

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Paul Kinloch Holmes, III

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

United States District Judge for the Western District of Arkansas

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

Office: Warner Smith & Harris, PLC
400 Rogers Avenue
Fort Smith, Arkansas 72901

Residence: Fort Smith, Arkansas

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

1951; Newport, Arkansas

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.

1976 – 1978, University of Arkansas School of Law, Fayetteville; J.D., 1978

1975 – 1976, University of Arkansas School of Law, Little Rock; no degree

1969 – 1973, Westminster College; B.A., 1973

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.

2001 – present
Warner Smith & Harris, PLC
400 Rogers Avenue
Fort Smith, Arkansas 72901
Of Counsel (2010 – present)
Partner (2001 – 2009)

1993 – 2001
United States Department of Justice
Office of the United States Attorney for the Western District of Arkansas
6th & Rogers
Fort Smith, Arkansas 72901
United States Attorney

1978 – 1993
Warner & Smith (now Warner Smith & Harris, PLC)
214 North 6th Street
Fort Smith, Arkansas 72901
Partner (1980 – 1993)
Associate (1978 – 1980)

1976 – 1978
Office of the Public Defender of Washington County, Arkansas
Washington County Courthouse
Fayetteville, Arkansas 72701
Investigator (part-time)

Summer 1976
William R. Wilson
Attorney at Law
Little Rock, Arkansas
Summer Law Clerk

Summer 1975
Mangan Rains Ginnaven Advertising Agency
Little Rock, Arkansas
Account Executive

1974
David Pryor, Candidate for Governor of Arkansas
Little Rock, Arkansas
Campaign Aide

1973 – 1974
Union National Bank
Little Rock, Arkansas
Management Trainee

Other Affiliations

2009 – Present
PKH Properties, LLC
400 Rogers Avenue
Fort Smith, Arkansas 72901
Director & Shareholder (uncompensated)

2009 – Present
Fort Smith Symphony Association
5111 Rogers Avenue
Fort Smith, Arkansas 72903
Director (uncompensated)

2000 – Present
Lyon College
2300 Highland Road
Batesville, Arkansas 72501
Director (uncompensated)

1986 – Present
BECH Oil & Gas Company
400 Rogers Avenue
Fort Smith, Arkansas 72901
Director & Shareholder (compensated)

2002 – 2005
Fort Smith Museum of History
320 Rogers Avenue
Fort Smith, Arkansas 72901
Director (uncompensated)

2002 – 2004
Corporate Chaplaincy Services
423 North 8th Street
Fort Smith, Arkansas 72901
Director (uncompensated)

1985 – 1988

United Way of Fort Smith
320 South 18th Street
Fort Smith, Arkansas 72901
Director (uncompensated)

1986 – 1989

Arkansas Volunteer Lawyers for the Elderly
2020 West 3rd Street
Little Rock, Arkansas 72205
Director (uncompensated)

1986

Fort Smith Rotary Club
P.O. Box 8193
Fort Smith, Arkansas 72902
President (uncompensated)

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 registered for the Selective Service upon turning 18.

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

AV Rating, Martindale-Hubbell (1993 – present)

Lawyer of the Year, Arkansas Volunteer Lawyers for the Elderly (1989)

Paul Harris Fellow, Rotary International (1986)

Skulls of Seven, Westminster College, Senior Honorary Society (1972)

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

American Bar Association

Section on Litigation (2001 – present)

American Board of Trial Advocates

Arkansas Bar Association

Member, House of Delegates (1983 – 1986)

Chairman, Natural Resources Law Section (1988 – 1989)
 Chairman, Natural Resources Law Institute (1988)
 Arkansas Bar Foundation
 Fellow (2005 – present)
 Arkansas General Assembly Desegregation Litigation Oversight Committee
 Non-Legislative Member (1989 – 1993)
 Arkansas Supreme Court Committee on Model Jury Instructions, Civil (2005 – 2009)
 Arkansas Volunteer Lawyers for the Elderly
 Board Member (1986 – 1989)
 Attorney General's Advisory Committee (1999 – 2000)
 AGAC Subcommittees
 Public Corruption, White Collar Crime and
 Financial Litigation (1993 – 2000)
 AGAC Domestic Security Working Group (1993 – 2000)
 National Association of Former United States Attorneys (2001 – present)
 Sebastian County (Arkansas) Bar Association
 President (1994 – 1995)
 United States District Court for the Western District of Arkansas
 Member, Federal Practice Committee (1993 – 2001)

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.

Arkansas, 1978

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.

Supreme Court of the United States, 1982

United States Court of Appeals for the Eighth Circuit, 1978

United States District Court for the Western District of Arkansas, 1978

United States District Court for the Eastern District of Arkansas, 1978

Arkansas Supreme Court, 1978

There have been no lapses in admissions to any court.

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.

Fort Smith Symphony

Board of Directors (1985 – 1990 & 2009 – present)

Lyon College, Batesville, Arkansas

Board of Trustees (2000 – present)

Fort Smith Museum of History

Board of Directors (2002 – 2005)

Corporate Chaplaincy Services

Board of Directors (2002 – 2004)

Hardscrabble Country Club (1989 – 1993 & 1999 – 2004)

Fort Smith Racquet Club (1994 – 1997)

Boy Scout Troop 110 Committee, Central Presbyterian Church (1998 – 2005)

St. Edward Mercy Medical Center

Advisory Board (1991 – 1993)

Westark Area Council, Boy Scouts of America (1991 – 1993)

Fort Smith Rotary Club (1978 – 1993)

President (1986)

Leadership Fort Smith (1990)

Alumni Board (1991)

United Way of Fort Smith

Board of Directors (1985 – 1988)

- 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.

Lyon College is a Presbyterian liberal arts college that did not admit African-American students until 1964. According to a history written of the college, there was no written policy of racial discrimination, but the lack of admission of African-American students until 1964 was probably due to accepted southern social custom. The college has had a diverse student body since 1964.

Hardscrabble Country Club was founded in the 1920s, and likely had a policy of discrimination on the basis of race. During my membership, the club had anti-discriminatory recruitment and membership policies, and had a diverse membership.

The Fort Smith Rotary Club was an all men's civic club until 1986. During my tenure as President of the club in 1986, the board voted to accept women as members of the club. The club has had a diverse membership since 1986.

The other organizations listed do not, and have not, discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

This list represents the published material I have identified through searches of my files and internet databases. I have tried my best to list all of them here, although there may be some that I have not been able to identify or locate.

Arkansas Practice Series, Arkansas Model Jury Instructions – Civil (2009 Edition) Thomson-West

As a member of the Arkansas Supreme Court Committee on Model Jury Instructions – Civil, I received assignments to write and edit model jury instructions for the Arkansas Supreme Court.

- 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 that I recall or have been able to identify.

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

None that I recall or have been able to identify.

- 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.

This list represents the presentations I have identified through searches of my files and internet databases. I have tried my best to list all of them here, although there may be some that I have not been able to identify or locate.

May 19, 2006 – CLE presentation on Immigration Law.
University of Arkansas at Fort Smith
5210 Grand Avenue
Fort Smith, Arkansas 72913
Hand-out attached. I have no transcript of the presentation.

December 2, 2002 – CLE presentation on Healthcare Fraud in Arkansas.
National Business Institute
Little Rock, Arkansas
PowerPoint presentation attached. I have no transcript of the presentation.

September 6, 2002 – Presentation to the Compliance Forum of the Arkansas Hospital Association on Healthcare Fraud Investigations.
Arkansas Hospital Association
419 Natural Resources Drive
Little Rock, Arkansas 72201
I have no notes or transcript of the presentation.

My presentation to the compliance forum related to my experience in handling health care fraud cases while I served as the United States Attorney. I discussed federal statutes used to prosecute criminal and civil cases, and statistics related to health care fraud prosecutions. I also discussed federal compliance programs that were imposed in settlements of criminal and civil cases.

April 2, 2001 – Sebastian County Bar Association
Fort Smith, Arkansas
After my tenure as United States Attorney, I was asked to speak to the Sebastian County Bar Association. Attached are notes from which I spoke.

March 7, 2001 – United States Naturalization Ceremony
Fort Smith National Historic Site
301 Parker Avenue
Fort Smith, Arkansas 72901
After my tenure as United States Attorney, I was asked to speak at a Naturalization Ceremony by the United States Department of Justice, Immigration Naturalization Service. Attached are notes from which I spoke.

June 11, 1997 – Fort Smith Rotary Club

Fort Smith, Arkansas

During my tenure as United States Attorney, I was asked to speak to the Fort Smith Rotary Club. Attached are notes from which I spoke.

February 21, 1996 – Fort Smith Rotary Club

Fort Smith, Arkansas

During my tenure as United States Attorney, I was asked to speak to the Fort Smith Rotary Club. Attached are notes from which I spoke.

August 9, 1995 – Washington County Bar Association

Fayetteville, Arkansas

During my tenure as United States Attorney, I was asked to speak to the Washington County Bar Association. I have no notes or transcript of the speech.

My speech to the Washington County Bar Association primarily covered my duties and responsibilities as the United States Attorney, and the priorities of the office in federal criminal prosecution.

March 23, 1995 – Fort Smith Kiwanis Club

Fort Smith, Arkansas

During my tenure as United States Attorney, I was asked to speak to the Fort Smith Kiwanis Club. I have no notes or transcript of the speech.

My speech to the Fort Smith Kiwanis Club would have been similar to the speech that I made to the Fort Smith Rotary Club in 1996. The members of these civil clubs are not lawyers, and my remarks related to the duties and responsibilities of the Office of the United States Attorney.

- 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.

As United States Attorney, I regularly commented to the media on matters pertaining to the office. This covered a period from 1993 to 2001. I have located some of the news articles from LexisNexis and from a personal file. I have produced as complete a list of these as I could, but it is still possible there are some I was not able to locate.

Holmes Gets Senators' Nod as New Judge, *Arkansas Democrat-Gazette*, December 17, 2009

Holmes Senators' Pick for Judgeship, *Southwest Times Record*, December 17, 2009

Former U.S. Attorney Says New Sentencing Guidelines Restrict Discretion, *Southwest Times Record*, October 7, 2003

Tyson Trial Showed Injustice, *Southwest Times Record*, April 2, 2003

Lawyer Challenges Legality of Income Tax, *Southwest Times Record*, August 20, 2001

Motion in Rape Case Denied, *Southwest Times Record*, December 18, 2000

Vermont Men Go Home for Trial, *Arkansas Democrat-Gazette*, December 5, 2000

Prosecutors Erred, Says Attorney, *Southwest Times Record*, November 15, 2000

Feds Won't Pursue Charges in Arson Scam, *Southwest Times Record*, November 3, 2000

U.S. Attorney to Resign, *Southwest Times Record*, October 19, 2000

U.S. Attorney Holmes to Quit Post in January, *Arkansas Democrat-Gazette*, October 19, 2000

Feds Keep Fraud Suspect from Court, *Southwest Times Record*, October 12, 2000

2 Arrested in Cocaine Bust Plead Innocent, *Arkansas Democrat-Gazette*, October 3, 2000

Feds to Pursue Charges in Big Cocaine Bust, *Southwest Times Record*, September 23, 2000

Feds Step in on Drug Case, *Southwest Times Record*, August 24, 2000

"Lenient" State Sentence Prompts Federal Charges, *Arkansas Democrat-Gazette*, August 24, 2000

Documents Detail Helicopter Trade, *Arkansas Democrat-Gazette*, August 17, 2000

Drug Arrests End Months of Delving, *Arkansas Democrat-Gazette*, July 29, 2000

What's In A Name? More Than You Know, *Southwest Times Record*, July 24, 2000

Man Sentenced in Artifacts Case, *Southwest Times Record*, July 5, 2000

Stilley: Tax Case Doomed to Fail, *Southwest Times Record*, June 5, 2000

U.S. Attorney Leads Nation in Granting Pretrial Diversion, *Arkansas Democrat-Gazette*, April 16, 2000

Landowners Left Holding Bag, *Arkansas Democrat-Gazette*, March 13, 2000

Man Faces Charges of Stealing, Child Exploitation, *Arkansas Democrat-Gazette*, March 9, 2000

Greenwood Teacher, 31, Pleads Innocent, *Arkansas Democrat-Gazette*, March 8, 2000

Bank's Foreclosure Unjust, *Arkansas Democrat-Gazette*, January 10, 2000

ATF Agents to Transfer to FS, *Southwest Times Record*, December 3, 1999

2 Face Counts in Bust, *Arkansas Democrat-Gazette*, September 25, 1999

LR Jury Quick to Find Informant Guilty, *Arkansas Democrat-Gazette*, September 14, 1999

Assistant U. S. Attorney Added to Fort Smith, *Arkansas Democrat-Gazette*, September 2, 1999

Former Car Dealer, Wife Sentenced, *Arkansas Democrat-Gazette*, August 21, 1999

Fraud Nets 8 Year Term, *Arkansas Democrat-Gazette*, August 19, 1999

Ex-Attorney, Whose Car Ignited During Chase, Faces Drug Charges, *Arkansas Democrat-Gazette*, July 10, 1999

The Meth Monster, *Arkansas Democrat-Gazette*, June 6, 1999

Suit Details Allegations, *Arkansas Democrat-Gazette*, May 13, 1999

Attorney Releases Secret Reports, *Arkansas Democrat-Gazette*, May 8, 1999

Man Guilty of Cheating Medicare, *Arkansas Democrat-Gazette*, April 23, 1999

FBI Focus on Ex-Official, *Arkansas Democrat-Gazette*, March 30, 1999

Man in Court After 13 Years on the Run, *Arkansas Democrat-Gazette*, January 30, 1999

Voter Fraud Alleged, *Arkansas Democrat-Gazette*, November 10, 1998

FBI Helps State with Investigation, *Arkansas Democrat-Gazette*, September 26, 1998

260 Handgun Denials Duds, *Arkansas Democrat-Gazette*, September 23, 1998

Texas Man Takes Plea of Life in Kidnap Death, *Arkansas Democrat-Gazette*, June 24, 1998

Jury: Race Was Reason for Denial of Housing, *Southwest Times Record*, May 2, 1998

Meth Bust Illustrates Drug Trend, *Southwest Times Record*, January 15, 1998

Indictment is First Under Violence Act, *Arkansas Democrat-Gazette*, November 8, 1997

DTF Gets Almost \$52,000 from Criminals, *Northwest Arkansas Times*, August 16, 1997

Internet Puts Kiddie Porn at Fingertips, *Arkansas Democrat-Gazette*, July 7, 1997

3-Agent Office in Fort Smith to Try to Stem Tide of Aliens, *Arkansas Democrat-Gazette*, May 9, 1997

Cocaine in Pickup Nets Charges for 2, *Arkansas Democrat-Gazette*, April 19, 1997

Four Are Accused of Fraud, *Arkansas Democrat-Gazette*, April 13, 1997

U.S. Trying to Help State as It Takes on Meth Labs, *Arkansas Democrat-Gazette*, December 23, 1996

Jury Finds Fraud Trial Pair Guilty, *Southwest Times Record*, November 16, 1996

Police Happy to Cash in Drug Spoils, *Arkansas Democrat-Gazette*, November 4, 1996

Former Bank Officer Charged in Loan Scam, *Arkansas Democrat-Gazette*, August 10, 1996

Lost-Hand Report, *Arkansas Democrat-Gazette*, July 13, 1996

Investigator Denies Plot, *Arkansas Democrat-Gazette*, July 11, 1996

Police Reap Profits from Land Seized from "Peyote Parish," *Arkansas Democrat-Gazette*, June 14, 1996

Fake IDs Flooding Ozarks, *Arkansas Democrat-Gazette*, March 31, 1996

Whitewater Swamps the FBI, *Arkansas Democrat-Gazette*, March 23, 1996

Untitled, *Arkansas-Democrat Gazette*, December 2, 1995

Invoice Gets Guilty Pleas in Fraud Case, *Arkansas Democrat-Gazette*, November 15, 1995

School Case is Legal Shot Heard Round U.S., *Arkansas Democrat-Gazette*, October 23, 1995

U.S. to Take Over Prosecution of Drug Case, *Arkansas Democrat-Gazette*, June 22, 1995

Laws Take It Easy on Illegal Aliens, *Arkansas Democrat-Gazette*, June 4, 1995

The UA Drug Scandal: How Arrogance and Deception Trapped the Hogs, *Arkansas Democrat-Gazette*, December 4, 1994

U of A Drug Investigation Results in Indictments, Fine, *Southwest Times Record*, November 3, 1994

U.S. Attorney Sees "Awesome" Challenge, *Arkansas Democrat-Gazette*, October 7, 1993

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

I have not held a judicial office.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?
 - i. Of these, approximately what percent were:
jury trials? ____%; bench trials ____%
civil proceedings? ____%; criminal proceedings? ____%
- b. Provide citations for all opinions you have written, including concurrences and dissents.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
 - d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
 - e. Provide a list of all cases in which certiorari was requested or granted.
 - f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
 - h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:
- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
 - b. a brief description of the asserted conflict of interest or other ground for recusal;
 - c. the procedure you followed in determining whether or not to recuse yourself;

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

I have not served as a judge.

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.

On September 22, 1993, following confirmation by the United States Senate, I was appointed by President Clinton as the United States Attorney for the Western District of Arkansas. I served until January 9, 2001.

In 1989, I was appointed by Governor Clinton as a non-legislative member to the Desegregation Litigation Oversight Committee of the Arkansas General Assembly. I served until my appointment as United States Attorney in September 1993.

In 1977, I was appointed as a Presidential Elector by Governor David Pryor to vote in the Electoral College for President of the United States.

I have had no unsuccessful candidacies for elective 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.

I served as Sebastian County Coordinator for Senator Dale Bumpers, candidate for re-election to the United States Senate in 1992.

I served as Sebastian County Coordinator for Senator David Pryor, candidate for re-election to the United States Senate in 1984.

I served as Chairman of the Sebastian County Democratic Committee from 1979 to 1983.

I served as Chairman of the Sebastian County Election Commission from 1979 to 1983.

I served as Campaign Aide for David Pryor, candidate for governor, in 1974.

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 have never 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.

1978 – 1993

Warner & Smith (now Warner Smith & Harris, PLC)

214 North 6th Street

Fort Smith, Arkansas 72901

Partner (1980 – 1993)

Associate (1978 – 1980)

1993 – 2001

United States Department of Justice

Office of the United States Attorney for the Western District of Arkansas

6th & Rogers

Fort Smith, Arkansas 72901

United States Attorney

2001 – present

Warner Smith & Harris, PLC

400 Rogers Avenue

Fort Smith, Arkansas 72901

Of Counsel (2010 – present)

Partner (2001 – 2009)

- 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.

I began my legal career in 1978 as an associate with the law firm of Warner & Smith. Warner & Smith was a firm of 13 lawyers engaged in the general civil practice of law. In my early years, I was engaged in a general litigation practice. I also handled federal criminal cases in the United States District Court when I was appointed by the United States District Judge to defend Cuban refugees housed at Fort Chaffee, Arkansas. From 1981 to 1983, I began handling oil and gas litigation and transactions in addition to my general civil litigation practice. Until 1993, my practice consisted of general litigation, oil and gas litigation, environmental litigation, and class-action litigation representing royalty owners.

From 1993 to 2001, I served as the United States Attorney for the Western District of Arkansas. I had responsibility to prosecute federal criminal violations with a staff of 13 Assistant United States Attorneys. During my tenure, the United States Attorney's Office indicted 125 to 150 felony criminal cases each year. In addition to making decisions and supervising the office, I carried a caseload and tried two jury trials a year. I also briefed and orally argued those cases at the United States Court of Appeals for the Eighth Circuit. I served on the Attorney General's Advisory Committee (AGAC) for two years. I also served on the AGAC Subcommittees on Public Corruption, White Collar Crime, and Financial Litigation for eight years.

From 2001 to the present, I have engaged in the private practice of law in the areas of criminal and civil litigation. I have represented corporations and individuals in criminal cases involving immigration and environmental violations. I have handled two of the largest immigration cases in the United States. I have also handled corporate internal investigations involving criminal and civil matters. In my civil practice, I have handled business litigation involving commercial disputes.

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

In the early years of my practice, my general civil litigation involved representation of corporations and individuals in oil and gas litigation. I was involved in several royalty owner class action lawsuits involving "take or pay" gas purchase contracts. I also represented small businesses and individuals in commercial litigation.

As United States Attorney, I represented the United States of America in primarily criminal cases, and some civil matters.

Since my return to private practice in 2001, I have represented corporations and individuals on federal criminal and civil violations. I have also handled commercial litigation for small businesses and individuals. My federal criminal experience has been in the area of white collar crime.

- 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.

I estimate that 80% of my civil and criminal practice involved litigation. During all stages of my career, I have appeared in court frequently. I have tried 33 jury trials, and a significant number of non-jury trials. My civil litigation experience includes motions and hearing, as well as trials.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 80% |
| 2. state courts of record: | 20% |
| 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 have tried 33 jury cases to verdict or judgment, primarily as lead counsel, with the assistance of co-counsel in certain cases. I have also tried a number of non-jury cases and bench trials.

- i. What percentage of these trials were:

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

- 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 represented the plaintiff in a declaratory judgment action over insurance coverage for clean-up costs incurred pursuant to a consent decree between the plaintiff and the U.S. Environmental Protection Agency. The United States Court of Appeals for the Eighth Circuit affirmed the district court's order ruling against the plaintiff. The plaintiff filed a petition for Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit. The petition for Writ of Certiorari was granted. The judgment was vacated and remanded for further consideration. After the remand and further consideration, the district court's order was affirmed. Parker Solvents Company, Inc. v. Royal Insurance Companies of America, 950 F.2d 571 (8th Cir. 1991), *rev'd*, 502 U.S. 801 (1991). The brief filed with the Supreme Court of the United States is 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. United States v. Robert Hash, Tyson Foods, Inc., et al, Case No. 4:01-CR-61. United States District Court, Eastern District of Tennessee, Hon. R. Allan Edgar; July 2001 – March 2003.

I represented Robert Hash, who was a corporate vice president of Tyson Foods, Inc. Mr. Hash was the highest corporate executive indicted for violation of criminal immigration laws in a 37-count indictment. Mr. Hash was charged with criminal violations that carried a five-year mandatory minimum sentence if he was convicted. There were four other company employees charged in the indictment. Two of the co-defendants pled guilty before trial and testified against Mr. Hash and the remaining co-defendants. After a trial lasting seven weeks, Mr. Hash and the co-defendants were acquitted of all charges in the indictment.

Co-Counsel representing Tyson Foods, Inc. was Thomas C. Green, Sidley Austin LLP, 1501 K Street N.W., Washington, D.C. 20005; 202-736-8000.

Co-Counsel representing Keith Snyder was Kenneth R. Shemin, Shemin Law Firm, PLLC, 3333 Pinnacle Hills Parkway, Suite 603, Rogers, Arkansas 72758; 479-845-3305.

Co-Counsel representing Gerald Lankford was Robert M. Adler, Nossaman LLP, 1666 K Street N.W., Suite 500, Washington, D.C. 20006; 202-887-1400.

Opposing counsel was John P. MacCoon, United States Attorney's Office, 1110 Market Street, Chattanooga, Tennessee 37402; 423-752-5140.

2. United States v. Wal-Mart Stores, Inc., Case No. 1:CV-05-0525. United States District Court, Middle District of Pennsylvania, Hon. Yvette Kane; October 2003 – May 2005.

I represented Wal-Mart Stores, Inc. in a criminal investigation by the United States Attorney's Office for the Middle District of Pennsylvania regarding alleged violations of criminal immigration laws. The government's investigation involved alleged criminal violations at Wal-Mart stores in 20 states. During the course of the Grand Jury investigation, I negotiated a settlement agreement with the United States Attorney to resolve all criminal and civil violations against the company. In a global settlement binding all United States Attorneys' Offices, the United States agreed not to bring criminal charges against Wal-Mart Stores, Inc. Wal-Mart Stores, Inc. entered into a consent decree and agreed to implement a corporate compliance program, and paid an \$11 million civil penalty to the Department of Homeland Security. The settlement was approved by the district court.

Co-Counsel was James J. West, James J. West, LLC, 105 North Front Street, Suite 205, Harrisburg, Pennsylvania 17101; 717-233-5051.

Opposing counsel were Martin C. Carlson and Wayne P. Samuelson, United States Attorney's Office, 228 Walnut Street, Suite 220, Harrisburg, Pennsylvania 17108; 717-221-4482.

3. Wal-Mart Stores, Inc. v. Thomas M. Coughlin, 369 Ark. 365, 255 S.W.3d 424 (2007). Circuit Court of Benton County, Arkansas, Hon. Jay T. Finch; July 2005 – August 2007.

I represented Wal-Mart Stores, Inc. in a corporate investigation involving misconduct of a corporate executive who was a member of the Board of Directors of the company. The corporate officer pleaded guilty to federal criminal violations. I also represented Wal-Mart Stores, Inc. in the civil litigation in the Circuit Court of Benton County, Arkansas, to set aside a retirement agreement based on fraudulent inducement. The circuit judge ruled against Wal-Mart Stores, Inc., and the case was reversed on appeal by the Arkansas Supreme Court. The case was settled after it was remanded for trial. I primarily handled the corporate investigation, and the trial court

hearings before the appeal. Gibson, Dunn and Crutcher primarily handled the appeal and subsequent settlement after remand.

Co-counsel were Thomas E. Holiday and Theodore J. Boutrous, Jr., Gibson, Dunn & Crutcher LLP, 333 South Grand Avenue, Los Angeles, California 90071; 213-229-7000; Michael J. Mills, Gettman & Mills LLP, 10250 Regency Circle, Suite 200, Omaha, Nebraska 68114; 402-391-6500.

Opposing counsel were W. H. Taylor, Taylor Law Partners LLP, 303 East Millsap Road, Fayetteville, Arkansas 72703; 479-443-5222; and William W. Taylor, III, Zuckerman Spaeder LLP, 1800 M Street N.W., Suite 1000, Washington, D.C. 20036; 202-778-1810.

4. United States v. Leslie Isben Rogge, Case No. CR-86-10004-01. United States District Court, Western District of Arkansas, Hon. Harry F. Barnes; May 1996 – August 1997.

Leslie Isben Rogge was indicted for bank robbery in 1986 and was a fugitive on the FBI's Ten Most Wanted List for over ten years. Rogge was captured in Guatemala and returned to the Western District of Arkansas for trial. As United States Attorney, I handled the trial that resulted in the conviction of Leslie Rogge, who was sentenced to 25 years in prison. The case presented a challenge because the trial occurred ten years after the bank robbery, and was based primarily on eye-witness identification by bank employees.

Opposing counsel was George Lucas, Federal Public Defender's Office, 3739 Steele Boulevard, Room 280, Fayetteville, Arkansas 72701; 479-443-1904.

5. United States v. James Dale Barnes, 208 F.3d 218 (8th Cir. 2000) (unpublished opinion). United States District Court, Western District of Arkansas, Hon. H. Franklin Waters; January 1998 – March 2000.

James Dale Barnes was indicted for money-laundering in connection with defrauding a federal healthcare program. Barnes was the owner of a home health agency in Springfield, Missouri. Barnes defrauded the United States Department of Human Services of \$2.2 million through the submission of false cost reports, and he laundered funds through structured transactions at banks in Arkansas. As United States Attorney, I handled the grand jury investigation, indictment, and trial of the case. Barnes was convicted on all counts after a one week trial and was sentenced to prison for approximately eight years.

Opposing counsel was Michael Baker, 3432 Culpepper Ct., Springfield, Missouri; 417-883-5340.

6. Stewman v. Mid-South Wood Products of Mena, Inc. and Ehlco Liquidating Trust, 993 F.2d 646 (8th Cir. 1993). United States District Court, Western District of Arkansas, Hon. Jimm Larry Hendren; May 1991 – June 1993.

I represented the Ehlco Liquidating Trust whose predecessor was the owner of a wood manufacturing plant. Ten years after the plant was sold, it became an EPA Superfund site and the Ehlco Liquidating Trust was established to manage the EPA Superfund site for 30 years. The Ehlco Liquidating Trust was sued by surrounding land owners claiming contamination of their property from the wood manufacturing plant. The Plaintiffs' claims were based on the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and common law claims of trespass and nuisance. The Ehlco Liquidating Trust was the "deep pocket" in the litigation. The case was tried in federal court for ten days and resulted in a jury verdict for the Ehlco Liquidating Trust and its co-defendant. The case was affirmed on appeal by the United States Court of Appeals for the Eighth Circuit.

Co-Counsel representing Mid-South Wood Products of Mena, Inc. was William P. Thompson, Thompson and Llewellyn, P.A., 412 South 18th Street, Fort Smith, Arkansas 72901; 479-785-2867.

Opposing counsel was Robert D. Ridgeway, 127 Hawthorne Street, Hot Springs, Arkansas 71901.

7. Kuykendall v. Arkla, Inc., Case No. 89-2107. United States District Court, Western District of Arkansas, Hon. H. Franklin Waters; April 1989 – July 1991.

I represented royalty owners in a class action lawsuit over a gas purchase contract in Franklin County, Arkansas. I represented the royalty owners along with other counsel. The royalty owners were being paid at a rate of 16 cents on gas sold which had a current market value of over three dollars. The lessee and the gas purchaser claimed that the lease was subject to a life of the lease gas purchase contract that fixed the price at 16 cents until depletion of the gas wells. After several years of litigation, I negotiated a settlement with the defendants that resulted in an increase in royalties for the royalty owners from 16 cents to the market value of the gas. The settlement of the class action lawsuit was approved by the district court.

Co-counsel were Douglas O. Smith, Jr. of Warner Smith & Harris, PLC, 400 Rogers Avenue, Fort Smith, Arkansas 72901; 479-782-6041; Bradley D. Jesson and Rex Terry of Hardin, Jesson & Terry PLC, 5000 Rogers Avenue, Suite 500, Fort Smith, Arkansas 72903; 479-452-2200; and Lonnie C. Turner, 801 East Commercial Street, Ozark, Arkansas 72949; 479-667-2155.

Opposing counsel was Jerry L. Canfield, Daily & Woods PLLC, 58 South 6th Street, Fort Smith, Arkansas 72902; 479-782-0361; and E. J. Ball (now deceased).

8. Klein v. Jones, 980 F.2d 521 (8th Cir. 1992). United States District Court, Western District of Arkansas, Hon. Morris S. Arnold; June 1990 – July 1993.

I represented royalty owners along with other counsel in a class action lawsuit over the "take or pay" provisions of a gas purchase contract. The royalty owners were seeking a share of the proceeds from the settlement of a "take or pay" gas purchase contract between the lessee and the gas purchaser. The royalty owners claimed that the lessee should pay royalty on the \$100 million in proceeds it received from the settlement of a "take or pay" gas purchase contract. The case was tried in a bench trial, which resulted in a judgment for the defendants. The case was appealed to the United States Court of Appeals for the Eighth Circuit, which reversed and remanded the case for a second trial in accordance with the opinion from the court of appeals. The case was remanded after I became the United States Attorney for the Western District of Arkansas; therefore, I did not participate in the second trial and subsequent settlement. Co-counsel successfully handled the case, which resulted in a settlement of approximately \$10 million for the royalty owners.

Co-counsel were Douglas O. Smith, Jr. of Warner Smith & Harris, PLC, 400 Rogers Avenue, Fort Smith, Arkansas 72901; 479-782-6041; Bradley D. Jesson and Rex Terry of Hardin, Jesson & Terry PLC, 5000 Rogers Avenue, Suite 500, Fort Smith, Arkansas 72903; 479-452-2200; and Lonnie C. Turner, 801 East Commercial Street, Ozark, Arkansas 72949; 479-667-2155.

Opposing counsel were Jerry L. Canfield, Daily & Woods PLLC, 58 South 6th Street, Fort Smith, Arkansas 72901; 479-782-0361; and Mark Moll, Jones, Jackson & Moll PLC, 401 North 7th Street, Fort Smith, Arkansas 72901; 479-782-7203.

9. United States v. George's, Inc., Case No. 09-5069-CV-SW-Red. United States District Court, Western District of Missouri, Hon. Richard E. Dorr; May 2007 – August 2009.

I represented George's, Inc. on alleged criminal immigration violations resulting from a work-site enforcement action by the Office of Immigration & Customs Enforcement (ICE) in 2007. George's, Inc. owned and operated a poultry processing facility in Cassville, Missouri. ICE arrested employees at the plant who were undocumented aliens. The United States Attorney's Office conducted an investigation of the employment practices at the Cassville plant. I negotiated a settlement agreement with the United States Attorney to resolve the case on a civil basis. The company agreed to implement a corporate compliance program, and paid a \$450,000 civil penalty to the Department of Homeland Security. The settlement was approved by a consent decree by the district court.

Co-counsel was W. H. Taylor, Taylor Law Partners LLP, 303 East Millsap Road, Fayetteville, Arkansas 72703; 479-443-5222.

Opposing counsel was Gary K. Milligan, United States Attorney's Office, 901 St. Louis Street, Suite 500, Springfield, Missouri 65806; 816-426-3122.

10. Swaim v. Stephens Production Company, 359 Ark. 190, 196 S.W.3d 5 (2004).
Circuit Court of Franklin County, Arkansas, Hon. John S. Patterson; August 2003 – October 2004.

Along with co-counsel, I represented royalty owners who claimed they were entitled to increased royalties based upon accretion of lands along the Arkansas River. The defendant claimed that the mineral owners were not entitled to the benefit of accreted lands, although the surface owners did acquire title to accreted land under settled law. The title to the minerals had been previously severed from the surface ownership. The trial court ruled in favor of the lessee on summary judgment. The royalty owners appealed to the Arkansas Court of Appeals, and the case was certified to the Arkansas Supreme Court as an issue of first impression. The Arkansas Supreme Court held that minerals rights accreted with surface rights, and the royalty owners were entitled to the benefit of accreted lands, which increased their royalty payments. The Arkansas Supreme Court reversed the trial court and ordered that judgment be entered for the royalty owners.

Co-counsel was Lonnie C. Turner, 801 East Commercial Street, Ozark, Arkansas 72949; 479-667-2155.

Opposing counsel was Thomas A. Daily, Daily & Woods PLLC, 58 South 6th Street, Fort Smith, Arkansas 72902; 479-782-0361.

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.)

My most significant legal activities can be described in two parts. The first part would be my private practice from 2001 to the present. I have represented corporations and individuals in white collar crime involving immigration violations. Shortly after leaving the United States Attorney's Office, I was retained by Tyson Foods, Inc. to represent a corporate executive who was later indicted on criminal immigration violations in the Eastern District of Tennessee. The corporate executive had management responsibility for poultry facilities in the eastern part of the United States. The government's four-year investigation included over 400 undercover audio tapes and 27 undercover video tapes. The case involved intense trial preparation. While the company was also charged, the corporate executive faced a five-year mandatory minimum sentence if convicted. The case was tried for seven weeks, and the corporate executive was acquitted.

After the Tyson Foods, Inc. case, I represented Wal-Mart Stores, Inc. in a criminal immigration case in the Middle District of Pennsylvania. In October 2003, the government carried out an immigration raid involving 62 stores in 20 states, and executed

search warrants at the corporate headquarters. The government initiated a grand jury investigation. The corporate investigation took over one year. The company reached a civil settlement and the government agreed not to charge the company with criminal violations. Wal-Mart Stores, Inc. implemented a compliance program and paid an \$11 million civil penalty. I was the lead counsel along with other counsel. I negotiated the settlement, which was a global criminal and civil settlement binding all United States Attorneys' Offices.

The Tyson Foods, Inc. case and the Wal-Mart Stores, Inc. case were two of the largest immigration cases in the United States. Since that time, I have represented other companies and individuals in criminal immigration cases in the United States.

The second part of my significant legal activities involved my tenure as the United States Attorney for the Western District of Arkansas. I established white collar crime as the top priority of the office during my tenure. I believed that white collar crime needed to be prosecuted because state court prosecutors did not have the time or resources to handle that type of case. White collar criminal cases take a long time to develop and prosecute. I coordinated federal law enforcement agencies in investigating and prosecuting white collar crime. The office increased the case load of white collar cases in addition to other federal criminal offenses.

I have not performed lobbying activities on behalf of a 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 during my legal career.

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

I am a participant in the Warner Smith & Harris, PLC Pension and Profit Sharing Plan. If confirmed, I will terminate my interest in the plan, and the benefits will be rolled over into a qualified retirement account.

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

I have no plans, commitments or agreements to pursue outside employment, with or without compensation, during my service with the court.

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.

If confirmed, I will carefully review and address any real or potential conflicts in accordance with the Code of Conduct for United States Judges and all laws, rules and practices governing such circumstances. This includes cases involving former partners and associates at my law firm, and former clients that I have represented. I would not handle any case that was prosecuted or under investigation while I served as United States Attorney for the District to which I have been nominated, though the passage of time should mean there will be few of those cases.

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

If confirmed, I will handle all matters involving actual or potential conflicts of interest through the careful and diligent application of Canon 3 of the Code of Conduct for United States Judges as well as other relevant Canon and statutory provisions.

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

I became involved with Arkansas Volunteer Lawyers for the Elderly (AVLE) after it was formed in 1985. This is a state-wide organization for which I served as a member of the

Board of Directors from 1986 to 1989. I received the Lawyer of the Year Award from AVLE in 1989 for the handling of a property dispute that resulted in a jury trial for the AVLE client. I continued to handle AVLE cases until I became the United States Attorney in 1993.

Throughout my 31 years of private practice, I have regularly and frequently performed legal services at no charge or on a reduced-fee basis for financially disadvantaged people. I have had clients during my private practice who have never had the ability to pay legal fees, and I have continued to represent these individuals when they needed assistance. I have performed legal work for charitable organizations that do not have funds to pay for legal services.

26. Selection Process:

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

In February 2009, I wrote Senator Blanche Lincoln and Senator Mark Pryor indicating my interest in the position of United States District Judge upon Judge Robert T. Dawson taking Senior Status. In the summer of 2009, I visited with Senator Blanche Lincoln and Senator Mark Pryor by telephone. In December 2009, Senators Lincoln and Pryor both called me to tell me they intended to send my name to the White House as their recommendation for the District Judge position.

Since January 2010, I have been in contact with pre-nomination officials from the Department of Justice. On March 2, 2010, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. The President submitted my nomination to the Senate on April 28, 2010.

- 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.

I have had no such communications.

FINANCIAL DISCLOSURE REPORT NOMINATION FILING

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

1. Person Reporting (last name, first, middle initial) Holmes, III, Paul K.	2. Court or Organization United States District Court Western District of Arkansas	3. Date of Report 04/26/2010
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) District Judge- Nominee	5a. Report Type (check appropriate type) ☒ Nomination, Date 4/28/2010 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 1/1/2009 to 3/31/2010
7. Chambers or Office Address 30 South 6th Street Fort Smith, Arkansas 72901	8. On the basis of the information contained in this Report and any modifications pertaining thereto, it is, in my opinion, in compliance with applicable laws and regulations. Reviewing Officer _____ Date _____	
IMPORTANT NOTES: The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information. Sign on last page.		

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

☐ NONE (No reportable positions.)

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Of Counsel	Warner, Smith & Harris, PLC
2. Partner	Warner, Smith & Harris, PLC
3. Director	PKH Properties, LLC
4. Director	BECH Oil & Gas Company
5. Trustee	Lyon College
6. Director	Fort Smith Symphony Association

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

☐ NONE (No reportable agreements.)

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1. 2010	Warner, Smith & Harris, PLC- Of Counsel Agreement
2. 2009	Warner, Smith & Harris, PLC- Partnership Agreement
3. 2009-2010	Warner, Smith & Harris, PLC- Pension and Profit Sharing Plan

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Holmes, III, Paul K.

Date of Report

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

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2010	Warner, Smith & Harris, PLC- attorney's fees	\$70,000.00
2. 2009	Warner, Smith & Harris, PLC- partnership	\$379,463.00
3. 2008	Warner, Smith & Harris, PLC- partnership	\$556,393.00
4.		

B. Spouse's Non-Investment Income - If you were married during any portion of the reporting year, complete this section.

(Dollar amount not required except for honoraria.)

☐ NONE (No reportable non-investment income.)

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2010	Fort Smith Public School District- substitute teaching
2. 2009	Fort Smith Public School District- substitute teaching
3.	
4.	

IV. REIMBURSEMENTS -- transportation, lodging, food, entertainment.

(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)

☐ NONE (No reportable reimbursements.)

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Holmes, III, Paul K.

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

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

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

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Holmes, III, Paul K.

Date of Report

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. ABFS Common	B	Dividend	L	T	Exempt				
2. CHS Common		None	J	T					
3. CNP Common	A	Dividend	J	T					
4. COP Common	B	Dividend	L	T					
5. FDX Common	A	Dividend	L	T					
6. DBRN Common		None	J	T					
7. GE Common	B	Dividend	K	T					
8. HD Common	B	Dividend	L	T					
9. HIG Common	A	Dividend	K	T					
10. HPQ Common	B	Dividend	M	T					
11. HOT Common	A	Dividend	J	T					
12. IBKC Common	B	Dividend	L	T					
13. INTC Common	A	Dividend	K	T					
14. JBHT Common	A	Dividend	L	T					
15. JNJ Common	B	Dividend	K	T					
16. MHS Common		None	K	T					
17. MON Common	A	Dividend	K	T					

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

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. MSFT Common	B	Dividend	M	T					
19. NUE Common	C	Dividend	L	T					
20. PFE Common	D	Dividend	M	T					
21. RF Common		None	J	T					
22. RIG Common		None	K	T					
23. SLB Common	B	Dividend	M	T					
24. SO Common	C	Dividend	L	T					
25. T Common	A	Dividend	J	T					
26. WMMVY Common	A	Dividend	K	T					
27. WMT Common	D	Dividend	N	T					
28. Vanguard Total Stock Index Fund	B	Dividend	M	T					
29. Vanguard Extended Market Index Fund	A	Dividend	L	T					
30. Vanguard Growth Index Fund	A	Dividend	L	T					
31. Vanguard Capital Opportunity Fund	A	Dividend	M	T					
32. Vanguard Developed Markets Index Fund	A	Dividend	M	T					
33. Vanguard Total Int. Stock Index Fund	A	Dividend	K	T					
34. Vanguard Inter-Term Inv. Grade Fund	B	Dividend	L	T					

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

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Name of Person Reporting

Holmes, III, Paul K.

Date of Report

04/26/2010

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. Vanguard Inflation-Protect Sec.	B	Dividend	L	T					
36. Vanguard Inter-Term Tax Exempt Inv.	C	Interest	L	T					
37. Fidelity Int. Muni Income Fund	D	Interest	M	T					
38. MFS Investors Trust-A Fund	A	Dividend	K	T					
39. T.Rowe Price Growth Stock Fund	A	Dividend	K	T					
40. T. Rowe Price Personal Strategy Growth Fund	A	Dividend	K	T					
41. T. Rowe Price New Horizons Fund		None	J	T					
42. T. Rowe Price International Stock Fund	B	Dividend	L	T					
43. U. S. Treasury Notes	D	Interest	L	T					
44. First National Bank of Fort Smith									
45. -First National Money Mkt. Fund	A	Interest	J	T					
46. -First National Acct.	A	Interest	L	T					
47. Schwab Cash Reserves	A	Interest	K	T					
48. T. Rowe Price Tax-Exempt Money Mkt. Fund	A	Interest	L	T					
49. Vanguard Tax-Exempt Money Mkt. Fund	B	Interest	O	T					
50. Vanguard Prime Money Mkt. Fund	A	Interest	L	T					
51. Fidelity Municipal Money Mkt. Fund	A	Interest	M	T					

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

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Name of Person Reporting

Holmes, III, Paul K.

Date of Report

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
52. PKH Properties, LLC		None	J	W					
53. BECH Oil & Gas Company	D	Distribution	K	W					
54. Health Savings Accounts									
55. -HSA Bank Money Mkt. Fund	A	Interest	K	T					
56. -TD Ameritrade Money Mkt. Fund	A	Interest	J	T					
57. -TD Ameritrade SPY Index Fund	A	Dividend	K	T					
58. First National Trustee WSH Pension & Profit Sharing Plan	D	Dividend	N	T					
59. - VIMSX Fund									
60. - FIGRX Fund									
61. -FNB Money Mkt.									
62. T. Rowe Price- Rollover IRA Acct.	E	Dividend	O	T					
63. - POMIX									
64. - PRGIX									
65. - TRMCX									
66. - PRTIX									
67. - PRTXX									
68. - TRRBX									

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

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Name of Person Reporting

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

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

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date Month - Day	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
69. - RPSIX									
70. - INTC Common									
71. - MHS Common									
72. - MRK Common									
73. - NUE Common									
74. - CVX Common									
75. Lincoln National Whole Life		None	K	T					
76. Union Central Whole Life	A	Dividend	J	T					
77. Transamerica Whole Life	A	Dividend	J	T					

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

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Holmes, III, Paul K.

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

I. POSITIONS- I serve on the Board of Trustees of Lyon College, a private liberal arts college.

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Holmes, III, Paul K.

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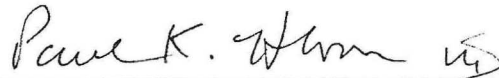
04/26/2010

IX. CERTIFICATION.

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

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

Signature



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

FILING INSTRUCTIONS

Mail signed original and 3 additional copies to:

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

FINANCIAL STATEMENT

NET WORTH

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

ASSETS				LIABILITIES			
Cash on hand and in banks		87	175	Notes payable to banks-secured			
U.S. Government securities-add schedule		100	000	Notes payable to banks-unsecured			
Listed securities-add schedule	3	036	772	Notes payable to relatives			
Unlisted securities--add schedule		25	000	Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable-add schedule			
Real estate owned-add schedule		400	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		25	000				
Cash value-life insurance		57	647				
Other assets itemize:							
Money Market Funds – see schedule	1	108	855				
Retirement Accounts – see schedule	1	491	788				
HSA Accounts – see schedule		32	981	Total liabilities			0
				Net Worth	6	365	218
Total Assets	6	365	218	Total liabilities and net worth	6	365	218
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged?	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

U.S. Government Securities

Treasury Direct – U.S. Treasury Notes	\$ 100,000
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Listed Securities

ABFS	\$ 53,235
CHS	2,169
CNP	4,336
COP	62,424
DBRN	693
FDX	64,519
FLTMX	203,767
GE	45,825
HD	80,950
HIG	34,656
HOT	5,713
HPQ	199,650
IBKC	63,096
INTC	22,390
JBHT	51,635
JNJ	46,039
MHS	18,461
MITTX	45,224
MON	26,278
MSFT	116,640
NUE	91,900
PFE	170,800
PRGFX	28,562
PRITX	73,952
PRNHX	2,204
RF	5,423
RIG	17,133
SLB	145,283
SO	74,593
T	2,402
TRSGX	16,643
VDMIX	119,378
VEXMX	81,390
VFICX	83,752
VGTSX	38,555
VHCOX	109,868

VIGRX	54,133
VIPSX	76,138
VTSMX	121,611
VWITX	96,696
WMMVY	34,736
WMT	443,920
Total Listed Securities	<u>\$3,036,772</u>

Unlisted Securities

BECH Oil & Gas Company, 100 Shares	\$ 25,000
Total Unlisted Securities	<u>\$ 25,000</u>

Real Estate Owned

Personal residence	\$ 300,000
Undivided 1/5 th Interest/Land and Improvements (spouse)	100,000
Total Real Estate Owned	<u>\$ 400,000</u>

Money Market Funds

VMMXX	\$ 666,541
VMSXX	80,701
FTEXX	246,561
PTEXX	75,103
SWSXX	33,625
First National Bank	6,324
Total Money Market Funds	<u>\$1,108,855</u>

Retirement Accounts

T. Rowe Price

POMIX – IRA	\$ 87,731
TRMCX – Rollover IRA	97,439
PRTIX – Rollover IRA	132,161
TRRBX – Rollover IRA	187,685
RPSIX – Rollover IRA	114,613
PRTXX – Rollover IRA	20,566
INTC – Rollover IRA	44,780
MHS – Rollover IRA	7,692
MRK – Rollover IRA	18,855
NUE – Rollover IRA	91,900
CVX – Rollover IRA	29,449
PRGIX – IRA (spouse)	63,752

First National Bank, Trustee of Warner Smith &
Harris, PLC Pension and Profit Sharing Plan

VIMSX	183,705
FIGRX	169,129
FNB MMF	50,960

Thrift Savings Plan

I Fund	85,193
S Fund	49,148
G Fund	57,030

Total Retirement Accounts	<u>\$1,491,788</u>
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HSA Accounts

HSA Bank MMF	12,356
SPY	14,157
TD Ameritrade MMF	6,468

Total HSA Accounts	<u>\$ 32,981</u>
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AFFIDAVIT

I, **Paul K. Holmes, III**, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

APRIL 26, 2010

(DATE)

Paul K. Holmes

(NAME)



Linda S. Rathburn

(NOTARY)