

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Joshua Michael Kindred

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

United States District Judge for the District of Alaska

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 of the Regional Solicitor
4230 University Drive, Suite 300
Anchorage, Alaska 99508

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

1977; Goldsboro, North Carolina

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.

2002 – 2005, Willamette University College of Law; J.D., 2005

1999 – 2002, University of Alaska Anchorage; B.A., 2002

1999, Colorado State University; No Degree

1996, University of Utah; No Degree

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.

2018 – Present

Office of the Regional Solicitor
4230 University Drive, Suite 300
Anchorage, Alaska 99508
Regional Solicitor/Special Assistant United States Attorney

2013 – 2018
Alaska Oil and Gas Association
121 West Fireweed Lane, Suite 207
Anchorage, Alaska 99503
Environmental Counsel

2008 – 2013
Anchorage District Attorney's Office
State of Alaska, Criminal Division
310 K Street, Suite 520
Anchorage, Alaska 99501
Violent Crimes Supervisor, Assistant District Attorney

2007 – 2008
Lane Powell, LLC
1600 A Street, Suite 304
Anchorage, Alaska 99501
Associate

2005 – 2007
Oregon Supreme Court
1163 State Street
Salem, Oregon 97301
Law Clerk, Chief Justice Paul Demuniz

2004 – 2005
Willamette Law Review
245 Winter Street SE
Salem, Oregon 97301
Editor-in-Chief

Other affiliations (uncompensated)

2019 – present
Alaska SeaLife Center
301 Railway Avenue
P.O. Box 1329
Seward, Alaska 99664
Board Member

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including

dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I registered for the selective service upon turning 18.

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

ALI-ABA Scholarship and Leadership Award, Willamette University College of Law, 2005

Order of the Barristers, Willamette University College of Law, 2005

Advanced Criminal Procedure, High Paper, 2005

Dean's List, Willamette University College of Law, 2004

Don Turner Criminal Trial Competition, Moot Court, First Place, 2004

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.

Alaska Bar Association (2005 – present)

Environmental and Natural Resources Section (2014 – present)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Alaska, 2005

There has been no lapse in membership.

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

United States District Court for the District of Alaska, 2005

There has been no lapse in membership.

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

None.

- 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.

Not applicable.

12. Published Writings and Public Statements:

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

Letter to the Editor, *Thanks, Alaska*, Anchorage Daily News, Feb. 11, 2019. Copy supplied.

In Absentia Deportation Orders: The Ninth Circuit's Demand for Notice and Opportunity to be Heard, 41 Willamette Law Review 603 (2005). 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.

Testimony before the House Fisheries Committee, Alaska House of Representatives (April 10, 2018). Recording available online at <http://www.akleg.gov/basis/Meeting/Detail?Meeting=HFSH%202018-04-10%2010:00:00>.

Comment Letter, RE: Alaska Oil and Gas Association's Comments on Permit Application for Regional Material Site (Mine Site 3), Jan. 19, 2018. Copy supplied.

Public Hearing for DP005 - Liberty Project, Bureau of Ocean Management (Oct. 10, 2017). Transcript supplied.

Comment Letter, Re: Call for nominations and comments on all unleased tracts for the upcoming National Petroleum Reserve—Alaska Oil and Gas Lease Sale, Sept. 6, 2017. Copy supplied.

Comment Letter, Re: Secretary of Commerce's Review of Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing, July 17, 2017. Copy supplied.

Comment Letter, RE: Data from 2014 Emissions Testing Program for Small Remote Incinerators, June 23, 2017. Copy supplied.

Comment Letter, Re: EPA-HQ-QA-2017-0190 (82 FR 17793) Evaluation of Existing Regulations, May 15, 2017. Copy supplied.

Comment Letter, Re: Draft Northeastern NPR-A Regional Mitigation Strategy, Dec. 30, 2016. Copy supplied.

Comment Letter, Re: Proposed Amendment to 20 AAC 25.280(f), Dec. 22, 2016. Copy supplied.

Comment Letter, Re: Final Environmental Impact Statement for Effects of Oil and Gas Activities in the Arctic Ocean, Nov. 21, 2016. Copy supplied.

Comment Letter, Re: Comments APDES Preliminary Draft General Permit AKG332000, Nov. 17, 2016. Copy supplied.

Comment Letter, RE: Comments on Draft Endangered Species Act Compensatory Mitigation Policy Docket No. FWS-HQ-ES-2015-0165, Oct. 17, 2016. Copy supplied.

Comment Letter, *Re: Comments on Proposed Revisions to 20 AAC 25.022 - 20 AAC 25.990*, Sept. 27, 2016. Copy supplied.

Testimony before the Senate Environment and Public Works Subcommittee on Fisheries, Water and Wildlife, 114th Cong. (Sept. 21, 2016). Hearing transcript supplied.

Comment Letter, *Re: Air Quality Control, Reporting, and Compliance (1010-AD82)*, June 20, 2016. Copy supplied.

Comment Letter, *Re: Methodology for Assessing Functional Gains and Losses for Permittee Responsible Compensatory Mitigation and Calculating Compensatory Mitigation Credits and Debits for Third Party Mitigation Providers in the Alaska District*, June 14, 2016. Copy supplied.

Comment Letter, *Re: Proposed Revisions to the U.S. Fish and Wildlife Services Mitigation Policy*, June 13, 2016. Copy supplied.

Comment Letter, *Subject: Request for Comments on the Draft Programmatic Environmental Impact Statement on the Outer Continental Shelf Oil and Gas Leasing Program: 2017 – 2022*, May 2, 2016. Copy supplied.

Comment Letter, *Re: Comments on Proposed Changes to Draft Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing*, Mar. 30, 2016. Copy supplied.

Comment Letter, *RE: Comments on Proposed Revision to Regulations Governing Non-Federal Oil and Gas Development within the National Wildlife Refuge System*, Feb. 9, 2016. Copy supplied.

Comment Letter, *Re: Notice of Intent to Prepare an Environmental Impact Statement*, Jan. 26, 2016. Copy supplied.

Comment Letter, *Re: Notice of Proposed Reissuance of General Permit 2016DB0001 – Class I Underground Injection Control Well Waste Disposal*, Jan. 8, 2016. Copy supplied.

Comment Letter, *Re: Comments of the Alaska Oil and Gas Association and American Petroleum Institute on Five-Year Review of the Polar Bear*, Dec. 14, 2015. Copy supplied.

Comment Letter, *Re: Comments on ADEC's Proposed Contaminated Sites Regulations*, Dec. 11, 2015. Copy supplied.

Comment Letter, *Re: Comments on EPA's Proposed Rulemaking - Standards of Performance for New Stationary Sources: Oil and Natural Gas Production and*

Natural Gas Transmission and Distribution, Dec. 4, 2015. Copy supplied.

Comment Letter, *Re: AOGA Comments on Source Determination for Certain Emission Units in the Oil and Natural Gas Sector*, Dec. 4, 2015. Copy supplied.

Testimony before the Senate Energy and Natural Resources Committee, 114th Cong. (Dec. 3, 2015). Written statement supplied. Recording available online at <https://www.energy.senate.gov/public/index.cfm/2015/12/hearing-to-receive-testimony-on-implementation-of-the-alaska-national-interest-lands-conservation-act-of-1980-including-perspectives-on-the-acts-impacts-in-alaska-and-suggestions-for-improvements-to-the-act#>.

Comment Letter, *Re: Hilcorp Alaska, LLC's Liberty Development and Production Plan*, Nov. 17, 2015. Copy supplied.

Comment Letter, *Re: Comments on EPA Revision to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter*, Oct. 27, 2015. Copy supplied.

Comment Letter, *Re: Comments of the Alaska Oil and Gas Association and American Petroleum Institute on the Draft Polar Bear Conservation Management Plan*, Sept. 18, 2015. Copy supplied.

Comment Letter, *Re: Comments of the Alaska Oil and Gas Association on the Draft Recovery Plan for the Cook Inlet Beluga Whale*, July 14, 2015. Copy supplied.

Comment Letter, *Re: Comments of the Alaska Oil and Gas Association and the American Petroleum Institute regarding proposed rule to designate ringed seal critical habitat*, Mar. 31, 2015. Copy supplied.

Comment Letter, *Cook Inlet Risk Assessment Advisory Panel*, Oct. 27, 2014. Copy supplied.

Comment Letter, *RE: Determinations: Restriction on Use of an Area as a Disposal Site; Pebble Deposit Area, Southwest Alaska*, Sept. 19, 2014. Copy supplied.

Comment Letter, *Re: Comments on Oil and Gas Technical Report: Planning for Oil & Gas Activities in the National Petroleum Reserve-Alaska*, May 26, 2014. Copy supplied.

Comment Letter, *Re: Comments on the Draft National Pollutant Discharge Elimination System (NPDES) Geotechnical General Permit for the Beaufort and Chukchi Seas*, Feb. 19, 2014. 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.

May 31, 2018: Moderator, "Climate Change: Pushing aside rhetoric in search of a practical path," Alaska Oil and Gas Association, Anchorage, Alaska. I served as the moderator for this panel. I have no notes, transcript, or recording. The address for the Alaska Oil and Gas Association is 121 West Fireweed, Suite 207, Anchorage, Alaska 99503.

May 31, 2018: Panelist, "Fish Habitat Initiative: What It Is – What It Isn't," Alaska Oil and Gas Association, Anchorage, Alaska. PowerPoint supplied.

April 19, 2018: Speaker, "Climate Change Litigation and Policy Development in Washington and Alaska," Arctic Encounter Symposium, Seattle, Washington. I spoke about Alaska's Climate Change Leadership Team and its efforts to devise a climate change policy focusing on mitigation, adaptation, and innovation. I have no notes, transcript, or recording. The address of the Arctic Encounter Symposium is P.O. Box 2272, Cordova, Alaska 99574.

February 13, 2018: Speaker, "Legislative Update," Southwest Conference, Juneau, Alaska. I spoke regarding a ballot initiative titled "Stand for Salmon" that endeavored to dramatically alter state regulations relating to anadromous fish habitat. I have no notes, transcript, or recording. The address for the Southeast Conference is 612 Willoughby Avenue, Suite B, Juneau, Alaska 99801.

December 14, 2017: Panelist, panel on Stand for Salmon ballot initiative, KDLG, Kenai, Alaska. I spoke at a forum regarding the Stand for Salmon ballot initiative. I have no notes, transcript, or recording. The address for KDLG is P.O. Box 670, Dillingham, Alaska 99576.

October 5, 2017: Speaker, "Regulatory Update," Alaska Support Industry Alliance, Anchorage, Alaska. PowerPoint supplied.

August 23, 2017: Presenter, "Improving Regulations," Alaska Oil and Gas Association, Anchorage, Alaska. PowerPoint supplied.

May 31, 2017: Moderator, "Not Your Grandfather's Environmentalism," Alaska Oil and Gas Association, Anchorage, Alaska. Video available online at

<https://vimeo.com/221215684#t=32m14s>.

April 13, 2017: Speaker, "Breaking Ground – Oil and Gas Development in the Arctic," Arctic Encounter Symposium, Seattle, Washington. PowerPoint supplied.

February 9, 2017: Presenter, "What the Frack? Hydraulic Fracking on the Last Frontier," Alaska Forum on the Environment, Anchorage, Alaska. I spoke about the technology of hydraulic fracking. I have no notes, transcript, or recording. The address for the Alaska Forum on the Environment is PO Box 212409, Anchorage, Alaska 99521.

March 15, 2016: Speaker, "Lunch & Learn – Endangered Species Act," Alaska Oil and Gas Association, Anchorage, Alaska. PowerPoint supplied.

November 12, 2015: Guest Lecturer, "The Business of Oil & Gas in Alaska," University of Alaska Anchorage, Anchorage, Alaska. PowerPoint supplied.

September 28, 2015: Moderator, "Technical and Stakeholder Engagement Solutions for Enhancing Oil and Gas Operations," I served as the moderator for this panel, which focused on the new methods and technology being utilized in Alaska to increase oil production while decreasing environmental impacts. I have no notes, transcript, or recording. The address for the Institute of the North is 715 L Street, Suite 300, Anchorage, Alaska 99501.

June 2015: Speaker, "Promise of the Arctic Conference," Institute of the North, Seattle, Washington. I spoke regarding the resource potential of the Arctic's Outer Continental Shelf. I have no notes, transcript, or recording. The address for the Institute of the North is 715 L Street, Suite 300, Anchorage, Alaska 99501.

January 9, 2015: Presenter, "Endangered Species Act," Meet Alaska 2015, Alaska Support Industry Alliance, Anchorage, Alaska. PowerPoint supplied.

December 2014: Speaker, "AOGA Educational Seminar to Legislators – Endangered Species Act," Alaska Oil and Gas Association, Anchorage, Alaska. PowerPoint supplied.

- 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.

Oil Industry Copes With Climate Impacts As Permafrost Thaws, NPR Morning Edition, June 13, 2018. Copy supplied.

Alistair Gardiner, *Fight over salmon law takes shape*, Kodiak Daily Mirror, Feb. 16, 2018. Copy supplied.

Cameron Mackintosh, *Public meetings on OCS drilling plan postponed due to government shutdown*, KTUU, Jan. 23, 2018. Copy supplied.

Elizabeth Jenkins, *Supreme Court says bearded seal is still threatened, despite legal battle*, Alaska Public Media, Jan. 22, 2018. Recording available online at <https://media.aprn.org/2018/ann-20180122-05.mp3>.

Kristen Nelson, *AOGCC workshop on proposed changes raises concerns; another workshop requested*, Petroleum News, Aug. 20, 2017. Copy supplied.

Is the Cook Inlet beluga population stable or in danger? Depends on whom you ask, Alaska Dispatch News, June 29, 2017. Copy supplied.

Dan Joling, *Groups sue to keep drilling ban in oceans*, Salt Lake Tribune, May 3, 2017. Copy supplied.

Alaska fracking projects could get new public comment period, Associated Press, Jan. 27, 2017. Copy supplied.

Obama administration cancels Arctic offshore lease sales through 2022; The move represents an administration flip on drilling off Alaska's northern coast, and it could take some time for the Trump administration to undo it, Alaska Dispatch News, Nov. 18, 2016. Copy supplied.

Alex DeMarban, *US appeals court supports climate-based listing of bearded seals as threatened*, Alaska Dispatch News, Oct. 25, 2016. Copy supplied.

Kristen Nelson, *AOGCC Sets Regulation Changes Workshop*, Petroleum News, Oct. 2, 2016. Copy supplied.

Tim Bradner, *Mitigation Costly Headache*, Petroleum News, May 22, 2016. Copy supplied.

Tasha Anderson, *WOTUS and Alaska: Issues with the latest rule of the Clean Water Act*, Alaska Business Monthly, May 1, 2016. Copy supplied.

Liz Ruskin, *What's so critical about polar bear habitat?*, KToo Public Media, Mar. 8, 2016. Copy supplied.

Tim Bradner, *Alaska adopts strict rules on hydraulic fracturing*, Platts Oilgram News, Apr. 11, 2014. Copy supplied.

Fatal DUI accidents: What determines murder or manslaughter charges?, Alaska Dispatch, Aug. 13, 2013. Copy supplied.

Casey Grove, *3 Plead Guilty in fatal shooting; Sentences for death of 17-year-old equal time they already served*, Anchorage Daily News, June 29, 2013. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

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

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
 - i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

15. **Public Office, Political Activities and Affiliations:**

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

I have never held nor sought elected office.

From 2008 through 2013, I served as an Assistant District Attorney in the Department of Law for the State of Alaska. I was appointed to this position by Attorney General Talis Colberg.

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

the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

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

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

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

From 2005 through 2007, I served as a law clerk for Chief Justice Paul Demuniz, Oregon Supreme Court.

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

I have never practiced alone.

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

2007 – 2008

Associate, Lane Powell, LLC
1600 A Street, Suite 304
Anchorage, Alaska 99501

2008 – 2013

Violent Crimes Supervisor, Assistant District Attorney
Anchorage District Attorney's Office
State of Alaska, Criminal Division
310 K Street, Suite 520
Anchorage, Alaska 99501

2013 – 2018

Environmental Counsel
Alaska Oil and Gas Association
121 West Fireweed Lane, Suite 207
Anchorage, Alaska 99503

2018 – Present

Regional Solicitor/Special Assistant United States Attorney
Office of the Regional Solicitor
4230 University Drive, Suite 300

Anchorage, Alaska 99508

- 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.

From 2007 to 2008, I worked as an associate in the Anchorage office of Lane Powell, LLC. I was part of the Complex Civil Litigation practice group and worked primarily on insurance defense matters. I worked on civil cases in both trial and appellate courts. I drafted research memoranda, motions and briefs, conducted depositions, and responded to discovery requests.

From 2008 to 2013, I served as an Assistant District Attorney for the Criminal Division of the Alaska Department of Law. In that role, I litigated matters ranging from misdemeanor offenses and drug crimes to sexual assaults and homicides. I also served as Violent Crimes Supervisor, a unit comprised of eight to ten violent crimes prosecutors and several paralegals and other staff. My caseload would typically consist of between 60 and 150 matters and would involve working with law enforcement during the investigation, conducting the grand jury, handling motion work, witness preparation, trial, sentencing, and assisting on appellate briefing.

From 2013 to 2018, I served as Environmental Counsel for the Alaska Oil and Gas Association. My primary role was to catalog and analyze changes to existing regulations that govern oil and gas activities in Alaska. This would often require the drafting and submission of written comments. Occasionally I would also be tasked with providing oral testimony at public hearings. I also managed the litigation portfolio and assisted outside counsel in brief drafting and oral argument preparation.

Since 2018, I have served as Regional Solicitor for the Department of Interior's Alaska Region. As Regional solicitor, I supervise eight attorneys and two staff, while advising the Office of the Secretary and the various Departmental bureaus on legal matters.

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

During my time at Lane Powell, LLC, my typical clients were Insurance and Oil companies. When I worked as an Assistant District Attorney, my client was the State of Alaska. As Environmental Counsel for the Alaska Oil and Gas Association, the Association was my only client. In my current capacity as Regional Solicitor, my clients include the Office of the Secretary, Bureau of Land Management, Fish and Wildlife Service, National Park Service, Bureau of Indian Affairs, Bureau of Ocean Energy Management, and United States Geological Survey.

- 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.

Between 2007 and 2008, I worked in private practice as an associate and worked almost exclusively on litigation matters. I did not appear in court.

Between 2008 and 2013, when I served as an Assistant District Attorney for the State of Alaska, I worked almost exclusively on litigation matters. I appeared in court practically every day, ranging from arraignments, bail hearings, motion hearings, trials, and sentencings.

Between 2013 and 2018, when I served as Environmental Counsel for the Alaska Oil and Gas Association, I spent approximately 10 percent of my time on litigation matters. I did not appear in court.

Currently, as Regional Solicitor for the Department of Interior, I spend approximately 25% of my time on litigation matters. For civil matters, I do not appear in court, but I do manage all DOI litigation in the Alaska Region, which includes coordinating with DOJ, drafting and editing of briefs, and oral argument preparation. I also currently serve as a Special Assistant United States Attorney, which is typically limited to handling arraignments for low-level criminal violations issued by Department of Interior law enforcement.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 25% |
| 2. state courts of record: | 75% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 25% |
| 2. criminal proceedings: | 75% |

- 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.

As an Assistant District Attorney, I litigated approximately 40 cases to verdict, judgment, or final decision. In the majority of those cases I served as sole counsel or chief counsel. (This number does not include cases that I merely supervised or advised on.)

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury: 0%

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

Although I have assisted in the editing of briefs and petitions for certiorari, I have not practiced before the Supreme Court of the United States. Those cases that I have been involved in are: *Alaska Oil and Gas Association et. al. v. Sally Jewell* (2016 WL 6577257); *Alaska Oil and Gas Association et. al. v. Ross* (2017 WL 3206521); *Sturgeon v. Frost* (2018 WL 4381223).

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. *State of Alaska v. Josiah Darroux*, 3AN-07-05280 CR (Alaska Super. Ct.)

This case involved a criminal matter, where Mr. Darroux was charged with Murder in the First Degree and Manslaughter. This was a jury trial, where I sat "second-chair." It was a case that involved a novel self-defense assertion. I handled portions of voir dire, opening arguments, the direct examination of several witnesses, and the drafting of jury instructions. The trial lasted approximately two weeks. The jury returned a verdict of not guilty on Murder in the First Degree and guilty on Manslaughter. The

dates of my representation were from August through December, 2008.

Judge: Judge Michael Spaan (retired)

Co-Counsel

Sharon Marshall (retired)

Opposing Counsel

Leslie Hiebert (retired)

2. *State of Alaska v. Jerry Blueford*, 3AN-08-09784 CR (Alaska Super. Ct.)

This case involved a criminal matter, where Mr. Blueford was charged with Robbery in the First Degree and Assault in the First Degree. This was a “hand-off” jury trial that was assigned to me the day before trial started. I was sole counsel for the trial. The trial lasted approximately one week. The jury returned a verdict of guilty on both counts. The dates of my representation were from March through November, 2009.

Judge: Judge Donald Hopwood (retired)

Co-Counsel

None.

Opposing Counsel

Rex Butler
Private Counsel
745 West 4th Avenue, Suite 300
Anchorage, Alaska 99501
(907) 272-1497

3. *State of Alaska v. Barret Brown*, 3SP-07-21 CR (Alaska District Ct.)

This case involved a criminal matter, where Mr. Brown was charged with Driving Under the Influence. I served as sole counsel, and the matter was tried in the community of Sand Point, located on the Aleutian Chain. This was a jury trial that was assigned to several days before jury selection began. The trial lasted approximately one week. The jury returned a verdict of guilty. My dates of representation were in October, 2008.

Judge: Judge Daniel Schally

Co-Counsel

None.

Opposing Counsel

David B. Loutrel (deceased)

4. *State of Alaska v. Nelson Noberto*, 3AN-08-02394 CR (Alaska Super. Ct.)

This case involved a criminal matter, where Mr. Noberto was charged with multiple counts of Misconduct in the Third Degree, possession with the intent to distribute. I was lead counsel for this jury trial, which involved multiple witness and expert testimony. The trial lasted approximately two weeks. The jury returned a verdict of guilty on each count. My dates of representation were November 2009 through June 2010.

Judge: Judge Michael Spaan

Co-Counsel

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Opposing Counsel

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550 West Seventh Avenue, Suite 1940
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5. *State of Alaska v. Aaron Cook*, 3AN-11-08099 CR (Alaska Super. Ct.)

This case involved a criminal matter, Where Mr. Cook was charged with Attempted Murder in the First Degree and Assault in the First Degree. I served as lead counsel in this matter. I handled voir dire, examination of the majority of witnesses, including the case detective, and closing arguments. The trial lasted approximately three weeks. The jury returned a verdict of guilty on each count except Attempted Murder in the First Degree. My dates of representation were from July, 2011 through April, 2013.

Judge: Judge Gregory Miller

Co-Counsel

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(907) 917-9171

Opposing Counsel

Kelly Jantunen
Current contact information unknown

6. *State of Alaska v. Ephraim Lockuk*, (3AN-12-00292 CR)

This case involved a criminal matter, Where Mr. Lockuk was charged with Murder in the First Degree. I served as lead counsel for this matter. I handled voir dire, examination of the majority of witnesses, including the case detective, and closing arguments. The trial lasted approximately three weeks. The jury was unable to reach a verdict. My dates of representation were from January, 2012 through September, 2013.

Judge: Judge Gregory Miller

Co-Counsel

Adam Alexander
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Opposing Counsel

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7. *Alaska Oil and Gas Association et. al. v. Sally Jewell*, (815 F.3d 544; 916 F. Supp. 2d 974)

State of Alaska, the Alaska Oil and Gas Association, and Alaska Native corporations and villages brought actions against Fish and Wildlife Service, seeking invalidation of final rule in which FWS designated critical habitat for polar bears under Endangered

Species Act. Environmental groups intervened. I managed this litigation on behalf of the Alaska Oil and Gas Association, and assisted in the drafting of the District Court and Ninth Circuit briefs as well as the petition for certiorari. The Alaska District Court ruled in favor of the plaintiffs. The U.S. Court of Appeals for the Ninth Circuit reversed the District Court decision and denied our petition for a rehearing en banc. The United States Supreme Court denied our petition for certiorari. My dates of representation were from 2014 through 2017.

Judge: Ralph R. Beistline, Chief Judge, Alaska District Court

Mary M. Schroeder, U.S. Court of Appeals for the Ninth Circuit

Co-Counsel

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Opposing Counsel

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Andrew C. Mergen
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Meredith Flax
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8. *Alaska Oil and Gas Association et. al. v. Penny Pritzker*, (840 F.3d 671; 2014 WL 3726121)

State of Alaska and the Alaska Oil and Gas Association brought separate actions challenging decision by the National Marine Fisheries Service to add Pacific bearded seal subspecies to the endangered species list under the Endangered Species Act. Environmental groups intervened. I managed this litigation on behalf of the Alaska Oil and Gas Association, and assisted in the drafting of the District Court and Ninth Circuit briefs as well as the petition for certiorari. The U.S. Court of Appeals for the Ninth Circuit reversed the District Court decision and denied our petition for a rehearing en banc. The United States Supreme Court denied our petition for

certiorari. My dates of representation were from 2014 through 2018.

Judge: Ralph R. Beistline, Chief Judge, U.S. Alaska District Court

Richard Paez, U.S. Court of Appeals for the Ninth Circuit

Co-Counsel

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9. *Northern Alaska Environmental Center et al. v. Zinke*, Case No. 3:18-cv-00030-SLG, (2018 WL 6424680)

This case involved the 2016 and 2017 lease sales for parcels in the National Petroleum Reserve-Alaska (“NPR-A”). In November 2012, BLM issued a Final Integrated Activity Plan/Environmental Impact Statement (“IAP/EIS”), which described five alternatives for oil and gas leasing in the NPR-A. In February 2013, the Secretary of the Interior issued a Record of Decision (“ROD”), which adopted one of the five alternatives and made “approximately 11.8 million acres available for oil and gas leasing.” On December 14, 2016, BLM held the 2016 lease sale, offering 145 tracts comprising more than 1.4 million acres, of which 67 tracts, comprising more than 613,000 acres, received bids. BLM ultimately issued 66 leases. On December 6, 2017, BLM held the 2017 lease sale, offering 900 tracts comprising approximately 10.3 million acres, of which seven tracts, comprising nearly 80,000 acres, received bids. BLM issued leases for the seven tracts on February 23, 2018. On February 2, 2018, prior to the issuance of the leases from the 2017 lease sale, Plaintiffs filed their complaint, pleading three causes of action: The First Cause of Action alleged that BLM violated the National Environmental Protection Act (“NEPA”), its implementing regulations, and the Administrative Procedure Act (“APA”) when it

held “the lease sale [and issued the leases] without first preparing an EIS or EA.” The Second Cause of Action alleged that BLM violated NEPA, its implementing regulations, and the APA when it held “the 2017 lease sale without first conducting an adequate assessment of the direct, indirect, and cumulative impacts....” The Third Cause of Action alleged that BLM violated its own regulations and the APA when it “issu[ed] a revised DNA after it had already conducted the 2017 lease sale.” This litigation was argued by DOJ, but assisted in the drafting of the District Court brief. The Alaska District Court ruled in favor of the Department of Interior. My dates of representation are from June, 2018 to present.

Judge: Sharon Gleason, U.S. Alaska District Court

Co-Counsel

Romney Philpott (argued)
Michelle-Ann Williams
United States Department of Justice
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Opposing Counsel

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Suzanne Bostrom
Valerie Brown
Trustees for Alaska
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(907) 276-4244

10. *Natural Resources Defense Council et al. v. Zinke*, Case No. 3:18-cv-00031-SLG, (2018 WL 6424687)

This case involved the 2016 and 2017 lease sales for parcels in the National Petroleum Reserve-Alaska (“NPR-A”). In November 2012, BLM issued a Final Integrated Activity Plan/Environmental Impact Statement (“IAP/EIS”), which described five alternatives for oil and gas leasing in the NPR-A. In February 2013, the Secretary of the Interior issued a Record of Decision (“ROD”), which adopted one of the five alternatives and made “approximately 11.8 million acres available for oil and gas leasing.” On December 14, 2016, BLM held the 2016 lease sale, offering 145 tracts comprising more than 1.4 million acres, of which 67 tracts, comprising more than 613,000 acres, received bids. BLM ultimately issued 66 leases. On December 6, 2017, BLM held the 2017 lease sale, offering 900 tracts comprising approximately 10.3 million acres, of which seven tracts, comprising nearly 80,000 acres, received bids. BLM issued leases for the seven tracts on February 23, 2018. On February 2,

2018, prior to the issuance of the leases from the 2017 lease sale, Plaintiffs filed their complaint in this action, arguing two causes of action: The First Cause of Action alleged that BLM violated the National Environmental Protection Act (“NEPA”), its implementing regulations, and the APA by “fail[ing] to take a hard look at the potential greenhouse gas emissions that would result from the 2016 and 2017 lease sales and the environmental effects of those emissions.” The Second Cause of Action alleged that BLM violated NEPA, an implementing regulation, and the APA by failing to “develop[] a range of lease sale configurations and comparing the environmental impacts of these various lease sale alternatives, despite the availability of information necessary to conduct the required analysis.” This litigation was argued by DOJ, but assisted in the drafting of the District Court brief. The Alaska District Court ruled in favor of the Department of Interior. My dates of representation are from June, 2018 to present.

Judge: Sharon Gleason, U.S. Alaska District Court

Co-Counsel

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Opposing Counsel

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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.)

While serving as a Violent Crimes Assistant District Attorney, I was asked to look into a “cold case” involving the shooting death of a young woman. It had been uncharged for approximately five years prior to my involvement. The woman has been caught in the cross-fire during a gang shoot-out in front of a house party. All in all, there had been

between six and ten shooters, and law enforcement was unsuccessful in tracking down the bullet that had caused the fatality. I instigated an investigative grand jury and, over the course of several weeks, took testimony from a wide variety of witness. Ultimately, the Grand Jury returned indictments against eight individuals for Murder in the Second Degree. Given the novel theory that I used to sustain the charges, I spent the better part of a year addressing handling a substantial amount of motion work. Although the case never proceeded to trial, three of the indicted defendants pled guilty to Criminally Negligent Homicide.

I have never been a registered lobbyist.

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

None.

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

I am entitled to a pension from my time with the Alaska Oil and Gas Association.

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 currently serve as a Board Member for the Alaska Sea Life Center. This position is not compensated and my term on the Board expires in 2022.

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).

When my nomination is formally submitted to the Senate, I will file my federal financial disclosure report and will supply a copy to this Committee.

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

See attached Statement of Net Worth.

24. **Potential Conflicts of Interest:**

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

I currently serve as the Alaska Regional Solicitor for the Department of Interior, and, as a result, either directly or indirectly advise on matters concerning the Office of the Secretary, as well as the respective Bureaus under the Department of Interior umbrella (e.g., Bureau of Land Management, National Park Service, Fish and Wildlife Service, etc.). I would recuse myself in any matter in which I, or a lawyer that I supervised, was directly involved in. I would also carefully review any matter that related to the Department of Interior for potential conflict-related issues, even if I was not directly or indirectly involved. While I would follow judicial guidelines in such circumstances, I would err on the side of caution and recuse myself in instances where there was a reasonable appearance of conflict. I would also recuse myself from any matter involving my wife's employer, OilSearch Alaska. I will evaluate any other real or potential conflict of interest, or relationship that could give rise to the appearance of a conflict of interest, on a case-by-case basis and determine appropriate action, including recusal, with the input of parties and consultation of applicable canons of judicial ethics.

- 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.

During my time with Lane Powell, LLC, I participated in Alaska Legal Services Attorney of the Day, where I was able to assist a number of individuals in navigating a variety of legal issues.

During the time that I worked for the State of Alaska, (2008 through 2013), the applicable regulations made it extremely difficult for State employees to practice law on behalf of any entity other than the state.

26. Selection Process:

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

In April 2019, I was contacted by a Senator Sullivan staff member regarding whether I had any interest in potential consideration for the Alaska Federal District Court position. Based on that conversation, I was subsequently interviewed by Senator Sullivan a few weeks later. On August 1, 2019, I also had a conversation with Senator Murkowski regarding my interest in the position. I was interviewed by attorneys at the White House and the U.S. Department of Justice in June 2019. Since that time, I have periodically communicated with individuals in the White House Counsel's Office and the U.S. Department of Justice.

- 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 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		105	000	Notes payable to banks-secured (auto)		28	804
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		542	789	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		520	000
Real estate owned – see schedule		640	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		60	000	Student Loans		13	000
Cash value-life insurance							
Other assets itemize:							
				Total Liabilities		561	804
				Net Worth		785	985
Total Assets	1	347	789	Total liabilities and net worth	1	347	789
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

Fidelity Freedom® 2045 Fund - Class K	12,938
Fidelity Freedom 2040 Fund – Class K	134,000
TD Retirement 2045	55,000
SPAXX Fidelity Government Money Market	1,262
MAAGX MFS Aggressive Growth	17,246
SPY SPDR S&P500 EPF TR	23,459
TMSIX Thrivent Mid Cap	10,871
TRRKX Retirement 2045 Fund	18,528
Alaska Target Retirement 2045 Trust (IRC Section 457 Plan)	50,000
Alaska Defined Contribution Retirement Plan (Empower)	99,800
Alaska Supplemental Annuity Plan (Empower)	97,836
ACT Portfolio (College Savings T Rowe Price)	11,187
Portfolio for College (College Savings T Rowe Price)	10,662
Total Listed Securities	<u>\$542,789</u>

Real Estate Owned

Personal Residence	<u>640,000</u>
Total Real Estate Owned	<u>\$640,000</u>

Real Estate Mortgages Payable

Personal Residence – Mortgage	<u>520,000</u>
Total Real Estate Mortgages Payable	<u>\$520,000</u>

AFFIDAVIT

I, Joshua Michael Kindred, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

October 9, 2019
(DATE)

[Signature]
(NAME)



Tamara Sheffield
(NOTARY)