

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Thomas Shawn Kleeh

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

United States District Court for the Northern District of West Virginia

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

Steptoe & Johnson PLLC
707 Virginia Street East, 17th Floor
Charleston, West Virginia 25301

Residence: South Charleston, West Virginia

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

1974; Wheeling, West Virginia

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.

August 1996 – May 1999, West Virginia University College of Law; J.D., May 16, 1999

August 1992 – May 1996, West Virginia University; B.S.B.A. with emphasis in Accounting (*summa cum laude*), May 12, 1996

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.

1999 – Present
Steptoe & Johnson PLLC

400 White Oaks Blvd.
Bridgeport, West Virginia 26330
Member (2006 – Present)
Associate (1999 – 2006)

2015 – 2018
West Virginia Senate
State Capitol Complex
Room 229M, Building 1
Charleston, West Virginia 25305
Per Diem Staff Attorney, Senate Judiciary Committee (2015 – 2017)
Per Diem Staff Attorney, Office of Counsel to the Senate President (2018)

Estimated 2000 – 2003
University of Charleston
2300 MacCorkle Ave SE
Charleston, West Virginia 25304
Adjunct Professor – Paralegal Studies

1997 – 1999
Steptoe & Johnson PLLC
400 White Oaks Blvd.
Bridgeport, West Virginia 26330
Law Clerk

Summer 1996
Wheeling Pittsburgh Steel (now defunct)
Wheeling, West Virginia
Summer Intern, Purchasing Department

Other Affiliations (Uncompensated):

2015 – present
Saint Agnes School
4801 Staunton Ave SE
Charleston, West Virginia 25304
Athletic Director

Estimated 2000 – 2002
Celebration Station Community Playground
1308 Quarrier Street
Charleston, West Virginia 25301
Board of Directors

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social

security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the U.S. military. I registered for 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.

Super Lawyers

Super Lawyers (2014 – 2018)

Rising Stars (2009 – 2013)

The Best Lawyers in America (2011 – 2018)

Martindale-Hubbell

AV Preeminent Rating (2012 – 2018)

BV Distinguished Rating (2009 – 2012)

Order of the Coif, West Virginia University College of Law (1999)

Editor-in-Chief, West Virginia Law Review (1998 – 1999)

Mountain, Ranking Honorary, West Virginia University (Inducted 1998)

Graduated *summa cum laude*, B.S.B.A., West Virginia University (1996)

University Honors Scholar, West Virginia University (1996)

Beta Alpha Psi (Honor Organization for Financial Information Students) (1996)

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.

DRI (2007 – present)

Defense Trial Counsel of West Virginia (2010 – present)

Kanawha County Bar Association (Estimated 1999 – 2010)

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.

West Virginia, 1999

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 Southern District of West Virginia (1999)

United States District Court for the Northern District of West Virginia (2014)

United States District Court for the Northern District of Illinois (2015)

There have been no lapses in membership.

11. **Memberships:**

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

Big Brothers-Big Sisters (1999 – 2001)

Celebration Station Community Playground
Board of Directors (Estimated 2000 – 2002)

Charleston Church Recreation League
Representative (2015 – present)

Energy Mineral Law Foundation (Estimated 2008 – present)

Mountaineer Athletic Club (2004 – present)
Charleston Scholarship Dinner Committee (2010 – present)

National Mining Association
Safety, Health and Human Resources Committee (Estimated 2008 – 2015)

Saint Agnes School
Athletic Director (2015 – present)

Sleepy Hollow Country Club

Corporate Member (2017 – present)

Society of Human Resources Management (2013 – present)

West Virginia Business and Industry Council (Estimated 2002 – present)

West Virginia Coal Association (Estimated 2008 – present)

West Virginia Health Care Association (Estimated 2008 – present)

West Virginia Mining Institute (2015 – 2016)

West Virginia University Alumni Association (1996 – 2002)

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

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, religion, sex, or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

To discover and compile the below materials, I have conducted an exhaustive search of my personal files, calendar and the Internet, and contacted various organizations. There may, however, have been writings that I have been unable to recall or identify.

West Virginia Workplace Freedom Act: Free from Injunction, National Law Review, September 19, 2017 (reprinted in multiple outlets, including *Right to Work Injunction Lifted*, Steptoe & Johnson Client Alert, September 2017). Copy supplied.

2017 West Virginia Legislative Update—Overview of Employment Laws Passed

in West Virginia This Year, West Virginia Employment Law Letter, June 1, 2017. Copy supplied.

West Virginia Safer Workplaces Act: House Bill 2857 Ushers in a New Era for Employers, 2017 West Virginia Chamber of Commerce Human Resources Journal, April 2017. Copy supplied.

Hiring Preferences for Veterans in West Virginia: Green Means Go, West Virginia Employment Law Letter, May 2016. Copy supplied.

Recent Legislative Developments (2015 and 2016) – Employment Law, West Virginia University College of Law Continuing Legal Education, April 21, 2016. Copy supplied.

Well, What Can We Talk About? Three Areas of Discussion Best Avoided in Applications and Job Interviews, West Virginia Employment Law Letter, October 2013. Copy supplied.

Winning the Battle but Losing the War, West Virginia Employment Law Letter, April 2013. Copy supplied.

Tracking Traveling Employees by Phone – There's an App for That, West Virginia Employment Law Letter, June 2012. Copy supplied.

Do the Crime, Do the Time – But You Can Still Get a Job, Employment Essentials, May 22, 2012. Copy supplied.

Why “Do You Have a High School Diploma?” May Be on The Employer Endangered Species List, Employment Essentials, May 10, 2012. Copy supplied.

Sticks and Stones ... How Name Calling Can Hurt Employers When Reference Requests Hit Your Desk, West Virginia Employment Law Letter, October 21, 2011. Copy supplied.

Retaliation Claims Under the Fair Labor Standards Act: Applicants Need Not Apply, Employment Essentials, October 19, 2011. Copy supplied.

Want to Be a Wage and Hour Plaintiff? There's an App for That, Employment Essentials, July 18, 2011. Copy supplied.

To Tweet or Not to Tweet: An Opinionated and Online Employee's Dilemma (And an HR Headache), Employment Essentials, April 19, 2011. Copy supplied.

Knock, Knock: We Are the Government and We Are Here to Help (Especially If You Want to Sue Your Employer), Employment Essentials, March 17, 2011. Copy supplied.

The Arbitration Agreement Precluding Class Action Litigation: The Report of Its Demise May Have Been Premature (Maybe), Employment Essentials, November 23, 2010. Copy supplied.

You've Got Mail (And A Lawsuit): Mobile Communication Devices and The Wage and Hour Pitfalls They Present, Employment Essentials, September 8, 2010. Copy supplied.

FMLA's "Son or Daughter" Definition – The Gate to FMLA Leave Just Got a Little Wider, Employment Essentials, July 13, 2010. Copy supplied.

The Airing of Grievances: How Festivus Can Lead Employers to The Courtroom, Employment Essentials, April 20, 2010. Copy supplied.

Hiring: The Application Process and Beyond, Steptoe & Johnson Labor Institute, July 2005. Copy supplied.

Record Retention: If It's an Electronic World, Why Am I Swimming in Paper?, Steptoe & Johnson PLLC Labor Institute, July 2003. Copy supplied.

Forest from The Trees: Don't Lose Sight of The Important Issues After Termination, West Virginia Employment Law Letter, December 2008. Copy supplied.

Was That Wrong? Should I Have Not Done That?, West Virginia Employment Law Letter, May 2008. Copy supplied.

By Leaps and Bounds ... The List of Protected Classes Continues to Grow, West Virginia Employment Law Letter, December 2007. Copy supplied.

Overview of The No Child Left Behind Act and Other Important Statutes Impacting Student Privacy Rights, Education Law Seminar, December 2005. Copy supplied.

Negligent Hiring and Retention, September 2005. Copy supplied.

An Affidavit Is Worth a Thousand Words, Witnesses Not Always Needed at Unemployment Compensation Benefit Hearings, West Virginia Employment Law Letter, January 2005. Copy supplied.

Damages in Sexual Harassment Cases: Doctors? We Don't Need No Stinkin' Doctors!, West Virginia Employment Law Letter, January 2005. Copy supplied.

Absence Control Policies: If You're Not Here, How Can We Miss You When You're Gone?, Steptoe & Johnson Labor Institute, July 9, 2004. Copy supplied.

Workplace Harassment: A Perspective, HR Consulting Seminar, May 2004. Copy supplied.

Record Retention: If It's an Electronic World, Why Am I Swimming in Paper?, Steptoe & Johnson Fall Labor Seminar Series, October 2003. Copy supplied.

Between A Rock and A Hard Place: Responding to Reference Requests for Troublesome Employees, West Virginia Employment Law Letter, June 2003. Copy supplied.

Ethical Considerations, NBI Education Law Seminar, March 2003. Copy supplied.

Student Suspension and Expulsion, NBI Education Law Seminar, March 2003. Copy supplied.

Communicating with Employee Health Care Providers – Proceed with Caution, West Virginia Employment Law Letter, January 2003. Copy supplied.

After Duty Calls, Steptoe & Johnson PLLC Uniformed Services Employment and Reemployment Act of 1994 Seminar Series, January 2002. Copy supplied.

Security Surveillance in The Workplace After September 11 – Employer Beware, West Virginia Employment Law Letter, January 2002. Copy supplied.

The West Virginia Wage Payment and Collection Act: Pay Your Employees Properly or Pay the Price, West Virginia Employment Law Letter, October 2001. Copy supplied.

Contacting Your Employees' Attending Physician – Proceed at Your Own Risk, West Virginia Employment Law Letter, August 2001. Copy supplied.

Covenants Not to Compete and Employee Raiding: Keeping Employees from Competing and Stealing Those Up for Grabs, Steptoe & Johnson PLLC Labor Institute, July 2001. Copy supplied.

Workplace Surveillance, West Virginia Employment Law Letter, February 2001. Copy supplied.

The Equal Employment Opportunity Commission's New Legislative Rule Under the Age Discrimination in Employment Act: Section 1625.23 Waivers of Rights and Claims; Tender Back of Consideration, American Bar Association Paper, January 2001. Copy supplied.

Self v. Queen: Retaining Eighteenth Century Feudalistic Jurisprudence to

Determine a Landowner's Duty of Care, 100 W. VA. L. REV. 467 (1997). 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.

During my work as a per diem attorney for the West Virginia Senate Judiciary Committee from 2015 to 2017, I provided legal advice to committee members in open session. Although some of these meetings were live-streamed or broadcast during the 2015 and 2016 legislative sessions, the West Virginia Senate started archiving broadcasts of committee meetings during the 2017 legislative session. Archived recordings of committee meetings where I presented pending legislation are listed below. I do not otherwise have any transcripts, recordings, or notes of my participation.

May 24, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170524/-1/6632>

April 4, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170404/-1/6568>

April 3, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170403/-1/6560>

March 31, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170331/-1/6546> and <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170331/>

-1/6550

March 30, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170330/-1/6537> and <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170330/-1/6543>

March 27, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170327/-1/6516>, <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170327/-1/6519> and <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170327/-1/6521>

March 25, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170325/-1/6510>, <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170325/-1/6512>, <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170325/-1/6513> and <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170325/-1/6514>

March 24, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170324/-1/6505>

March 23, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170323/-1/6497> and <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170323/-1/6498>

March 21, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170317/-1/6458>

March 16, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170316/-1/6452>

March 14, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170314/-1/6434>

March 13, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170313/-1/6425>

March 10, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170310/-1/6403>

March 9, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170309/-1/6394>

March 8, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170308/-1/6374>

March 7, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170307/-1/6361> and <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170307/-1/6363>

March 2, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170302/-1/6332>

March 1, 2017, West Virginia Senate Judiciary Committee, available at
<http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170301/-1/6325>

February 28, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170228/-1/6316>

February 21, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170221/-1/6226>

February 20, 2017, West Virginia Senate Judiciary Committee, available at <http://sg001-harmony.sliq.net/00289/Harmony/en/PowerBrowser/PowerBrowserV2/20170220/-1/6221>

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have not maintained a comprehensive list of the speeches or talks that I have delivered or appearances that I have made. To discover and compile the below events, I have conducted an exhaustive search of my personal files, calendar and the Internet, and contacted various organizations. There may, however, have been speeches that I have been unable to recall or identify.

February 23, 2018: Panelist, Legal and Regulatory Reform: A Pathway of Hope for Appalachia, Appalachian Justice Symposium, West Virginia Law Review, West Virginia University College of Law, Morgantown, West Virginia. The panel discussed recent legislation enacted in West Virginia and the economic impact. I have no notes, transcript or recording. The address for the West Virginia Law Review is 101 Law School Drive, Morgantown, West Virginia 26506.

December 4, 2017: Speaker, Workplace Harassment, West Virginia Legislature, Charleston, West Virginia. I was asked to speak to members of the West Virginia Senate and West Virginia House of Delegates as well as staff on workplace harassment issues. I have no notes, transcript or recording. The address for the West Virginia Senate is Room 211M, Building 1, State Capitol Complex, Charleston, West Virginia 25305 and the West Virginia House of Delegates,

Room 212, Building 1, State Capitol Complex, Charleston, West Virginia, 25305. Representative press coverage supplied.

November 2, 2017: Speaker, 2017 Legislative Update, Society of Human Resources Management (West Virginia State Group), Bridgeport, West Virginia. Outline supplied.

September 15, 2017: Speaker, HB2857 – Creating the West Virginia Safer Workplaces Act: Private Sector Drug Testing Joins The 21st Century, West Virginia Healthcare Human Resources Association, Flatwoods, West Virginia. Outline supplied.

August 11, 2017: Speaker, 2017 West Virginia Legislative Update, West Virginia State Bar Association, White Sulphur Springs, West Virginia. Outline supplied.

August 8, 2017: Panelist, West Virginia Safer Workplaces Act, West Virginia Manufacturers Association, Telephone Conference, Charleston, West Virginia. The panel was on the West Virginia Safer Workplaces Act and addressed private sector drug testing in West Virginia. I have no notes, transcript, or recording. The address for the West Virginia Manufacturers Association is 2001 Quarrier Street, Charleston, West Virginia 25311.

July 20, 2017: Speaker, HB2857 – Creating the West Virginia Safer Workplaces Act: Private Sector Drug Testing Joins The 21st Century, West Virginia Health Care Association, Webinar, Charleston, West Virginia. Outline supplied.

June 21, 2017: Speaker, 2017 Legislative Update, West Virginia Credit Union League, Webinar, Charleston, West Virginia. Outline supplied.

May 25, 2017: Speaker, HB2857—Creating the West Virginia Safer Workplaces Act, Defense Trial Counsel of West Virginia Safety Committee, Telephone Conference, Charleston, West Virginia. Outline supplied.

May 18, 2017: Speaker, 2017 Legislative Update: New Legislation Affects All West Virginia Employers, Webinar, Charleston, West Virginia. Outline supplied. A recording of this webinar is available at www.steptoeh-johnson.com/content/2017-legislative-update-new-legislation-affects-all-west-virginia-employers.

May 3, 2017: Speaker, The 2017 West Virginia Legislative Session – What’s New in Employment Law, West Virginia Association of Housing Agencies, Charleston, West Virginia. Outline supplied.

May 2, 2017: Speaker, HB2857 – Creating the West Virginia Safer Workplaces Act, Webinar, Charleston, West Virginia. Outline supplied. A recording of this webinar, which was advertised under a different title, is available at www.steptoeh-johnson.com/content/2017-legislative-update-new-legislation-affects-all-west-virginia-employers.

johnson.com/content/what-employers-should-know-about-new-wv-safer-workplaces-act.

April 25, 2017: Panelist, Drug and Alcohol Use in The Workplace/HB2857 – Creating the West Virginia Safer Workplaces Act, West Virginia Chamber of Commerce, Charleston, West Virginia. Outline supplied.

April 12, 2017: Speaker, 2017 Legislative Update – Employment Law, Society of Human Resources Management (Charleston, West Virginia Chapter), Charleston, West Virginia. Outline supplied.

October 6, 2016: Speaker, Department of Labor’s New Overtime Rules, Government Finance Officers Association and West Virginia Municipal Human Resources Association, Charleston, West Virginia. Outline supplied.

September 15, 2016: Speaker, Labor Law Affecting Non-Union and Union Employers, West Virginia Healthcare Human Resources Association, Flatwoods, West Virginia. Outline supplied.

August 3, 2016: Speaker, Department of Labor’s New Overtime Rules, West Virginia Municipal League, Flatwoods, West Virginia. Outline supplied.

August 2, 2016: Speaker, Department of Labor’s New Overtime Rules, West Virginia Association of Housing Agencies, Charleston, West Virginia. Outline supplied.

May 25, 2016: Speaker, 2016 West Virginia Legislative Update, Tri-State Society of Human Resources Management, Huntington, West Virginia. Outline supplied.

April 28, 2016: Speaker, Social Media in Hiring and Firing: What You Say Can’t Be Used Against You – Or Can It?, Society of Human Resources Management (Bluefield Chapter), Bluefield, West Virginia. Outline supplied.

April 27, 2016: Speaker, Steptoe & Johnson 2016 Legislative Update, Webinar, Charleston, West Virginia. Outline supplied. A recording of this webinar is available at www.steptoee-johnson.com/content/steptoee-johnsons-webcast-2016-wv-legislative-update.

April 21, 2016: Speaker, Recent Legislative Developments—Employment Law, West Virginia University College of Law Continuing Legal Education. Outline supplied.

April 20, 2016: Panelist, Drug and Alcohol Use in the Workplace, West Virginia Chamber of Commerce, Charleston, West Virginia. Outline supplied.

December 9, 2015: Speaker, 2015 West Virginia Legislative Session Recap, Society of Human Resources Management (Charleston, West Virginia Chapter). Charleston, West Virginia. Outline supplied.

October 13, 2015: Speaker, Senate Bill 344: Unmitigated Front Pay, West Virginia Chamber of Commerce, Charleston, West Virginia. Outline supplied.

October 9, 2015: Speaker, 2015 West Virginia Legislative Recap, West Virginia Self-Insurers Association, Charleston, West Virginia. Outline supplied.

September 17, 2015: Speaker, 2015 Amendments to West Virginia's Deliberate Intent Statute, Defense Trial Counsel of West Virginia, Charleston, West Virginia. Outline supplied.

June 19, 2015: Speaker, What Civil Justice Reform Means Now That We Have It – 2015 West Virginia Legislative Session, Defense Trial Counsel of West Virginia, Wheeling, West Virginia. Outline supplied.

May 21, 2015: Speaker, 2015 West Virginia Legislative Session: Strides Toward Legal Fairness, West Virginia Business and Industry Council, Wheeling, West Virginia. Outline and representative press coverage supplied.

April 23, 2015: Speaker, Historic Changes Made in the 2015 WV Legislative Session, Webinar, Charleston, West Virginia. Outline supplied. A recording of this webinar is available at www.stepto-johnson.com/content/april-2014-historic-changes-made-2015-wv-legislative-session.

September 2014: Speaker, ADA, FMLA and Workers Compensation Updates, West Virginia Chamber of Commerce, Charleston, West Virginia. Outline supplied.

March 26, 2014: Speaker, 2014 Legislative Update, Tri-State Society of Human Resources Management, Huntington, West Virginia. Outline supplied.

October 17, 2013: Speaker, Drug Testing in West Virginia Coal Mines: A New Era, West Virginia Mining Institute, White Sulphur Springs, West Virginia. Outline supplied.

October 16, 2013: Speaker, It's a Wild, Wired World: Social Media in The Workplace, West Virginia College and University Professional Association for Human Resources, Charleston, West Virginia. Outline supplied.

October 23, 2013: Speaker, For A Paperless World HR Sure Kills a Lot of Trees: HR Audit Survival and Recordkeeping Requirements For 2013 And Beyond, West Virginia Chamber of Commerce, Charleston, West Virginia. Outline supplied.

September 26, 2013: Speaker, Workforce Engagement: How to Keep Employees Connected in The Field (And How to Minimize Liability in Doing So), West Virginia Desk and Derrick Club, Charleston, West Virginia. Outline supplied.

March 5, 2013: Speaker, Drug Testing in West Virginia Coal Mines: A New Era, Kanawha Valley Mining Institute, South Charleston, West Virginia. The presentation I gave is substantially similar to the one provided in conjunction with my October 17, 2013 presentation, a copy of which is supplied.

May 31, 2012: Speaker, Social Media and Internet Access in Your Law Office: Monitoring Your Employees Without Increasing Your Liability, West Virginia Citizens Against Law Suit Abuse CLE, Charleston, West Virginia. Outline supplied.

May 13, 2011: Speaker, Overlap of Workers' Compensation and the WVHRA, ADAAA and FMLA, Lorman Education Services Seminar, Charleston, West Virginia. Outline supplied.

March 22, 2011: Speaker, USERRA Issues When Service Members Return to Work: Know Your Rights and Obligations, M. Lee Smith Publishers, Teleconference, Charleston, West Virginia. Outline supplied.

August 25, 2010: Speaker, USERRA Beyond the Basics: Be Ready When Your Soldier Employees Come Home, M. Lee Smith Publishers, Teleconference, Charleston, West Virginia. Outline supplied.

May 5, 2010: Speaker, Navigating the New FMLA, West Virginia Self-Insurers Association, Charleston, West Virginia. Outline supplied.

May 5, 2010: Speaker, An Overview of The ADA Amendments Act and Other Issues Related to Disability, West Virginia Self-Insurers Association, Charleston, West Virginia. Outline supplied.

November 13, 2009: Speaker, Leaves of Absence: Navigating the Maze of Return to Work Laws, Lorman Education Services Seminar, Charleston, West Virginia. Outline supplied.

April 8, 2009: Speaker, Change – What the New Administration, Congress & Legislature Envision for Employers, Employees and Unions, Society of Human Resources Management (Charleston, West Virginia Chapter), Charleston, West Virginia. Outline supplied.

October 21, 2008: Speaker, West Virginia Fair Housing Act Applied to Assisted Living Communities, West Virginia Healthcare Association, Charleston, West Virginia. Outline supplied.

October 8, 2008: Speaker, ADA, FMLA & Workers Compensation, Lorman Education Services Workers Compensation Seminar, Charleston, West Virginia. Outline supplied.

September 30, 2008: Speaker, How the Information Superhighway Leads to The Courtroom, West Virginia Chamber of Commerce, Charleston, West Virginia. Outline supplied.

September 24, 2008: Speaker, Absence Control Policies: If You're Not Here, How Can We Miss You When You're Gone?, West Virginia Association of Housing Agencies, Roanoke, West Virginia. Outline supplied.

April 18, 2008: Speaker, Illegal Harassment in The Workplace, West Virginia Public Defenders Employment Law Seminar, Charleston, West Virginia. Outline supplied.

April 18, 2008: Speaker, Firing – I'm Getting a Go: The If, Why and How of Employment Law, West Virginia Public Defenders Employment Law Seminar, Charleston, West Virginia. Outline supplied.

June 2007: Speaker, I'm Going to Get You for That! Retaliation in The Workplace, West Virginia Healthcare Association, Charleston, West Virginia. Outline supplied.

April 17, 2007: Speaker, Leaves of Absence: Navigating the Maze of Return to Work Laws, West Virginia Association of Housing Agencies, Charleston, West Virginia. Outline supplied.

August 26, 2006: Speaker, Firing – I'm Getting a Go: The If, Why and How of Employment Law, West Virginia University Local Government Leadership Academy coordinated by the West Virginia University Institute for Public Affairs. Outline supplied.

August 26, 2006: Speaker, Evaluating and Disciplining Employees: The Good, The Bad and The Ugly, West Virginia University Local Government Leadership Academy coordinated by the West Virginia University Institute for Public Affairs. Outline supplied.

August 26, 2006: Speaker, Workplace Harassment – A Perspective, West Virginia University Local Government Leadership Academy coordinated by the West Virginia University Institute for Public Affairs. Outline supplied.

August 26, 2006: Speaker, Hiring: The Application Process and Beyond – Strategies to Avoid Legal Liability for Those Whom You Do Not Hire, West Virginia University Local Government Leadership Academy. Outline supplied.

April 2006: Speaker, Student Discipline in West Virginia, NBI Education Law Seminar, Charleston, West Virginia. Outline supplied.

January 2006: Speaker, No Child Left Behind and Protection of Pupil Rights Amendment, NBI School Law Seminar, Charleston West Virginia. Outline supplied.

January 2006: Speaker, Evaluating and Disciplining Employees: The Good, The Bad and The Ugly, West Virginia Association of Housing Authorities, Charleston, West Virginia. Outline supplied.

December 2005: Speaker, Employee Handbooks, West Virginia Library Commission, South Charleston, West Virginia. Outline supplied.

September 13, 2005: Speaker, Open Governmental Proceedings Act Overview, Board of Risk and Insurance Management, Beckley, West Virginia. Outline supplied.

September 13, 2005: Speaker, The Freedom of Information Act, Board of Risk and Insurance Management, Beckley, West Virginia. Outline supplied.

September 13, 2005: Speaker, Negligent Hiring and Retention, Board of Risk and Insurance Management, Beckley, West Virginia. Outline supplied.

April 2005: Speaker, Leaves of Absence as A Reasonable Accommodation for Disabilities, West Virginia Library Commission, South Charleston, West Virginia. Outline supplied.

March 2005: Speaker, Ethical Issues, NBI School Law Seminar, Charleston, West Virginia. Outline supplied.

August 2004: Speaker, Top 10 Things Every Employer Should Know About WV Employment Law, Society of Human Resources Management (Tri-State Chapter), Huntington, West Virginia. Outline supplied.

July 12, 2004: Speaker, Military Leave Issues, Society of Human Resources Management (Charleston, West Virginia Chapter), Charleston, West Virginia. Outline supplied.

June 2004: Speaker, Who Is an Employee?, West Virginia Healthcare Association, Charleston, West Virginia. Outline supplied.

May 2004: Speaker, Workplace Harassment, West Virginia Association of Housing Authorities, Charleston, West Virginia. Outline supplied.

July 2003: Speaker, Record Retention: If It's an Electronic World, Why Am I Swimming in Paper, Steptoe & Johnson Labor Institute, Snowshoe, West Virginia. Outline 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.

Kyla Asbury, *Former Student Says WVSU Professor Sexually Harassed Her*, West Virginia Record, March 14, 2016. Copy supplied.

Kate White, *Former WVSU Student Claims Professor Sexually Harassed Her*, Charleston Gazette-Mail, March 14, 2016. Copy supplied.

Across the State, The State Journal, February 5, 2016. Copy supplied.

Kate White, *West Virginia State University Former Vice President Sues Over Firing*, Charleston Gazette-Mail, February 1, 2016 (reprinted in multiple outlets). Copy supplied.

Kate White, *Ex-Vice President Sues WVSU Over Firing*, Charleston Gazette-Mail, January 31, 2016. Copy supplied.

Kyla Asbury, *Attorney: W. Va. State firing goes against First Amendment*, West Virginia Record, January 15, 2016. Copy supplied.

Kate White, *Former Employee Sues WVSU Agency Over Firing*, Charleston Gazette-Mail, January 12, 2016. Copy supplied.

Kate White, *Ex-Employee Wants Deal Enforced*, Charleston Gazette, July 22, 2015. Copy supplied.

Kate White, *Ex-WVSU Employee Asks Judge To Enforce Settlement*, Charleston Gazette-Mail, July 21, 2015. Copy supplied.

Eric Eyre, *Ex-WVSU Employee Gets \$300K To Settle 'Hostile' Workplace Claim*, Charleston Gazette, July 1, 2015. Copy supplied.

Ryan Quinn, *Judge Dismisses Lawsuit: WVSU Chaperon Quit On Trip, Was Fired*, Charleston Gazette, July 1, 2015. Copy supplied.

Jacob R. Shaffer, *Practical Implications: House Bill 2002 (Comparative Fault) – A Front-Line Litigator's Homework Senate Bill 421 (Punitive Damage Cap) – Short of the Mark*, Defense Trial Counsel, Spring 2015. Copy supplied.

Lawrence Smith, *WVSU Research Corp. Settles Wrongful Termination Suit*, West Virginia Record, September 2, 2011. Copy supplied.

Social Media Presents Challenges For Employers – The Courts And Employees Are Struggling To Figure Out When Employees Cross The Line On Social Media Sites, The State Journal, June 17, 2010. Copy supplied.

Outside the Lines, ESPN, March 2008. Video available at <https://www.youtube.com/watch?v=Tuto6jugPfs>.

Jake Stump, *Hungry 'Eers Fans Won't Be Eating Papa John's Tonight*, Charleston Daily Mail, November 2, 2006. Copy supplied.

Mike Connolly, *Putnam Commission Settles Suit with Former Deputy*, Charleston Daily Mail, April 15, 2003. Copy supplied.

Toby Coleman, *Jury Says Girl Responsible for Injuries from fall*, Charleston Daily Mail, August 11, 2004. Copy supplied.

Charles Shumaker, *Kanawha Schools Found Not Negligent*, Charleston Gazette, August 11, 2004. Copy supplied.

Toby Coleman, *Putnam Parents Sue Over Alleged Bullying at School*, Charleston Daily Mail, June 27, 2002. 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 never 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 never 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 not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for public 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.

Treasurer, Joanna Tabit for Circuit Court Judge (2016)

I served as campaign treasurer for my former law partner when she ran for election to the Circuit Court of Kanawha County, West Virginia. I organized and coordinated one fundraising event and otherwise received contributions to the campaign. I also completed campaign finance reports.

Finance Committee Member, Beth Walker for Supreme Court (2016)

Treasurer, The New Majority Fund Political Action Committee (2012)

16. Legal Career: Answer each part separately.

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

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

I have never served as a law clerk to a judge.

- 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.

1999 – Present
Steptoe & Johnson PLLC
400 White Oaks Blvd.
Bridgeport, West Virginia 26330
Member (2006 – Present)
Associate (1999 – 2006)

2015 – 2017
West Virginia Senate
Room 229M, Building 1
State Capitol Complex
Charleston, West Virginia 25305
Per Diem Staff Attorney, Senate Judiciary Committee

- 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 never served as a mediator or arbitrator.

b. Describe:

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

Since joining Steptoe & Johnson PLLC after graduation from law school in 1999, I have worked in the firm's Labor and Employment Department. As an associate, I represented a broad variety of clients in both the public and private sector. I had primary responsibility for civil employment litigation matters including breach of contract claims, non-compete agreement enforcement, wrongful discharge, workplace harassment and wage and hour matters. I appeared in both federal and state court in West Virginia as well as administrative agencies at both the state and federal level. I also handled a significant number of matters for local boards of education involving personal injury claims.

In 2006, I became a non-participating member of Steptoe & Johnson PLLC. I continued a broad-based employment litigation practice for clients, both in the public and private sector, and handled a significant amount of litigation for institutions of higher education throughout West Virginia. After my promotion to non-participating member, my practice included an increase in work before administrative agencies at both the

state and federal level.

In 2009, I was promoted to participating member of Steptoe & Johnson PLLC. My employment law practice continues to include defense of private and public-sector entities against discharge claims, discrimination, harassment, and other claims both in litigation as well as before various agencies including the Federal Mine Safety Health Review Commission and Equal Employment Opportunity Commission.

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

My clients typically have included governmental agencies and entities at the state, county, and local levels as well as institutions of higher education. Throughout my career, I have also represented non-profit agencies and organizations, and companies from various private sector industries including long-term care, banking and energy.

- 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.

Ninety percent of my practice has been in litigation. The remainder of my time has been spent counseling clients outside of the litigation context. I appear in court frequently and have throughout the course of my career.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 20%
- 2. state courts of record: 65%
- 3. other courts: 0%
- 4. administrative agencies: 15%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 100%
- 2. criminal proceedings: 0%

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I estimate that I have tried nine cases to verdict, judgment, or final decision (other than settlement). In seven of those cases I was chief counsel and in two cases I was associate counsel.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 67% |
| 2. non-jury: | 33% |

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

I have never practiced before the Supreme Court of the United States.

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

- 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. *Seymour v. Pendleton Community Care*, Circuit Court of Pendleton County, West Virginia, 98-C-26, reversed at 549 S.E.2d 662 (2001).

This case commenced before I joined Steptoe & Johnson PLLC; however, shortly after joining the firm, from September 1999 to July 2001, I served as co-counsel on behalf of Pendleton Community Care in this wrongful discharge case at both the trial and appellate levels. A jury ruled in favor of Ms. Seymour and awarded damages. Upon reviewing post-trial motions, the trial court granted Pendleton Community Care relief from the jury's damages award. Ms. Seymour appealed, and the Supreme Court of Appeals of West Virginia reinstated the jury's verdict in its entirety. Judge Donald H. Cookman presided over the trial. Justices Warren McGraw, Robin Jean Davis, Larry Starcher, Elliot Maynard and Joseph Albright presided over the appeal.

Co-Counsel for Pendleton Community Care
Christopher L. Slaughter
Steptoe & Johnson PLLC
825 Third Avenue, Suite 400
Huntington, West Virginia 25701
(304) 526-8140

Counsel for Plaintiff

Harley O. Staggers, Jr.
Staggers and Staggers
190 Center Street
Keyser, West Virginia 26726
(304) 788-5749

2. *Baldrige v. Seventeenth Street Associates*, United States District Court for the Southern District of West Virginia, Civil Action No. 3:01-0429 (S.D.W.V. 2003)

From September 2001 to February 2004, I served as lead counsel on behalf of Seventeenth Street Associates in this wrongful discharge case. Ms. Baldrige worked at a long-term care facility and claimed that she was terminated after raising concerns about patient care and patient recordkeeping practices. The jury returned a verdict in favor of Seventeenth Street Associates, finding it discharged Ms. Baldrige for poor performance. Judge Joseph R. Goodwin presided over the trial.

Co-Counsel for Seventeenth Street Associates

Jan L. Fox
Steptoe & Johnson PLLC
707 Virginia Street East, 17th Floor
Charleston, West Virginia 25301
(304) 353-8146

Counsel for Plaintiff

Rodney S. Justice
Contact Information Unavailable

3. *LeMaster v. Putnam County Board of Education*, Circuit Court of Putnam County, West Virginia, Civil Action No. 02-C-250 (2004).

From May 2002 to May 2004, I represented the Putnam County Board of Education in a tort action in which a student alleged that he was bullied by a classmate, and that the school system failed to take action to stop the behavior. The jury returned a verdict in favor of the Putnam County Board of Education. Judge O.C. Spaulding (deceased) presided over the matter.

Counsel for Plaintiff

Larry G. Kopelman
Kopelman and Associates, L.C.
9 Pennsylvania Avenue
Charleston, West Virginia 25302
(304) 345-2889

4. *Scicere v. Kanawha County Board of Education*, Circuit Court of Kanawha County, West Virginia, Civil Action No. 02-C-218 (2004).

From December 2001 to October 2004, I represented the Kanawha County Board of Education in this tort action. A student in the Kanawha County school system skipped class with some fellow students to go to a secluded area in the attic space above the school auditorium ceiling. The injured student walked along wooden framing and fell through the ceiling insulation to the floor of the school auditorium. The student, via a parent, brought a claim for negligent supervision and sought damages. The jury returned a verdict in favor of the Kanawha County Board of Education. Judge Charles King presided over the matter.

Co-Counsel for Kanawha County Board of Education

Andrew L. Paternostro
Stewart Bell PLLC
30 Capitol Street
Charleston, West Virginia 25301
(304) 345-1700

Counsel for Plaintiff

Lia DiTrapano Fairless
DiTrapano Law Firm, P.C.
604 Virginia Street East, Suite 307
Charleston, West Virginia 25301
(304) 414-0184

5. *Legg v. Rivers Edge Mining, Inc., et al.*, Circuit Court of Boone County, West Virginia, Civil Action No. 04-C-207 (2006).

From September 2004 to June 2006, I represented Rivers Edge Mining, Inc. in this wrongful termination action. Mr. Legg worked as a coal miner for Rivers Edge Mining and was terminated from employment for suspicion of workers' compensation fraud. He sued alleging he was terminated for seeking workers' compensation benefits. The jury returned a verdict in favor of Mr. Legg. The case settled while an appeal was pending. Judge E. Lee Schlaegel (retired) presided over the matter.

Co-Counsel for Rivers Edge Mining, Inc.

Bryan R. Cokeley
Steptoe & Johnson PLLC
707 Virginia Street East, 17th Floor
Charleston, West Virginia 25301
(304) 353-8146

Counsel for Plaintiff

Mark Atkinson
Atkinson & Polak
300 Summers Street, Suite 1300
Charleston, West Virginia 25301
(304) 982-7577

Harry M. "Burr" Hatfield
Hatfield & Hatfield
221 State Street
Madison, West Virginia 25130
(304) 369-1162

6. *Estep v. West Virginia State University Research & Development Corporation*, United States District Court for the Southern District of West Virginia, Civil Action No. 2:11-CV-0065 (S.D.W.V. 2012).

From September 2009 to December 2012, I represented the West Virginia State University Research & Development Corporation against Ms. Estep, a former employee. Ms. Estep sought damages for violation of the Family and Medical Leave Act as well as under the West Virginia Human Rights Act. Following discovery, the district court granted summary judgment for West Virginia State University Research & Development Corporation on all claims. Judge Joseph R. Goodwin presided over the action.

Counsel for Plaintiff

Shawn Romano
Romano & Associates, PLLC
230 Capitol Street, Suite 200
Charleston, West Virginia 25301
(304) 345-2626

7. *M. Tim Crum v. Mingo Community Action Partnership, Inc.*, Circuit Court of Mingo County, West Virginia, Civil Action No. 09-C-287.

From October 2009 to July 2012, I represented Mingo Community Action Partnership, Inc., in this breach of contract and discrimination action. The executive director of a non-profit agency was accused of sexual and other harassment, which resulted in an internal investigation. At the conclusion of that investigation, the Board of Directors terminated the executive director's employment. At the conclusion of discovery, a motion for summary judgment was filed on behalf of Mingo Community Action Partnership, Inc. The court granted that motion with respect to the gender discrimination claim. The breach of contract claim was tried before a Mingo County jury over the course of a week. After deliberations, the jury returned a verdict in favor of Mingo Community Action Partnership, Inc. Judge Michael Thornsby presided over the action.

Co-Counsel for Mingo Community Action Partnership, Inc.

Joseph A. Curia
308 East Sullivan Street
Kingsport, Tennessee 37660
(304) 692-2522

Counsel for Plaintiff

Clinton W. Smith
405 Capitol Street, #4
Charleston, West Virginia 25301
(304) 343-4498

8. *Danielle T. v. Kanawha County Board of Education et al.*, United States District Court for the Southern District of West Virginia, Civil Action No. 2:01-0514 (S.D.W.V.).

From June 2009 to September 2012, I represented the Kanawha County Board of Education in this tort action. A student in the Kanawha County school system was injured by a box cutter during an altercation with a fellow student. The student asserted a number of claims against the County Board of Education and school administrators, including negligence. At the conclusion of discovery, a motion for summary judgment was filed on behalf of the Kanawha County Board of Education. That motion was granted and all claims were dismissed. Judge John T. Copenhaver presided over the action.

Counsel for Plaintiff

Belinda Morton
106 East Maple Avenue
Fayetteville, West Virginia 25840
Deceased

9. *Epps v. Putnam County Board of Education*, United States District Court for the Southern District of West Virginia, Civil Action No. 2:00-0069, (S.D.W.V. 2001).

From January 2000 to July 2001, I represented the Putnam County Board of Education as well as the administrators in this civil action brought by a student. After making a threat against a teacher, the student was suspended in accordance with the West Virginia Safe Schools Act. The student brought claims against the Putnam County Board of Education as well as school administrators alleging the discipline administered was discriminatory and otherwise unlawful. After briefing was complete, the court granted the defendants' motion for summary judgment and dismissed all claims. Judge John T. Copenhaver presided over the action.

Counsel for Plaintiff

David Moyer
3428 Winfield Road
Winfield, West Virginia 25213
(304) 586-1251

10. *Fuller v. Board of Governors of West Virginia State University*, Circuit Court of Kanawha County, West Virginia, Civil Action No. 13-C-454, affirmed at 2016 WL 3369566 (2016) (not reported).

From March 2013 to October 2016, I represented West Virginia State University in this employment action. The University discharged an employee after she abandoned a group field trip she was charged with chaperoning. After her termination, she filed suit alleging claims under the West Virginia Whistleblower Law and Human Rights Act, among others. The court dismissed all claims against West Virginia State University. Ms. Fuller took an appeal; the West Virginia Supreme Court of Appeals affirmed the lower court's dismissal order. Judge James C. Stucky presided over the trial court action.

Counsel for Plaintiff
Scott Kaminski
Kaminski Law
214 Capital Street
Charleston, West Virginia 25301
(304) 344-0444

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.)

Given my labor and employment practice, I spend considerable time counseling clients on a variety of human resources issues in addition to an active litigation practice. During the entirety of my practice, I have worked with clients on discipline, investigation, and return-to-work issues. This work has also enabled me to provide in-house training for clients on issues ranging from appropriate hiring and firing criteria, records retention, internal investigation protocols, technology issues, and workplace harassment. I have also worked with clients drafting and revising relevant workplace policies to remain compliant with legal changes and developments.

I was registered as a lobbyist for one session of the West Virginia Legislature although I cannot recall the year and my research efforts have not revealed the year I was registered. I did not have any clients who paid me for those efforts. I registered as a lobbyist in the event I had contact with legislators while following and monitoring one particular piece

of legislation. I did not have any substantive contact with any legislators during that session. I allowed my registration to expire and have never renewed it.

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

I taught one semester at the University of Charleston (West Virginia) as part of the paralegal studies program. The course addressed the role of a legal assistant in litigation. I believe I taught this course sometime between 2000 and 2003. I have no syllabus. Other than this, I have never held a formal teaching position.

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.

Should I leave my firm, my firm's operating agreement provides for the payment of my capital account.

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

I have no plans, commitments, or agreements to pursue outside employment in the future.

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 may have played a role in representing or advising any of the parties as well as any cases involving Steptoe & Johnson PLLC pending at the time of my departure from the firm. Going forward, I will evaluate recusal in cases involving Steptoe & Johnson PLLC and any clients that I represented while at Steptoe & Johnson PLLC, and follow the applicable Canons of the Code of Conduct for United States Judges.

- 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 actual or potential conflict 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 career, I have provided pro bono services to a number of organizations and programs. Early in my career, I participated in the YWCA Resolve Family Abuse Program which connected victims of domestic abuse in need of legal counsel with lawyers willing to assist in securing domestic violence protective orders. Likewise, I volunteered as part of the West Virginia State Bar Lawyer Information Service/Lawyer Referral Service, a toll-free hotline offering general legal information and providing potential referrals to callers with legal issues. Since then, I have provided pro bono services to a variety of organizations including Saint Agnes School and Mountaineer Little League on a variety of legal questions. In addition, I coordinated a pro bono firm effort to provide educational seminars for employers regarding military leave issues following September 11, 2001. I believe those pro bono seminars were provided throughout West Virginia sometime during 2002. Those seminars were offered in conjunction with the local Employer Support of the Guard and Reserve offices. I have never kept records of my pro bono work but estimate I have averaged between 25 to 50 hours of such work every year of my practice.

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 or May 2017, I received a telephone call from Senator Shelley Moore Capito's office inquiring if I would like to be considered for a potential nomination to a future vacancy in the Northern District of West Virginia. I interviewed with Senator Capito on June 13, 2017. I interviewed with Senator Joe Manchin III on July 17, 2017. On October 5, 2017, I interviewed with Congressman David McKinley. Since October 18, 2017, I have been in contact with officials from the White House Counsel's Office. On October 30, 2017, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice's Office of Legal Policy in Washington, D.C. On November 9, 2017, I interviewed again with Senator Manchin. The President submitted my nomination to the Senate on February 15, 2018.

- 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.