

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Scott Wesley Skavdahl

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

United States District Judge for the District of Wyoming

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

United States District Court for the District of Wyoming
J.C. Mahoney Federal Building
2120 Capitol Avenue
Room 2120
Cheyenne, Wyoming 82001

Residence: Casper, Wyoming

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

1966; Lincoln, Nebraska

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.

1989 – 1992; University of Wyoming College of Law; J.D., 1992
1985 – 1989; University of Wyoming; B.S., 1989

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.

February 1, 2011 – present
United States District Court for the District of Wyoming
J.C. Mahoney Federal Building
2120 Capitol Avenue
Cheyenne, Wyoming 82001
Magistrate Judge

2003 – 2011
Seventh Judicial District Court
Townsend Justice Center
115 North Center Street, Suite 200
Casper, Wyoming 82601
State District Judge

2001 – 2003
Ewing T. Kerr U.S. Courthouse
111 South Wolcott
Casper, Wyoming 82601
Part-time United States Magistrate Judge

1997 – 2003
Williams, Porter Day & Neville, P.C.
159 North Wolcott, Suite 400
Casper, Wyoming 82601
Associate (1997 – 1999)
Partner (2000 – 2003)

1994 – 1997
United States District Court for the District of Wyoming
Ewing T. Kerr U.S. Courthouse
111 South Wolcott
Casper, Wyoming 82601
Law Clerk to the Honorable William F. Downes

1991 – 1994
Brown & Drew (now Brown Drew & Massey LLP)
159 North Wolcott, Suite 200
Casper, Wyoming 82601
Associate (1992 – 1994)
Summer Associate (1991)

1990 – 1992
Western Trial Advocacy Institute
Dept. 3035, 1000 East University Avenue
Laramie, Wyoming 82071
Student Director (part-time)

1990 – 1992

University of Wyoming College of Law
Dept. 3035, 1000 East University Avenue
Laramie, Wyoming 82071
Research Assistant (part-time)

1987 – 1990

Consolidated Freightways (facility no longer in business)
1900 Cutler Road
Cheyenne, Wyoming 82001
Dock hand/Freight Clerk (part-time)

Other affiliations (uncompensated)

2008 – 2011

Natrona County Adult Community Corrections Board
c/o Rob Hendry
Chairman, Natrona County Commissioners
200 North Center, Room 115
Casper, Wyoming 82601
Secretary

2009 – 2010

Wyoming State District Judges Conference
c/o Hon. Norman E. Young
President, Wyoming State District Judges Conference
Fremont County Courthouse
450 North 2nd Street
P.O. Box 370
Lander, Wyoming 82520
Secretary/Treasurer

2000

Defense Lawyers of Wyoming (no longer in existence)
c/o John A. Sundahl
Sundahl, Powers, Kapp & Martin
1725 Carey Avenue
Cheyenne, Wyoming 82001
Treasurer

1999 – 2000
Natrona County Meals on Wheels
1760 East 12th Street
Casper, Wyoming 82601
President (1999)
Chair (1999 – 2000)

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 registered for selective service upon turning eighteen.

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.

Wyoming State Bar Service Appreciation (2009)
Wyoming Law Day Jury Appreciation (2007)
Casper Star Tribune Wyoming's 40 under 40 (2006)
Land & Water Law Review: Production Manager (1992)
College of Law Dean's List (1991 – 1992)
Joseph B. Sullivan Scholarship (1990 – 1992)
Western Athletic Conference Academic All Conference Honorable Mention (football) (1988 – 1989)

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 (1992 – 2001)
American Trial Lawyers Association (1992 – 2000)
Defense Lawyers of Wyoming (1997 – 2002)
Treasurer (2000)
National Association of Juvenile Court Judges (2008 – present)
Natrona County Bar Association (1992 – present)
Nebraska Bar Association (1993 – present; inactive since 1993)
Select Committee to Review the Code of Judicial Conduct (2007 – 2008)
Wyoming Access to Justice Commission (2009 – 2010)
Wyoming Bar Association (1992 – present)
Civil Pattern Jury Instruction Committee (2006 – 2009)
Computer and Technical Committee (1996 – 2000)
Chair (1998)
Wyoming State District Judges Conference (2003 – 2011)
Secretary/Treasurer (2009 – 2010)

Wyoming Court Technology Advisory Committee (2008 – 2010)

10. **Bar and Court Admission:**

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

Wyoming, 1992
Nebraska, 1993

There have been no lapses in membership, although my Nebraska Bar membership has been inactive since the late 1990s because I have not had occasion to practice in the State of Nebraska.

- 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 Court of Appeals for the Tenth Circuit, 2000
United States District Court for the District of Wyoming, 1992
Nebraska State Courts, 1993
Wyoming State Courts, 1992

11. **Memberships:**

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

Big Brother/Big Sisters Program (1993 – 1996)
Casper Country Club (1999 – present)
Casper Little League Baseball (1993 – 1995)
Casper Rotary Club (1993 – 1996)
Natrona County Adult Community Corrections Board (2004 – present)
Secretary (2008 – present)
Natrona County Meals on Wheels (1995 – 2003)
President (1999)
Chair (1999 – 2000)
United Way of Natrona County Legal Services Fund Raising Chair (2000 – 2002)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization

that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently or, with the exception of the Casper Country Club, formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. I am aware that prior to 1991 the Casper Country Club by-laws did not grant women voting rights. That discriminatory practice was eliminated by amendments to the bylaws in 1991, ten years prior to my joining the Casper Country Club.

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.

Access to Justice: A Judge's Perspective, 32 Wyoming Lawyer 1 (Feb. 2009).
Copy supplied.

Computer and Technical Committee Update, 33 Land & Water L. Rev. 817
(1998). Copy supplied.

Although I do not remember and have been unable to identify any other published material I have written or edited, there may be other published material that I have been unable to remember or identify.

- 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.

Indigent Civil Legal Services in Wyoming, a Report to Governor Freudenthal and the Wyoming Legislature and a Call to Action to Establish a Statewide Program, December 14, 2009. This was a collaborative effort by the Wyoming Access to Justice Commission to which I had minimal input. A copy is supplied.

Final Report of the Select Committee to Review the Code of Judicial Conduct, submitted on November 21, 2008. I had minimal involvement in the preparation

of this report, which addressed amendments to Wyoming's Code of Judicial Conduct in light of the changes in the 2007 ABA Model Code of Judicial Conduct. A copy of the Final Report is supplied.

From September 20-23, 2005, I attended the Changing Lives by Changing Systems: National Judicial Leadership Summit for the Protection of Children, where participants collaborated to draft a National Call to Action report on reforms to be carried out by courts and child welfare agencies to help abused and neglected children. A copy of the report is 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.

On May 17, 2010, I appeared before the Wyoming Joint Judiciary Interim Committee to briefly comment concerning perceived problems and proposed changes to Wyoming Juvenile laws and placement authority. I have no notes or record of my statement. A copy of the Committee's Summary of Proceedings is supplied.

On February 11, 2010, I appeared, with other members of the Wyoming Access to Justice Commission via video conference, before the Wyoming House of Representatives Judiciary Committee to answer the committee's questions regarding proposed legislation to create a funding mechanism for legal assistance to indigent litigants in civil matters. I have no notes, transcript or recording. Press coverage is supplied.

On February 7, 2006, I wrote a letter to Wyoming School Facilities Commission Director Jim Shivler about the lack of state funding for our neighborhood elementary school's building updates due to Commission rules. A copy of the letter is supplied.

On July 12, 2005, I appeared before the Wyoming Joint Judiciary Interim Committee to briefly comment on the creation of "family courts" or "problem solving courts." A copy of the Committee's Summary of Proceedings 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.

I have searched my files and electronic databases, and I am including all materials that I have found. The list below represents my best efforts to provide an answer that is as complete as possible, but I have spoken at many continuing legal education, bar association, community, and school group events – especially since becoming a judge. Thus, there may be other presentations or speeches that I am unable to identify or remember. I typically do not have any prepared remarks, but instead have rough typed outlines or handwritten notes. I have retained some of the notes and materials and have provided copies of everything I could locate.

On July 27 and November 9, 2009, I appeared and participated in town meetings in Cheyenne and Casper, Wyoming respectively as part of the Access to Justice Commission. The purpose of these meetings was to gain information and input from communities regarding legal assistance for indigents in civil court matters. I spoke briefly at each of these meetings. I have no notes or transcript of the town meeting discussions. I am aware that the Access to Justice Commission did videotape these meetings, but I do not have access to the complete videos. Video excerpts of the hearings are available at <http://www.courts.state.wy.us/AJC.aspx>. The Access to Justice Commission's contact is Ronda Munger, Wyoming Supreme Court, 2301 Capitol Avenue, Cheyenne, Wyoming 82002.

On November 13, 2008, at the request of the Chief Justice, I participated in a Media Seminar panel discussion sponsored by the Wyoming Supreme Court. This panel discussion addressed the types of cases handled by Wyoming state district courts and the different procedural process for civil and criminal cases. I have no notes, transcript, or recording. The address for the Wyoming Supreme Court is 2301 Capitol Avenue, Supreme Court Building, Cheyenne, Wyoming 82002.

On March 8, 2008, I gave the keynote speech at the annual awards ceremony for the Central Wyoming Boy Scouts of America. I have no notes, transcript or recording. The address for the Central Wyoming Boy Scout Council is P.O. Box 1506, 3939 Casper Mountain Road, Casper, Wyoming 82602.

In November of 2007 and again on November 21, 2009, I served as a judge for the Wyoming High School Mock Trial Tournament. I have no notes, transcript or recording. The Wyoming State Bar Association sponsors the event and the address of the Association is 4124 Laramie Street, P.O. Box 109, Cheyenne, Wyoming 82003.

On June 4, 2007, I appeared with two legislators, two Guardian Ad Litem (GALs) and a fellow State District Court Judge for a one-hour panel discussion regarding the operation and funding of a state wide GAL system for juvenile neglect and abuse cases. This event was sponsored by the Guardian Ad Litem Program along with the Children's Justice Project (CJP) as part of the Annual GAL/CJP program. I have no notes, transcript or recording. The address for the

Wyoming Children's Justice Project is Court Services Division, Wyoming Supreme Court, 2301 Capitol Avenue, Cheyenne, Wyoming 82002.

On May 1, 2007, I spoke to visitors to the Natrona County Hall of Justice and Courthouse during the County's Open House at these locations. I spoke on the jury process. I have no notes, transcript or recording. The address of the Hall of Justice is 201 North David Street, Casper, Wyoming 82601.

On January 19, 2007, I participated by making brief remarks at the judicial robing ceremony for Judge Daniel Forgey in Green River, Wyoming. I have no notes, transcript or recording. Judge Forgey's address is 731 C Street, P.O. Box 2028, Rock Springs, Wyoming 82902.

On March 30, 2006, I gave the key note address to the graduates of the Wyoming Law Enforcement Academy in Douglas, Wyoming. My rough notes are supplied.

On four different occasions, between 2006 and 2010, I have made presentations to undergraduate law classes at the University of Wyoming Outreach Center. The presentation discussed cases involving constitutional and administrative law issues. I have no notes, transcript or recording. These classes were taught by my fellow District Court Judges, Judge Thomas Sullins and Judge David Park. Their address is 115 North Center, Suite 200, Casper, Wyoming 82601.

Beginning in September of 2005 and approximately every six months thereafter until January 2009, I presented a one-hour CLE entitled "May it Please the Court" as part of the new lawyer admission program for the Wyoming State Bar (Pathways to Professionalism). This presentation recommended best practices for newly admitted lawyers in pre-trial, motion and trial practice. A copy of the outline used for these presentations is supplied. Also supplied is a DVD of my October 10, 2006 presentation of this CLE.

On January 3, 2005, I administered the oaths of office to the Natrona County District Attorney and to two County Commissioners. I have no notes, transcript or recording, but press coverage is supplied. The address for the County Commissioners is 200 North Center, Room 115, Casper, Wyoming 82601. The address for the District Attorney is 200 North David Street, Casper, Wyoming 82601.

On April 30, 2004, I participated in a Law Day program panel discussion about the legal system at the 24th Annual Trail Youth Seminar. I have no notes, transcript or recording. The address of the Trail Youth Seminar is P.O. Box 3506, Casper, Wyoming 82602. I have participated in Law Day activities on other occasions as well, but cannot recall and have no record of the dates of those events.

On August 27, 2003, I was sworn in as a State District Court Judge and made brief comments at the public ceremony. I have no notes, transcript, or recording, but press coverage is supplied. The address of the court is Townsend Justice Center, 115 North Center Street, Suite 200, Casper, Wyoming 82601.

In approximately March of 2001, I participated in a three hour seminar with one other lawyer addressing the application of the Fair Labor Standards Act & Family Medical Leave Act. This seminar was sponsored by the Wyoming State Bar. I have no notes, transcript, or recording. The address for the Wyoming State Bar is 4124 Laramie Street, P.O. Box 109, Cheyenne, Wyoming 82003.

Annually, from October 1999 through 2002, I participated in a three person all day Employment Law Seminar sponsored by Lorman Education Services. This seminar addressed state and federal employment law issues. I have no notes, transcript, or recording. The address for Lorman Education Services is P.O. Box 509, Eau Claire, Wisconsin 54702.

- 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.

Carol Crump, *Legal Services Funding Bill Aids Low-Income Citizens*, Casper Journal, Mar. 19, 2010. Copy supplied.

Joshua Wolfson, *Group Seeks to Increase Legal Access*, Casper Star-Tribune, Nov. 11, 2009, at B1. Copy supplied.

On November 5, 2009, at 7:15 a.m., I participated in a brief radio interview (on KTWO radio with Brian Scott) with two other lawyers (Stuart Day and Mary Ann Budenske) regarding the Access to Justice Committee and public meetings being held throughout the state regarding legal services for indigent citizens in civil proceedings. I have not been able to obtain any clips, notes or transcript of this interview. The address for K2 Radio is 150 North Nichols, Casper, Wyoming 82601.

Carol Crump, *Townsend Justice Center Blends Old with New*, Casper Journal, Oct. 14, 2009. Copy supplied.

Joan Barron, *More People Playing Lawyer*, Casper Star-Tribune, Aug. 2, 2009. Copy supplied.

Christine Robinson, *Not a Simple Solution*, Casper Star-Tribune, Mar. 2, 2008, at A1. Copy supplied.

Anthony Lake, *What Judges Say about Wyoming's Juvenile Court System*, Casper Star-Tribune, Aug. 29, 2006. Copy supplied.

Staff, *40 Under 40*, Casper Star-Tribune, Feb. 19, 2006. Copy supplied.

Tom Morton, *Natrona County Could Lose Judge*, Casper Star-Tribune, Nov. 5, 2004, at A1. Copy supplied.

Governor Names Skavdahl Judge, Casper Star-Tribune, July 2, 2003. Copy supplied.

On July 1, 2003, I issued a joint press release with Wyoming Governor Dave Freudenthal concerning my selection to serve as a State District Court Judge. I do not have copies of the press release. It was issued by the Governor's Office. A copy of the July 2, 2003 (noted above), Casper Star Tribune article reporting on this matter is supplied.

Interview on Oct. 5, 1995 with Robert C. Moore, which was referenced in Moore's article, *Comment: The Pack is Back: The Political, Social and Ecological Effects of the Reintroduction of the Gray Wolf to Yellowstone National Park and Central Idaho*, 12 T.M. Cooley L. Rev. 647 (1995). Copy of Moore's article 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.

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

120 (excluding summary judgments in civil cases and custody modifications in domestic and paternity cases)

i. Of these, approximately what percent were:

jury trials:	40%
bench trials:	60%
civil proceedings:	35%
criminal proceedings:	65%

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

The only published opinion I have authored, while sitting by designation on the Wyoming Supreme Court, is *Wyoming Dept. of Revenue v. Exxon Mobil Corp.*, 162 P.3d 515 (Wyo. 2007). It was a unanimous opinion.

As a State District Court Judge I authored the following unpublished opinions:

Transportation Commission of Wyoming v. Twenty Nine Acres of Land, et al., CV 90933 (Dec. 2, 2010)

State v. McGehee, CR18197 (Apr. 27, 2010)

Bailey v. Wyoming Workers' Compensation and Safety, CV89985 (Jan. 15, 2010)

Harper v. Fidelity Life and Guaranty Ins. Co., CV88306 (May 15, 2009)

Workers Compensation of Wyoming v. Dial, CV88279 (March 18, 2009)

Hansuld, et al. v. Lariat Diesel Corp., CV85515 (Aug. 3, 2009)

In re JW, JV10046 (Dec. 12, 2008)

Kwedor v. City of Evansville, CV87908 (Sept. 25, 2008)

D & D Well Service v. Lariat Diesel Service, CV87592 (May 20, 2008)

State v. Arellano, CR17660 (Jan. 28, 2008)

State v. Sherman, CR17459 (Mar. 28, 2008)

D'Elia v. Teixeira, CV84490 (Oct. 31, 2007)

D'Elia v. Mason, CV86879 (Oct. 5, 2007)

State v. Drake, CR17280 (Aug. 30, 2007)

Orozco v. Wyoming Workers' Compensation and Safety, CV86010 (July 17, 2007)

Winters v. Allstate Indemnity Co., CV84954 (June 8, 2007)

Bonin v. Wyoming Oncology Prof'ls, LLC, CV86481 (Jan. 5, 2007)

In the Matter of the Domingo Echeverria Trust, CV85516 (Oct. 9, 2006)

Starkey v. Starkey, CV68478 (Sept. 12, 2006)

Gress v. Price d/b/a Mountain States Adjustment, CV85460 (Aug. 4, 2006)

Macias v. State of Wyoming, CR16682 (Apr. 17, 2006)

Hogan v. Fleming, CV83626 (Feb. 17, 2006)

Porter v. Hotle, No. CV83820 (Nov. 3, 2005)

Choong v. Intertribal Addictions Recovery Org., CVC03-10-412, Fourth Judicial District (July 27, 2005)

Stewart v. State, CV16607 (May 12, 2005)

Stinson v. Fire Ins. Exch., CV82788 (Jan. 5, 2005)

Hvastkos v. Turner, CV83144 (March 24, 2005)

State v. Martinez, CR16055 (Apr. 21, 2004)

State v. Bethke, CR16066 (Feb. 12, 2004)

Berg v. State ex rel. Wyoming Workers' Safety and Comp. Div., CV81051 (Jan. 12, 2004)

- 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. *State v. Martinez*, No. CR16055 (2005 – 2006) (copy of my order on pending motions is supplied). The Wyoming Supreme Court affirmed the conviction, *Martinez v. State*, 128 P.3d 652 (Wyo. 2006).

The defendant was charged with the first degree murder of his wife, who was found stuffed in a duffle bag after being beaten to death by a sawed off shotgun. Other than their two children (ages two and four at the time of the events) there were no eyewitnesses to the murder. The admissibility of defendant's prior criminal history, drug use, and his history of domestic violence was contested under Rule 404(b) of the Wyoming Rules of Evidence. In addition, issues arose during trial as to the victim's family's right to wear "we will never forget" buttons in the presence of the jury and the absence of various witnesses sought to be called by defendant.

Counsel for State:

Michael A. Blonigen
201 North David, Suite 400
Casper, WY 82601
Telephone: (307) 235-9256

Counsel for Defendant: David E. Westling
Wyoming Public Defender's Office
2020 Carey Avenue, Suite 100
Cheyenne, WY 82002
Telephone: (307) 777-3451

2. *State v. Carter*, No. CR17728 (2008 – 2009) (the Wyoming Supreme Court affirmed, --- P.3d ---, 2010 WY 136).

Defendant was charged with murdering a man with a knife during a drunken brawl in the street. Initially two other defendants were charged along with Mr. Carter. Those defendants pled out and testified at Mr. Carter's trial. At trial, numerous issues arose concerning admissibility of various witness statements and of defendant's police interview. On appeal, defendant claimed the prosecutor committed misconduct by referring to the defendant as the "black guy" in association with witness identification of him. Defendant also claimed ineffective assistance of trial counsel in failing to object to the prosecutor's use of "black guy," not seeking to suppress defendant's interview, and calling a witness that was impeached by the State. The Wyoming Supreme Court rejected these arguments and affirmed the conviction and sentence.

Counsel for State: Michael A. Blonigen
201 North David, Suite 400
Casper, WY 82601
Telephone: (307) 235-9256

Counsel for Defendants: Dion James Custis
400 East 20th Street
Cheyenne, WY 82001
Telephone: (307) 638-2443

3. *Winters v. Allstate Indemnity Co.*, No. CV84954 (2007) (a copy of Order on P-CSSO Manual is supplied).

Plaintiff suffered personal injuries in an automobile accident in which the driver of the other vehicle was at fault. After accepting policy limits (\$25,000) from the negligent driver, plaintiff sought to recover an additional \$70,000 from her own insurer, Allstate, under her policy's underinsured coverage provision. Allstate rejected this demand, offering to pay plaintiff \$9,000 in addition to the \$25,000 paid by the negligent driver's insurance company. Plaintiff brought suit against Allstate for breach of contract and first party bad faith in failing to pay the amount demanded by plaintiff as entitled under the underinsured coverage provision, and bad faith in the negotiation and investigation of her claim. There were numerous motions and discovery disputes regarding the claims adjustment process used by Allstate, as well as the training of its claims adjusters. Under Wyoming law, the trial had to be

bifurcated. The first phase required the jury to determine the extent of injuries suffered by plaintiff in the underlying automobile accident. The jury returned a damage verdict that exceeded the total amount paid by the negligent driver plus the amount offered by Allstate. This established the basis for plaintiff to proceed on the bad faith claim and second phase of the trial. However, after the jury returned the verdict, the parties reached a settlement.

Counsel for Plaintiff: Thomas R. Smith
Chapman Valdez
125 West Second Street
P.O. Box 2710
Casper, WY 82602
Telephone: (307) 237-1983

Counsel for Defendant: Ronald R. Getchey
Luce Forward
600 West Broadway, Suite 2600
San Diego, CA 92101
Telephone: (619) 699-2445

4. *State v. Booth*, No. CR16751 (2006) (the Wyoming Supreme Court affirmed on appeal, 174 P.3d 171, 2008 WY 3).

The defendant was charged with first-degree murder for the shooting of a cab driver. Mr. Booth was only eighteen years old at the time of the murder. One week prior to the murder, he had been released from the Wyoming Boys' School, which is a boot camp-type program for troubled youth. Mr. Booth had prior methamphetamine addiction problems and appeared to have been seeking money to fund his addiction. To that end, Mr. Booth called a cab and then proceeded to hold up the cab driver with a loaded revolver. The cab driver cooperated and gave Mr. Booth all the money and valuables in his possession, yet he still was shot. After various pre-trial proceedings, in exchange for the State deleting the premeditation aspect of first-degree murder and dismissing the armed robbery count, Mr. Booth pleaded guilty to felony murder. At sentencing, the defense argued for a straight life sentence and the state sought a sentence of life without the opportunity for parole. The State sought to introduce the tape recording of Mr. Booth's confession, which contradicted his version of the facts on the issue of whether the gun accidentally discharged. Defendant asserted that, pursuant to the plea agreement, the State could not offer evidence of premeditation, which it contended was the net effect of the State's offer. Based upon Wyoming case law, I overruled the defendant's objection and ultimately found, based upon a consideration of the applicable factors, that a sentence of life without the opportunity of parole was appropriate. On appeal, the Wyoming Supreme Court affirmed my ruling and sentence.

Counsel for State: Michael A. Blonigen
201 North David, Suite 400
Casper, WY 82601
Telephone: (307) 235-9256

Counsel for Defendants: Wyatt R. Skaggs
2146 Hancock
Laramie, WY 82072
Telephone: (307) 745-3339

5. *State v. Budig*, No. CR17621 (2007) (the Wyoming Supreme Court affirmed on appeal, 222 P.3d 148 (Wyo. 2010)).

The defendant was charged with multiple counts of second and third degree sexual assault of his step-daughters. In addition, he was charged with child abuse in a separate juvenile proceeding. The facts and circumstances were strongly disputed. Defendant sought to introduce evidence regarding the alleged victims' prior sexual conduct, their manipulative character traits and propensity for meanness. Based upon the rape shield law, I limited the scope of cross-examination of the step-daughters which defendant contended violated his constitutionally protected right to confrontation. Defendant also objected to the introduction of expert testimony by the state as to the general disclosure process that typically occurs with minors who are the victim of sex abuse, claiming such testimony would constitute impermissible vouching for the credibility of the witness/victims. My limitation on the cross-examination of the minor victims and allowance of expert testimony was subsequently affirmed by the Wyoming Supreme Court.

Counsel for State: Michael Schafer
201 North David, Suite 400
Casper, WY 82601
Telephone: (307) 235-9223

Counsel for Defendants: Thomas R. Smith
Chapman Valdez
125 West Second Street
P.O. Box 2710
Casper, WY 82602
Telephone: (307) 237-1983

6. *State v. Iseli*, CR16744 (2005) (the Wyoming Supreme Court affirmed on appeal, 160 P.3d 1133 (Wyo. 2007)).

Defendant was charged with assaulting and causing bodily injury to a police officer. Defendant, who had several outstanding warrants, was scheduled to meet his wife at a remote park, where law enforcement planned to arrest him

on the outstanding warrants. Defendant arrived at the park early and approached his wife, who was cooperating with law enforcement. A deputy sheriff in an unmarked patrol car and wearing civilian clothes, but with a sheriff's badge on a chain around his neck and outside his shirt pulled up behind defendant's vehicle and began walking toward defendant with his service revolver drawn. The deputy sheriff verbally identified himself as a deputy sheriff and attempted to arrest the defendant. In response, defendant attempted to flee. The deputy gave chase, once again reminding defendant that he was under arrest. The deputy ultimately caught up with defendant and tackled him. Upon hitting the ground, a struggle ensued resulting in the deputy suffering bodily injuries. Defendant got back up and began running but stopped when he was surrounded by other law enforcement officers. At trial, defendant's theory of the case was that he did not know the deputy sheriff was a law enforcement officer at the time of the incident and that he acted in self-defense. Under Wyoming law, the State was required to prove defendant "knowingly and intentionally" caused "bodily injury" to a "peace officer." I refused to instruct the jury on the issue of self-defense because under defendant's theory of defense and the evidence, if the jury believed defendant did not know that the deputy was a law enforcement officer he could not be convicted. However, if he did know he was a peace officer then he was not entitled to resist arrest, absent excessive force, which had not been factually supported. The Wyoming Supreme Court affirmed his conviction, finding that I had properly refused to instruct on the issue of self-defense.

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Counsel for Defendants: Patrick LeBrun
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7. *State v. McGehee*, No. CR18197 (2009) (a copy of my Order on Defendant's Motion to Exclude Press and Public is supplied).

Defendant was charged with felony murder, second degree murder and felony child abuse. Defendant's eight month old son was found dead, stuffed in the sleeve of his coat, giving rise to the murder charges. A year and a half prior to this suffocation defendant had permanently scarred one of his other children when he attempted to perform a home circumcision with a filet knife. Various pretrial motions were filed including one seeking to preclude the press or public

from hearings on the admissibility of 404(b) evidence and a motion to sever the charges relating to the two events. Due to concerns over defendant's ability to obtain a fair trial and the confidential nature of the information, I sealed some of the court records regarding defendant's alleged prior bad acts. In light of my ruling on the 404(b) evidence, I also determined that the charges relating to the suffocation had to be tried separately from the home circumcision. After I made these rulings defendant entered into a plea agreement.

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Counsel for Defendants: Robert Oldham
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8. *State v. Fuller*, No. CR17784 (2008) (affirmed by Wyoming Supreme Court, 230 P.3d 309 (Wyo. 2010)).

Defendant was charged with felony destruction of property arising out of a dispute with his wife. Defendant and his wife rented a house along with a detached garage. Defendant also carried renters insurance on the property. After a fight with his wife, defendant took his pickup and rammed it through the closed garage door, into his and his wife's car. The car was pushed into the front wall of the garage doing significant damage. Ultimately, this damage was repaired and paid for by defendant's renter's insurance. Defendant sought dismissal of the felony property destruction charges on the car and house, claiming under Wyoming law he could not be charged with destruction of his own property. I agreed as to the car, but denied dismissal on the claim relating to the damage to the rented garage, given the language under Wyoming Statutes. A jury found defendant guilty of the felony property destruction and the Wyoming Supreme Court affirmed.

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Counsel for Defendants: Kimberly Corey
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9. *State v. Farmer*, No. CR15277 (2004) (affirmed by the Wyoming Supreme Court, 124 P.3d 699 (Wyo. 2005)).

Defendant was charged with aggravated assault after he stabbed his neighbor, Mr. Goodhue. Defendant had previously been tried and convicted of this charge but due to errors during the trial, the parties stipulated to re-trial, over which I presided. Defendant contended that he was asleep in his home when he was awakened by loud noises and went outside to investigate. Initially, he thought the commotion was caused by the occupant of a vehicle which he observed in the neighborhood. He yelled at the occupant in the car. When the car left, he focused his attention on Mr. Goodhue's residence, where several individuals were present. They heard Mr. Farmer yelling and approached the fence bordering Mr. Farmer's property, where words were exchanged and the altercation escalated. The State contended that after the initial verbal confrontation, Mr. Farmer jumped the fence and attacked the neighbor's brother, who then entered the fray. After a brief scuffle, Mr. Farmer retreated to his home, the others returned to the Goodhue property, and several remained outside. A short time later, Mr. Farmer jumped over his fence, crossed the road, entered Mr. Goodhue's property and stabbed Mr. Goodhue in the chest before returning to his home. At trial the primary issue was self-defense and the ability of the state to use the prior trial testimony of Mr. Goodhue's brother. After a two week jury trial defendant was convicted of aggravated assault.

Counsel for State:	Stephanie Sprecher U.S. Attorney's Office 100 East B Street, Suite 2211 P.O. Box 22211 Casper, WY 82602 Telephone: (307) 261-5434
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Counsel for Defendants:	Donald Lee Tolin 254 North Center Street, Suite 102 P.O. Box 50007 Casper, WY 82605 Telephone: (307) 234-0864
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10. *State v. Grissom*, No. CR16068 (2005) (affirmed by the Wyoming Supreme Court, 121 P.3d 127 (Wyo. 2005)).

The defendant was charged with misdemeanor drug possession charges and a felony charge of possession with intent to distribute methamphetamine. Defendant was initially arrested when he was observed running from a hotel room, upon observing law enforcement. After officers apprehended him, defendant was found to be carrying various drug paraphernalia in his fanny pack. In addition, after being placed in the patrol car defendant made various spontaneous statements that were incriminating. Defendant was ultimately

convicted by the jury of all counts. On appeal, defendant asserted that his trial counsel had been ineffective because they did not seek to suppress the items seized from the hotel room or fanny pack. In addition, no effort was made to suppress the spontaneous statements made by defendant. The Wyoming Supreme Court rejected these arguments and affirmed.

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Counsel for Defendants: Donald Lee Tolin
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Casper, WY 82605
Telephone: (307) 234-0864

- 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. *Stinson v. Fire Ins. Exch.*, No. CV82788 (January 5, 2005, Order Granting in Part and Denying in Part Defendants' Motion for Partial Summary Judgment).

Counsel for Plaintiffs: Judith Studer
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Counsel for Defendants: Blair Trautwein
#3 Clock Tower Square
323 South College Avenue
P.O. Box 2166
Fort Collins, CO 80522
Telephone: (970) 237-5694

2. *Bonin v. Wyoming Oncology Prof'ls, LLC*, No. CV86481 (January 5, 2007, Order Denying Plaintiff's Motion to Vacate Arbitration Award and Granting Defendant's Cross Motion for Confirmation).

Counsel for Plaintiff: Eldon E. Silverman
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Denver, CO 80202
Telephone: (303) 296-4440

Counsel for Defendant: Weston W. Reeves
242 South Park Street
Casper, WY 82601
Telephone: (307) 265-3843

3. *Choong v. Intertribal Addictions Recovery Org.*, No. CVC03-10-412, Fourth Judicial District (Order Granting Defendant Intertribal Addictions Recovery Organization's Motion for Summary Judgment).

Counsel for Plaintiff: H. W. Rasumussen
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Telephone: (307) 674-2185

Counsel for Defendant: Rex O. Arney
Brown, Drew & Massey, LLP
532 Val Vista, Suite 107
Sheridan, WY 82801
Telephone: (307) 673-8565

Virgil G. Kinnaird
Kinnaird Law Office, PC
449 South Main Street
P.O. Box 627
Sheridan, WY 82801
Telephone: (307) 672-9771

4. *Macias v. State of Wyoming*, No. CR16682 (Order affirming Circuit Court's denial of motion to suppress).

Counsel for Appellant: Cindi Wood
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P.O. Box 2826
Casper, WY 82602
Telephone: (307) 237-7300

Counsel for Appellee: Joshua D. Stensaas
District Attorney's Office
400 North David Street, Suite 400
Casper, WY 82601
Telephone: (307) 235-9223

5. *Wyoming Dep't of Revenue v. Exxon Mobil Corp.*, 162 P.3d 515 (Wyo. 2007).

Counsel for Appellant: Michael L. Hubbard
Wyoming Attorney General's Office
2424 Pioneer Avenue
Cheyenne, WY 82002
Telephone: (307) 777-7841

Counsel for Appellee: Patrick Reed Day
Holland & Hart, LLP
2515 Warren Avenue, Suite 450
P.O. Box 1347
Cheyenne, WY 82003
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6. *In re JW*, No. JV10046 (2007) (Order on Permanency). Because it is a confidential juvenile proceeding, my opinion in the case is sealed, but the Wyoming Supreme Court's decision reversing my order is found at 226 P.3d 873 (Wyo. 2010).

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Jill Kucera
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Telephone: (307) 777-6142

Counsel for Mother: Jamie M. Woolsey
Center Street Law Offices, LLC
530 South Center Street
Casper, WY 82601
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Guardian Ad Litem: Lori Gorseth
Campbell County Attorney's Office
500 South Gillette Avenue, Suite B-200
Gillette, WY 82716
Telephone: (307) 682-4310

7. *Harper v. Fidelity and Guaranty Life Ins. Co.*, No. CV88306 (2007) (Order Granting Defendant's Motion for Summary Judgment). The Wyoming Supreme Court's affirmance of this decision is found at 234 P.3d 1211 (Wyo. 2010).

Counsel for Plaintiff: Stephen Winship
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Counsel for Defendant: Julie Tiedeken
McKellar, Tiedeken & Scoggin, LLC
702 Randall Avenue
P.O. Box 748
Cheyenne, WY 82003
Telephone: (307) 637-5575

8. *Starkey v. Starkey*, No. CV68478 (2006) (Order Regarding Overpayment). The Wyoming Supreme Court's affirmance of this decision is found at 161 P.3d 515 (Wyo. 2007).

Counsel for Plaintiff: Eric A. Distad
Natrona Child Support Enforcement
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Counsel for Defendant: Gibson Sean Benham
Benham Law Firm
536 South Center Street
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9. *Berg v. State ex rel. Wyoming Workers' Safety and Comp. Div.*, No. CV81051 (2004) (decision letter reversing award of benefits). The Wyoming Supreme Court's affirmance of this decision is found at 106 P.3d 867 (Wyo. 2005).

Counsel for Plaintiff: David Drell
Vlastos, Henley & Drell, PC
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Counsel for Defendant: Alora L. Kempster
Kempster Law Office, PC
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10. *Porter v. Hottle*, No. CV83820 (2004) (Order Granting in Part and Denying in Part Defendants' Motion for Summary Judgment).

Counsel for Plaintiff: Patrick Dixon
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Counsel for Defendant: Drew Perkins
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1607 CY Avenue, Suite 104
Casper, WY 82604
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e. Provide a list of all cases in which certiorari was requested or granted.

I am not aware of any case over which I presided in which certiorari was requested or granted by the Supreme Court of the United States.

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.

Wyoming Supreme Court

To date, the Wyoming Supreme Court has reversed two of my decisions, *Hansuld v. Lariat Diesel Corporation*, 2010 WY 160, --- P.3d --- (Dec. 9, 2010) and *In re JW*, 226 P.3d 873 (Wyo. 2010).

In *Hansuld*, the Supreme Court, contrary to my holding, determined that Hansuld held an implied easement across Lariat Diesel's land for the use of a water line. In addition, the Court rejected my determination that *res judicata* applied to Lariat Diesel's counterclaim seeking a determination as to the exact legal description of Lariat's access easement.

In *In re JW*, in a three-to-two decision, the Wyoming Supreme Court reversed my permanency order in a neglect case for foster parent adoption, holding that under Wyoming law, a compelling preference exists for placement of children with nuclear or extended family which had not been overcome.

I do not believe any cases in which I was affirmed contain significant criticism of either my substantive or procedural rulings.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

With the exception of the one appellate opinion I wrote while sitting by designation on the Wyoming Supreme Court, all of my orders and opinions issued in my capacity as a State District Court Judge are unpublished. I believe I have issued between 60 to 80 unpublished opinions, some written and many orally transcribed by my court reporter. Each order and opinion is placed in the files of the clerk of court or preserved by my court reporter's transcript of my oral ruling.

- 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.

State v. Bethke, CR16066 (2004)

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

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

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

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

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

For the first year following my appointment, I automatically recused myself from any cases in which my former law firm was involved. This required reassignment in approximately three cases. I did not keep a record of those cases. My family has maintained a longtime friendship with two lawyers in this community and I have reassigned cases in which they were involved. I believe this has been a total of two cases, but I do not keep a record and do not recall the specific cases.

I reassigned a capital murder, death penalty case, because I knew the victim's son and he was in the same class with my daughter. Given the significance of the issues in the case and the likelihood this child would testify, I did not want to compromise the integrity of the proceedings by an appearance of impropriety and reassigned it. The case name is *State v. Rolle*, CR17539, Seventh Judicial District Court (Wyo. 2008). I also reassigned a guardianship involving the victim's son for the same reasons. Recently I reassigned a first-degree rape and kidnapping case (*State v. McDowell*, CR18207, Seventh Judicial District Court (2009)). Because I had been involved in the issuance of several search warrants regarding cellular records and internet protocol addresses and social site access, I was concerned that a challenge to those search warrants I had issued was likely. Thus, I reassigned to avoid any conflict or appearance of conflict. Ultimately, no legal challenge to the search warrants arose.

I have reassigned two divorce cases, *Klungness v. Klungness*, CV89407 (2008) and *Kopitnik v. Kopitnik*, CV 92333 (2010), because the parties and their children were my next-door neighbors.

I have had three cases in which *pro se* parties have sought my removal from civil proceedings involving land ownership and zoning issues. These *pro se* parties consider themselves "Freeman" or "sovereign citizens." Those cases are *Taylor v. LeClair*, CV83984 (2006), which involved claims against a zoning enforcement officer for the City of Casper. The motion to have me recused was assigned to another judge who denied it for lack of legal merit. Similarly, in the case of *Natrona County v. Corrigan*, CV90590 (2009), the defendant sought my recusal for alleged bias and prejudice. The motion was reassigned to another judge who denied it for lack of legal merit. Finally in *Waid v. Cotton*, CV85878 (2006), the defendant sought my removal after I had issued a ruling unfavorable to his position. Based upon the Wyoming Rules of Civil Procedure, Rule 40.1, I denied the request for lack of any factual basis. I believe there may be one case in which I was pre-empted (without cause) by counsel because I had handled the female defendant's underlying child neglect case. I am unable to recall the party's name or the counsel involved.

I, along with all of the other district judges in the Seventh Judicial District, recused myself from two criminal proceedings, *State v. Christ*, CR17394 (2007) and *State v. Christ*, CR17396 (2007), because one of the defendants was a former deputy clerk of the district court and the alleged crimes by the defendants involved forgery of child support checks by her and her husband. In addition, I reassigned a conservatorship involving the former deputy clerk of court, *In the Matter of the Conservatorship of Christ*, PR20135 (2006), because the criminal charges alleged she had withdrawn funds from the conservatorship without my authorization, as required in the order. Therefore, I was a potential witness in the matter.

I do not recall any other situations in which I have recused myself, disqualified myself or have been asked to recuse or disqualify 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.

In approximately 2004, I was appointed by the Natrona County Commissioners to be the District Judge appointment to the Adult Community Correction Board. This is a statutorily created board that reviews and manages the admission of inmates to the Casper Adult Community Corrections facility under contract with the Wyoming Department of Corrections. Since approximately 2008, I have served as the secretary on this board.

I have not been a candidate for elective office, nor have I been an unsuccessful nominee for an 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 an office in or rendered services to any political party or organization. I have not played a role in a political campaign.

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;

1994 – 1997: After graduating from law school and working for two years in private civil practice, I served as a law clerk to the Honorable William F. Downes of the United States District Court for the District of Wyoming.

- 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.

1992 – 1994

Brown & Drew (now Brown Drew & Massey LLP)
159 North Wolcott, Suite 200
Casper, Wyoming 82601
Associate

1997 – 2003

Williams, Porter Day & Neville, P.C.
159 North Wolcott, Suite 400
Casper, Wyoming 82601
Associate (1997 – 1998)
Partner (1999 – 2003)

- 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, outside my capacity as a district judge.

b. Describe:

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

My practice focused primarily on civil litigation. As an associate attorney from 1992 to 1994, I took whatever cases were assigned. I became involved in more complex litigation after my clerkship in 1997. These cases ranged from employment claims to products liability actions along with the defense of personal injury claims. After becoming a partner I continued to develop my employment law practice but became more

involved in the representation of natural resource companies and appellate work. My representation of natural resource companies included royalty and tax issues as well as environmental issues. In the year preceding my appointment to the State District Court bench, a growing amount of time was spent on class actions claims concerning appropriate deductions from royalty payments for natural gas transportation costs.

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

During my first years of practice, in addition to natural resource companies, I also was involving in medical malpractice insurance defense work or whatever the partners I worked with requested. After completing my federal clerkship in 1997, I became more involved in representing natural resource companies on various tax, royalty and environmental issues. I also became more directly involved in several worksite injuries cases involving independent contractor issues. Due to my exposure to employment law claims as a law clerk my employment law practice grew and I was involved in advising medical centers and school districts on various employment issues. I also took on some limited work representing families in two different wrongful death cases involving an airplane wreck and another involving a car crash.

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

- i. Indicate the percentage of your practice in:

- 1. federal courts: 25%
- 2. state courts of record: 65%
- 3. other courts: 5%
- 4. administrative agencies: 5%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 95%
- 2. criminal proceedings: 5%

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

I estimate that I tried approximately 14 cases, five as chief counsel, seven as associate counsel and two as sole counsel.

- 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 practiced before the Supreme Court of the United States.

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

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

1. *Kerr-McGee Corp. v. ANR Prod. Co.*, CV11117, Eighth Judicial District Court, Converse County, Wyoming, Honorable Gary Hartman, 1992 – 1994.

As an associate I, along with various partners in the Brown & Drew law firm, represented Kerr McGee Corporation. Kerr McGee Corporation, on behalf of working interest owners in the Powell Pressure Maintenance Unit, Converse County, Wyoming brought suit against ANR Production for trespass and conversion of hydrocarbons. Kerr McGee alleged, and it was ultimately found, that ANR Production, through a fracture treatment of its completed well, had trespassed into and was producing hydrocarbons from a production zone only Kerr McGee and its other working interest owners were entitled to produce. After a bench trial it was determined that ANR had in fact fractured into and produced substantial quantities of hydrocarbons from Kerr McGee's production zone. In addition to the value of the hydrocarbons converted by ANR Production, the Court awarded several million dollars in interest on the value of that production. I was principally involved in the briefing on post-judgment motions and challenges to the interest awarded. ANR Production contended that the trial court erred in awarding interest on the value of the hydrocarbons converted because the value of those hydrocarbons was not liquidated. Ultimately the Wyoming Supreme Court sustained our position and

held that the finder of fact may award interest as an element of damages in a conversion case regardless of whether the claim is liquidated or unliquidated. *ANR Prod. Co. v. Kerr-McGee Corp.*, 893 P.2d 698 (Wyo. 1995). Lead counsel with me on this case were Craig Newman, 123 West 1st Street, Suite 675, Casper, Wyoming 82602, Tel (307) 237-9588 and the Honorable William F. Downes, 111 South Wolcott, Casper, Wyoming 82601, Tel (307) 232-2600.

Opposing counsel:
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Houston, TX 77002
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2. *BHP Petroleum, Inc. v. Texaco Exploration and Prod., Inc.*, CV73979, Seventh Judicial District Court, Hon. Dan Spangler, 1997 – 2000.

This was a breach of contract case in which I represented the defendant, Texaco, primarily in drafting the summary judgment briefs. Plaintiff BHP, as the operator of a federal oil and gas unit located in Wyoming, brought suit asserting breach of contract against Texaco for reimbursement of oil and gas royalties alleged paid by BHP, as operator of the MDU, on behalf of Texaco. Texaco moved for summary judgment on the basis that BHP's breach of contract claim was governed by either the Colorado six-year or Texas four-year statute of limitation. BHP contended that Wyoming's ten year statute of limitation applied. The trial court granted our motion for summary judgment, finding that Wyoming's statute of limitation did not apply and that BHP's claims were barred under either the Texas or Colorado statute of limitation. The Wyoming Supreme Court affirmed, *BHP v. Texaco*, 1 P.3d 1253 (Wyo. 2000). Lead counsel with me on this case was Richard E. Day, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel:
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Tim Bush
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Cheyenne, WY 82003
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3. *Patterson v. Brown-Foutz Co.*, CV77399 and *Office Max, Inc. v. Brown-Foutz Co.*, CV79093, Seventh Judicial District Court, Hon. W. Thomas Sullins, 2000 – 2001.

This was a slip and fall accident at a retail store. I represented the contractor who was in the process of finalizing and turning over the property to the owner when Ms. Patterson slipped and fell in the parking lot. After my client settled with Ms. Patterson she sued Office Max, Inc., for whom my client had constructed the building. In turn, Office Max sued my client for equitable indemnity under Wyoming law. Ultimately, I was able to obtain summary judgment in my client's favor on the indemnity claims. I had no co-counsel in this case.

Opposing Counsel:
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Weston W. Reeves (Office Max)
Park Street Law Office
242 South Park Street
Casper, WY 82601
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4. *Hittel v. WOTCO, Inc.*, CV76104, Seventh Judicial District Court, Hon. W. Thomas Sullins, 1998 – 2000.

I was co-counsel for WOTCO in this matter and primarily was involved in drafting the summary judgment brief and brief on appeal. Plaintiff fell through a skylight at WOTCO's facility while working for a third party, Steel Structures. Steel Structures had been hired by WOTCO to construct new roofs on several of their buildings. Plaintiff claimed that WOTCO exercised control over the method and manner used in constructing the new roof, and therefore was liable for his injuries. The trial court granted summary judgment concluding that WOTCO owed no legal duty to plaintiff because the undisputed facts established that WOTCO did not exercise sufficient control over the details of the work or how the work was performed. The Wyoming Supreme Court affirmed on appeal, *Hittel v. Wotco, Inc.*, 996 P.2d 673 (Wyo. 2000). My co-counsel on this case was Patrick Murphy, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

Opposing Counsel:
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5. *Wells v. Bd. of Trs. of Laramie Cnty. Sch. Dist. No. 1*, Docket 149, No. 449, First Judicial District Court, Hon. Nick Kalokathis, 1997 – 2000.

I was co-counsel in this matter and represented the Laramie County School District. I drafted many of the pleadings, summary judgment and appellate briefs. The School District was sued by one of its teachers, Mr. Wells, for breach of contract, promissory estoppel, breach of the covenant of good faith and fair dealing and deprivation of due process. Plaintiff brought these claims after the School District reduced his salary in accordance with the negotiated agreement with the teacher's union. Defendants obtained summary judgment on all claims, based upon a finding that the school district could not enter into an agreement contrary to the terms of the negotiated agreement and, as a governmental entity, promissory estoppel could not be applied. The Supreme Court reversed, finding that genuine issues of material fact existed regarding whether the contracts had been ratified and that promissory estoppel could not be invoked when the state agency (school district) was functioning in a proprietary capacity. *Wells v. Bd. of Trs. of Laramie Cnty. Sch. Dist. No. 1*, 3 P.3d 861 (Wyo. 2000). My co-counsel in this case was Stuart Day, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

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6. *Wyoming Med. Ctr., Inc. v. Murray*, CV76415, Seventh Judicial District Court, Hon. David Park, 1999 – 2001.

I represented the Wyoming Medical Center (WMC) in a slip and fall tort case. Plaintiff had slipped and fallen on ice in the WMC parking lot and sustained back and knee injuries. The cause and extent of those injuries were disputed because prior to the slip and fall, plaintiff had suffered back and knee problems. At trial the jury awarded Plaintiff approximately \$60,000. WMC appealed the verdict asserting that the trial court erred in instructing and allowing the jury to consider the issue of future damages, due to the lack of any evidence to establish that those injuries were caused by the slip and fall, as opposed to pre-existing problems. The Wyoming Supreme Court affirmed the

jury verdict. *Wyoming Medical Center, Inc. v. Murray*, 27 P.3d 266 (Wyo. 2001). My co-counsel in this case was Scott Ortiz, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

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7. *Madsen v. BP America Prod. Co.*, CV10105, Third Judicial District Court, Honorable Dennis L. Sanderson, 2000 – 2003.

This case was one of several class action suits in which I represented various hydrocarbon production companies in class action lawsuits. I was primarily responsible for drafting and arguing legal motions and working with clients on the gathering of data. These class action lawsuits had been brought by royalty interest owners under the Wyoming Royalty Payment Act (WRPA). These royalty interest owners claimed the hydrocarbon production companies had improperly deducted various pipeline transportation costs from their royalty payments for primarily natural gas. As to class certification, a threshold issue concerned the ability, given the language of the WRPA, to certify a statewide class of plaintiffs verses a county wide class. These cases involved parties with interests in multiple fields and counties across the state of Wyoming. This jurisdictional issue was certified to the Wyoming Supreme Court and the Supreme Court held that the WRPA allowed for state-wide jurisdiction. A resolution of the jurisdictional issue was necessary in order to ensure any settlement was valid and binding on all class members. These cases were later settled. My local co-counsel in these cases were Frank Neville and Richard Day, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700. Other participating co-counsel were Kirby Iler, 1501 Stampede Avenue, Cody, Wyoming 82414, Tel (307) 527-2221, and Harrell Feldt, 241 Earl Garrett Street, Kerrville, Texas 78028, Tel (830) 792-8888.

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8. *Young v. VME Americas Inc.*, 97-CV-01021-CAB (D. Wyo. 1997), Wyoming Federal District Court, Honorable Clarence Brimmer, 1997 – 2002.

This was a products liability case involving a front end loader manufactured by Volvo America. I defended Volvo along with co-counsel. I was primarily involved in witness preparation and jury instructions. Plaintiff was injured when, while standing under the bucket, he removed the main hydraulic line running to the hydraulic cylinder for lifting and lowering the bucket. Upon release of the line, the pressurized hydraulic fluid escaped from the cylinder causing the bucket to drop quickly lower. Mr. Young was unable to escape and he became trapped between the bucket, ground and front end of the loader, causing significant ankle and hip injuries. Plaintiff asserted that the lifting mechanism was defectively designed and there was a failure to warn of the danger associated with removal of the main hydraulic line with the bucket raised. We contended that the product was safe when used in its normal manner. It was not reasonably foreseeable that plaintiff would raise the bucket and then remove the main hydraulic line to the cylinder. We contended that this plaintiff's conduct was an unforeseen misuse and that the product operated as it was intended. Moreover, we contended the danger of removing the main hydraulic line from the lifting cylinder with the bucket raised was an obvious danger not requiring warning. The jury returned a defense verdict on all claims. There was no appeal. Co-counsel was Patrick Murphy, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

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9. *Franks v. Independent Prod. Co., Inc.*, CV22891, Sixth Judicial District Court, Campbell County, Honorable John Perry, 2000 – 2002.

I represented Independent Production Co., Inc. (IPC) in a wrongful death suit brought against it by the estate of Mr. Franks. I was primarily involved in drafting the motion for summary judgment and the appellate brief. Mr. Franks, who worked for a trucking company, was tragically killed while helping a drilling hand unload drill pipe casing from Mr. Franks' flatbed trailer. The

drilling hand was using a front end loader with forks and Mr. Franks was attempting to balance the pipe on the forks when he fell from the trailer. The pipe then became unbalanced and fell off the forks onto Mr. Franks, killing him. My client was the oil and gas leaseholder who hired A-1 Drilling to drill a coal bed methane well on the leased property. IPC also hired R&J Production to supervise all development, production, and drilling operations on the well site. Franks contended that my client had a non-delegable duty to provide a safe work environment and that the backhoe operator was a "borrowed servant" for whose negligent acts IPC was responsible and liable. My client moved for summary judgment on the basis that it had no legal duty to Mr. Franks because it did not control the drilling operations or have a duty to control the work environment. The district court granted summary judgment in my client's favor finding that IPC did not owe any legal duty to Mr. Franks. This ruling was affirmed on appeal. *Franks v. Independent Prod. Co., Inc.*, 96 P.3d 484 (Wyo. 2004). Co-counsel was Patrick Murphy, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper Wyoming 82601, Tel (307) 265-0700.

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10. *James v. Amoco Prod.*, CV28909, Ninth Judicial District Court, Fremont County, Honorable Nancy Guthrie, 1998 – 1999.

I represented Amoco Production, an oil and gas company, in a suit brought against them by Mr. James, an employee of Teton Well Service. Teton Well Service was a roustabout company that, under contract with Amoco, performed oil and gas well maintenance work for wells operated by Amoco in Fremont County, Wyoming. Some of these wells produced H₂S gas as a deadly by-product. While performing work at the direction and control of his employer, Teton Well Service, Mr. James was exposed to H₂S gas, resulting in alleged injuries. Mr. James sued Amoco Production alleging that it had a duty and failed to provide him with a safe working environment, resulting in his exposure to H₂S gas and his injury. Amoco Production Company sought summary judgment on the basis that it did not direct or control the work done by Teton or Mr. James, thus it had no legal duty or control over the events leading to his alleged injuries. The district court agreed and granted my motion for summary; the order was not appealed. My co-counsel was Frank Neville, Williams, Porter, Day & Neville, P.C., 159 North Wolcott, Suite 400, Casper, Wyoming 82601, Tel (307) 265-0700.

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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.)

While in private practice, 1997 to 2003, I was involved with the Wyoming State Bar and my law firm in creating internet websites and network systems to efficiently utilize technology in the legal practice. Upon becoming a State District Court Judge, I was asked to be part of the Wyoming Judiciary's Court Technology Committee (CTAC). The Court Technology Committee reviews various technological needs of the Wyoming Judiciary. Three technological improvements that I have been involved with include creating a statewide wireless network for judicial and subsequently public use to access email, networks and the internet. For the last two years, I have also been a part of a Statewide committee comprised of State District Court Clerks, Wyoming Judiciary IT staff and software vendors working on a Statewide District Court electronic case management software system and ultimately electronic filing. In addition, I have been involved in the implementation of a statewide judicial video network to enable parties and/or witnesses to appear via video technology.

In 2008, I collaborated with Professor John Burman and other members of the select committee to review and update Wyoming's Code of Judicial Conduct. I participated in numerous teleconferences between January and October 2008 to update Wyoming's Code of Judicial Conduct. The committee's recommended changes were adopted and became effective July 1, 2009.

In November of 2008, civil legal services for indigent Wyoming citizens were in complete disarray. The Wyoming Legal Services program had lost its funding and, outside the University of Wyoming College of Law legal services clinic, there were no legal resources available to indigent civil litigants. This crisis resulted in the creation of the Wyoming Access to Justice Commission, of which I was a member. Ultimately, that Commission, after many meetings and discussions, developed a long-term strategy to address the funding in civil matters involving indigent parties. The first part of that plan was presented to the Wyoming legislature in early 2010, resulting in the creation of a funding mechanism to address indigent representation in certain civil matters. We are now working on a statewide delivery system to provide the needed legal resources needed. I was proud to be a part of that process and believe it is vital to the operation of the legal system.

I have not performed lobbying activities on behalf of any client or organization.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee. I have not taught any courses.

I have not taught any classes.

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 will receive payments, upon my retirement, from the Wyoming Judicial Retirement Plan.

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

I have no such plans.

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 know of nothing that would present a potential conflict of interest.

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

If any matter were to arise that involved an actual or potential conflict of interest, I would handle it by careful and diligent application of the Code of Conduct for United States Judges as well as other relevant Canons and statutory provisions.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

During my years in private practice, I took occasional assignments from the State District Court Judge to represent indigent parties in neglect or juvenile delinquency proceedings, or to serve as a Guardian Ad Litem. From time to time, I would, without charging a fee, represent or advise indigent individuals from church or friends in small claims matters. In addition to United Way fund raising, I provided legal advice for the various community boards on which I have served. Over the years, I have also done a great deal of moot court instructing or judging for junior high and high school students. I have also participated in bar association sponsored Law Day activities and have hosted numerous high school and grade school field trips to the Courthouse. I have given of my personal time to participate in the Access to Justice Commission in an effort to establish a State wide system to fund and provide legal services to the indigent in civil matters. This last year I hosted the Wyoming high school State wide moot court competition, at which I judged the initial and championship rounds.

26. **Selection Process:**

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

In approximately August of 2010, upon learning that there would be an opportunity for appointment, I verbally expressed my interest to Governor Freudenthal. On approximately October 11, 2010, I received a telephone call from the Governor asking me to submit a resume for his consideration. On

November 4, 2010, I learned that my name, along with two others, had been submitted to the White House for consideration. There were no interviews or, to my knowledge, any selection commission involved.

Since November 8, 2010, I have been in contact with pre-nomination officials at the Department of Justice. On December 21, 2010, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On February 16, 2011, 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.

AFFIDAVIT

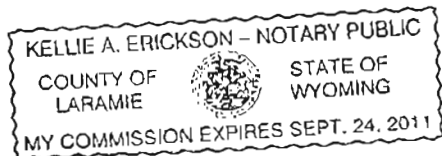
I, Scott W. SKAVDAHL, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

2/14/2011

(DATE)

Scott W. Skavdahl

(NAME)



Kellie A. Erickson

(NOTARY)