

UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Donald Karl Schott

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

United States Circuit Judge for the Seventh Circuit

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

Quarles & Brady LLP  
33 East Main Street, Suite 900  
Madison, Wisconsin 53703

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

1955; Lynwood, California

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.

1977 – 1980, Harvard Law School; J.D. (*cum laude*), 1980

1975 – 1977, University of Wisconsin – Madison; B.A (majors in History and Political Science), 1977

1973 – 1975, University of Wisconsin/Marshfield – Wood County Center System  
Campus; no degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

Summer 1979; 1980 – 1983; 1985 – Present

Quarles & Brady, LLP  
33 East Main Street, Suite 900  
Madison, Wisconsin 53703  
Partner (1987 – Present)  
Associate (1980 – 1983; 1985 – 1987)  
Summer Associate (Summer 1979)

1983 – 1985  
State of Wisconsin, Office of the Governor  
115 East Capitol  
Madison, Wisconsin 53703  
Legislative Liaison

Summer 1979  
United States Attorney's Office for the Eastern District of Wisconsin  
Federal Courthouse  
517 East Wisconsin Avenue  
Milwaukee, Wisconsin 53202  
Summer Law Clerk

1978 – 1980  
Harvard Law School  
1563 Massachusetts Avenue  
Cambridge, Massachusetts 02138  
Board of Student Advisors (1978 – 1979)  
Teaching Assistant to Professor Archibald Cox (1979 – 1980)

Summer 1978  
Congressional Budget Office  
D Street SW and Second Street SW  
Washington, DC 20515  
Summer Intern

Summer 1977  
Wisconsin State Senate  
State Capital Building  
Madison, Wisconsin 53703  
Intern, Office of State Senator Kathryn Morrison

Other Affiliations:

1991 – 1998  
Baseball Art, Inc.  
222 North Midvale Boulevard  
Madison, Wisconsin 53705  
Stockholder, director, officer (50% owner)

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 timely registered 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.

Best Lawyers in Bet-the-Company Litigation: *The Best Lawyers in America* (2013 – Present)

Best Lawyers in Litigation – Environmental: *The Best Lawyers in America* (2011 – Present)

Best Lawyers in Litigation – Regulatory Enforcement: *The Best Lawyers in America* (2010 – Present)

Best Lawyers in Litigation – Merger & Acquisitions: *The Best Lawyers in America* (2009 – Present)

Best Lawyers in Litigation – Securities: *The Best Lawyers in America* (2008 – Present)

*Wisconsin Super Lawyer* (2005 – Present)

Best Lawyers in Commercial Litigation: *The Best Lawyers in America* (2001 – Present)

Fellow, American College of Trial Lawyers (2001 – Present)

Benchmark Litigation – *Wisconsin Litigation Star* (2015)

Bet-the-Company Litigation “Lawyer of the Year,” Madison, Wisconsin; *Best Lawyers in America* (2015)

“Leader in the Law;” Wisconsin Law Journal (2014)

Litigation – Environmental “Lawyer of the Year,” Madison, Wisconsin; *The Best Lawyers in America* (2013)

Litigation – Regulatory Enforcement “Lawyer of the Year,” Madison, Wisconsin; *The Best Lawyers in America* (2012)

Honor Roll of Greater Madison’s Most Civic Minded Leaders: *In Business Magazine*

(2004)

Board of Student Advisors (Harvard Law School) (1978 – 1980)

Theodore Herfurth Award (University of Wisconsin – Madison) (1977)

William P. Pors Award (University of Wisconsin – Marshfield) (1975)

National Merit Scholar (1973)

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.

Committee to Consider the Reappointment of Magistrate Judge Stephen L. Crocker  
(Western District of Wisconsin)  
Chair (2015)

American Bar Association

American College of Trial Lawyers

Dane County Bar Association

James Doyle American Inn of Court

State Bar of Wisconsin  
Board of Directors, Young Lawyers Division (1982 – 1983)

Western District of Wisconsin Bar Association  
Chair, Committee on Alternative Dispute Resolution (1995 – 1998)

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.

State Bar of Wisconsin, 1980

There has been no lapse in membership.

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

United States Supreme Court, 1995

United States Court of Appeals for the Seventh Circuit, 1980

United States Court of Appeals for the Ninth Circuit, 2003

United States District Court for the Northern District of Illinois, 2014

United States District Court for the Eastern District of Wisconsin, 1980

United States District Court for the Western District of Wisconsin, 1980

Wisconsin Supreme Court, 1980

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.

American Hiking Society (2009 – Present)

Baseball Art, Inc.

Stockholder, director, officer (1991 – 1998)

Commission on Enhancing the Mission of the University of Wisconsin Colleges  
(2006)

National Parks Conservation Association (2005 – Present)

North Country Trail Association (2012 – Present)

Wisconsin Historical Society (2004 – 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 the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

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

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

*Blanchard Has Wide Range of Experience*, Wisconsin State Journal (March 31, 2010). Copy supplied.

With Erica M. Eisinger, Chapter 5: Pleadings, in *Wisconsin Civil Procedure Before Trial* (State Bar of Wisconsin 2000). Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

Summary Report, *Living the Wisconsin Idea: Extending the UW Colleges' Liberal Arts Mission to the Boundaries of the State and Beyond*, Commission on Enhancing the Mission of the University of Wisconsin Colleges (December 22, 2006). As a member of the Commission, I voted to approve this report. 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.

I attended and may have asked questions during an informational hearing of the City of Madison Board of Public Works (July 7, 2010). Minutes supplied.

I made statements on behalf of a client during a public hearing of the Wisconsin Government Accountability Board (2008). I have no notes, transcripts, or recording, but press coverage is supplied.

Closing Plenary Session Remarks, Workshop on Shallow Land Burial and

Alternative Disposal Concepts, United States Nuclear Regulatory Commission, Washington, D.C. (May 3, 1984). Transcript supplied.

As a Commissioner to the Midwest Low Level Radioactive Waste Compact from 1984 to 1985, I estimate that I attended approximately six to ten public meetings. I have no notes, transcripts or recordings, but press coverage from one such meeting is supplied.

I am aware of a newspaper article indicating that sometime in 1984, I submitted either a letter or a statement to the State of Wisconsin Medical Examining Board in my capacity as a legislative aide to Wisconsin Governor Anthony Earl. I have no memory of this letter or statement and have not been able to locate a copy, but press coverage is 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.

September 12, 2013: Panelist, "Boardroom Practices: How They Play Out in Litigation," Milwaukee Chapter of the Society of Corporate Secretaries & Governance Professionals, Milwaukee, Wisconsin. I participated in a panel discussion regarding drafting and reviewing minutes of corporate board meetings and the role those minutes may play in subsequent litigation. I have no notes, transcript or recording. The address of the Milwaukee Chapter of the Society of Corporate Secretaries & Governance Professionals is c/o Ryan Morrison, Quarles & Brady, 411 East Wisconsin Avenue, Suite 2400, Milwaukee, Wisconsin 53202.

November 2, 2012: Presenter, "Directors' Decision on Executive Compensation," Ethics Seminar, Quarles & Brady, Milwaukee, Wisconsin. PowerPoint supplied.

October 19, 2012: Speaker, "Merger and Acquisition Litigation," 21st Annual Corporate /Securities Law Seminar, Milwaukee Chapter of the Society of Corporate Secretaries & Governance Professionals, Milwaukee, Wisconsin. PowerPoint supplied.

May 20, 1985: Speaker, "Opening Remarks," National Conference of Radiation Control Program Directors, Conference of Radiation Control Program Directors, Inc., Milwaukee, Wisconsin. Outline supplied.

April 11, 1984: Presenter, "Wisconsin's Business Climate: A Post-Mortem of

the 1983 – 1984 Legislative Session,” Wisconsin Power & Light Company, Madison, Wisconsin. Outline supplied.

December 6, 1983: Presenter, “Anatomy of a Special Session,” Wisconsin Power & Light Company, Madison, Wisconsin. Outline supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

“Meet Don Schott.” Video is available at <http://www.quarles.com/donald-k-schott/>.

Firm News, *Quarles & Brady’s Securities Litigation Team Prevails Against Class Action Lawsuit Opposing the E.W. Scripps Company’s Merger with Journal Communications*, Quarles & Brady LLP (August 5, 2015). Copy supplied.

*Wisconsin Law Journal’s Leaders in the Law: Schott Rises to the Challenge*, Wisconsin Law Journal (February 27, 2014). Copy supplied. Video is also available at <https://www.youtube.com/watch?v=9C28xsLpt6Y>.

Bill Lueders, *Recusal an Issue in Wisconsin Judicial Race*, Telegraph Herald (Dubuque, IA) (March 17, 2013). Copy supplied.

Bill Lueders, *Roggensack Decided Case Involving Her Own Lawyer*, Wisconsin Watch (March 10, 2012). Copy supplied (reprinted in multiple outlets).

Judy Newman, *Court Challenge to Block TomoTherapy Sale Is Dismissed*, Wisconsin State Journal (May 14, 2011). Copy supplied.

Ryan J. Foley, *Critics: Court Decision Allows ‘Corporate Looting’*, Associated Press (January 28, 2010). Copy supplied (reprinted in multiple outlets).

Judy Newman, *State Supreme Court Deadlocks on Compensation Case*, Wisconsin State Journal (July 8, 2009). Copy supplied (reprinted in multiple outlets).

Ryan J. Foley, *Wisconsin Supreme Court Deadlocks on Corporate Law Case*, Associated Press (July 7, 2009). Copy supplied (reprinted in multiple outlets).

*A Customer Story – Establishing a New Legal Tradition*, Steelcase (2007). Copy supplied.

Judy Newman, *Skimming or Rightful Earnings? Grant County Businessmen Drained Assets, Jury Says*, Wisconsin State Journal (December 1, 2006). Copy



supplied.

*Quarles to Move to 'Office of Choice' in Madison*, Biztimes (September 5, 2006). Copy supplied.

Press Release, *Sovern Joins Quarles & Brady's Immigration Law Practice in Madison*, Quarles & Brady LLP (October 14, 2005). Copy supplied.

Press Release, *Coyne and McGinnity Named Partners*, Quarles & Brady LLP (October 6, 2003). Copy supplied.

Lisa Schuetz, *Intellectual Property Law Big in Madison High-Tech Industry Is Driving the Need For Lawyers Who Specialize in Science and Technology Issues*, Wisconsin State Journal (September 23, 2001). Copy supplied.

Ed Treleven, *Blanchard Has Variety of Experience; New Dane County District Attorney Will Be Sworn In Today*, Wisconsin State Journal (January 2, 2001). Copy supplied.

Alby F. Gallun, *Ha-Lo's Internet Stars Can't Shake Old Economy Feuds*, Crain's Chicago Business (September 25, 2000). Copy supplied.

*Quarles & Brady Adds Arizona Law Firm*, Capital Times (Madison, WI) (June 28, 2000). Copy supplied.

Mike Ivey, *Claim Left in Nelson Trust Dispute*, Capital Times (Madison, WI) (January 25, 2000). Copy supplied.

*Convicted Professor Will Remain at UW-Madison*, St. Paul Pioneer Press (MN) (September 4, 1999). Copy supplied.

Kevin Murphy, *Suit Attacks Circuit City Payment Plan*, Capital Times (Madison, WI) (February 15, 1997). Copy supplied.

Cary Spivak, *Plaintiff's Lawyers Find Jurors Usually Friendly to Physicians*, Milwaukee Journal Sentinel (December 29, 1996). Copy supplied.

Kelley Flury, *Doctors Go Back to Court in Mercy Case*, Beloit Daily News (April 5, 1996). Copy supplied.

Daniel Bice, *Committees Can Make Contributions at Any Time of the Year*, Milwaukee Journal Sentinel (October 2, 1995). Copy supplied.

Joe Beck, *Plaintiffs in Ticket Scam Lawsuit Expected to Approach 1,000*, Wisconsin State Journal (June 25, 1994). Copy supplied (quote reprinted in multiple outlets).

Pat Schneider, *State Is Ordered to Pay Family Lottery Partnership*, Capital Times (Madison, WI) (April 16, 1994). Copy supplied.

*Family Wants Lottery \$\$ Split*, Capital Times (Madison, WI) (February 12, 1994). Copy supplied.

Mike Miller, *Media Throng Likely for Lottery Court Plea*, Capital Times (Madison, WI) (August 5, 1993). Copy supplied.

*Couple Can Split \$111 Million Jackpot*, Wisconsin State Journal (August 4, 1993). Copy supplied (quotes reprinted in multiple outlets).

*Splitting Lottery Would Cut Taxes*, Capital Times (Madison, WI) (July 23, 1993). Copy supplied (quote reprinted in multiple outlets).

*Judge Orders Powerball Prize Placed in Bank*, Associated Press (July 22, 1993). Copy supplied (reprinted in multiple outlets).

Craig Gilbert and Dave Daley, *State Wants Court Order to Split Jackpot*, Milwaukee Journal Sentinel (July 21, 1993). Copy supplied.

*Judge Dismisses Defamation Suit, Chides Hospital, Clinic for Action*, St. Paul Pioneer Press (April 23, 1993). Copy supplied.

*PAC Money Allowed In Special Elections*, St. Paul Pioneer Press (MN) (February 9, 1993). Copy supplied (quote reprinted in multiple outlets).

Joe Beck, *Judge Upholds Commercial Billboard Ban*, Wisconsin State Journal (August 28, 1992). Copy supplied.

Jeff Mayers, *Democrats Cheer GOP Protest Vote*, Wisconsin State Journal (February 19, 1992). Copy supplied.

Jeffrey L. Katz, *Kohl, Earl Close in Race for Senate*, Milwaukee Journal (July 3, 1988). Copy supplied.

Peg Masterson, *Green Bay Broker's License Reinstated*, Milwaukee Sentinel (December 31, 1987). Copy supplied.

Peg Masterson, *Agency Bans Broker from Selling in State*, Milwaukee Sentinel (December 24, 1987). Copy supplied.

Avrum D. Lank, *State Will Sponsor License Plate Contest*, Milwaukee Sentinel (August 6, 1985). Copy supplied.

Avrum D. Lank, *State Plates Out on Top*, Milwaukee Sentinel (July 30, 1985). Copy supplied.

*Governor Asked to Aid Parched Farmers*, Capital Times (July 23, 1985). Copy supplied.

*Special Farm Help Urged*, Milwaukee Sentinel (July 23, 1985). Copy supplied.

Mark Ward, Charles E. Friederich, and Carolina Garcia, *Aldermen Support 1986 Circus Parade*, Milwaukee Journal (July 16, 1985). Copy supplied (reprinted in multiple outlets).

Charles E. Friederich, *Earl to Veto Two Major High Way Projects, University Building*, Milwaukee Journal (July 16, 1985). Copy supplied.

James Rowen, *Earl Urged to Veto Measure on Doctor*, Milwaukee Journal (July 10, 1985). Copy supplied.

*Earl Advised to Veto Change in Pensions*, Milwaukee Journal (July 10, 1985). Copy supplied.

*Illegal Budget Bills?*, Wisconsin State Journal (June 25, 1985). Copy supplied.

Neil H. Shively, *Loftus Says Earl May Call Session on Prison Plan*, Milwaukee Sentinel (June 24, 1985). Copy supplied.

Neil H. Shively, *Use of Budget Bill for Prison Is Ruled Unconstitutional*, Milwaukee Sentinel (June 19, 1985). Copy supplied.

Charles E. Friederich, *Bradley Center Bill OK'd in Senate*, Milwaukee Journal (June 14, 1985). Copy supplied.

*Prison Panel Favors Town of Dover Site*, Milwaukee Sentinel (June 13, 1985). Copy supplied.

Mary Frances Schjonberg, *Utility Holding Company Hearing Draws 200*, Wisconsin State Journal (June 13, 1985). Copy supplied.

*Derailment Revives Fears About Nuclear Shipments*, Milwaukee Journal (May 26, 1985). Copy supplied (reprinted in multiple outlets).

Steve Schultze, *Lawmaker Cites Concerns About New Arena*, Milwaukee Journal (May 15, 1985). Copy supplied.

*Posts for New Arena May Be Filled in June*, Milwaukee Sentinel (May 10, 1985). Copy supplied.

John Fauber, *Judge Blocks Prison Near Stadium*, Milwaukee Sentinel (May 1, 1985). Copy supplied.

*Bill on Bradley Center Is Taking Shape*, Milwaukee Sentinel (April 13, 1985). Copy supplied.

Charles E. Friederich, *Bill Would Specify Limits on Utility Holding Companies*, Milwaukee Journal (March 28, 1985). Copy supplied.

Susan Trebach, Mike Christopulos, and Larry Sandler, *Sports Authority Legislation to Be Drafted*, Milwaukee Sentinel (March 7, 1985). Copy supplied.

Susan Trebach, *Earl Likes Plan to Let Utilities Diversify*, Milwaukee Sentinel (February 20, 1985). Copy supplied.

Charles E. Friederich, *Rich, Poor Unite to Save Deductions*, Milwaukee Journal (February 17, 1985). Copy supplied.

Don Behm, *Earl Won't Budge on Prison*, Milwaukee Journal (February 14, 1985). Copy supplied.

*Peanut War*, Milwaukee Sentinel (February 13, 1985). Copy supplied.

*Earl Firm on a Comparable Worth Bill*, Capital Times (January 31, 1985). Copy supplied.

Neil H. Shively, *Earl to Seek Changes in Transit Aid*, Milwaukee Sentinel (January 19, 1985). Copy supplied.

*State May Be on Path for A-Waste*, Milwaukee Sentinel (December 20, 1984). Copy supplied.

*Earl Seeks \$16.8 Million for Roads*, Milwaukee Sentinel (December 6, 1984). Copy supplied.

Dennis McCann, *Fund to Lure Jobs Proposed*, Milwaukee Journal (November 29, 1984). Copy supplied.

Tom Ahern, *Earl Backs Plans for Lakefront*, Milwaukee Sentinel (October 12, 1984). Copy supplied.

Stan Milam, *Ad Valorem Tax on Its Way Out*, Daily Globe (Ironwood, MI) (August 14, 1984). Copy supplied.

*Earl Not Enthusiastic About Bridge Toll Proposal, Aide Says*, Daily Journal

(Fergus Falls) (August 13, 1984). Copy supplied.

*Earl Fights NSP Nuke Shipments*, Daily Globe (Ironwood, MI) (July 18, 1984). Copy supplied.

*Earl Won't Veto Many Bills*, Daily Globe (Ironwood, MI) (April 16, 1984). Copy supplied.

Susan Trebach, *Public Access Issue Arises on New Group*, Milwaukee Sentinel (March 31, 1984). Copy supplied.

*Surcharge Bill Passed 95-1 by Assembly*, Daily Globe (Ironwood, MI) (March 23, 1984). Copy supplied.

Eldon Knoche, *Assembly Backs Surtax Rollback*, Milwaukee Sentinel (March 21, 1984). Copy supplied.

*Assembly Eyes Inheritance Tax Cuts*, Milwaukee Journal (March 19, 1984). Copy supplied.

Stan Milam, *Gas Tax Now Fueling Surplus Debate*, Daily Globe (Ironwood, MI) (February 20, 1984). Copy supplied.

*Earl Pulls Plug on Proposal for Utility Holding Firms*, Milwaukee Journal (February 16, 1984). Copy supplied.

*Earl, Major Utilities Won't Push Holding Company Bill*, Milwaukee Sentinel (February 16, 1984). Copy supplied.

Charles E. Friederich, *Projected Transportation Fund Surplus Sparks Call for Gas Tax Cut*, Milwaukee Journal (February 14, 1984). Copy supplied.

*Bill Allowing Public Utility Investments Stalled, In Jeopardy*, Daily Globe (Ironwood, MI) (February 13, 1984). Copy supplied.

Charles E. Friederich, *Time Running Against Earl Utility Bill*, Milwaukee Journal (February 12, 1984). Copy supplied.

Paul A. Rix, *Darrow Attacks Earl's Car-Buying Methods*, Wisconsin State Journal (November 12, 1983). Copy supplied.

*U.S. Offers Help in A-Shipments*, Milwaukee Sentinel (August 6, 1983). Copy supplied.

Avrum D. Lank, *State Bill in Works for Estate Tax Cut*, Milwaukee Sentinel (August 4, 1983). Copy supplied.

Ron Elving, *Earl Persuasive in Getting His Way with the State Budget*, Milwaukee Journal (June 26, 1983). Copy supplied.

*Coin-Machine Reversal*, Wisconsin State Journal (May 25, 1983). Copy supplied (quote reprinted in multiple outlets).

Bruce Gill, *No Obstacle Seen to Prison, State Officials Tell Aldermen*, Milwaukee Sentinel (May 17, 1983). Copy supplied.

*Earl Aide Defends Bill on Prisons*, Milwaukee Journal (May 16, 1983). Copy supplied.

Virginia Mayo, *Double Trucks Seen Hiking Dane County Police Costs*, Capital Times (Madison, WI) (April 27, 1983). Copy supplied.

Eugene C. Harrington, *Double-Bottom Trucks Likely to Be More Visible*, Milwaukee Journal (April 20, 1983). Copy supplied.

*Earl Budget Plan Decried*, Milwaukee Sentinel (March 26, 1983). Copy supplied.

Steve Burkholder, *County Offers Alternative to Earl Aid Plan*, Milwaukee Journal (March 20, 1983). Copy supplied.

Jay Anderson, *Mequon Reassured on Funds for Road Project*, Milwaukee Journal (February 28, 1983). Copy supplied.

Jay Anderson, *Earl to Assure Mequon on Road Aid*, Milwaukee Journal (February 28, 1983). Copy supplied.

*Dean Sacks Explains Tuition Increase*, Harvard Crimson (March 17, 1979). Copy supplied.

Elizabeth E. Ryan, *Pondering the Meaning of It All*, Harvard Crimson (April 6, 1978). Copy supplied.

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

I have not held judicial office.

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

i. Of these, approximately what percent were:

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

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.
14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to

an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

I have not held judicial office.

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

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

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

From 1983 to 1985, I served as the legislative liaison for the State of Wisconsin, Office of the Governor. I was appointed by Governor Anthony S. Earl.

From 1984 to 1985, I served as Wisconsin Commissioner to the Midwest Low Level Radioactive Waste Compact. I was appointed by Governor Anthony S. Earl and confirmed by the Wisconsin State Senate.

- 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.

In 1986, I was Assistant Treasurer of the Friends of Tony Earl, the committee for Anthony S. Earl's campaign for U.S. Senator from Wisconsin.

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

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



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

I have not served as a law clerk to a judge.

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

I have not practiced alone.

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

1980 – 1983; 1985 – Present  
Quarles & Brady, LLP  
33 East Main Street, Suite 900  
Madison, Wisconsin 53703  
Associate (1980 – 1983; 1985 – 1987)  
Partner (1987 – Present)

1983 – 1985  
State of Wisconsin, Office of the Governor  
115 East Capitol  
Madison, Wisconsin 53703  
Legislative Liaison

- 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 recently served as one member of a three-member arbitration panel in a dispute between Invitrogen IP Holdings, Inc. and Promega Corporation. Invitrogen claimed that it was owed over \$100 million in royalties pursuant to a licensing agreement with Promega. In January 2014, the arbitration panel issued a written decision granting an award to Invitrogen.

Approximately fifteen years ago, I served as the arbitrator in a breach of contract action involving Sub-Zero Corporation's purchase of a product line from another manufacturer. I issued an arbitration award resolving some of the issues in the case. The parties then retained me to act as a mediator, and the remaining issues were settled. All my files regarding that matter have been destroyed and I do not have any other information about it.

- b. Describe:

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

With the exception of a short period of time when I worked as a legislative liaison in the Governor's Office (1983 to 1985), I have spent my entire professional career in the private practice of law with the law firm of Quarles & Brady, LLP. My primary practice area has always been commercial litigation.

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

I have had the opportunity to litigate a wide variety of cases, and represent a wide variety of clients. I have represented very large corporations, medium-sized businesses and individuals. I have represented both plaintiffs and defendants in a wide variety of matters, including shareholder disputes, medical and legal malpractice claims, securities fraud cases and commercial disputes. In recent years, my primary focus has been on cases involving various aspects of corporate governance (shareholder disputes, valuation, breach of fiduciary duty claims, etc.), but I have also handled several cases involving disputes in the area of health care, environmental matters and contract law. I have also supervised several pro bono criminal law cases over the years, typically on appeal. Early in my career I handled several cases in areas of IP litigation, such as trade secrets and trademark litigation.

- 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.

For my entire career in private practice, the percentage of my practice that has been in litigation has been nearly 100%. I appear in court frequently, and have done so throughout my career.

- i. Indicate the percentage of your practice in:

- |                             |     |
|-----------------------------|-----|
| 1. federal courts:          | 35% |
| 2. state courts of record:  | 45% |
| 3. other courts:            | 5%  |
| 4. administrative agencies: | 15% |

- ii. Indicate the percentage of your practice in:

- |                          |     |
|--------------------------|-----|
| 1. civil proceedings:    | 98% |
| 2. criminal proceedings: | 2%  |

- 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 approximately 65 cases to verdict or judgment, nearly all as lead counsel. This includes approximately 20 contested administrative hearings.

i. What percentage of these trials were:

- |              |     |
|--------------|-----|
| 1. jury:     | 40% |
| 2. non-jury: | 60% |

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. I submitted briefs opposing petitions for writs of certiorari in:

*Polsky v. Virnich and Moores*, No. 11-454, 2011 WL 5593194 (2011), *cert. denied*, 132 S. Ct. 1006 (2012).

*Huppeler, Magli, and Sandmire v. Oscar Mayer Foods Corporation, Plan Administrator, and Pension Plan No. 1*, No. 94-1148, 1995 WL 17108082 (1995), *cert. denied*, 513 U.S. 1190 (1995).

*Commissioner of Internal Revenue v. Engle*, No. 82-599, 1982 U.S. Briefs 599; 1982 U.S. S. Ct. Briefs LEXIS 5. *Cert. was granted* (*see* 459 U.S. 1102 and 463 U.S. 418).

I submitted an amicus brief supporting a petition for writ of certiorari in:

*United States v. Sells Engineering*, No. 81-1032, 1981 U.S. Briefs 1032, 1982 U.S. S. Ct. Briefs LEXIS 734. *Cert. was granted* (*see* 456 U.S. 960 and 464 U.S. 206).

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:

- the date of representation;
- 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. Gegan v. Backwinkel, No. 80-CV-156 (Dane County Cir. Ct.) (Hon. Richard Bardwell (now deceased) and Hon. Michael Nowakowski), aff'd, 417 N.W.2d 44 (Wis. Ct. App. 1987) (Hon. William Eich, Gordon Myse and Michael Cane).

From 1985 to 1987, I represented plaintiffs, three children whose father died because the physicians treating him failed to timely diagnose his medical condition, in this medical malpractice action. I prepared the case for trial, handled most of the lay and expert witnesses and made the opening and closing arguments. After a five-day jury trial, we succeeded in establishing liability, and the jury awarded a little over \$500,000 in total damages. About half of the damage award was based on the theory that Mr. Gegan would have supported his children through college, even though he had no legal obligation to do so. Defendants appealed both the liability finding and the damages award. As with the trial, I took the lead in preparing our appellate response, and we prevailed in the court of appeals.

Co-counsel:

Peter Bunde (retired, current contact information unknown)

Defense Counsel (Trial):

John Jenswold (now deceased)

Peter Gennrich (retired, current contact information unknown)

Defense Counsel (Appeal):

Allen Arntsen

Foley & Lardner LLP (formerly with Jenswold, Studt, Hanson, Clark & Kaufman)

150 East Gilman Street

Madison, WI 53703

(608) 258-4293

2. Doe v. Am. Nat'l Red Cross, Case number unknown. (Dane County Cir. Ct.) (Hon. Jack Aulik), and Doe v. Am. Nat'l Red Cross, 796 F. Supp. 395 (W.D. Wis. 1992) (Hon. Barbara Crabb), on appeal, certified question to 500 N.W.2d 264 (Wis. 1993) (Hon. Jon P. Wilcox), rev'd, 9 F.3d 1293 (7th Cir. 1993) (Hon. John Coffey, Joel Flaum, and Kenneth Ripple).

From 1991 to 1993, I was co-counsel, with Arnold & Porter, for the American National Red Cross and its local chapter, in two matters in which plaintiffs alleged that they contracted the HIV virus as a result of receiving blood transfusions, and sued the Red Cross alleging that it was negligent in the way it screened blood donors. These cases were among the first transfusion-related

AIDS cases in the country. The state court case involved the plaintiffs' attempt to compel the Red Cross to reveal the names of the donors whose blood was eventually transfused into Mr. Doe. This was a critical policy issue for the Red Cross, and we were ultimately able to prevail on a motion for a protective order. The primary issue litigated in the federal court case was the question of which statute of limitations applied to the Red Cross. The trial court decided that the statute applicable to medical malpractice claims applied and, on that basis, granted defendants' summary judgment motion. On appeal, the Seventh Circuit certified the question to the Wisconsin Supreme Court. I presented oral argument on the issue, after which the Wisconsin Supreme Court held that the Red Cross is not a health care provider for the purposes of the limitations statute. Based on this decision, the Seventh Circuit reversed the trial court's grant of summary judgment and remanded for further proceedings. The case settled shortly after the remand.

Co-counsel:

Jacqueline Denning (retired)  
Arnold & Porter  
555 Twelfth Street NW  
Washington, D.C. 20004  
(202) 942-5898

Plaintiffs' Counsel (State Case):

Richard Sommer (now deceased)

Plaintiffs' Counsel (Federal Case):

Joseph Becker (retired, current contact information unknown)

3. Anderson v. Nelson Indus., Inc., Nos. 98-C-839-S and 98-C-846-S (W.D. Wis.) (Hon. John Shabaz (now deceased)).

From 1998 to 2000, I was lead counsel for Nelson Industries and certain of its directors in a securities fraud action brought by the grandchildren of one of the founders of Nelson. The complaint alleged that several of Nelson's directors, including its then-Chairman and CEO, Mr. Flowers, committed securities fraud, when Mr. Flowers, in his capacity as a trustee of a trust established for the benefit of the plaintiffs, authorized the sale of Nelson stock from the trust. The sales occurred at times when Nelson was having preliminary discussions with various other companies about a possible merger. The suit was filed after Nelson was acquired by Cummins Engine Company at a price-per-share that was higher than what the stock from the trust had been sold for. Plaintiffs were seeking millions of dollars in damages. The jury returned a verdict for defendants. I presented both the opening statement and the closing argument, and handled most of the witness examination at trial.

Plaintiffs' Counsel:

Stephen Hurley

Hurley, Burish & Stanton, S.C.  
33 East Main Street  
Madison, WI 53703  
(608) 257-0945

4. Nw. Airlines v. Wisconsin Dep't of Revenue, 717 N.W.2d 280 (Wis. 2006) (Hon. David Prosser).

In this 2006 case, we represented Northwest Airlines in challenging the constitutionality of a state statute which exempted air carriers from the ad valorem tax if they had a hub facility in the state. The exemption was adopted by the legislature in response to a lobbying effort on behalf of what was then Midwest Airlines, a Wisconsin-based carrier. Northwest contended that the tax exemption, which was worth about \$2 million annually to Midwest, violated the Dormant Commerce and Equal Protection Clauses of the U.S. Constitution, and the Uniformity Clause of the Wisconsin Constitution. Northwest prevailed on a summary judgment motion in the circuit court, but lost in the Wisconsin Supreme Court. (The case reached the supreme court on certification, so there was no court of appeals decision.) I was not personally involved in the trial court proceedings, but was heavily involved in the appellate briefing and argued the case before the Wisconsin Supreme Court.

Defense Counsel for the government:  
Mary Burke  
Wisconsin Department of Justice  
17 West Main Street  
Madison, WI 53703  
(608) 266-0323

Defense Counsel for intervenor Midwest Airlines:  
Robert Frieber (now deceased)

5. Yates v. Holt-Smith, No. 2006-CV-1003 (Dane County Cir. Ct.) (Hon. Sarah O'Brien), aff'd in part, rev'd in part, 768 N.W.2d 213 (Wis. Ct. App. 2008) (Hon. Burnie Bridge, Paul Higgenbotham and Paul Lundsten).

From 2006 to 2008, I was lead counsel for the plaintiff in this case involving a dispute between the two owners of a successful financial advisory firm, Holt-Smith & Yates Advisors, Inc. I represented Ms. Yates, who sued Ms. Holt-Smith after Ms. Holt-Smith had fired her and refused to pay her a year-end bonus. The case raised a number of issues of corporate law, including whether the claims asserted by Ms. Yates were direct claims or derivative claims, and how the business judgment rule should be applied. The trial court agreed that Ms. Yates' claim regarding the bonus payment was a "constructive dividend," and therefore, a direct claim. After a bench trial, Judge O'Brien found bad faith and a breach of fiduciary duty and awarded \$783,396 in damages. Ms. Holt-Smith appealed. The

Wisconsin Court of Appeals affirmed Judge O'Brien in all major respects (the exception being the trial court's failure to award post-judgment interest on the award). I was the lead counsel for Ms. Yates throughout the case, from its initial pleadings through the appeal.

Defense Counsel:  
Roberta Howell  
Foley & Lardner LLP  
150 East Gilman Street  
Madison, WI 53703  
(608) 258-4273

6. Power the Future Cases, Nos. 3-SE-01-41-0005-0019 & 1456MW (Wis. Div. of Hearings and Appeals) (Hon. Jeffrey Boldt), aff'd, No. 2004-CV-3934 (Dane County Cir. Ct.) (Hon. John Albert), aff'd sub nom., Sierra Club v. Wisconsin Dept. of Natural Resources, 712 N.W.2d 87 (Wis. Ct. App. 2006) (Hon. Lundsten, Higginbotham, and Kessler); No. IH-04-03 (Wis. Div. of Hearings and Appeals) (Hon. William S. Coleman, Jr.) & No. IH-05-06 (Wis. Div. of Hearings and Appeals) (Hon. William S. Coleman, Jr.), aff'd in part, rev'd in part, No. 06-CV-2671 (Dane County Cir. Ct.) (Hon. Shelley Gaylord).

In 2000, Wisconsin Energy Corporation ("We Energies") announced a proposal to build two new 615-megawatt coal-fired generating units in Oak Creek, Wisconsin. The \$3 billion project included, among other things, the largest earth moving project in the history of the state, construction of a cooling water intake structure capable of withdrawing more than 1.5 million gallons of water per minute and located 7,900 feet offshore on the bottom of Lake Michigan, and a tunnel underneath the lake to connect the intake structure with the plant. This project required We Energies to obtain three significant permits from the Wisconsin Department of Natural Resources ("DNR"): (1) a "Chapter 30" permit for excavation of the lake bluff, wetlands disturbance and placing culverts and other structures in navigable waters on the site, (2) an air emissions permit for construction and operation of the two new generating units and (3) a Wisconsin Pollutant Discharge Elimination System ("WPDES") permit for the cooling water intake and discharge systems.

All three permits were heavily contested by the Sierra Club, Clean Wisconsin and S.C. Johnson & Sons, Inc. I was the lead attorney for We Energies in the administrative contested case hearings and subsequent appeals for each of the permits. The first contested case involved the Chapter 30 permit. After a two-day hearing, Judge Boldt affirmed the DNR's decisions and granted the permit. The circuit court dismissed the permit opponents' petition for review and the court of appeals affirmed in an unpublished decision. After a three-day contested case hearing on the air emissions permit, Judge Coleman affirmed the DNR's actions in issuing the permit to We Energies. After a two-day contested case hearing on the WPDES permit, Judge Coleman affirmed the DNR decision to issue the

permit. The circuit court affirmed in part, but also remanded the case back to the agency to determine whether the permit application should be governed by the rules relating to new facilities or existing facilities. This remand resulted in a new permit application, a stay of proceedings which was subsequently lifted by the circuit court, and a further decision by the administrative law judge that was appealed to the circuit court. A negotiated settlement with the objectors was reached while this appeal was pending before the circuit court.

Plaintiffs' Counsel:

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Wickwire, Gavin, P.C.  
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(608) 257-5661

Dennis Grzezinski  
Midwest Environmental Advocates  
312 East Washington Avenue, Suite 210  
Milwaukee, WI 53202  
(414) 289-9200

Pamela McGillivray  
McGillivray, Westerberg & Bender LLC  
211 South Patterson Street, Suite 320  
Madison, WI 53703  
(608) 310-3560

Defense Counsel for Department of Natural Resources:

Charles Hammer (retired)  
Michael Cain (retired)  
Thomas Steidl (retired)

7. State v. Abbott Labs., No. 04-CV-1709 (Dane County Cir. Ct.) (Hon. Richard Niess).

In 2004, the State of Wisconsin sued 36 drug manufacturers, alleging that each had engaged in deceptive practices which caused the State to overpay pharmacists who participate in the Wisconsin Medicaid program. We were retained to assist Johnson & Johnson's national counsel in defending the Wisconsin action. In early 2009, the Johnson & Johnson defense team assumed the role of "liaison counsel" for all of the defendants. Since that time, I have taken the lead, working with national counsel in representing the defense group in discussions with opposing counsel and in court proceedings dealing with all procedural aspects of the case. This has involved discovery stipulations, case management orders and scheduling. Early in the case, Judge Niess ordered separate trials against each manufacturer. To date, the only trial that has occurred involved Pharmacia, Inc. I



was not directly involved in that trial, but I took the lead in preparing two amicus briefs submitted in the appeal of the Pharmacia case, after a trial resulted in a \$9 million jury verdict. *See* 816 N.W.2d 145 (Wis. 2010) and 829 N.W.2d 753 (Wis. Ct. App. 2010).

Counsel for the State of Wisconsin:

Charles Barnhill  
Elizabeth Eberle  
Miner, Barnhill & Galland  
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Madison, WI 53703  
(608) 255-5200

Hon. Frank Remington  
Dane County Courthouse (formerly at Attorney General's Office)  
215 South Hamilton Street  
Madison, WI 53703  
(608) 266-4325

Principal Defense Co-counsel:  
Andrew Schau (for Johnson & Johnson)  
Covington & Burling  
620 Eighth Avenue  
New York, NY 10018  
(212) 841-1000

Adeel Mangi (for Johnson & Johnson)  
Patterson, Belknap  
1133 Avenue of the Americas  
New York, NY 10036  
(212) 336-2000

Beth Kushner (for Pharmacia Corp.)  
Von Briessen & Roper  
411 East Wisconsin Avenue, Suite 1000  
Milwaukee, WI 53202  
(414) 287-1373

John C. (Jack) Dodds (for Pfizer, Inc.)  
Morgan, Lewis & Bockius LLP  
1701 Market Street  
Philadelphia, PA 19103  
(215) 963-5000

Lester Pines (for Teva Pharmaceuticals)  
Cullen Weston Pines & Bach LLP

122 West Washington Avenue, Suite 900  
Madison, WI 53703  
(608) 251-0101

Barbara Neider (for Bristol, Myers, Squibb)  
Stafford Rosenbaum LLP  
222 West Washington Avenue, Suite 900  
Madison, WI 53701  
(608) 259-2615

8. Polsky v. Virnich, No. 04 CV 285 (Grant County Cir. Ct. 2007) (Hon. Michael Kirchman), cert. vacated per curiam, 769 N.W.2d 52 (Wis. 2009), reversed on remand, 779 N.W.2d 712 (Wis. Ct. App. 2010) (Hon. Charles Dykman, Paul Lundsten and Paul Higginbotham), aff'd per curiam, 800 N.W.2d 742 (Wis. 2011), cert. denied, 132 S. Ct. 1006 (2012).

From 2004 to 2011, I represented defendants Mr. Virnich and Mr. Moores, the owners of a company that was the subject of an involuntary receivership proceeding initiated by a bank. The court-appointed receiver sued the owners for allegedly breaching their fiduciary duties to the company by, among other things, paying themselves bonuses and salaries that were claimed to be excessive. The key legal issue was whether the 100% shareholders of a company could be sued by that company for making transfers to themselves which did not violate any statutory or common law duty to creditors. The trial court rejected defendants' motion to dismiss on this basis. After our attempt at an interlocutory appeal was rejected, the case was tried, resulting in a verdict against Mr. Virnich and Mr. Moores of over \$6.5 million. The court of appeals certified our appeal to the Wisconsin Supreme Court, but that court remanded the case back to the court of appeals because the six members who heard the appeal were evenly divided. The court of appeals then reversed the trial court's rulings, vacated the jury verdict and entered judgment for our clients. The receiver appealed, and the Wisconsin Supreme Court again was evenly divided, resulting in an affirmance of the court of appeals. The receiver's petition for certiorari to the U.S. Supreme Court was denied. I was lead counsel at trial, and argued the case both times it was before the Wisconsin Supreme Court.

Plaintiff's Counsel:  
Robert Kasieta  
Kasieta Legal Group LLC  
7818 Big Sky Drive, Suite 112  
Madison, WI 53719  
(608) 662-2286

9. In re Tomotherapy Inc. S'holder Litig., Nos. 11-CV-1183, 1184, 1189, 1203 & 1208 (Dane County Cir. Ct.) (Hon. John Markson).

This litigation involved several purported shareholder class actions which were consolidated before Judge Markson. All arose from the 2011 announcement that Tomotherapy, Inc. was being acquired by Accuray, Inc., and alleged that Tomotherapy's board had breached its fiduciary duties by agreeing to the transaction, and that the board failed to make adequate disclosures in the proxy statements relating to the transaction. Plaintiffs sought to enjoin the transaction. I served as co-counsel for Tomotherapy, along with Sidley Austin. We successfully moved to have the complaint dismissed for failure to state a claim before any class was certified and before any injunction hearing took place. We collaborated on all the briefs, and I handled all of the arguments before Judge Markson.

Co-counsel:

Courtney Hoffman  
Sidley Austin LLP  
One South Dearborn Street  
Chicago, IL 60603  
(312) 853-7000

Richard Kapnick  
Katten & Temple (formerly with Sidley Austin LLP)  
542 South Dearborn Street, 14th Floor  
Chicago, IL 60605  
(312) 663-0800

Counsel for Co-defendant Accuray:

Howard Pollack  
Godfrey & Kahn, SC  
780 North Water Street  
Milwaukee, WI 53202  
(414) 273-3500

Plaintiffs' Counsel:

K. Scott Wagner  
Hale & Wagner, S.C.  
809 North Jefferson Street  
Milwaukee, WI 53202  
(414) 278-7000

Stephan Oddo  
Robbins Umeda LLP  
640 B Street, Suite 1900  
San Diego, CA 92101  
(619) 525-3990

10. NATCOM Bancshares, Inc. v. Johnson, No. 3:12-cv-334-bbc, 2013 WL

2633694 (W.D. Wis. June 12, 2013) (Hon. Barbara Crabb).

I represented NATCOM Bancshares, a holding company whose main asset is stock in the National Bank of Commerce. When NATCOM converted from a "C" corporation to an "S" corporation, the transaction triggered the right of shareholders who dissented from the conversion decision to demand payment for the fair value of their shares. Two of NATCOM's largest shareholders exercised those rights and subsequently objected to NATCOM's determination of the fair value of their stock. The case was tried over three days in 2013. Following post-trial briefing, Judge Crabb ruled that NATCOM had indeed paid the dissenting shareholders fair value for their stock. I was lead counsel for NATCOM and handled all of the witness examinations (direct and cross) at trial.

Respondents' Counsel:  
Wallace G. Hilke  
Lindquist & Vennum LLP  
4200 IDS Center  
80 South Eighth Street  
Minneapolis, MN 55402  
(612) 371-3211

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.)

In the past ten to 15 years, I have done a fair amount of what might be described as litigation avoidance counseling. For example, I have assisted my corporate partners in advising publicly held companies on how to draft proxy statements to minimize the risk of shareholder suits alleging insufficient disclosures on such issues as executive compensation. I have advised boards of directors on their fiduciary duties, both in a general sense and in specific circumstances.

In addition, throughout my career at Quarles & Brady, I have been active in firm management and leadership. I have served on various firm committees responsible for such activities as recruiting, associate evaluations, mentoring, and marketing. In 1999, I was elected by my partners to the firm's Executive Committee. I was the first non-Milwaukee partner ever to be elected to the Committee. I have been re-elected four times, and am now the longest tenured member of the Committee. I have also held a variety of other leadership roles at the firm, including serving for over ten years as the Managing Partner of the Madison Office and as the Chair of the Firm's Legal Personnel Committee.

While employed in the Wisconsin Governor's office, I lobbied the Wisconsin Legislature on behalf of the Governor. I have not performed lobbying activities on behalf of any clients, either before or after my employment in the Governor's office.

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

None.

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

If I resign from Quarles & Brady I will be entitled to receive repayment of my capital contribution and my Section 444 deposit. I am also entitled to receive a Phased Retirement benefit that will be calculated as of the time of my withdrawal.

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 all cases involving Quarles & Brady for an appropriate period of time. I would also follow all recusal rules in cases involving former clients. In 2014, my son was admitted as an attorney in the State of Arizona, where he is currently employed as a law clerk. If my son enters the active practice of law, I would expect to recuse myself from any case in which he has any involvement or interest.

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

I would resolve any conflicts of interests that might arise consistent with the Code of Conduct for United States Judges and any other applicable ethics rule.

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.

Quarles & Brady has an active pro bono program and I have participated in a wide variety of pro bono matters, mainly through that program, throughout my career. For most of these matters I have not been involved in the firm's decision to accept the matter as a pro bono case, but have served as the partner supervising the work of associates who have volunteered to take on the case. For example, I have acted as supervising counsel on several cases in which the firm was appointed to represent prisoners on appeals or matters relating to their confinement. In 2013, the Chief Judge of the Western District of Wisconsin asked Quarles & Brady to represent a prisoner who was denied certain medical treatment by the State of Wisconsin Department of Corrections. I supervised that matter, which resulted in a settlement. Quarles & Brady received an award from the Western District of Wisconsin for our pro bono work on that matter. In 2014 to 2015, I supervised our firm's work on another case involving a prisoner's complaint regarding his medical care while incarcerated after the Seventh Circuit remanded the case and ordered the trial court to appoint counsel. We settled the case by obtaining the requested medical relief and a small monetary award.

In addition, I have submitted two amicus briefs for pro bono clients in the Wisconsin Supreme Court. In 2011, I provided counseling services regarding potential liability exposure to the Lussier Community Education Center, a neighborhood education and services center in Madison, on a pro bono basis. Our firm also regularly provides pro bono representation to women seeking domestic abuse restraining orders, and in the past year I have accepted two appointments through this program myself, in addition to supervising others.

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.

There is a commission that was formed by Senators Baldwin and Johnson to recommend judicial candidates to the Senators. I applied to that commission and was interviewed on November 18, 2014 in Madison, Wisconsin. On May 7, 2015, Senator Baldwin asked for my permission to include my name on a list of candidates she sent to the White House for consideration. On June 9, 2015, I interviewed by phone with an attorney from the White House Counsel's Office. Since July 16, 2015, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 1, 2015, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On October 28, 2015, I interviewed with staff from Senator Johnson's office in Milwaukee, and on November 5, 2015, I interviewed with Senator Johnson at his office in Washington, D.C. On January 12, 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.