

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Howard Curtis Nielson, Jr.

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

United States District Judge for the District of Utah

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

Office: Cooper & Kirk, PLLC
 1523 New Hampshire Ave., N.W.
 Washington, D.C. 20036

Residence: Provo, Utah

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

1968; Provo, Utah

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1994–1997, University of Chicago Law School; J.D. (with high honors), 1997

1992–1994, Kobe University (Japan Government (Mombusho) Scholar); no degree received

1986–1987, 1989–1992, Brigham Young University; B.A. (university honors and *summa cum laude*), 1992

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.

2005--present
Cooper & Kirk, PLLC
1523 New Hampshire Ave., N.W.
Washington, D.C. 20036
Partner (2010--present)
Of Counsel (2005--2010)

2007--2014
J. Reuben Clark Law School
341 JRCB, Brigham Young University
Provo, UT 84602
Distinguished Lecturer (2009--2014)
Lecturer (2007--2009)

2008--2014
The Boeing Company
6300 JS McDonnell Blvd.
Berkeley, MO 63134
Legal Consultant

2001--2005
United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Deputy Assistant Attorney General, Office of Legal Counsel (2003--2005)
Counsel to the Attorney General (2001--2003)
Special Assistant to the Deputy Attorney General (2001)

1999--2001
Jones, Day, Reavis & Pogue (now Jones Day)
51 Louisiana Ave., N.W.
Washington, D.C. 20001
Associate, Issues and Appeals Practice Group

1998--1999
Supreme Court of the United States
1 First St., N.E.
Washington, D.C. 20543
Law Clerk to Justice Anthony M. Kennedy

1997--1998
United States Court of Appeals for the Fourth Circuit
1100 E. Main St., Suite 501
Richmond, VA 23219
Law Clerk to the Honorable J. Michael Luttig

Summer 1996
Center for Individual Rights
1100 Connecticut Ave., N.W., Suite 625
Washington, D.C. 20036
Law Clerk

Summer 1996
Steptoe & Johnson
1300 Connecticut Ave., N.W.
Washington, D.C. 20036
Summer Associate

Summer 1995
Kirton & McConkie
50 E. South Temple, Suite 400
Salt Lake City, UT 84111
Law Clerk

1993–1994
TOEFL Seminar
2F Kowa Building, 8-1-33 Isogami-dori
Chuo-ku, Kobe 651
Japan
English Instructor

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. 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.

University of Chicago Law School—graduated with high honors (1997); member (1995–1996) and articles editor (1996–1997) of the UNIVERSITY OF CHICAGO LAW REVIEW

Order of the Coif (1997)

John M. Olin Student Fellowship in Law and Economics (1996–1997)

Japan Government (Mombusho) Scholarship (1992–1994)

Karl G. Maeser Achievement Award (1992)

Speaker (benediction), Brigham Young University Commencement Service (1992)

Brigham Young University—graduated with University Honors and *summa cum laude* (1992); received full-tuition merit-based scholarships (1986–1987, 1989–1991)

Edwin S. Hinckley Scholarship (1991–1992)

Outstanding Senior Paper from the College of Humanities, Phi Kappa Phi Student Paper Competition (1992)

First Place, David H. Yarn Philosophy Essay Contest (1991)

Phi Kappa Phi (1991)

Gold Key National Honor Society (1990)

Eagle Scout Award (1984)

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.

Ethics and Discipline Committee of the Utah Supreme Court
Member, 2008–2014

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.

Utah, 2000

I elected to take inactive status from August 7, 2003, through August 5, 2005, while I was working at the United States Department of Justice in Washington, D.C. I maintained my active status in the District of Columbia Bar during that period. I resumed active status in Utah prior to returning to Utah and private practice.

District of Columbia, 2001

- 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, 2012
United States Court of Appeals for the Fourth Circuit, 2006
United States Court of Appeals for the Fifth Circuit, 2009
I was placed in inactive status from May 2014 through August 2014 due to
an unintended delay in renewing my membership.
United States Court of Appeals for the Sixth Circuit, 2011
United States Court of Appeals for the Ninth Circuit, 2009
United States Court of Appeals for the Tenth Circuit, 2014
United States Court of Appeals for the Federal Circuit, 2007
United States Court of Appeals for the District of Columbia Circuit, 2014
United States District Court for the District of Columbia, 2014
United States District Court for the District of Utah, 2011
United States Court of Federal Claims, 2014
United States Bankruptcy Court for the District of Utah, 2011
District of Columbia Court of Appeals, 2001
Utah Supreme Court, 2000

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.

Boy Scouts of America, 2008–2012, 2015–present
Unit Cub Committee Chair, 2008–2012
Unit Webelos Leader, 2008–2012
Unit Chartered Organization Head, 2015–present

Federalist Society for Law and Public Policy Studies (March 1997–March 1999;
November 1999–November 2000; April 2001–April 2002; July 2006–October
2007)
Programs Vice Chair, Litigation Practice Group (December 1999–April
2001)

Golden Key National Honor Society. I was inducted in 1990. I do not know
whether my membership has ended or, if it has, when it ended.

Order of the Coif. I was inducted in 1997. I do not know whether my membership has
ended or, if it has, when it ended.

Phi Kappa Phi. I was inducted in 1991. I do not know whether my membership
has ended or, if it has, when it ended.

- 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.

Membership in some, but not all, of the Boy Scouts of America's youth programs has historically been limited to boys. The Boy Scouts of America recently announced that these programs will be made available to girls as well. Adult leadership positions are open to both men and women. To the best of my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

The following answers reflect my best efforts to identify all materials that are responsive to these questions. I constructed these answers, with the assistance of others, by searching my own records and calendars and by searching sources available on the internet. Despite my best efforts, it is possible that there are other responsive materials that I cannot remember or otherwise identify.

- 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.

Charles J. Cooper & Howard C. Nielson, Jr., *Complete Diversity and the Closing of the Federal Courts*, 37 HARV. J. L. & PUB. POL'Y 295 (2014). Copy supplied.

Howard Nielson, *Symposium: Constitutional First Principles and the Greenhouse Gas Cases*, SCOTUSBLOG (Feb. 10, 2014). Copy supplied.

John A. Eisenberg & Howard C. Nielson Jr., *In Defense of the Office of Legal Counsel*, WASHINGTON POST (Oct. 12, 2007). Copy supplied.

Howard C. Nielson, Jr., *Recklessly False Statements in the Public-Employment Context*, 63 U. CHI. L. REV. 1277 (1996). Copy supplied.

The One Beside the Many: Aristotle's Early Theory of Universals, 1 APORIA: A STUDENT JOURNAL OF PHILOSOPHY 1 (Fall 1991). Copy supplied.

New Foreign Policy Horizons, STUDENT REVIEW 4 (Dec. 13, 1989). Copy supplied.

The Arab-Israeli Conflict: An Interview with Dr. Abraham Kaplan, STUDENT REVIEW 10–11 (Nov. 22, 1989). Copy supplied.

Camel-Swallowing Continues: Modern-Day Pharisees, STUDENT REVIEW 3 (Nov. 15, 1989). Copy supplied.

U.S. Obligated to Promote World Peace: Goal Can Be Achieved Through Large-Scale Aid Program, DAILY UNIVERSE 4 (Nov. 8, 1989). Copy supplied.

Summer in Washington: Humidity and Congressional Ethics, STUDENT REVIEW 10 (Oct. 18, 1989). Copy supplied.

Freshmen—It's Not Your Fault, STUDENT REVIEW 5 (Oct. 4, 1989). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

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

Christopher P. Bowers, Neil M. Richards, *et al.*, *Letter to Honorable Charles E. Grassley, Chairman, and Honorable Diane Feinstein, Ranking Member, Committee of the Judiciary, United States Senate* (May 26, 2017) (former Supreme Court Clerks supporting nomination of Amy Coney Barrett). Copy supplied.

Bertrand-Marc Allen, David L. Anderson, *et al.*, *Letter to Honorable Charles E. Grassley, Chairman, and Honorable Diane Feinstein, Ranking Member, Committee of the Judiciary, United States Senate* (Feb. 25, 2017) (former clerks of Justice Kennedy supporting nomination of Neil M. Gorsuch). Copy supplied.

R. Alexander Acosta, C. Frederick Beckner III, *et al.*, *Letter to Honorable Charles E. Grassley, Chairman, and Honorable Diane Feinstein, Ranking Member, Committee of the Judiciary, United States Senate* (Feb. 24, 2017)

(former DOJ attorneys supporting nomination of Neil M. Gorsuch). Copy supplied.

Brief of Amici Curiae Former Senior Officials of the Office of Legal Counsel in Support of Respondents, *The Central Bank of Iran v. Peterson*, No. 14-770, 2015 WL 9412677 (U.S. Dec. 23, 2015) (I am listed as one of the amici curiae.). Copy supplied.

Steven Bradbury, Sheldon Bradbury, *et al.*, *Letter to Honorable Diane Feinstein, Chair, and Honorable Saxby Chambliss, Ranking Member, Select Committee on Intelligence* (Dec. 6, 2013) (former OLC officials supporting nomination of Caroline D. Krass to be General Counsel of the Central Intelligence Agency). Copy supplied.

Charles J. Cooper & Howard C. Nielson, Jr., *Letter to Honorable Lamar S. Smith, Ranking Member, Committee of the Judiciary, U.S. House of Representatives* (Dec. 4, 2007) (response to request for legal views regarding resolution recommending that the House of Representatives find Harriet Miers and Joshua Bolten in contempt of Congress). Copy supplied.

Memorandum for the Files Re: Whether Persons Captured and Detained in Afghanistan are "Protected Persons" under the Fourth Geneva Convention (Aug 5, 2005). This document memorializes oral advice given by Assistant Attorney General Jack Goldsmith and me to officials in the Justice Department's Criminal Division. Neither the memorandum nor its detailed analysis was shared with those officials, though its conclusions were. Copy supplied.

Memorandum Opinion for the Counsel to the President Re: Whether the President May Sign a Bill by Directing That His Signature Be Affixed to It, 29 Op. O.L.C. 97 (July 7, 2005). Copy supplied.

Steven G. Bradbury, Howard C. Nielson Jr., & C. Kevin Marshall, *Memorandum Opinion for the Attorney General Re: Whether the Second Amendment Secures an Individual Right*, 28 Op. O.L.C. 126 (Aug. 24, 2004). Copy supplied.

Memorandum Opinion for the Assistant Attorney General, Civil Rights Division, Re: Equal Employment Opportunity Commission Actions Against Public Employers to Enforce Settlement or Conciliation Agreements, 27 Op. O.L.C. 152 (Sept. 8, 2003). Copy supplied.

Memorandum Opinion for the Deputy Attorney General, Re: Interpretation of Section 586 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 27 Op. O.L.C. 130 (July 18, 2003). Copy supplied.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the

date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

April 28, 2016: Panelist, "Supreme Court Review: The Legacy of Justice Antonin Scalia, Implications of the Court Vacancy, and What to Expect," Rule of Law Defense Fund, Salt Lake City, Utah. Notes and article from the Rule of Law Defense Fund's website supplied.

September 19, 2014: Panelist, "The 2013–14 Supreme Court Term in Review," J. Reuben Clark Law School, Brigham Young University, Provo, Utah. Notes and PowerPoint slide supplied.

October 18, 2013: Participant, "An Originalist Take on Diversity Jurisdiction—Podcast," Litigation Practice Group, Federalist Society for Law and Public Policy Studies, Provo, Utah (telephonic participation). Audio recording supplied.

September 20, 2013: Panelist, "Gay-Marriage Cases from the 2012–13 Term," J. Reuben Clark Law School, Brigham Young University, Provo, Utah. Video and article from the law school's website supplied.

January 11, 2001: Moderator of panel discussion, "Redressing Harm: Who Decides?" Litigation Practice Group, Federalist Society for Law and Public Policy Studies, Washington, D.C. Transcript supplied.

March 1994: Speaker, Kobe University, Kobe, Japan. I spoke at a dinner honoring the departing Japan Government Scholars and other foreign exchange students. I do not recall the precise date of this speech or what I said. I have no notes, transcript, or recording. The address for Kobe University is 1-1 Rokkodai-cho, Nada-ku, Kobe 657-8501, Japan.

August 13, 1992: Speaker, Brigham Young University, Provo, Utah. I gave the benediction at the University's Commencement Exercises. I do not recall what I said and I have no notes, transcript, or recording. The address of Brigham Young University is Brigham Young University, Provo, UT 84602.

April 2, 1991: Participant in student and faculty discussion, "The New World Order: Should the United States and the United Nations Play a Major Role in Maintaining World Peace?" Brigham Young University, Provo, Utah. The discussion was about then-current issue in foreign policy. I have no notes, transcript, or recording. The address for Brigham Young University is Brigham Young University, Provo, UT 84602.

I spoke on behalf of my father, Congressman Howard C. Nielson, at a number of Republican Party County Conventions in 1986 and in 1990. I do not recall the precise dates or places of these events, though I believe that I spoke in Utah County, Carbon County, and Grand County, and that I may have spoken in Sevier County and San Juan County. My recollection is that I gave a few brief introductory remarks and then read a letter from my father. I do not recall any additional details about the content of these speeches. I have been unable to locate the letters that I read and I have no notes, transcripts, 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.

Andrea Seabrook, *Obama Wields His . . . Autopen?*, NPR (May 27, 2011). Copy supplied.

Josh Gerstein, *Lawyer Who Fought Same-Sex-Marriage Wrote Legal Opinion OKing Robosigning*, POLITICO (May 27, 2011). Copy supplied.

Marisa McQuilken and Joe Palazzolo, *In-House at the White House; President Obama Hires a Legal Dream Team*, CORPORATE COUNSEL (Apr. 1, 2009). Copy supplied.

Marisa McQuilken and Joe Palazzolo, *Top Down Strategy; Will Bigger Counsel's Office Set Policy?*, LEGAL TIMES (Feb. 9, 2009). Copy supplied (reprinted in multiple outlets).

Pedro Ruz Gutierrez, *Steven Bradbury's Liberal Roots*, NATIONAL LAW JOURNAL (Mar. 17, 2008). Copy supplied (reprinted in multiple outlets).

Class Notes, UNIVERSITY OF CHICAGO LAW SCHOOL RECORD, Spring 2007 at 52. Copy supplied.

Jason McLure, *Bradbury Latest to Land in DOJ Hot Seat*, NATIONAL LAW JOURNAL (Mar. 13, 2006) (reprinted in multiple outlets).

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

I have not held judicial office. However, from July 2008 to June 2014, I served as a member of the Ethics and Discipline Committee of the Utah Supreme Court. Members of the Committee are appointed by the Utah Supreme Court. The Committee conducts evidentiary hearings and issues decisions in ethics complaints brought against members of the Utah State Bar. These decisions involve dismissals, private admonitions, public

reprimands, and authorizations for the Utah State Bar's Office of Professional Conduct to file formal complaints in state court seeking disbarment or suspension.

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

I sat on panels that resolved dozens of ethics complaints during my service on the Committee. I was not the presiding Committee Member on any of these panels. I do not know the precise number of cases in which participated. I did not retain records of these cases. Nor was the Committee able to identify and provide information regarding more than a small number of cases in which I participated. The Committee informed me that it does not keep records in a manner that enables it to identify which Committee Members heard which cases without great difficulty. In addition, information regarding cases that resulted in dismissals or private admonitions cannot be released without the consent of the respondent attorney or a court order.

- i. Of these, approximately what percent were:

jury trials:	0%
bench trials:	100%
civil proceedings:	100%
criminal proceedings:	0%

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

I did not personally write any opinions. Brief reports of public reprimands and private admonitions (with the respondent attorney's name withheld) are signed by the Chair or Vice-Chair of the Committee and published in the UTAH BAR JOURNAL. Because the Committee conducts hearings in panels, I participated in the disposition of many but not all of the public reprimands and private admonitions issued while I was a Committee Member. The published reports of the reprimands and admonitions do not indicate which Committee Members participated in their disposition and the Committee does not keep records in a manner that enables it to identify which Committee Members hear which cases without great difficulty. Because I am in most cases unable to identify which matters I participated in as a panel member, I am providing a list of all of the public reprimands and private admonitions issued while I was a Member of the Ethics and Discipline Committee:

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2014 at 57-58 (June 30, 2014).

Public Reprimand of Stuwert B. Johnson, UTAH BAR JOURNAL, Sept./Oct. 2014 at 56-57 (June 12, 2014).

Public Reprimand of J. Keith Henderson, UTAH BAR JOURNAL, Sept./Oct. 2014 at 57 (June 5, 2014).

Public Reprimand of Roland F. Uresk, UTAH BAR JOURNAL, July/Aug. 2014 at 62 (Apr. 21, 2014).

Admonition, UTAH BAR JOURNAL, July/Aug. 2014 at 59–60 (Apr. 21, 2014).

Public Reprimand of Walter T. Keane, UTAH BAR JOURNAL, Sept./Oct. 2014 at 56 (May 28, 2014).

Admonition, UTAH BAR JOURNAL, July/Aug. 2014 at 60 (Mar. 28, 2014).

Admonition, UTAH BAR JOURNAL, May/June 2014 at 63 (Mar. 12, 2014).

Admonition, UTAH BAR JOURNAL, May/June 2014 at 62 (Mar. 6, 2014).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2014 at 58 (Jan. 13, 2014).

Public Reprimand of James A. Valdez, UTAH BAR JOURNAL, Mar./Apr. 2014 at 58. (Dec. 20, 2013).

Public Reprimand of Amy L. Butters, UTAH BAR JOURNAL, Mar./Apr. 2014 at 59–60 (Dec. 5, 2013).

Public Reprimand of Amy L. Butters, UTAH BAR JOURNAL, Mar./Apr. 2014 at 59 (Dec. 5, 2013).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2014 at 58 (Dec. 5, 2013).

Public Reprimand of Gale E. Laser, UTAH BAR JOURNAL, Jan./Feb. 2014 at 58 (Oct. 29, 2012).

Public Reprimand of Derek J. Barclay, UTAH BAR JOURNAL, Sept./Oct. 2013 at 59–60 (July 11, 2013).

Public Reprimand of Nathan W. Drage, UTAH BAR JOURNAL, Nov./Dec. 2013 at 63 (July 2, 2013).

Public Reprimand of Raymond N. Malouf, UTAH BAR JOURNAL, Sept./Oct. 2013 at 60 (June 5, 2013).

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2013 at 60–61 (June 1, 2013).

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2013 at 61 (May 20, 2013).

Admonition, UTAH BAR JOURNAL, July/Aug. 2013 at 57 (Apr. 13, 2013).

Admonition, UTAH BAR JOURNAL, May/June 2013 at 59 (Feb. 26, 2013).

Admonition, UTAH BAR JOURNAL, May/June 2013 at 59–60 (Jan. 22, 2013).

Public reprimand of Joseph R. Goodman, UTAH BAR JOURNAL, Mar./Apr. 2013 at 57 (Dec. 17, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 55–56 (Dec. 10, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 56 (Dec. 3, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 55 (Dec. 3, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 54–55 (Dec. 3, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 54 (Dec. 3, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 54 (Dec. 3, 2012).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2013 at 53–54 (Nov. 27, 2012).

Public Reprimand of Kimberly J. Trupiano, UTAH BAR JOURNAL, Nov./Dec. 2012 at 54–55 (Aug. 27, 2012).

Admonition, UTAH BAR JOURNAL, Nov./Dec. 2012 at 54 (June 28, 2012).

Public Reprimand of Ryan R. West, UTAH BAR JOURNAL, Sept./Oct. 2012 56–57 (June 28, 2012).

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2012 at 55–56 (June 21, 2012).

Public Reprimand of C. Danny Frazier, UTAH BAR JOURNAL, Sept./Oct. 2012 at 56 (June 7, 2012).

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2012 at 55 (June 7, 2012).
Public Reprimand of James H. Deans, UTAH BAR JOURNAL, Sept./Oct. 2012 at 56 (June 6, 2012).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2012 at 55 (June 1, 2012).
Admonition, UTAH BAR JOURNAL, July/Aug. 2012 at 50–51 (Apr. 12, 2012).
Public Reprimand of Bryan T. Adamson, UTAH BAR JOURNAL, July/Aug. 2012 at 52 (Apr. 9, 2012).
Admonition, UTAH BAR JOURNAL, July/Aug. 2012 at 50 (Mar. 26, 2012).
Admonition, UTAH BAR JOURNAL, July/Aug. 2012 at 50 (Mar. 26, 2012).
Admonition, UTAH BAR JOURNAL, July/Aug. 2012 at 49–50 (Mar. 22, 2012).
Admonition, UTAH BAR JOURNAL, July/Aug. 2012 at 49 (Mar. 15, 2012).
Admonition, UTAH BAR JOURNAL, May/June 2012 at 57 (Mar. 1, 2012).
Public Reprimand of Bryan T. Adamson, UTAH BAR JOURNAL, July/Aug. 2012 at 51 (Feb. 28, 2012).
Public Reprimand of Marlin G. Criddle, UTAH BAR JOURNAL, May/June 2012 at 58–59 (Feb. 28, 2012).
Public Reprimand of Jeanne T. Campbell, UTAH BAR JOURNAL, May/June 2012 at 58 (Feb. 28, 2012).
Public Reprimand of Douglas A. Baxter, UTAH BAR JOURNAL, May/June 2012 at 58 (Jan. 26, 2012).
Admonition, UTAH BAR JOURNAL, May/June 2012 at 57 (Jan. 26, 2012).
Admonition, UTAH BAR JOURNAL, May/June 2012 at 57 (Jan. 26, 2012).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2012 at 56 (Jan. 11, 2012).
Public Reprimand of Philip C. Patterson, UTAH BAR JOURNAL, Mar./Apr. 2012 at 57 (Jan. 9, 2012).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2012 at 55 (Jan. 6, 2012).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2012 at 55 (Jan. 5, 2012).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2012 at 55–56 (Dec. 21, 2011).
Public Reprimand of James F. Nichols, UTAH BAR JOURNAL, Mar./Apr. 2012 at 56 (Dec. 21, 2012).
Public Reprimand of James F. Nichols, UTAH BAR JOURNAL, Mar./Apr. 2012 at 56–57 (Dec. 21, 2011).
Public Reprimand of Shawn D. Turner, UTAH BAR JOURNAL, Mar./Apr. 2012 at 58 (Dec. 8, 2011).
Public Reprimand of David O. Black, UTAH BAR JOURNAL, Jan./Feb. 2012 at 52–53 (Oct. 17, 2011).
Admonition, UTAH BAR JOURNAL, Jan./Feb. 2012 at 55 (Oct. 17, 2011).
Public Reprimand of Charles A. Schultz, UTAH BAR JOURNAL, Jan./Feb. 2012 at 52 (Sept. 21, 2011).
Admonition, UTAH BAR JOURNAL, Jan./Feb. 2012 at 51 (July 28, 2011).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2011 at 58 (July 28, 2011).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2011 at 58 (July 28, 2011).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2011 at 58–59 (June 30, 2011).
Public Reprimand of Donald W. Winters, UTAH BAR JOURNAL, Sept./Oct. 2011 at 52 (June 20, 2011).

Public Reprimand of Donald W. Winters, UTAH BAR JOURNAL, Sept./Oct. 2011 at 52 (June 20, 2011).

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2011 at 52 (June 17, 2011).

Admonition, UTAH BAR JOURNAL, July/Aug. 2011 at 46 (May 18, 2011).

Public Reprimand of T. Christian Burridge, UTAH BAR JOURNAL, July/Aug. 2011 at 46 (Jan 27, 2011).

Public Reprimand of Ned P. Siegfried, UTAH BAR JOURNAL, May/June 2011 at 35 (Jan. 27, 2011).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2011 at 50 (Dec. 28, 2010).

Public Reprimand of Joane P. White, UTAH BAR JOURNAL, Mar./Apr. 2011 at 50–51 (Dec. 6, 2010).

Public Reprimand of Scott C. Walker, UTAH BAR JOURNAL, Mar./Apr. 2011 at 50 (Nov. 23, 2010).

Admonition, UTAH BAR JOURNAL, Mar./Apr. 2011 at 50 (Nov. 29, 2010).

Public Reprimand of Kerry F. Willets, UTAH BAR JOURNAL, Jan./Feb. 2011 at 54 (Nov. 4, 2010).

Public Reprimand of James H. Alcala, UTAH BAR JOURNAL, Jan./Feb. 2011 at 54–55 (Oct. 29, 2010).

Public Reprimand of James H. Alcala, UTAH BAR JOURNAL, Jan./Feb. 2011 at 54 (Oct. 29, 2010).

Public Reprimand of James H. Alcala, UTAH BAR JOURNAL, Jan./Feb. 2011 at 55 (Oct. 20, 2010).

Public Reprimand of Matthew G. Nielsen, UTAH BAR JOURNAL, Jan./Feb. 2011 at 55 (Oct. 1, 2010).

Public Reprimand of Jeanne Campbell-Lund, UTAH BAR JOURNAL, Nov./Dec. 2010 at 58 (Aug. 31, 2010).

Public Reprimand of Joe Cartwright, UTAH BAR JOURNAL, Nov./Dec. 2010 at 58 (Aug. 31, 2010).

Public Reprimand of S. Austin Johnson, UTAH BAR JOURNAL, Nov./Dec. 2010 at 58 (Aug. 3, 2010).

Public Reprimand of S. Austin Johnson, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57 (Aug. 3, 2010).

Public Reprimand of S. Austin Johnson, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57–58 (Aug. 2, 2010).

Public Reprimand of S. Austin Johnson, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57 (Aug. 2, 2010).

Admonition, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57 (Aug. 2, 2010).

Public Reprimand of Dusten L. Heugly, UTAH BAR JOURNAL, Sept./Oct. 2010 at 51 (July 20, 2010).

Public Reprimand of Edward W. McBride, UTAH BAR JOURNAL, Sept./Oct. 2010 at 50 (July 20, 2010).

Public Reprimand of Robert D. Atwood, UTAH BAR JOURNAL, Sept./Oct. 2010 at 50 (May 26, 2010).

Admonition, UTAH BAR JOURNAL, Sept./Oct. 2010 at 50 (May 26, 2010).

Admonition, UTAH BAR JOURNAL, July/Aug. 2010 at 53 (May 10, 2010).

Admonition, UTAH BAR JOURNAL, July/Aug. 2010 at 52–53 (May 10, 2010).

Admonition, UTAH BAR JOURNAL, July/Aug. 2010 at 52 (May 10, 2010).
Public Reprimand of S. Austin Johnson, UTAH BAR JOURNAL, May/June 2010 at 51 (Mar. 24, 2010).
Public Reprimand of S. Austin Johnson, UTAH BAR JOURNAL, May/June 2010 at 51 (Mar. 24, 2010).
Public Reprimand of J. Kent Holland, UTAH BAR JOURNAL, May/June 2010 at 51 (Mar. 24, 2010).
Admonition, UTAH BAR JOURNAL, May/June 2010 at 50 (Mar. 24, 2010).
Public Reprimand of Roberto G. Culas, UTAH BAR JOURNAL, May/June 2010 at 50–51 (Mar. 18, 2010).
Public Reprimand of Brian W. Steffensen, UTAH BAR JOURNAL, May/June 2010 at 50 (Feb. 10, 2010).
Public Reprimand of Franklin R. Brussow, UTAH BAR JOURNAL, May/June 2010 at 50 (Feb. 9, 2010).
Public Reprimand of Bruce L. Nelson, UTAH BAR JOURNAL, May/June 2010 at 50 (Feb. 9, 2010).
Public Reprimand of Joe Cartwright, UTAH BAR JOURNAL, Mar./Apr. 2010 at 53 (Jan. 6, 2010).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2010 at 52 (Dec. 17, 2009).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2010 at 52 (Nov. 30, 2009).
Public Reprimand of Larry N. Long, UTAH BAR JOURNAL, Mar./Apr. 2010 at 52 (Nov. 24, 2009).
Admonition, UTAH BAR JOURNAL, Mar./Apr. 2010 at 52 (Nov. 13, 2009).
Public Reprimand Larry N. Long, UTAH BAR JOURNAL, Jan./Feb. 2010 at 47–48 (Nov. 13, 2009).
Public Reprimand David C. VanCampen, UTAH BAR JOURNAL, Jan./Feb. 2010 at 48 (Nov. 10, 2009).
Admonition, UTAH BAR JOURNAL, Jan./Feb. 2010 at 47 (Sept. 17, 2009).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2009 at 41 (Aug. 10, 2009).
Public Reprimand of David G. Turcotte, UTAH BAR JOURNAL, Nov./Dec. 2009 at 42 (Aug. 1, 2009).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2009 at 4–42 (Aug. 1, 2009).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2009 at 41 (Aug. 1, 2009).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2009 at 41 (Aug. 1, 2009).
Public Reprimand of Roy D. Cole, UTAH BAR JOURNAL, Sept/Oct. 2009 at 49 (June 15, 2009).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2009 at 48 (June 15, 2009).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2009 at 48 (June 15, 2009).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2009 at 47 (June 15, 2009).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2009 at 47 (June 15, 2009).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2009 at 48 (June 8, 2009).
Admonition, UTAH BAR JOURNAL, Sept./Oct. 2009 at 47–48 (May 25, 2009).
Admonition, UTAH BAR JOURNAL, July/Aug. 2009 at 55 (Apr. 17, 2009).
Public Reprimand of R. Bradley Neff, UTAH BAR JOURNAL, July/Aug. 2009 at 55 (Apr. 10, 2009).

Admonition, UTAH BAR JOURNAL, July/Aug. 2009 at 55 (Apr. 10, 2009).
Admonition, UTAH BAR JOURNAL, May/June 2009 at 47 (Feb. 25, 2009).
Public Reprimand of Daniel v. Irvin, UTAH BAR JOURNAL, May/June 2009 at 48 (Jan. 28, 2009).
Public Reprimand of Roy D. Cole, UTAH BAR JOURNAL, Mar./Apr. 2009 at 52 (Nov. 26, 2008).
Public Reprimand of Kent Snider, UTAH BAR JOURNAL, Jan./Feb. 2009 at 48 (Nov. 10, 2008).
Admonition, UTAH BAR JOURNAL, Jan./Feb. 2009 at 48 (Nov. 10, 2008).
Public Reprimand of John E. Cawley, UTAH BAR JOURNAL, Jan./Feb. 2009 at 46 (Sept. 29, 2008).
Public Reprimand of Bruce L. Nelson, UTAH BAR JOURNAL, Jan./Feb. 2009 at 46–47 (Aug. 19, 2008).
Admonition, UTAH BAR JOURNAL, Nov./Dec. 2008 at 47 (July 18, 2008).

- 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).

Although I participated as a panel member in dozens of cases, I was not the presiding Committee Member in any of these cases. Using my calendar archives and records kept by the current Committee Chair, the Committee was able to identify the following nine cases in which I participated that resulted in public reprimands or authorizations to file formal complaints. Although not necessarily the most significant matters in which I participated, I believe the cases listed below are representative of the types of matters that I heard.

(1) *Public Reprimand of Keane*, UTAH BAR JOURNAL, Sept./Oct. 2014 at 56 (May 28, 2014). Copy supplied.

Mr. Keane was retained and paid a flat fee to represent two defendants in a debt collection/foreclosure matter. He failed to inform his clients of hearings and conferences, failed to appear at one hearing, and settled the case against his clients' instructions by agreeing to the entry of final judgment against his clients and by stipulating to an amount of damages that exceeded the amount sought in the complaint. The Committee issued a public reprimand. Mr. Keane did not seek judicial review of the Committee's decision.

Counsel for the Office of Professional Conduct:

Barbara L. Townsend
 645 S. 200 E.
 Salt Lake City, UT 84111
 801-531-9110

Counsel for Respondent Mr. Keane:

Pro se

(2) In re Discipline of Anderson, OPC Case No. 12-0531.

Mr. Anderson signed a plea-in-abeyance agreement in response to a state criminal charge of assaulting a police officer. Among other things, Mr. Anderson responded to an arrest by threatening the family of one police officer and kicking another officer in the chest and shoulder. Mr. Anderson subsequently pled guilty to federal criminal charges for carrying a concealed weapon on an aircraft. Among other things, he brought a knife aboard an aircraft, threatened to cut the throat of another passenger, and threatened to kill a local police officer and an FBI special agent. After Mr. Anderson pled guilty to the federal charge, the state court judge determined that he had violated his-plea-in abeyance agreement and entered a plea of guilty to the earlier state criminal charge. The Committee directed the Office of Professional Conduct to file a formal complaint against Mr. Nichols in state court, but the Committee itself did not issue an opinion or judgment. The state course case was resolved by a settlement agreement, pursuant to which Mr. Anderson's license to practice law was suspended for two years.

Counsel for the Office of Professional Conduct:

Billy L. Walker
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. Anderson:

Pro se

(3) In re Discipline of La Jeunesse, OPC Case No. 12-0481.

Mr. La Jeunesse is an administrative law judge who supervises the Adjudication Division of the Utah Labor Commission. After receiving complaints and conducting an audit, the Utah Labor Commission determined that Ms. Hann, an administrative law judge in the Adjudication Division, had requested changes to, rejected, destroyed, and/or deleted from the Commission's database any notations of reports issued by medical panels in five worker's compensation cases without notice to the parties. The Commission determined that this conduct was inappropriate and violated the Utah Worker's Compensation Act and the Utah Administrative Procedure Act, and that Mr. La Jeunesse was aware of Ms. Hann's conduct. The Committee directed the Office of Professional conduct to file a formal complaint against Mr. La Jeunesse in state court, but the Committee itself

did not issue an opinion or judgment. After conducting a bench trial, the state court trial court dismissed the complaint. An appeal of the trial court's decision is currently pending.

Counsel for the Office of Professional Conduct:

Barbara L. Townsend
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. La Jeunesse:

Scott Daniels
Scott Daniels, Attorney-At-Law
1171 Laird Avenue
Salt Lake City, UT 84105
801-583-0801

(4) *In re Discipline of Hann*, OPC Case No. 12-0483.

Ms. Hann is an administrative law judge in the Adjudication Division of the Utah Labor Commission. After receiving complaints and conducting an audit, the Utah Labor Commission determined that Ms. Hann had requested changes to, rejected, destroyed, and/or deleted from the Commission's database any notations of reports issued by medical panels in five worker's compensation cases without notice to the parties. The Commission determined that this conduct was inappropriate and violated the Utah Worker's Compensation Act and the Utah Administrative Procedure Act. The Committee directed the Office of Professional Conduct to file a formal complaint against Ms. Hann in state court, but the Committee itself did not issue an opinion or judgment. The state court case has been stayed pending the outcome of the appeal in *In re Discipline of La Jeunesse*, *supra*.

Counsel for the Office of Professional Conduct:

Barbara L. Townsend
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Ms. Hann:

Scott Daniels
Scott Daniels, Attorney-At-Law
1171 Laird Avenue

Salt Lake City, UT 84105
801-583-0801

(5) *In re Discipline of Nichols*, OPC Case No. 12-0392.

Mr. Nichols was retained and paid a flat fee to represent a client in a divorce proceeding. After preparing a draft summons and complaint but before making several changes requested by the client, Mr. Nichols disappeared. He did not respond to phone calls or emails, his telephone numbers were disconnected, and his office was vacated. Ultimately, the client had to retain a second attorney to represent him, but received neither his file nor a refund from Mr. Nichols. The Committee directed the Office of Professional Conduct to file a formal complaint against Mr. Nichols in state court, but the Committee itself did not issue an opinion or judgment. (The state court complaint included matters addressed by other Committee panels in which I do not appear to have participated in addition to the matters discussed here.) The state court case was dismissed after Mr. Nichols resigned his license to practice law.

Counsel for the Office of Professional Conduct:

Barbara L. Townsend
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. Nichols:

None (Mr. Nichols did not appear at the hearing.)

(6) *Public Reprimand of Johnson*, UTAH BAR JOURNAL, Nov./Dec. 2010 at 58 (Aug. 3, 2010). Copy supplied.

Mr. Johnson was retained to assist a client with the distribution of a settlement check and real estate property that had been awarded to his client. Mr. Johnson failed to complete the steps necessary to secure ownership of the property and, as a result, the client lost any value the property may have had. Mr. Johnson could not account for his failure and did nothing to rectify it. The Committee issued a public reprimand. Mr. Johnson did not seek judicial review of the Committee's decision.

Counsel for the Office of Professional Conduct:

Billy L. Walker
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. Johnson:

Pro se

(7) *Public Reprimand of Johnson*, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57 (Aug. 3, 2010). Copy supplied.

Mr. Johnson was retained by a client to represent her in an immigration matter. Mr. Johnson lost the client's file; required her to complete the same immigration forms multiple times; failed to respond to the government's discovery requests; and failed to return phone calls, respond to letters, or answer notes left at his unoccupied office. As a result the client had to pay additional immigration fees and suffered delays in her immigration proceedings. The Committee issued a public reprimand. Mr. Johnson did not seek judicial review of the Committee's decision.

Counsel for the Office of Professional Conduct:

Billy L. Walker
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. Johnson:

Pro se

(8) *Public Reprimand of Johnson*, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57–58 (Aug. 2, 2010). Copy supplied.

Mr. Johnson was hired to represent a client in an immigration matter. He failed to return phone calls and to relay important developments and documents to his client. As a result, the client suffered a delay in her immigration proceedings. The Committee issued a public reprimand. Mr. Johnson did not seek judicial review of the Committee's decision.

Counsel for the Office of Professional Conduct:

Billy L. Walker
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. Johnson:

Pro se

(9) *Public Reprimand of Johnson*, UTAH BAR JOURNAL, Nov./Dec. 2010 at 57 (Aug. 2, 2010). Copy supplied.

Mr. Johnson was hired and paid a retainer fee to represent a client in an immigration matter. He failed to notify his client of approval of her immigration application; to return phone calls, respond to letters, or answer notes left at his unoccupied office; to complete the work for which the fee was charged; to document services performed or hours worked for the client; to refund any portion of his fee; and to return his client's file upon request and termination of representation. As a result, the client had to hire and pay another attorney, suffered a delay in obtaining permanent residency status, and lost original documents in her file. The Committee issued a public reprimand. Mr. Johnson did not seek judicial review of the Committee's decision.

Counsel for the Office of Professional Conduct:

Billy L. Walker
645 S. 200 E.
Salt Lake City, UT 84111
801-531-9110

Counsel for Respondent Mr. Johnson:

Pro se

- 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.

I did not write any opinions.

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

I am not aware of any 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.

I am not aware of any opinions or decisions issued by the Ethics and Discipline Committee in cases in which I participated that were directly reversed by a

reviewing court or affirmed with significant criticism. However, in *In re Discipline of La Jeunesse*, a state trial court dismissed (after a bench trial) a case brought by the Office of Professional of Conduct pursuant to the Committee's direction to file a formal complaint in state court. An appeal of the trial court's decision is currently pending. The Committee did not issue an opinion. A copy of the trial court's opinion is supplied.

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

I did not personally issue any unpublished opinions. I am unable to provide a number or percentage of unpublished opinions issued by the Committee in matters in which I participated. Public reprimands and private admonitions (with the attorneys' names withheld) are published in the UTAH BAR JOURNAL. Dismissals and authorizations to file formal complaints are not reported. Information relating to Committee decisions is maintained by the Ethics and Discipline Committee and/or the Office of Professional Conduct, but information relating to cases that resulted in dismissals or private admonitions can be released only with the consent of the respondent attorney or pursuant to a court order.

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

None.

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

I have never sat by designation on a federal court of appeals.

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;

- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

I have not held judicial office. I do not recall any case in which I recused myself during my service on the Ethics and Discipline Committee. I would have recused myself in any case involving matters in which I had played any role, in any case involving members of my family, close friends, or my own financial interests, or in any case in which my law firm represented a party. I would have evaluated any other real or potential conflict, or relationship that could give rise to the appearance of a conflict, on a case-by-case basis.

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.

Special Assistant to the Deputy Attorney General, United States Department of Justice (2001). Appointed by Attorney General John Ashcroft.

Counsel to the Attorney General, United States Department of Justice (2001–2003). Appointed by Attorney General John Ashcroft.

Deputy Assistant Attorney General, Office of Legal Counsel, United States Department of Justice (2003–2005). Appointed by Attorney General John Ashcroft.

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.

Member, Romney for President Justice Advisory Committee (2011–2012)
In this minor advisory role, I provided occasional advice on judicial and legal policy issues for Mitt Romney's 2008 presidential campaign.

Member, Governor Romney's Committee on the Constitution and the Courts (2007–2008)

In this minor advisory role, I provided occasional advice on judicial and legal policy issues for Mitt Romney's 2012 presidential campaign.

Precinct Chair, Utah County Republican Party (2006–2008)

Member, Central Committee, Utah County Republican Party (2006–2008)

State Delegate, Utah Republican Party (2006–2007)

County Delegate, Utah County Republican Party (2006–2007)

Member, Executive Committee, Brigham Young University College Republicans (1990–1992)

Campaign Assistant, Nielson for Congress and Nielson Re-election Campaigns (1982, 1984, 1986, 1990)

I helped record campaign contributions, distributed campaign literature and posters, and occasionally spoke on behalf of my father, Howard C. Nielson, during his campaigns for the United States House of Representatives (Utah, third district).

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

a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

From 1997 to 1998, I served as a law clerk to the Honorable J. Michael Luttig, Circuit Judge of the United States Court of Appeals for the Fourth Circuit. From 1998 to 1999, I served as a law clerk to the Honorable Anthony M. Kennedy, Associate Justice of the Supreme Court of the United States.

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

I have not practiced alone.

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

1999–2001

Jones, Day, Reavis & Pogue (now Jones Day)
51 Louisiana Ave., N.W.

Washington, D.C. 20001
Associate, Issues and Appeals Practice Group

2001–2005

United States Department of Justice
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Special Assistant to the Deputy Attorney General (2001)
Counsel to the Attorney General (2001–2003)
Deputy Assistant Attorney General, Office of Legal Counsel (2003–2005)

2008–2014

The Boeing Company
6300 JS McDonnell Blvd.
Berkeley, MO 63134
Legal Consultant

2005–present

Cooper & Kirk, PLLC
1523 New Hampshire Ave., N.W.
Washington, D.C. 20036
Of Counsel (2005–2010)
Partner (2010–present)

- 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 worked as an associate in the Issues and Appeals Practice Group at Jones, Day, Reavis & Pogue (now Jones Day) (1999–2001). At Jones Day, my practice primarily involved litigation, especially legal analysis and briefing at both the trial and appellate levels.

I then worked in the Office of the Attorney General at the United States Department of Justice (2001–2003), where I provided legal advice to the Attorney General and helped supervise litigation implicating Departmental priorities. I next worked in the Office of Legal Counsel (2003–2005), which provides legal opinions and informal advice to the White House, the Attorney General, and Executive Branch Departments and Agencies on

issues covering the full spectrum of international, constitutional, statutory, and regulatory law.

I have worked at Cooper & Kirk since leaving the Department of Justice (2005–present). My practice has primarily involved litigation at the trial, appellate, and Supreme Court levels.

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

At Jones Day most of my clients were corporations, though I also represented an individual client and a trade association. I also provided *pro bono* representation for a county government and for a local government association. My practice involved a variety of legal areas, though the majority of my work involved either constitutional law or labor and employment law.

At the Department of Justice, my client was the United States. My work involved both criminal and civil matters and a wide range of legal areas.

At Cooper and Kirk I have represented both individual and corporate clients. I have also provided *pro bono* representation for individuals, scholars, former government officials, and legislators. My primary specialization has been constitutional law, but I have also litigated cases involving government contracts, antitrust law, administrative law, and a variety of other legal areas.

- 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.

At Jones Day (1999–2001), approximately 90 percent of my practice involved litigation. I occasionally attended court hearings, though I did not enter any formal appearances.

At the Department of Justice (2001–2005), I was not directly involved in litigation. I did participate in making certain litigation decisions, however, and I helped supervise a number of litigation matters. I occasionally attended court hearings, though I did not enter any formal appearances.

At Cooper and Kirk (2005–present), approximately 90 percent of my practice has involved litigation. I have appeared in court occasionally.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 93%
 - 2. state courts of record: 3%

3. other courts: 0%
4. administrative agencies: 4%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 99%
2. criminal proceedings: 1%

- 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 participated as associate counsel in a 13-day trial in federal district court. I also participated as associate counsel in a 5-day trial-like evidentiary hearing before the General Accounting Office in connection with a bid protest. Both of these proceedings resulted in final decisions. I have also participated in a number of other cases that have gone to trial, though I did not personally participate in the trials in those cases. In addition, I have litigated many cases to final judgment based on dispositive motions.

i. What percentage of these trials were:

1. jury: 0%
2. non-jury: 100%

- 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.

With co-counsel, I have represented parties in a number of cases in the Supreme Court. I have represented parties in three merits cases before the Supreme Court, though I did not present argument:

Schuette v. Coalition to Defend Affirmative Action, 134 S. Ct. 1623 (2014).

Hollingsworth v. Perry, 133 S. Ct. 2652 (2013).

General Dynamics Corp. v. United States of America, 563 U.S. 478 (2011).

I have represented *amici curiae* in eight additional merits cases:

Whole Woman's Health v. Hellerstedt, 136 S. Ct. 2292 (2016).

Obergefell v. Hodges, 135 S. Ct. 2584 (2015).

King v. Burwell, 135 S. Ct. 2480 (2015).

Utility Air Regulatory Grp. v. EPA, 134 S. Ct. 2427 (2014).

Mississippi ex rel. Hood v. AU Optronics Corp., 134 S. Ct. 736 (2014).

The Standard Fire Ins. Co. v. Knowles, 568 U.S. 588 (2013).

National Federation of Independent Business v. Sebelius, 567 U.S. 519 (2012).

District of Columbia v. Heller, 554 U.S. 570 (2008).

I have also represented parties or *amici curiae* in the following cases at the certiorari stage in the Supreme Court:

Fairholme Funds, Inc. v. Federal Housing Finance Agency, No. 17-591 (Oct. 16, 2017)

Friedman v. City of Highland Park, No. 15-133 (July 27, 2015).

King v. Burwell, No. 14-114 (Sept. 3, 2014).

National Rifle Ass'n of America, Inc. v. McCraw, No. 13-390 (Sept. 24, 2013).

National Rifle Ass'n of America, Inc. v. Bureau of Alcohol, Tobacco, Firearms, and Explosives, No. 13-137 (July 29, 2013).

Hollingsworth v. Perry, No. 12-144 (July 30, 2012).

Spectrum Stores Inc. v. CITGO Petroleum Corp., No. 10-1371 (May 5, 2011).

Hollingsworth v. United States D. Ct. for the N. Dist. of Cal., No. 09-1238 (July 19, 2010).

Boeing Co. v. United States of America, No. 09-1302 (Apr. 23, 2010).

Hollingsworth v. Perry, No. 09-1210 (Apr. 5, 2010).

In addition, I represented a party responding to a motion to dissolve a stay entered by the United States Court of Appeals for the Sixth Circuit in the following case:

Coalition to Defend Affirmative Action v. Granholm, No. 06A678 (Jan. 17, 2007).

I have supplied copies of all of the briefs on which I appeared in the cases listed above.

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) *Matter of the Boeing Company*, B-311344; B-311344.3; B-311344.4; B-311344.6; B-311344.7; B-311344.8; B-311344.10; B-311344.11 (GAO June 18, 2008).

This bid protest arose out of the Government's award to Northrop Grumman of an approximately \$35 billion contract to build the next generation of aerial refueling

tanker aircraft. In 2008, my co-counsel and I represented The Boeing Company before the General Accounting Office, which overturned the award. When the contract was rebid, Boeing was awarded the contract. The bid protest was decided by Gary Kepplinger, Guy R. Petrovito, and James A. Spangenberg.

Co-counsel:

Rand L. Allen
Paul F. Khoury
Scott M. McCaleb
Wiley Rein LLP
1776 K Street, N.W.
Washington, D.C. 20006
202-719-7000

Lynda Guild Simpson
Stephen J. Curran
The Boeing Company
929 Long Bridge Drive
Arlington, VA 22202
703-465-3500

Counsel for Defendant-Intervenor Northrop Grumman:

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Rogers Joseph O'Donnell, PC
311 California Street, 10th Floor
San Francisco, CA 94104
415-956-2828

Counsel for Defendant the United States:

Bryan R. O'Boyle
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(2) *Novell, Inc. v. Microsoft Corp.*, 429 Fed. Appx. 254 (4th Cir. 2011); *Novell, Inc. v. Microsoft Corp.*, 505 F.3d 302 (4th Cir. 2007).

This litigation involved an antitrust suit brought by Novell against Microsoft claiming that Microsoft had attempted to leverage its operating system monopoly to obtain a monopoly in the market for word processors and other office productivity applications. From 2006 to 2011, my co-counsel and I represented Novell on an appeal from the district court's denial of Microsoft's motion to dismiss (the court of

appeals affirmed), and on an appeal from the district court's subsequent dismissal of the case (the court of appeals reversed). I was not involved in the district court proceedings leading up to these two appeals or with subsequent proceedings in the case. The case ultimately went to trial. After the jury deadlocked, the district court granted judgment as a matter of law for Microsoft, and the court of appeals affirmed. The appeals were decided in the United States Court of Appeals for the Fourth Circuit by Judges Widener, Shedd, Duncan, and Hamilton.

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(3) *Spectrum Stores, Inc. v. Citgo Petroleum Corp.*, 632 F.3d 938 (5th Cir. 2011); *In re Refined Petroleum Products Antitrust Litigation*, 649 F. Supp. 2d 572 (S.D. Tex. 2009).

This litigation involved an antitrust challenge to Citgo's participation in the OPEC price-fixing cartel. From 2006 to 2011, my co-counsel and I represented a group of service stations that had purchased petroleum products from Citgo. The district court dismissed the suit pursuant to the political question and act of state doctrines, the court of appeals affirmed, and the Supreme Court denied review. The case was decided in the United States Court of Appeals for the Fifth Circuit by Judges Jolly, Wiener, and Stewart. The case was decided in the district court by United States District Judge Simeon T. Lake III.

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(4) *Hollingsworth v. Perry*, 133 S. Ct. 2652 (2013); *Hollingsworth v. Perry*, 558 U.S. 183 (2010); *Perry v. Brown*, 671 F.3d 1052 (9th Cir. 2012); *Perry v. Brown*, 667 F.3d 1078 (9th Cir. 2012); *Perry v. Schwarzenegger*, 628 F.3d 1191 (9th Cir. 2011); *Perry v. Schwarzenegger*, 591 F.3d 1147 (9th Cir. 2010); *Perry v. Proposition 8 Official Proponents*, 587 F.3d 947 (9th Cir. 2009); *Perry v. Brown*, 52 Cal. 4th 1116 (2011); *Perry v. Schwarzenegger*, 790 F. Supp. 2d 1119 (N.D. Cal. 2011); *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921 (N.D. Cal. 2010).

This litigation involved a federal constitutional challenge to a ballot initiative adopted by the voters of California which had defined marriage as the union of a man and a woman. From 2009 to 2013, my co-counsel I represented the official proponents of that initiative in the trial court, on various appeals to the United States Court of Appeals for the Ninth Circuit, on a certified question to the California Supreme Court, and before the Supreme Court of the United States. Among other things, I deposed and cross-examined expert witnesses, argued motions in the trial court, and argued one of the appeals in the Ninth Circuit. Ultimately the Supreme Court of the United States determined that the official proponents lacked standing to appeal the district court's decision, which had held that the initiative was unconstitutional. Various appeals were heard and decided in the Ninth Circuit by Judges Reinhardt, Hawkins, N. Randy Smith, Wardlaw, Fisher, Berzon, McKeown, and Rymer. The trial in the district court was before United States District Judge Vaughn R. Walker. Other proceedings in the district court were heard and decided by Judge Walker and by United States District Judge W. James Ware. Proceedings in the Supreme Court of the United States and the California Supreme Court were heard and decided by all of the then-current Justices of those courts.

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(5) *Schuette v. Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN)*, 134 S. Ct. 1623 (2014); *Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN) v. Regents of University of Michigan*, 701 F.3d 466 (6th Cir. 2012); *Coalition to Defend Affirmative Action v. Granholm*, 473 F.3d 237 (6th Cir. 2006).

This case involved a federal constitutional challenge to a ballot proposal adopted by the voters of Michigan that prohibited government discrimination or preferences based on race, sex, color, ethnicity, or national origin. From 2006 to 2014, my co-counsel and I represented Eric Russell, a law-school applicant for the class of 2009 who intervened to defend the ballot proposal. Although I had some involvement with the litigation throughout the entire course of its proceedings, I was involved primarily with a 2006 application to the Sixth Circuit for a stay of the district court's preliminary injunction, with a subsequent opposition to an application to the Supreme Court to vacate that stay, and with the 2012–2014 proceedings before the *en banc* Sixth Circuit and the Supreme Court. The Supreme Court ultimately upheld the constitutionality of the ballot proposal. The case was heard by all of the then-current members of the Supreme Court of the United States. The case was heard in the Sixth Circuit by all of the then-current members of that court, with the exception of Judges McKeague and Kethledge.

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(6) *General Dynamics v. United States*, 563 U.S. 478 (2011); *McDonnell Douglas Corp. v. United States*, 567 F. 3d 1340 (Fed. Cir. 2009).

This litigation arose out of the United States' default termination of a multi-billion dollar contract with McDonnell Douglas Corporation and General Dynamics to build a carrier-based attack plane for the Navy and its demand that the companies return approximately \$1.35 billion of the money that they had received from the United States and spent performing the contract. From 2008 to 2014, I represented The Boeing Company, as successor to McDonnell Douglas Corporation. I was retained after the United States Court of Federal Claims ruled for the Government. With my co-counsel, I represented The Boeing Company at the United States Court of Appeals for the Federal Circuit (which affirmed the decision of the Court of Federal Claims), at the Supreme Court (which reversed the decision of the Federal Circuit), and on remand proceedings in the Federal Circuit and Court of Federal Claims. Ultimately the litigation settled. The case was decided by all of the then-current justices of the United States Supreme Court. It was decided in the United States Court of Appeals for the Federal Circuit by Judges Michel, Moore, and Marilyn L. Huff (District Judge, United States District Court for the Southern District of California, sitting by

designation). Proceedings in the United States Court of Federal Claims were heard by Judge Robert H. Hodges, Jr.

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(7) *Space Exploration Technology Corp. v. United States*, No. 14-354 C (CFC 2014–2015).

This bid protest arose out of the Government’s award to United Launch Alliance of an approximately \$11 billion contract to launch multiple satellites for the Department of Defense. From 2014 to 2015, my co-counsel and I represented defendant-intervenor United Launch Alliance. After proceedings in the United States Court of Federal Claims, the case was ultimately resolved through mediation. Proceedings in the United States Court of Federal Claims were before Judge Susan G. Braden.

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(8) *Lembo v. Park Place Associates*, CV-15-066 (Maine Super. Ct.).

This litigation arose after Harvey Lembo, an elderly, disabled man, was threatened by his landlord with eviction for firing a handgun in his apartment to defend himself against a burglar. From 2015 to 2016, my co-counsel and I represented Mr. Lembo in proceedings before a trial court in Maine. Among other things, I argued a dispositive motion. The case was ultimately resolved through a settlement pursuant to which the landlord agreed not to seek to evict Mr. Lembo for using a handgun in self-defense. The case was heard by Maine Superior Court Justice William R. Stokes.

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(9) *Wrenn v. District of Columbia*, 864 F. 3d 650 (D.C. Cir. 2017); *Grace v. District of Columbia*, 187 F. Supp. 3d 124 (D.D.C. 2016).

This case involved a federal constitutional challenge to a D.C. law prohibiting individuals from obtaining a permit to carry a handgun absent a showing of a special need for self-protection distinguishable from the general community or of a type of employment requiring the carrying of cash or other valuables. From 2015 to 2017, my co-counsel and I represented Mathew Grace and the Pink Pistols, an organization in which Grace and other members champion the right of sexual minorities to carry guns for self-defense. The courts held that the DC law was unconstitutional. The case was decided in the D.C. Circuit by Judges Griffith, Henderson, and Williams. The case was decided in the district court by United States District Court Judge Richard J. Leon.

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(10) *Perry Capital LLC v. Mnuchin*, 864 F.3d 591 (D.C. Cir. 2017); *Perry Capital v. Lew*, 70 F. Supp. 3d 208 (D.D.C. 2014); *Fairholme Funds, Inc. v. United States*, 681 Fed. Appx. 945; *In re United States*, 678 Fed. Appx. 981 (Fed. Cir. 2017).

These lawsuits arise out of the “Net Worth Sweep,” pursuant to which Fannie Mae and Freddie Mac are required to pay their entire net worth to the United States each

quarter as dividends for government funds invested in these companies beginning with the 2008 financial crisis. Beginning in 2013, my co-counsel and I have represented Fairholme Funds, Inc., a private shareholder in Fannie Mae and Freddie Mac in parallel litigation in the United States District Court for the District of Columbia and the United States Court of Appeals for the District of Columbia Circuit, on the one hand, and in the United States Court of Federal Claims and the United States Court of Appeals for the Federal Circuit, on the other hand. Both lawsuits are ongoing. An appeal in the D.C. Circuit was decided by Judges Ginsburg, Brown, and Millett, and a petition for writ of certiorari to review that decision is pending before the Supreme Court. Appellate proceedings in the Federal Circuit have been decided by Judges Dyk, O'Malley, Wallach, Lourie, and Taranto. Proceedings in the District Court are before United States District Court Judge Royce C. Lamberth. Proceedings in the Court of Claims are before Judge Margaret M. Sweeney.

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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.)

As Counsel to the Attorney General, I advised Attorney General Ashcroft on a variety of legal matters and helped supervise significant litigation relating to departmental priorities.

As Deputy Assistant Attorney General in the Office of Legal Counsel, I provided legal advice, resolved interagency disputes, and issued formal legal opinions for the Executive Branch on a variety of issues.

As a member of the Ethics and Discipline Committee of the Utah Supreme Court, I sat on

panels that heard and decided ethics complaints against members of the Utah State Bar.

As a lecturer at the J. Reuben Clark Law School, I have taught classes on current issues in constitutional litigation, national security law, foreign affairs law, and federal courts.

I have provided legal opinions and advice to a number of clients.

In 2013 and 2016 I engaged in very limited lobbying for broadening federal diversity jurisdiction on behalf of Access to Courts Initiative. My law firm determined that my limited activity did not cross the threshold that would require reporting under the Lobbying Disclosure Act.

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.

In the winter semesters of 2012, 2013, and 2014, I taught Current Issues in Constitutional Litigation at Brigham Young University's J. Reuben Clark Law School. Topics included pending constitutional litigation likely to be resolved by the Supreme Court, litigation strategy, and oral advocacy. I did not create a syllabus for any of the years that I taught this class.

In the winter semesters of 2009 and 2011, I taught Issues in National Security Law at J. Reuben Clark Law School. This class focused on the statutes, treaties, and constitutional provisions governing the United States military and intelligence community. Topics included the national security powers of the President and Congress under the Constitution, the framework of presidential authority and congressional oversight established by the National Security Act, and the constitutional and statutory framework governing electronic surveillance for national security purposes. I have supplied a syllabus for each year that I taught this class.

In the Winter 2008 semester, I taught The U.S. Constitution and International Law at J. Reuben Clark Law School. This class examined the relationship between the United States' international obligations and the Federal Constitution, which confers limited federal powers allocated among the legislative, executive, and judicial branches. Topics included the scope and limits (if any) of the Treaty Power, the Senate's role in defining or limiting the United States' treaty obligations as a matter of international and domestic law, the constitutionality of treaty provisions assigning adjudicatory or lawmaking authority to international bodies, and the domestic legal status of customary international law. Syllabus provided.

In the Winter 2007 semester, I taught Federal Courts at J. Reuben Clark Law School. The class examined the jurisdiction of the federal courts. Topics included federal question and supplemental jurisdiction, justiciability, sovereign immunity, private rights of action and 42 U.S.C. § 1983, abstention, Supreme Court review, and Congress's power to restrict

jurisdiction. Syllabus provided.

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 do not anticipate any compensation of this kind.

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 do not have any plans, agreements, or commitments to pursue outside employment. If I am confirmed, I would consider teaching occasional law classes if the demands on my time permit me to do so.

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 recuse myself in any litigation where I have ever played a role, or in any matter involving members of my family or my own financial interests. For a period of time, I anticipate recusing myself in any case in which my current law firm, Cooper & Kirk PLLC, represents a party. I will evaluate any other real or potential conflict, or relationship that could give rise to the appearance of a conflict, on a case-by-case basis and determine appropriate action, with the advice of parties and their counsel, including recusal where

necessary.

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

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

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

I have represented disadvantaged individuals and others who could not afford my legal fees on a *pro bono* basis on a number of occasions. For example, I provided more than 300 hours of *pro bono* representation for an individual in the litigation culminating in *Schuetz v. Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality By Any Means Necessary (BAMN)*, 134 S. Ct. 1623 (2014). I have also provided informal legal advice at no cost to individuals in my community who could not afford my legal fees on various matters, including settlement of a potential medical malpractice claim, contractual disputes, and issues relating to government benefits. I have sought to serve the disadvantaged in other ways, as well, including through church and community service.

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.

I am unaware of any judicial section commission for federal judicial positions in Utah. On November 17, 2016, Senator Mike Lee asked me whether I would be interested in a judicial position and I have been in touch with him since that time. On March 24, 2017, I discussed a potential judicial nomination to the District Court in Utah with an official at the White House Counsel's Office and I have been in touch with officials from that Office since that time. On April 6, 2017, I was invited to meet with Senator Hatch for an interview. I met with the Senator

on April 10, 2017, at his office in Salt Lake City. At the conclusion of the interview, the Senator told me that he would include my name on a list of potential nominees that he would submit to the White House. On April 25, 2017, Senator Mike Lee informed me that he had included my name on a list of potential nominees that he had submitted to the White House. On May 3, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Old Executive Office Building in Washington, D.C. I have been in touch with officials from the Justice Department since that time. On September 28, 2017, 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.

FINANCIAL DISCLOSURE REPORT
NOMINATION FILINGReport Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)

1. Person Reporting (last name, first, middle initial) Nielson, Jr., Howard C.	2. Court or Organization U.S. District Court, Utah	3. Date of Report 10/02/2017
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) U.S. District Judge (nominee)	5a. Report Type (check appropriate type) ☒ Nomination Date 09/28/2017 ☐ Initial ☐ Annual ☐ Final 5b. ☐ Amended Report	6. Reporting Period 01/01/2016 to 09/15/2017
7. Chambers or Office Address Cooper & Kirk PLLC 1523 New Hampshire Ave., N.W. Washington, D.C. 20036		
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.		

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. Partner	Cooper & Kirk, PLLC
2. Unit Chartered Organization Head	Boy Scouts of America
3.	
4.	
5.	

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.	
2.	
3.	

FINANCIAL DISCLOSURE REPORT

Page 2 of 8

Name of Person Reporting

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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. 2017	Cooper & Kirk, PLLC, income	\$216,058.06
2. 2016	Cooper & Kirk, PLLC, income	\$307,189.04
3. 2015	Cooper & Kirk, PLLC, income	\$312,049.92
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.	
2.	
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

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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

Page 4 of 8

Name of Person Reporting

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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 mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. 401K (H)									
2. -MADVX	D	Dividend	L	T	Exempt				
3. -BHYIX	C	Dividend	K	T	Exempt				
4. -DDVIX	B	Dividend	L	T	Exempt				
5. -DEVIX		None	K	T	Exempt				
6. -HLMIX	A	Dividend	L	T	Exempt				
7. -AGG	A	Dividend	K	T	Exempt				
8. -EFA	B	Dividend	L	T	Exempt				
9. -IWP	A	Dividend	K	T	Exempt				
10. -IVW	B	Dividend	M	T	Exempt				
11. -IJJ	A	Dividend	K	T	Exempt				
12. -IJT	A	Dividend	K	T	Exempt				
13. -TIP	A	Dividend	K	T	Exempt				
14. -PFF	B	Dividend	K	T	Exempt				
15. -VWO	A	Dividend	K	T	Exempt				
16. -HIEMX	A	Dividend	K	T	Exempt				
17. -DXJ	A	Dividend	K	T	Exempt				

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

K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000

M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

3. Value Method Codes
(See Column C2)

P3 = \$25,000,001 - \$50,000,000
Q = Appraisal
U = Book Value

R = Cost (Real Estate Only)
V = Other

P4 = More than \$50,000,000
S = Assessment
W = Estimated

T = Cash Market

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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 mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
18. -FTA	A	Dividend			Exempt				
19. -CIU	A	Dividend			Exempt				
20. -IWS		None			Exempt				
21. -IJK		None			Exempt				
22. -JKL		None			Exempt				
23. -HLEMX		None			Exempt				
24. -OAKMX		None			Exempt				
25. -OAKIX		None			Exempt				
26. -CFSIX		None			Exempt				
27. -PIMSX	A	Dividend			Exempt				
28. -EEM		None			Exempt				
29. -IYR	A	Dividend			Exempt				
30. -ABYIX		None			Exempt				
31. -LISIX		None			Exempt				
32. -RWGIX		None			Exempt				
33. -UBVSX	A	Dividend			Exempt				
34. -Morgan Stanley Bank Account	A	Interest	J	T	Exempt				

1. Income Gain Codes:
(See Columns B1 and D4)

A = \$1,000 or less
F = \$50,001 - \$100,000

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

3. Value Method Codes
(See Column C2)

Q = Appraisal
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000

R = Cost (Real Estate Only)
V = Other

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
S = Assessment
W = Estimated

D = \$5,001 - \$15,000
H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000

T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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 mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
35. U.S. Savings Bonds (Series I)		None	J	T	Exempt				
36. Utah Community Credit Union Accounts	B	Interest	M	T	Exempt				
37. Wells Fargo Bank Account	A	Interest	J	T	Exempt				
38. Chase Bank Account		None	J	T	Exempt				
39. Bank of New York Mellon Account	A	Interest	J	T	Exempt				
40.									
41.									
42.									

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

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E = \$15,001 - \$50,000

2. Value Codes
(See Columns C1 and D3)

J = \$15,000 or less
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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

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

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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

FINANCIAL DISCLOSURE REPORT

Page 8 of 8

Name of Person Reporting

Nielson, Jr., Howard C.

Date of Report

10/02/2017

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: s/ Howard C. Nielson, Jr.

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

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		200	867	Notes payable to banks-secured (auto)		5	607
U.S. Government securities		4	445	Notes payable to banks-unsecured			
Listed securities – see schedule		636	417	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due			
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – see schedule		287	751
Real estate owned – see schedule		600	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		26	363				
Cash value-life insurance			13				
Other assets itemize:							
Thrift Savings Plan		199	326				
				Total liabilities		293	358
				Net Worth	1	374	073
Total Assets	1	667	431	Total liabilities and net worth	1	667	431
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

Listed Securities

BlackRock Equity Dividend Fund I	\$ 69,589
BlackRock High Yield Bond Fund I	30,918
Delaware Value Fund I	61,575
Delaware Small Cap Value Fund I	25,169
Harding Loevner International Equity Portfolio Fund I	64,087
iShares Core U.S. Aggregate Bond Exchange-Traded Fund	28,493
iShares MSCI EAFE Exchange-Traded Fund	53,346
iShares Russell Mid-Cap Growth Exchange-Traded Fund	25,355
iShares S&P 500 Growth Exchange-Traded Fund	120,473
iShares S&P Mid-Cap 400 Value Exchange-Traded Fund	25,353
iShares S&P Small-Cap 600 Growth Exchange-Traded Fund	30,102
iShares TIPS Bond Exchange-Traded Fund	15,447
iShares U.S. Preferred Stock Exchange-Traded Fund	15,369
Vanguard FTSE Emerging Markets Exchange-Traded Fund	19,781
Virtus Vontobel Emerging Markets Opportunities Fund I	26,145
WisdomTree Japan Hedged Equity Fund	25,217
Total Listed Securities	<u>\$636,417</u>

Real Estate Owned

Personal Residence	\$599,400
Partial Residential Lot	600
Total Real Estate Owned	<u>\$600,000</u>

Real Estate Mortgages Payable

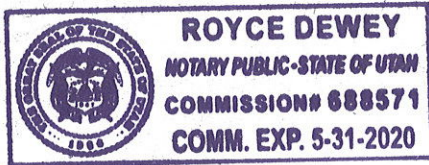
Personal Residence – Mortgage	\$287,751
Total Real Estate Mortgages Payable	<u>\$287,751</u>

AFFIDAVIT

I, HOWARD CURTIS NIELSON, JR., do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

August 28, 2017
(DATE)

h c nelson
(NAME)



Royce Dewey
(NOTARY)