

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Kathleen Murray O'Sullivan

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

United States District Judge for the Western District of Washington

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.

Perkins Coie  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101

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

1969; New York, New York

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.

1993 – 1996, Georgetown University Law Center; J.D. (*cum laude*), 1996

1987 – 1991, Yale University; B.A. (*cum laude*), 1991

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.

Summer 1995; 1997 – 1998; 1999 – present  
Perkins Coie  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101  
Partner (2004 – present)

Associate (1997 – 1998 and 1999 – 2003)  
Summer Associate (Summer 1995)

1998 – 1999  
The Honorable M. Margaret McKeown  
United States Court of Appeals for the Ninth Circuit  
Park Place Building  
1200 Sixth Avenue  
Seattle, Washington 98101  
Law Clerk

1996 – 1997  
The Honorable Harold H. Greene  
United States District Court for the District of Columbia  
United States Courthouse  
333 Constitution Avenue Northwest  
Washington, District of Columbia 20001  
Law Clerk

Summer 1996  
Miller, Cassidy, Larroca & Lewin  
Now defunct  
Washington, District of Columbia  
Summer Associate

1995 – 1996  
Georgetown University Law Center  
600 New Jersey Avenue Northwest  
Washington, District of Columbia 20001  
Coach, Burton D. Wechsler First Amendment Moot Court Competition

Summer 1994  
DNA – People's Legal Services  
Highway 264 North Navajo Route 12  
Window Rock, Arizona 86515  
Law Clerk

Summer 1992  
Burr Pease & Kurtz  
810 N Street  
Anchorage, Alaska 99501  
Paralegal

1991 – 1993  
Phillips Exeter Academy  
20 Main Street

Exeter, New Hampshire 03833  
History Teacher and Coach (girls' field hockey, ice hockey, and lacrosse)

Other Affiliations (uncompensated unless otherwise indicated):

2015 – present  
1120 Perkins Equity Fund LLC  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101  
Partner (less than 1% profit share)

2015 – present  
American Law Institute  
4025 Chestnut Street  
Philadelphia, Pennsylvania 19104  
Council Member

2011 – present  
TWB Investment Partnership II, L.P.  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101  
Partner (less than 1% profit share)

2011 – present  
YMCA of Greater Seattle  
909 Fourth Avenue  
Seattle, Washington 98104  
Vice Chair and Executive Committee Member (2014 – present)  
Board of Directors (2011 – present)

2007 – 2015  
Washington State Commission on Judicial Conduct  
210 11th Avenue SW, Suite 400  
Olympia, Washington 98507  
Chair (2012 – 2014)  
Vice Chair (2009 – 2012)  
Member (2007 – 2015)

2003 – 2006  
Washington State Bar Association  
1325 Fourth Avenue, Suite 600  
Seattle, Washington 98101  
Board of Governors (2003 – 2006)  
Lawyers' Fund for Client Protection Board of Trustees (2003 – 2006)

2000 – 2003

Passages Northwest (now Girls Outdoor Leadership Development at the YMCA)  
YMCA of Greater Seattle  
909 Fourth Avenue  
Seattle, Washington 98104  
Board Member

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

I have not served in the military. I was not required to register for 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.

“Top Women Attorneys in Washington” (2011 – present)

“Best Lawyers in America” for Commercial Litigation; Appellate (2009 – present)

Washington “Super Lawyers” (2007 – present)

“Best Lawyers” for Appellate (Pacific Northwest) (2016)

Elected to Council of American Law Institute (2015)

Corporate Responsibility Magazine, Legal Who’s Who for Securities Defense (2014)

Elected to membership in American Law Institute (2006)

Co-recipient of the following awards for work on *Brown v. Legal Foundation of Washington*, 271 F.3d 835 (9th Cir. 2001) (en banc), *aff’d*, 538 U.S. 216 (2003):

American Bar Association Interest on Lawyers Trust Account Litigation Team Award (2003)

Washington State Bar Association Award of Merit (2003)

King County Bar Association President’s Award (2003)

King County Bar Foundation Champion of Justice Award (2002)

Perkins Coie Pro Bono Leadership Award (2002)

Georgetown University Law Center:

John M. Olin Law & Economics Fellowship (1996)

Georgetown Law Journal (1994 – 1996)

Senior Notes & Comments Editor (1995 – 1996)

Staff (1994 – 1995)

Equal Justice Foundation Fellowship (1994)

Yale University:

McClintock Prize for best senior essay on the American West (1991)

Yale Women's Ice Hockey Bingham Award (1991)

Academic All-American (1990, field hockey)

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

American Constitution Society

American Law Institute

Council Member (2015 – present)

Advisor (*Restatement of the Law, Charitable Nonprofit Organizations*) (2016)

Members Consultative Groups (*Principles of Election Law: Resolution of Election Disputes*) (2010 – present), (*Principles of the Law, Aggregate Litigation*) (2006 – 2010)

DRI (Defense Research Institute)

Federal Bar Association of the Western District of Washington  
Chair, Appellate Practice Committee (2007 – 2008)

King County Bar Association

Ninth Circuit Attorney Admission Fund Committee

Ninth Circuit Judicial Conference  
Appellate Lawyer Representative (2010 – 2013)

Washington Initiative for Diversity Governing Council

Washington State Bar Association

Board of Governors (2003 – 2006)

Lawyers' Fund for Client Protection Board of Trustees (2003 – 2006)

Liaison to Washington Young Lawyers Division (2003 – 2006)

Liaison to Washington Women Lawyers (2005 – 2006)

Member, Budget and Audit Committee (2004 – 2006)

Chair, Personnel Committee (2005 – 2006)

Washington State Commission on Judicial Conduct

Chair (2012 – 2014)

Vice Chair (2009 – 2012)

Chair, Rules Committee (2009 – 2010)  
Member (2007 – 2015)

Washington Women Lawyers

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.

Washington, 1998

There has been no lapse in membership.

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

Supreme Court of the United States, 2002

United States Court of Appeals for the Fourth Circuit, 2014

United States Court of Appeals for the Seventh Circuit, 2012

United States Court of Appeals for the Ninth Circuit, 2001

United States District Court for the Eastern District of Washington, 2001

United States District Court for the Western District of Washington, 2000

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.

DiscNW (1997 – present)

Leadership Tomorrow (2008 – 2009)

Legal Voice (formerly known as Northwest Women's Law Center)  
Cooperating Counsel (approximately 2003 – present)

Mercerwood Shore Club (2012 – present)

Meredith Mathews East Madison YMCA (approximately 2008 – present)

The Mory's Association (approximately 1988 – 1991 and 2011 – present)

Passages Northwest (now Girls Outdoor Leadership Development at the YMCA)  
Board Member (2000 – 2003)

Program for Early Parent Support (2004 – 2005)

St. Joseph Parish (2002 – present)

United Way of King County  
Perkins Coie Campaign Chair (2009 – 2012)

Washington Athletic Club (WAC) (1999 – present)

WAC Tri/Cycle Club (2014 – present)

YMCA of Greater Seattle  
Vice Chair and Executive Committee Member (2014 – present)  
Board of Directors (2011 – present)  
Chair, Association's Annual Campaign (2014 – 2015)  
Co-Chair, Board's Annual Campaign (2013 – 2014)

- 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.

None of the organizations listed above discriminates on the basis of race, sex, religion or national origin. To the best of my knowledge, none of the organizations listed above formerly discriminated on the basis of race, sex, religion or national origin; however, The Mory's Association is a club for Yale undergraduates and graduates, and it first enrolled women as members in 1972, shortly after Yale College became coeducational. When I joined, membership no longer was restricted to exclude women.

**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.

*You're a Hero, Toby Piering*, Washington State Bar Association: NWSidebar (May 29, 2015). Copy supplied.

*Ninth Circuit Urged Not To Return To Era of No Reliance California Law*, Perkins Coie: Food Litigation News (Nov. 20, 2014). Copy supplied.

*Culinary Ambiguity: A Canonical Approach to Deciphering Menus*, Perkins Coie: Food Litigation News (Oct. 7, 2014). Copy supplied.

*Constitutionality of Nutrition Facts Proposal Questioned*, Perkins Coie: Food Litigation News (Aug. 5, 2014). Copy supplied.

*Supreme Court Likely to Reverse Ninth Circuit in Pom Wonderful v. Coca-Cola*, Perkins Coie: Food Litigation News (Apr. 22, 2014). Copy supplied.

*Food Fight: An Examination of Recent Trends in Food Litigation and Where We Go From Here*, Perkins Coie: Food Litigation News (Mar. 31, 2014). Copy supplied.

*LexisNexis Practice Guide: Washington Pretrial Civil Procedure* (co-editor, Matthew Bender, 2013, updated ed. 2014). Copies supplied.

*LexisNexis Practice Guide: Washington Civil Discovery* (co-editor, Matthew Bender 2013, updated ed. 2015). Copies supplied.

With David Biderman, Charles C. Sipos, Lawrence H. Reichman, Joren S. Bass, Sunita Bali and Anahit Samarjian, Food Litigation Newsletter – August 8, 2012, Mondaq Business Briefing (Aug. 9, 2012). Copy supplied.

With Steve Koh and Jeremy L. Ross, *Check Your Sources*, Law360 (Apr. 5, 2011). Copy supplied.

With Andrew Moriarity and Paul Graves, *Washington Supreme Court Upholds \$8 Million Default Judgment – Discovery Rules Failure* (Apr. 20, 2010) (Emerging Issues Commentary). Copy supplied.

With Paul Graves, *Narrowing Scope of Washington Consumer Protection Act*, Law360 (Jan. 29, 2010). Copy supplied (reprinted in multiple outlets).

With Paul Graves, *Washington Supreme Court Upholds \$8 Million Default Judgment for Failing to Follow Discovery Rules*, Perkins Coie Update (Dec. 2, 2009). Copy supplied (reprinted in multiple outlets).

*Class Certification Under CR 23(b)(2) in Nelson v. Appleway Chevrolet, Inc.*



(May 15, 2008) (Emerging Issues Commentary). Copy supplied.

*Much Ado About Nothing*, DeNovo (June 2003). Copy supplied.

*What Would John Marshall Say? Does the Federal Trust Responsibility Protect Tribal Gambling Revenue?*, 84 Geo. L.J. 123 (1996). Copy supplied.

With Paul M. Winters, Jon P. Devine, Jr., and Tracy Johnson, *Sentencing Guidelines, Twenty-Fourth Annual Review of Criminal Procedure: United States Supreme Court and Courts of Appeals 1993 – 1994*, 83 Geo. L.J. 1229 (1995). Copy supplied.

My law firm maintains a website ([www.perkinscoie.com](http://www.perkinscoie.com)). Much of the content is prepared by our firm's marketing staff, but I personally prepared some of the web content, including some of the content on the Appellate page (<https://www.perkinscoie.com/en/practices/litigation-dispute-resolution/appellate-law.html>) and on the Food Litigation News blog (<https://www.foodlitigationnews.com/>).

- 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.

As a member of the American Law Institute, I have the opportunity to review and comment on the draft projects before a final vote of the members at the annual meeting on whether to approve the final project or any particular draft. My name is listed in one completed project as among the many members consulted for the publication *Aggregate Litigation*. Copies 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.

Letter to Peter G. McCabe, Secretary of the Committee on Rules of Practice and Procedure for the Administrative Office of the United States Courts, February 6, 2009. Copy supplied.

A summary of a 2006 presentation to the Washington State Bar Association Board of Governors in which I participated was included in a January 14, 2009 letter to the Washington Supreme Court in a letter from the Board of Governors opposing a proposed practice rule. 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.

January 21, 2016: Speaker, New Council Member Talk, American Law Institute Council Meeting, Philadelphia, Pennsylvania. Notes supplied.

December 9, 2015: Panelist, "Judge as Manager: Class Actions, Multidistrict Litigation, and Oversight under the New Federal Rules," Federal Bar Association of the Western District of Washington, Seattle, Washington. Notes supplied.

June 4, 2015: Panelist, "Lessons from the Recent Spate of Food Labeling Class Actions," Eleventh Annual Comprehensive Conference on Class Actions, Law Seminars International, Seattle, Washington. PowerPoint supplied.

April 1, 2015: Speaker, Annual Meeting & 2015 Annual Campaign Celebration Event, YMCA of Greater Seattle, Seattle, Washington. Notes supplied.

March 29, 2015: Speaker, State Mock Trial Championship, YMCA Youth & Government, Olympia, Washington. I spoke about the quality of the students' performances. I have no notes, transcript or recording. The address of YMCA Youth & Government is P.O. Box 193, Olympia, Washington 98507.

December 10, 2014: Panelist, "*Gideon v. Wainwright* After 50 Years: Do Low Income Individuals Have Access to Justice?" Federal Practice CLE, Federal Bar Association of the Western District of Washington, Seattle, Washington. I spoke about the case of *King v. King*, 162 Wash. 2d 378 (2007). I have no notes, transcript or recording. The address of the Federal Bar Association of the Western District of Washington is P.O. Box 21006, Seattle, Washington 98111.

October 10, 2014: Speaker, Celebration of the Life of Sher Kung, Perkins Coie, Seattle, Washington. Notes supplied.

October 8, 2014: Speaker, "Celebrating Our Cause": 2015 Annual Campaign Kick-Off, YMCA of Greater Seattle, Seattle, Washington. Notes supplied.

April 11, 2014: Panelist, "Is 'Food Court' Helping Consumers? The Historical Context of Food Labeling Litigation and the Role of Litigation in System Reform," Resnick Program for Food Law and Policy Food Litigation Conference, University of California – Los Angeles School of Law, Los Angeles, California.

Video is available at

<http://media.law.ucla.edu/Events/Stream/Resnick/ResnickFoodFightPanel1041114/>.

April 2, 2014: Speaker, Annual Meeting & 2014 Annual Campaign Celebration Event, YMCA of Greater Seattle, Seattle, Washington. Notes supplied.

October 12, 2013: Speaker, Introduction of Maggie O'Sullivan, Induction into Washington State Lacrosse Hall of Fame, Kirkland, Washington. Notes supplied.

June 11, 2012: Speaker, "Ethics and Electronic Technology," Washington District and Municipal Judges Association Conference, Spokane, Washington. PowerPoint supplied.

May 30, 2012: Speaker, "Non-Real (Not Unreal) Property Takings: Developments in the Nine Years Since *Brown v. Legal Foundation of Washington*," Law Seminars International "Regulatory Takings" Workshop, Seattle, Washington. PowerPoint supplied.

May 6, 2011: Speaker, "Judges, Lawyers and Social Media: The Good, The Bad & The Ugly" CLE, Federal Bar Association of the Western District of Washington, Seattle, Washington. PowerPoint supplied.

May 3, 2011: Speaker, "Washington's New Code of Judicial Conduct," Washington Superior Court Judges Association Conference, Cle Elum, Washington. PowerPoint supplied.

November 19, 2010: Panelist, "Attorney-Client Privilege: New Developments and Best Practices," Ethics Tips for In-House Counsel and Business Lawyers CLE, Washington State Bar Association, Seattle, Washington. PowerPoint supplied.

August 24, 2010: Panelist, "*Schnall* and Causation: Panel Discussion," A Trial Lawyer's Guide to the Washington Consumer Protection Act: The Act from Every Angle CLE, Washington State Bar Association, Seattle, Washington. I spoke about the *Schnall v. AT&T Wireless* decision by the Washington Supreme Court. I have no notes, transcript or recording. The address of the Washington State Bar Association is 1325 Fourth Avenue, Suite 600, Seattle, Washington 98101.

May 6, 2010, Panelist: "Special Substantive Law Considerations for Consumer Protection Class Actions," 2010 Litigating Class Actions Conference, Law Seminars International, Seattle, Washington. PowerPoint supplied.

April 27, 2010: Speaker, "Why Can't We Be Friends: Judicial Ethics Issues Arising from Social Networking," Washington Superior Court Judges Association Conference, Cle Elum, Washington. PowerPoint supplied.

May 8, 2009: Panelist, "Special Substantive Law Considerations for Consumer Protection Class Actions: Defendant's Perspective," Annual Two-Day Conference on Litigating Class Actions, Law Seminars International, Seattle, Washington. PowerPoint supplied.

July 26, 2008: Speaker, "M is for Mentor": Law Clerk Celebration of the Tenth Anniversary of Judge M. Margaret McKeown as a Judge, San Diego, California. Notes supplied.

Approximately April 2008: Panelist, "Writing for Your Audience," University of Washington School of Law, Seattle, Washington. I spoke to first-year law students about effective legal writing. I have no notes, transcript or recording. Over the years, I was invited to speak on at least two other occasions to classes at the University of Washington School of Law and on at least one occasion at Seattle University School of Law, but I have no record of the dates or subjects of those remarks, and I have no notes, transcript or recording from those events. The address of the University of Washington School of Law is 4293 Memorial Way Northeast, Seattle, Washington 98195. The address of the Seattle University School of Law is 1215 East Columbia Street, Seattle, Washington 98122.

November 13, 2007: Program Co-Chair, "The New Rules for Business Litigators: Keeping Ahead of the Curve" CLE, Washington State Bar Association, Seattle, Washington. I and the other co-chair introduced the speakers and made concluding remarks at the end of the day thanking the speakers and attendees. I have no notes, transcript, or recording. The address of the Washington State Bar Association is 1325 Fourth Avenue, Suite 600, Seattle, Washington 98101.

Spring 2006: Speaker, Friday Night at the Meaningful Movies, Wallingford Neighbors for Peace and Justice, Seattle, Washington. I used the same PowerPoint presentation that was provided for the December 7, 2005 panel. The address of Wallingford Neighbors for Peace and Justice, now called the Meaningful Movies Project, is 4110 Densmore Avenue North, Seattle, Washington 98103.

December 7, 2005: Speaker and Panel Moderator, "Judicial Nomination and Confirmation" CLE, Federal Bar Association of the Western District of Washington, Seattle, Washington. PowerPoint supplied.

June 6 – 8, 2003: Performer, "Fiddler on the Courthouse Roof," Eighth Annual Access to Justice Conference, Washington State Bar Association, Wenatchee, Washington. I participated in a dramatic parody celebrating the Legal Foundation of Washington's victory in *Brown v. Legal Foundation of Washington* (2003). I have no notes, transcript or recording. The address of the Washington State Bar Association is 1325 Fourth Avenue, Suite 600, Seattle, Washington 98101.

- 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.

Gene Johnson, *Short List for U.S. Bench in Seattle Includes Two State Judges*, Associated Press, Jan. 15, 2016. Copy supplied (reprinted in multiple outlets).

*Q&A with Perkins Coie's Katie O'Sullivan*, Law360, Sept. 24, 2009. Copy supplied.

Paul Freeman, *Lawsuits of the Year: Family Feud*, Wash. L. & Pol., Winter 2008, at 18. Copy supplied.

Jonathan Martin, *Court Rules That Spouses Aren't Entitled to Public Divorce Lawyers*, Seattle Times, Dec. 7, 2007. Copy supplied.

Jonathan Martin, *A Divorce Lawyer at Public Expense Not Spouse's Right*, Seattle Times, Dec. 7, 2007. Copy supplied.

Richard Roesler, *Court Rejects Right to Divorce Lawyer*, Spokesman Review (Spokane, Washington), Dec. 7, 2007. Copy supplied.

Tracy Johnson, *State-Paid Divorce Lawyers Not a Right*, Seattle Post-Intelligencer, Dec. 6, 2007. Copy supplied.

Stephanie Francis Ward, *Mom Wants State to Pay in Custody Battle*, 6 No. 28 ABA J. E-Report 1 (July 13, 2007). Copy supplied.

David Bowermaster, *Should Poor Get Free Lawyers in Custody Cases?*, Seattle Times, May 31, 2007. Copy supplied.

Interview About *King v. King*, 162 Wash. 2d 378 (2007), KPLU, May 31, 2007. I was unable to obtain a copy of the interview.

Tracy Johnson, *Should State Pay for Divorce Lawyer?*, Seattle Post-Intelligencer, May 30, 2007. Copy supplied.

Stephanie Thomson, *Contested Possession of Obsession Leads to Settlement*, Columbian, June 18, 2002. Copy supplied.

Stephanie Thomson, *Sides Fight for Show Dog Custody; Handler Has Hidden Prized Pup from Owners, Who Allegedly Owe Money*, Columbian, Nov. 24, 2001. Copy supplied.

Alexandra Wilkie, *Coach Profile: Katie O'Sullivan*, Exonian, June 6, 1993. Copy

supplied.

Ben Hoskins, *Crimson Dominates on the Ice, 7-0*, Yale Daily News, Dec. 5, 1990, at 6. Copy supplied.

Becca Weintraub, *Yale Keeps Rolling, Downs Hofstra 4-2*, Yale Daily News, Oct. 25, 1990. Copy supplied.

Dan Morgan, *Senior Leadership Rallies Bulldogs*, Yale Daily News, Oct. 11, 1990, at 10. Copy supplied.

Gregg Miller, *Elis Blanked by Bears in Providence; Look for Goals, Victory Against URI*, Yale Daily News, Sept. 19, 1990, at 6. Copy supplied.

Tim Profeta, *Yale Skaters Have Gold-en Touch in 5-Game Streak*, Yale Daily News, Jan. 26, 1990, at 6. Copy supplied.

Rob Gryboski, *Juniors Will Be Key to Successful Women's Hockey Season*, Yale Daily News, Nov. 30, 1989, at 8. Copy supplied.

Paul Feinberg, *Elis Frustrated by Up and Down Week*, Yale Daily News, Oct. 13, 1989, at 8. Copy supplied.

April Falcon, *Development Marks Women's Hockey Season*, Yale Daily News, Mar. 2, 1988, at 6. 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, but in 2007, I was appointed by the Washington State Bar Association to serve on the Washington State Commission on Judicial Conduct. I was re-appointed in 2011, and I served on the Commission until June 2015. In 2009, I was elected to be the Commission Vice Chair, and in 2012, I was elected to be the Chair of the Commission, a role I served in for two years. The Commission has the authority to impose discipline (admonishment, reprimand, or censure) or to recommend suspension or removal of a judge to the Washington Supreme Court.

During the eight years in which I was a member of the Commission, we reviewed more than 300 complaints annually. The majority of these complaints were dismissed by the Commission after an initial investigation. A small percentage of the complaints led to public charges and public dispositions; many of the dispositions were stipulated, in which the judge agreed to the finding of facts and the appropriate level of discipline. An even smaller percentage of complaints led to a full public hearing, in which the judge disputed the charges or the appropriate

sanction, or both. I was a member of a hearing panel in three public cases, and in two of these I served as the presiding officer. As the presiding officer, I conducted an evidentiary hearing with witnesses and exhibits. I ruled on pre-hearing motions and evidentiary objections, received evidence, led the deliberations of the hearing panel regarding the evidence, and drafted findings of facts and conclusions of law regarding the alleged violations of the Code of Judicial Conduct and the appropriate sanction. As Chair of the Commission, I led deliberations on whether to file a non-public Statement of Allegations against a judge or, based on a finding of probable cause, to file a public Statement of Charges, or whether to dismiss the complaint based on the investigation.

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

While on the Commission on Judicial Conduct, I served as the presiding officer in two cases that went to verdict or judgment following the filing of a public Statement of Charges, and I served as a member of the hearing panel in one other public case. As Chair of the Commission, I presided over three additional cases that went to judgment in the form of stipulated orders of discipline.

- i. Of these, approximately what percent were:

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

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

*In re Wulle*, CJC No. 6707-F-154.

- 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).

(1) *In re Wulle*, CJC No. 6707-F-154. Copy supplied.

The judge was charged with failing to maintain order and decorum in proceedings over which he presided and engaging in a pattern or practice of discourteous, impatient, and undignified behavior. After a multi-day evidentiary hearing over which I presided and at which multiple witnesses testified, the Commission found that the judge had violated Canons 3(A)(2) and 3(A)(3) of the 1995 Code of Judicial Conduct, and Rules 1.1 and 2.8(A) and (B) of the 2011 Code of Judicial

Conduct. The Commission determined that the appropriate sanction was to reprimand the judge and, should the judge seek to serve again in any judicial office, require that he obtain an anger management evaluation and receive professional counseling at his own expense. This was the only decision that I authored while on the Commission. The judge did not appeal the decision to the Washington Supreme Court.

Counsel for the Commission on Judicial Conduct:

Steven Reisler  
Solo Practitioner  
4500 Sand Point Way Northeast  
Seattle, Washington 98105  
(206) 522-7081

Counsel for Judge Wulle:

Josephine Townsend  
Solo Practitioner  
211 East 11th Street, Suite 104  
Vancouver, Washington 98660  
(360) 694-7601

(2) *In re Shelton*, CJC No. 6284-F-148. Copy supplied.

The judge was charged with summarily incarcerating a domestic violence victim overnight as a contempt sanction after the putative victim recanted her allegations. I served as the presiding officer, though the case was resolved by a stipulation and agreed order of reprimand before the case went to hearing. The judge agreed that there was no legal basis for his decision to impose summary contempt sanctions and for failing to comply with the procedural requirements for imposing contempt sanctions. The Commission found that the judge violated Canons 1, 2(A), and 3(A)(1) of the Code of Judicial Conduct and reprimanded the judge. The judge further agreed, and the Commission ordered, that he complete additional training on issues of domestic violence.

Counsel for the Commission:

Phillip Ginsberg  
Hackett, Beecher & Hart  
1601 Fifth Avenue, Suite 2200  
Seattle, Washington 98119  
(206) 787-1832

Counsel for Judge Shelton:



Anne Bremner  
Solo Practitioner  
1200 Fifth Avenue, Suite 1900  
Seattle, Washington 98101  
(206) 486-1200

(3) *In re Hecht*, CJC No. 5863-F-142. Copy supplied.

The judge was criminally charged, convicted, and sentenced for patronizing a prostitute and felony harassment. He stipulated that those convictions constituted a violation of Canons 1 and 2(A) of the Code of Judicial Conduct, and he resigned from judicial office. I served as a member of the hearing panel before which the judge disputed the appropriate sanction. The Commission concluded that censure was warranted and recommended to the Washington Supreme Court that it disqualify the judge from future judicial office in addition to the sanction of censure. The Washington Supreme Court ordered that the judge be censured and disqualified from future judicial office.

Counsel for the Commission:

Paul Taylor  
Byrnes Keller Cromwell  
1000 Second Avenue, 38th Floor  
Seattle, Washington 98104  
(206) 622-2000

Counsel for Judge Hecht:

Wayne Fricke  
Hester Law Group  
1008 South Yakima Avenue, Suite 302  
Tacoma, Washington 98405  
(253) 272-2157

(4) *In re Seitz*, CJC No. 7365-F-159. Copy supplied.

The judge stipulated that she violated Canon 1 and Canon 2 of the Code of Judicial Conduct when she encouraged 12 defendants on a busy calendar to enter pleas of guilty to driving with a suspended license without the required written guilty pleas and in exchange for a promised sentence. The case did not proceed to a hearing, but I presided over the case in my role as Chair of the Commission. The Commission admonished the judge.

Counsel for the Commission:

Reiko Callner

Commission on Judicial Conduct  
P.O. Box 1817  
Olympia, Washington 98507  
(360) 753-4585

Counsel for Judge Seitz:

Anne Bremner  
Solo Practitioner  
1200 Fifth Avenue, Suite 1900  
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(206) 486-1200

(5) *In re Parise*, CJC No. 7292-F-155. Copy supplied.

The judge stipulated that he failed to maintain courtroom decorum by making comments that were, or that were reasonably perceived to be, undignified, discourteous, and disrespectful, and he set bail in an amount that reasonably appeared to be retaliatory (in the amount of \$500,000 in cases involving misdemeanor driving offenses). The case did not proceed to a hearing, but I presided over the case in my role as Chair of the Commission. The Commission admonished the judge.

Counsel for the Commission:

Reiko Callner  
Commission on Judicial Conduct  
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Olympia, Washington 98507  
(360) 753-4585

The judge was not represented by counsel.

(6) *In re Porter*, CJC No. 7112-F-157. Copy supplied.

The judge stipulated that he violated Canon 1 and Canon 2 of the Code of Judicial Conduct by signing at least ten bench warrants in cases in which he had been disqualified by affidavits of prejudice. He additionally agreed that he violated Canon 2 of the Code when he failed to disclose ex parte communications. The judge stipulated that he received unsolicited factual assertions about a defendant from a court clerk that the defendant was submitting false information to the court. He failed to timely disclose, and apparently relied on, this information in ruling on the defendant's case. The case did not proceed to a hearing, but I presided over the case in my role as Chair of the Commission. The Commission admonished the judge.

Counsel for the Commission:

Reiko Callner  
Commission on Judicial Conduct  
P.O. Box 1817  
Olympia, Washington 98507  
(360) 753-4585

The judge was not represented by counsel.

- 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.

(1) *In re Wulle*, CJC No. 6707-F-154. Decision previously supplied in response to Question 13c.

Counsel for the Commission on Judicial Conduct:

Steven Reisler  
Solo Practitioner  
4500 Sand Point Way Northeast  
Seattle, Washington 98105  
(206) 522-7081

Counsel for Judge Wulle:

Josephine Townsend  
Solo Practitioner  
211 East 11th Street, Suite 104  
Vancouver, Washington 98660  
(360) 694-7601

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

None.

- 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.

None.

- 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.

More than 95% of Commission on Judicial Conduct complaints are dismissed or resolved without a published decision. All records regarding such cases are confidential pursuant to Washington law and the Commission's procedural rules. All published records are available at [http://www.cjc.state.wa.us/CJC\\_Activity/public\\_actions.htm](http://www.cjc.state.wa.us/CJC_Activity/public_actions.htm).

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

None.

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

None.

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

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

I have not served as a judge. As a member of the Washington State Commission on Judicial Conduct, I followed the practice by which members are automatically recused from cases involving judges in the community in which they live, before whom they practice (as a lawyer), with whom they serve (as a judge), or where other personal relationships could result in a perception of a lack of impartiality.

By law the records in those cases are confidential and not available to the public. I am not aware of any case in which a litigant or party requested that I recuse myself.

**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.

Other than my position on the Washington State Commission on Judicial Conduct from 2007 to 2015, I have held no public office. I have never run for elective office. I have had no 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.

I have not held office in any political party or election committee, nor have I held a position in a political campaign. My only role in a political campaign is that I hosted a fundraiser for my friend Bill Sherman in 2007 when he ran for King County Prosecuting Attorney. The event was at my home in Seattle, in approximately July or August 2007.

In 2002, my firm, Perkins Coie, was retained to represent the New Jersey Democratic State Committee. I drafted part of a United States Supreme Court brief on behalf of this client opposing an application for emergency relief by Douglas Forrester, then a candidate for the office of United States Senator. The application was denied by the Supreme Court.

In 2005, my firm, Perkins Coie, was retained to represent the Washington State Democratic Central Committee in an election contest challenging the election of Washington Governor Christine Gregoire. I was a member of the team that worked on the case. Following a two-week bench trial, the election contest was dismissed and the certification of the election confirmed, and the parties that filed the election contest did not appeal that decision. Various other electors filed election contests in the Washington Supreme Court, and my firm represented the Washington State Democratic Central Committee in that case, which was later dismissed by the Washington Supreme Court.

**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 1996 to 1997, I clerked for the Honorable Harold H. Greene on the United States District Court for the District of Columbia. From 1998 to 1999, I clerked for the Honorable M. Margaret McKeown on the United States Court of Appeals for the Ninth Circuit.

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

I have not practiced law 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.

1997 – 1998; 1999 – present  
Perkins Coie  
1201 Third Avenue, Suite 4900  
Seattle, Washington 98101  
Associate (1997 – 1998 and 1999 – 2003)  
Partner (2004 – present)

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

I have not served as a mediator or arbitrator.

- b. Describe:

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

I have practiced law at Perkins Coie for 17 years, where I was made a partner after less than five years as a practicing lawyer. I have worked on a mix of trial court and appellate matters, in a wide variety of areas of law, including antitrust, contracts, constitutional law, consumer protection law, criminal law, employment, product liability, torts, and trade secrets. I have tried cases, won cases on dispositive motions, argued motions and appeals, and written briefs. Given that 99% of federal civil cases are resolved without a trial, the bulk of my time has been spent in pretrial discovery, trial preparation, motion practice, settlement, and appeals.

Though there has been increased sub-specialization in the practice of law over the past decade, I have endeavored to maintain a broad litigation practice that covers diverse fields, from securities to trade secrets, the False Claims Act, the Freedom of Information Act, contracts, torts, general commercial disputes, food law, constitutional law, and class actions.

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

I have represented a wide spectrum of clients. Although the majority of my work has been for the defense, I have also represented plaintiffs. I have represented Fortune 100 companies and start-up companies. I have represented Seattle-based companies and companies with headquarters and operations in many other states. Much of my work for companies has been in defending against consumer class actions, including in cases where multiple related lawsuits are filed in disparate federal courts and consolidated in Multidistrict Litigation. I spent several years defending a corporate client in a major criminal investigation, and I have worked on cases filed by state Attorneys General as well as the private plaintiffs' bar. My corporate clients have spanned industries from food to manufacturing to retail to telecommunications.

- 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.

My practice has been 100% in litigation. The frequency of my appearance in court has been occasional, as many courts routinely resolve motions without oral argument or hearings. My court appearances typically involve oral arguments on motions or appellate arguments.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 60%
- 2. state courts of record: 40%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: >90%
- 2. criminal proceedings: <10%

- 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 tried three cases to final judgment. All were civil proceedings. I was associate counsel in all three cases. I participated in one other trial as the lead drafter of trial-related briefing, including preparing proposed findings of fact and conclusions of law on a voluminous record.

i. What percentage of these trials were:

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

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

I have not argued before the Supreme Court but I have appeared as counsel in the following cases:

*Obergefell v. Hodges*, Nos. 14-556, 14-562, 14-571 & 14-574 (amicus brief in support of petitioners, 2015 WL 1022699).

*Hollingsworth v. Perry*, No. 12-144 (amicus brief in opposition to petition, 2012 WL 3838124; amicus brief in support of respondents, 2013 WL 840011).

*Nolan v. Boeing Co.*, No. 07-1388 (brief in opposition to petition, 2008 WL 2367196), *cert. denied*, 129 S. Ct. 63 (2008).

*PharmaStem Therapeutics, Inc. v. ViaCell, Inc.*, No. 07-888 (petition for writ of certiorari, 2008 WL 87991), *cert. denied*, 128 S. Ct. 1655 (2008).

*Brown v. Legal Foundation of Washington* (originally known as *Washington Legal Foundation v. Legal Foundation of Washington*), No. 01-1325 (brief in opposition to petition, copy supplied; brief for respondents, 2002 WL 31387472).

*Forrester v. New Jersey Democratic Party, Inc.*, No. 02-A-289 (opposition of respondents to application for emergency relief, copy supplied).

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) *In re Pharm. Indus. Average Wholesale Price Litig. MDL*, 2007 WL 1051642 (D. Mass. Apr. 2, 2007); 431 F. Supp. 2d 98 (D. Mass. 2006); 230 F.R.D. 61 (D. Mass. 2005); 339 F. Supp. 2d 165 (D. Mass. 2004); 321 F. Supp. 2d 187 (D. Mass. 2004); 309 F. Supp. 2d 165 (D. Mass. 2004); 307 F. Supp. 2d 196 (D. Mass. 2004); 263 F. Supp. 2d 172 (D. Mass. 2003).

From 2002 to 2011, I represented Immunex Corporation in Multidistrict Litigation (MDL) involving class actions and state Attorneys General challenges to the pharmaceutical pricing practices of dozens of companies. This litigation involved the consolidation of 98 cases transferred from the Judicial Panel on Multidistrict Litigation, including class actions and cases filed by the Attorneys General of Montana, Nevada, and other states. In addition to defending the MDL suits, I defended our client Immunex in numerous cases from other states not transferred to the MDL. As national coordinating counsel for Immunex and as a member of the defense group steering committee, I took and defended major depositions, led all defendants' discovery efforts against the State of Montana's claims, drafted dispositive motions and numerous other briefs, argued discovery motions, and participated in repeated mediation efforts that led to a global settlement of the class action claims against multiple defendants.

Presiding Judge: U.S. District Judge Patti Saris

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Joanne Cicala (for plaintiffs New York Counties)  
Cicala Law (formerly at Kirby McInerney)  
101 College Street  
Dripping Springs, Texas 78620  
(512) 858-1803

(2) *In re Cheerios Marketing & Sales Practices Litig.* MDL, 2012 WL 3952069 (D.N.J. Sept. 10, 2012).

From 2011 to 2012, I represented General Mills, Inc. in Multidistrict Litigation (MDL) involving several consumer class actions alleging false and deceptive marketing of the cholesterol-lowering health benefits of Cheerios. The New Jersey case was a consolidation of class actions initiated in New York, New Jersey, and California. Plaintiffs alleged that they were pursuing the cases on behalf of all consumers nationwide who had purchased Cheerios during a multi-year period. I co-led the discovery effort, defended the key depositions of General Mills' employees, and worked on the strategy and briefing that led to the dismissal of plaintiffs' claims. The trial court granted our motion for summary judgment dismissal of most of the individual plaintiffs' claims for failure to establish that they had suffered any damage from buying Cheerios, and dismissal of the class action allegations of the remaining plaintiffs. Plaintiffs filed, and then dismissed, an appeal.

Presiding Judge: U.S. District Judge Peter Sheridan

Co-Counsel:

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(3) *United States Investigation of Amgen Inc.*, No. 2:07-cv-00248-BHS (W.D. Wash.).

From 2007 to 2012, I defended Amgen Inc. in a civil and criminal investigation by the United States Attorney's Office for the Western District of Washington arising out of a civil case filed under the False Claims Act. The investigation involved multiple subpoenas for documents and grand jury witnesses regarding clinical research as to the safety and efficacy of certain Amgen products. I co-lead an extensive discovery effort and investigation in response to the government's subpoenas. My role included substantive presentations to the government explaining the evidence, which involved complex scientific and statistical issues. The result was that the United States Attorney's Office for the Western District of Washington filed no criminal charges relating to the subject of this investigation; however, Amgen pleaded guilty to a single-count information filed in the United States District Court for the Eastern District of New York, charging a violation of 21 U.S.C. §§ 331(a) and 333(a)(1), pursuant to a plea agreement that resolved all pending investigations; the remaining allegations were resolved as part of a civil settlement.

Presiding Judge: U.S. District Judge Benjamin H. Settle

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(4) *Maple v. Costco Wholesale Corp.*, 2013 WL 5885389 (E.D. Wash. Nov. 1, 2013).

Since 2012, I have been representing Costco in this case as lead counsel. The case is a putative class action and involves allegations of false and misleading labeling of a Costco product. I identified a strategy for removal to federal court and dismissal of the complaint. I briefed and argued a motion to dismiss the first amended complaint, which the trial court granted. I then briefed and argued a motion to dismiss the second amended complaint, which was also dismissed for failure to state a claim. The district court found it implausible that the name of the product ("VitaRain") has the capacity to deceive a substantial portion of the public, and further concluded that the plaintiff had failed to adequately plead causation of any injury. I briefed the appeal to the United States Court of Appeals for the Ninth Circuit, which recently affirmed the dismissal of plaintiff's case.

Presiding Judge: U.S. District Judge Rosanna Malouf Peterson

Panel: U.S. Circuit Judges Susan Graber, Marsha Berzon, and Mary Murguia

Co-Counsel:

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(5) *Institute of Cetacean Res. v. Sea Shepherd Conservation Society*, 774 F.3d 935 (9th Cir. 2014).

From 2013 to 2015, I represented five volunteer members of the board of directors of Sea Shepherd Conservation Society in a civil contempt proceeding in the United States Court



of Appeals for the Ninth Circuit against Sea Shepherd Conservation Society and its founder, staff, and board members. The Ninth Circuit ordered the contempt proceeding to be held before the Ninth Circuit Appellate Commissioner Peter Shaw. I was involved in all aspects of the defense, including months of pre-trial discovery, defending key depositions of our clients, serving as second chair at an eight-day trial, examining witnesses at trial, drafting the proposed findings of fact based on the evidence at trial, and contributing to numerous briefs regarding the law of contempt and other issues. After trial, the Appellate Commissioner issued a 79-page report recommending against any finding of contempt. That recommendation was rejected by the Ninth Circuit, which re-referred the matter to the Appellate Commissioner to determine the appropriate amount of attorneys' fees and costs as well as compensatory damages, and whether the volunteer directors should also be held liable. The parties subsequently reached a settlement.

Panel: U.S. Circuit Judges Milan Smith, Alex Kozinski, and Wallace Tashima

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(6) *Move, Inc. v. Zillow, Inc.*, No. 14-2-07669-0 SEA (King Cty. Sup. Ct.).

Since 2014, I have been representing Zillow in a complex trade secret dispute pending in a Washington State trial court. The case involves competitors in the on-line real estate industry. Plaintiff Move alleges misappropriation of trade secrets by a former executive and another employee who left Move for Zillow. I have a lead role in many aspects of the defense of this matter, including managing pretrial discovery, briefing and arguing numerous discovery motions, and preparing briefing in substantive motions and for mediation. I argued the first summary judgment motion heard in the case. The case is set for trial in June 2016.

Presiding Judge: King County Superior Court Judge Sean O'Donnell

Co-Counsel:

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(206) 467-6477

(7) *Judd v. AT&T*, 116 Wash. App. 761 (2003), *aff'd*, 152 Wash. 2d 195 (2004).

From 2000 to 2004, I represented Qwest Corp. in a putative class action filed by recipients of telephone calls from prisoners housed in Washington State prisons. Plaintiffs alleged that the telephone companies failed to disclose the rates for such calls in violation of the Washington Consumer Protection Act. In addition to briefing at the trial court, I drafted our client's briefing at the court of appeals, and I drafted a joint brief on behalf of all defendants at the Washington Supreme Court. The court of appeals affirmed the dismissal. I argued the appeal before the Washington Supreme Court on behalf of our client Qwest and co-defendants CenturyTel and Verizon. The Washington Supreme Court affirmed the dismissal of claims against all of these companies for failure to state a claim because the state statute under which the plaintiffs filed suit did not create a cause of action for violation of the Consumer Protection Act independent of a violation of

regulations adopted by the Washington Utilities and Transportation Commission (WUTC), and the sole means to challenge the WUTC's disclosure regulations was under the Administrative Procedure Act.

Presiding Judge: King County Superior Court Judge Kathleen Learned

Panel: Appellate Judges Kenneth Grosse, Susan Agid, and Marlin Appelwick

Washington Supreme Court Justices Mary Fairhurst, Gerry Alexander, James Johnson, Barbara Madsen, Faith Ireland, Bobbe Bridge, Tom Chambers, Susan Owens, Richard Sanders

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Seattle, Washington 98109  
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(8) *Ellison v. Nandorf, Inc.*, No. 03-2-20211-8 SEA (King Cty. Sup. Ct.).

In 2003 and 2004, I represented the defendant Mr. Ellison in a dispute between the owners/directors of a family-owned and privately held business with retail stores in Illinois and Ohio. I participated in all aspects of the case, including taking and defending depositions, drafting a motion for summary judgment and numerous other briefs and pleadings. I co-chaired the defense at an eight-day trial, where I examined witnesses. The trial court, sitting in equity, decided that there was a shareholder deadlock and that the appropriate remedy was for one side to sell its shares to the other side in a “buy-sell” agreement. No party appealed.

Presiding Judge: King County Superior Court Judge Brue Hilyer

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(206) 623-1745

Opposing Counsel:

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Seattle, Washington 98104  
(206) 516-3202

(9) *Nowinski v. Nowinski*, No. 00-2-00100-2 SEA (King Cty. Sup. Ct.).

In 2001, I represented the defendant Mr. Nowinski in a case filed by his former wife alleging that, in their marital dissolution action, he had failed to disclose his ownership of founder's stock in a biotechnology company he had founded. I participated in all aspects of the case, including drafting and responding to discovery requests, taking depositions, drafting a motion for summary judgment and an opposition to plaintiff's motion for summary judgment, and drafting motions in limine and numerous other briefs and filings. I co-chaired the defense at a five-day trial, where I examined the key witness, Mr. Nowinski. The trial court, in a bench trial, ruled in favor of the plaintiff. Our client filed a notice of appeal and the parties later stipulated to a dismissal of the appeal.

Presiding Judge: King County Superior Court Judge Palmer Robinson

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Seattle, Washington 98101  
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(10) *Brown v. Legal Foundation of Washington*, 271 F.3d 835 (9th Cir. 2001) (en banc), *aff'd*, 538 U.S. 216 (2003).

From 2001 to 2003, I worked on this constitutional law case for the Legal Foundation of Washington involving a challenge to the Interest on Lawyers Trust Accounts (IOLTA) program that provides funding for legal aid programs. The essence of the challenge was that the interest dollars funding legal aid were an unconstitutional taking without just compensation. Our primary defense was that, because the program was designed to pool only trust account money that otherwise would have earned no interest, the appropriate amount of just compensation was zero. In 2001, I drafted the petition for rehearing en banc of the Ninth Circuit panel opinion that had ruled against our client, the Legal Foundation of Washington. The en banc court ruled in our favor. The Supreme Court granted a petition for certiorari and later affirmed the Ninth Circuit's en banc ruling, ultimately agreeing with our position. I worked on the Supreme Court briefs of the Legal Foundation of Washington and coordinated the amicus effort. My work and that of the other Perkins Coie lawyers was pro bono.

En Banc Panel: U.S. Circuit Judges Mary Schroeder, Harry Pregerson, Alex Kozinski, Stephen Trott, Andrew Kleinfeld, Wallace Tashima, Barry Silverman, Kim McLane Wardlaw, Raymond Fisher, Marsha Berzon, and Johnnie Rawlinson

U.S. Supreme Court Justices John Paul Stevens, Sandra Day O'Connor, David Souter, Ruth Bader Ginsburg, Stephen Breyer, Antonin Scalia, William Rehnquist, Anthony Kennedy, and Clarence Thomas

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Donald Ayer  
Jones Day  
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(202) 879-4689

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.)

Outside my practice, I have been involved extensively in the management of Perkins Coie, a law firm of more than 1,000 lawyers. My current management position is leader



of the commercial litigation practice in Seattle, which comprises roughly 70 lawyers. Over the years, I have co-chaired the appellate practice, and served on the various firm committees responsible for recruiting, evaluating associates, compensating partners, and achieving our firm's goals for diversity and pro bono work.

From 2003 to 2006, I served on the Washington State Bar Association Board of Governors. I have also been involved in the Federal Bar Association of the Western District of Washington and served as a Ninth Circuit appellate lawyer representative.

I have not performed any lobbying activities.

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

In Fall 1991, I taught Twentieth Century World History to high school freshmen and from 1991 to 1992 and 1992 to 1993, I taught American History to high school juniors at Phillips Exeter Academy. The World History course was an introduction to significant events in the twentieth century. The American History course covered the history of the United States from its colonial origins to the present. I no longer have a syllabus of either course.

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 contributed to the Perkins Coie deferred compensation plan, which will be paid out to me by March 15 in the year following my departure or retirement from the firm. In addition, I currently have capital paid into the firm, which will be returned to me the later of 120 days after departure or upon closure of my cash balance plan account. I am also a participant in two firm-sponsored investment entities (TWB II LP and 1120 Perkins Equity Fund LLC). If I were to leave Perkins Coie, my ownership in these entities would continue until all the underlying investments have been disposed of, unless I assign my interest to Perkins Coie.

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).

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I would recuse myself from any case being handled by or involving Perkins Coie for a reasonable amount of time. I would also recuse myself from any case on which I worked while at Perkins Coie, as well as any case where, due to a current or past professional or personal relationship with a party or attorney involved, my impartiality might reasonably be questioned. I would also recuse myself from any matters involving the nonprofit boards on which either my husband or I sit. These boards are the YMCA of Greater Seattle and PEPS (Program for Early Parent Support).

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

In order to avoid any potential conflict of interest, I would consult the Code of Conduct for United States Judges, relevant statutes and guidance including 28 U.S.C. § 455, other judges, and any person designated by the court or judicial organizations to determine whether a particular situation constituted a conflict of interest. Based on these sources, I would compile a comprehensive list of matters, clients or other people from which I could readily identify potential conflicts of interest. And I would rely on my eight years of experience on the Washington State Commission on Judicial Conduct to ensure that I would recuse myself in matters in which my impartiality could reasonably be questioned.

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.

In my years at Perkins Coie, I have spent more than 2,000 hours working on pro bono cases, thus providing access to the legal system for those without the resources to afford representation. I have integrated pro bono work with an active commercial litigation practice because of the importance of providing equal access to justice for all, a lesson I learned first-hand when I spent a summer on the Navajo Nation working for DNA – People’s Legal Services while I was in law school. From that stint serving individuals in need of civil legal services, I became committed to devoting a meaningful part of my career to pro bono work and public service, and to seeing that all people have access to justice and the rule of law.

Three cases are illustrative of my commitment to ensuring access to the courts for those who cannot afford to pay for a lawyer. First, I worked on the successful defense of the constitutional challenge to the IOLTA (Interest on Lawyers Trust Accounts) program, which allocates grants to fund legal services for the poor around the country. Second, I worked on a “civil *Gideon*” case involving the scope of the right to counsel in certain types of civil cases. I argued to the Washington Supreme Court (ultimately unsuccessfully) that the trial court should have appointed counsel under the Washington Constitution to defend our client, an indigent woman who could not afford counsel, in a child custody proceeding in which she faced the loss of her fundamental parenting rights and in which her opponent/husband was represented by counsel. Third, I worked to rein in the practice by state trial courts of refusing to grant full waivers of filing fees and other court-imposed fees for indigent civil litigants. The Washington Supreme Court agreed to hear a related case raising the theories I had litigated in various trial courts, and ruled that any fees or surcharges required of indigent litigants are invalid and must be waived.

**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.

The State of Washington has a bipartisan Judicial Merit Selection Committee to screen and interview judicial candidates. The Committee has six members appointed by Senators Murray and Cantwell and Congressman Reichert. The Committee made a public announcement of judicial vacancies, and I submitted an application on October 16, 2015. On November 23, 2015, I interviewed with the Judicial Merit Selection Committee in Seattle, Washington. On December 4, 2015, I learned from Senator Murray’s office that I had been recommended by the Judicial Merit Selection Committee. On December 10, 2015, I interviewed with

the Senator by telephone. I learned from the White House Counsel's Office on February 4, 2016 that Senator Murray would be recommending me for nomination. Since February 4, 2016, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On March 22, 2016, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On April 14, 2016, 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.