

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Ann Marie McIff Allen (Ann Marie McIff)

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

United States District Judge for the District of Utah

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

Utah State Fifth District Court  
40 North 100 East  
Cedar City, Utah 84720

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

1972; Richfield, Utah

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

1994 – 1997, Brigham Young University J. Reuben Clark Law School; J.D., 1997

1990 – 1994, Brigham Young University; B.A., 1994

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.

2020 – present  
Utah State Fifth District Court  
40 North 100 East  
Cedar City, Utah 84720  
Judge

2016 – 2020  
Southern Utah University  
351 West University Boulevard  
Cedar City, Utah 84720  
General Counsel (2018 – 2020)  
Special Counsel and Director of Ethics and Compliance (2016 – 2017)

2014 – 2020  
Garfield County, Utah  
55 South Main Street  
Panguitch, Utah 84759  
Deputy County Attorney

2014 – 2016 (approximately)  
Southern Utah University  
351 West University Boulevard  
Cedar City, Utah 84720  
Adjunct Instructor

2013 – 2016  
Ann Marie McIff Allen, Attorney at Law  
51 East 400 North #1  
Cedar City, Utah 84721  
Attorney

2007 – 2013  
Iron County, Utah  
82 North 100 East, Suite 201  
Cedar City, Utah 84720  
Deputy County Attorney

2004 – 2007  
Allen Law, P.C.  
415 North Main Street, Suite 303  
Cedar City, Utah 84721  
Attorney

2001 – 2004  
Jensen, Graff and Barnes, L.L.P.  
250 South Main Street  
Cedar City, Utah 84720  
Attorney

1999 – 2001  
Utah Valley University (Utah Valley State College at the time of my employment)

800 West University Parkway  
Orem, Utah 84058  
Adjunct Instructor

1997 – 1998  
Brigham Young University J. Reuben Clark Law School  
341 East Campus Drive  
Provo, Utah 84602  
Adjunct Instructor

Other Affiliations (Uncompensated)

2012 – 2016  
Southern Utah University  
351 West University Boulevard  
Cedar City, Utah 84720  
Trustee

2013 – 2016  
Southwest Technical College (Southwest Applied Technology College during my service)  
757 West 800 South  
Cedar City, Utah 84720  
Trustee

2013 – 2016  
Canyon Creek Services (Canyon Creek Women’s Crisis Center during my service)  
297 North Cove Drive  
Cedar City, Utah 84720  
Board Member

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

I did not serve in the military. I was not required to register for the selective service.

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.

National Judicial College, Handling Capital Cases Course Scholarship (2023)

Utah State Bar Litigation Section Judicial Excellence Award (2022)

Utah State Bar Litigation Section Judicial Excellence Award (2021)

Utah State Bar Litigation Section Judicial Excellence Award (2020)

Utah's "Legal Elite" in Criminal Law (2016)

National Advocacy Center Scholarship (2009)

Scott M. Matheson American Inn of Court Officer (2006)

Brigham Young University Journal of Public Law  
Articles Editor (1996 – 1997)

Brigham Young University J. Reuben Clark Law School Representative to the American Bar Association (1995 – 1996)

Brigham Young University Academic Scholarship (1990 – 1994, partial or full tuition coverage for some semesters during this period of time)

Sterling Scholar Runner-Up Academic Scholarship (1990)

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

American Bar Association (possibly student member 1995 – 1996)

Association of Title IX Administrators (2016 – 2018)

Legislative Process Committee, State of Utah (1997 – 2000)

National Association of College and University Attorneys (2016 – 2020)

National Judicial College, Handling Capital Cases Course (2023)

Southern Utah Bar (2020 – present)

State of Utah, Judicial Council, Study Committee on the Representation of Indigent Criminal Defendants in Trial Courts ("Indigent Defense Committee") (2011 – 2015)

State of Utah, Judicial Nomination Commission, Fifth District (2010 – 2012)

State of Utah, Judicial Performance Evaluation Commission (2010 – 2017)  
Vice Chair (2015 – 2017)

Utah State Bar (1998 – present)

Modest Means Committee Co-Chair (2021 – present)  
Litigation Section (2020 – present)

Utah State Courts

Facilities Committee (2023 – present)  
Green Phase (post-Covid-19 Workgroup) (2021)  
Self-Represented Parties Committee (2021 – present)

Women Lawyers of Utah (2017 – present)

10. **Bar and Court Admission:**

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

Utah, 1998

There have been no lapses in membership.

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

United States District Court for the District of Utah, 2007

My registration is currently lapsed, as I am a sitting state court judge.

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.

Brigham Young University J. Reuben Clark Law School Alumni Association (1997 – present); class representative to the Board of Directors (2003)

Cedar City Rotary Club, Paul Harris Fellow (2003 – present)

Cedar Middle School, Parent Teacher Student Association, President (2010 – 2011)

Friend of the Children's Justice Center Friends, Board of Directors (2003)

Southern Utah University Emeriti Association (2020 – present)

- 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 these organizations currently discriminates on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies. To the best of my knowledge, only one of the organizations listed above previously discriminated on the basis of sex—the Rotary Club. In 1989, prior to the time of my membership, Rotary International amended its constitution to open membership to all sexes.

**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.

None.

- 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.

Based upon my recollection and a thorough review of my files and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are more materials that I have been unable to recall or identify.

State of Utah, Judicial Council, Study Committee on the Representation of Indigent Criminal Defendants in Trial Courts, Report (Oct. 26, 2015). 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.

Based upon my recollection and a thorough review of my files and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are more materials that I have been unable to recall or identify.

Personal Statement and Testimony, Utah Senate Judicial Confirmation Committee Hearing (Aug. 13, 2020). Personal Statement and recording 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.

Based upon my recollection and a thorough review of my files and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are more materials that I have been unable to recall or identify.

March 18, 2023: Panelist, "Conversation with the Courts," Utah State Bar Spring Convention, St. George, Utah. I was part of a panel of judges who gave practical advice to lawyers about interfacing with the courts. I have no notes, transcript, or recording. The address for the Utah State Bar is P.O. Box 142330, Salt Lake City, Utah 84114.

December 3, 2021: Panelist, "Professionalism and Civility in Remote Court Hearings," Southern Utah Bar Association, St. George, Utah. I was part of a panel of judges who gave practical advice to lawyers about handling remote hearings with professionalism and civility. I have no notes, transcript, or recording. It appears that the Southern Utah Bar Association has no physical address.

May 20, 2016: Guest Speaker, Graduation Speech, Mountain Springs Preparatory Academy, Cedar City, Utah. Notes supplied.

April 11, 2014: Guest Speaker, Southern Utah University, Cedar City, Utah. I gave a speech about leadership and empowerment with a focus on the advancement of women. I have no notes, transcript, or recording. The address for Southern Utah University is 351 West University Boulevard, Cedar City, Utah

84720.

March 31, 2011: Guest Speaker, Southern Utah University, Cedar City, Utah. I spoke at the “Women’s Week” conference, and my presentation was entitled, “Women in the Law: Lessons from Local Prosecutors.” I have no notes, transcript, or recording. The address for Southern Utah University is 351 West University Boulevard, Cedar City, Utah 84720.

June 2009 (specific date unknown): Panelist, “County Government,” Utah Girls State, Utah American Legion Auxiliary, Cedar City, Utah. The panel was on the roles of various county employees. I have no notes, transcript, or recording. The address of the Utah American Legion Auxiliary is P.O. Box 148000, Salt Lake City, Utah 84114.

June 1990 (specific date unknown): Speaker, Richfield High School Graduation, Richfield, Utah. I was the senior class president and gave a speech at the graduation ceremony generally about high school and the future. I have no notes, transcript, or recording. The address for Richfield High School is 495 West Center Street, Richfield, Utah 84701.

- 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.

Based upon my recollection and a thorough review of my files and searches of publicly available databases, I have identified the following responsive materials, but it is possible that there are more materials that I have been unable to recall or identify.

*Governor Appoints New Judge to the Fifth District Court in Southern Utah*, St. George News (July 27, 2020). Copy supplied (reprinted in multiple outlets).

*Longest Standing Utah University President Focuses on Growth*, SUU News (Mar. 14, 2019). Copy supplied (reprinted in multiple outlets).

*‘I Don’t Want to Be Held Back by This’: Sexually Assaulted When She Was a Freshman, This Utah Student Is Now Celebrating Graduation*, The Salt Lake Tribune (Aug. 3, 2017). Copy supplied.

*Attorney Ann Marie Allen Joins SUU Team*, SUU News (Mar. 18, 2016). Copy supplied (reprinted in multiple outlets).

*Prosecutor Profile – Ann Marie Allen Deputy County Attorney*, The Prosecutor: Newsletter of the Utah Prosecution Council (June 2013). Copy supplied.

*SUU Welcomes New Trustee, Cedar City Local*, SUU News (Nov. 2, 2012).  
Copy supplied.

*Clark Found Guilty on All Charges*, The Spectrum (July 3, 2010). Copy supplied.

*Girl Donates Locks Out of Love*, The Spectrum (July 22, 2009). Copy supplied.

*Man Pleads Guilty to 5 Felonies*, The Spectrum (May 19, 2009). Copy supplied.

*Attorney's Office Takes on New Personnel, Personality*, The Spectrum (July 8, 2008). Copy supplied.

*Addicts Get Intense Treatment*, The Spectrum (May 19, 2008). 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 served as a Utah District Court Judge since 2020. I was appointed by Governor Gary Herbert and confirmed by the Utah State Senate. The District Court is the highest level of trial court in the state. It is a court of general jurisdiction, encompassing a broad range of civil matters, including commercial, real property, water, probate, and domestic matters; as well as criminal matters, including felonies and capital cases. I have these additional special duties: Fifth District Associate Presiding Judge, Drug Court Judge, and Water Judge.

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

I have presided over four criminal jury trials. I have presided over approximately 40 bench trials of various kinds.

I have also presided over at least a couple thousand criminal cases which have been concluded by judgments pursuant to plea bargains. These have included misdemeanor, felony, and capital cases. I have presided over hundreds of civil cases including commercial, real property, water rights, collection and other types of litigation, as well as domestic cases, probates, protective orders, civil commitments, adoptions, guardianships, and other types of civil matters, which have been concluded by judgments and decrees entered pursuant to rulings on motions or pursuant to stipulations of the parties.

- i. Of these cases, approximately what percent were:

jury trials:	5%
bench trials:	95%

ii. Of these cases, approximately what percent were:

civil proceedings:	50%
criminal proceedings:	50%

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

As a State District Court Judge, I do not write opinions. I do issue rulings, orders, and judgments. Most of these are minute rulings, or are prepared by counsel for the prevailing party and submitted to the court for review and execution. All are unpublished.

c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *State v. Schmidt*, No. 201500564 (Fifth District Court, Iron County, State of Utah), *appeal filed*, No. 20230714 (Ut. Ct. App). Order supplied.

I presided over the jury trial of Mr. Schmidt on the charge of first-degree murder. The State alleged that Mr. Schmidt was angry at the victim for not paying a debt, and that Mr. Schmidt fatally struck the victim with his vehicle, after which Schmidt fled the scene. Mr. Schmidt asserted that he was not the person driving the car that struck the victim. Before trial, I denied Mr. Schmidt's motion to suppress, which contended that two witnesses' identification of Mr. Schmidt should be excluded pursuant to Utah Rule of Evidence 617. The jury found Mr. Schmidt guilty of murder. On July 26, 2023, I imposed the statutorily defined sentence, an indeterminate term of 15 years to life in prison. Mr. Schmidt has filed an appeal, which is pending.

Prosecution:

Chad Dotson  
Shane Klenk  
Samuel Woodall  
Iron County Attorney's Office  
62 North 100 East #201  
Cedar City, UT 84721  
(435) 865-5310

Defense Counsel:

Clifford Gravett

132 West Tabernacle, Building B  
St. George, UT 84770  
(435) 628-4411

Shane Manuele  
427 South Main Street, Suite 306  
Cedar City, UT 84720  
(435) 572-4434

2. *State v. Anderson*, No. 201500370 (Fifth District Court, Iron County, State of Utah), *appeal filed*, No. 20220407 (Ut. Ct. App).

I presided over the jury trial of Mr. Anderson on one count of first-degree aggravated sexual abuse of a child and two counts of second-degree sexual abuse of a child. The State alleged that Mr. Anderson had sexually abused a child who lived in his neighborhood while she was watching a movie in his house. Mr. Anderson denied this allegation at trial. The jury found Mr. Anderson guilty on all counts. On April 19, 2022, I imposed the statutorily defined sentence for each count: an indeterminate term of 15 years to life in prison for first-degree aggravated sexual abuse of a child, and indeterminate terms of one to 15 years in prison on each count of second-degree sexual abuse of a child, to run concurrently to each other but consecutive to the first-degree felony. Mr. Anderson has filed an appeal, which is pending.

Prosecution:

Chad Dotson  
Shane Klenk  
Trajan Evans  
Iron County Attorney's Office  
62 North 100 East #201  
Cedar City, UT 84721  
(435) 865-5310

Defense Counsel:

Troy Sundquist  
888 South Sage Drive, Suite 2B  
Cedar City, UT 84720  
(801) 518-8629

3. *State v. Mike*, No. 231500246 (Fifth District Court, Iron County, State of Utah).

I presided over the jury trial of Mr. Mike on charges of third-degree felony aggravated assault (domestic violence), third-degree felony obstruction of justice,

and class c misdemeanor intoxication. The State alleged that Mr. Mike had beaten the victim, his sister, causing serious bodily injury; and had altered the scene to conceal evidence prior to the arrival of law enforcement, all while he was significantly intoxicated. The jury found Mr. Mike not guilty of third-degree felony aggravated assault but guilty of the lesser-included charge of misdemeanor assault, guilty of obstruction of justice which was reduced to a misdemeanor because of the misdemeanor level of the related charge (assault), and guilty of intoxication. I imposed but suspended jail sentences for the misdemeanor convictions, gave credit for the jail time previously served, and placed Mr. Mike on privately supervised probation, requiring him to obey all laws; not consume alcohol or illegal drugs; obtain a domestic violence and substance abuse evaluation; and complete any recommended treatment.

Prosecution:

Chad Dotson  
Trajan Evans  
Iron County Attorney's Office  
62 North 100 East #201  
Cedar City, UT 84721  
(435) 865-5310

Defense:

Jeff Slack  
137 North Main Street  
Cedar City, UT 84721  
(435) 592-2697

Edward Flint  
132 West Tabernacle Street, Suite A  
St. George, UT 84770  
(435) 767-7841

4. *Cohen Braffits Estates Development, LLC v. Shae Financial Group, LLC*, No. 180500059 (Fifth District Court, Iron County, State of Utah), *appeal filed*, No. 20210448 (Ut. Ct. App.). Order supplied.

I presided over this complex, multi-party civil case regarding disputes arising from a loan and security interest in real property, with related proceedings in New York and Utah. Plaintiff sought declaratory and injunctive relief to invalidate the loan agreement it had entered with defendant, and to enjoin defendant from foreclosing on property pledged as collateral for the loan, comprised of thousands of acres of mountain recreational and residential property. The judge who preceded me on the case had issued a summary judgment ruling in favor of defendant and against plaintiff. I then ruled on several motions that followed,

including denying plaintiff's motion to set aside the summary judgment ruling. I also issued orders authorizing a sheriff's sale, denying relief under Rule 60(b), and denying a stay. An appeal is pending in the case challenging the summary judgment and denial of the motion to set it aside.

Plaintiff:

Sarah Elizabeth Spencer  
Heather Thuet  
Christensen & Jensen, PC  
257 East 200 South, Suite 1100  
Salt Lake City, UT 84111  
(801) 323-5000

Defense:

Michael N. Zundel  
77 North Foxhill Road  
North Salt Lake, UT 84054  
(801) 719-8386

G. Troy Parkinson  
Lundberg & Associates, PC  
3269 South Main Street, Suite 100  
Salt Lake City, UT 84115  
(801) 263-3400

5. *State v. Miller*, No. 211500106 (Fifth District Court, Beaver County, State of Utah).

I presided over this capital case, in which Mr. Miller was charged with first-degree felony aggravated murder, first-degree felony murder, and first-degree felony conspiracy to commit aggravated murder. The State alleged that Mr. Miller had shot and killed the victim in a plot to enable Mr. Miller's paramour, Ms. Woerth (*see State v. Woerth* discussed below), to acquire sole ownership of a house she owned jointly with the victim (her husband). Mr. Miller initially claimed he shot the victim in self-defense. I granted defendant's motion to seal two ex parte motions for funding of defense trial preparation activities, but I denied the two ex parte motions on the grounds that the authority to provide the requested funding rested with the Utah Indigent Defense Funds Board. Mr. Miller entered guilty pleas to amended charges of second-degree felony conspiracy to commit aggravated murder, first-degree felony murder stipulated to be reduced to second-degree felony manslaughter at sentencing, and first-degree felony discharge of a firearm with serious bodily injury. On November 6, 2023, I imposed the statutorily defined sentence for each count: an indeterminate term of one to 15 years in prison for second-degree felony conspiracy to commit

aggravated murder, an indeterminate term of two to 20 years in prison for second-degree felony manslaughter, and an indeterminate term of five years to life in prison for first-degree felony discharge of a firearm, all to run consecutively.

Prosecution:

Von Christensen  
Beaver County Attorney's Office  
P.O. Box 471, Beaver, UT 84713  
(435) 438-6441

Defense:

Rudy Bautista  
250 East 200 South, Suite 330  
Salt Lake City, UT 84111  
(801) 232-5311

Jeanne Campbell  
2825 East Cottonwood Parkway, Suite 500  
Salt Lake City, UT 84121  
(801) 856-9186

6. *State v. Woerth*, No. 211500125 (Fifth District Court, Beaver County, State of Utah).

I presided over this capital case, in which Ms. Woerth was charged with first-degree felony criminal solicitation, first-degree felony aggravated murder, and first-degree felony conspiracy to commit aggravated murder. The State alleged that Ms. Woerth solicited the murder of her husband in a plot to obtain sole ownership of a house she owned jointly with him, and that he was murdered by her paramour, Mr. Miller (*see State v. Miller* discussed above) pursuant to her solicitation. Ms. Woerth entered a guilty plea to first-degree felony criminal solicitation. On November 6, 2023, I imposed the statutorily defined sentence of an indeterminate term of three years to life in prison.

Prosecution:

Von Christensen  
Beaver County Attorney's Office  
P.O. Box 471  
Beaver, UT 84713  
(435) 438-6441

Defense:

Doug Terry  
Ryan Stout  
132 West Tabernacle, Building B  
St. George, UT 84770  
(435) 628-4411

7. *State v. Peters*, No. 211500548, Fifth District Court, Iron County, State of Utah.

I presided over this case in which Mr. Peters was charged with first-degree felony attempted murder, two counts of third-degree felony discharge of a firearm, and third-degree felony aggravated assault. The State alleged that Mr. Peters had attempted to kill his father by shooting at (but missing) him, had shot in the direction of one responding law enforcement officer, and had come toward another law enforcement officer while starting to raise his gun. Mr. Peters entered a guilty plea to first-degree felony attempted murder. I imposed the statutorily defined sentence of an indeterminate term of three years to life in prison.

Prosecution:

Shane Klenk  
Iron County Attorney's Office  
62 North 100 East #201  
Cedar City, UT 84721  
(435) 865-5310

Defense:

Matt Munsen  
970 South Sage Drive, Suite 109  
Cedar City, UT 84720  
(435) 238-7734

8. *State v. Tessier*, No. 211500107 (Fifth District Court, Iron County, State of Utah), *aff'd*, No. 20220438 (Ut. Ct. App.).

I presided over this case in which Mr. Tessier was charged with two counts of second-degree felony criminal mischief, three counts of third-degree felony aggravated assault, and one count of third-degree felony failure to respond to officer's signal to stop. The State alleged that Mr. Tessier initiated an unprovoked attack on the victim, attempting to stab him in the neck; fled the scene; led law enforcement on a chase; and intentionally drove head-on into a law enforcement officer's vehicle. Mr. Tessier pleaded guilty to one count of second-degree felony criminal mischief, two counts of third-degree felony aggravated assault, and one count of third-degree felony failure to respond to officer's signal

to stop. I imposed the statutorily defined sentence for each count: an indeterminate term of one to 15 years in prison for second-degree felony criminal mischief, and three indeterminate terms of zero to five years in prison for third-degree felony aggravated assault and failure to respond to officer's signal to stop, all to run consecutively. An appeal was filed, challenging his sentence, resulting in affirmance.

Prosecution:

Trajan Evans  
Iron County Attorney's Office  
62 North 100 East #201  
Cedar City, UT 84721  
(435) 865-5310

Defense:

Jeff Slack  
137 North Main Street  
Cedar City, UT 84720  
(435) 592-2697

9. *Winston v. Iron County School District*, No. 220500048 (Fifth District Court, Iron County, State of Utah). Order supplied.

I presided over this civil case brought by Ms. Winston, in which she alleged emotional injuries caused by certain incidents involving her children. First, Ms. Winston brought intentional and negligent infliction of emotional distress causes of action against an individual defendant (unaffiliated with Iron County School District) who had kidnapped her five-month-old child; this individual defendant pleaded guilty to kidnapping in a separate, criminal case. Second, Ms. Winston brought a negligence cause of action against the school district, alleging that the district had allowed another of her children, who was five years old and attended school, to be picked up by an unauthorized adult (this person was not the same person who had kidnapped Ms. Winston's five-month-old child), causing Ms. Winston to be unable to locate the five-year-old child for a period of hours, resulting in emotional injury. The school district filed a motion to dismiss the negligence cause of action against it under Utah Rule of Civil Procedure 12(b)(6), arguing that Utah's Governmental Immunity Act provided governmental entities with immunity from causes of action seeking compensation for emotional damages. I granted that motion and dismissed Ms. Winston's cause of action against the school district. Ms. Winston then voluntarily dismissed her causes of action against the individual defendant who pleaded guilty to kidnapping in the separate, criminal case.

Plaintiff:

Lauren Hunt  
Julie Blanch  
Michael Young  
Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
(801) 532-1234

Defense:

Randall Kent  
Utah Attorney General's Office  
160 East 300 South  
Salt Lake City, UT 84114  
(801) 366-0353

10. *State v. Downey*, No. 221500068 (Fifth District Court, Beaver County, State of Utah). Order supplied.

I am currently presiding over this capital case, in which Mr. Downey is charged with first-degree felony aggravated murder and second-degree aggravated child abuse. The State alleged in its amended information and at the preliminary hearing, which I conducted, that Mr. Downey committed first-degree felony aggravated murder and second-degree aggravated child abuse, resulting in the death of his infant child. The State presented evidence that the infant had been physically abused, causing grave injury; that medical care had been avoided and refused; and that the condition of the child had been hidden. On March 31, 2023, I issued a memorandum decision and order binding Mr. Downey over on both charges. On November 13, 2023, the State filed an amended information charging one count of second-degree felony manslaughter, to which Mr. Downey pleaded guilty. Sentencing is pending.

Prosecution:

Leo Kanell  
Beaver County Attorney's Office  
P.O. Box 471  
Beaver, UT 84713  
(435) 438-6441

Defense:

Rudy Bautista  
250 East 200 South, Suite 330  
Salt Lake City, UT 84111

(801) 232-5311

Jonathan Nish  
257 East 200 South, Suite 1100  
Salt Lake City, UT 84111  
(801) 323-5000

- 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.

As a State District Court Judge, I do not write opinions. I do issue rulings, orders, and judgments. Most of these are minute rulings, or are prepared by counsel for the prevailing party and submitted to the court for review and execution. The Utah Courts do not maintain any readily accessible database of my rulings, orders, and judgments. Instead, case files are stored in the Utah Courts' X Change case management system.

On occasion I will draft my own written rulings or memorandum decisions in which I set forth the court's legal reasoning, of which I have provided the following:

1. *State v. Schmidt*, No. 201500564 (Fifth District Court, Iron County, State of Utah). Order previously supplied in response to Question 13c.

Prosecution:

Chad Dotson  
Shane Klenk  
Samuel Woodall  
Iron County Attorney's Office  
62 North 100 East #201  
Cedar City, UT 84721  
(435) 865-5310

Defense Counsel:

Clifford Gravett  
132 West Tabernacle, Building B  
St. George, UT 84770  
(435) 628-4411

Shane Manuele  
427 South Main Street, Suite 306  
Cedar City, UT 84720

(435) 572-4434

2. *Cohen Braffits Estates Development, LLC v. Shae Financial Group, LLC*, No. 180500059 (Fifth District Court, Beaver County, State of Utah). Order previously supplied in response to Question 13c.

Plaintiff:

Sarah Elizabeth Spencer  
Heather Thuet  
Christensen & Jensen, PC  
257 East 200 South, Suite 1100  
Salt Lake City, UT 84111  
(801) 323-5000

Defense:

Michael N. Zundel  
77 North Foxhill Road  
North Salt Lake, UT 84054  
(801) 719-8386

G. Troy Parkinson  
Lundberg & Associates, PC  
3269 South Main Street, Suite 100  
Salt Lake City, UT 84115  
(801) 263-3400

3. *Winston v. Iron County School District*, No. 220500048 (Fifth District Court, Iron County, State of Utah). Order previously supplied in response to Question 13c.

Plaintiff:

Lauren Hunt  
Julie Blanch  
Michael Young  
Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
(801) 532-1234

Defense:

Randall Kent  
Utah Attorney General's Office

160 East 300 South  
Salt Lake City, UT 84114  
(801) 366-0353

4. *State v. Downey*, No. 221500068 (Fifth District Court, Beaver County, State of Utah). Order previously supplied in response to Question 13c.

Prosecution:

Leo Kanell  
Beaver County Attorney's Office  
P.O. Box 471  
Beaver, UT 84713  
(435) 438-6441

Defense:

Rudy Bautista  
250 East 200 South, Suite 330  
Salt Lake City, UT 84111  
(801) 232-5311

Jonathan Nish  
257 East 200 South, Suite 1100  
Salt Lake City, UT 84111  
(801) 323-5000

5. *Ware v. Iron County*, No. 220500132 (Fifth District Court, Iron County, State of Utah). Order supplied.

Plaintiff:

Timothy Pack  
Scott Troester  
Clyde Snow & Sessions  
201 South Main Street  
Salt Lake City, UT 84111  
(801) 322-2516

Defense:

Barton Kunz  
299 South Main Street, Suite 1300  
Salt Lake City, UT 84111  
(801) 618-8741

Matthew Church  
Carson Fuller  
Manning Curtis Bradshaw & Bednar  
201 South Main Street, Suite 750  
Salt Lake City, UT 84111  
(801) 303-0045

6. *State v. Scott*, No. 181500044 (Fifth District Court, Beaver County, State of Utah). Order supplied.

Prosecution:

Von Christensen  
Beaver County Attorney's Office  
P.O. Box 471  
Beaver, UT 84713  
(435) 438-6441

Defense:

Bryan Jackson  
456 West 200 North  
Cedar City, UT 84721  
(435) 586-8450

7. *Utah Occupational Safety and Health Division v. The Pizza Cart*, No. 210500029 (Fifth District Court, Iron County, State of Utah). Order supplied.

Plaintiff:

Scott G. Higley  
Utah Attorney General's Office  
160 East 300 South, 5th Floor  
Salt Lake City, UT 84114  
(801) 366-0353

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

To the best of my knowledge and based upon a review of my records and publicly available legal databases, certiorari has not been requested or granted in any of my cases.

- 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.

To the best of my knowledge and based upon a review of my records and publicly available legal databases, my decisions have never been reversed by a reviewing court, nor have my judgments been affirmed with significant criticism of my substantive or procedural rulings.

- 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.

As a State District Court Judge, I do not write opinions. I do issue rulings, orders, and judgments. Most of these are minute rulings, or are prepared by counsel for the prevailing party and submitted to the court for review and execution. The Utah Courts do not maintain any readily accessible database of my rulings, orders, and judgments. Instead, case files are stored in the Utah Courts' X Change case management system.

- 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.

As a State District Court Judge, I do not write 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.

I have not sat by designation on any federal court of appeals.

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

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;

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

In my service as a Utah State District Court judge, I have never been asked to recuse myself from a case. I have, however, recused myself *sua sponte*, as provided for by Rule 2.11 of the Utah Code of Judicial Conduct, from the cases set forth below. In each instance I evaluated the pertinent information once it became known to me, and made the recusal decision in accordance with legal and ethical requirements.

The two primary locations where I hear cases have small populations: Cedar City has 37,000 people, and Beaver City has 3,000 people; thus, *sua sponte* recusal is sometimes necessary.

*State v. Hsuing*, No. 181500061 (Beaver County Fifth District Court). I recused myself because I had a personal connection with someone whose work had some connection to the litigation such that there could have been an appearance of potential conflict.

*State v. Picklesimer*, No. 181500062 (Beaver County Fifth District Court). I recused myself because I had a personal connection with someone whose work had some connection to the litigation such that there could have been an appearance of potential conflict.

*Ware, et al. v. Iron County and Cedar City*, No. 220500132 (Iron County Fifth District Court). I recused myself because, during the course of the litigation, a contested discovery issue arose that involved a number of individuals with whom I had a personal connection, and who had not previously been involved in the litigation.

*State v. Vollmar*, No. 231500033 (Beaver County Fifth District Court). I recused myself because I had a personal connection with someone whose work had some connection to the litigation such that there could have been an appearance of potential conflict.

*Carroll v. Carroll*, No. 184500051 (Beaver County Fifth District Court). I recused myself because I had a personal connection with someone who had been involved in the litigation.

*Littlefield v. Smith*, No. 200500015 (Iron County Fifth District Court). I recused myself because I had a personal connection with a party to the litigation.

*Kucifer v. Kucifer* No. 214500191 (Iron County Fifth District Court). I recused myself because I had a personal connection with someone who was involved in the litigation.

*Smith v. Smith*, No. 224500165 (Iron County Fifth District Court). I recused myself because one of the parties was an employee of the Fifth District.

*Matheson v Belliston*, No. 214500269 (Iron County Fifth District Court). I recused

myself because one of the parties was related to an executive administrator of the Fifth District.

*Heaton v. Heaton*, No. 214500257 (Iron County Fifth District Court). I recused myself because the parties were my neighbors.

*Brower v. Castaneda*, No. 214500067 (Iron County Fifth District Court). I recused myself because one of the parties was my neighbor.

*State v. Prisbrey*, No. 181500247 (Iron County Fifth District Court). I recused myself because the defendant was a close family member to an opposing party in a domestic matter in which I had been the lawyer, and he had testified at the trial. I recused in an abundance of caution to avoid the appearance of a potential conflict.

*Dhillon v. Perez, et al.*, No. 180500002 (Beaver County Fifth District Court). I recused myself because of a personal connection with someone involved in the litigation.

*Rocky Ford v. Kents Lake, et al.*, No. 100500156 (Beaver County Fifth District Court). I recused myself because I had been privy to some discussions of individuals involved in the case prior to my taking the bench.

*State v. Verrill*, No. 221500123 (Iron County Fifth District Court). I recused myself because an employee of the Fifth District was a witness in the case.

*Bradshaw v. Medrano*, No. 234500004 (Beaver County Fifth District Court). I recused myself because one of the parties was an immediate family member of an executive administrator in the Fifth District.

*Kinser v. Kinser*, No. 234500008 (Iron County Fifth District Court). I recused myself because one of the parties was an employee of the Fifth District.

*State v. Shumway*, No. 221500729 (Iron County Fifth District Court). I recused myself because an employee of the Fifth District had a family connection to the defendant and was likely to be a witness in the case.

**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.

Aside from serving as a State District Court judge, I have not held public office. I have had no unsuccessful candidacies for public office or unsuccessful nominations for appointed office.

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

To the best of my knowledge and recollection, I have not held office in or rendered service to any political party or election committee, nor have I held a position or played a role in a political campaign. My father served in the Utah legislature, and I attended some functions with him over the years of his service as a supportive family member; to the best of my knowledge and recollection, I did not speak nor take any active, public role at any of these functions.

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

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

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

I did not serve as a clerk to a judge.

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

I had a solo law practice from mid-2013 to early 2016 at 51 East 400 North, Cedar City, Utah 84721. During the same time period, however, I was the Deputy Garfield County Attorney and worked at the Garfield County Attorney's Office on a part time basis.

- 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;

2001 – 2004  
Jensen, Graff and Barnes, L.L.P.  
250 South Main Street  
Cedar City, Utah 84720  
Attorney

2004 – 2007  
Allen Law, P.C.  
415 North Main Street, Suite 303  
Cedar City, Utah 84721  
Attorney

2007 – 2013  
Iron County Attorney's Office  
82 North 100 East, Suite 201  
Cedar City, Utah 84720  
Deputy County Attorney

2013 – 2016  
Ann Marie McIff Allen, Attorney at Law  
51 East 400 North #1  
Cedar City, Utah 84721  
Attorney

2014 – 2020  
Garfield County Attorney's Office  
55 South Main Street  
Panguitch, Utah 84759  
Deputy County Attorney

2016 – 2020  
Southern Utah University  
351 West University Boulevard  
Cedar City, Utah 84720  
Special Counsel and Director of Ethics and Compliance (2016 – 2017)  
General Counsel (2018 – 2020)

- 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.

After I graduated from law school in 1997, I worked part time for a few years because I had three small children. I taught law courses at the BYU Law School and Utah Valley University.

In 2001, I started working at a law firm in Cedar City, Utah, that serviced the legal needs of businesses, governmental entities, and individuals in the broader southern Utah area. Although I became involved in a variety of types of matters, my primary responsibility was to do work under the firm's public defender contract in Beaver County.

As a public defender in Beaver County, I handled indigent defense cases from the most serious felonies to the lowest misdemeanors, and also handled parental defense and delinquency in juvenile court. While working in Beaver County, I became acquainted with lawyers who worked in the federal court in St. George, which led to my receiving a few CJA panel appointments for federal criminal defense.

Starting in 2004, I worked for Allen Law, P.C., which was affiliated with Barnes and Allen, L.L.P. Randy Allen (who is my husband), Keith Barnes, and I all worked in the same office and shared some cases and work. I continued doing indigent defense.

In 2007, I became a Deputy Iron County Attorney. I prosecuted all kinds of felonies and misdemeanors, handled the County's Drug Court, and conducted ongoing in-house training on issues like Fourth Amendment search and seizure, effective warrants, and other legal issues.

In 2013, I went back into private practice, serving a general clientele of those needing domestic work, estate planning, and litigation. I also associated with my father's law firm, The McIff Firm, on some civil cases. Additionally, I did legal work for a school district and became a part-time deputy county attorney for a neighboring county, a role which I retained until I took the bench in 2020. As the Deputy Garfield County Attorney, I prosecuted crimes as well as appeared regularly before the Utah State Tax Commission.

In 2016, the President of Southern Utah University appointed me as Special Counsel and Director of Ethics and Compliance, and eventually as the University's first General Counsel. In those roles, at various times, I handled the huge variety of legal issues faced by a university, including compliance with Title VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, the Americans with Disabilities Act, the Fair Housing Act and the Free Speech clause of the First Amendment; and also advised the university regarding complex contracts, policy development, and employment issues.

In 2020, I was appointed by Utah's governor to the Fifth District bench for the State of Utah. The District Court is the highest trial court of the state. My caseload consists of all kinds of criminal and civil matters. In addition to my regular judicial duties, I have been given special assignments: Drug Court Judge for Iron County beginning in 2020, Associate Presiding Judge in the Fifth District beginning in 2021, and Water Judge beginning in 2022.

- ii. your typical clients and the areas at each period of your legal career, if

any, in which you have specialized.

While in private practice I represented all types of clients, from indigent defendants to individuals with modest means, to small businesses, to governmental entities. As a prosecutor, I represented the counties for whom I worked. At SUU, I provided legal support to every unit across campus and regularly advised the President and Vice-Presidents.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

I have been involved in litigation, with frequent court appearances, for nearly my entire law practice. While working as legal counsel at SUU, I was not in court as frequently because of significant demands on my time on campus, and because Utah law dictates that only lawyers from the Attorney General's office can actually appear in court on behalf of state entities. However, I was still appearing in court in my capacity as a prosecutor for Garfield County.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 2%  |
| 2. state courts of record:  | 92% |
| 3. other courts:            | 5%  |
| 4. administrative agencies: | 1%  |

- ii. Indicate the percentage of your practice in:

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

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

I have not maintained a list of my trials, but I estimate that, over the course of my career as a prosecutor, defense attorney, and private civil attorney I handled approximately 75 trials of various kinds in the State District Court, the Justice Court, the Juvenile Court, and before the Utah State Tax Commission. In nearly every instance I was sole counsel. On two occasions that I can recall I was chief counsel with another attorney as associate counsel.

- i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 10% |
| 2. non-jury: | 90% |

- e. Describe your practice, if any, before the Supreme Court of the United States.

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

I did not practice before the Supreme Court of the United States.

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

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State v. Fox*, No. 141600068 (Sixth Judicial District Court, Garfield County, State of Utah).

The State charged Mr. Fox with second-degree felony burglary and third-degree felony criminal mischief. The State alleged that Mr. Fox had broken into a cabin, stolen items, and vandalized the property; Mr. Fox's defense was that he was lost and only entered the cabin out of necessity. I prosecuted the case as Deputy Garfield County Attorney. I handled the preliminary hearing, during which Mr. Fox was bound over for trial. I handled the jury trial, for which I prepared the witnesses, evidence and exhibits; gave the opening and closing arguments; questioned all the witnesses; made all evidentiary and legal arguments; and handled the entirety of the trial alone. The jury convicted Mr. Clark on all charges, and he was sentenced to state prison, but that prison sentence was stayed, and he was ordered instead to serve six months in the county jail, with probation thereafter.

Date of Representation: 2014 – 2019

Judge: Hon. Wallace Lee

Defense:

Nicholas Chamberlain  
45 North Toquer Boulevard  
Toquerville, UT 84774  
(435) 673-8858

2. *Utah Schools for the Deaf v. Southern Utah University and Utah Shakespeare Festival*, No. 2:19-CV-00733-CW (United States District Court for the District of Utah).

In this federal civil case, plaintiffs – an organization supporting schools that educated deaf students, along with two schools for the deaf – claimed non-compliance with the Americans with Disabilities Act (ADA) and sought live sign language interpretation rather than use of personal, live captioning devices at the Utah Shakespeare Festival. The Festival had transitioned to offering personal technology devices for deaf patrons, with which the Festival sought to provide live captioning for any hearing impaired guest upon request, for any performance – in place of the prior approach which involved offering only a few performances with live sign language interpretation. The court denied plaintiffs’ motion for a temporary restraining order; and the plaintiffs voluntarily dismissed their claims. I was General Counsel for Southern Utah University, which is the umbrella organization over the Utah Shakespeare Festival. While I was not counsel of record for defendants in this case, as Utah law allows only the Utah Attorney General’s Office to appear as counsel of record for state entities in litigation, I was involved in legal work related to the matter; specifically, in response to requests for legal assistance from the Festival, I analyzed the legal standards under the ADA and advised the Festival as to options the Festival sought to explore, and related obligations. I aided in drafting private correspondence to attempt to resolve the issues with the plaintiffs. When the litigation arose, I advised and helped prepare draft responsive pleadings, though the court ruled on the restraining order motion immediately (as plaintiffs had requested), denying the plaintiffs’ motion, and the plaintiffs voluntarily dismissed their case at that time, so no responsive pleadings were actually submitted by defendants.

Date of Representation: 2019

Judge: Hon. Clark Waddoups

Plaintiff:

Jared Allebest  
212 East Crossroads Boulevard #207  
Saratoga Springs, UT 84045  
(949) 322-3991

Defense:

Meb Anderson  
Utah Attorney General’s Office  
351 West University Boulevard  
Bennion Admin Building, Suite 111  
Cedar City, UT 84720  
(435) 865-8056

3. *Metropolitan Water District v. Rocky Mountain Holding Trust*, No. 130500126 (Fourth Judicial District Court, Wasatch County, State of Utah), *rev'd sub nom. Metro. Water Dist. of Salt Lake & Sandy v. SHCH Alaska Tr.*, 2019 UT 62, 452 P.3d 1158 (2019)

I served as co-counsel for defendants in this matter. The matter involved a dispute over the Water District's assertions of regulatory authority under state and federal law to exercise significant control over servient landowners' activity in and around an easement owned by the Water District, through which the Salt Lake Aqueduct ran. Defendants were servient landowners. Plaintiff sought to shut down or severely restrict recreational activities operated as a business by defendants near plaintiff's aqueduct. My work in this matter was in a supportive role to the lead attorney. I conducted legal research, helped formulate strategy, and drafted portions of summary judgment memoranda and supportive affidavits. I assisted in hearing preparation. My representation continued through the conclusion of the trial court proceedings wherein summary judgment was granted in favor of plaintiff. The Utah Supreme Court ultimately reversed the district court, holding in defendants' favor on the bases we had asserted in the summary judgment phase.

Date of Representation: 2013 – 2017

Judge: Hon. Claudia Laycock

Plaintiff:

Shawn Draney  
Danica Cepernich  
Snow Christensen & Martineau  
10 Exchange Place, 11th Floor  
Salt Lake City, UT 84111  
(801) 521-9000

Defense Co-counsel:

Kay L. McIff (deceased)

Edwin Barnes  
Shannon Zollinger  
Clyde Snow & Sessions  
201 South Main Street, Suite 2200  
Salt Lake City, UT 84111  
(801) 322-2516

Perrin Love  
(formerly of Clyde Snow & Sessions)

Salt Lake County District Attorney's Office  
35 East 500 South  
Salt Lake City, UT 84111  
(801) 440-9001

4. *Grover v. Grover*, No. 144500059 (Fifth Judicial District Court, Iron County, State of Utah).

I was counsel for the petitioner, Ms. Grover, in this divorce case. I defeated a motion to dismiss based on jurisdiction and venue, conducted discovery, brought a motion to compel discovery which was granted, and tried the case. I called an expert witness in the trial. The court awarded Ms. Grover sole physical custody, child support, and a fair division of the parties' property.

Date of Representation: 2014 – 2016

Judge: Hon. Keith C. Barnes

Petitioner Co-counsel:

Justine Wayment  
51 East 400 North, Building 1  
Cedar City, UT 84721  
(435) 586-3300

Respondent:

Russell Monahan  
323 South 600 East, Suite 200  
Salt Lake City, UT 84102  
(801) 595-8600

5. *State v. Clark*, No. 101500240 (Fifth Judicial District Court, Iron County, State of Utah).

The State charged Mr. Clark with third-degree felony retaliation against a witness, third-degree felony possession or use of a controlled substance (methamphetamine), and misdemeanor possession of drug paraphernalia (methamphetamine pipe). The State alleged that Mr. Clark had sought to intimidate the confidential informant utilized by law enforcement in gathering evidence against Mr. Clark. I prosecuted the case as Deputy Iron County Attorney. I handled the preliminary hearing, during which Mr. Clark was bound over for trial. I handled the jury trial, for which I prepared the witnesses, evidence and exhibits; gave the opening and closing arguments; questioned all the witnesses; made all evidentiary and legal arguments; and handled the entirety of the trial alone. The jury convicted Mr. Clark on all charges. I represented the State in the sentencing; Mr. Clark was sentenced to 270 days in jail on the felony retaliation against a witness charge, with

credit for time served and eligibility for good time; prison time was suspended for both felonies, and jail time was suspended for the misdemeanor drug paraphernalia charge.

Date of Representation: 2010 – 2011

Judge: Hon. G. Michael Westfall

Defense:

Aric Cramer  
132 West Tabernacle Street, Building A  
St. George, UT 84770  
(435) 627-1565

Joann Secrist  
291 North 100 East  
P.O. Box 726  
Parowan, UT 84761  
(435) 477-8995

6. *State v. Miller*, No. 091500416 (Fifth Judicial District Court, Iron County, State of Utah).

In this criminal case, I was the sole prosecutor. Mr. Miller was charged with two counts of first-degree felony rape and two counts (pleaded in the alternative) of third-degree felony unlawful sexual activity with a minor. Mr. Miller, then age 21, initiated a relationship with a 15-year-old girl over social media and then engaged in sexual intercourse with her. I worked with law enforcement to prepare to present testimony under Rule 404(b) that Mr. Miller had committed similar acts against other alleged victims using a similar modus operandi involving social media communications. I also worked with law enforcement to find another alleged victim who had encountered Mr. Miller since the charges were filed, who was prepared to testify that Mr. Miller had made admissions to her regarding my case. Mr. Miller pleaded guilty to one count of third-degree unlawful sexual activity with a minor and was sentenced to the statutorily indicated zero to five years in prison.

Date of Representation: 2009 – 2011

Judge: Hon. G. Michael Westfall

Defense:

Jack Burns  
415 North Main Street, Suite 106  
Cedar City, UT 84721  
(435) 586-2725

7. *State v. Baldwin*, No. 071500283 (Fifth Judicial District Court, Iron County, State of Utah).

Ms. Baldwin was initially charged with second-degree felony illegal possession or use of a controlled substance (methamphetamine). She pleaded guilty, but her plea was held in abeyance so that she could enter the Drug Court program, with a promise from the State that if she completed that program, her case would be dismissed. I was a prosecutor in the Drug Court during most of Ms. Baldwin's participation. She received treatment and other services, was given regular drug tests, and completed community service. She finished the Drug Court program, and her charges were dismissed in March 2009. She was the first person to graduate from Iron County's then-new Drug Court.

Date of Representation: 2008 – 2009

Judge: Hon. John Walton

Prosecution Co-counsel:

Troy Little  
(formerly of the Iron County Attorney's Office)  
Fifth District Juvenile Court, Iron County, State of Utah  
40 North 100 East  
Cedar City, UT 84720  
(435) 867-3250

Adam Christian  
(formerly of the Iron County Attorney's Office)  
450 North 1500 West  
Orem, UT 84057  
(385) 218-2645

Defense:

Jack Burns  
415 North Main Street  
Cedar City UT 84721  
(435) 586-2725

8. *United States v. Reeder*, No. 2:07-cr-00079 (D. Utah).

In this federal criminal case, Ms. Reeder was charged with two counts: possession of a controlled substance with intent to distribute (21 U.S.C. § 841); and attempt or conspiracy to possess a controlled substance with intent to distribute (21 U.S.C. § 846). Ms. Reeder was alleged to have transported via vehicle a large quantity of methamphetamine. I was appointed as Ms. Reeder's defense counsel and assisted her

through initial hearings, investigation and discovery, waiver of indictment, and negotiations of an anticipated plea bargain. After I was hired as a prosecutor, new defense counsel replaced me, and he handled Ms. Reeder's plea bargain and subsequent proceedings.

Date of Representation: 2007

Judge: Hon. Dee Benson, Magistrate Robert T. Braithwaite

Prosecution:

Paul Graf (retired)

Paul Kohler  
(formerly of the United States Attorney's Office)  
United States District Court Magistrate, District of Utah  
206 West Tabernacle #2200  
St. George, UT 84770  
(435) 703-7305

Richard Daynes  
(formerly of the United States Attorney's Office)  
111 South Main Street, Suite 1800  
Salt Lake City, UT 84111  
(801) 325-3361

Defense Successor Counsel:

Randall Allen  
51 East 400 North, Suite 1  
Cedar City, UT 84721  
(435) 590-7760

9. *State v. Iverson*, No. 041500159 (Fifth Judicial District Court, Beaver County, State of Utah).

I was defense counsel in this criminal case, which went to a jury trial. Ms. Iverson was charged with three misdemeanors: unlawful sale or supply of alcohol to minors, possession of a controlled substance within a correctional facility, and intoxication. The State alleged that Ms. Iverson had given alcohol to underage persons, had been intoxicated to a point of being a danger to herself or others, and had possessed illegal drugs while in jail. I handled the pretrial hearings. For the jury trial, I sat second chair to co-counsel. Ms. Iverson was found guilty by the jury on all counts. I handled the sentencing. I presented evidence that Ms. Iverson was pursuing substance abuse treatment. She was sentenced to serve jail time, but that sentence was stayed, and she was instead given probation and ordered to complete substance abuse treatment, complete

a home study course, and pay a fine.

Date of Representation: 2004 – 2005

Judge: Hon. J. Philip Eves

Prosecution:

Von Christensen  
Beaver County Attorney's Office  
P.O. Box 471  
Beaver, UT 84713  
(435) 438-6441

Defense Co-counsel:

Randall Allen  
51 East 400 North, Suite 1  
Cedar City, UT 84721  
(435) 590-7760

10. *State v. Rice*, No. 031500007 (Fifth Judicial District Court, Beaver County, State of Utah).

I was defense counsel for Ms. Rice, who was charged with second-degree felony money laundering and second-degree felony pattern of unlawful activity. I handled the preliminary hearing, at which I challenged the evidence presented by the state and argued that it did not show that Ms. Rice was involved in the alleged criminal activity, that she should not be bound over, and that her charges should be dismissed. The court did not bind her over and dismissed her charges.

Date of Representation: 2003

Judge: Hon. J. Philip Eves

Prosecution:

Leo Kanell  
Beaver County Attorney's Office  
P.O. Box 471  
Beaver, UT 84713  
(435) 438-6441

Defense Co-counsel:

Keith Barnes

(formerly of Jensen, Graff & Barnes)  
Fifth District Court, Washington County, State of Utah  
206 West Tabernacle Street  
St. George, UT 84770  
(435) 986-5700

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 General Counsel of Southern Utah University, I advised the President and other university leaders regarding the multitude of legal issues encountered in higher education. These included issues involving human resources, constitutional rights, real property, public procurement compliance, federal regulatory compliance (Title IX, Title VII, and others), liability and risk management, contracts, open meetings and records, privacy and confidentiality, health care, mental health care, and technology.

One of the most significant legal projects involved the successful acquisition of an aviation company. I was the point person on all legal aspects of this large and complex deal. The project involved complicated contractual challenges: interpreting and navigating the implications of existing contracts (contracts between my institutional client and the aviation company, contracts between the aviation company and other entities—such as leases of fixed and rotor-wing aircraft, employee contracts, and supplier contracts); negotiating new contracts, including the principal contract for the acquisition of the aviation company, which contained provisions regarding the overall transaction itself, numerous specific aircraft with differing particulars, employees, equipment, real estate, intellectual property, third-party obligations, releases of claims, and indemnity. The project also involved many tasks relating to the following: compliance with regulations, including aviation regulations and Veterans Affairs regulations; property law, including the purchase of a hanger and compliance with local government and airport requirements; and employment law, including transferring of employee relationships and obligations from the aviation company to my institutional client.

I have engaged in significant law-related public service as a member of statewide bodies including the Indigent Defense Committee, the Legislative Process Committee, and the Judicial Performance Evaluation Commission. I have served on local boards like that of the Canyon Creek Women's Crisis Center and the Iron County Children's Justice Center. I am also a member of the Litigation section of the Utah State Bar and serve as Co-Chair of the Bar's Modest Means Committee.

While serving as a judge I have received special, additional assignments. I serve as the Fifth Judicial District Associate Presiding Judge, assisting the presiding judge in making

policy, management, assignment, and logistical decisions for the district. I am also designated as a state Water Judge, one of only approximately a dozen statewide. As such, I am eligible to handle cases involving complex water issues; I preside over the Virgin River General Adjudication, No. 800507596 (Fifth Judicial District Court, Washington County, State of Utah). I also serve as the Drug Court Judge for the Fifth District in Iron County; one afternoon each week I hold Drug Court, in which persons who have pleaded in abeyance to drug offenses work toward achieving substance abuse treatment, employment, and life stability goals; if they successfully complete the Drug Court program, their charges are dismissed or reduced. Additionally, I serve on statewide judicial committees including the Facilities Committee and Self-Represented Parties Committee.

I have not engaged in lobbying activities and have never been 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.

To the best of my knowledge and recollection, I have taught the following courses:

Forensic Science (approximate title), Southern Utah University, 2015 (approximate date). I taught an introductory course on forensic science-related legal issues to graduate students in the masters of forensic science program. I am unable to locate the syllabus.

Family Law (approximate title), Southern Utah University, 2015 (approximate date). I taught an introductory course on family law-related issues to undergraduate students in the political science and criminal justice programs. I am unable to locate the syllabus.

Criminal Law, Southern Utah University, 2014 (approximate date). I taught an introductory course on criminal law to undergraduate students in the political science and criminal justice programs. I am unable to locate the syllabus.

Evidence (approximate title) and Ethics (approximate title), Utah Valley University (Utah Valley State College at the time) 1999 – 2001 (approximate dates). The course attendees were a small number of undergraduate students. I am unable to locate the syllabi.

Legal Skills and Professionalism (approximate title), Brigham Young University J. Reuben Clark Law School, 1997 – 1998. The course dealt generally with introductory information and practical advice about basic legal skills and professionalism. The course attendees were a small group of first-year law students. I am unable to locate the syllabus.

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.

None.

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.

None.

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.

I will evaluate any real or potential conflict on a case-by-case basis and determine appropriate action, including recusal where necessary. I will take care to monitor my assigned cases for conflicts of interest arising from friendships, family relations, and collateral review of matters for which I served as judge.

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

I will address any actual or potential conflict of interest by applying the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any other relevant laws, canons, rules, practices, and guidelines.

25. **Pro Bono Work**: An ethical consideration under Canon 2 of the American Bar

Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I chose to work as a lawyer in rural Utah in part because I wanted to address the legal needs of all kinds of clients and engage in meaningful, impactful public service. I did indigent defense work for several years and am passionately committed to upholding the right to counsel and due process protections in that arena. I was paid on contract for the indigent defense work, but the pay was fairly modest, and my passion for the work, rather than the pay I received, was my driving force. I estimate approximately 1,800 hours, or one year's average work amount, as the amount of "pro bono" time that ought to be attributed to this work.

I gave pro bono service to Utah's Indigent Defense Committee for several years so that I could lend my perspective and my experience to its efforts to fashion improvements in the way that Utah was delivering indigent defense services. Each committee meeting involved a seven-hour round trip drive to Salt Lake City in addition to the meeting, and I served on the taskforce for approximately five years. I estimate approximately 100 hours of "pro bono" time for this work.

Like many lawyers who practice in rural areas, I sharply discounted legal bills for individuals who had significant legal needs but limited ability to pay. I took particular interest in helping women and children in this "low bono" manner – allowing them to pay what they could, when they could, and writing off, or not billing for, the rest. This typically occurred in the context of family law actions. I estimate approximately 150 hours of "pro bono" time for this work.

As a judge, I co-chair the Utah State Bar's Modest Means Committee, which endeavors to assist potential clients in connecting with lawyers who are willing to provide "low bono" legal work where standard legal fees are sharply reduced. I am also a member of the Self-Represented Parties committee, which is associated with the Utah Courts, and which identifies ways to help and support self-represented parties.

**26. Selection Process:**

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

In August 2022, I was contacted by Senator Mike Lee's office with an invitation to interview with him and some of his staff members regarding the judicial vacancy in the U.S. District Court for the District of Utah. I attended the interview on August 26, 2022. I was also contacted by Senator Mitt Romney's office in August 2022 with an invitation to meet with his chief legal counsel to discuss the same position. That meeting occurred on August 31, 2022. In January 2023, I was again contacted by Senator Romney's office and invited to meet with him and some of his staff members, which I did on January 25, 2023. In March 2023, I was contacted by the White House Counsel's Office and invited to interview. That interview occurred on March 8, 2023. In late September 2023, I was contacted by the White House Counsel's Office, informing me that they wanted to take next steps in the vetting process for the position. Since September 29, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On December 19, 2023, the President announced his intent to nominate me.

- 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.