

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Rebecca Goodgame Ebinger
Rebecca Leigh Goodgame

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

United States District Court for the Southern District of Iowa

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.

Polk County Courthouse
500 Mulberry Street
Des Moines, Iowa 50309

Residence: West Des Moines, Iowa

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

1975; Clearwater, Florida

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.

2002 – 2004, Yale Law School; J.D., 2004
2001 – 2002, William and Mary Law School; no degree received
1993 – 1995 & 1996 – 1997, Georgetown University School of Foreign Service;
B.S.F.S., 1997
1995 – 1996, Sophia University, Tokyo, Japan; no degree received

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.

November 2012 – present
Judicial District 5C, State of Iowa
Polk County Courthouse
500 Mulberry Street
Des Moines, Iowa 50309
State Court Judge

November 2011 – November 2012
United States Attorney's Office for the Southern District of Iowa
United States Courthouse Annex
110 East Court Avenue, Suite 286
Des Moines, Iowa 50309
Assistant United States Attorney

February 2009 – November 2011
United States Attorney's Office for the Northern District of Iowa
111 Seventh Avenue SE
Cedar Rapids, Iowa 52401
Assistant United States Attorney

July 2006 – August 2008
The Honorable Michael J. Melloy, Judge
United States Court of Appeals for the Eighth Circuit
111 Seventh Avenue SE
Cedar Rapids, Iowa 52401
Law Clerk

September 2004 – June 2006
United States Attorney's Office for the Northern District of Iowa
Black Hawk County Attorney's Office
111 Seventh Avenue SE
Cedar Rapids, Iowa 52401
Assistant County Attorney *designated as a* Special Assistant United States Attorney

August 2003 – January 2004
United States Attorney's Office for the District of Connecticut
157 Church Street, 25th Floor
New Haven, Connecticut 06510
Extern

June 2003 – August 2003
Central Intelligence Agency
Office of General Counsel
1000 Colonial Farm Road
McLean, Virginia 22101
Law Clerk

September 2003 – June 2004
Yale Law School
127 Wall Street
New Haven, Connecticut 06511
Dean's Advisor for Transfer Students

January 2003 – June 2004
Yale Law School
127 Wall Street
New Haven, Connecticut 06511
Research Assistant to Kate Stith, Lafayette S. Foster Professor of Law

July 2002 – August 2002
William and Mary School of Law
613 South Henry Street
Williamsburg, Virginia 23185
Research Assistant to Davison M. Douglas, Arthur B. Hanson Professor of Law

June 2002 – July 2002
The Honorable F. Bradford Stillman, Magistrate Judge
United States District Court for the Eastern District of Virginia
Walter E. Hoffinan United States Courthouse
600 Granby Street
Norfolk, Virginia 23510
Law Intern

January 2001 – June 2001
Uncommon Grounds Coffee & Bagels
402 Broadway
Saratoga Springs, New York 12866
Coffee Server

June 2000 – December 2000
South Carolina World Trade Center
385 Meeting Street, Suite 102
Charleston, South Carolina 29403
Programming Consultant

March 1999 – May 2000
Pacific Forum CSIS
1003 Bishop Street, Pauahi Tower
Honolulu, Hawaii 96813
Research Assistant

December 1997 – December 1998

Council on Foreign Relations
1777 F Street NW
Washington, District of Columbia 20006
Program Associate

July 1997 – November 1997
Hill & Knowlton
466 Lexington Avenue, Third Floor
New York, New York 10017
Assistant Account Executive

Other Affiliations (uncompensated):

2007 – 2012
Iowa Organization of Women Attorneys
No physical address
Des Moines, Iowa 50301
Board Member

2009 – 2010
Linn Law Club
No physical address
Cedar Rapids, Iowa 52407
Vice President

2010 – 2011
St. Matthew Catholic School Board of Education
2244 First Avenue NE
Cedar Rapids, Iowa 52402
Vice President

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 never served in the military, and I am not required to register for selective service.

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

Award from the United States Marshals Service in the Southern District of Iowa for outstanding service and cooperation in the enforcement of the Adam Walsh Child Protection and Safety Act (2011).

Award from the Department of Housing and Urban Development Office of Inspector General (2010).

Certificate of Appreciation (outstanding appellate work), Northern District of Iowa United States Attorney's Office (2010).

Certificate of Appreciation (additional duties), Northern District of Iowa United States Attorney's Office (2010).

Certificate of Appreciation (sex offender registry cases), Northern District of Iowa United States Attorney's Office (2010).

Certificate of Appreciation (excellent prosecution efforts and perseverance), Northern District of Iowa United States Attorney's Office (2010).

Certificate of Commendation (firearms forfeiture), Northern District of Iowa United States Attorney's Office (2006).

Certificate of Commendation (outstanding efficiency), Northern District of Iowa United States Attorney's Office (2006).

Potter Stewart Prize (winning team in the Morris Tyler Moot Court Competition), Yale Law School (2004).

William A.R. Goodwin Memorial Scholarship (designated recipient - first in the first-year class), William and Mary School of Law (2002).

CALI Excellence Award (highest grade in Torts), William and Mary School of Law (2002).

CALI Excellence Award (highest grade in Criminal Law), William and Mary School of Law (2002).

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

American Judges Association, Member (2013 – 2014)

C. Edwin Moore American Inn of Court, Barrister and Master (2012 – present)

Committee to Revise Iowa Judicial Bench Book, Section Lead, plea and sentencing (2014 – present)

Iowa Judges Association, Member (2012 – present)

Iowa Organization of Women Attorneys, Member (2004 – present)
Board Member (2007 – 2012)

Iowa State Bar Association, Member (2004 – present)
Bench-Bar Committee (2015 – present)

Iowa Supreme Court Advisory Committee on Rules of Criminal Procedure, Member
(2014 – present)

Iowa Supreme Court Working Group on the Iowa Rules of Evidence, Member (2015 –
present)

Linn County Bar Association, Member (2004 – 2011)

Linn Law Club, Member (2004 – 2011)
Vice President (2009 – 2010)

National Association of Women Judges, Member (2012 – present)

Polk County Bar Association, Member (2012 – present)
Bench-Bar Committee (2015 – present)

Polk County Courthouse Security Committee, Member (2012 – present)

Polk County Women Attorneys, Member (2012 – present)

10. **Bar and Court Admission:**

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

Iowa, 2004

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 Eighth Circuit, 2005

United States District Court for the Northern District of Iowa, 2005

United States District Court for the Southern District of Iowa, 2012

Supreme Court of the State of Iowa, 2004

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.

Georgetown University, Alumni Admissions Program, Member (2004 – present)

Greater Des Moines YMCA, Member (2012 – present)

Honey Hill Homeowners' Association, Member (2009 – 2011)

Science Center of Iowa, Member (2011 – present)

St. Augustin Catholic Church, Member (2012 – present)

St. Augustin Catholic School, Home & School Association, Member (2012 – present)

St. Matthew Catholic Church, Member (2009 – 2011)

St. Matthew Catholic School Board of Education, Vice President (2010 – 2011)

Yale Law School, Class Agent (2004 – 2012)

Reunion Co-Chair (2014)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

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

The following list reflects my best efforts to identify all articles or other published materials that I can recall writing or editing based upon a review of my files and Internet searches, but I cannot be certain I listed everything I have ever written.

Harper v. Virginia State Board of Elections, 383 U.S. 663 (1966), in ENCYCLOPEDIA OF AMERICAN CIVIL LIBERTIES 745–46 (Paul Finkelman, ed., 2006). Copy supplied.

Kissinger Meets with Students, AMICUS CURIAE, Apr. 16, 2002, at 1. Copy supplied.

With Katie Riley, *Spring BLSA Events Include Oral History Presentation and Judge Cordell*, AMICUS CURIAE, Apr. 16, 2002, at 5. Copy supplied.

Professor Douglas Presented Virginia Outstanding Faculty Award, AMICUS CURIAE, Mar. 26, 2002, at 1. Copy supplied.

IBRL Conference on Rule of Law in China, AMICUS CURIAE, Mar. 26, 2002, at 1. Copy supplied.

Professor McConnell Delivers Cutler, AMICUS CURIAE, Feb. 12, 2002, at 1. Copy supplied.

The Benefits of Diversity, AMICUS CURIAE, Jan. 22, 2002, at 11. Copy supplied.

Harry Potter to the Rescue, AMICUS CURIAE, Dec. 3, 2001, at 7. Copy supplied.

The Amicus Staff's Guide to Holiday Gift Giving!, AMICUS CURIAE, Dec. 3, 2001 at 10. Copy supplied.

Paper Chase: Part Two, AMICUS CURIAE, Oct. 1, 2001, at 2. Copy supplied.

Professor Kades Joins Marshall-Wythe, AMICUS CURIAE, Sept. 14, 2001, at 1. Copy supplied.

Save Me From Myself, Forthwith, AMICUS CURIAE, Sept. 14, 2001, at 6. Copy supplied.

COMPARATIVE CONNECTIONS, A QUARTERLY E-JOURNAL ON EAST ASIAN

BILATERAL RELATIONS, Vol. 1, No. 3 (Ralph A. Cossa and Rebecca Goodgame Ebinger, eds. Jan. 2000). Copy supplied.

COMPARATIVE CONNECTIONS, A QUARTERLY E-JOURNAL ON EAST ASIAN BILATERAL RELATIONS, Vol. 1, No. 2 (Ralph A. Cossa and Rebecca Goodgame Ebinger, eds. Oct. 1999). Copy supplied.

The Top Five Threats to Asian Security: The Korean Peninsula Tops the List; China Issues Loom Large, PacNet No. 32, Aug. 20, 1999. Copy supplied.

COMPARATIVE CONNECTIONS, A QUARTERLY E-JOURNAL ON EAST ASIAN BILATERAL RELATIONS, Vol. 1, Iss. 1 (Ralph A. Cossa and Rebecca Goodgame Ebinger, eds. July 1999). 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.

As a member of the Iowa Supreme Court Advisory Committee on Rules of Criminal Procedure, I contributed to a report to revise certain Iowa Rules of Criminal Procedure. The Iowa Supreme Court published the proposed rule revision and solicited public comment on the changes on September 15, 2015. Copy supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

Brief for 13,922 Current Law Students at Accredited American Law Schools as Amici Curiae Supporting Respondents, *Grutter v. Bollinger*, 539 U.S. 306 (2003) (No. 02-241), 2003 WL 554404. Although I am listed in the appendix as one of the amici curiae, I have no recollection of signing this brief. I did not play any role in drafting or editing this brief. 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.

The following list reflects my best efforts to identify the speeches or talks that I have delivered based upon a review of my files and Internet sources. There may, however, be other speeches or talks that I have been unable to recall or identify.

November 21, 2014: Speaker, "A View from the Bench," Polk County Bar Association Fall Seminar, Polk County Bar Association, Des Moines, Iowa. PowerPoint presentation supplied.

August 20, 2014: Speaker, "Best Practices," Whitfield & Eddy Litigation Practice Group, Whitfield & Eddy, P.L.C., Des Moines, Iowa. PowerPoint presentation supplied.

June 25, 2014: Speaker, "Honoring Iowa's Appellate Judges," Polk County Women Attorneys, Des Moines, Iowa. Handouts supplied.

October 30, 2013: Panelist, "The Judicial Application and Selection Process," Polk County Women Attorneys, Des Moines, Iowa. This panel of district court judges in Des Moines discussed the judicial application and appointment process. I have no notes, transcript or recording. The address for Polk County Women Attorneys is Post Office Box 93011, Des Moines, Iowa 50399.

September 18, 2013: Speaker, "The American Judicial System," Open World Leadership Program, Iowa Sister States, Des Moines, Iowa. I discussed the American judicial system with another judge to a delegation of female professionals from Stavropol, Russia, as part of the "Women as Leaders: Economic Development" program. I have no notes, transcript or recording. The address for Iowa Sister States is 200 East Grand Avenue, Des Moines, Iowa 50309.

July 12, 2013: Speaker, "Laying the Foundation for a Successful Trial Practice," Summer Seminar, Iowa State Bar Association, Okoboji, Iowa. PowerPoint presentation supplied.

February 20, 2013: Speaker, Investiture Ceremony, Judicial District 5C, Des Moines, Iowa. Transcript supplied.

February 12, 2013: Panelist, "Thoughts and Experiences on Becoming a Judge," Polk County Bar Association, Des Moines, Iowa. I spoke as a member of a panel of judges discussing one's transition to the bench. I have no notes, transcript or recording. The address for the Polk County Bar Association is 625 East Court Avenue, Suite 100, Des Moines, Iowa 50309.

2004 – 2011: Speaker and Moot Court Judge, University of Iowa College of Law, Iowa City, Iowa. During the years 2004 to 2011, I occasionally spoke to groups

at the request of student groups or members of the faculty about career development issues or practice pointers. I also served as a volunteer judge for the moot court program during this time period. I have no notes, transcripts or recordings, and I do not recall the exact dates of the events. The address for the University of Iowa College of Law is 280 Boyd Law Building, Melrose & Byington, Iowa City, Iowa 52242.

- 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.

Rekha Basu, *Woman Went to Prison for \$20 Theft*, DES MOINES REGISTER, May 17, 2015, at 1OP. Although I spoke briefly on the phone with the author of this opinion column, the resulting article was inaccurate. On May 21, 2015, the *Register* appended an Editor's Note to the column online, noting the "column has been edited to omit some inaccuracies." Also on May 21, 2015, a responsive column by Iowa attorney Cynthia Moser appeared in the *Register*, entitled "Basu Column on Woman's Sentencing Omitted Facts." Copies supplied.

Cedar Rapids Man Pleads Guilty to Selling Crack Cocain, THE GAZETTE, July 9, 2005, at 1B. 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.

On November 20, 2012, Governor Terry Branstad appointed me to serve as a district judge in Iowa Judicial District 5C. I was retained as a district judge in Judicial District 5C in the November 4, 2014 general election. I preside over a court of general jurisdiction handling civil law and equity, criminal, and family court proceedings primarily in Polk County, but also as assigned throughout the Fifth Judicial District of Iowa.

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

After a review of my records and available court files, I estimate I have presided over approximately 40 cases that have gone to verdict or judgment after trial.

- i. Of these, approximately what percent were:

jury trials:	25%
bench trials:	75%
civil proceedings:	90%

criminal proceedings: 10%

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

One opinion I authored appears in an online legal database:

Campbell v. Deere & Co., No. LACL123494, 2013 WL 4038539 (Iowa Dist. Ct. Apr. 8, 2013)

As is typical for opinions written by a state district court judge, the vast majority of my opinions are only available in the court file and are unpublished. The State of Iowa judicial branch has transitioned to an electronic filing system and most files opened after 2012 are available to the public via computer terminals located within the courthouse where the case was handled.

- 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 (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

(1) *Campbell v. Deere & Co.*, Polk County No. LACL123494, 2013 WL 4038539 (Iowa Dist. Ct. Apr. 8, 2013)

Plaintiff Mr. Campbell, who had worked at John Deere Des Moines Works, filed this employment discrimination action against Deere & Company and his supervisors. Plaintiff alleged racial discrimination, hostile work environment, and retaliation as three separate violations of Iowa statute. I granted defendants' partial motion for summary judgment as to plaintiff's racial-harassment claim based upon conduct by supervisors. The remaining claims proceeded to trial. I bifurcated the trial between liability and damages stages to eliminate issues as to admission of evidence relevant to damages, but potentially prejudicial to the determination of liability. After a week-long jury trial as to liability, the jury returned a complete defense verdict. This case was not appealed.

Attorney for plaintiff Mr. Campbell:

Bruce Stoltze Jr.
Stoltze & Updegraff, P.C.
300 Walnut Street, Suite 260
Des Moines, Iowa 50309
(515) 244-1473

Attorneys for defendant Deere & Company and individual defendants:

Frank Harty

Debra Hulett
Nyemaster Goode P.C.
700 Walnut Street, Suite 1600
Des Moines, Iowa 50309
(515) 283-3170

- (2) *Dao v. Iowa*, Polk County No. PCCE074700
Nguyen v. Iowa, Polk County No. PCCE061786
Sihavong v. Iowa, Polk County No. PCCE073573

These consolidated post-conviction relief actions address the impact of the Iowa Supreme Court's decision in *Iowa v. Heemstra*, 721 N.W.2d 549 (Iowa 2006). In *Heemstra*, the court held that willful injury cannot serve as the predicate felony for felony-murder purposes if the act causing the willful injury is the same act that caused the victim's death. *Id.* at 558. The *Heemstra* court did not apply this new rule retroactively, making it applicable only to "those cases not finally resolved on direct appeal in which the issue has been raised in the district court." *Id.* Each petitioner in these actions raised constitutional challenges to the lack of retroactivity. I concluded Mr. Sihavong's application and Mr. Dao's application were procedurally barred. Mr. Nguyen's application was found to have failed on the merits. I concluded the decision not to apply *Heemstra* retroactively did not violate the federal or state equal protection clauses, separation of powers, or substantive due process under the Iowa Constitution. These cases are currently on appeal. Decision supplied.

Attorney for petitioner Mr. Dao:

Colin McCormack
Van Cleaf & McCormack Law Firm, LLP
118 SE Fourth Street
Des Moines, Iowa 50309
(515) 635-5654

Attorney for petitioner Mr. Nguyen:

Jesse Macro, Jr.
Gaudineer, Comito & George, L.L.P.
3737 Westown Parkway, Suite 2D
West Des Moines, Iowa 50266
(515) 327-1750

Attorney for petitioner Mr. Sihavong:

Angela Campbell
Dickey & Campbell Law Firm, P.L.C.
301 East Walnut Street, Suite One
Des Moines, Iowa 50309
(515) 288-5008

Attorney for the State:

Celene Gogerty
Polk County Attorney's Office
222 Fifth Avenue
Des Moines, Iowa 50309
(515) 286-3417

(3) *Fagen v. Grand View University*, Polk County No. LAACL126016

Plaintiff Mr. Fagen, a student at Grand View University, filed suit against defendant Grand View University and fellow students at Grand View after he allegedly suffered injuries at the hands of the other students on campus. Plaintiff's claims included counts for negligence and premises liability against Grand View University, and assault and battery and bullying against the individual defendants. Plaintiff sought to recover damages based upon, among other things, mental pain, mental disability, and loss of enjoyment of life. Two of the defendants moved to compel after, among other issues, plaintiff failed to execute an unrestricted patient's waiver. Plaintiff resisted the motion to compel, arguing the physician-patient privilege is not waived by garden-variety claims of mental distress and therefore an unrestricted waiver is not required by Iowa statute. After briefing by the parties and oral argument, I granted the motion to compel, in part, requiring plaintiff to furnish defendants with a fully executed waiver as to his mental health records. Plaintiff sought and was granted interlocutory appeal on this issue. Decision supplied.

Three members of the Iowa Supreme Court held that: (1) defendants seeking mental health records are required to show a reasonable basis to believe the records likely contain information relevant to an element or factor of plaintiff's claim or defense; (2) defendants are required to advance some good-faith factual basis demonstrating how records are reasonably calculated to lead to admissible evidence germane to an element or factor of a claim or defense; and (3) defendants are required to show a nexus between the records sought and a specific claim or defense to destroy the patient-physician privilege. One justice concurred in the result only, and the remaining three justices dissented. Based upon these holdings, remand was required to determine whether these defendants are entitled to a waiver. 861 N.W.2d 825 (Iowa 2015).

Attorney for plaintiff Mr. Fagen:

Roxanne Barton Conlin
Roxanne Conlin & Associates, P.C.
319 Seventh Street, Suite 600
Des Moines, Iowa 50309
(515) 283-1111

Attorney for defendant Mr. Iddings:

Jack Leverenz
Carmony Law Firm, PLLC
1163 24th Street, Suite 200
Des Moines, Iowa 50311
(515) 277-6550

Attorney for defendant Mr. Moore:

Allison Abbott
Elverson Vasey, L.L.P.
700 Second Avenue
Des Moines, Iowa 50309
(515) 243-1914

Attorney for defendant Grand View University:

Lori E. Cole Magerko
GuideOne Legal
Post Office Box 14503
West Des Moines, Iowa 50306
(515) 267-5121

(4) *Haas v. City of Des Moines*, Polk County No. EQCE075768

Plaintiffs Mr. and Mrs. Haas filed suit against the City of Des Moines after the City of Des Moines exercised eminent domain and took a portion of their property for a road expansion. Plaintiffs contested the valuation of the remainder of the property set by the Board of Commissioners. I presided over the three-day jury trial. The jury returned a verdict in favor of the City, but awarded plaintiffs some additional funds for recovery of costs associated with landscaping and paving the remainder. This case was not appealed.

Attorney for plaintiffs Mr. and Mrs. Haas:

Fred Haas
Solo Practitioner
5001 SW Ninth Street
Des Moines, Iowa 50315
(515) 256-6301

Attorney for defendant City of Des Moines:

John Haroldson
Office of the City Attorney
400 Robert D. Ray Drive
Des Moines, Iowa 50309
(515) 283-4072

(5) *Iowa v. Hoyman*, Warren County No. FECR027475

The chief judge of the Fifth Judicial District specially assigned this Warren County case to me after the parties jointly requested assignment to a different judge due to conflicts with Warren County judges. Defendant Mr. Hoyman, the former City Attorney for the City of Indianola, was charged with theft, fraudulent practices, and felonious misconduct in office. After presiding over various pretrial motions, including the denials of defendant's oral motion for recusal, the State's motion for change of venue, and defendant's motion to dismiss, the matter proceeded to trial. At the close of the State's evidence, I granted defendant's motion for a judgment of acquittal or directed verdict on the felonious misconduct in office charge. The jury returned a verdict of not guilty on the theft charge and a verdict of guilty on the fraudulent practices charge. After considering all relevant information and the applicable sentencing statutes, I sentenced defendant to an indeterminate term of incarceration not to exceed ten years. Defendant was ordered to pay a \$1,000 fine plus surcharge and \$35,333 in restitution. Decisions supplied.

On appeal, the Iowa Supreme Court interpreted the fraudulent practices statute under which Mr. Hoyman was convicted as including intent to deceive as an element and therefore held that the jury instructions, which did not include such an element, were flawed. The court further held that jury instructions as to the degree of fraudulent practice based on an aggregation theory must require the state to prove that the defendant obtained some money, property, or service through each act being aggregated. The court reversed Mr. Hoyman's conviction and sentence and remanded for a new trial before a different judge, without reaching the issue of whether recusal was required. 863 N.W.2d 1 (Iowa 2015).

Attorney for the State:

Robert Howard Sand
Iowa Attorney General's Office
Hoover State Office Building, Second Floor
1305 East Walnut Street
Des Moines, Iowa 50319
(515) 281-5536

Attorneys for defendant Mr. Hoyman:

Mark Weinhardt
Todd M. Lantz
Weinhardt & Logan
2600 Grand Avenue, Suite 450
Des Moines, Iowa 50312
(515) 244-3100

(6) *LSCP, LLLP v. Kay-Decker*, Polk County No. CVCV009671

In this administrative appeal, petitioner LSCP, LLLP (“Little Sioux”) argued that the statute imposing an excise tax on consumers of natural gas who directly connect to interstate natural gas pipelines violates the equal protection clause of the Iowa Constitution, the due process clauses of the Iowa and United States Constitutions, and the dormant commerce clause. After oral argument, I concluded that the challenged tax comported with the Iowa and United States Constitutions and affirmed the decision of the administrative law judge denying Little Sioux’s requests for refunds. Decision supplied. The Iowa Supreme Court affirmed. 861 N.W.2d 846 (Iowa 2015).

Attorneys for petitioner Little Sioux:

Christopher James
Stanley Thompson
William E. Hanigan
Davis, Brown, Koehn, Shors & Roberts, P.C.
215 Tenth Street, Suite 1300
Des Moines, Iowa 50309
(515) 246-7835

Attorneys for the Department of Revenue:

James Miller
Donald Stanley, Jr.
Iowa Attorney General’s Office
Hoover State Office Building, Second Floor
1305 East Walnut Street
Des Moines, Iowa 50319
(515) 281-5846

(7) *Renda v. Iowa*, Polk County No. LACL122524

Plaintiff Ms. Renda, an inmate at the Mt. Pleasant Correctional Facility, filed this action alleging employment discrimination, sexual harassment, and retaliation against the State of Iowa and the individuals supervising her work as a clerk at the facility. This matter had a lengthy history before it came before me. The Iowa Civil Rights Commission had previously decided it lacked jurisdiction over Ms. Renda’s complaint because she was not an employee of the Department of Corrections within the meaning of the Iowa Civil Rights Act. Ms. Renda appealed that decision, and the Iowa Supreme Court held that a prison inmate may be an employee within the meaning of the Iowa Civil Rights Act. *Renda v. Iowa Civil Rights Commission*, 784 N.W.2d 8 (Iowa 2010) (*Renda I*). Ms. Renda filed this petition in June 2011, and I took over the case upon my appointment in November 2012. I presided over multiple contested pretrial issues. Defendants filed a motion for summary judgment, which I granted in part and denied in part.

The motion was granted in whole against one defendant due to Ms. Renda's failure to exhaust administrative remedies. Applying the reasoning set forth in the majority opinion in *Renda I*, I concluded Ms. Renda qualified as an employee for purposes of the Civil Rights Act as a matter of law and allowed limited portions of Ms. Renda's remaining claims to proceed to trial. On the eve of trial, the parties settled the matter. Decision supplied.

Attorney for plaintiff Ms. Renda:

Roxanne Barton Conlin
Roxanne Conlin & Associates, P.C.
317 Seventh Street, Suite 600
Des Moines, Iowa 50309
(515) 283-1111

Attorney for the State:

Forrest Arthur Guddall
Iowa Attorney General's Office
Hoover State Office Building, Second Floor
1305 East Walnut Street
Des Moines, Iowa 50319
(515) 281-4673

(8) *Salah v. State Farm Fire & Casualty Co.*, Polk County No. LACL124687

Plaintiff Mr. Salah filed a breach of contract claim against his insurer after defendant State Farm Fire & Casualty Company denied coverage for damages allegedly suffered due to a burglary of plaintiff's grocery store. State Farm asserted the affirmative defense of concealment, misrepresentation, or fraud. I presided over this jury trial, which involved multiple foreign language interpreters and contested evidentiary issues. After a three-day trial, the jury returned a verdict for the defense, indicating plaintiff intentionally concealed or misrepresented a material fact concerning his claim. This case was not appealed.

Attorney for plaintiff Mr. Salah:

Thomas P. Lenihan
Solo Practitioner
1741 Grand Avenue
West Des Moines, Iowa 50265
(515) 225-1353

Attorney for defendant State Farm Fire & Casualty Company:

David May
Bradshaw, Fowler, Proctor & Fairgrave, P.C.
801 Grand Avenue, Suite 3700

Des Moines, Iowa 50309
(515) 246-5888

(9) *Soppe v. Hetzel*, Polk County No. LACL123050

Plaintiffs, Mr. and Mrs. Soppe, filed suit against Mr. Hetzel after Mr. Soppe and Mr. Hetzel were in a car accident. Plaintiffs alleged negligence, loss of consortium, and underinsured motorist coverage. Defendant asserted an affirmative defense of legal excuse based upon a sudden emergency. Plaintiff Mr. Soppe alleged, among other things, that he suffered traumatic brain injury due to the accident. After a week-long jury trial with extensive expert testimony on the accident and traumatic brain injury, the jury returned a verdict finding defendant had established a legal excuse for violating the law. This case was not appealed.

Attorney for plaintiffs Mr. and Mrs. Soppe:

Peter Berger
Berger Law Firm, P.C.
7109 Hickman Road
Urbandale, Iowa 50322
(515) 288-8888

Attorney for defendant Mr. Hetzel:

Kent Gummert
Lederer Weston Craig PLC
4401 Westown Parkway, Suite 310
West Des Moines, Iowa 50266
(515) 224-3911

(10) *Trustees of Iowa Laborers v. Ankeny Community School District*,
Polk County No. EQCE070373

This complex multi-party litigation arose out of construction projects in the Ankeny Community School District. I presided over pretrial litigation between multiple parties; the majority of the claims were resolved. Two parties remained and proceeded to trial: the supplier of the concrete masonry units (CMUs) used on the Ankeny projects, Oldcastle APG West, Inc. (Oldcastle), pursued an open account claim against the mason, Grove Masonry; and Grove Masonry sought to recover from Oldcastle based upon a breach of implied warranty of merchantability and a breach of implied warranty of fitness for a particular purpose arising out of alleged flaws in the CMUs. After a week-long bench trial, I concluded Oldcastle had failed to establish an open account claim. I also determined that Grove Masonry was entitled to recover \$783,097 in direct economic damages and \$1,005,961 in consequential damages due to a breach of an implied warranty of merchantability. Decision supplied.

On appeal, the Iowa Court of Appeals affirmed in part, reversed in part, and remanded for further proceedings. No. 13-1560, 2014 WL 7343307 (Iowa. Ct. App. Dec. 24, 2014). The court of appeals concluded there was insufficient evidence of timely notice of defect for one type of defective CMUs and remanded for determination of the portion of liability attributable to that type of defect with instructions to reduce the judgment against Oldcastle by that portion. The court affirmed the determination of consequential damages. Finally, the court indicated Oldcastle's open account claim should have been broadly construed to allow recovery of payments owed to Oldcastle and that the cases relied upon in denying recovery were distinguishable. Oldcastle filed an application for further review, but the parties settled the matter before the Iowa Supreme Court considered the application.

Attorneys for crossclaim plaintiff Oldcastle:

Mark Weinhardt
Weinhardt & Logan
2600 Grand Avenue, Suite 450
Des Moines, Iowa 50312
(515) 244-3100

William Ortman
Harvard Law School
100 Griswold Hall
1525 Massachusetts Avenue
Cambridge, MA 02138
(617) 496-4442

Attorney for crossclaim defendant Grove Masonry:

Matthew Sease
Kemp & Sease Law
104 SW Fourth Street, Suite A
Des Moines, Iowa 50309
(515) 883-2222

- 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) *Certified Payment Processing, LP v. Mavinga*, Polk County Case No. LACL122217. Decision supplied.

Attorney for plaintiff Certified Payment Processing, LP:

Bradley Beaman

Bradshaw, Fowler, Proctor & Fairgrave, P.C.
801 Grand Avenue, Suite 3700
Des Moines, Iowa 50309
(515) 246-5879

Attorneys for defendant Mr. Mavinga:

Scott Brennan
Michele Warnock Brott
Davis, Brown, Koehn, Shors & Roberts, P.C.
215 Tenth Street, Suite 1300
Des Moines, Iowa 50309
(515) 288-2500

(2) *Estate of Quintanar v. Iowa*, Polk County Case No. LACL121313.
Decision supplied.

Attorney for plaintiff Estate of Quintanar:

Benjamin Bergmann
Parrish Kruidenier
2910 Grand Avenue
Des Moines, Iowa 50312
(515) 284-5737

Attorneys for the State:

Richard Mull
Robin Formaker
Iowa Department of Transportation
General Counsel Division
800 Lincoln Way
Ames, Iowa 50010
(515) 239-1465

(3) *Horton v. Jimmy John's*, Polk County No. LACL124573. Decision
supplied.

Attorney for plaintiff Ms. Horton:

Steven Peter Wandro
Wandro & Associates, P.C.
2501 Grand Avenue, Suite B
Des Moines, Iowa 50312
(515) 281-1475

Attorneys for defendant Jimmy John's:

Scott James Beattie
Adam Bates
Peddicord Wharton Spencer Hook Barron & Wegman L.L.P.
6800 Lake Drive, Suite 125
West Des Moines, Iowa 50266
(515) 243-2100

(4) *Hunget v. Cox*, Warren County No. LACV034296. Decision supplied.

Attorney for plaintiffs Mr. and Mrs. Hunget:

Robert Stuyvesant
Stuyvesant, Benton & Judisch
1005 Highway Five, Box 517
Carlisle, Iowa 50047
(515) 989-3263

Attorney for defendants Iowa Realty and Ms. Laxton:

William Serangeli
Dickinson, Mackaman, Tyler & Hagen, P.C.
699 Walnut Street, Suite 1600
Des Moines, Iowa 50309
(515) 244-2600

Attorney for defendants Mr. and Mrs. Cox:

David Phipps
Whitfield & Eddy, P.L.C.
317 Sixth Avenue, Suite 1200
Des Moines, Iowa 50309
(515) 246-5541

(5) *Mitchell v. IMT Insurance Co.*, Polk County No. LACL121894. Decision supplied.

Attorneys for plaintiff Ms. Mitchell:

Bryan O'Neill
Dickinson, Mackaman, Tyler & Hagen, P.C.
699 Walnut Street, Suite 1600
Des Moines, Iowa 50309
(515) 246-4549

Thomas Newkirk
Newkirk Zwagerman Law Firm, P.L.C.

515 East Locust Street, Suite 300
Des Moines, Iowa 50309
(515) 883-2000

Attorneys for defendant IMT Insurance Co.:

Amy Teas
Sammons Financial Group
4350 Westown Parkway
West Des Moines, Iowa 50266
(515) 440-5553

Todd Strother
Bradshaw, Fowler, Proctor & Fairgrave, P.C.
801 Grand Avenue, Suite 3700
Des Moines, Iowa 50309
(515) 246-5889

(6) *PNC Bank, N.A. v. Fuentes*, Polk County No. LACL127794. Decision supplied.

Attorneys for plaintiff PNC Bank, N.A.:

Keith Noreika
Covington & Burling, LLP
1201 Pennsylvania Avenue, NW
Washington, DC 20004
(202) 662-5497

Christopher Pech
Wetsch, Abbott, Osborn, Van Vliet & Pech, P.L.C.
Post Office Box 2165
Cedar Rapids, Iowa 52406
(319) 362-3000

Attorney for defendants Mr. and Mrs. Fuentes:

Raymond Johnson
Johnson Law Firm
950 Office Park Road, Suite 221
West Des Moines, Iowa 50265
(515) 224-7090

(7) *Sears, Roebuck & Co. v. Central Iowa Mechanical Co.*, Polk County No. LACL123965. Decision supplied.

Attorney for plaintiff Sears, Roebuck & Co.:

Dalton Kidd
Duncan, Green, Brown & Langeness
400 Locust Street, Suite 380
Des Moines, Iowa 50309
(515) 288-6440

Attorneys for defendant Macerich Group:

Matthew J. Connealy II
Marci Iseminger
Crary, Huff, Ringgenberg, Hartness & Storm, P.C.
614 Pierce Street, Box 27
Sioux City, Iowa 51101
(712) 277-4561

Attorney for defendant Central Iowa Mechanical Co.:

David Phipps
Whitfield & Eddy, P.L.C.
317 Sixth Avenue, Suite 1200
Des Moines, Iowa 50309
(515) 246-5541

(8) *Iowa v. Brooks*, Polk County Nos. FECR264352 & FECR264736.
Decision supplied.

Attorney for the State:

Mark Taylor
Polk County Attorney's Office
222 Fifth Avenue
Des Moines, Iowa 50309
(515) 286-3785

Attorney for defendant Mr. Brooks:

Grant Gangestad
Gourley, Rehkemper & Lindholm P.L.C.
440 Fairway Drive, Suite 210
West Des Moines, Iowa 50266
(515) 226-0500

(9) *Iowa v. Gross*, Polk County No. FECR273795. Decision supplied.

Attorney for the State:

Joseph Darsean Crisp
Polk County Attorney's Office
222 Fifth Avenue
Des Moines, Iowa 50309
(515) 286-3541

Attorney for defendant Mr. Gross:

Jamie Hunter
Dickey & Campbell Law Firm, P.L.C.
301 East Walnut Street, Suite One
Des Moines, Iowa 50309
(515) 288-5008

(10) *Iowa v. Johnson*, Polk County No. FECR274268. Decision supplied.

Attorney for the State:

Stephan Bayens
Polk County Attorney's Office
222 Fifth Avenue
Des Moines, Iowa 50309
(515) 286-2117

Attorney for defendant Ms. Johnson:

Philip N. Reser
Adult Division, Office of the Juvenile Public Defender
505 Fifth Avenue
345 Insurance Exchange Building
Des Moines, Iowa 50309
(515) 725-1812

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

To my knowledge, no party has requested certiorari in any of the cases I have presided over.

- 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.

Iowa v. Gallardo, Polk County No. FECR263747. Defendant Mr. Gallardo was charged with possession of a controlled substance with intent to deliver and failure to possess a tax stamp after bringing his mother's morphine pills to a hotel known for drug activity, specifically, methamphetamine. I presided over the three-day jury trial, after which the jury returned a guilty verdict on a lesser included offense of possession of a controlled substance and on the charge of failure to possess a tax stamp. Defendant filed post-trial motions, alleging that the jury instructions improperly allowed the jury to consider the lesser included offense of possession of a controlled substance. I denied the motions, finding the jury instructions accurately stated the law. Decision supplied. Defendant appealed, and a divided panel of the Iowa Court of Appeals held that Iowa law recognizes the "ultimate user" exception and that there was sufficient evidence to submit such an instruction to the jury. No. 14-0350, 2015 WL 5278948 (Iowa Ct. App. Sept. 10, 2015).

Iowa v. McCoy, Polk County No. FECR261993. Mr. McCoy appealed the sentence imposed after the deferred judgment on his prior conviction for possession of a controlled substance with intent to deliver was revoked. The court of appeals affirmed the sentence, but remanded because the fine imposed was suspended, as opposed to being reduced to zero, consistent with the applicable statute. No. 14-1394, 2015 WL 4935697 (Iowa Ct. App. Aug. 19, 2015).

Iowa v. McLachlan, Polk County No. FECR244838. Mr. McLachlan appealed the sentence imposed after the deferred judgment on his prior conviction for possession of a controlled substance with intent to deliver was revoked. I presided over the resentencing of Mr. McLachlan after his prior sentence, a term of incarceration not to exceed ten years, with a one-third mandatory minimum, was vacated on appeal. I imposed an indeterminate term of incarceration not to exceed ten years. I found mitigating circumstances did not exist and required Mr. McLachlan to serve a mandatory one-third of his sentence before being eligible for parole, as required by statute. In July 2014, the Iowa Supreme Court held that statutory mandatory minimum sentences are cruel and unusual punishment under the Iowa Constitution, when applied to juveniles. *Iowa v. Lyle*, 854 N.W.2d 378 (Iowa 2014). Applying *Lyle*, the Iowa Court of Appeals held that the statutorily mandated minimum one-third sentence applicable to Mr. McLachlan's offense violated the Iowa Constitution because Mr. McLachlan was a juvenile when he committed his crime. The case was remanded for resentencing. No. 14-0257, 2015 WL 1332336 (Iowa Ct. App. Mar. 25, 2015).

Trustees of Iowa Laborers v. Ankeny Community School District, Polk County No. EQCE070373. A supplier of concrete masonry units (CMUs) brought an open account claim against a mason in a dispute arising from school district construction projects. The defendant in turn sought to recover from the supplier based upon a breach of implied warranty of merchantability and a breach of implied warranty of fitness for a particular purpose arising out of alleged flaws in the CMUs. I concluded the supplier failed to establish the open account claim

and awarded \$783,097 in direct economic damages and \$1,005,961 in consequential damages to the mason for breach of implied warranty of merchantability. Decision previously supplied in response to Q13c. The Iowa Court of Appeals affirmed in part, reversed in part, and remanded this case for further proceedings. No. 13-1560, 2014 WL 7343307 (Iowa Ct. App. Dec. 24, 2014). The court of appeals concluded there was insufficient evidence of timely notice of defect for one type of defective CMUs and remanded for determination of the portion of liability attributable to that type of defect, with instructions to reduce the judgment against the supplier by that portion. The court affirmed the determination of consequential damages. Finally, the court indicated the supplier's open account claim should have been broadly construed to allow recovery of payments owed to the supplier, and that the cases relied upon in denying recovery were distinguishable. The parties settled while a petition for review to the Iowa Supreme Court was still pending.

Flinn v. Iowa District Court for Polk County, Polk County No. CDCD084119. In this cross-contempt action, I found Mr. Flinn in contempt of court for refusing to provide his former spouse with the names of caregivers for their child while he was at work, and for failing to foster feelings of affection between his former spouse and their child. I imposed a sentence of thirty days in jail for the first finding, but held it in abeyance under the condition that he commit no further violations for six months. (This was the same sanction I imposed upon Mr. Flinn's former spouse for her contempt.) I imposed no sanction for the second finding against Mr. Flinn. Decision supplied. The Iowa Court of Appeals upheld my first finding of contempt, but it concluded the record did not support a finding of contempt for failing to foster feelings of affection and vacated the second finding of contempt. No. 13-1797, 2014 WL 6681214 (Iowa Ct. App. Nov. 26, 2014).

Care Initiatives, Inc. v. Anderson, Polk County No. CVCV045785. Care Initiatives appealed the award of workers' compensation benefits to former employee, Ms. Anderson. I held that there was not substantial evidence to support the agency's finding of causation of the injury, in particular that the injury was an aggravation of a pre-existing injury, and reversed the agency's award of benefits. Decision supplied. The Iowa Court of Appeals reversed. No. 14-0090, 2014 WL 3940232 (Iowa Ct. App. Aug. 13, 2014). Although the court agreed with many of the factual findings supporting my conclusion, it determined that the commissioner's decision was supported by substantial evidence under the applicable standard of review.

Iowa v. Hoyman, Warren County No. FECR027475. Mr. Hoyman, the former attorney for the City of Indianola, was charged with theft, fraudulent practices and felonious misconduct in office. At the close of the State's evidence, I granted defendant's motion for a judgment of acquittal or directed verdict on the felonious misconduct in office charge. The jury returned a verdict of not guilty on the theft charge and a verdict of guilty on the fraudulent practices charge. I sentenced

defendant to an indeterminate term of incarceration not to exceed ten years and denied his motion for a new trial. Decision previously supplied in response to Q13c. On appeal, the Iowa Supreme Court interpreted the fraudulent practices subsection under which Mr. Hoyman was convicted as including intent to deceive as an element and therefore held the jury instructions, which did not include such an element, were flawed. The court further held that jury instructions as to the degree of fraudulent practice based on an aggregation theory must require the state to prove that the defendant obtained some money, property, or service through each act being aggregated. The court reversed Mr. Hoyman's conviction and sentence and remanded for a new trial before a different judge, without reaching the issue of whether recusal was required. 863 N.W.2d 1 (Iowa 2015).

Fagen v. Grand View University, Polk County No. LACL126016. Mr. Fagen, a student at Grand View University, filed suit against the University and some fellow students after he allegedly suffered injuries at the hands of the other students on campus. I granted the defense's motion to compel plaintiff's completion of an unrestricted patient's waiver. Plaintiff appealed, arguing the physician-patient privilege is not waived by garden-variety claims of mental distress. Three members of the Iowa Supreme Court held that: (1) defendants seeking mental health records are required to show a reasonable basis to believe the records likely contain information relevant to an element or factor of plaintiff's claim or defense; (2) defendants are required to advance some good-faith factual basis demonstrating how records are reasonably calculated to lead to admissible evidence germane to an element or factor of a claim or defense; and (3) defendants are required to show a nexus between the records sought and a specific claim or defense to destroy the patient-physician privilege. One justice concurred in the result only. The court remanded the case to determine whether these defendants are entitled to a waiver. 861 N.W.2d 825 (Iowa 2015).

Iowa v. Hickman, Polk County No. SR267860. Defendant Mr. Hickman appealed the sentence that I imposed after he entered a plea of guilty to possession of a controlled substance, third offense, a class D felony. The court of appeals found Mr. Hickman's trial counsel was ineffective in failing to object to the State's statements at sentencing. No. 14-0269, 2014 WL 5251116 (Iowa Ct. App. Oct. 15, 2014). The court concluded the State did not truly "recommend" a suspended sentence, as had been agreed upon by the parties and that the prosecutor's statements breached the spirit of the plea agreement. The court vacated the sentence and remanded for proceedings before a new judge, consistent with *Santobello v. New York*, 404 U.S. 257, 263 (1971).

- 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.

Virtually all of the opinions I have written are unpublished. These opinions are available in the court files in the courthouse where the matter was handled.

- 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.

Dao v. Iowa, Polk County No. PCCE074700, *Ngyuen v. Iowa*, Polk County No. PCCE061786 & *Sihavong v. Iowa*, Polk County No. PCCE073573. Decision previously supplied in response to Question 13c.

Harrison v. Ankeny Police Dept., Polk County No. LACL130719. Decision supplied.

Iowa v. Bolden, Polk County No. FECR278974. Decision supplied.

Iowa v. Brooks, Polk County Nos. FECR264352; FECR264736. Decision previously supplied in response to Question 13d.

Iowa v. Gross, Polk County No. FECR273795. Decision previously supplied in response to Question 13d.

Iowa v. Johnson, Polk County No. FECR274268. Decision previously supplied in response to Question 13d.

Iowa v. Knapp, Polk County No. FECR272186. Decision supplied.

Iowa v. Pettinger, Polk County No. FECR275238. Decision supplied.

Iowa v. Risius, Polk County No. FECR265361, *aff'd*, 2015 WL 2394092, No. 14-0948 (Iowa Ct. App. May 20, 2015). Decision supplied.

Iowa v. Shorter, Polk County No. FECR274906. Decision supplied.

Iowa v. Telesford, Polk County No. FECR275689. Decision supplied.

Iowa v. Waters, Polk County No. FECR276452. Decision supplied.

LSCP, LLLP v. Kay-Decker, Polk County No. CVCV009671, *aff'd*, 861 N.W.2d 846 (Iowa 2015). Decision previously supplied in response to Question 13c.

- 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 never 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.

The judicial district within which I serve does not maintain records about a particular judge's recusals. I have reviewed my files and other available information in an effort to locate information about my recusals. I have listed all cases or classes of cases that I can recall recusal being an issue, but I cannot be certain that I have listed every case in which I recused myself.

For one year after my appointment to the state court bench, I sua sponte recused myself from all cases in which the United States Attorney's Office for the Southern District of Iowa entered an appearance. When my husband was working as an attorney with a law firm and for approximately one year after his departure from the firm, I sua sponte recused myself from all cases in which the firm entered an appearance. I recused in these instances based upon a determination that my "impartiality might reasonably be questioned." Iowa Code of Judicial Conduct Rule 51:2.11(A).

In *Iowa v. Hoyman*, Warren County No. FECR027475, Mr. Hoyman moved for recusal after I disclosed my husband had a personal relationship with the prosecutor on the case. The case had been specially assigned to me after Mr. Hoyman had moved for reassignment to a new judge based upon the recusal of two other judges with personal relationships with Mr. Hoyman. I consulted with the chief judge of my judicial district and considered Iowa Code of Judicial Conduct Rule 51:2.11 (governing disqualification) and Rule 51:2.7, which requires a judge to hear matters assigned to the judge "except when disqualification is required by rule 2.11 or other law." I declined to recuse.

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 never held public office other than my current judicial office. I have never unsuccessfully pursued an elective office. I have never been unsuccessfully nominated to appointed office.

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

I have never held an office in or rendered services for any political party or campaign committee.

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

- a. Describe in reverse chronological order your law practice and legal experience after graduation from law school including:

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

I served as a law clerk to the Honorable Michael J. Melloy, United States Circuit Judge for the Eighth Circuit Court of Appeals, from July 2006 to August 2008.

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

I have never practiced law alone.

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

September 2004 – June 2006

United States Attorney's Office, Northern District of Iowa

Black Hawk County Attorney's Office

111 Seventh Avenue SE

Cedar Rapids, Iowa 52401

Assistant County Attorney *designated as a Special Assistant United States Attorney*

February 2009 – November 2011

United States Attorney's Office, Northern District of Iowa
111 Seventh Avenue SE
Cedar Rapids, Iowa 52401
Assistant United States Attorney

November 2011 – November 2012
United States Attorney's Office, Southern District of Iowa
United States Courthouse Annex
110 East Court Avenue, Suite 286
Des Moines, Iowa 50309
Assistant United States Attorney

- 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 2004 to 2006, I was employed as an Assistant County Attorney with the Black Hawk County Attorney's Office and designated as a Special Assistant United States Attorney with the United States Attorney's Office for the Northern District of Iowa. I prosecuted criminal cases arising from five Iowa counties, including narcotics, immigration, and firearms offenses, as well as violent crimes. I represented the government in front of grand juries, at pre-trial hearings, sentencing hearings, and jury trials.

After completing a two-year clerkship, I returned to the United States Attorney's Office for the Northern District of Iowa in 2009 as an Assistant United States Attorney. My caseload shifted to white collar crime, primarily. I also handled intake for all child support enforcement cases and sex offender registry violations and prosecuted many of those cases myself. I also defended the United States in post-conviction review proceedings. My responsibilities included all aspects of prosecuting the criminal cases I was assigned: presenting evidence to the grand jury, handling pre-trial hearings and motions, interacting with defense counsel, victims, and witnesses, and representing the government at trial and sentencing. I also wrote appellate briefs and argued appeals before the Eighth Circuit and served as the office's point of contact for issues involving violence against women.

In the fall of 2011, I transferred to the United States Attorney's Office in the Southern District of Iowa. My caseload and responsibilities largely mirrored those I had in the Northern District. I also was a member of the office's appellate unit, which required me to assist other attorneys with appellate practice, including reviewing briefs and conducting moot courts.

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

At the United States Attorney's Offices for the Northern and Southern Districts of Iowa, I represented the United States government. As a Special Assistant United States Attorney, I specialized in prosecuting drug and gun crimes in support of the Department of Justice's Project Safe Neighborhoods initiative. I worked closely with local law enforcement agents as well as the Bureau of Alcohol, Tobacco, Firearms, and Explosives; the Drug Enforcement Agency; the Iowa Division of Criminal Investigation; and the Iowa Division of Narcotics Enforcement.

As an Assistant United States Attorney, I specialized in prosecuting white collar crimes, cases involving violence against women, sex offender registry violations, and child support enforcement cases. I continued to work with state and local law enforcement agencies, as well as federal agencies, including the United States Marshals Service, the Department of Health and Human Services Office of Inspector General, the Department of Agriculture Office of Inspector General, the Federal Bureau of Investigation, the United States Postal Inspection Service, the Internal Revenue Service-Criminal Investigations, and the Department of Housing and Urban Development Office of Inspector General.

While victims of federal crimes were not my clients, I made it a priority to work closely with the victim-witness professionals to make sure victims were aware of their rights, that they understood the proceedings, and that their interests were effectively represented.

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

I appeared in court frequently as a Special Assistant United States Attorney in the Northern District of Iowa and as an Assistant United States Attorney in the Northern and Southern Districts of Iowa. As a federal prosecutor, my practice was primarily, if not exclusively, a litigation practice. I handled each stage of each case I prosecuted, from presentment to the grand jury, detention and suppression hearings, trial, through sentencing and any appeal.

From 2004 to 2006, I appeared occasionally in the Iowa District Court in Linn

County to provide pro bono representation to individuals initiating contempt proceedings for alleged violations of orders of protection.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 99% |
| 2. state courts of record: | 1% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 4% |
| 2. criminal proceedings: | 96% |

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 represented the United States at nine trials during my tenure as a federal prosecutor. In five of the trials I was sole counsel, in two I was lead counsel, and in two I was associate counsel.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 89% |
| 2. non-jury: | 11% |

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:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of

principal counsel for each of the other parties.

(1) *United States v. Alexander*, No. 3:10-cr-03018-LRR-1 & LLR-2 (N.D. Iowa), *aff'd in part and rev'd in part*, 679 F.3d 721 (8th Cir. 2012)

Defendants Mrs. and Mr. Alexander were charged in a five-count indictment alleging false statements to the Department of Housing and Urban Development (HUD) and to an FDIC-insured financial institution. The case arose out of statements Mrs. Alexander made on a mortgage application for a HUD-insured mortgage, and later statements made by both Mrs. and Mr. Alexander in an attempt to forestall foreclosure. After a week-long jury trial, Mrs. Alexander was convicted of four of five charges and Mr. Alexander was convicted of one of two. Mr. Alexander was sentenced to 30 days' incarceration and did not appeal his conviction or sentence. Mrs. Alexander successfully appealed three of her four convictions, arguing that the stipulation she signed, which stated that "Bank of America" was FDIC-insured, was insufficient to prove that the lender "Bank of America, N.A." was FDIC-insured. I wrote the government's brief and argued the case to the Eighth Circuit. Mrs. Alexander was resentenced on the one remaining count of conviction to the same sentence previously imposed, 24 months' incarceration. I received an award from the HUD Office of Inspector General for my work on this case.

I represented the United States in the district court and in the court of appeals from June 2010 through December 2011. The First Assistant United States Attorney in the Northern District of Iowa, Sean Berry, handled the resentencing of Mrs. Alexander. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, presided over the trial, sentencing, and resentencing. The Honorable James B. Loken, Myron H. Bright, and Bobby E. Shepherd, United States Court of Appeals for the Eighth Circuit, considered the appeal.

Attorney for defendant Mrs. Alexander:

Webb Wassmer
Wassmer Law Office, PLC
5320 Winslow Road
Marion, Iowa 52302
(319) 210-4288

Attorney for defendant Mr. Alexander:

Jonathan B. Hammond
Klinger, Robinson & Ford, LLP
401 Old Marion Road Northeast
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(319) 395-7400

(2) *United States v. Bevins*, No. 1-10-cr-00030-LRR-1 (N.D. Iowa), *aff'd*, No. 10-3513, 2011 WL 2623553 (8th Cir. July 5, 2011)

From January 2010 through March 2010, Mr. Bevins, a sex offender required to register because of a 1999 conviction for sex abuse in the third degree, was living in Cedar Rapids and knowingly failed to register as a sex offender. Having previously traveled in interstate commerce, Mr. Bevins was charged with and pled guilty to failing to register as a sex offender under the federal Sex Offender Registration and Notification Act. I handled all aspects of this prosecution. During the course of the investigation into the registration violation, law enforcement officers became aware of an allegation of sexual abuse by Mr. Bevins while he was unregistered. I successfully moved for the appointment of a guardian ad litem for the minor victim. I presented evidence relating to the assault at Mr. Bevins's sentencing hearing, and the district court relied upon the evidence in increasing Mr. Bevins's term of incarceration. The court sentenced Mr. Bevins to 120 months' imprisonment. Mr. Bevins's sentence was upheld on appeal.

I represented the United States in the district court and the court of appeals from March 2010 through July 2011. The Honorable Jon Stuart Scoles, Chief United States Magistrate Judge, United States District Court for the Northern District of Iowa, presided over the initial stages of this case. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, presided over the contested sentencing hearing after Mr. Bevins pled guilty. The Honorable Michael J. Melloy and Roger L. Wollman, United States Court of Appeals for the Eighth Circuit, and the Honorable Ronald Lee Gilman, United States Court of Appeals for the Sixth Circuit (sitting by designation), considered the appeal.

Attorney for defendant Mr. Bevins:

John Bishop
Solo Practitioner
222 Third Avenue SE, Suite 299
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(319) 398-0343

Guardian ad litem for the minor victim:

John L. Lane
Solo Practitioner
225 Second Street SE
Cedar Rapids, Iowa 52401
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(3) *United States v. Bridges*, No. 4:11-CR-148 (S.D. Iowa)

Ms. Bridges obtained personal identifier information of volunteers who participated in a church outreach program at Mitchellville Women's Correctional Facility. In August and September 2011, Ms. Bridges used the personal identifiers of at least 48 of the volunteers to fraudulently obtain credit accounts with at least five victim financial institutions. Ms. Bridges pled guilty to one count of aggravated identity theft and one count of unauthorized use of a credit card. I handled all aspects of the case upon my arrival in the Southern District of Iowa. I worked with Ms. Bridges's attorney to resolve this case quickly, with particular attention paid to the multiple victims involved in the offense and the need for restitution. A number of the volunteers whose identities had been stolen spoke at Ms. Bridges's sentencing hearing. Ms. Bridges was sentenced to 48 months' incarceration. No appeal was filed.

I represented the United States in the district court from November 2011 through May 2012. The Honorable Ronald E. Longstaff, Senior Judge, United States District Court for the Southern District of Iowa, presided over the contested sentencing hearing after Bridges pled guilty.

Attorney for defendant Ms. Bridges:

Timothy Ross-Boon
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Capital Square, Suite 340
400 Locust Street
Des Moines, Iowa 50309
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(4) *United States v. Butler*, No. 08-72-MWB-4 (N.D. Iowa), *aff'd*, 646 F.3d 1038 (8th Cir. 2011) & *United States v. Sanders*, No. 08-72-MWB-1 (N.D. Iowa)

Defendants Mr. Butler and Mr. Sanders were two of six individuals prosecuted in the Northern District of Iowa as a result of a check-cashing scheme originating in the Chicago area. In essence, the schemers created false payroll checks and recruited individuals to cash them, returning the majority of the funds to the schemers. This case was reassigned to me after indictment. Four of the six defendants pled guilty before trial. Trial began with two defendants and 25 counts of alleged bank fraud. Mr. Sanders pled guilty on the second day of trial. Trial continued on the remaining seven counts against Mr. Butler, with the jury returning verdicts of guilty on six of the seven charges. The district court sentenced Mr. Butler to 80 months' imprisonment. Mr. Butler did not appeal his convictions, but did appeal his sentence, arguing the district court erred in applying two separate enhancements pursuant to the United States Sentencing Guidelines. I wrote the government's brief; the attorney who originally indicted the cases handled the oral argument. In the brief, we confessed error as to the application of one of the guideline provisions at issue (one that had been applied to all six defendants). The court of appeals upheld the use of the other guideline enhancement, but remanded for resentencing in light of the confessed error.

I represented the United States in the district court and in the court of appeals from September 2009 through October 2011. The Honorable Mark W. Bennett, Judge, United States District Court for the Northern District of Iowa, presided over the trial and sentencings. The Honorable Michael J. Melloy and Roger L. Wollman, United States Court of Appeals for the Eighth Circuit, and the Honorable Ronald Lee Gilman, United States Court of Appeals for the Sixth Circuit (sitting by designation), considered the appeal.

Attorney for defendant Mr. Butler:

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(319) 398-0343

Attorney for defendant Mr. Sanders:

Stephen A. Swift
Klinger, Robinson & Ford, LLP
401 Old Marion Road Northeast
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(319) 395-7400

(5) *United States v. Jason*, No: 09-cr-87-LRR (N.D. Iowa)

Defendant Mr. Jason pled guilty to one count of mailing a threatening letter. Mr. Jason admitted in a plea agreement that he mailed a threatening letter to the attorney representing him in a post-conviction relief action related to a stalking conviction in Johnson County, Iowa. Mr. Jason was appointed multiple attorneys during the pendency of this case. The final appointed attorney negotiated a plea agreement on Mr. Jason's behalf after the parties obtained a mental health evaluation. The case involved multiple contested hearings before Mr. Jason entered his plea and was ultimately sentenced to 27 months' imprisonment. I received an award from the United States Attorney's Office for the Northern District of Iowa in recognition of my prosecution efforts in this case.

I represented the United States in the district court from December 2009 through March 2012. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, presided over this case. The Honorable Jon Stuart Scoles, Chief Magistrate Judge, United States District Court for the Northern District of Iowa, also presided over a number of significant hearings during the pendency of this case.

Primary Attorney for defendant Mr. Jason:

Leon Spies
Mellon Spies & Pavelich
312 East College Street, Suite 216
Iowa City, Iowa 52240
(319) 337-4193

Attorney for the victim in this case:

John L. Lane
Solo Practitioner
225 Second Street SE
Cedar Rapids, Iowa 52401
(319) 363-3839

(6) *United States v. Johnson*, No. 1:04-cr-00108-LRR-1 (N.D. Iowa), *aff'd*, 462 F.3d 815 (8th Cir. 2006)

Mr. Johnson was charged with five offenses: possession with intent to distribute crack cocaine; possessing firearms as a felon; possessing firearms as an illegal drug user; possessing a firearm with an obliterated serial number; and possession with intent to distribute more than five grams of crack cocaine within 1,000 feet of a school after prior felony drug convictions. Mr. Johnson was convicted of all charges after a three-day jury trial. The district court imposed the statutorily mandated sentence of life imprisonment.

This case involved extensive pre-trial litigation, including a motion to dismiss based upon alleged prosecutorial misconduct, a venue challenge, a motion to suppress, a motion to sever, and numerous motions in limine. Mr. Johnson appealed his conviction and sentence. I wrote the government's brief and argued the appeal. The government prevailed on all claims, including the appeal of the district court's denial of defendant's motion to dismiss based upon alleged prosecutorial misconduct.

I was lead counsel for the United States in the district court and the court of appeals in this case from November 2004 through June 2006. The Honorable John A. Jarvey, then-Chief United States Magistrate Judge, United States District Court for the Northern District of Iowa (now Chief Judge, United States District Court for the Southern District of Iowa), presided over the initial stages of this case. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, presided over the trial and sentencing. The Honorable Kermit E. Bye, David R. Hansen, and Lavenski R. Smith, United States Court of Appeals for the Eighth Circuit, considered the appeal.

Co-counsel:

C.J. Williams
United States Attorney's Office

Northern District of Iowa
111 Seventh Avenue SE, Box One
Cedar Rapids, Iowa 52401
(319) 363-6333

Attorney for defendant Mr. Johnson:

John Bishop
Solo Practitioner
222 Third Avenue SE, Suite 299
Cedar Rapids, Iowa 52401
(319) 398-0343

(7) *United States v. LaBarge*, No. 1:06-cr-00005-LRR-1 (N.D. Iowa)

This prosecution arose out of a series of armed robberies of businesses and a standoff with law enforcement at a hotel in Cedar Rapids, Iowa. I oversaw the investigation and filed the initial complaint and indictment against Mr. LaBarge, who was eventually charged in a 13-count superseding indictment with charges including possession of a firearm as a felon and a drug user; carrying a firearm in furtherance of a crime of violence; and interfering with interstate commerce through robbery. Mr. LaBarge eventually pled guilty to two counts of carrying a firearm in furtherance of a crime of violence and, in a plea agreement, admitted committing six armed robberies in Cedar Rapids in December 2005. Mr. LaBarge was sentenced to 384 months' imprisonment. I received the Federal Bureau of Investigation's Director's Award for outstanding prosecutive skills and assistance to the Federal Bureau of Investigation as a result of my role in this prosecution.

I represented the United States in the district court from December 2005 through June 2006. Assistant United States Attorney Daniel C. Tvedt handled the remainder of the case. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, presided over this case.

Attorney for defendant Mr. LaBarge:

The Honorable Jane Kelly (formerly at Public Defender's Office)
United States Court of Appeals for the Eighth Circuit
111 Seventh Avenue SE
Cedar Rapids, Iowa 52401
(319) 423-6110

(8) *United States v. Neuzil*, No. 6:09-CR-02020-LRR-1 (N.D. Iowa), *aff'd*, No. 10-2184, 2010 WL 5185820 (8th Cir. Dec. 23, 2010)

In April 2009, Mr. Neuzil called his estranged wife in Minnesota from his home in Iowa and threatened to kill her and her family. Mr. Neuzil's wife reported the

threat, and local law enforcement officers intercepted Mr. Neuzil driving toward Minnesota with multiple firearms, knives, and ammunition in his car. The Bureau of Alcohol, Tobacco, Firearms, and Explosives brought these events to my attention as the point of contact for violence against women in the United States Attorney's Office for the Northern District of Iowa. Further investigation followed, including the execution of a search warrant at Mr. Neuzil's home, which uncovered a large cache of firearms, as well as at least one destructive device. I handled all aspects of the resulting federal prosecution. Mr. Neuzil faced charges of interstate stalking, transmitting threatening communications in interstate commerce, and possession of unregistered firearms. As the case progressed toward trial, the parties were able to reach a plea agreement, by which Mr. Neuzil pled guilty to three firearms charges. The remaining charges were dismissed. The plea agreement allowed for a resolution of the case without requiring the primary victim or her family members to testify at a trial. The court sentenced Mr. Neuzil to 120 months' imprisonment. The sentence was upheld on appeal.

I represented the United States in the district court and the court of appeals from April 2009 through December 2010. The Honorable Jon Stuart Scoles, Chief United States Magistrate Judge, United States District Court for the Northern District of Iowa, presided over the initial stages of this case. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, was scheduled to preside over this trial and presided over the contested sentencing hearing after defendant Mr. Neuzil pled guilty. The Honorable James B. Loken and Kermit E. Bye, United States Court of Appeals for the Eighth Circuit, and the Honorable D.P. Marshall, Jr., United States District Court for the Eastern District of Arkansas, considered the appeal.

Attorneys for defendant Mr. Neuzil:

The Honorable Jane Kelly (formerly at Public Defender's Office)
United States Court of Appeals for the Eighth Circuit
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Robert L. Sutton, Sr. (in the appellate proceedings)
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(9) *United States v. Ortega-Villasana*, No. 6:05-cr-02033-LRR (N.D. Iowa)

In April 2005, Mr. Ortega-Villasana submitted an application to purchase a firearm to a federally licensed firearm dealer. On that application, Mr. Ortega-Villasana stated he was a United States citizen and was not an alien illegally in

the United States. Mr. Ortega-Villasana was charged with three offenses: unlawful re-entry into the United States after a prior removal; false statements in attempting to buy a firearm; and falsely claiming United States citizenship. He pled guilty to the unlawful re-entry charge and proceeded to trial on the remaining two counts. After a three-day trial, the jury found him guilty of both offenses. Mr. Ortega-Villasana was sentenced to time served. Mr. Ortega-Villasana did not appeal his conviction or sentence.

I represented the United States in the district court from October 2005 through October 2006. The Honorable Linda R. Reade, Chief Judge, United States District Court for the Northern District of Iowa, presided over the trial and sentencing.

Attorney for defendant Mr. Ortega-Villisana:

JoAnne Lilledahl (formerly at the Public Defender's Office)
Chambers of the Honorable Jane Kelly
Eighth Circuit Court of Appeals
111 Seventh Avenue, SE
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(319) 423-6110

(10) *United States v. White*, No. 4:11-cr-00088 (S.D. Iowa)

Defendant Mr. White was required to register as a sex offender due to convictions for battery and sexual exploitation of a child. Mr. White regularly resided in Des Moines for a one-year period without informing sex offender authorities in Iowa or Illinois, where he purportedly resided, of his second home in Iowa. I was assigned this case after indictment and worked with the United States Marshals Service to prepare for trial. Ultimately, Mr. White pled guilty to one count of failing to register as a sex offender. Mr. White was sentenced to 30 months' incarceration. No appeal was filed. As a result of my prosecution of this and other failure-to-register cases, I received an award from the United States Marshals Service in the Southern District of Iowa for service and cooperation in the enforcement of the Adam Walsh Child Protection and Safety Act.

I represented the United States in the district court in this case from December 2011 through July 2012. The Honorable Ronald E. Longstaff, Senior Judge, United States District Court for the Southern District of Iowa, presided over the contested sentencing hearing after Mr. White pled guilty.

Attorney for defendant Mr. White:

Timothy Ross-Boon
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Capital Square, Suite 340
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Des Moines, Iowa 50309
(515) 309-9610

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

As a member of the Iowa Supreme Court Advisory Committee on Rules of Criminal Procedure, I contributed to a recommendation to revise Iowa Rule of Criminal Procedure 2.18(15), which addresses alternate jurors. The committee recommended a change to the rule consistent with Federal Rule of Criminal Procedure 24(c)(3), which allows for an alternate juror to replace a deliberating juror, if the need arises. We also recommended a change to the manner in which alternate jurors are selected. On September 15, 2015, the Iowa Supreme Court published the proposed rule and solicited public comment.

I am the only district court judge on the seven-member Iowa Supreme Court Working Group on the Iowa Rules of Evidence, chaired by Iowa Supreme Court Justice Brent Appel. We are tasked with recommending to the Iowa Supreme Court a restyling of the Iowa Rules of Evidence consistent with the recent restyling of the Federal Rules of Evidence.

I am a member of the Bench-Bar Committees of both the Iowa State Bar Association and the Polk County Bar Association. On these committees, I assist in planning activities designed to foster collegiality, civility, and professionalism among the attorneys and judges in the greater Des Moines area and throughout Iowa.

I have not performed any 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.

I have not taught any courses.

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 do not have any anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts or other future benefits. I have not made any arrangements to be compensated in the future for any financial or business interest.

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

I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during any service with the court.

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).

Please 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).

Please see attached Statement of Net Worth.

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 unaware of any specific family member, other person, party, categories of litigation, or financial arrangements that are likely to present potential conflicts-of-interest should I be confirmed. If confirmed, I would evaluate any real or potential conflict or relationship that could give rise to the appearance of conflict, on a case by case basis and determine appropriate action based upon Canon 3 of the Code of Conduct for United States Judges with the advice of parties and their counsel, including recusal where necessary.

- 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 would scrupulously abide by the ethical restrictions set forth by statute in 28 U.S.C. § 455 and Canon 3 of the Code of Conduct for United States Judges. If I were uncertain about my obligations, I would seek guidance from other judges, include the Chief Judge of the Southern District of Iowa, or request

an opinion from the Committee on Codes of Conduct of the Administrative Office of the United States Courts.

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 work load, 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.

From 2004 to 2006, I provided pro bono legal services as part of the Contempt Action Representation Effort ("C.A.R.E.") Project. The C.A.R.E. Project provides assistance to low-income, pro se individuals who have successfully obtained a civil domestic abuse protective order. I regularly represented these individuals at contempt of court hearings ordered after a defendant allegedly violated a civil domestic abuse protective order.

I have also participated in other pro bono public service activities not involving direct client representation. From 2004 through 2011, I regularly served as a volunteer judge and coach for the University of Iowa College of Law moot court program. In 2010, I coordinated a day-long seminar in Cedar Rapids, Iowa, for the College of Law's Philip G. Hubbard Law School Preparation Program, which aims to inspire students from groups historically under-represented in the law to become lawyers and to aid their preparation for law school.

During 2013 and 2014, I participated in the Drake Law School mentorship program, serving as a mentor to a law student. I also participated in a service project sponsored by the Iowa Organization of Women Attorneys and the Polk County Women Attorneys that provided books, educational games and toys, and furniture for the children's visiting area at the renovated Iowa Correctional Institution for Women in Mitchellville, Iowa. This project received the 2015 Public Service Award from the National Conference of Women's Bar Associations.

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 December 19, 2014, Senator Charles Grassley invited members of the Iowa legal community to apply to be considered for a judicial vacancy on the district court. I submitted an application. On January 14, 2015, in Des Moines, Iowa, I

interviewed with the Judicial Selection Commission formed by Senator Grassley. I had a second interview in Des Moines, Iowa, with the Judicial Selection Commission on March 27, 2015, and interviewed with two members of Senator Grassley's staff on March 30, 2015. On April 14, 2015, the chairperson of the Judicial Selection Commission contacted me and informed me Senator Grassley intended to submit my name to the White House for consideration. Since June 16, 2015, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On July 28, 2015, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. I met with Senator Grassley briefly following my interview with the White House Counsel's Office on July 28, 2015 in Washington, D.C. On September 15, 2015, 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.