Trent Cave  
Holland & Hart, LLP  
2515 Warren Avenue, Suite 450  
Cheyenne, WY 82003  
(307) 778-4200

2. *MacDonald v. United States*, Docket No. 03-CV-023-J (D. Wyo. 1993)

I was second chair on this case soon after joining the U.S. Attorney's Office. The case involved a motorist injured in Yellowstone National Park when a dead tree fell from its base toward the road and broke off a live tree several feet above the ground. The two trees fell toward Mr. MacDonald's approaching truck, striking its hood and roof and injuring him. He filed a claim under the Federal Tort Claims Act, claiming among other things that various governmental policies required inspection for and removal of hazardous trees. I wrote a motion to dismiss under F. R. Civ. P. 12(b)(1), relying on the discretionary function doctrine. The district court denied the motion, and the case settled.

District Judge Alan B. Johnson

Co-Counsel:  
Nicholas Vassallo  
U.S. Attorney's Office  
2120 Capitol Avenue, Fourth Floor  
Cheyenne, WY 82002  
(307) 772-2124

Counsel for Plaintiff:  
Rhonda Woodard  
401 West 19th Street, Suite 300  
Cheyenne, WY 82003  
(307) 635-2876

3. *United States v. Graham*, 413 F.3d 1211 (10th Cir. 2005)

I was the AUSA responsible for prosecuting this case, in which I obtained the conviction of a 57-year-old man from Pennsylvania who traveled to

Wyoming to have sexual intercourse with two girls, ages 7 and 12. In fact, the man had been communicating with an undercover law enforcement officer posing as a mother of two young girls. The man arrived by air in Cheyenne with stuffed animals and sexual implements. In his online chats, he had described a history of sexually abusing children. The district court imposed the highest sentence then allowed. On appeal, the Tenth Circuit affirmed the sentence, finding that the sentencing guideline covers communications with fictional parents of fictional minors and not just communications with fictional minors themselves. It reaffirmed that guideline enhancements do not require actual, real-life victims.

District Judge Clarence A. Brimmer  
Tenth Circuit Court of Appeals: Judge Terrence O'Brien, Judge Carlos Lucero, and Judge Stephanie Seymour

Counsel for Defendant:  
Robert R. Rogers (deceased)  
Assistant Federal Public Defender  
214 West Lincolnway, Suite 31-A  
Cheyenne, WY 82001  
(307) 772-2781

4. *United States v. Hanson*, 534 F.3d 1315 (10th Cir. 2008)

I was the AUSA responsible for prosecuting this case, which involved a methamphetamine user who purchased and possessed a 9mm handgun. After pleading guilty, he sought a reduced sentence under the “sporting exception” to the firearms sentencing guideline. He claimed to have bought the gun only for shooting cans and jackrabbits. The district court denied the sentencing reduction, finding that Hanson had not possessed the firearm solely for sporting purposes. Although the Tenth Circuit panel affirmed Hanson’s sentence, it rejected the government’s argument that “plinking” (casual recreational shooting oftentimes at cans and other items found lying around) did not qualify for the sporting exception as a matter of law. The panel affirmed the district court’s finding that Hanson had not possessed the firearm solely for sporting purposes, reasoning that when one is “deeply involved in a ‘drug lifestyle,’ including use of methamphetamine with its attendant paranoia effects, the court is entitled to view with ‘suspicion’ the defendant’s purchase of a 9 mm handgun.” The sporting exception arises in many firearms cases, and this case considerably clarified its application.

District Judge Alan B. Johnson  
Tenth Circuit Court of Appeals

Panel: Judge Michael McConnell, Judge Deanell Tacha, and Judge Robert McWilliams, Jr.

Counsel for Defendant:  
Howard Pincus  
Assistant Public Defender  
633 17th Street, Suite 600  
Denver, CO 80202  
(303) 294-7002

5. *United States v. Morris*, 562 F.3d 1131 (10th Cir. 2009)

I was the AUSA responsible for prosecuting this case, which involved a convicted felon, Morris, who stole a firearm while burglarizing a home. At issue was whether he qualified for a sentencing guideline increase for having “possessed the firearm in connection with another felony offense.” The district court applied the sentencing enhancement. In a case of first impression in our circuit, the Tenth Circuit panel affirmed the enhanced sentence even though Morris was not armed before entering the home but only after stealing the firearm during the burglary. The sentencing enhancement at issue arises often in firearm cases, and this case considerably clarified its application.

District Judge Alan B. Johnson  
Tenth Circuit Court of Appeals: Judge Paul Kelly, Judge Timothy Tymkovich, and District Judge Timothy DeGiusti

Counsel for Defendant:  
Wendy C. Palen  
Palen Law Offices, LLP  
P.O. Box 156  
Glendo, WY 82213  
(307) 735-4022

6. *United States v. Scoville*, 561 F.3d 1174 (10th Cir. 2009)

I was the AUSA responsible for prosecuting this case, which involved a felon (Scoville) who possessed a firearm after previously being convicted of three separate Ohio felony burglaries. At issue in the case was whether the three prior convictions were for “violent felonies.” If so, he would qualify as an armed career criminal, subjecting him to a mandatory minimum 15-year sentence. The district court found that each of the three Ohio burglary convictions qualified as violent felonies and imposed a 15-year sentence. On appeal, the Tenth Circuit panel affirmed the sentence after agreeing with the government that two of the disputed Ohio burglaries presented similar risk to that created in generic burglaries (any

crimes with the generic elements of unlawful or unprivileged entry into, or remaining in, a building or structure with intent to commit a crime). By clarifying how the residual clause of the Armed Career Criminal Act works (what crimes present a similar risk to generic burglary), this case made more certain how sentencing courts in the Tenth Circuit should analyze prior convictions under the Act. This issue arises often and its outcome can dramatically increase sentences.

District Judge William F. Downes  
Tenth Circuit Court of Appeals: Judge Timothy Tymkovich, Judge Paul Kelly, and District Judge Timothy DeGiusti

Counsel for Defendant:  
Daniel G. Blythe  
Assistant Federal Public Defender  
214 West Lincolnway, Suite 31-A  
Cheyenne, WY 82001  
(307) 772-2781

7. *United States v. Pena*, 279 Fed. Appx. 702 (10th Cir. 2008)

I was the AUSA responsible for prosecuting this case, which involved the final prosecution in a series of drug and firearms indictments. This case involved two Wyoming men who transported cash and stolen firearms to a methamphetamine source in California (Pena) in exchange for methamphetamine to sell back in Wyoming. Pena interrupted jury selection with inappropriate outbursts and after the jury was taken from the courtroom asked in a stray comment while the district judge was speaking, “[c]an I represent myself?” When Pena refused the district court’s pleas to behave, he was removed from the courtroom and watched and listened to a trial with a television in his holding cell. Ultimately, still expressing dissatisfaction with his appointed counsel (after insisting that his first counsel be discharged and then trying to re-obtain him) Pena returned to the courtroom and caused no more disturbances. After being convicted by a jury, Pena contended on appeal that the district court had erred in not allowing him to represent himself, in not recusing the jury panel after his outburst, and in not allowing him counsel of his choice. On appeal, the Tenth Circuit panel affirmed each of the district court’s decisions. This case provides considerable guidance to all district courts on how to respond lawfully to disruptive defendants and to vague requests for self-representation.

District Judge Clarence A. Brimmer  
Tenth Circuit Court of Appeals: Judge Robert Henry, Judge William Holloway, Judge Neil Gorsuch

Trial Counsel for Defendant:  
Steven Rozan  
2777 Allen Parkway  
10th Floor  
Houston, TX 77019  
(713) 627-3608

Appellate Counsel for Defendant:  
Ronald Pretty  
313 West Lincolnway  
Cheyenne, WY 82001  
(307) 634-0586

8. *United States v. Jolley*, 275 Fed. Appx. 758 (10th Cir. 2008)

I was the AUSA assigned to prosecute this case, which involved the final prosecution in a series of drug conspiracy indictments in which several people were convicted of selling methamphetamine in Casper, Wyoming. Evidence at trial proved that Jolley operated a large methamphetamine distribution ring and that he repeatedly used firearms to intimidate others. Because of this conduct, the government charged him with multiple drug and firearms counts, each by statute with consecutive mandatory minimum sentences. After a jury convicted Jolley on all counts, he received a 1,495-month sentence. On appeal, Jolley contended that this sentence violated the Eighth Amendment's prohibition against cruel and unusual punishment. Based on Jolley's egregious conduct, the Tenth Circuit panel affirmed as constitutional the lengthy sentence, allowing multiple consecutive sentences for independent instances of using firearms to distribute drugs.

District Judge Clarence A. Brimmer  
Tenth Circuit Court of Appeals: Judge Michael Murphy, Judge William Holloway, Judge Timothy Tymkovich

Counsel for Defendant:  
Timothy Kingston  
408 West 23rd Street, Suite 1  
Cheyenne, WY 82001  
(307) 638-8885

9. *United States v. Dowlin*, 408 F.3d 647 (10th Cir. 2005)

Almost immediately after beginning work at the U.S. Attorney's office, I was assigned to second chair this prosecution. The government charged Dowlin and Naylor, a couple, with conspiracy to transport in interstate commerce money and securities taken by fraud, wire fraud, securities

fraud, and mail fraud. Included in the frauds were promised exorbitant returns from fake Philippine gold certificates. The schemes produced more than a million dollars to the defendants. Despite Naylor's claim of a good faith belief in the legitimacy of the gold certificates, and despite Dowlin's claim that she was a hapless victim of Naylor's deceptions, a jury found them guilty on all counts. On appeal, handled by the lead prosecutor in the case, the Tenth Circuit panel affirmed the convictions.

District Judge Alan B. Johnson  
Tenth Circuit Court of Appeals: Judge Timothy Tymkovich, Judge Michael Murphy, Judge Stephen Anderson

Co-Counsel:  
Lisa Leschuck  
2124 Capitol Avenue, Fourth Floor  
Cheyenne, WY 82003  
(307) 772-2124

Counsel for Defendant Dowlin:  
James Barrett  
Assistant Federal Public Defender  
214 West Lincolnway, Suite 31-A  
Cheyenne, WY 82001  
(307) 772-2781

Trial Counsel for Defendant Naylor:  
Ronald Brown (deceased)

Appellate Counsel for Defendant Naylor:  
Maynard Grant  
PMB 150, 3213 West Wheeler Street  
Seattle, WA 98199  
(206) 286-0121

10. *Dunker v. Town of Mountain View*, Civil No. 90-57 (3d Jud. Dist. 1991)

I was the attorney representing Mr. Dunker, a fired police officer. The issue in the case was whether the town could suspend and later terminate Dunker from employment for the same alleged deficient conduct. The case settled after the district court denied my second motion for summary judgment.

Counsel for Defendant:  
Judge Jeffrey Donnell  
Second Judicial District Court  
Albany County Courthouse, Room 303



Laramie, WY 82070  
(307) 745-3337

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.)

The most significant litigation I was involved with that did not proceed to trial was for the wrongful death of an oilfield worker killed in an explosion at a Wyoming gas plant. Many other employees were injured too. Our law firm in Evanston associated with Robert Chaffin in Houston, Texas, and filed suit in Texas. One defendant tried to force us to Wyoming to participate in the ongoing litigation involving the other injured men. I wrote the brief opposing this move and argued it to U.S. Chief Magistrate Judge William C. Beaman in Cheyenne, Wyoming. Judge Beaman ruled in our favor and adopted my brief's arguments. After discovery, the case then settled in Texas. While we researched and advised Mr. Chaffin on questions of Wyoming law, he did the depositions and provided much of the expertise in settling the case. The Texas case was *Reed v. Amoco Production Company, et al.*, No. 91M1109 (149th Jud. Dist. 1991). The Wyoming case was *Duggan v. Dresser-Rand Co., et al.*, Case No. 90-CV-0198-B (D. Wyo. 1991).

I have also pursued legal activities unrelated to the practice of law but helpful to my communities. I helped shape Wyoming's statutes during my six years in the state senate and applied the legal knowledge gained in the legislature when serving on numerous state and local boards and commissions to promote the public interest. For example, from 1995 to 2002, I served on the Board of the Wyoming Community Development Authority, and I presently serve as a Commissioner on the Wyoming Peace Officers Standards and Training Commission.

I have not performed lobbying activities on behalf of any client or organization.

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.

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

No.

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

See 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.

The Wyoming Attorney General's Office has cases that are pending in the Tenth Circuit Court of Appeals. If confirmed, I would recuse myself from those cases. In addition, I would recuse myself from any cases in which the Wyoming Attorney General's office is involved when I left the office.

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

If confirmed, I would follow the Code of Conduct for United States Judges, as well as any other applicable ethical rules or statutes.

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.

During my private practice years from 1989 to 2001, I regularly did pro bono work. I found that many people who could not afford legal representation needed help in domestic relations cases. When the parties had children, they oftentimes needed help navigating through the child support guidelines and necessary paperwork. I have no records by which to compile a list of specific instances and amounts of time for any of these clients. In addition, in Uinta County, I regularly attended “Bar Night,” which was a monthly gathering of lawyers at the courthouse to advise people on their legal problems and at the least to get them headed in the right direction.

After coming back to government employment at the United States Attorney’s Office and the Wyoming Attorney General’s Office, fewer opportunities for pro bono work arose. In these positions, the citizens we see are generally victims of crime. We work diligently with them through our victim services people to ensure that their rights are protected.

**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.

On October 23, 2012, an official from the White House Counsel’s Office emailed me to ask if I was interested in serving on the Tenth Circuit Court of Appeals. On October 26, 2012, that official called me and asked me preliminary questions about my interest in and suitability for the job. On November 9, 2012, the same official called me again, this time telling me that I would be contacted by representatives from the Department of Justice to begin the vetting process for this position.

Since November 9, 2012, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On December 21, 2012, I met with officials from the White House Counsel’s Office and the Department of Justice in Washington, DC. On January 31, 2013, 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.

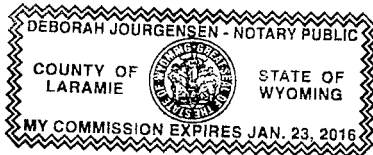
No.

AFFIDAVIT

I, Gregory Alan Phillips, do swear  
that the information provided in this statement is, to the best  
of my knowledge, true and accurate.

January 31, 2013  
(DATE)

Gregory Alan Phillips  
(NAME)



Deborah Jourgensen  
(NOTARY)