

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Susan Pamela Watters
Susan Pamela Dunn (formerly)
Susan Pamela Elsberry (formerly)
Susan Pamela Klein (formerly)

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

United States District Judge for the District of Montana

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.

State of Montana Thirteenth Judicial District Court
301 South Park, Suite 328
Helena, Montana 59620

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

1958; Billings, Montana

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.

1985 – 1988, University of Montana School of Law; J.D., 1988

1976 – 1980, Eastern Montana College (currently Montana State University-Billings);
B.A. (honors), 1980

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.

1998 – present
State of Montana Thirteenth Judicial District Court
301 South Park, Suite 328
Helena, Montana 59620
District Judge

1996 – 1998
Hendrickson, Everson, Noennig & Woodward, P.C.
208 North Broadway, Suite 324
Billings, Montana 59103
Senior Associate

1995 – 1996
Watters Law Firm
301 North 27th Street
Billings, Montana 59101
Sole Practitioner

1989 – 1995
Yellowstone County Attorney's Office
Yellowstone County Courthouse
217 North 27th Street
Billings, Montana 59101
Deputy County Attorney

1988 – 1989
State of Montana Thirteenth Judicial District Court
217 North 27th Street
Billings, Montana 59101
Law Clerk to the Honorable Maurice Colberg (November – December 1989)
Law Clerk to the Honorable Diane G. Barz (1988 – 1989)

1986 – 1988
Garlington, Lohn & Robinson, PLLP
350 Ryman Street
Missoula, Montana 59802
Legal Intern

1984 – 1985
Byington, Deveny & Meyer, P.C.
Missoula, Montana 59802
Administrative Assistant

1976 – 1984
HC Oil Company, Inc.
1302 Avenue D

Billings, Montana 59102
Administrative Assistant

Other Affiliations (uncompensated):

2006 – 2007

Montana Judges' Association
1010 Main Street
Miles City, Montana 59301
President

1996 – 2002

Tumbleweed Runaway and Homeless Youth Program
505 North 24th Street
Billings, Montana 59101
President (2001 – 2002)
Board of Directors (1996 – 2002)

1996 – 2002

Child & Family Intervention Center
3212 First Avenue South
Billings, Montana 59101
Board of Directors

1994 – 1996

Yellowstone County Bar Association
(No physical address)
Board of Directors

1990 – 1994

Youth Information Management Team
(No physical address)
Board of Directors

1990 – 1991

Serious Habitual Offender Program
(No physical address)
Board of Directors

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

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

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

The Advanced Science and Technology Adjudication Resource Center National Judges Science Program Fellow (2009)

Montana State University-Billings (formerly Eastern Montana College), Distinguished Alumna (2009)

Court Appointed Special Advocates, Judge of the Year (2005)

Roots of Promise Spirit of Promise Award (presented to the Yellowstone County Family Drug Treatment Court, over which I preside) (2006)

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.

Criminal Justice Act Panel Attorney (1995 – 1998)

Drug, Alcohol, Tobacco and Other Drug Control Policy Task Force (2002)

Montana District Courts Judicial Workload Assessment Study Committee (2006-2010)

Montana Judges' Association (1998 – present)
President (2006 – 2007)

Montana State Bar Association (1988 – present)

National Association of Criminal Defense Lawyers (1996 – 1998)

Yellowstone County Bar Association (1988 – 1998)
Board of Directors (1994 – 1996)

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.

Montana, 1988

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 Court of Appeals for the Ninth Circuit, 1996
United States District Court for the District of Montana, 1988
Supreme Court of Montana, 1988

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.

Child & Family Intervention Center (1996 – 2002)
Board of Directors

Serious Habitual Offender Program (1990 – 1991)
Board of Directors

Tumbleweed Runaway and Homeless Youth Program (1996 – 2002)
Board of Directors (1996 – 2002)
President (2001 – 2002)

Youth Information Management Team (1990 – 1994)
Board of Directors

- 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 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.

Letter to the Editor, *Voice of the Reader*, Billings Gazette, September 16, 2005. 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.

Although I did not draft the Montana District Court Judicial Workload Assessment Study Final Report (2007), I contributed generally to the extent I was on the Workload Study Committee and provided input during committee discussions regarding the caseloads in Montana and in the Thirteenth Judicial District and also participated with the other state judges in providing caseload statistics. Copy supplied.

Otherwise, I have not prepared or contributed to any reports, memoranda or policy statements on behalf of any bar association, committee, conference, or organization of which I was or am a member.

- 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.

In approximately July 2008, in conjunction with my role on the Workload Study Committee, I discussed with the Yellowstone County Commissioners that the study indicated the Thirteenth Judicial District was short at least two judges. I do not have any notes, transcripts, or recordings of this discussion and minutes are not kept of informal discussions.

On or about March 19, 2007, I and several of my colleagues spoke to the Yellowstone County Commissioners regarding the benefits of making the Yellowstone County Justice Court a court of record. My statements to the Commissioners are generally reflected in the Billings Gazette article, Tom Howard, *Judges Request Court-of-Record Designation*, Billings Gazette, March 19, 2007. Copy supplied.

In approximately June 2006, I and several of my colleagues spoke to the Yellowstone County Commissioners in support of the Clerk of Court's request for authorization from the Commissioners of overtime for her staff due to the increasing workload in her office. I do not have any notes, transcripts, or recordings of this discussion. It occurred during a budget hearing and no minutes are kept.

On November 29, 2006, Judge Joe Hegel wrote to Montana Representative Gutsche regarding the issue of mental health and drug treatment courts and quoted my response to him regarding drug treatment courts providing services for people with co-occurring mental health disorders. Copy supplied.

On May 12, 2004, I spoke to the Montana District Court Council about the need to reimburse attorneys hired by the Office of Public Defender to represent indigent participants in state drug courts. Minutes supplied.

On May 5, 2000, the five judges of the Thirteenth Judicial District sent a letter to the Chief Public Defender at the Yellowstone County Public Defenders Office stating our concerns with the number of increased motions to substitute public defender attorneys for private sector attorneys acting as conflict counsel, the difficulties we were having getting information from the chief deputy public defender about whether up-coming trials were going or not, and how often neither of those individuals were in court or available in their offices. Copy supplied

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

January 28, 2013: Speaker, "The Court System," the Golden Kiwanis Club, Billings, Montana. Remarks supplied.

November 10, 2012: Speaker, "The Benefits of Adoption," National Adoption Day, Billings, Montana. Remarks supplied.

March 2012: Panelist, "What Civil Court Judges Want you to Know," National Business Institute. I was a panelist with several other judges answering primarily procedural questions and addressing what lawyers do that is helpful and not so helpful to the courts in civil litigation. I do not have any notes, transcripts, or

recordings of the event. The address of the National Business Institute is 1218 McCann Drive, Altoona, Wisconsin 54720.

November 12, 2011: Speaker, "The Benefits of Adoption," National Adoption Day, Billings, Montana. Remarks supplied.

November 2010: Speaker, "The Benefits of Adoption," National Adoption Day, Billings, Montana. I do not have a copy of my remarks from November 2010, but my remarks would have been similar to those I made in November 2011 and 2012.

July 2009: I administered the oath of office to the new Yellowstone County Sheriff at his swearing-in ceremony at the Yellowstone County Courthouse. I do not have any notes, transcripts, or recordings of the event, but press coverage is supplied. The address of the Yellowstone County Courthouse is 217 North 27th Street, Billings, Montana.

April 3, 2009: Panelist, "Evidentiary Issues in Medical Litigation," Montana Trial Lawyers Association Spring Seminar, Medical School for Lawyers, Billings, Montana. I was a panelist with my judicial colleagues and answered questions from the attending attorneys regarding various evidentiary issues related to medical malpractice and personal injury litigation. I do not have any notes, transcripts, or recordings of the event. The address of the Montana Trial Lawyers Association is 32 South Ewing, Suite 312, Helena, Montana.

March 28, 2009: Speaker, Acceptance Speech for the Distinguished Alumna Award, Montana State University-Billings, Billings, Montana. Remarks supplied.

June 4 – 5, 2007: Speaker, "Meth Epidemic: Prevention and Intervention," At Risk Conference, Montana State University Billings College of Professional Studies and Lifelong Learning and the Montana State University Billings College of Education, Billings, Montana. I believe I spoke from the perspective of the presiding judge of the Yellowstone County Family Drug Treatment Court about what I knew about the meth epidemic in our community and its effects on the children and families in the community. I do not have any notes, transcripts, or recordings of the event, but press coverage is supplied. The address of the Montana State University Billings College of Education is 1500 University Drive, Billings, Montana.

June 17, 2005: Speaker, "Justice for Montana's Children," Montana Equal Justice Conference, Billings, Montana. I presented on the Yellowstone County Family Drug Treatment Court. I do not have any notes, transcripts, or recordings of the event, but I have supplied the agenda for the conference. The address of the Montana Supreme Court, Equal Justice Task Force is 301 South Park, Suite 328, Helena, Montana 59620.

February 25, 2005: Panelist, Annual Bench-Bar CLE, Judicial Relations Committee, State Bar of Montana, Bozeman, Montana. I was part of a panel of speakers who answered questions from the audience. I do not have any notes, transcripts, or recordings of the event. The address of the State Bar of Montana is Seven West Sixth Avenue, Suite 2B, P.O. Box 577, Helena, Montana 59624.

I have participated as a judge on numerous bench/bar panels for the Yellowstone Area Bar Association and the Montana State Bar Association. My remarks generally answered procedural questions. I have no record of the specific dates of those events, and I do not have any notes, transcripts, or recordings. The Yellowstone Area Bar association has no physical address. The address for the State Bar of Montana is 7 West Sixth Avenue, Suite 2B, P.O. Box 577, Helena, Montana 59624.

Since the Yellowstone County Family Drug Court began in June 2001, I have given numerous speeches to service organizations, such as the Downtown Rotary Club and the Downtown Exchange Club, and other organizations about the family drug court. These speeches and interviews were merely informational to familiarize the audience with the family drug court program. I have no record of the specific dates or locations of those events, and I do not have any notes, transcripts, or recordings from these presentations. Neither the Downtown Rotary Club nor the Downtown Exchange Club has a physical address that I can find.

As a deputy county attorney, I spoke to Billings Police Department officers regarding search and seizure laws. I have no record of the specific dates of those events, and I do not have any notes, transcripts, or recordings. Billings Police Department, P.O. Box 1554, Billings, Montana 59101

- 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.

Clair Johnson, *Watters, Morris Get Nods for Federal Judgeships*, Billings Gazette, May 24, 2013. Copy supplied.

Billings Gazette Editorial Board, *Watters, Morris: 2 Great Choices For Federal Bench*, Billings Gazette, March 17, 2013. Copy supplied.

KULR-TV, March 12, 2013 regarding my nomination by Senator Baucus. Video supplied.

Clair Johnson, *Watters A Finalist For Federal Bench*, Billings Gazette, March 12, 2013. Copy supplied.

Clair Johnson, *2 for Federal Judgeships Announced*, Billings Gazette, March 11, 2013. Copy supplied.

Mike Dennison & Clair Johnson, *6 on Short List for Possible Nomination for 2 Federal Judgeships in Montana*, Billings Gazette, February 4, 2013. Copy supplied.

Clair Johnson, *3 Yellowstone County Judges to Seek Re-election*, Billings Gazette, January 19, 2012. Copy supplied.

Billings Gazette Editorial Board, *Drug Court Pays Off For Families, Community*, Billings Gazette, December 20, 2011. Copy supplied.

Gazette Opinion, *Investment in Drug Court Pays Off for Community*, Billings Gazette, May 16, 2010. Copy supplied.

Gazette Opinion, *Drug Treatment Court Works for Local Families*, Billings Gazette, May 20, 2009. Copy supplied.

MSU Billings Honors Outstanding Alumni, MSUB News Services, March 26, 2009. Copy supplied.

Susan Olp, *Reunited Couple Sees Better Days Coming*, Billings Gazette, November 26, 2008. Copy supplied.

Ed Kemmick, *Judges Stand for Election, But Rarely Against Any One*, Billings Gazette, February 9, 2008. Copy supplied.

Greg Tuttle, *Legal Wrangling Bogs Down Fight Involving Sheriff's Office*, Billings Gazette, January 8, 2008. Copy supplied.

Virginia A. Bryan, *Judge Susan Watters, A Dose Of Therapeutic Justice*, Yellowstone Valley Woman, September/October 2006. Copy supplied.

Ed Kemmick, *Numbers, Stories Tell Of Drug Court's Success*, Billings Gazette, August 24, 2005. Copy supplied.

Ed Kemmick, *Drug Treatment Court: A Glimmer of Hope in the Fight Against Meth*, Billings Gazette, August 24, 2005. Copy supplied.

Pat Bellinghausen, *Novel Court Helps Addicts, Their Families*, Montana Standard, September 20, 2004. Copy supplied.

Gazette Opinion, *Drug Courts Treat Cause of Justice System Overload*, Billings Gazette, September 18, 2004. Copy supplied.

Greg Tuttle, *Family Drug Court Reports 1st Success Story*, Billings Gazette, October 17, 2002. Copy supplied.

John Fitzgerald, *Prominent Local Women Say Doors Have Opened in Decade*, Billings Gazette, April 25, 2002. Copy supplied.

Susan Olp, *Public Defender-Court Tensions Ease*, Billings Gazette, January 24, 2001. Copy supplied.

Pat Bellinghausen, *Giving Parents, Kids A Second Chance In Family Drug Court*, Billings Gazette, November 4, 2000. Copy supplied.

Nick Ehli, *Watters Becomes District's 2nd Woman Judge*, Billings Gazette, January 30, 1998. Copy supplied.

Jim Gransbery, *Billings Woman Is New Judge*, Billings Gazette, December 25, 1997. 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.

Since 1998, I have served as a District Judge for the Thirteenth Judicial District of Montana, Yellowstone County, in Billings, Montana. In December 1997, I was appointed by Governor Marc Racicot and immediately ran for election to finish the term of my predecessor. I was subsequently elected to three six-year terms in 2000, 2006 and 2012. This is a general jurisdiction court. I preside over the following types of cases: criminal, civil, probate, juvenile, abused and neglected children, domestic relations, sanities, guardianship/conservatorship, and adoptions.

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

I have presided over approximately 300 cases that have gone to verdict or judgment.

- i. Of these, approximately what percent were:

jury trials:	33%
bench trials:	67%
civil proceedings:	65%
criminal proceedings:	35%

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

See attached list.

- 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. *Coates, et al., v. Laurel Chamber of Commerce, et al.*, DV 1997-0552, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied), *aff'd*, 2001 MT 98, 305 Mont. 225, 26 P.3d 730 (Mont. 2001).

Firemen were collecting money for fireworks near an interstate exit ramp. The driver of a vehicle coming onto the exit ramp collided with the other cars stopped ahead as the other drivers were giving donations to the firemen. After the plaintiffs presented their case in chief to the jury, I granted the defendants' motion for a directed verdict because the plaintiffs had not established a causal link between the traffic congestion and any negligence on the part of the defendants. The Montana Supreme Court often cites this case when discussing motions for directed verdict.

Counsel for Plaintiffs: Charles Angel (deceased)

Counsel for Defendant: Kenneth D. Tolliver
Tolliver Law Firm P.C.
10 North 27th Street, Suite 300
Billings, Montana 59101
(406) 256-9600

2. *Seal v. Woodrow's Pharmacy, et al.*, DV 1995-0476, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied), *aff'd*, 1999 MT 247, 296 Mont. 197, 988 P.2d 1230 (Mont. 1999)

Plaintiff sued defendants for negligence related to the doctor's dispensing of pain medication. I granted summary judgment to defendants because plaintiff failed to designate a qualified expert to testify to the appropriate standard of care within the deadline set forth in the scheduling order. This case is often cited by the Montana Supreme Court when discussing the necessity for disclosing a qualified expert within the time allowed in a scheduling order.

Counsel for Plaintiff: Thomas S. Winsor (deceased)
John D. Alexander
#2 Railroad Square, Suite B
Great Falls, Montana 59403
(406) 771-0007

Counsel for Defendants: Richard F. Cebull
Brown Law Firm P.C.
315 North 24th Street
Billings, Montana 59101
(406) 248-2611

Bruce A. Fredrickson
1830 Third Avenue E, Suite 301
Kalispell, Montana 59903
(406) 257-6001

Herbert I. Pierce, III
John H. Maynard
Crowley Law Firm
490 North 31st Street, Suite 400
Billings, Montana 59101
(406) 252-3441

3. *State v. Fallsdown*, DC 2001-0110, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied), *aff'd*, 2003 MT 300, 318 Mont. 219, 79 P.3d 797 (Mont. 2003)

Fallsdown had been released from prison in Wyoming and came to Billings. He and his co-defendant invited two girls to a hotel room in Billings to party. Fallsdown shot and killed one of the girls after she made a joke about his long hair. He attempted to shoot and kill the other girl, but the gun jammed. Fallsdown and his co-defendant kidnapped the remaining girl, put her in their pickup, and left town. During the trip, they forced the girl to drink cold medicine and took turns raping her. They decided to make a stop in Butte, Montana and when they were stopped on the exit ramp, the girl jumped out of the pickup and ran to another car stopped on the ramp. Several state probation officers happened to be in that vehicle and eventually apprehended Fallsdown and his co-defendant. Fallsdown was charged with one count of deliberate homicide, one count of attempted deliberate homicide, one count of aggravated kidnapping, and three counts of sexual intercourse without consent. Fallsdown was convicted by a jury, and I sentenced him to consecutive life sentences.

Counsel for Plaintiff: Ira Eakin
Yellowstone County Attorney's Office
217 North 27th Street
Billings, Montana 59101
(406) 256-2870

Counsel for Defendant: L. Sanford Selvey II
316 North Third Street

Billings, Montana 59101
(406) 252-7503

4. *Cassady v. Yellowstone County Montana Sheriff Department, et al.*, DV 2004-0160, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied), *aff'd*, 2006 MT 217, 333 Mont. 371, 143 P.3d 148 (Mont. 2006)

Sheriff's deputies responded to a 911 call and found the plaintiff in the unoccupied bar with a gun. Plaintiff pointed the gun at one of the deputies and refused their commands to put the gun down. The deputies shot at plaintiff. I granted summary judgment for the individual deputies, having determined they were entitled to qualified immunity from suit under 42 U.S.C. s. 1983. The Montana Supreme Court affirmed on all issues raised by plaintiff on appeal.

Counsel for Plaintiff: Scott W. Green
Patten, Peterman, Bekkedahl & Green PLLC
2817 2nd Avenue North
Billings, Montana 59101
(406) 252-8500

Counsel for Defendants: Kevin Gillen
Yellowstone County Attorneys Office
217 North 27th Street
Billings, Montana 59101
(406) 256-2830

5. *Orednick v. State, et al.*, DV 2004-0188, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied).

Plaintiffs adopted their daughter from the State of Montana. Following the adoption, plaintiffs claimed they became aware of material facts that were not disclosed to them concerning their daughter and her birth parents. Plaintiffs sued defendants on a breach of fiduciary duty theory. Plaintiffs also sued on their own behalf on a theory of negligent failure to disclose, but withdrew this claim mid-trial. After a five day trial, the jury made certain factual findings, including that the State of Montana had breached its fiduciary duty to plaintiffs' daughter; that the State of Montana's breach of its fiduciary duty caused plaintiffs' daughter harm; that plaintiffs' daughter had sustained general damages of \$800,000; but that the State of Montana did not negligently misrepresent the facts and circumstances surrounding plaintiffs' daughter to plaintiffs and, as a result, the jury awarded no damages to plaintiffs. Following the plaintiffs' notice of entry of judgment, the defendants filed a Motion for Judgment as a Matter of Law or in the alternative, Motion for New Trial, pursuant to Rules 50(b) and 59 of the Montana Rules of Civil Procedure and Section 25-11-102, M.C.A. I granted the defendants' motion for judgment as a matter of law, finding that plaintiffs had

failed to present substantial evidence linking their daughter's damages to negligence by the defendants.

Counsel for Plaintiffs: James M. Ragain
Ragain Law Firm
3936 Avenue B
Billings, Montana 59102
(406) 651-8888

John R. Christensen
Christensen, Fulton & Filz PLLC
2825 Third Avenue North
Billings, Montana 59101
(406) 248-3100

Counsel for Defendants: Calvin J. Stacey
Stacey & Funyak
100 North 27th Street
Billings, Montana 59101
(406) 259-4545

6. *State v. Patrick*, DC 2005-0438, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2009 MT 220N, 2009 Mont. LEXIS 270 (Mont. 2009).

This case involved felony charges of assault with a weapon, partner or family member assault, intimidation, and tampering with a witness or informant. The defendant was an attorney from South Carolina. He had a total of six attorneys appointed to represent him before he finally fired the last one and proceeded to trial pro se. The defendant raised many issues prior to trial such as, allegations of ineffective assistance of counsel, lack of speedy trial, and a motion to suppress evidence. Defendant was convicted on all counts. He appealed to the Montana Supreme Court, which affirmed.

Counsel for Plaintiff: Rodney Souza
Yellowstone County Attorneys Office
217 North 27th Street
Billings, Montana 59101
(406) 256-2870

Counsel for Defendant: Penelope Strong
2517 Montana Avenue
Billings, Montana 59101
(406) 839-9220

Jay F. Lansing

Moses & Lansing PC
175 North 27th Street
Billings, Montana 59101
(406) 248-7702

Herman A. Watson
101 East Main Street, Suite C
Bozeman, Montana 59715
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Matthew J. Wald
Wald Law Office
210 Second Street West
Hardin, Montana
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Raymond Kuntz III
23 North Broadway, Suite 201-A
Red Lodge, Montana 59068
(406) 446-3725

Brad L. Arndorfer
Arndorfer Law Firm
1921 First Avenue North
Billings, Montana 59101
(406) 252-3911

7. *Vlahakis, et al., v. Burkhartsmeier, et al.*, DV 2007-0623, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2009 MT 335N, 2009 Mont. LEXIS 844 (Mont. 2009).

Plaintiffs purchased a coffee kiosk franchise from defendants. They sued defendants for breach of contract. I presided over a bench trial. The financial evidence was quite complicated because defendant Burkhartsmeier moved money around between her and her husband's personal accounts and the corporation. I ultimately found for plaintiffs, piercing the corporate veil to hold a shareholder personally liable for a judgment against the corporation and later denying a Rule 59(g), M.R.Civ.P. motion to alter or amend the judgment. The Montana Supreme Court affirmed.

Counsel for Plaintiffs: James A. Patten
Patten, Peterman, Bekkedahl & Green PLLC
2817 Second Avenue North
Billings, Montana 59101
(406) 252-8500

Counsel for Defendants: Randall G. Nelson
Nelson & Dahle PC
2615 Saint Johns Avenue, Suite A
Billings, Montana 59102
(406) 867-7000

James P. Healow
Sweeney & Healow
1250 15th Street West, Suite 202
Billings, Montana 59102
(406) 256-8060

Malcolm H. Goodrich
Goodrich Law Firm PC
2619 Saint Johns Avenue
Billings, Montana 59102
(406) 256-3663

8. *Thiel's Welding, Inc. v. Vermeer of Washington, Inc., et al.*, DV 2000-949, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied), *aff'd*, 2013 MT 100, 2005 Mont. LEXIS 378, 328 Mont. 521, 120 P.3d 810 (Mont. 2005).

Plaintiff filed suit against defendants alleging negligent misrepresentation, constructive fraud, breach of contract and breach of warranties in connection with the purchase and use of a D80 horizontal boring machine manufactured by Vermeer Manufacturing and sold to plaintiff by Vermeer Sales. The matter was tried to a jury and the jury found that there was not a sale of the D80 boring machine from Vermeer Sales to plaintiff, neither defendant had constructively defrauded plaintiff, neither defendant was negligent, and neither defendant negligently misrepresented the D80 to plaintiff. The jury also found that plaintiff was not liable to Vermeer Sales based on its counter-claim for unjust enrichment. Plaintiff moved for a new trial. I denied that motion. The Montana Supreme Court affirmed all my pretrial and trial rulings.

Counsel for Plaintiff: Kenneth D. Peterson (retired)

Counsel for Defendants: Donald R. Herndon
Herndon Law Firm, P.C.
P.O. Box 80050
Billings, Montana 59108-0050

Geoffrey R. Keller
Matovich, Keller & Murphy
2812 First Avenue North, Suite 225
Billings, Montana 59101

(406) 252-5500

Calvin J. Stacey
Stacey & Funyak
100 North 27th Street
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(406) 259-4545

9. *State v. Brooks Jay*, DC 2009-0016, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part, and remanded*, 2013 MT 79, 2013 WL 1212813 (Mont. 2013).

Defendant was charged with two counts of vehicular homicide while under the influence and two counts of negligent endangerment. Defendant had been drinking and he was driving west on Interstate 90 (I-90). He crossed the median that divided the eastbound and westbound traffic. His pickup continued through the median before turning onto I-90 and driving into the oncoming eastbound traffic. Defendant traveled the wrong way on I-90 for approximately one-fifth of a mile. Two cars successfully avoided colliding with defendant's pickup by driving off the road. Defendant's pickup struck a third car carrying two individuals, at a high rate of speed. The individuals in the other car suffered traumatic injuries that resulted in their deaths at the scene of the crash. Defendant was convicted by a jury on all counts. The Montana Supreme Court affirmed the judgment on all issues except the award of restitution to the State of Montana and the open-ended restitution to the victims' family members.

Counsel for Plaintiff: David Carter
Yellowstone County Attorney's Office
217 North 27th Street
Billings, Montana 59101
(406) 256-2870

Counsel for Defendant: Matthew Claus
Office of Public Defender
207 North Broadway
Billings, Montana 59101
(406) 256-6861

10. *CHS, Inc. v. Montana State Department of Revenue*, DV 2010-133, Thirteenth Judicial District Court, Yellowstone County, Montana (copy supplied), *aff'd*, 2013 MT 100, 369 Mont. 505, 299 P.3d 813 (Mont. 2013).

This case relates to state property taxes assessed on plaintiff's coking refinery in Laurel, Montana and its petroleum marketing terminals in Gallatin and Missoula Counties. Plaintiff was dissatisfied with the Department of Revenue's 2009 assessment of its property. Plaintiff's remedy was to appeal to the county tax

appeal board, the State Tax Appeal Board, and, eventually, petition for judicial review of the administrative decisions. An aggrieved taxpayer may also bring a declaratory judgment action directly in a district court to establish that an administrative rule or method or procedure of assessment or imposition of tax adopted or used by the Department of Revenue is illegal or improper. Plaintiff paid its 2009 taxes under protest and then pursued, simultaneously, administrative review by the county tax appeal boards in the various counties and the declaratory judgment option for challenging its property tax assessment in my court. The same situation occurred in 2010 and the cases were consolidated into my court. The Department of Revenue moved for summary judgment arguing that plaintiff had failed to present facts stating a claim and that the types of challenges being made by plaintiff must first be presented to the administrative tax appeal boards provided for under Montana statutes. In addition, the Department of Revenue requested summary judgment on plaintiff's claims that the Department of Revenue had failed to equalize plaintiff's properties with similar properties or to timely assess the property under the pertinent statutory deadline. I ultimately granted summary judgment to the Department of Revenue as to all of plaintiff's claims. I determined that the Department of Revenue had established the nonexistence of material facts as to the illegality of the tax imposed on plaintiff, and that plaintiff then had failed to meet its burden of presenting evidence that the method or procedure of assessment was illegal or improper. I deferred to the appropriate tax appeal boards the merits of the equalization argument, and I ruled that plaintiff had established no prejudice as a result of the late assessment notice in 2009. The Montana Supreme Court affirmed.

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Counsel for Defendants: Derek R. Bell
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- 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. *CHS, Inc. v. Montana State Department of Revenue*, DV 2010-133, Thirteenth Judicial District Court, Yellowstone County, Montana, *aff'd*, 2013 MT 100, 369 Mont. 505, 299 P.3d 813 (Mont. 2013) . A copy of my opinion and the Montana State Supreme Court Opinion are supplied in response to question 13(c).

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2. *Orednick v. State, et al.*, DV 2004-0188, Thirteenth Judicial District Court, Yellowstone County, Montana. A copy of my opinion is supplied in response to question 13(c).

Counsel for Plaintiffs: James M. Ragain
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Counsel for Defendants: Calvin J. Stacey
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3. *In re The Marriage of Midence*, DR 2001-1204, 2005 Mont. Dist. LEXIS 1026, Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd*, 2006 MT 294, 334 Mont. 388, 147 P.3d. 227 (Mont. 2006).

Counsel for Petitioner: Christopher J. Nelson (deceased)

Counsel for Respondent: W. Corbin Howard
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(406) 248-9244

4. *Statev. Patrick*, DC 2005-0438, Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd*, 2009 MT 220N, 214 P.3d 790 (Mont. 2009). Copies of my opinions are supplied in response to question 13(c).

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5. *Opie, et al., v. Billings School District No. 2, et al.*, DV 2006-149, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied).

Counsel for Plaintiff: *Pro Se*

Counsel for Defendant: Harlan B. Krogh
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6. *State v. Ellison*, DC 2007-907, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2009 MT 408N, 222 P.3d 645 (Mont. 2009).

Counsel for Plaintiff: Yellowstone County Attorneys Office
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Counsel for Defendant: Elizabeth J. Honaker
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7. *Williams v. Lowther Insurance Agency, Inc.*, DV 2005-615, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2008 MT 46, 341 Mont. 394, 177 P.2d 1018 (Mont. 2008).

Counsel for Plaintiff: Phillip R. Oliver
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Counsel for Defendant: John Amsden
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8. *In re Billings High School District No. 2, Yellowstone County v. Billings Gazette, et al.*, DV 2004-1030, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2006 MT 329, 335 Mont. 94, 149 P.3d 565 (Mont. 2006).

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9. *State v. Coates*, DC 2000-0354, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2003 MT 196N, 77 P.3d 553, 2003 (Mont. 2003).

Counsel for Plaintiff: John Petak
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Counsel for Defendant: Michael Klinkhammer
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10. *State v. Ochadleus*, DC 2003-0094, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd*, 2005 MT 88, 326 Mont. 441, 110 P.3d 448 (Mont. 2005).

Counsel for Plaintiff: Yellowstone County Attorney's Office
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Counsel for Defendant: Nancy G. Schwartz
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- e. Provide a list of all cases in which certiorari was requested or granted.

State v. Fallsdown, DC 2001-0110 (copy supplied in response to question 13(c), *cert. denied*, 541 U.S. 1067, 124 S.Ct. 2397 (2004))

- 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.

Granbois v. Big Horn County Electric Cooperative, Inc., DV 1997-095, Thirteenth Judicial District Court of Montana, Big Horn County (copy supplied), *rev'd*, 1999 MT 222, 296 Mont. 45, 986 P.2d 1097 (Mont. 1999). The Cooperative does not allow multiple memberships at any single meter location where a current membership exists, so a prior membership must be terminated at the location before a new member may receive electric service at the location. I granted summary judgment to the Cooperative, concluding that the bylaw provision which restricts transfer of a membership to a new member until delinquent accounts are made current was reasonable as a matter of law. The Court concluded that the bylaw provisions at issue were unreasonable and reversed.

State v. O'Neill, DC 1997-554, Thirteenth Judicial District of Montana, Yellowstone County (copy supplied), *rev'd*, 1999 MT 224, 296 Mont. 71, 985 P.2d 154 (Mont. 1999). I allowed the State to file the charging documents (information), in District Court rather than Youth Court, without a hearing. The Court ruled that a hearing was required and reversed.

State v. Johnson, DC 1998-698, Thirteenth Judicial District of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2000 MT 122N, 2000 Mont. LEXIS 115 (Mont. 2000). I denied defendant's motion to suppress. The Court reversed and remanded, concluding that it was not inevitable that the contraband would have been found in the inventory search.

Decker Coal Company v. Department of Revenue of the State of Montana, et al., DV 1997-012, Thirteenth Judicial District of Montana, Big Horn County (copy supplied), *rev'd*, 2000 MT 125, 299 Mont. 477, 2 P.3d 245 (Mont. 2000). On a Petition for Judicial Review, I affirmed the State Tax Appeal Board's order assessing additional coal taxes against Decker based on the Department of Revenue's imputed price per ton of coal. The Court reversed, concluding that Decker's sale of coal to ComEd pursuant to a 1974 contract with pre-determined escalators is not representative of the market and economic conditions at the time of the sale and, thus, does not meet the controlling definition of market value.

State v. Hart, DC 1998-129, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part and rev'd in part*, 2000 MT 332, 303 Mont. 71, 15 P.3d 917 (Mont. 2000). The defendant appealed from his conviction and sentence for felony assault. The Court affirmed the conviction but struck the weapons enhancement.

In re the Marriage of Redenius, DR 1997-1013, 2000 Mont. Dist. LEXIS 2019, Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd in part, rev'd in part and remanded*, 2002 MT 57N, 309 Mont. 533, 43 P.3d 986 (Mont. 2000). The Court affirmed my rulings on three out of the five issues regarding division of the parties' marital estate. The Court remanded so I could make supplemental findings of fact and conclusions of law regarding the purchase of the parties' condominium and some premarital property.

Reff-Conlin's Inc., et al., v. Fireman's Fund Insurance Company, et al., DV 1997-0734, 2000 Mont. Dist. LEXIS 1741, Thirteenth Judicial District Court of Montana, Yellowstone County, *rev'd and remanded*, 2002 MT 60, 309 Mont. 533, 43 P.3d 986 (Mont. 2002). The Court concluded that I had erred when I denied Western's challenge to a juror based on the attorney-client privilege between the juror's employer and Conlin's trial counsel.

State v. Freshment, DC 1998-1049, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part and remanded*, 2002 MT 61, 309 Mont. 142, 45 P.3d 863 (Mont. 2002). The Court affirmed my decision denying defendant's motion to sever the charges and hold separate trials. The Court reversed my denial of defendant's challenge for cause of two prospective jurors, concluding that they had stated a bias related to a critical issue in the case, and remanded the case for retrial.

State v. Logan, DC 1998-923, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2002 MT 206, 311 Mont. 239, 53 P.3d 1285 (Mont. 2002). I denied defendant's motion to suppress. The Court reversed, concluding that exigent circumstances did not justify the officers' warrantless search of the purse and the car.

State v. Fields, DC 1998-925, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2002 MT 84, 309 Mont. 300, 46 P.3d 612 (Mont. 2002). I denied defendant's motion for a recess mid-trial to allow a second psychiatrist to appear to testify after the State objected to the delay and renewed its objection that the second psychiatrist's testimony would be cumulative. The Court reversed, concluding that the second psychiatrist should have been allowed to testify.

Watson v. State, DC 1995-372, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2002 MT 329, 313 Mont. 209, 61 P.3d 759 (Mont. 2002). I concluded Watson's petition for post-conviction relief had no merit and denied it without a hearing. The Court concluded a hearing was necessary and remanded accordingly.

Bradley v. Crow Tribe of Indians, DV 2000-0980, 2002 Mont. Dist. LEXIS 2745, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2003 MT 82, 315 Mont. 75, 67 P.3d 306 (Mont. 2003). (*Bradley I*) Stephen, a member of the Crow Tribe, brought an action for breach of contract against the Tribe. I dismissed the complaint for lack of jurisdiction, concluding that because neither party could produce a signed copy of the contract, the evidence was not sufficient to overcome the presumption against the Tribe's waiver of immunity from suit in state court. The Court reversed the dismissal, concluding the evidence established a contract between Stephen and the Tribe which included the unequivocal waiver of sovereign immunity.

State v. Smith, DC 2002-0958, 2003 Mont. Dist. LEXIS 2551, Thirteenth Judicial District Court of Montana, Yellowstone County, *rev'd*, 2004 MT 16N, 87 P.3d 1042 (Mont. 2004). The Court reversed one condition of probation restricting Smith.

In re the Marriage of Swanson, DR 2001-1203, 2003 Mont. Dist. LEXIS 2565, Thirteenth Judicial District Court of Montana, Yellowstone, *aff'd in part and rev'd in part*, 2004 MT 124, 321 Mont. 250, 90 P.3d 418 (Mont. 2004). The Court upheld my determination of the value and equitable distribution of the marital estate, my award of temporary maintenance to R.A., and my denial of attorney fees to R.A. The Court reversed solely on the issue of the methodology used to calculate how the ex-husband's pension and annuity plans should be distributed.

State v. Heath, DC 2000-0564, 2001 Mont. Dist. LEXIS 2638, Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd in part, rev'd in part and remanded*, 2004 MT 126, 321 Mont. 280, 90 P.3d 426 (Mont. 2004). The Court affirmed the imposition of the restitution obligation and the amount of restitution I ordered Heath to pay, but it reversed and remanded for an amendment to the judgment addressing the time and method of Heath's restitution payments.

Statev. Lucero, DC 2001-0309, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part and remanded*, 2004 MT 248, 323 Mont. 421, 97 P.3d 1106 (Mont. 2004). Lucero was convicted after a jury trial. He filed a pro se motion claiming his attorney had provided ineffective assistance. Following a hearing, I denied Lucero's ineffective assistance of counsel claims. He appealed his conviction and various probation conditions imposed. The Court upheld the conviction and sixteen of the probation conditions I imposed, but reversed four of the probation conditions. *Hi-Tech Motors, Inc., et al., v. Bombardier Motor Corporation of America*, DV 2002-795, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part and remanded*, 2005 MT 187, 328 Mont. 66, 117 P.3d 159 (Mont. 2005). The Court affirmed my ruling regarding subject matter jurisdiction, but reversed my grant of summary judgment to defendant, concluding that Hi-Tech was a franchise because it was substantially reliant on Bombardier.

State v. Samples, DC 2002-0590, 2003 Mont. Dist. LEXIS 2543, Thirteenth Judicial District Court of Montana, Yellowstone County, *rev'd and remanded*, 2005 MT 210, 328 Mont. 242, 119 P.3d 1191 (Mont. 2005). After Samples' lawyer refused to file a motion challenging the constitutionality of the ex post facto application of the law requiring sex offenders to register, I allowed Samples to file the motion pro se. I denied Samples' motion, substantively discussing and rejecting Samples' ex post facto argument. However, the motion he filed contained a number of additional arguments on other issues and, based upon the intended limited scope of the motion, I declined to consider these. The Court remanded the case for me to address these other arguments.

Bradley v. Crow Tribe of Indians, DV 2000-980, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2005 MT 309, 329 Mont. 448, 124 P.3d 1143 (Mont. 2005). (*Bradley II*) The Court reversed and remanded the case (*Bradley I*), for further proceedings. I granted Bradley's motion for summary judgment on the grounds there were no material issues of fact. The Court reversed after determining that there were genuine issues of material fact as to whether the Tribe properly terminated Bradley, based on the ambiguous contract language, and as to the proper amount of damages.

State v. Harlson, DC 2003-709, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part and remanded*, 2006 MT 195N, 333 Mont. 551, 143 P.3d 703 (Mont. 2006). My written

judgment inadvertently included a conviction on a charge that I had dismissed. The Court remanded the case to me for the limited purpose of correcting the written judgment.

State v. Greeson, DC 2004-1028, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part and rev'd in part*, 2007 MT 23, 336 Mont. 1, 152 P.3d 695 (Mont. 2007). I sentenced Greeson to a probationary sentence and imposed numerous conditions. She appealed the constitutionality of the condition mandating that her home be open and available for her probation officer to visit and the condition restricting drug and alcohol use and imposing drug and alcohol testing. The Court affirmed me regarding the home visit condition, but reversed the probation condition restricting the use of alcohol.

Hajenga v. Schwein, DV 2002-662, 2004 Mont. Dist. LEXIS 3262, Thirteenth Judicial District Court of Montana, Yellowstone County, *rev'd*, 2007 MT 80, 336 Mont. 507, 155 P.3d 1241 (Mont. 2007). I granted summary judgment to defendant. The Court reversed, concluding there was a genuine issue of material fact regarding the insurance company's obligation to pay plaintiff's future medical expenses.

State v. Andersen-Conway, DC 2005-0495, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2007 MT 281, 339 Mont. 439, 171 P.3d 678 (Mont. 2007). The Court reversed, concluding that the defendant's probation could not be revoked based on a violation of conditions not contained in the stipulation that transferred this case from Youth Court to District Court.

Vettel-Becker v. Deaconess Medical Center of Billings, Inc., DV 2002-1145, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2008 MT 51, 341 Mont. 435, 177 P.3d 1034 (Mont. 2008). I granted summary judgment to defendant on plaintiff's wrongful termination claims. The Court determined there were genuine issues of material fact precluding summary judgment on the claims and reversed.

State v. Rahn, DC 2004-157 and DC 2005-1148, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2008 MT 201, 334 Mont. 110, 187 P.3d 622 (Mont. 2008). I overruled defendant's objection that the State breached the plea agreement by offering the testimony of the second expert who had not evaluated defendant. The Montana Supreme Court reversed, concluding the State tried to convince me that the plea-bargained sentencing recommendation should not be accepted.

State v. Stiles, DC 2006-0252, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2008 MT 390, 347 Mont. 95, 197 P.3d 966 (Mont. 2008). Defendant was convicted after jury trial. I

sentenced him to a term in prison followed by probation. The Court reversed one of the probation conditions I imposed.

State v. Samples, DC 2002-590, 2006 Mont. Dist. LEXIS 633, Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd in part, rev'd in part and remanded*, 2008 MT 416, 347 Mont. 292, 198 P.3d 803 (Mont. 2008). The Court affirmed Samples' conviction, which he challenged by raising constitutional issues regarding the Sexual and Violent Offender Registration Act (2001). The Court reversed and remanded the case back to me to hold a hearing to determine the appropriate sex offender level designation.

Montana Rail Link v. CUSA Parts, LLC, DV 2006-1286, Thirteenth Judicial District Court, Yellowstone County (copy supplied), *aff'd in part and rev'd in part*, 2009 MT 432, 354 Mont. 101, 222 P.3d 1021 (Mont. 2009). The Court reversed solely as to my ruling that Powder River must indemnify Montana Rail Link for attorney fees, concluding their indemnity agreement and statute did not provide a basis for this award.

State v. Heafner, DV 2008-0563, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2010 MT 87, 356 Mont. 128, 231 P.3d 1087 (Mont. 2010). I sentenced defendant, including specific conditions of parole. The Court reversed the conditions of parole and the open-ended restitution for the victim's future medical expenses.

Griffin, et al., v. Moseley, DV 2006-457, Thirteenth Judicial District Court of Montana, Yellowstone County, (copy supplied), *rev'd and remanded*, 2010 MT 132, 356 Mont. 393, 234 P.3d 869 (Mont. 2010). I granted summary judgment to Mosely because Griffin did not have a qualified expert to testify as to the standard of care of a neurosurgeon. The Court reversed, concluding that Griffin's neuro-ophthalmologist was qualified.

Puget Sound Energy, Inc. v. State, Department of Revenue, DV 2009-1081, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd*, 2011 MT 141, 361 Mont. 39, 255 P.3d 171 (Mont. 2011). I ruled that the State Tax Appeal Board could not assess plaintiff's market value in excess of the Department of Revenue's original assessment. The Court reversed, concluding that the State Tax Appeals Board possessed the authority to assess a taxpayer's market value at 100% of market value, even if the assessment exceeds the Department of Revenue's original assessment.

Credit Service Co. v. Crasco, DV 2010-1373, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2011 MT 211, 361 Mont. 487, 264 P.3d 1061 (Mont. 2011). I ruled that a collection agency could charge bad check penalties for checks assigned to it from payday lenders. The Court reversed, concluding that a payday lender cannot assign greater rights to a collection agency than the payday lender itself can enforce.

Williamson, et al., v. Montana Public Service Commission, et al., DV 2010-1450, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part and remanded*, 2012 MT 32, 364 Mont. 128, 272 P.3d 71 (Mont. 2012). I affirmed the Public Service Commission's determination that plaintiffs were procedurally barred from amending their complaint. The Court reversed, concluding that the Public Service Commission's rationales for rejecting the amended complaint were incorrect.

The Northern Cheyenne Tribe Collectively v. The Roman Catholic Church, et al., DV 2005-286, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *aff'd in part, rev'd in part and remanded*, 2013 MT 24, 368 Mont. 330, 296 P.3d 450 (Mont. 2013). I granted summary judgment to defendants. The Court affirmed as to seven of the plaintiff's claims and reversed on plaintiff's unjust enrichment claim and constructive trust claim. The Court concluded that wrong-doing on the part of the defendant was not required for a claim of unjust enrichment in the context of an alleged constructive trust. The Court reversed and remanded my decision granting summary judgment to St. Labre regarding its fundraising activities prior to 2002 based upon the statute of limitations.

State v. Steglich, DC 2008-360, Thirteenth Judicial District Court of Montana, Yellowstone County (copy supplied), *rev'd and remanded*, 2009 MT 163, 350 Mont. 465, 208 P.3d 408 (Mont. 2009). Defendant was charged with negligent homicide and failure to stop or remain at the scene of an accident involving death or personal injury. I ruled that the statutes under which defendant was charged were unconstitutional on their face and as applied to the defendant. The Court reversed and remanded, concluding that the reasonableness determination required did not render the statutes vague on their face and that the statutes were not vague as applied to defendant because they provided actual notice to citizens of what conduct is prohibited and minimal guidelines to law enforcement.

State v. Jay, DC 2009-016, Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd in part, rev'd in part, and remanded*, 2013 MT 79, 369 Mont. 332, 298 P.3d 396 (Mont. 2013). The Court affirmed my decisions denying defendant's challenge to one juror for cause; excluding defendant's expert witness on complex partial seizures; and, denying defendant's request to instruct the jury on the charge of Driving Under the Influence of Alcohol as a lesser-included offense of Vehicular Homicide While Under the Influence. The Court reversed the award of restitution to the State of Montana and the open-ended restitution to the victims' family members. A copy of my opinion is supplied in response to 13(c).

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

As a judge for the Thirteenth Judicial District Court of Montana, none of my opinions are selected for publication in state reporters. Some are available on Lexis/Nexis. All reported and unreported opinions that I have issued are filed and stored in the Yellowstone County Clerk of Court's Office.

- 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. Steglich, DC 2008-360, Thirteenth Judicial District of Montana, Yellowstone County, *rev'd and remanded*, 2009 MT 163, 350 Mont. 465, 208 P.3d 408 (Mont. 2009). A copy of my opinion is supplied in response to 13(f).

State v. Samples, DC 2002-590, 2003 Mont. Dist. LEXIS 2543 Thirteenth Judicial District Court of Montana, Yellowstone County, *aff'd in part, rev'd in part and remanded*, 2008 MT 416, 347 Mont. 292, 198 P.3d 803 (Mont. 2008).

- 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.

As a judge for the Thirteenth Judicial District of Montana, I recuse myself as required by the 2008 Montana Code of Judicial Conduct, Rule 2.12, in cases where my impartiality might reasonably be questioned. Once a judge recuses from a case, the Court does not maintain any records of the recusals. However, I

was able to find the following hard copies of recusals in an office file that went back to 2008. A party has filed a motion to substitute me for cause only once during the last fifteen years. I have listed that case last in the list below. Because the orders of recusal do not state the specific reason for my recusing myself sua sponte, there are a few cases in the list below where I cannot remember the reason I recused myself. Three of the criminal cases were investigated by my husband, who has been employed by the Billings Police Department for over thirty-two years.

Mannion, et al., v. West, et al., DV 2005-1449, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because I know three of the four defendants professionally or socially.

Bland v. Billings Clinic, DV 2007-076, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte. I do not remember the specific reason why.

Cleveland v. Interstate Brands Corporation, Inc., et al., DV 2007-1298, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte. I do not remember the specific reason why.

Bechtold v. City of Billings Police Department, et al., DV 2008-0664, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because my husband and plaintiff are both employed by the City of Billings Police Department and I have known the Chief of Police for over twenty years.

Pennington, et al. v. The Travelers Indemnity Company, et al., DV 2009-0712, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because one of the plaintiffs' attorneys, Randall L. Bishop, is representing my husband in a pending lawsuit.

Ronning, et al. v. Yellowstone County, et al., DV 2010-0549, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because plaintiffs were challenging the plea agreement in the related criminal case, over which I presided.

Ellison v. State of Montana, DV 2011-0306, Thirteenth Judicial District Court of Montana, Yellowstone County. This case is a post-conviction relief case. I recused myself sua sponte to avoid the appearance of impropriety or bias against the defendant because I had presided over the original criminal case.

Ross, et al., v. Wilson, et al., DV 2012-0867, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because I know one of the plaintiffs.

State of Montana v. Sanders, DC 2008-0414, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because I prosecuted the defendant when I was a Deputy Yellowstone County Attorney.

State of Montana v. Trusty, DC 2008-0465, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because my husband was the Billings Police Detective who investigated the case and was, therefore, a witness in the case.

State v. Lambert, DC 2009-0123, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because my husband was the Billings Police Detective who investigated the case and was, therefore, a witness in the case.

State of Montana v. Robson, DC 2012-0496, Thirteenth Judicial District Court of Montana, Yellowstone County. I recused myself sua sponte because my husband was the Billings Police Detective who investigated the case and was, therefore, a witness in the case.

Harper v. Harper, DR 2009-084, Thirteenth Judicial District Court of Montana, Yellowstone County. This is a dissolution of marriage case. I recused myself sua sponte because I am friends with the plaintiff.

Treu v. Morgan, DR 2010-0910, Thirteenth Judicial District Court of Montana, Yellowstone County. This is a dissolution of marriage case. I recused myself sua sponte; however, I cannot remember why.

Dahl v. Dahl, DR 2011-0810, Thirteenth Judicial District Court of Montana, Yellowstone County. This is a dissolution of marriage case. I recused myself sua sponte because I am friends with the plaintiff.

Bechtold v. Bechtold, DR 2011-1327, Thirteenth Judicial District Court of Montana, Yellowstone County. This is a dissolution of marriage case. I recused myself sua sponte because the Respondent is my husband's co-employee at the Billings Police Department.

Nance v. Eaton, DF 2012-002, Thirteenth Judicial District Court of Montana, Yellowstone County. This is a paternity and parenting plan case. I recused myself sua sponte because I know the petitioner.

State of Montana v. Patrick, DC 2005-0438, Thirteenth Judicial District Court of Montana, Yellowstone County. Just before the trial, the defendant moved to have me substituted for cause. He alleged I was biased against him. A judge was called in from another district to preside over the hearing on the defendant's motion to substitute me for cause. The judge denied the motion and I continued on the case.

15. Public Office, Political Activities and Affiliations:

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

I have not held public office other than judicial offices. In 1994, I unsuccessfully ran for Yellowstone County Attorney, Yellowstone County, Montana.

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

I have not held office in or rendered any services to any political party or election committee. I have not held a position or 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;

From August 1988 to November 1989, I served as a law clerk to Judge Diane G. Barz, District Judge, Thirteenth Judicial District of Montana.

From November 1989 to December 1989, I served as a law clerk to Judge Maurice Colberg, District Judge, Thirteenth Judicial District of Montana.

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

1995 – 1996
Watters Law Firm
301 North 27th Street
Billings, Montana 59101
Sole Practitioner

- 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.

1989 – 1995
Yellowstone County Attorney's Office
Yellowstone County Courthouse
217 North 27th Street
Billings, Montana 59101
Deputy County Attorney

1995 – 1996
Watters Law Firm
301 North 27th Street
Billings, Montana 59101
Sole Practitioner

1996 – 1998
Hendrickson, Everson, Noennig & Woodward, P.C.
208 North Broadway, Suite 324
Billings, Montana 59103
Senior Associate

- 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 never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

From 1989 to 1995, I was a deputy county attorney for the Yellowstone County Attorney's Office. While there, I had responsibilities for a broad variety of criminal and civil cases. From 1989 to 1990, I was assigned to the Yellowstone County Justice Court prosecuting misdemeanor criminal cases. From 1990 to 1991, I was assigned to prosecute abuse and neglect cases at the district court level, which required me to work closely with and advise the Department of Health and Human Services, Child Protection Services Division. I was also assigned to prosecute juveniles who were charged with misdemeanors and felonies in Youth Court during this time period. From 1990 to 1994, I was assigned as the drug prosecutor to prosecute felony drug cases. I prosecuted all types of felony drug cases from possession to sale to manufacture of dangerous drugs, particularly methamphetamine and marijuana. Beginning in 1991, I also prosecuted felony criminal cases in district court. I prosecuted all types of

felony criminal cases, including sex offenses and homicides. From 1994 to 1995, I transferred to the civil division of the office, where I represented Yellowstone County in suits filed against the County.

From 1995 to 1996 I was a sole practitioner. I represented criminal defendants on misdemeanor and felony charges filed in Big Horn County, Montana and in federal court in the United States District Court for the District of Montana. I also represented clients in dissolution of marriage cases and personal injury cases.

From 1996 to 1998, I was a senior associate at the Hendrickson law firm. I represented criminal defendants in federal court in the United States District Court for the District of Montana and in the Thirteenth Judicial District Court of Montana, Yellowstone County. I represented clients in dissolution of marriage cases and personal injury cases.

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

As a deputy county attorney for the Yellowstone County Attorney's Office, my client was Yellowstone County.

My typical clients when I was in private practice were criminal defendants, individuals seeking dissolution of their marriages or parenting plans, or personal injury clients. I have never specialized in any area of the law.

- 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.

Approximately 100% of my practice was in litigation. I appeared in court frequently.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 20%
- 2. state courts of record: 80%
- 3. other courts: 0%
- 4. administrative agencies: 0%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 40%
- 2. criminal proceedings: 60%

- 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 tried several hundred cases to verdict, judgment or final decision in the ten years prior to taking the state court bench. I would have been sole counsel on most of them, but I would have been second chair on some of the jury trials.

- i. What percentage of these trials were:
 - 1. jury: 25%
 - 2. non-jury: 75%

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

I have never 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. *State v. Soraich*, DC 1996-0065, Thirteenth Judicial District Court of Montana, Yellowstone County, 2003 ML 2032, 2003 Mont. Dist. LEXIS 2560. Defendant was charged with deliberate homicide for the point-blank shooting death of the victim. Mr. Woodward and I represented the defendant. The defendant was convicted by the jury after seven days of trial. I participated in all aspects of the trial preparation and the jury trial, and I handled the sentencing hearing. Honorable Maurice R. Colberg, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Plaintiff: Joe Cobel
David Legare
Yellowstone County Attorney's Office
217 North 27th Street

Billings, Montana 59101
(406) 256-2870

Counsel for Defendant: Vernon E. Woodward
49 North 15th Street, Suite 1
Billings, Montana 59101
(406) 294-5585

2. *State v. Losson*, DC 1991-0140, Thirteenth Judicial District Court of Montana, Yellowstone County. Defendant was charged with deliberate homicide for the shooting death of her husband. She raised the defense of spousal abuse. I prosecuted the case with Mr. Paxinos. The defendant was convicted by the jury. I participated in all aspects of trial preparation and trial. Honorable G. Todd Baugh, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Plaintiff: Dennis Paxinos (retired)

Counsel for Defendant: Michael Eislein
401 North 31st Street #950
Billings, Montana 59103
(406) 252-3461

Arthur J. Thompson (retired)

3. *Haughton v. Haughton*, DV 1996-590, Thirteenth Judicial District Court of Montana, Yellowstone County. This was a dissolution case involving a large marital estate with numerous oil and gas interests. It required the testimony of a number of expert witnesses regarding the valuation of the marital estate. In addition, the respondent attempted to raise marital misconduct on behalf of the plaintiff despite the fact that Montana is a no-fault divorce state. There were also custody issues involved. Mr. Woodward originally took the case into our firm, but turned it over to me. I represented the petitioner and handled all trial preparation, pre-trial hearings, and ultimately the bench trial. I prevailed on behalf of my client. Honorable Russell C. Fagg, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Petitioner: Vernon E. Woodward
49 North 15th Street, Suite 1
Billings, Montana 59101
(406) 294-5585

Counsel for Respondent: Donald L. Harris
404 North 31st Street, Suite 410
Billings, Montana 59101
(406) 294-2000

4. *United States v. Boxer*, CR-95-101-BLG-JDS, United States District Court for the District of Montana, Billings. Defendant was charged with assaulting two men with a shotgun. I was attorney of record and represented the defendant throughout the case, including in the jury trial in federal court and at sentencing. He was convicted by the jury. Honorable Jack Shanstrom, United State District Court of Montana, Billings Division.

Counsel for United States: Klaus Richter (retired)

5. *State v. Williams*, DC 1990-0432, Thirteenth Judicial District Court of Montana, Yellowstone County. Defendant was charged with deliberate homicide. Daniel Schwarz and I prosecuted the defendant. The defendant was convicted at jury trial. I participated in all aspects of the trial preparation and the jury trial. Honorable Russell C. Fagg, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Plaintiff: Daniel Schwarz
Yellowstone County Attorney's Office
217 North 27th Street
Billings, Montana 59101
(406) 256-2870

Counsel for Defendant: Gary Wilcox
207 North Broadway, Suite 414
Billings, Montana 59101
(406) 245-1559

Arthur J. Thompson (retired)

6. *State v. Smith*, DC 1993-0275, Thirteenth Judicial District Court of Montana, Yellowstone County. Defendant was charged with criminal possession of dangerous drugs, felony. I prosecuted the defendant on behalf of the State. The defendant was convicted at jury trial. I participated in all aspects of the trial preparation and the jury trial. Honorable Robert W. Holmstrom, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Defendant: Curtis Bevolden
210 North 27th Street
Billings, Montana 59101
(406) 657-8205

7. *State v. Daniels*, DC 1990-0444, Thirteenth Judicial District Court of Montana, Yellowstone County. The defendant was charged with growing a large number of marijuana plants in his up-scale home. I prosecuted the defendant on behalf of the State. The defendant eventually pled guilty. Honorable William J. Speare, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Defendant: Jay Lansing
175 North 27th Street, Suite 1202
Billings, Montana 59101
(406) 248-7702

8. *State v. Heath*, DC 1991-453 and DC 1991-454, Thirteenth Judicial District Court of Montana, Yellowstone County. The defendant was charged with criminal sale of dangerous drugs. I prosecuted the defendant on behalf of the State. The defendant pled guilty to the charge. Honorable William J. Speare, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Defendant: John L. Adams, Jr. (deceased)

9. *State v. Leake*, DC 1991-087, Thirteenth Judicial District Court of Montana, Yellowstone County. The defendant was charged with growing a large number of marijuana plants. I prosecuted the defendant on behalf of the State. The defendant pled guilty to the charge. Honorable G. Todd Baugh, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Defendant: Joseph Zavaletta
P.O. Box 128
Sweet, Idaho 83670
(208) 283-6683

10. *State v. Thompson*, DC 1991-351, Thirteenth Judicial District Court of Montana, Yellowstone County. The defendant was charged with criminal possession of dangerous drugs, felony. I prosecuted the defendant on behalf of the State. The defendant pled guilty to the charge. Honorable William J. Speare, Thirteenth Judicial District Court of Montana, Yellowstone County.

Counsel for Defendant: Arthur J. Thompson (retired)

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.)

I started the Yellowstone County Family Drug Treatment Court in June 2001. It was the first family drug court in Montana, and it subsequently served as a model court for family drug courts around the nation. Participants in the family drug court are involved in pending abuse and neglect cases in the District and have had their children removed by the Department of Public Health and Human Services, Child Protective Services, because of abuse and/or neglect primarily related to the participant's abuse of drugs and/or

alcohol. The court was initially funded by federal grant money, but it is now part of a Montana legislative appropriation. The legislators recognized the tremendous value of the court for families involved with the Department. The legislators also recognized the cost-savings the court provided through, among other things, reduced time for children in foster care and the reduced number of parental rights termination cases.

I have never performed lobbying activities on behalf of clients or organizations.

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

In May 2010, I volunteered to participate in the University of Montana School Of Law Advanced Trial Advocacy Program. This course was designed to teach trial procedure and practice to third year law students and new practitioners. The format was one of lectures by instructors brought in by the law school and various teams who worked with small groups of participants. I was a member of one of these teams. A copy of the syllabus is supplied.

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

I have a deferred compensation account with the State of Montana, my current employer, with a balance of approximately \$23,000. This account has already vested.

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.

If confirmed, I have no plans, commitments, or agreements to pursue outside employment.

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 am not aware of any potential conflicts of interest. If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

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

For the last fifteen years, I have been a judge. I am prevented from practicing law and, therefore, cannot provide pro bono services. However, in addition to my service with the Yellowstone County Family Drug Treatment Court, I have volunteered to serve my community over the years.

For example, I have volunteered for the National Adoption Day for the last three years. This is a day that celebrates the families who adopt children, the adoptees, and the parents who recognize that it is in their children's best interests to relinquish their parental rights and place the children for adoption.

I volunteered to participate in the "Read with Me" program, which encouraged parents to read to their children twenty minutes a day in approximately 2004.

I have also volunteered to be one of the judges at various functions. For example, I was a volunteer judge for the state debate competitions at Billings West High School in

approximately 2001 and 2002. I also volunteered to be one of the judges at the local science fairs in approximately 2000 and 2001.

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.

On approximately December 18, 2012, I submitted a cover letter, resume, and references to Senator Max Baucus's office in Washington, DC. On January 22, 2013, I was notified by Senator Baucus's staff that the selection committee appointed by the Senator to consider applicants for the judicial vacancies in Montana had recommended me for further consideration. On February 3, 2013, I interviewed with Senator Baucus in Helena, Montana. On March 11, 2013, Senator Baucus called me to inform me that he would be recommending me to the White House for the U.S. District Judge position in Billings, Montana. Since March 12, 2013, I have been in contact with officials from the Office of Legal Policy at the U.S. Department of Justice. On April 15, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On May 23, 2013, the President submitted my nomination to the Senate.

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

No.

**FINANCIAL DISCLOSURE REPORT
NOMINATION FILING**

*Report Required by the Ethics
in Government Act of 1978
(5 U.S.C. app. §§ 101-111)*

1. Person Reporting (last name, first, middle initial) Watters, Susan P.	2. Court or Organization United States District Judge for the District of Montana	3. Date of Report 05/23/2013
4. Title (Article III judges indicate active or senior status; magistrate judges indicate full- or part-time) United States District Judge - Active	5a. Report Type (check appropriate type) ☒ Nomination Date 05/23/2013 ☐ Initial ☐ Annual ☐ Final	6. Reporting Period 01/01/2012 to 05/17/2013
	5b. ☐ Amended Report	
7. Chambers or Office Address Yellowstone County Courthouse 217 North 27th Street Billings, Montana 59101		
IMPORTANT NOTES: <i>The instructions accompanying this form must be followed. Complete all parts, checking the NONE box for each part where you have no reportable information.</i>		

I. POSITIONS. *(Reporting individual only; see pp. 9-13 of filing instructions.)*

☐ NONE *(No reportable positions.)*

<u>POSITION</u>	<u>NAME OF ORGANIZATION/ENTITY</u>
1. Montana State District Judge	State of Montana
2.	
3.	
4.	
5.	

II. AGREEMENTS. *(Reporting individual only; see pp. 14-16 of filing instructions.)*

☐ NONE *(No reportable agreements.)*

<u>DATE</u>	<u>PARTIES AND TERMS</u>
1. 1998	Montana Judges Retirement Pension Plan - no control
2.	
3.	

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Watters, Susan P.

Date of Report

05/23/2013

III. NON-INVESTMENT INCOME. *(Reporting individual and spouse; see pp. 17-24 of filing instructions.)***A. Filer's Non-Investment Income**☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>	<u>INCOME</u> (yours, not spouse's)
1. 2011	State of Montana - salary	\$101,967.00
2. 2012	State of Montana - salary	\$105,606.00
3. 2013	State of Montana - salary	\$47,481.00
4.		

B. Spouse's Non-Investment Income - *If you were married during any portion of the reporting year, complete this section.**(Dollar amount not required except for honoraria.)*☐ NONE *(No reportable non-investment income.)*

<u>DATE</u>	<u>SOURCE AND TYPE</u>
1. 2012	City of Billings - salary
2. 2013	City of Billings - salary
3.	
4.	

IV. REIMBURSEMENTS -- *transportation, lodging, food, entertainment.**(Includes those to spouse and dependent children; see pp. 25-27 of filing instructions.)*☐ NONE *(No reportable reimbursements.)*

<u>SOURCE</u>	<u>DATES</u>	<u>LOCATION</u>	<u>PURPOSE</u>	<u>ITEMS PAID OR PROVIDED</u>
1. Exempt				
2.				
3.				
4.				
5.				

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Watters, Susan P.

Date of Report

05/23/2013

V. GIFTS. *(Includes those to spouse and dependent children; see pp. 28-31 of filing instructions.)*☐ NONE *(No reportable gifts.)*

<u>SOURCE</u>	<u>DESCRIPTION</u>	<u>VALUE</u>
1. Exempt		
2.		
3.		
4.		
5.		

VI. LIABILITIES. *(Includes those of spouse and dependent children; see pp. 32-33 of filing instructions.)*☒ NONE *(No reportable liabilities.)*

<u>CREDITOR</u>	<u>DESCRIPTION</u>	<u>VALUE CODE</u>
1.		
2.		
3.		
4.		
5.		

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Watters, Susan P.

Date of Report

05/23/2013

VII. INVESTMENTS and TRUSTS -- income, value, transactions (Includes those of spouse and dependent children; see pp. 34-60 of filing instructions.)

☐ NONE (No reportable income, assets, or transactions.)

A. Description of Assets (including trust assets) Place "(X)" after each asset exempt from prior disclosure	B. Income during reporting period		C. Gross value at end of reporting period		D. Transactions during reporting period				
	(1) Amount Code 1 (A-H)	(2) Type (e.g., div., rent, or int.)	(1) Value Code 2 (J-P)	(2) Value Method Code 3 (Q-W)	(1) Type (e.g., buy, sell, redemption)	(2) Date mm/dd/yy	(3) Value Code 2 (J-P)	(4) Gain Code 1 (A-H)	(5) Identity of buyer/seller (if private transaction)
1. Montana Fixed Fund	A	Interest	K	T	Exempt				
2. Rimrock Credit Union - Account	A	Interest	J	T	Exempt				
3.									
4.									
5.									
6.									
7.									
8.									
9.									
10.									
11.									
12.									
13.									
14.									
15.									
16.									
17.									

1. Income Gain Codes:
(See Columns B1 and D4)

2. Value Codes
(See Columns C1 and D3)

3. Value Method Codes
(See Column C2)

A = \$1,000 or less
F = \$50,001 - \$100,000
J = \$15,000 or less
N = \$250,001 - \$500,000
P3 = \$25,000,001 - \$50,000,000
Q = Appraisal
U = Book Value

B = \$1,001 - \$2,500
G = \$100,001 - \$1,000,000
K = \$15,001 - \$50,000
O = \$500,001 - \$1,000,000
R = Cost (Real Estate Only)
V = Other

C = \$2,501 - \$5,000
H1 = \$1,000,001 - \$5,000,000
L = \$50,001 - \$100,000
P1 = \$1,000,001 - \$5,000,000
P4 = More than \$50,000,000
S = Assessment
W = Estimated

D = \$5,001 - \$15,000
H2 = More than \$5,000,000
M = \$100,001 - \$250,000
P2 = \$5,000,001 - \$25,000,000
T = Cash Market

E = \$15,001 - \$50,000

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting

Watters, Susan P.

Date of Report

05/23/2013

VIII. ADDITIONAL INFORMATION OR EXPLANATIONS. *(Indicate part of report.)*

FINANCIAL DISCLOSURE REPORT

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Name of Person Reporting	Date of Report
Watters, Susan P.	05/23/2013

IX. CERTIFICATION.

I certify that all information given above (including information pertaining to my spouse and minor or dependent children, if any) is accurate, true, and complete to the best of my knowledge and belief, and that any information not reported was withheld because it met applicable statutory provisions permitting non-disclosure.

I further certify that earned income from outside employment and honoraria and the acceptance of gifts which have been reported are in compliance with the provisions of 5 U.S.C. app. § 501 et. seq., 5 U.S.C. § 7353, and Judicial Conference regulations.

Signature: s/ **Susan P. Watters**

NOTE: ANY INDIVIDUAL WHO KNOWINGLY AND WILLFULLY FALSIFIES OR FAILS TO FILE THIS REPORT MAY BE SUBJECT TO CIVIL AND CRIMINAL SANCTIONS (5 U.S.C. app. § 104)

Committee on Financial Disclosure
Administrative Office of the United States Courts
Suite 2-301
One Columbus Circle, N.E.
Washington, D.C. 20544

FINANCIAL STATEMENT

NET WORTH

Provide a complete, current financial net worth statement which itemizes in detail all assets (including bank accounts, real estate, securities, trusts, investments, and other financial holdings) all liabilities (including debts, mortgages, loans, and other financial obligations) of yourself, your spouse, and other immediate members of your household.

ASSETS				LIABILITIES			
Cash on hand and in banks		9	500	Notes payable to banks-secured (auto)		23	200
U.S. Government securities				Notes payable to banks-unsecured			
Listed securities – see schedule		23	221	Notes payable to relatives			
Unlisted securities				Notes payable to others			
Accounts and notes receivable:				Accounts and bills due		6	100
Due from relatives and friends				Unpaid income tax			
Due from others				Other unpaid income and interest			
Doubtful				Real estate mortgages payable – personal residence		268	792
Real estate owned – personal residence		370	000	Chattel mortgages and other liens payable			
Real estate mortgages receivable				Other debts-itemize:			
Autos and other personal property		200	000				
Cash value-life insurance							
Other assets itemize:							
Montana Judges' Retirement System		114	148				
Montana MPORS retirement plan		174	737				
				Total liabilities		298	092
				Net Worth		593	514
Total Assets		891	606	Total liabilities and net worth		891	606
CONTINGENT LIABILITIES				GENERAL INFORMATION			
As endorser, comaker or guarantor				Are any assets pledged? (Add schedule)	No		
On leases or contracts				Are you defendant in any suits or legal actions?	No		
Legal Claims				Have you ever taken bankruptcy?	No		
Provision for Federal Income Tax							
Other special debt							

FINANCIAL STATEMENT

NET WORTH SCHEDULES

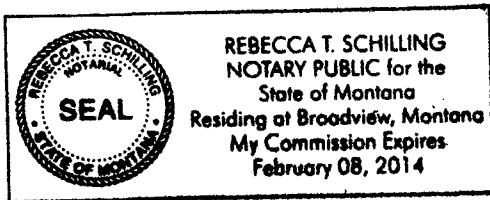
<u>Listed Securities</u>	
Montana Fixed Fund	\$ 23,221
Total Listed Securities	<u>\$ 23,221</u>

AFFIDAVIT

I, Susan P. Watters, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

May 24, 2013
(DATE)

Susan P. Watters
(NAME)



Rebecca T. Schilling
(NOTARY)