

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Elizabeth Erny Foote (Formerly, Elizabeth Frances Erny)

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

United States District Judge for the Western District of Louisiana

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.

The Smith Foote Law Firm, LLP
720 Murray Street
Alexandria, LA 71301

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

1953, Lafayette, Louisiana

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.

1975-1978, Louisiana State University, Paul M. Hebert Law Center; J. D., 1978

1974-1975, Duke University; M.A., 1975

1970-1974, Louisiana State University; B.A. (Honors Division), 1974

1971, Nicholls State University (no degree-summer school)

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.

1980-Present

The Smith Foote Law Firm, LLP (and predecessor firms)

720 Murray Street

Alexandria, Louisiana 71309

Partner (1981-Present)

Associate Attorney (1980-1981)

1979-1980

Ledbetter, Percy & Stubbs (since dissolved)

800 Johnston Street

Alexandria, Louisiana 71301

Associate Attorney

1978-1981

Louisiana Third Circuit Court of Appeal

1000 Main Street

Lake Charles, Louisiana 70615

Interim Part-Time Law Clerk to Chief Judge William Culpepper (Fall of 1980 or 1981)

Law Clerk to Chief Judge William Culpepper (1978-1979)

1977-1978

Self-Employed

2249 Broussard Street

Baton Rouge, Louisiana 70808

Contract Law Clerk

1976-1977

McCollister, Belcher, McCleary, Fazio, Mixon, Holladay and Jones

One American Place

301 Main Street

Baton Rouge, Louisiana 70801

Law Clerk

1974

Franklin Press

1391 Highland Road

Baton Rouge, Louisiana 70802

Proofreader (summer only)

Other Affiliations

1986-Present

720 Company (owns and operates office building for my law practice)

720 Murray Street

Alexandria, Louisiana 71309

Partner

2007-Present, 2000-2003, & 1994-1996
Louisiana State Bar Association (uncompensated)
601 St. Charles Avenue
New Orleans, Louisiana 70130
Immediate Past President (2009-2010)
President (2008-2009)
President-Elect (2007-2008)
Treasurer (1994-1996)
Governor (1994-1996, 2000-2003 & 2007-Present)

1997-Present
Catalyst Vidalia Corporation
409 Texas Street
Vidalia, Louisiana 71373
Director

2007-Present & 1997-1999
Louisiana Bar Foundation (uncompensated)
909 Poydras Street, Suite 1550
New Orleans, Louisiana 70112
Director

2006-Present
Louisiana Civil Justice Center (uncompensated)
601 St. Charles Avenue
New Orleans, Louisiana 70130
President (2006-2007) & Director (2006-2010)

2007-2008
Louisiana Client Assistance Foundation (uncompensated)
601 St. Charles Avenue
New Orleans, Louisiana 70130
Director

2003-2006
River Cities Cultural Alliance (uncompensated)
1101 4th Street
Alexandria, Louisiana 71301
Director

1999-2005
United Way of Central Louisiana, Inc. (uncompensated)
1101 4th Street
Alexandria, Louisiana 71301
Board Member (1999-2005)
Treasurer (2002)

1999-2005
Alexandria Central Louisiana Economic Development District (uncompensated)
City of Alexandria
915 Third Street
Alexandria, Louisiana 71301
Commissioner

2001-2002
Rapides Regional Medical Center (uncompensated)
211 Fourth Street
Alexandria, Louisiana 71301
Director

1998-2000
Central Louisiana Chamber of Commerce (uncompensated)
1118 3rd Street
Alexandria, Louisiana 71301
Director

1991-1999
The Hope House (uncompensated)
29 Bolton Avenue
Alexandria, Louisiana 71301
President (1997-1999)
President-Elect (1995-1996)
Director (1991-1999)

1997-1999
Shepherd Ministries (uncompensated)
1400 Jackson Street
Alexandria, Louisiana 71301
Director

1995-1998
Rapides Bank & Trust Company in Alexandria
400 Murray Street
Alexandria, Louisiana 71301
Director

1996-1998
City Park Players (uncompensated)
2 Sylvester Street
Alexandria, Louisiana 71301
Director

Early 1980s
Alexandria Bar Association (uncompensated)
P. O. Box 3
Alexandria, Louisiana 71309
Treasurer (One Year Term)

Early 1980s
Alexandria Family Counseling Agency (uncompensated)
1404 Murray Street
Alexandria, Louisiana 71301
Director

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

I have not served in the military nor have I registered for selective service.

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

Martindale-Hubbell, AV Rated (Highest Ranking for Legal Ability & Ethical Standards)
Louisiana Super Lawyers Magazine, "Super Lawyer" (2009 & 2010)
American Bar Association, Fellow of the National Institute for Teaching Ethics and Professionalism (2009)
Louisiana Association of Nonprofit Associations, "Louisiana Heroine Award" (2004)
Alexandria Human Relations Commission, Community Award (2004)
The Town Talk (Alexandria, Louisiana) "Woman of the Century" (2000)
Central Louisiana Women Business Owners, "Woman of Excellence" (1996)
Louisiana State Bar Association, "President's Award" (1994)
Louisiana Business & Professional Women, "Outstanding Young Career Woman" (1980)
Louisiana State University Alumni Scholar, Full Scholarship (1970-1974)

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.

Alexandria Bar Association
Treasurer (early 1980s)
Committee on Continuing Legal Education (1985-1986)
American Bar Association
House of Delegates (2008-2009)
Consortium on Professionalism (2008-Present)

Central Louisiana Association of Women Attorneys
 Founding Member, 1978
 Committees of the Louisiana Supreme Court
 Ad Hoc Committee to Study Perceptions of the Legal Systems (2009-Present)
 Committee on Judicial Ethics (2008-2009)
 Louisiana Supreme Court Judicial Council (2008-2009)
 Committee to Study Attorney Advertising (2006-2007)
 Committee to Study Financial Assistance to Clients (2002)
 Mandatory Continuing Legal Education Committee (1998-1999)
 Committee on Preventing Lawyer Malpractice (1998)
 Louisiana Supreme Court Disciplinary Board of the Louisiana State Bar
 Association, Hearing Committee Member (1996-1998)
 The Crossroads American Inn of Court of Alexandria-Pineville
 Defense Research Institute
 Governor's Fifty States Project
 Chair (1984-1986)
 Louisiana Association of Defense Counsel
 Louisiana Association of Justice
 Louisiana Civil Justice Center
 President (2006-2007)
 Director (2006-Present)
 Louisiana State Bar Association (LSBA)
 Immediate Past-President (2009-Present)
 President (2008-2009)
 Presiding Officer, House of Delegates (Jan. 2, 2009 and June 12, 2009)
 President-Elect (2007-2008)
 Treasurer (June 1994 -June 1996)
 Member, Board of Governors (2007-Present, 2000-2003, & 1994-1996)
 Member, House of Delegates (2006 & 1998-2000)

As an active officer and member of LSBA for most of my legal career, including a term as LSBA President, I have sat on many Committees. Based on my recollection and records, I have identified the following terms of service:

Office of Disciplinary Counsel Liaison Committee Chair (2009-Present)
 Committee on the Profession, Vice-Chair, (2009-2010)
 Lawyers In Transition (2007- Present)
 Dues Increase Committee (2006-2007)
 Access to Justice Committee (2005-Present)
 Disaster Response Committee, Co-Chair (2005-2006)
 Professional Assessment Committee (2004-2007)
 Bench/Bar Committee Chair (2004-2007)
 Legal Malpractice Insurance Committee (2003-2009)
 Group Insurance Committee (2002-2005)
 Long Range Planning Committee (1996)
 Long Range Planning Committee (1992)

Continuing Legal Education Committee (1985-1999); Chair (1998-1999)
Outstanding Young Lawyer Selection Committee (1985)
Young Lawyers Community Law Week and Law Fair Committee (1985)
Louisiana Bar Foundation
Director (2007-Present & 1997-1999)
IOLTA Grants Committee (1997-1998)
Communications Chair (1996)
Louisiana State Law Institute
Louisiana State University Paul M. Hebert Law Center Board of Trustees (2005-Present)
Shreveport Bar Association

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.

Louisiana, 1978

There has been no lapse in membership.

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

Supreme Court of the United States, 1995
United States Court of Appeal for the Fifth Circuit, 1985
United States District Court for the Eastern District of Louisiana, 1999
United States District Court for the Western District of Louisiana, 1979
Louisiana Supreme Court, 1978

There has been no lapse 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.

Alexandria Business and Professional Women (approximately 1979-1981)
Alexandria-Pineville Commission for Women (1979-1982)
Chair, 1979-81
Alexandria Family Counseling Agency

Director (early 1980s)
 Alexandria Mental Health Center
 Director (early 1980s)
 American Heart Walk/Run for Rapides Parish
 Vice-Chairman (1998)
 Bank One Community Advisory Board (1998-2000)
 Central Cities Development Corporation (1999-2003)
 Central Louisiana Chamber of Commerce
 Director (1998-2000)
 City Park Players Little Theater
 Director (1996-1998)
 Hope House Women's Shelter
 President (1997-1999)
 Director (1991-1999)
 Krewe of Medea (2000-2008)
 Louisiana Bar Journal
 Editorial Board (1997-2000)
 Louisiana State University at Alexandria, Lay Advisory Board (1998-1999)
 Vice President (1999)
 March of Dimes - Rapides Parish
 Fundraising Co-Chair (early 1980s)
 Mystic Krewe of Louisiana (1996-2008)
 Rehabilitation Hospital of Alexandria (HealthSouth)
 Advisory Board (1997-2001)
 River Cities Cultural Alliance
 Chair (2005)
 Director (2003-2006)
 Rotary Club of Alexandria (1995-Present)
 Shepherd Ministries
 Executive Board (1997-1999)
 United Way of Central Louisiana
 Chair (2004)
 Treasurer (2002)
 Campaign Chair (2000)
 Director (1999-2005)

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

The Krewe of Medea is a Mardi Gras Krewe, an organization that produces a party once a year as part of the Mardi Gras Celebration. The Krewe of Medea, like many similar organizations, has only women as dues-paying members but does not so restrict participation in its events. I ceased to be a member of the Krewe of Medea in 2008. None of the other organizations listed discriminates on the basis of race, sex, religion, or national origin now, nor has any of the organizations done so during my affiliation. The Mystic Krewe of Louisiana and the Rotary Club of Alexandria each were men-only organizations prior to my joining. I have no knowledge of any other past discrimination by any of these organizations.

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.

As President of the Louisiana State Bar Association (LSBA), I published a bimonthly column, titled "President's Message," in the Louisiana Bar Journal:

"Equal Opportunities for the Participation of All Lawyers" (Apr./May 2009)
"Induction Ceremony of Chief Justice Catherine D. Kimball" (Feb./Mar. 2009)
"A Lifetime of Service" (Dec. 2008/Jan. 2009)
"New Rules on Lawyer Advertising and Solicitation: Mixed Reviews Bring Praise and Litigation" (Oct./Nov. 2008)
"Commit to the Profession" (Aug./Sept. 2008)

Also as LSBA President, I was featured in a video entitled "Equal Justice Under the Law," produced in 2009. My remarks, shown prior to every LSBA-sponsored CLE program, encouraged lawyers to participate in pro bono projects. After my term ended, the video was revised to carry the same message from my successor.

I served as a member of the Editorial Board of the Louisiana Bar Journal from 1997-2000. I have not kept records of the pieces I edited and I have no specific recollections of them. I also have authored the following works in the Louisiana Bar Journal:

"President's Report: What Has the LSBA Done for Me Lately?" LSBA Annual Report (Feb./March 2009)
"In His Own Words: Chief Justice Pascal F. Calogero, Jr." (Dec. 2008/Jan. 2009)
Letter to the Editor (Aug./Sept. 2008)
"18 Months and Counting: Cooperative Efforts Keep Disaster Legal Assistance Call Center Available to Help Citizens" (Feb./Mar. 2007)
"Namesake of Harmon Drew Super Group Talks on Careers, Family and Burnout" (Oct. 1999)

“When It Rains It Pours” (Feb. 1998) (coauthor)

“A Woman's View of Law Practice in the Next Century” (June 1991)

I served as Associate Editor of a book published by the Louisiana Bar Foundation: *In Our Own Words: Reflections on Professionalism in the Law* (1998). I contributed a chapter to this volume entitled “Women in the Profession: From Unswept Floors to the Glass Ceilings.”

In addition, having been involved with and served in leadership roles of charitable causes throughout my career, I occasionally have contributed short messages for newsletters or fundraising appeals. For example, I recall contributing a short message for a United Way newsletter, but I do not recall the year and do not have a copy.

- 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 President of the Louisiana State Bar Association from 2008-2009, and having served in various leadership roles with the Association throughout my career, I have had some participation in the formulation of Bar policy. For example, the Association’s House of Delegates proposes and the Board of Governors adopts or rejects many legal policy proposals each year. As President, I had overall responsibility for the operation of this process. In the following cases, I personally prepared or contributed to a report, memoranda, or policy statement beyond my executive role:

Member Firm Statement of Diversity Principles (Apr. 4, 2009)

President’s Statement Regarding Tulane Law Review Article on the Louisiana Supreme Court (June 26, 2008)

Resolution to Create a Committee on the Profession (June 12, 2008)

Resolution to Create a Lawyers in Transition Committee (Apr. 5, 2008)

Louisiana State Bar Association Diversity Statement (Jan. 12, 2008)

Strategic Plan of the Louisiana State Bar Association (Apr. 5, 2008)

I also contributed to the following reports as a member of the authoring committee:

Report of the Louisiana Supreme Court Committee to Study Attorney Advertising (2007) (Prepared for review and action by the Justices of the Court and not released to the public)

Report of the Louisiana Supreme Court Committee to Study Financial Assistance to Clients (2002) (Prepared for review and action by the Justices of the Court and not released to the public)

Report of the Conclave on Legal Education and Professional Development, Louisiana Bar Foundation (1991). I have not retained a copy. The Foundation's address is: 909 Poydras Street, Suite 1550, New Orleans, LA 70803.

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

I served on the Governor's Fifty States Project from 1986-1987, including a term as its Chair. This Committee was appointed by the Governor to examine the laws of the State of Louisiana. I recall that a group of members of the Committee testified before the Louisiana State House in or about 1988. I have no records of this testimony.

- 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.

Continuing Legal Education Engagements

“What Has the LSBA Done For Me Lately?”

John M. Duhe Inn of Court, Lafayette, Louisiana, Sept. 9, 2009

LSBA Seminar, Alexandria, Louisiana, Aug. 13, 2009

LSBA Seminar, Kenner, Louisiana, May 12, 2009

LSBA Seminar, Shreveport Convention Center, Apr. 30, 2009

LSBA Seminar, University of Louisiana at Monroe, Apr. 29, 2009

“The State of Our Profession,” LSBA Solo and Small Firm CLE, New Orleans, Louisiana, Mar. 26, 2009

“Professionalism,” Baton Rouge Bar Association CLE by the Hour, Dec. 29, 2008

“Ethics from the Defense Perspective: Representing the Insured and the Insurer at the Same Time,” Louisiana State University Law Center Insurance Law Seminar, Nov. 7, 2008

“The Who and What of the Medical Malpractice Act: A Primer,” LSBA Seminar, New York, New York, Nov. 20, 2007

- “The Current Status of the Medical Malpractice Act,” Louisiana State University Paul M. Hebert Law Center Medical Malpractice Seminar, Nov. 17, 2006
- “Lying in Wait With a Deadly Motion: Winning With Pre-Trial Motions”
LSBA Summer School for Lawyers, Sandestin, Florida, June 7, 2005
Advanced Tort Litigation Seminar, Louisiana State University Paul M. Hebert Law Center, Feb. 13, 2007
Lafayette Parish Bar Association Bench-Bar Conference, Sept. 28, 2007
Young Lawyers Seminar, New Orleans, Louisiana, Mar. 25, 2008
- “Trial Advocacy—Tips on Trial and Appellate Briefs,” Shreveport Bar Association 2004 Recent Developments Seminar, Oct. 14-15, 2004 (no notes)
- “What’s Right for Your Firm: Three Views on Management” (no notes)
LSBA Summer School for Lawyers, Sandestin, Florida, June 7, 2004
LSBA Summer School Revisited, Dec. 9-10, 2004
- “Breaking Down the Walls of Separation, A Day of Dialogue: What Judges and Lawyers Can Learn From Each Other” (panel), LSBA Seminar, New Orleans, Louisiana, Jan. 23, 2004 (no notes)
- “Writing to Win: Tips On Trial and Appellate Briefs,” LSBA CLE in the City, Grand Hyatt, New York, Nov. 22-24, 2003 (no notes)
- “Medical Malpractice: Are You Talking To Me?” Annual Nuts & Bolts Seminar, Destin, Florida, June 11-13, 2003 (no notes)
- “Depositions 101: Ethics and Professionalism in the Context of Expert and Non-Expert Witness Depositions,” LSBA Seminar, New Orleans, Louisiana, Nov. 8, 2002 (no notes)
- “Ethics: The Duty To Defend – Trouble Areas and Ethical Considerations,” LSBA Insurance Law Seminar, Oct. 1, 1999 (no notes)
- “The Expert Witness Deposition,” LSBA Deposition School, Mar. 26, 1999 (no notes)
- “Tort Law & Workers’ Compensation: When Two Systems Collide,” LSBA Summer School for Lawyers, Sandestin, Florida, June 1998 (no notes)
- 1997 Evidence and Procedure Seminar, Louisiana Judicial College, Feb. 1997 (no notes)
- Chair & Presenter, “Selected Problems in Evidence and Civil Procedure,” LSBA Georgia For the Mind Seminar,” Nov. 1996 (no notes)
- “Deposing the Fact Witness,” LSBA Depositions from A-Z Seminar, Oct. 1996 (no notes)
- “Handle with Care: The Opposition’s Expert” (no notes)
LSBA Summer School for Lawyers, Sandestin, Florida (June 1996)
LSBA Summer School Revisited (Dec. 1996)
- “Ethics: The Role of the Louisiana State Bar Association in the Regulation of the Practice of Law,” Fourth Annual Judge Alvin B. Rubin Federal Law Symposium on Ethics, Federal Bar Association, New Orleans, Louisiana, Mar. 1996 (no notes)
- 1996 Evidence and Procedure Seminar, Louisiana Judicial College, Feb. 1996 (no notes)

- “Ethics: The Regulation of the Practice of Law,” (no notes) Divorce Law Practice Seminar Louisiana State University Paul M. Hebert Law Center, Sept. 1995; repeated at the Institute on Real Estate Law, Nov. 1995
- “What if the Boiler Explodes on Steamboat Willie – An Examination of the Effect of Billiot on Workers’ Compensation and Tort Claims,” LSBA Disneyworld Program, July 1995 (no notes)
- “Mediation” (no notes)
LSBA Summer School for Lawyers, Sandestin, Florida (June 1994)
LSBA Summer School Revisited (Dec. 1994)

Law School Professionalism Presentations

As President-Elect and then President of the LSBA, I was among the designers of a revised program for first-year law students entitled “Character and Fitness in the Bar Admissions Process.” I personally participated in these presentations to Loyola Law School (Mar. 26, 2009), Southern University Law School (Apr. 8, 2009), and the Louisiana State University Paul M. Hebert Law Center (Apr. 8, 2009). Our program won the 2009 ABA Smythe Gambrell Award for professional programming. (no notes)

I also participated in first-year orientation programs in multiple years at Southern University Law School (2008) and at Louisiana State University Paul M. Hebert Law Center (2004-2009). Lastly, I was a panelist at an LSBA professionalism program for third-year law students at Louisiana State University Paul M. Hebert Law Center (Apr. 2006). (no notes)

Other

- “Activities of Louisiana State Bar Association, 2008-2009” Downtown Rotary Club of Alexandria, Louisiana, June 30, 2009
- “State of Our Profession,” General Assembly of the Louisiana State Bar Association and the House of Delegates, June 12, 2009
- Remarks at the Annual Meeting Installation Dinner, LSBA, June 12, 2009
- Remarks at the Young Lawyers Awards Banquet, LSBA, June 11, 2009
- “About the LSBA,” Remarks at the LSBA and Louisiana Attorney Disciplinary Board Joint Seminar, Baton Rouge, Louisiana, Mar. 9, 2009
- Swearing-In of Chief Justice Catherine Kimball, Supreme Court of Louisiana, Jan. 12, 2009
- Tribute to Retiring Chief Justice Pascal Calogero, Supreme Court of Louisiana, Dec. 2008 (no notes)
- “Welcome to Our Profession,” Louisiana Supreme Court Bar Admissions Ceremony, Pontchartrain Center, Kenner, Louisiana, Oct. 23, 2008
- “Report of the Louisiana State Bar Association to the Louisiana Judicial College,” Conference of Louisiana Judicial College, New Orleans, Louisiana, Oct. 7, 2008 (no notes)
- “Top 10 Issues,” Leadership LSBA Orientation, Aug. 2008

Installation Speech, Louisiana State Bar Association Annual Meeting, June 13, 2008

“The Role of the Louisiana Civil Code in Louisiana Law,” Jean Lafitte Acadian Cultural Center, Lafayette, Louisiana, May 27, 2008 (no notes)

Awards Ceremony at Tulane Law School, New Orleans, May 16, 2008 (no notes)

“Commit to the Profession” Recruitment Speech as LSBA President-Elect to Various Attorney Groups, spring 2008

“Stirring Things Up,” Remarks to the 2008-2009 LSBA Board of Directors, Spring 2008

Commencement Speaker, Louisiana State University at Alexandria, Alexandria, Louisiana, December 24, 2001 (no notes)

"Behind the Scenes of the 1996 Senatorial Race," Cenla Chapter of Public Relations Association, 1996 (no notes)

Keynote Address, Louisiana State Paralegal Association State Convention, Sept. 1993 (no notes)

“Balancing a Career and Family,” Rapides General Hospital Women's Forum, 1986 and 1989 (no notes)

Speaker, Acadiana Women's Attorneys Association, 1990 (no notes)

“Women in the Practice of Law,” LSBA Convention, Louisiana Women's State Bar Association meeting, summer 1986 (no notes)

I have compiled this list of speeches and talks based on search of my records and my best recollection. In addition, during my service as an officer of the Louisiana State Bar Association and other organizations, I often offered short introductions of guests and made other welcoming remarks.

- 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.

Louisiana Bar Journal, Volume 57, Number 3, October/November 2009, article appearing on Pages 178-179, entitled “LSBA’s Bar Admissions Education Initiative Receives 2009 ABA Professionalism Award.” This is a re-print of the article that appeared in the Louisiana State Bar Association Bar Briefs, Vol. 24, No. 5, September 2009.

“Immediate Past President Elizabeth Erny Foote,” Web Publication of the Louisiana State Bar Association bio of Elizabeth Foote .

“Inside Law,” “Reviews Already Underway on Attorney Advertising,” CityBusiness, May 18, 2009.

“Scalia To Speak in NO on ‘Rule of Law’ in Iraq.” The Advocate Online, April 24, 2009.

“LSBA strengthens pro bono efforts with summit,” Bar Briefs; LSBA; March 2009, Volume 24, No. 2.

Press Release, “Ad-Justment,” New Orleans CityBusiness, February 16, 2009.

Press Release, "State Bar Wants Courthouse IDs," New Orleans CityBusiness, February 16, 2009.

"Kimball Assumes Post," The Advocate Online, January 13, 2009.

"Lawsuit delays launch of new advertising laws," New Orleans CityBusiness, November 24, 2008

"Lawsuit seeks to block tough lawyer ad rules," AP Story; The American Press, Lake Charles, Louisiana, October 27, 2008

"Louisiana's Planned Crackdown on Lawyer Advertising Brings Objection;" AP Story; The Washington Post, November 2, 2008

LSBA Responds to Hurricanes Gustav and Ike "A Message from LSBA President Elizabeth Erny Foote," Bar Briefs, LSBA, September 2008, Vol. 23, No. 5.

"Hurricane Hotline In Service;" The Advocate Online, September 30, 2008.

"Off the Clock" "Beth Foote" New Orleans CityBusiness, August 11, 2008.

"Foote Installed as LSBA's 68th President," Louisiana Advocates, August 2008.

"2008 Midwest Floods Relief Fund Established," Bar Briefs, July 2008, Vol. 23, No. 4.

"Louisiana High Court Sets Lawyers' Ad Rules" (AP), Bastrop Enterprise, Bastrop, Louisiana, July 5, 2008

"President's Interview, Elizabeth Erny Foote, 68th President of the Louisiana State Bar Association," by Mark A. Cunningham, Louisiana Bar Journal, Vol. 56, No. 1, June-July 2008.

"United Way Drive," Alexandria Daily Town Talk, October 26, 2000

"Women of Excellence: Elizabeth Foote," Alexandria Daily Town Talk, October 15, 2000

"Dig Deeper," Alexandria Daily Town Talk, September 16, 2000

"United Way Sets Goal," Alexandria Daily Town Talk, September 8, 2000

"Fourth Generation Native Enjoys Giving Back to Area," October 17, 1999

"Women's Conference to Feature Seven Workshops," Alexandria Daily Town Talk, Wednesday, January 30, 1980.

"Women's Commission Planning Conference," Town Talk, Alexandria-Pineville, La., Sunday, December 1979.

"Couples in the Same Profession Sharing their lives and their Careers," The Red River Journal, January 4-10, 1979.

In addition, having been involved with and served in leadership roles for charitable causes throughout my career, I have been interviewed by local television stations on several occasions to promote a charitable cause or fundraising event. For example, I recall being interviewed on behalf of two local charities, Hope House and United Way, on more than one occasion. I have no record of the dates of these interviews.

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.

Sometime in the early 1980s I sat as Alexandria City Court Judge on an ad hoc basis on two separate occasions for one afternoon each. I was sworn as an officer of the Court but presided under the guidance of a full-time judge. The matters before me were either criminal pleas or uncontested cases. I have no records or recollection of the specific matters.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment? _____
 - i. Of these, approximately what percent were:
jury trials? ___%; bench trials ___% [total 100%]
civil proceedings? ___%; criminal proceedings? ___% [total 100%]
- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.
- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

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

I have not served as a judge except for on two afternoons in the early 1980s. Therefore I have not recused myself or had a conflict of interest alleged against me.

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

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

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

Chair, Alexandria-Pineville Commission for Women, 1979-81; Member, 1982.
Appointed by the Mayor of the City of Alexandria.

Chair, Governor's Fifty States Project, 1984-86; Membership, 1986-87.
Appointed by the Governor of Louisiana.

Commissioner, Alexandria Central Economic Development District, 1999-2005.
Appointed by the Mayor of the City of Alexandria.

I have had no unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

I served as an elected member of the Rapides Parish Democratic Party Steering Committee from 1987-1991. I was a candidate again for the Steering Committee in 1999, when I was unsuccessful. I also was a candidate to be a Delegate to the 2004 Democratic National Conventional and was unsuccessful.

I serve as Treasurer of the JAZZ Political Action Committee, a position I have held since 2004.

I provided assistance on a volunteer basis to the following campaigns:

- Mary Landrieu for U.S. Senate (2008) (fundraising)
- Catherine "Kitty" Kimball for Chief Justice (2008) (hosted one fundraiser)
- Randy Ewing for Governor (2003) (fundraising and get-out-the-vote)
- Mary Landrieu for U.S. Senate (2002) (fundraising and get-out-the-vote)
- John Breaux for U.S. Senate (1998) (fundraising)
- Mary Landrieu for U.S. Senate (1996) (fundraising and get-out-the-vote)
- Mary Landrieu for Governor (1995) (fundraising and get-out-the-vote)
- Mary Landrieu for State Treasurer (1987) (fundraising)

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

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as law clerk to Chief Judge William Culpepper of the Louisiana Third Circuit Court of Appeal from 1978-1979. At Judge Culpepper's request, I returned as an interim clerk for a few months in the fall of either 1980 or 1981. I cannot recall which year.

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

I have never practiced alone.

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

1980-Present
The Smith Foote Law Firm, LLP (and predecessor firms)
720 Murray Street
Alexandria, Louisiana 71309
Partner (1981-Present)
Associate Attorney (1980-1981)

Our firm has also been known by the following names:

Percy, Smith & Foote, LLP (2003-2008)
Percy, Smith, Foote & Gadel, LLP (1999-2003)
Percy, Smith & Foote (1992-1999)
Percy, Smith, Foote & Honeycutt (1986-1992)
Percy, Smith, Wilson, Foote, Walker & Honeycutt (1986)
Trimble, Percy, Smith, Wilson, Foote, Walker & Honeycutt (1984-1986)
Trimble, Percy, Smith, Wilson, Foote & Walker (1983-1984)
Trimble, Randow, Percy, Smith, Wilson & Foote (1981-1983)
Trimble, Randow, Percy, Smith & Wilson (1980-1981)
Dates were approximated based on a search of law firm records.

1979-1980
Ledbetter, Percy & Stubbs (since dissolved)
800 Johnston Street
Alexandria, Louisiana 71301
Associate 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 not served as a mediator except in one case in which I assisted the chief mediator as a training exercise.

b. Describe:

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

Other than my work with the Louisiana State Bar Association and other community organizations, I have spent my entire legal career as a commercial lawyer and litigator in Alexandria, Louisiana. I have been a partner with the same small firm for nearly three decades. Today, my practice centers on commercial business work, insurance defense, and risk management. Increasingly over the years, I have concentrated on medical malpractice defense, contract negotiations, other business representations, and non-profit law. Also, early in my career, I took on many domestic relations matters, but I ceased to practice in that area in the early 1990s.

Early in my career, I occasionally was appointed to represent criminal defendants on a pro bono basis, including in one jury trial.

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

My typical clients have been individuals and businesses of all sizes. As I have taken on more malpractice defense work, I have had more hospitals and individual physicians as clients. I have also represented insurance companies.

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

Approximately 90% of my practice has been in litigation and I have appeared in court frequently throughout my career.

- i. Indicate the percentage of your practice in:

- 1. federal courts: 15%
- 2. state courts of record: 84%
- 3. other courts:
- 4. administrative agencies: 1%

- ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 99%
- 2. criminal proceedings: 1%

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

I estimate that I have tried 85 cases to verdict, judgment, or final decision. I was chief counsel in all but a handful of these cases.

- i. What percentage of these trials were:

- 1. jury: 20%
- 2. non-jury: 80%

- 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.

My sole practice before the Supreme Court of the United States consisted of opposing a petition for certiorari in Calhoun v. St. Paul Fire & Marine Ins. Co.. The Court denied cert. 515 U.S. 1104 (1995).

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

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

1. Adams v. Adams, 408 So. 2d 1322 (La. 1982).

My client brought this divorce action. The case presented a novel legal issue as to whether or not a person who was involuntarily separated from his spouse as a result of mental illness could be divorced. The Louisiana Supreme Court found for my client and affirmed the divorce decree. As a young lawyer, I tried this case as co-counsel, but I argued the matter on my own at the Court of Appeal and the Louisiana Supreme Court in 1981.

Judge Jules Davidson (now deceased) presided over the case in the Ninth Judicial District Court. My co-counsel was William H Ledbetter, 2285 Benton Road, Suite D-101, Bossier City, LA 71111, Tel: 318-747-5333. Counsel for the Defendant was Jake Shapiro (now deceased).

2. O'Brien v. Rizvi, 898 So. 2d 360 (La. 2005).

My clients, a physician practicing at a Veterans Administration (VA) hospital, his employer, and his insurance company were defendants in this medical malpractice suit. The physician was employed "in locum tenens," allowing him to practice at the VA hospital even though he was not licensed in the State of Louisiana. My client claimed protection by the statutory cap on damages as a qualified healthcare provider under the Louisiana Medical Malpractice Act. Plaintiffs appealed to the Louisiana Supreme Court on the issue of whether a doctor not licensed in the State of Louisiana but for whom premiums had been paid into the Louisiana Patients' Compensation Fund was eligible to be qualified within the meaning of the Louisiana Medical Malpractice Act. The Louisiana Patients' Compensation Fund intervened. My client settled with the plaintiffs on the morning of the Supreme Court argument. At the Court's request, I nevertheless

argued the case, which proceeded between the plaintiffs and the intervenor. The Court ruled for the plaintiffs on that issue.

Judge Donald T. Johnson presided in the Ninth Judicial District Court. Counsel for Plaintiffs was Edward P. Sutherland, 114 Napoleon St., Baton Rouge, LA 70802, Tel: 225-343-8024. Counsel for the intervenor was David A. Woodridge, Jr., 8440 Jefferson Highway, Suite 301, Baton Rouge, LA 70809, Tel: 225-929-7033.

3. Coushatta Tribe of La. v. Abramoff, No. 2:07-cv-01866, 2009 U.S. Dist. LEXIS 87599 (W.D. La. September 21, 2009).

The plaintiff Tribe brought this suit against Jack Abramoff, a former Washington-based lobbyist, and related defendants in connection with payments made for government relations work. I was local counsel to Greenberg Traurig, LLP, a law firm that had employed Abramoff. I argued two motions before the District Court. The case settled as between my client and the plaintiff Tribe; it was submitted to arbitration between my client and its insurers.

Judge Tucker Melancon presided in the United States District Court for the Western District of Louisiana. Principal counsel for Greenberg Traurig as to the claim by the Tribe were Kevin M. Downey & Carl R. Metz, 725 12th St., NW, Washington, DC 20005, Tel: 202-434-5000. Principal counsel for Greenberg Traurig as to its claim against the insurers was Stephen A. Weisbrod, Gilbert LLP, 1100 New York Ave., NW, Suite 700, Washington, DC 20005, Tel: 202-772-2200. Several insurance companies were involved, each of whom had multiple counsel. Principal counsel for the insurers included John D. Gordan, III, Morgan, Lewis & Bockius, LLP, 101 Park Ave., New York, NY 10178, Tel: 202-309-6000 & Barry A. Chasnoff, Akin Gump Strauss Hauer & Feld, LLP, 300 Convent St., Suite 1500, San Antonio, TX 78205, Tel: 210-270-0800. Counsel for the Coushatta Tribe was Charles D. Elliott, Villar & Elliott, LLC, P.O. Box 12730, Alexandria, LA 71315, Tel: 318-442-9533.

4. Dantzler v. Gilchrist Constr. Co., 779 So. 2d 1110 (La. Ct. App. 2001).

My client, the defendant construction company, was sued for damages arising from faulty construction of a metal building complex. The case was tried to a jury verdict in 1995 and plaintiff won a judgment against my client, the construction company. One of the company's two partners paid half the judgment; the other had declared bankruptcy. Plaintiff later sought to enforce the judgment against a separate corporate entity with a similar name and ownership by the one partner who had already paid half the judgment. The appeals, which I briefed and argued, involved issues of Louisiana partnership law, successor corporate liability, and res judicata. Under the final resolution, no further payment was required of my client.

Judge B. Dexter Ryland (now deceased) presided in the Ninth Judicial District Court. Counsel for plaintiff was Donald R. Wilson, 1057 Courthouse St., Jena, LA 71342, Tel: 318-992-2104.

5. Fontenot v. Mathews, No. 197,526-G (La. Jud. Dist. 1999-2003).

Defendant driver was involved in a severe traffic accident in which his farm tractor was rear-ended by another vehicle. He was sued by and on behalf of the occupants of the second vehicle, including three children (one of whom was killed and one rendered a quadriplegic by the collision). I represented the defendant driver and his insurer (subsequently, at my suggestion, the driver obtained additional counsel to avoid conflict). Plaintiffs claimed my client had been negligent by not displaying a triangular reflector on the back of his tractor; they also brought negligence claims against other drivers and product liability claims against their vehicle manufacturer and others. After extensive discovery, we settled the case for policy limits.

Judge Harry F. Randow presided in the Ninth Judicial District Court. Counsel for plaintiffs was John C. Davidson, P.O. Box 1431, Alexandria, LA 71309, Tel: 318-443-6893. Additional counsel for the defendant was Scott M. Brame, P.O. Box 831, Alexandria, LA 71309, Tel: 318-448-8111.

6. Haynes v. St. Paul Fire & Marine Ins. Co., 43 F.3d 668 (5th Cir. 1994), *cert. denied*, 515 U.S. 1104 (1995).

Plaintiff minor child was injured by a saw in an art and frame gallery owned by his grandparents. The initial suit named the alleged (but incorrect) manufacturer of the saw and the shop's general liability insurer. My clients, the actual manufacturers of the saw, were subsequently added as defendants and the originally-alleged manufacturer was dismissed. The key issues that I briefed and argued to the United States Court of Appeals for the Fifth Circuit involved the applicability of the prescription statute to minors and its particular application to the multiple defendants in this case. The Court of Appeals affirmed judgment for my client and the Supreme Court of the United States denied certiorari.

Judge Donald E. Walter presided in the United States District Court for the Western District of Louisiana. Counsel for plaintiffs was Donald G. Cave, 3909 Plaza Tower Drive, Baton Rouge, LA 70816, Tel: 225-292-3194. Counsel for the insurer with whom I co-briefed the appeal was Hayes L. Harkey, Jr., P.O. Box 8032, Monroe, LA 71211, Tel: 318-387-2422.

7. La. District Council of the Assemblies of God v. Welch, No. 35,895 (La. Jud. Dist. 1998-2003).

I represented the Louisiana District Council of the Assemblies of God in this action to recover church property. Defendant had attempted to manipulate corporate documents to gain ownership of a rural church with a dwindling population. We resolved the case with a stipulated judgment awarding ownership of all property to my client. In addition to presenting complex legal and factual issues regarding corporate control of the non-profit

entity, this case was important to people in this community and especially those who had affiliation with the church.

Judge Kathy A. Johnson presided in the Seventh Judicial District. Counsel for the defendants was Andrew P. Texada, P.O. Box 1711, Alexandria, LA 71309, Tel: 318-487-4910.

8. Garcie v. Britt, 653 So. 2d 131 (La. Ct. App. 1995).

Plaintiff brought this tort suit against my client, a bar owner, for burns he suffered in the bar room after consuming a flaming drink. We tried the case to a jury, requiring the testimony of a roster of barroom witnesses, resulting in a fair damages verdict. The key fact issue was how the accident occurred. The legal issues included comparative fault and the applicability of the defense of intoxication as a bar to recovery. The Court of Appeal affirmed on cross-appeals.

Judge Peyton Cunningham, Jr., presided in the Tenth Judicial District Court. Counsel for plaintiff was William Preston Crews, Jr., 129 St. Denis St., Natchitoches, LA 71458, Tel: 318-356-8001.

9. St. Romain v. Commercial Union Ins. Co., No. 86-9077-B (La. Jud. Dist. 1986-1988).

This case arose from a child being badly burned by a hot water heater that allegedly was improperly manufactured and installed. I represented one of several defendants, the insurer of the bankrupt owner of the home in which the incident took place. The case was tried to a jury for approximately two weeks but settled before the last closing argument. My client did not contribute to the settlement but was dismissed by it.

Judge Harold Brouillette presided in the Twelfth Judicial District Court. Among the plaintiffs' attorneys were John T. Bennett, P.O. Box 275, Marksville, LA 71351, Tel: 318-253-4631 & Robert M. Murphy, 200 Derbigny St., Ste. 5600, Gretna, LA 70053, Tel: 504-364-3876. Other defense counsel included Laurence E. Larmann, One Galleria Blvd., Suite 1400, Metairie, LA 70001, Tel: 504-836-6500.

10. Culpepper v. Mer Rouge Cmty. Servs., No. 38,207-CA (La. Ct. App. 2002-2004).

Plaintiff brought this suit for injuries incurred by her mother while in the care of my client, a nursing home. The key issue was whether my client was a qualified health care provider within the meaning of the Louisiana Medical Malpractice Act such that a statutory cap on damages applied. Its resolution turned on complex fact issues and insurance-contract terms. Following an evidentiary hearing, the district court agreed with my client and dismissed the plaintiff's case. The plaintiff appealed, the Patient's Compensation Fund intervened, and the case settled while the appeal was pending.

Judge Alvin Sharp presided in the Fourth Judicial District Court. Counsel for plaintiff was Hodge O'Neal, O'Neal Law Firm, P.O. Box 14900, Monroe, LA 71207, Tel: 318-323-8888.

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 law firm partner, I have been primarily a litigator. In addition, I have represented business owners and non-profits in a variety of matters including the negotiation and drafting of leases, the purchase and sale of business interests, and the structuring of franchise agreements. I also co-manage the administrative aspects of our small law firm of six attorneys and several other professional support staff members.

I engaged in substantial legal activity through my service as President of the Louisiana State Bar Association from 2008-2009 and in other offices of the Association throughout my career. The signature initiative of my Bar Association presidency was the creation of a standing Committee on the Profession, resulting in increased professionalism support and the development of a program for first-year law students on character and fitness in the bar admissions process. Through this work, the Association has sought to improve understanding of ethical and professional conduct obligations among law students and attorneys in our State. Our work was recognized by the American Bar Association's 2009 Smythe Gambrell Professionalism Award. I also led an expansion of the Bar Association's outreach and diversity initiatives in partnership with local and specialty bars, with law schools, and with young lawyers' organizations.

I have not performed lobbying activities on a formal or systematic basis, but occasionally have engaged in limited outreach to government officials as an officer of an organization or when requested to do so by a client. The only specific example of such activity for which I was compensated occurred in early 2002, when I contacted a home state Senator on behalf of a local organization seeking a federal license; I performed fewer than 20 hours of work on this matter and my client was unsuccessful in achieving its desired outcome. Other instances of related activity that I recall are contacting the Public Service Commission of Louisiana in 1998 on a utility contract issue; requesting funding from the State for legal services activities on behalf of the Louisiana State Bar Association and other issues on which the Association adopted a formal position during my term as president in 2008-2009; and participating in "ABA Day on the Hill" in 2008 and 2009 with the American Bar Association to encourage the Louisiana congressional delegation to support funding of legal services corporations. I have never registered as a lobbyist.

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.

Louisiana State University Paul M. Hebert Law Center, Adjunct Professor
Appellate Advocacy: 1999, 2000, 2001, 2002

The School provided the syllabi for these courses and I have not retained them. In addition to these courses, I guest-lectured at an Evidence Class and an Advance Seminar on Torts in spring 1997 and a Torts Seminar in 1995.

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.

The only deferred income arrangements into which I have entered are contingency fee cases taken on by my firm in which I have a partnership interest. If confirmed, I would handle these interests according to judicial ethics advice.

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

No.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

My husband is a partner in The Smith Foote Law Firm, in which I am presently also a partner. My nephew and his wife are both practicing attorneys in Louisiana and my brother-in-law is a practicing attorney in Washington, D.C. If confirmed, I would recuse myself from any case in which one of these family members appeared as an attorney as well as any case in which any member of The Smith Foote Law Firm appeared.

As to all other potential conflicts—including in cases where former clients and other attorneys with whom I have a prior relationship—I would abide by the Code of Conduct for United States Judges and recuse myself and/or disclose relationships as appropriate.

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

If confirmed, I will abide by the provisions of Canon 3 of the Code of Conduct for United States Judges and other applicable laws and standards. I will endeavor at the outset of each case to identify any potential conflict or appearance of conflict. I will treat any such conflict or appearance of conflict in accordance with the laws and rules, with the guidance of my colleagues, and with disclosure on the record and recusal where necessary.

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

Throughout my career, I personally have represented clients on a pro bono or reduced fee basis. My principal contribution to legal service work has been through my sustained commitment to the Louisiana State Bar Association, to which I have volunteered thousands of hours of service, including approximately 1,400 hours in 2008 alone.

The example of my access to justice work through the Bar Association that was most meaningful to me was my participation in the Disaster Relief Committee, which I co-chaired, in the wake of Hurricanes Katrina and Rita. Our Committee partnered with the American Bar Association and the LSBA Young Lawyers Section to establish a call-in legal helpline used by more than 14,000 distinct clients. The challenges in establishing the call line in the immediate aftermath of the hurricanes were considerable. The call line was continued after the hurricanes. Leadership of the LSBA incorporated the Louisiana Civil Justice Center as a separate entity that now operates the call center. I worked to expand services provided to encompass non-emergency situations. Today, the call center is a key point of entry for new clients of several important legal services providers.

26. **Selection Process:**

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

In February 2009, I wrote to Senator Mary Landrieu requesting consideration for the anticipated vacancy in the United States District Court for the Western District of Louisiana to be created by Judge Tucker Melancon taking senior status. Volunteers designated by Senator Landrieu's office interviewed me in Lafayette, Louisiana, on May 9, 2009. Since September 23, 2009, I have been in contact with pre-nomination officials at the Department of Justice. I interviewed in Washington with attorneys from the Office of White House Counsel and from the Department of Justice on December 1, 2009. On February 4, 2010 the President submitted my nomination to the Senate.

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

No.

AFFIDAVIT

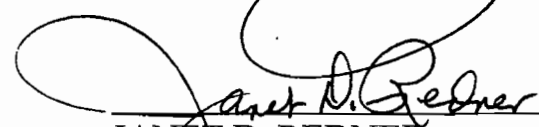
I, Elizabeth Erny Foote, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

2/9/2010

(DATE)



ELIZABETH ERNY FOOTE



JANET D. REDNER
NOTARY PUBLIC ID#19092
RAPIDES PARISH, LOUISIANA