

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Lawrence James Christopher VanDyke

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

Circuit Judge, United States Court of Appeals for the Ninth Circuit

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

United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Residence: Manassas, Virginia

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

1972; Midland, Texas

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, Harvard Law School, J.D., *magna cum laude*; 2005

2000 – 2002, Bear Valley Bible Institute, B.Th., *summa cum laude*; 2002

1997 – 2000, Montana State University, M.C.E.M.; 2000

1995 – 1997, Montana State University, B.S. Eng., with highest honors; 1997

1992 – 1995, Oklahoma Christian University. No degree conferred.

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.

2019 – present

U.S. Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Deputy Assistant Attorney General

2015 – 2019

Office of the Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701
Nevada Solicitor General

2013 – 2014

Montana Department of Justice
215 North Sanders Street
Helena, Montana 59601
Montana Solicitor General

2012

Office of the Texas Attorney General
300 West 15th Street
Austin, Texas 78701
Texas Assistant Solicitor General

2007 – 2012

Gibson Dunn & Crutcher LLP
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201
Associate Attorney

2006 – 2007

Hon. Janice Rogers Brown
U.S. Court of Appeals for the D.C. Circuit
333 Constitution Avenue, N.W.
Washington, D.C. 20001
Law Clerk

2005 – 2006

Gibson Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Associate Attorney

Summer 2004
Gibson Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Summer Law Clerk

Summer 2003
Alliance Defense Fund
(now the Alliance Defending Freedom)
15333 North Pima Road, Suite 165
Scottsdale, Arizona 85260
Legal Intern

1997 – 2001
Performance Machinery Company
5651 Love Lane
Bozeman, Montana 59718
Vice President

1997 – 2001
VanDyke Construction Company
5651 Love Lane
Bozeman, Montana 59718
Project Manager

Other Affiliations (uncompensated)

2017 – 2019
Western Nevada Pistol League
Post Office Box 20525
Reno, Nevada 89515
Treasurer

2003 – 2005
Professor Mary Ann Glendon
Harvard Law School
1585 Massachusetts Avenue
Cambridge, Massachusetts 02138
Research Assistant

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

I did not serve in the military. I registered for the selective service upon turning 18.

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

Office of the Nevada Attorney General Exceptional Service Award (2019)

Claremont Institute Publius Fellow (2005)

Degree from Harvard Law School conferred *magna cum laude* (2005)

First Place, William Pew Religious Freedom National Writing Competition (2005)

Editor, Harvard Law Review (2003 – 2005)

Editor, Harvard Journal of Law and Public Policy (2002 – 2003)

Second Place, 50th Annual Williston Contracting Competition (2002)

Degree from Bear Valley Bible Institute conferred *summa cum laude* (2002)

B.S. from Montana State University conferred with Highest Honors (1997)

Top Graduating GPA in Civil Engineering Award (1997)

Associated General Contractors Heffner Graduate Scholarship (1997)

First Place, Associated General Contractors Allhands National Essay Contest (1996)

Associated General Contractors National Associate Members Undergraduate Scholarship (1996)

Presidential Scholar, Oklahoma Christian University (1992 – 1995)

Engineering Academic Excellence Award, Oklahoma Christian University (1994)

Outstanding Freshman Engineering Award, Oklahoma Christian University (1993)

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.

Federalist Society for Law and Public Policy Studies (2005 – present)

Religious Liberties Practice Group Executive Committee (2008 – 2019)

Federalism & Separation of Powers Practice Group Executive Committee (2013 – 2019)

Regulatory Transparency Project, State & Local Government Working Group (2016 – 2019)

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.

Nevada, 2015
Texas, 2008
District of Columbia, 2006
Montana, 2005

There have been no lapses in membership. I am currently considered voluntarily inactive in Montana and Texas. In 2015 I was admitted to practice in Nevada under a special practice rule applicable to attorneys in the Office of the Nevada Attorney General. In 2017 I was admitted as a member by bar exam. My certificate to practice was improperly not renewed by the Nevada Bar in 2017, but the Nevada Supreme Court subsequently ordered it reinstated *nunc pro tunc*, so there was no lapse in my license.

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

Supreme Court of the United States, 2013
United States Court of Appeals for the D.C. Circuit, 2007
United States Court of Appeals for the Fifth Circuit, 2008
United States Court of Appeals for the Sixth Circuit, 2015
United States Court of Appeals for the Ninth Circuit, 2013
United States District Court for the District of Columbia, 2007
United States District Court for the District of Nevada, 2015
United States District Court for the Northern District of Texas, 2007
United States District Court for the Western District of Texas, 2008
United States District Court for the Eastern District of Texas, 2016

Admission to practice in United States District Court for the District of Columbia lasts for 3 years, and membership in the United States Court of Appeals for the Fifth Circuit lasts for 5 years. Because I was not practicing before those courts when my memberships expired, I did not immediately renew them, so they lapsed for a period of time. I later reactivated my membership in both courts and am currently admitted to practice in all courts listed above

Except as set forth above, 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.

Buckingham Road Church of Christ, Garland, Texas (2007 – 2012)
Mission Committee (2009 – 2012)

National Rifle Association (dates unknown – present)

International Defensive Pistol Association (2011 – present)

Western Nevada Pistol League (2015 – 2019)
Club Treasurer (2017 – 2019)

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, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements:**

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

With Adam Laxalt, *What Gorsuch Understands About Unelected Judges*, Fox News, Feb. 8, 2017. Copy supplied.

With Adam Laxalt, *Muddied Waters: How the EPA and Corps of Engineers Redefined Their Authority over State Waters*, in *Liberty's Nemesis: The Unchecked Expansion of the State* (Dean Reuter & John Yoo eds., 2016). Copy supplied.

Look at the Record If You Want to Keep Court Nonpartisan, Bozeman Daily Chron., Oct. 13, 2014. Copy supplied.

Why Are Trial Lawyers Trying to Buy a Judge?, Billings Gazette, Oct. 8, 2014. Copy

supplied.

Law Should Be Non-Partisan, Bigfork Eagle (Oct. 7, 2014). Copy supplied.

What's Wrong with Our Montana Supreme Court?, Hungry Horse News (Columbia Falls, Mont.), Sept. 29, 2014. Copy supplied.

You Do Have a Voice in the Speaker's Race, Austin-Am. Statesman, Jan. 5, 2009. Copy supplied.

Make Your Voice Heard, Dallas Morning News, Dec. 17, 2008, at 22A. Copy supplied.

With Joseph D. West, Timothy J. Hatch, and Christyne K. Brennan, *Suspension & Debarment*, Briefing Papers, Aug. 2006. Copy supplied.

Note, *Leaving Religious Students Speechless: Public University Antidiscrimination Policies and Religious Student Organizations*, 118 Harv. L. Rev. 2882 (2005). Copy supplied.

One Final Response to Leiter and Company, Harv. L. Sch. Fed. Soc. Ex Parte Blog Post, Apr. 2004 (approx.). Copy supplied.

Response to Ed Brayton, Harv. L. Sch. Fed. Soc. Ex Parte Blog Post, Mar. 2004 (approx.). Copy supplied.

On March 15, 2004, I authored comments on a blog post by Ed Brayton responding to my book review in the Harvard Law Review referenced below. A copy of the post together with my comments is supplied.

Response to Brian Leiter, Harv. L. Sch. Fed. Soc. Ex Parte Blog Post, Mar. 2004 (approx.). Copy supplied.

Book Note, *Not Your Daddy's Fundamentalism: Intelligent Design in the Classroom*, 117 Harv. L. Rev. 964 (2004). Copy supplied.

One Student's Response to "A Response to Glendon," Harv. L. Rec., Mar. 11, 2004. 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.

With Anastasia Boden et al., *Managing the Regulatory Thicket: Cumulative Burdens of State and Local Regulation* (2019). Copy supplied.

With Dana Berliner et al., Occupational Licensing Run Wild (2017). Copy supplied.

Judicial Recess Appointments: A Survey of the Arguments – An Addendum (2007). Copy supplied.

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

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I have found the following responsive materials.

Testimony as Solicitor General to Montana Senate State Administration Committee on H.B. 217 (Feb. 20, 2013). Recording available at <http://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20170221/-1/18232?mediaStartTime=20130220151248&mediaEndTime=20130220154726&viewMode=2>.

Letter to the United States Judiciary Committee supporting the nomination of Lee Rodofsky (July 25, 2019). Copy supplied.

Letter to the Arizona Commission on Appellate Court Appointments recommending selection of Jennifer Perkins (Jan. 15, 2019). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of Eric E. Murphy (July 28, 2018). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of Andrew L. Brasher (May 17, 2018). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of Britt C. Grant (May 16, 2018). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of Patrick R. Wyrick (May 1, 2018). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of J. Campbell Barker (Apr. 12, 2018). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of Andy Oldham (Apr. 2, 2018). Copy supplied.

Letter to the United States Judiciary Committee supporting the nomination of Kyle Duncan (Nov. 16, 2017). Copy supplied.

Letter to the Arizona Commission on Appellate Court Appointments recommending selection of Jennifer Perkins (June 30, 2017). 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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I have found the following responsive materials.

August 3, 2019: Panelist, "Public Lawyering – Public Good Panel," Alliance Defending Freedom, Pentagon City, Virginia. The panel was a question-and-answer session with rising second-year law students and practicing lawyers. I have no notes, transcript, or recording. The address for Alliance Defending Freedom is 15100 North 90th Street, Scottsdale, Arizona 85260.

October 4, 2018: Panelist, "Impact Litigation: State Solicitors General Perspective," Goldwater Institute, Phoenix, Arizona. Notes supplied.

September 28, 2018: Panelist, "Horizontal and Vertical Federalism with State Solicitors General," San Francisco, California. Notes supplied.

October 4, 2017: Panelist, "Impact Litigation: State Solicitors General Perspective," Goldwater Institute, Philadelphia, Pennsylvania. Notes supplied.

September 14, 2017: Speaker, "State Religion Clauses after *Trinity Lutheran*: Are the State Constitutions Unconstitutional?," UCLA Law School, Los Angeles, California. For this event, I used the same notes and slides as the earlier Orange County Lawyers Chapter event on September 13, 2017, which are supplied.

September 13, 2017: Speaker, "State Religion Clauses after *Trinity Lutheran*," Trinity Law School, Santa Ana, California. For this event, I used the same notes and slides as the earlier Orange County Lawyers Chapter event on September 13, 2017, which I supplied.

September 13, 2017: Speaker, "State Religion Clauses after *Trinity Lutheran*," Orange County Federalist Society Lawyers Chapter, Orange County, California. Notes and slides supplied.

September 7, 2017: Speaker, "A Day in the Life of the Solicitor General," Boyd Law

School, UNLV, Las Vegas, Nevada. Notes supplied.

June 16, 2017: Speaker, "The Nevada Attorney General's Office at the U.S. Supreme Court," Las Vegas Federalist Society Lawyers Chapter, Las Vegas, Nevada. Notes supplied.

March 25, 2017: Panelist, "State Solicitors General Panel," Harvard Law School Federalist Society Alumni Symposium, Cambridge, Massachusetts. I have no transcript, notes, or recording. The address of the Harvard Law School Federalist Society is 1563 Massachusetts Avenue, Cambridge, Massachusetts 02138.

November 23, 2016: Speaker, "Courthouse Steps: Overtime Regulation," Federalist Society Online Teleforum. Audio available at:
<https://fedsoc.org/commentary/podcasts/courthouse-steps-overtime-regulation-podcast>.

September 23, 2015: Panelist, "Navigating Your Firm's Pro Bono Committee," Alliance Defending Freedom, Cancun, Mexico. The panel was a question-and-answer session with young attorneys. I have no notes, transcript, or recording. The address for Alliance Defending Freedom is 15100 North 90th Street, Scottsdale, Arizona 85260.

September 22, 2015: Panelist, "From Private Practice to Public Sector – A Primer," Alliance Defending Freedom, Cancun, Mexico. Notes supplied.

September 16, 2016: Panelist "Politicization of the Executive Branch," Claremont Institute 2016 Constitution Day, Upland, California. Video available at
<https://www.youtube.com/watch?v=4kZicnD3ZBk>.

August 11, 2015: Speaker, "Surviving Thriving in Law School and Beyond," Alliance Defending Freedom, Tucson, Arizona. Notes and slides supplied.

August 10, 2015: Speaker, Discussion of the WOTUS Rule, Mesquite, Nevada. I have no notes, transcript, or recording of this particular event. The address of the Office of the Nevada Attorney General is 100 North Carson Street, Carson City, Nevada 89701. Press report supplied.

April 17, 2015: Panelist, "Obamacare, Immigration Executive Order and Other Transformative Lawsuits: A Conversation with 4 Current Solicitors General," Boalt Law School, Berkeley, California. The panel was a question-and-answer session for law school students with state solicitors general moderated by a federal judge. I have no notes, transcript, or recording. The address for Boalt Law School is 225 Bancroft Way, Berkeley, California 94702. The address for the Federalist Society is 1776 I Street, N.W., Suite 300, Washington, D.C. 20006.

October 24, 2014: Meet & Greet while running for Montana Supreme Court, Billings, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes

that I generally spoke from for this type of event.

October 23, 2014: Meet & Greet while running for Montana Supreme Court, Billings, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 22, 2014: Meet & Greet while running for Montana Supreme Court, Lewiston, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 22, 2014: Meet & Greet while running for Montana Supreme Court, Jordan, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 15, 2014: Meet & Greet while running for Montana Supreme Court, Butte, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 10, 2014: Meet & Greet while running for Montana Supreme Court, Whitefish, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 9, 2014: Meet & Greet while running for Montana Supreme Court, Shelby, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 8, 2014: Meet & Greet while running for Montana Supreme Court, Joliet, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 3, 2014: Meet & Greet while running for Montana Supreme Court, Libby, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 2, 2014: Meet & Greet while running for Montana Supreme Court, Glendive, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 2, 2014: Meet & Greet while running for Montana Supreme Court, Sidney, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 1, 2014: Meet & Greet while running for Montana Supreme Court, Plentywood, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 1, 2014: Meet & Greet while running for Montana Supreme Court, Glasgow, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

October 1, 2014: Meet & Greet while running for Montana Supreme Court, Malta, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 30, 2014: Meet & Greet while running for Montana Supreme Court, Havre, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 30, 2014: Meet & Greet while running for Montana Supreme Court, Chester, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 30, 2014: Meet & Greet while running for Montana Supreme Court, Fort Benton, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 25, 2014: Meet & Greet while running for Montana Supreme Court, Washington, D.C. This was a fundraiser meeting I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 23, 2014: Panelist, "Montana Supreme Court Candidate Forum: A Discussion with the Candidates," University of Montana Law School, Missoula, Montana. Audio recording of the forum is available here: <https://www.mtpr.org/post/montana-supreme-court-candidates-debate>. Press report supplied.

September 22, 2014: Meet & Greet while running for Montana Supreme Court, Helena, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 16, 2014: Meet & Greet while running for Montana Supreme Court, Billings, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 15, 2014: Meet & Greet while running for Montana Supreme Court, Bozeman, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 13, 2014: Meet & Greet while running for Montana Supreme Court, Forsyth, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 13, 2014: Meet & Greet while running for Montana Supreme Court, Billings, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 12, 2014: Meet & Greet while running for Montana Supreme Court, Kalispell, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 11, 2014: Meet & Greet while running for Montana Supreme Court, Kalispell, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 4, 2014: Meet & Greet while running for Montana Supreme Court, Laurel, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

September 3, 2014: Meet & Greet while running for Montana Supreme Court, Great Falls, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

August 28, 2014: Meet & Greet while running for Montana Supreme Court, Helena,

Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

August 27, 2014: Meet & Greet while running for Montana Supreme Court, Kalispell, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

August 26, 2014: Meet & Greet while running for Montana Supreme Court, Missoula, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

August 25, 2014: Meet & Greet while running for Montana Supreme Court, Bozeman, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

August 20, 2014: Meet & Greet while running for Montana Supreme Court, Billings, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

August 18, 2014: Meet & Greet while running for Montana Supreme Court, Dillon, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

July 31, 2014: Meet & Greet while running for Montana Supreme Court, Kalispell, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

June 17, 2014: Talk to Montana Chamber of Commerce, Lewistown, Montana. This was a talk to the Montana Chamber of Commerce about my race for the Montana Supreme Court. Notes supplied.

May 10, 2014: Meet & Greet while running for Montana Supreme Court, Hamilton, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

May 3, 2014: Meet & Greet while running for Montana Supreme Court, Helena, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes

that I generally spoke from for this type of event.

April 24, 2014: Meet & Greet while running for Montana Supreme Court, Bozeman, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

April 12, 2014: Meet & Greet while running for Montana Supreme Court, Missoula, Montana. This was one of many townhall-style meetings I had with potential supporters. I have no notes, transcript, or recording of this particular event, but I have supplied notes that I generally spoke from for this type of event.

June 14, 2012: Banquet Speaker, Phoenix, Arizona. I presented a short, five-minute speech to an audience of law school students and Alliance Defending Freedom staff. I have no notes, transcript, or recording. The address for Alliance Defending Freedom is 15100 North 90th Street, Scottsdale, Arizona 85260.

February 21, 2011: Speaker, Stanford Mills Legal Clinic faculty job talk, Stanford Law School, California. Notes supplied.

April 12, 2008: Panelist, "Living My Faith as a Lawyer," Ivy League Conference on Faith and Action, Yale University, New Haven, Connecticut. Notes supplied.

March 27, 2008: Panelist, "The Election of the Texas Speaker of the House and the First Amendment," the Federalist Society and the American Constitution Society, Austin, Texas. Notes supplied.

September 26, 1998: Speaker, Associated General Contractors Education and Research Foundation Appreciation Dinner, Charlotte, North Carolina. I was the guest speaker for this event honoring those who had sponsored AGC scholarships. I have no notes, transcript, or recording. The address for the Associated General Contractors is 2300 Wilson Boulevard, Suite 300, Arlington, Virginia 22201.

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.

To my recollection and through searches of my records and publicly available databases by persons acting on my behalf, I have found the following responsive materials.

Alexander Kritikos, *Prominent Books by Prominent People: Nevada Solicitor General Lawrence VanDyke*, Federalist Society Blog, July 18, 2018. Copy supplied.

Ben Penn, *Overtime Rule Slated for Appellate Court Argument in October*, Labor Relations Week, Aug. 9, 2017. Copy supplied. Reprinted in multiple outlets.

Daniel Wiessner, *Judge Won't Stay Challenge to Overtime Rule Pending Appeal*, Reuters Legal, Jan. 4, 2017. Copy supplied.

Daniel Wiessner, *5th Circuit Expedites Review of Obama Administration Overtime Rule*, Reuters Legal, Dec. 8, 2016. Copy supplied.

Marianne Kobak McKown, *Nevada Supreme Court Ordered to Take Another Look at Elko Case*, Elko Daily Free Press (Nev.), June 27, 2016. Copy supplied. Reprinted in multiple outlets.

Press Release, Office of the Nevada Attorney General, Attorney General Laxalt Successfully Petitions US Supreme Court to Vacate Nevada Fourth Amendment Decision (June 27, 2016). Copy supplied.

On May 18, 2015 I participated in a radio interview with Marlene Monteolivo for KRLV 1340. Las Vegas, Nevada, May 18, 2015. I have been unable to locate a recording.

KNPR's State of Nevada, *AG Laxalt Joins Fight over Jarbidge Road* (Nevada Public Radio broadcast March 30, 2015). Recording available at <https://knpr.org/knpr/2015-03/ag-laxalt-joins-fight-over-jarbidge-road>.

Laura Myers, *Conservative Montana Lawyer Named Nevada Solicitor General*, Las Vegas Rev. J., Dec. 11, 2014, at B1. Copy supplied. Reprinted in multiple outlets.

Shaila Dewan, *Montana Judicial Race Joins Big-Money Fray*, N.Y. Times, Nov. 3, 2014, at 11. Copy supplied.

Mike Dennison, *VanDyke: Conservative Ties, Practicing Appellate Law in Texas, D.C. and Montana*, Mont. Standard, Oct. 31 2014. Copy supplied. Reprinted in multiple outlets.

Mike Dennison, *Wheat's Supreme Court Record under Attack; What's Actually in the Record?*, Mont. Standard, Oct. 30, 2014. Copy supplied.

Mike Dennison, *Money Pouring into Wheat-VanDyke Montana Supreme Court Race*, Mont. Standard, Oct. 26, 2014. Copy supplied.

Colleague Questions Candidate's Skills for Court, Associated Press, Oct. 25, 2014. Copy supplied. Reprinted in multiple outlets.

Matt Volz, *Supreme Court Race Takes on Partisan Edge*, Associated Press, Oct. 22, 2014.

On October 21, 2014 I participated in a radio interview with Aaron Flint for *The Flint Report*. I have been unable to locate a recording.

Laura Scheer, *Wheat, VanDyke Clash over Partisanship in Supreme Court Race*, Mont. Pub. Radio, Oct. 19, 2014. Copy supplied.

Troy Carter, *Ex Justices Say Candidate for Supreme Court a Corporate Puppet*, Bozeman Daily News, Oct. 17, 2014. Copy supplied.

John S. Adams, *VanDyke Alleges Race 'Pay-to-Play,'* Great Falls Trib., Oct. 15, 2014, at A1. Copy supplied. Reprinted in multiple outlets.

John King, *Montana Supreme Court Candidate Lawrence VanDyke Points to "Evidence of Hypocrisy" in Mike Wheat Campaign*, Newstalk KGVO, Oct. 10, 2014. Video available at: https://www.youtube.com/watch?time_continue=22&v=qwuTJUv3utA.

Charles S. Johnson, *VanDyke Cites Experience, Criticizes Wheat as Result-Oriented*, Mont. Standard, Oct. 10, 2014. Copy supplied. Reprinted in multiple outlets.

Jason Stuart, *Supreme Court Candidate Visits Area*, Glendive Ranger Rev. (Mont.), Oct. 9, 2014. Copy supplied.

Derek Jordan, *State Supreme Court Candidate Stops in Sidney*, Sidney Herald (Mont.), Oct. 8, 2014.

On October 7, 2014, I participated in a television interview with Sanjay Talwani for KXLH Channel 9 (Helena, Montana). I have been unable to locate a recording.

On October 6, 2014, I participated in a television interview with Amanda Roley for KFBB-TV (Great Falls, Montana). I have been unable to locate a recording.

On October 1, 2014 I participated in an interview with Joe Nistler for the Sheridan County News. I have been unable to locate a copy of the article.

Bonnie Davidson, *Supreme Court Candidate VanDyke Stops in Glasgow*, Glasgow Courier (Mont.), Oct. 1, 2014. Copy supplied.

On October 1, 2014, I participated in an interview with Mark Hebert for the Phillips County News, Malta, Montana. I have been unable to locate a copy of the article.

John Paul Schmidt, *VanDyke Campaigns for High Court*, Havre Daily News (Mont.), Oct. 1, 2014. Copy supplied.

On September 30, 2014, I participated in an interview with Brandon Baney for the Basin Radio Network. I have been unable to locate a recording.

On September 30, 2014, I participated in an interview with Paul Overlie for the Liberty County Times, Chester, Montana. I have been unable to locate a copy of the article.

On September 30, 2014, I participated in an interview with Tim Burmeister for the River Press, Fort Benton, Montana. I have been unable to locate a copy of the article.

Following the Law, Not the Politics, Recorded Campaign Video, Sept. 25, 2014.
Available at: <https://www.youtube.com/watch?v=Ysd6TbILnC8>.

Jim Mann, *Justice Says His Experience Counts*, Daily Inter Lake (Kalispell, Mont.), Sept. 20, 2014. Copy supplied.

On September 19, 2014, I participated in a radio interview with Aaron Flint for *The Flint Report*. I have been unable to locate a recording.

John S. Adams, *Wheat Says Good Judges Set Aside Their Partisan Past*, Great Falls Trib. (Mont.), Sept. 19, 2014, at A1. Copy supplied.

John S. Adams, *VanDyke 'Not a Politician by Nature,'* Great Falls Trib. (Mont.), Sept. 18, 2014, at A1. Copy supplied.

Jim Mann, *Montana Supreme Court Challenger Details Stark Differences with Incumbent*, Daily Inter Lake (Kalispell, Mont.), Sept. 16, 2014. Copy supplied.

On September 12, 2014, I participated in a radio interview with the John Hendricks Morning Show, KGEZ 600 AM Radio, Kalispell, Montana. I have been unable to locate a recording.

Are You Republican or Democrat?, Recorded Campaign Video, Sept. 8, 2014. Available at: <https://www.youtube.com/watch?v=MhzDHVMgYsw>.

On September 5, 2014, I participated in a radio interview with Aaron Flint for *The Flint Report*. I have been unable to locate a recording.

On September 4, 2014, I participated in an interview with the editorial board for the Billings Gazette. I have been unable to locate a copy of an article resulting from this interview.

On August 27, 2014, I participated in an interview with *Politics Montana with Rick Tryon*, 102.7 KINX Great Falls, Montana. I have been unable to locate a recording.

On July 23, 2014, I participated in a radio interview with Aaron Flint for *The Flint Report*. I have been unable to locate a recording.

Charles S. Johnson, *VanDyke Back on Ballot for Supreme Court*, Mont. Standard, July 23, 2014. Copy supplied.

Solicitor General to Resign to Focus on Campaign, Associated Press, May 9, 2014.

Copy supplied.

Charles S. Johnson, *Court to VanDyke: McGrath, Wheat Already Recused Selves*, Mont. Standard, May 8, 2014. Copy supplied.

Charles S. Johnson, *Judge Hears Arguments over Candidate's Eligibility for Supreme Court*, Mont. Standard, Apr. 24, 2014. Copy supplied. Reprinted in multiple outlets.

VanDyke Files for Supreme Court, Big Sky Bus. J., March 24, 2014. Copy supplied.

John S. Adams, *VanDyke's Status Questioned*, Great Falls Trib. (Mont.), Mar. 22, 2014.

Charles S. Johnson, *VanDyke Seeks Supreme Court Seat*, Mont. Standard, Mar. 13, 2014, at M1. Copy supplied. Reprinted in multiple outlets.

Primary Election Field Takes Shape, Mont. Standard, March 11, 2014. Copy supplied.

Judge Strikes Down Speaker's Race Law, Associated Press, Aug. 25, 2008. Copy supplied. Reprinted in multiple outlets.

Anna Palmer, *Judges Look to Clerks with Experience*, Legal Times, Jan. 8, 2007. Copy supplied. Reprinted in multiple outlets.

Adina Levine, *Law Review Book Note Attacked*, Harv. L. Rec. Apr. 23, 2004. Copy supplied.

In approximately August 2003 I participated in an interview for inclusion in promotional materials for Harvard Law School. I have no notes, transcript, or recording of the interview, nor do I have a copy of the promotional pamphlet. An article in the New York Observer mentions the pamphlet and quotes from my interview. I have supplied a copy of that article.

Wendy Raney, *Ethanol Plant Delayed Again*, Great Falls Trib. (Mont.), March 5, 1999, at 1A. 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.

Solicitor General of Montana, Montana Department of Justice, 2013 – 2014. I was appointed in 2013 by Montana Attorney General Tim Fox.

Solicitor General of Nevada, Office of the Nevada Attorney General, 2015 – 2019. I was appointed in 2015 by Nevada Attorney General Adam Paul Laxalt.

Deputy Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, 2019 – present. I was appointed in 2019 by Attorney General Barr.

In 2014, I ran unsuccessfully to be elected as an associate justice on the Montana Supreme Court.

- 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.

Beyond my own election campaign, I have never held a position or played a role in a political party or election campaign or committee.

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 2006 to 2007, I served as a law clerk to the Honorable Janice Rogers Brown, Circuit Judge of the United States Court of Appeals for the D.C. Circuit.

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

I have not practiced alone.

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

2005 – 2006

Gibson Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
Associate Attorney

2007 – 2012

Gibson Dunn & Crutcher LLP
2100 McKinney Avenue, Suite 1100
Dallas, Texas 75201
Associate Attorney

2012

Office of the Texas Attorney General
300 West 15th Street
Austin, Texas 78701
Assistant Solicitor General

2013 – 2014

Montana Department of Justice
215 North Sanders Street
Helena, Montana 59601
Montana Solicitor General

2015 – 2019

Office of the Nevada Attorney General
100 North Carson Street
Carson City, Nevada 89701
Nevada Solicitor General

2019 – present

U.S. Department of Justice
Environment and Natural Resources Division
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
Deputy Assistant Attorney General

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

I have not served as a mediator or arbitrator.

b. Describe:

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

In 2005, I joined the Washington, D.C. office of Gibson Dunn & Crutcher LLP as an associate attorney. My national practice focused on appellate and constitutional issues, as well as labor and employment law. I left to clerk for the Honorable Janice Rogers Brown in 2006. After clerking, I returned to Gibson Dunn & Crutcher's Dallas, Texas office, where my practice focused on appellate, constitutional, and class-action litigation, spanning a wide range of substantive legal areas, including commercial litigation, antitrust, labor and employment, products liability, and religious liberties. I litigated in state and federal courts around the nation, including the U.S. Supreme Court, state supreme courts, federal circuit courts, and state and federal trial courts. I represented clients on issues before federal agencies, including the FTC and FEMA.

In 2012, I left Gibson Dunn to work as an Assistant Solicitor General in the Texas Attorney General's Office. Within weeks of starting in that position, I was offered an appointment as the Montana Solicitor General, which I accepted. My practice as the Montana Solicitor General focused on a very broad range of substantive issues, and I practiced in many different courts, including the U.S. Supreme Court, Ninth Circuit, Montana Supreme Court, and state trial courts. I litigated state and federal constitutional issues, statutory claims, and advised on some criminal law constitutional issues.

In 2015, I was appointed as the Nevada Solicitor General. During my four-year tenure as Nevada's Solicitor General, I litigated many cases in state and federal trial courts, the Nevada Supreme Court, the Ninth Circuit, and the U.S. Supreme Court. The subject matter of the cases I litigated included habeas, criminal, sovereign immunity, environmental issues, water law, takings, land use regulations, administrative law, labor & employment, tax, Section 1983 claims, education, election, religious liberty, and governmental powers. In addition to the many cases I personally litigated, I also supervised a small team of experienced

litigators handling the most challenging and high-profile cases being litigated by the State of Nevada or state agencies. I also oversaw all appellate matters for the State of Nevada, reviewing briefs and coordinating moots for attorneys in the Office of the Attorney General.

In 2019, after my appointment as Nevada Solicitor General ended, I accepted an appointment as a Deputy Assistant Attorney General in the Environment and Natural Resources Division of the United States Department of Justice. In that role, I oversee over 75 attorneys who litigate land use, environmental, Tribal, water, and takings issues, with a heavy focus on administrative law. Most of the litigation is in federal courts around the nation, but some water issues are litigated in state courts, including Nevada state courts. A significant portion, if not a majority, of the litigation I currently supervise is in the Ninth Circuit.

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

In my current position as a Deputy Assistant Attorney General, my clients are the United States, and federal agencies and officers. My practice oversees a wide range of environmental and natural resources laws administered by many federal agencies, including the Department of the Interior, Department of Agriculture, Department of Defense, Department of Energy, Department of Transportation, Department of Commerce, and the Environmental Protection Agency.

As the Nevada Solicitor General, my clients were the State of Nevada, state agencies, and state officers and employees. My practice in Nevada encompassed a very wide range of substantive areas, including state and federal constitutional issues, criminal and habeas, regulatory, administrative, labor and employment, tax, energy, environmental, election, education, and governmental powers.

As the Montana Solicitor General I represented the State of Montana and state agencies and officers, and litigated a similarly diverse range of legal issues, including state and federal constitutional issues, election, preemption, and public lands issues.

In my private practice at Gibson Dunn and Crutcher LLP, most of my clients were a variety of large companies and organizations. They included Chrysler, Farmers Insurance, Biovail, Oncor, Belo Corp., Walmart, Tyco, Retail Industry Leaders Association, Ticketmaster, Williams, Microsoft, TXU, and UPS. My practice encompassed a variety of commercial litigation issues, including antitrust, labor and employment, products liability, bankruptcy, and contractual disputes. I also litigated constitutional and religious liberty issues pro bono for a variety of organizations and individuals, including Alliance Defending Freedom,

the Free Market Foundation (now First Liberty), the ACLU of Texas, the Gays and Lesbians for Individual Liberty, and Senator Mitch McConnell.

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.

In private practice from 2005 to 2012, my practice consisted almost entirely of litigation. I appeared in court occasionally early in my career, and frequently later in my career as Solicitor General. In my current role in the Environmental and Natural Resources Division, my practice consists almost entirely of supervising litigation in courts around the nation – mostly in federal court but occasionally in state courts.

In the course of my career, I have litigated hundreds of cases at every level – in the U.S. Supreme Court, multiple state supreme courts, multiple federal circuits, and in federal and state trial courts. I have argued dozens of appeals, mostly in the Ninth Circuit but also in the state supreme courts of Nevada and Montana. I have also argued many dispositive motions in federal and state district courts.

i. Indicate the percentage of your practice in:

- | | | |
|----|--------------------------|-----|
| 1. | federal courts: | 65% |
| 2. | state courts of record: | 35% |
| 3. | other courts: | 0% |
| 4. | administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

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

Included in this criminal proceedings percentage are federal habeas cases. While technically civil cases, the legal questions raised in these cases are predominately criminal law constitutional issues. I have also litigated non-habeas criminal cases on appeal, including before the U.S. Supreme Court and Nevada Supreme Court.

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 primarily an appellate lawyer, I have not served as sole or chief counsel in any case tried to verdict or judgment in court. As Solicitor General, I participated as a legal advisor to trial teams for cases being tried. As a manager in the Environment and Natural Resources Division, I supervise teams of lawyers in the division who frequently litigate trials.

i. What percentage of these trials were:

- | | | |
|----|-----------|-----|
| 1. | jury: | 25% |
| 2. | non-jury: | 75% |

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.

Petition for Writ of Certiorari, *Gittere v. Echavarria*, 139 S. Ct. 2613 (2019) (No. 18-756). Available at 2018 WL 6585003.

Petition for Writ of Certiorari, *Nevada Dep't of Wildlife v. Smith*, 139 S. Ct. 2613 (2019) (No. 17-1348). Available at 2018 WL 1505538.

Reply Brief for Petitioner, *Nevada Dep't of Wildlife v. Smith*, 139 S. Ct. 2613 (2019) (No. 17-1348). Available at 2018 WL 2754017

Brief of the States of Nevada, Colorado, Georgia, Idaho, Kansas, Nebraska, South Carolina, Tennessee, Texas, and Utah as Amici Curiae in Support of Petitioner, *Ryan v. Poyson*, 138 S. Ct. 2652 (2018) (No 17-1274). Available at 2018 WL 1794388

Petition for Writ of Certiorari, *Filson v. Browning*, 138 S. Ct. 2608 (2018) (No. 17-1390). Available at 2018 WL 1705599.

Reply Brief for Petitioners, *Filson v. Browning*, 138 S. Ct. 2608 (2018) (No. 17-1390). Available at 2018 WL 2230614.

Petition for Writ of Certiorari, *Filson v. Petrocelli*, 138 S. Ct. 984 (2018) (No. 17-769). Available at 2017 WL 5714613.

Reply Brief for Petitioner, *Filson v. Petrocelli*, 138 S. Ct. 984 (2018) (No. 17-769). Available at 2018 WL 347803.

Brief of the States of Nevada, Arizona, Arkansas, Idaho, Nebraska, North Dakota, South Dakota, Texas, Wisconsin, and Wyoming as Amicus Curiae in Support of Petitioners, *Coachella Valley Water Dist. v. Agua Caliente Band of Cahuilla Indians*, 138 S. Ct. 468 (2017) (Nos. 14-70, 72). Available at 2017 WL 3485656.

Brief of the State of Nevada and 29 States as Amici Curiae in Support of Respondent, *Davila v. Davis*, 137 S. Ct. 2058 (2017) (No. 16-6219).

Brief of the States of Nevada, Arizona, Arkansas, Colorado, Georgia, Montana, Ohio, Oklahoma, Utah & Wisconsin as Amici Curiae in Support of Petitioner (cert stage), *Trinity Lutheran Church v. Comer*, 137 S. Ct. 2012 (2017) (No. 15-577). Available at

2015 WL 8478882.

Brief of the States of Nevada, Alabama, Arizona, Arkansas, Florida, Georgia, Louisiana, Michigan, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, West Virginia, & Wisconsin as Amici Curiae in Support of Petitioner (merits stage), *Trinity Lutheran Church v. Comer*, 137 S. Ct. 2012 (2017) (No. 15-577). Available at 2016 WL 1639720.

Brief of the States of Nevada, Alaska, Arizona, Arkansas, Kansas, Oklahoma, South Carolina, West Virginia, and Wyoming as Amici Curiae in Support of Petitioners, *Murr. v. Wisconsin*, 137 S. Ct. 1933 (2017) (No. 15-214). Available at 2016 WL 1659320.

Petition for Writ of Certiorari, *Filson v. Tarango*, 137 S. Ct. 1816 (2017) (No. 16-1000). Available at 2017 WL 656200.

Reply Brief for Petitioners, *Filson v. Tarango*, 137 S. Ct. 1816 (2017) (No. 16-1000). Available at 2017 WL 1244381.

Brief of the States of Nevada, Alabama, Colorado, Florida, Idaho, Kansas, Montana, Nebraska, Ohio, South Carolina, Tennessee, Texas, Utah, and Wisconsin as Amici Curiae in Support of Petitioner, *Ryan v. McKinney*, 137 S. Ct. 39 (2016) (No. 15-1222). Available at 2016 WL 2587154.

Petition for Writ of Certiorari, *Nevada v. Torres*, 136 S. Ct. 2505 (2016) (No. 15-5). Available at 2015 WL 3982386.

Reply Brief for Petitioner, *Nevada v. Torres*, 136 S. Ct. 2505 (2016) (No. 15-5). Available at 2015 WL 5254352.

Petition for Writ of Certiorari, *Byrne v. Sampson*, 136 S. Ct. 2012 (2016) (No. 15-1037). Available at 2016 WL 676123.

Reply Brief for Petitioners, *Byrne v. Sampson*, 136 S. Ct. 2012 (2016) (No. 15-1037). Available at 2016 WL 1298185.

Petition for Writ of Certiorari, *Baker v. Riley*, 136 S. Ct. 1450 (2016) (No. 15-630). Available at 2015 WL 7069044.

Reply Brief for Petitioner, *Baker v. Riley*, 136 S. Ct. 1450 (2016) (No. 15-630). Available at 2016 WL 792200.

Petition for Writ of Certiorari, *Baker v. Elvik*, 136 S. Ct. 1196 (2016) (No. 15-805). Available at 2015 WL 9302668.

Reply Brief for Petitioners, *Baker v. Elvik*, 136 S. Ct. 1196 (2016) (No. 15-805). Available at 2016 WL 386725.

Petition for Writ of Certiorari, *Gentry v. Rudin*, 136 S. Ct. 1157 (2016) (No. 15-324). Available at 2015 WL 5440504.

Reply Brief for Petitioners, *Gentry v. Rudin*, 136 S. Ct. 1157 (2016) (No. 15-324). Available at 2016 WL 386383.

Brief in Opposition, *Sierra Pacific Power v. Nevada Dep't of Taxation*, 136 S. Ct. 792 (2016) (No. 15-25). Available at 2015 WL 7252889.

Brief of Amicus Curiae State of Nevada in Support of Petitioner, *Ministerio Roco Solida, Inc. v. United States*, 136 S. Ct. 479 (2015) (No. 14-1413). Available at 2015 WL 4086910.

Petition for Writ of Certiorari, *Nevada v. Super. Ct. of California San Francisco Cnty.*, 135 S. Ct. 2937 (2015) (No. 14-1073). Available at 2015 WL 981686.

Reply Brief for Petitioners, *State of Nevada v. Super. Ct. of California*, 135 S. Ct. 2937 (2015) (No. 14-1073). Available at 2015 U.S. S. Ct. Briefs LEXIS 2066.

Petition for a Writ of Certiorari, *Montana v. Holder*, 571 U.S. 1203 (2014) (No. 13-805). Available at 2014 WL 61015.

Brief in Opposition, *Big Sky Colony, Inc. v. Montana Dep't of Labor & Indus.*, 571 U.S. 817 (2013) (No. 12-1191). Available at 2013 WL 4495964.

Petition for a Writ of Certiorari, *Farmers Ins. Co. of Oregon v. Strawn*, 565 U.S. 1177 (2012) (No. 11-445). Available at 2011 WL 4856147.

Reply Brief for Petitioners, *Farmers Ins. Co. of Oregon v. Strawn*, 565 U.S. 1177 (2012) (No. 11-445). Available at 2012 WL 405475

Brief of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, The National Association of Evangelicals, and The Convocation of Anglicans in North America as Amici Curiae in Support of Petitioners, *Arizona Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125 (2011) (Nos. 09-987, 988, 991). Available at 2010 WL 3167320.

Petition for a Writ of Certiorari, *Minor v. United States*, 562 U.S. 833 (2010) (No. 09-1422). Available at 2010 WL 2101771.

Reply Brief for Petitioner, *Minor v. United States*, 562 U.S. 833 (2010) (No. 09-1422). Available at 2010 U.S. S. Ct. Briefs LEXIS 2742

Brief of Gays & Lesbians for Individual Liberty as Amicus Curiae in Support of Petitioner, *Christian Legal Soc'y v. Martinez*, 561 U.S. 661 (2010) (No. 08-1371).

Available at 2010 WL 530513.

Brief of United States Senator Mitch McConnell as Amicus Curiae in Support of Petitioners, *Randall v. Sorrell*, 548 U.S. 230 (2006) (No. 04-1528). Available at 2005 WL 3464474.

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). *Nevada v. Torres*, 136 S. Ct. 2505 (2016), *remanded to Torres v. Nevada*, 426 P.3d 604 (Nev. 2018).

Dates of representation: 2015 – 2018

This was a case originally litigated by the Elko County District Attorney's office. After the Nevada Supreme Court unanimously held that Mr. Torres's Fourth Amendment rights were violated by a search incident to his arrest on a valid warrant, the Elko County DA's office requested the assistance of the Nevada Attorney General's Office in seeking U.S. Supreme Court review. As Solicitor General of Nevada, I took over the case at the U.S. Supreme Court as counsel of record, filing the cert petition and reply in support of certiorari. The U.S. Supreme Court granted Nevada's cert petition, vacated the Nevada Supreme Court judgment, and remanded the case back to the Nevada Supreme Court. After the case was remanded, I remained counsel of record in the Nevada Supreme Court, briefing and arguing the case on remand before that court on June 5, 2017. On September 26, 2018, the Nevada Supreme Court affirmed the conviction of Mr. Torres in a 4-3 decision, reversing its earlier Fourth Amendment holding.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Jeffery M. Conner
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
(775) 684-1100

Tyler Ingram
Mark S. Mills
Elko County District Attorney's Office
540 Court Street
Elko, Nevada 89801
(775) 738-3101

Opposing Counsel:

Jeffery L. Fisher
Stanford Law School
Supreme Court Litigation Clinic
559 Nathan Abbott Way
Stanford, California 94305
(650) 724-7081

Brian Wolfman
[formerly with Stanford Law School]
Georgetown University Law Center
600 New Jersey Ave., N.W.
Washington, D.C. 20001
(202) 662-9000

Michael Becker
Las Vegas Defense Group
2300 West Sahara Avenue, Suite 450
Las Vegas, Nevada 89106
(702) 333-3673

Alina Kilpatrick
[formerly Elko County Public Defender]
No current contact information available

(2). *Nevada Dep't of Wildlife v. Smith*, 139 S. Ct. 2613 (2019).

Dates of representation: 2017 – 2019

Mark Smith sued the Nevada Department of Wildlife in California state court. The State of Nevada challenged the jurisdiction of the California courts on sovereign immunity grounds, but the California courts, relying on *Nevada v. Hall*, 440 U.S. 410 (1979), refused to dismiss the case. As counsel of record, I filed a petition with the U.S. Supreme Court, urging the Court to

overrule *Nevada v. Hall* and hold that a sovereign state cannot be sued in another state's courts without its consent. Forty-three states filed an amicus brief in support of the State of Nevada. After the Court granted review of a companion case presenting the same issue (*Franchise Tax Bd. of California v. Hyatt*, 139 S. Ct. 1485 (2019)) and overturned *Nevada v. Hall* in a 5-4 decision, the Court granted Nevada's petition, vacated the lower court judgment, and remanded the *Nevada Department of Wildlife* case back to the California courts with instructions to apply *Hyatt* and dismiss the case.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Joseph Tartakovsky
[then-Nevada Deputy Solicitor General]
Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 300
San Francisco, California 94105
(415) 393-8388

Jordan T. Smith
[then-Nevada Assistant Solicitor General]
Pisanelli Bice
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
(702) 214-2100

Opposing Counsel:

Stephanie Rae Rice
Winter Street Law Group
96 Winter Street
Reno, Nevada 89503
(775) 786-5800

(3). *Nevada v. U.S. Dep't of Labor*, 218 F. Supp. 3d 520 (E.D. Tex. 2016) (preliminary injunction); 275 F. Supp. 3d 795 (E.D. Tex 2017) (summary judgment) (Mazzant, J.).

Dates of representation: 2016 – 2019

In 2016, the U.S. Department of Labor published a final rule more than doubling the minimum salary level required to be eligible for an overtime exemption for “bona fide executive, administrative, or professional” employees under the Fair Labor Standards Act. As counsel of record representing the State of Nevada and 20 other states, I filed suit challenging the final rule

as inconsistent with the text of the FLSA and ultra vires. After holding an over 3-hour preliminary injunction hearing on November 16, 2016, during which I argued as lead counsel on behalf of the multistate coalition, Judge Amos Mazzant on November 22, 2016 preliminarily enjoined the final rule from going into effect. On August 31, 2017, Judge Mazzant granted summary judgment and permanently enjoined the rule. I also briefed and argued the appeal to the Fifth Circuit of an ancillary issue related to this case. *See Nevada v. U.S. Dep't of Labor*, No. 18-40246 (5th Cir.) (Jolly, Dennis, & Higginson, J.J.).

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Jordan T. Smith
[then-Nevada Assistant Solicitor General]
Pisanelli Bice
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
(702) 214-2100

Additional Co-counsel:

Prerak Shah
[then-Senior Counsel to the Texas Attorney General]
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530
(202) 514-2000

John Clay Sullivan
[then-Texas Assistant Solicitor General]
Morgan, Lewis & Bockius
1717 Main Street, Suite 3200
Dallas, Texas 75201
(214) 466-4198

Kendra N. Beckwith
Messner Reeves LLP
1430 Wynkoop Street, Suite 300
Denver, Colorado 80202
(303) 623-1800

Opposing Counsel:

Kevin Snell

United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue NW
Washington, D.C. 20530
(202) 532-4252

Alisa B. Klein
United States Department of Justice
Civil Division, Appellate Staff
950 Pennsylvania Avenue, N.W., Room 7235
Washington, D.C. 20530
(202) 514-1597

Julie Saltman
[formerly with the United States Department of Justice]
No mailing address available
Clause Logic
Boulder, Colorado

Matthew S. Hellman
Jenner & Block LLP
1099 New York Avenue N.W, Suite 900
Washington, D.C. 20001
(202) 639-6000

Benjamin M. Eidelson
[formerly with Jenner & Block LLP]
Harvard Law School
1563 Massachusetts Avenue
Cambridge, Massachusetts 02138
(617) 495-4846

(4). *Nevada Dep't of Bus. & Indus. v. Dollar Loan Ctr., LLC*, 412 P.3d 30 (Nev. 2018).

Dates of representation: 2016 – 2018

Dollar Loan Center LLC challenged the Nevada Department of Business and Industry's interpretation of a consumer protection statute prohibiting certain payday lenders from filing suit against borrowers who default on loans. After Dollar Loan prevailed in trial court, Nevada appealed the decision to the Nevada Supreme Court, briefed the case, and I argued it on behalf of the State of Nevada on June 6, 2017. On March 1, 2018, the en banc Nevada Supreme Court ruled 6-1 in favor of the State of Nevada, reversing and remanding the district court decision.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]

Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

William J. McKean
[then-Nevada Chief Deputy Attorney General]
Reno City Attorney's Office
One East First Street, 3rd Floor
Reno, Nevada 89501
(775) 334-2050

David Pope
Vivienne Rakowsky
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
(775) 684-1100

Rickisha L. Hightower-Singletary
Nevada Financial Institutions Division
3300 West Sahara Avenue
Las Vegas, Nevada 89102
(702) 486-6753

Opposing Counsel:
Patrick John Reilly
Erica C. Smit
Holland & Hart LLP
955 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
(702) 222-2542

(5). *Baker v. Elvik*, 136 S. Ct. 1196 (2016).

Dates of representation: 2015 – 2017

Peter Elvik was convicted of robbing, shooting, and killing William Gibson in 1995. In 2015, the Ninth Circuit, in a 2-1 decision, affirmed a federal district court decision granting federal habeas relief for instructional error at trial. As counsel of record, I filed a petition and reply seeking review by the U.S. Supreme Court. On February 29, 2016, the U.S. Supreme Court, granted the petition, vacated the Ninth Circuit's judgment, and remanded the case back to the Ninth Circuit for further consideration.

Co-counsel for the State of Nevada:
Adam Paul Laxalt

[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Joseph Tartakovsky
[then-Nevada Deputy Solicitor General]
Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 300
San Francisco, California 94105
(415) 393-8388

Jeffery M. Conner
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
(775) 684-1100

Opposing Counsel:

Lori C. Teicher
Office of the Federal Public Defender
411 East Bonneville Avenue
Las Vegas, Nevada 89101
(702) 388-6577

(6). *Gutierrez v. Williams*, 718 Fed. Appx. 555 (9th Cir. 2018) (Watford, Friedland, and Feinerman, J.J.).

Dates of representation: 2018

In 2006, Jose Gutierrez pled guilty in Nevada state court to multiple counts of trafficking methamphetamine and marijuana. Based on a misstatement of his counsel at trial, he challenged his plea as not knowing and voluntary on habeas review of his conviction in federal court. I argued the case on appeal to the Ninth Circuit. Although the panel initially took the view that the sentences discussed in the arraignment and in the written agreement were *inconsistent*, during argument I explained how they were, in fact, consistent and therefore his plea was knowing and voluntary. After argument, the Ninth Circuit's memorandum opinion adopted my explanation made at oral argument and denied habeas relief.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102

(702) 201-1194

Jeffery M. Conner
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
(775) 684-1100

Opposing Counsel:

Jeremy C. Baron
Office of the Federal Public Defender
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577

(7). *Duncan v. Nevada*, No. A-15-723703-C (8th J.D. Nev.) (Johnson, J.), on appeal, No. 70648 (Nev.); *Lopez v. Schwartz*, No. 15-0C-00207-1B (1st JD Nev.) (Wilson, J.), on appeal, No. 69611 (Nev.); *Schwartz v. Lopez*, 382 P.3d 886 (Nev. 2016) (consolidated appeal) (Parraguirre, C.J., Hardesty, Gibbons, Pickering, Douglas, & Cherry, J.J.).

Dates of representation: 2015 – 2016

In 2015 the Nevada Legislature enacted a school choice program called the Education Savings Account program. This ESA program was immediately challenged in two lawsuits in state district courts. The *Duncan* case challenged the program for violating several provisions of the Nevada Constitution; namely, the requirement for a uniform public school system and the prohibition on using public funds for sectarian purposes (a.k.a. Nevada's Blaine Amendment). The *Lopez* case challenged the ESA program as violating the uniform public school system provision, as well as Nevada Constitutional provisions requiring that funding be appropriated for public schools first. For most of 2015 and 2016, I defended the challenges in both courts, briefing motions to dismiss and responding to motions for a preliminary injunction. I argued these motions in both courts as the counsel of record for the State defendants. On January 11, 2016, Judge Wilson granted a preliminary injunction against the State, enjoining the ESA program from going into effect. On May 18, 2016, Judge Johnson granted the State's motion to dismiss and dismissed the *Duncan* complaint. Both cases were consolidated on appeal to the Nevada Supreme Court. I was closely involved with drafting the briefs on appeal, and preparing Paul Clement to argue the case on behalf of the State of Nevada. Following argument, the Nevada Supreme Court held that the ESA program, as enacted, violated technical school funding provisions of the Nevada Constitution by attempting to use designated public school funding for the ESA program, but rejected arguments that the program violated Nevada's Blaine Amendment and its Uniform Schools clause.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk

2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Ketan Bhirud
Office of the Attorney General
555 East Washington Avenue, No. 3900
Las Vegas, Nevada 89101
(702) 486-3420

Joseph Tartakovsky
[then-Nevada Deputy Solicitor General]
Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 300
San Francisco, California 94105
(415) 393-8388

Jordan T. Smith
[then-Nevada Assistant Solicitor General]
Pisanelli Bice
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
(702) 214-2100

Paul D. Clement
[then of Bancroft PLLC]
Kirkland and Ellis LLP
1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
(202) 389-5000

Opposing Counsel:
Don Springmeyer
Justin C. Jones
Bradley S. Schrager
Wolf, Rifkin, Shapiro, Shulman & Rabkin, LLP
3556 East Russell Road, Second Floor
Las Vegas, Nevada 89120
(702) 341-5200

Tamerlin J. Godley
Thomas Paul Clancy
Samuel T. Boyd
Munger, Tolles & Olson LLP
355 South Grand Avenue, Thirty-Fifth Floor
Los Angeles, California 90071

(213) 683-9100

David G Sciarra
Amanda Morgan
Education Law Center
60 Park Place, Suite 300
Newark, New Jersey 07102
(973) 624-4618

Amy M. Rose
ACLU of Nevada
601 South Rancho Drive, Suite B-11
Las Vegas, Nevada 89106
(703) 366-1536

Daniel Mach
Heather L. Weaver
ACLU Foundation
915 15th Street, NW, Suite 600
Washington, D.C. 20005
(202) 549-2500

Richard B. Katskee
Americans United for Separation of Church and State
1901 L Street, N.W., Suite 400
Washington, D.C. 20036
(202) 466-3234

Nitin Subhedar
Samuel Jacob Edwards
Covington & Burling LLP
One Front Street, 35th Floor
San Francisco, California 94111
(415) 591-7040

(8). *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017).

Dates of representation: 2015 – 2016

The State of Nevada authored the multistate amicus briefs in support of the petitioners in the *Trinity Lutheran* case, in which the State of Missouri's exclusion of a religious daycare from a generally available state aid program was challenged as violating the Free Exercise and Equal Protection guarantees of the U.S. Constitution. I was counsel of record for the briefs. Nine states joined our cert-stage brief. At the merits stage, 17 states joined our brief. These were important briefs because many of the states joining the briefs (including Nevada) have state constitutional provisions similar to that relied on by Missouri to justify its exclusion of Trinity

Lutheran (i.e., Blaine or No-Aid provisions). The briefs explained that, like Nevada, many states are confronted with litigation from both directions involving those state constitutional provisions, and urged the Supreme Court to bring clarity to this unclear area of the law. The Supreme Court ultimately ruled consistently with the arguments made in our amicus briefs, finding that Missouri violated the First Amendment by denying a public benefit to Trinity Lutheran solely on account of its religious status.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Joseph Tartakovsky
[then-Nevada Deputy Solicitor General]
Gibson Dunn & Crutcher LLP
555 Mission Street, Suite 300
San Francisco, California 94105
(415) 393-8388

Opposing Counsel:

James R. Layton
[formerly Solicitor General of Missouri]
Tueth Keeney Cooper Mohan Jackstadt PC
34 North Meramec Avenue, Suite 600
St. Louis, Missouri 63105
(314) 880-3616

(9). *Christian Legal Soc'y v. Martinez*, 561 U.S. 661 (2010).

Dates of representation: 2010

CLS v. Martinez presented the issue of whether, consistent with the First Amendment's protection of the freedom of association, a state school (U.C. Hastings College of Law) can require a student organization to admit students who do not share the core beliefs of that organization. I represented the Gays and Lesbians for Individual Liberty in filing an amicus brief in support of the petitioner's First Amendment free-association rights. This was an important opportunity for me as a young associate attorney because I initially reached out to the client and managed the relationship with the client for this matter. I was also a lead author for this brief. Because of a trial court stipulation, the U.S. Supreme Court ultimately concluded that Hastings had a policy that all student groups must accept all students, and held that CLS's First Amendment rights were not infringed by such a policy.

Co-counsel:

Thomas G. Hungar
Gibson Dunn & Crutcher LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 955-8500

Richard B. Gabbert
[then-Gibson Dunn Associate Attorney]
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549
(800) 732-0330

Opposing Counsel:

Gregory G. Garre
Latham & Watkins LLP
555 11th Street, N.W., Suite 1000
Washington, D.C. 20004
(202) 637-2207

Paul M. Smith
Jenner & Block LLP
1099 New York Avenue, N.W., Suite 900
Washington, D.C. 20001
(202) 639-6000

(10). *LaPena v. Grigas*, 736 Fed. Appx. 651 (9th Cir. 2018) (Wallace, N.R. Smith, & Friedland, J.J.).

Dates of representation: 2018

In 1989, LaPena was convicted in Nevada state court of contracting the murder of Hilda Krause. After decades of challenging his conviction in state and federal courts on a wide variety of grounds, the United States District Court for the District of Nevada denied his petition for federal habeas relief and also denied LaPena a certificate of appealability. The Ninth Circuit nonetheless granted LaPena a certificate of appealability on five issues. I argued the case in the Ninth Circuit. The panel unanimously denied all of LaPena's federal habeas claims.

Co-counsel for the State of Nevada:

Adam Paul Laxalt
[then-Nevada Attorney General]
Cooper & Kirk
2300 West Sahara Avenue, Suite 900
Las Vegas, Nevada 89102
(702) 201-1194

Victor-Hugo Schultze, II
[now retired]
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701
(775) 684-1100

Opposing Counsel:

Rene L. Valladares
Jonathan M. Kirshbaum
Jeremy C. Baron
Office of the Federal Public Defender
411 East Bonneville Avenue, Suite 250
Las Vegas, Nevada 89101
(702) 388-6577

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As described above, I have briefed many cases at each level of the judiciary, including the United States Supreme Court, multiple federal courts of appeal, multiple state supreme courts, and many different state and federal trial courts. I have also argued many cases, both on appeal and in trial courts. I have argued dozens of appeals, with more of those arguments presented in the Ninth Circuit (15) than in any other single court. I have argued dispositive motions in high-profile cases in trial court with significant media attention. The 10 cases listed above in response to question 17 are a representative sample of the cases I've litigated. The choice of specific cases to list was necessarily subjective; there are other memorable cases where I defended or challenged other laws or regulatory decisions, argued other issues to a court of appeals or trial court, filed a cert petition, amicus brief, or brief in opposition on an important issue in the U.S. Supreme Court, coordinated multistate litigation or amicus efforts, or sought emergency relief from a court.

The subject matters that I have litigated have been extremely broad, including many state and federal constitutional issues, criminal and habeas, antitrust, labor and employment, tax, environmental, natural resources, land use, consumer protection, contract disputes, state and federal regulatory issues, sovereign immunity, preemption, and election issues. I have represented the United States, the States of Nevada and Montana, many of the other sovereign states in multi-state litigation, and a broad sample of state and federal officials in their official capacity. I have negotiated settlement of matters with private and governmental entities before litigation, and also after litigation commenced.

Regarding non-litigation matters: I represented a major retail company in an internal

investigation resulting from an FTC inquiry. My investigation and subsequent presentation to the FTC culminated in the FTC declining to bring any action against the company. I have also worked on important regulatory reform projects at both the state and federal level. I have advised legislators and federal officials about pre-litigation risk and strategy. As a member of a Regulatory Transparency Project working group and two different Federalist Society Practice Group Executive Committees, I have researched and written on legal and regulatory issues and coordinated public education opportunities about legal issues.

I have not acted or registered as a 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.

I have not taught any courses.

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

I have a 401k from my time in private practice at Gibson Dunn and Crutcher. I also have a 457 plan from my time in public service in Nevada. Those plans are invested entirely in mutual funds.

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

No.

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

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that 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.

Cases most likely to present conflicts of interest would be those related to my current and prior service as a government lawyer. If confirmed, I would recuse myself in any such matter in which, during my government service, I had participated as counsel, advisor, or material witness or had expressed an opinion concerning the merits. See 28 U.S.C. § 455(b)(3). I would also recuse myself in any matter in which, during my time in private practice, either I or a lawyer with whom I was then practicing had participated. See 28 U.S.C. § 455(b)(2).

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

If confirmed, I would evaluate any potential conflicts of interest under the standards set forth in 28 U.S.C. § 455 and Canon 3C of the Code of Conduct for United States Judges, both of which address the question whether federal judges must disqualify themselves due to conflicts. In considering these rules, I would further consult any judicial decisions or Judicial Conference opinions applying the rules to particular cases or 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 in private practice, I devoted a substantial portion of my time to pro bono work. My work ranged from litigating a successful constitutional challenge to a state law from beginning to end on behalf of a coalition of nonprofit organizations, to drafting U.S. Supreme Court amicus briefs, to mooted other lawyers who were arguing pro bono or non-profit cases in state and federal courts. These matters included:

Free Market Foundation v. Reisman, 573 F. Supp. 2d 952 (W.D. Tex. 2008). I served as lead counsel, authored briefs, and argued summary judgment on behalf of the Free Market Foundation, Texas Eagle Forum PAC, and the ACLU of Texas in this successful challenge to a 35-year old Texas law regulating contributions and expenditures in the election of the Texas Speaker as unconstitutional under the First Amendment.

Arizona Christian Sch. Tuition Org. v. Winn, 563 U.S. 125 (2011). I authored a U.S. Supreme

Court amicus brief in support of petitioners on behalf of the Ethics and Religious Liberty Commission of the Southern Baptist Convention, the National Association of Evangelicals, and the Convocation of Anglicans in North America.

Christian Legal Soc'y v. Martinez, 561 U.S. 661 (2010). I authored a U.S. Supreme Court amicus brief in support of petitioners on behalf of the Gays and Lesbians for Individual Liberty.

26. **Selection Process:**

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

I am not aware of any selection commission in my jurisdiction. I was contacted by the White House Counsel's Office on July 8, 2019 about interviewing for a potential appointment to the U.S. Court of Appeals for the Ninth Circuit. On July 15, I interviewed with individuals from the White House Counsel's Office and the U.S. Department of Justice. On July 17, I had a follow-up phone interview with an individual from the White House Counsel's Office. Since those interviews, I have communicated periodically with individuals in the White House Counsel's Office and in the Department of Justice regarding the potential appointment. On September 19, 2019, the President submitted my nomination to the Senate.

b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.

FINANCIAL 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		194	809	Notes payable to banks-secured (auto)			
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		219	249	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			
Real estate owned				Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		42	000	– Student Loans		35	061
Cash value-life insurance							
Other assets itemize:							
Federal Thrift Savings Plan		6	303				
				Total Liabilities		35	061
				Net Worth		427	300
Total Assets		462	361	Total Liabilities and Net Worth		462	361
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

Vanguard 500 Index Fund Admiral Shares	\$62,480
Loomis Sayles Core Bond Fund Class N	17,954
T. Rowe Price Balanced Institutional Fund	8,487
Vanguard Winsor II Admiral Shares	12,388
T. Rowe Price Blue Chip Growth	23,406
American Funds EuroPacific	7,570
Vanguard S&P 400 MidCap	11,800
Neuberger Berman Genesis Class R6	12,838
Vanguard Small Cap Value Index	22,055
4705 Vanguard Institutional Target Retirement 2035 Fund	40,271
Total Listed Securities	<u>\$219,249</u>

AFFIDAVIT

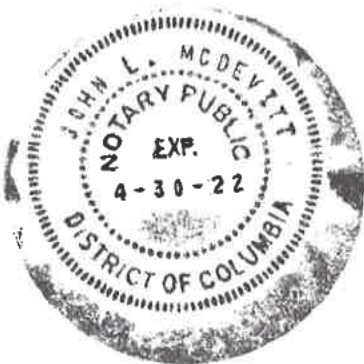
I, Lawrence James Christopher VanDyke, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

9-11-19

(DATE)

[Signature]
(NAME)

[Signature]
(NOTARY)



JOHN L. MCDEVITT
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires April 30, 2022