

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Thomas Alvin Farr

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

United States District Judge for the Eastern District of North Carolina

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.

Office: Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
 4208 Six Forks Road, Suite 1100
 Raleigh, North Carolina 27609

Residence: Cary, North Carolina

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

1954; Cincinnati, Ohio

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.

1980 – 1983, Georgetown University School of Law; LL.M. Labor Law, 1983

1976 – 1979, Emory University School of Law; J.D., 1979

1974 – 1976, Hillsdale College; Bachelor of Liberal Studies, 1976

1972 – 1974, University of Cincinnati; no degree

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

2004 – present
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Equity Shareholder

2003 – 2004
Haynsworth, Baldwin, Johnson, & Greaves, L.L.C. (merged with Ogletree in 2004)
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Partner

1990 – 1995
Campbell University School of Law
225 Hillsborough Street
Raleigh, North Carolina 27603
Adjunct Professor

1985 – 1986
North Carolina State Board of Elections
441 North Harrington Street
Raleigh, North Carolina 27603
Member

1984 – 1985
Wake County Board of Elections
337 South Salisbury Street
Raleigh, North Carolina 27601
Member

1983 – January 1985; March 1985 – 1990
Federal Service Impasses Panel
1400 K Street, N.W.
Washington, District of Columbia 20424
Member

1983 – 2003
Maupin Taylor & Ellis (now Williams & Mullen)
301 Fayetteville Street Mall, Suite 1700
Raleigh, North Carolina 27601
Shareholder (1987 – 2003)
Associate (1983 – 1987)

1983
Honorable Frank W. Bullock, Jr.

United States District Court for the Middle District of North Carolina
324 West Market Street
Greensboro, North Carolina 27401
Law Clerk

1982
Office of Personnel Management
1900 E Street, N.W.
Washington, District of Columbia 20415
Staff Attorney

1981 – 1982
United States Senate Committee on Labor and Human Resources
(assigned to Senator John East, R-N.C.)
United States Senate
Washington, District of Columbia 20510
Counsel

1979 – 1981
National Right to Work Foundation
8001 Braddock Road
Springfield, Virginia 22160
Staff Attorney

1978 – 1979
Federal Defender Program, Inc.
Northern District of Georgia
101 Marietta Street, N.W., Suite 1500
Atlanta, Georgia 30303
Intern

Summer 1978
Honorable William Norton
United States Bankruptcy Court for the Northern District of Georgia
1783 United States Courthouse
75 Ted Turner Drive (Spring Street), S.W.
Atlanta, Georgia 30303
Intern

Summer 1977
Motorcycle parts manufacturer (cannot recall name)
Los Angeles, California (street address unknown)
Part-time production worker

Summer 1976
Emery Industries

4900 Estes Avenue
Cincinnati, Ohio 45232
Maintenance worker

Other Affiliations (uncompensated)

2016 – present
Shepherd's Table Soup Kitchen
121 Hillsborough Street
Raleigh, North Carolina 27603
Board Member

1994 – 2001 (estimated)
Capital Area Soccer League
5017 Memory Road
Raleigh, North Carolina 27609
Board Member (1994 – 2001 (estimated))
Executive Committee Member (1996 – 2001 (estimated))

1991 – 1994
Junior Achievement of Eastern North Carolina
4904 Waters Edge Drive, Suite 155
Raleigh, North Carolina 27606
Board Member

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 did not serve in the military. I registered for the selective service upon turning 18.

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.

College of Labor and Employment Lawyers, Fellow (2016 – present)

North Carolina Super Lawyers (2006 – 2017)

Chambers USA, America's Leading Business Lawyers (Band 1) (2004 – 2017)

Business North Carolina, Legal Elite (2002 – 2017)

Fourth Circuit Judicial Conference, Permanent Member (1999 – present)

Best Lawyers in America (1997 – 2017)

Martindale Hubbell AV rating (1987 – present)

Hillsdale College:

Summa cum laude, co-salutatorian (1976)

Omicron Delta Kappa (1975 – 1976)

Academic scholarship (1974 – 1976)

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.

Fourth Circuit Judicial Conference, Permanent Member (1999 – present)

American Bar Association (1997 – present)

North Carolina Bar Association (1983 – present)

Administration of Justice Committee (2016 – present)

Personnel Committee (2003 – present)

Search Committee to replace Executive Director (2015 – 2016)

State Bar of Georgia (1979 – 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.

North Carolina, 1983

Virginia, 1980 (inactive)

Georgia, 1979 (inactive)

There have been no lapses 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, 1987

United States Court of Appeals for the Sixth Circuit, 1985

United States Court of Appeals for the Fourth Circuit, 1980

United States District Court for the Eastern District of North Carolina, 1984

United States District Court for the Middle District of North Carolina, 1983

Supreme Court of North Carolina, 1983

Supreme Court of Virginia, 1980
Supreme Court of Georgia, 1979

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.

37 PSR Gun Club (2016 – present)

MacGregor Downs Country Club (2016 – present)

Shepherd's Table Soup Kitchen
Board Member (2016 – present)

North Carolina Institute of Constitutional Law
Board of Advisors (2004 – 2005)

Fifty Group (2002 – 2009 (estimated))

Capital Area Soccer League (1994 – 2001 (estimated))
Board Member (1994 – 2001 (estimated))
Executive Committee Member (1996 – 2001 (estimated))

Junior Achievement of Eastern North Carolina (1991 – 1994)
Board Member (1991 – 1994)

NFIB, North Carolina (1986 – 1992)
Guardian Advisory Council (1986 – 1992)

Federalist Society for Law and Public Policy Studies (1985 – present)
National Practitioners Advisory Council

The Philadelphia Society (1982 – 2010)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion

or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently 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.

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.

Edited with Kevin S. Joyner, *NORTH CAROLINA LAWYERS AS EMPLOYERS* (North Carolina Bar Ass'n 2016). Copy supplied.

With W. Kyle Dillard, *OSHA Issues New Rules on Investigating Workplace Violence*, *BUSINESS MANAGEMENT DAILY* (Dec. 7, 2011). Copy supplied.

With W. Kyle Dillard, *New Enforcement Procedures for Investigating Workplace Violence* (Oct. 13, 2011). Copy supplied.

Ethical Issues in Employment Law: Joint Representation of Employers and Employees (Wake Forest Law School CLE 2006). Copy supplied.

With Kevin S. Joyner, *What CPAs Need to Know About Labor and Employment Law* (North Carolina Association of Certified Public Accountants 2005). Copy supplied.

With Gretchen W. Ewalt and Phillip J. Strach, *Employment and Labor Law Resource Guide* (NCCBI 2005). Copy supplied.

Follow Right Steps with Non-Compete, *TRIANGLE BUS. J.* (Feb. 26, 2001). Copy supplied.

Terminations Require Careful Study, Planning, *TRIANGLE BUS. J.* (Nov. 20, 2000). Copy supplied.

Age Complaint Forces Close Look at Firing Policies, *TRIANGLE BUS. J.* (July 17, 2000). Copy supplied.

ADA Requires Employers to Act Responsibly, *TRIANGLE BUS. J.* (May 22, 2000). Copy supplied.

Investigations Need Attention to Detail, Facts, TRIANGLE BUS. J. (Mar. 27, 2000).
Copy supplied.

Violence at Job Deserves Closer Legal Scrutiny, TRIANGLE BUS. J. (Jan. 31,
2000). Copy supplied.

Keys to Crafting Fair Drug Test Plan, TRIANGLE BUS. J. (Oct. 1, 1999). Copy
supplied.

Workers not Fully Exploiting ADA Benefits, TRIANGLE BUS. J. (Aug. 9, 1999).
Copy supplied.

With Joel Katz, *Family Leave Act Has Fact-Specific Rules*, TRIANGLE BUS. J.
(June 28, 1999). Copy supplied.

With Laura Edgerton, *Foreign Labor Requires Mucho Paperwork*, TRIANGLE
BUS. J. (May 7, 1999). Copy supplied.

Consider Set Policies for Firing Workers, TRIANGLE BUS. J. (Mar. 19, 1999).
Copy supplied.

"Customer Service" Applies to Staff, Too, TRIANGLE BUS. J. (Jan. 29, 1999).
Copy supplied.

Quality HR Program Starts with Hiring, TRIANGLE BUS. J. (Dec. 11, 1998). Copy
supplied.

Court Cases Alter Sexual Harassment Law, TRIANGLE BUS. J. (Oct. 23, 1998).
Copy supplied.

Employers Limited in Medical Probes, TRIANGLE BUS. J. (Sept. 11, 1998). Copy
supplied.

"Reasonable Accommodation" for Disabled, TRIANGLE BUS. J. (July 24, 1998).
Copy supplied.

*Employers Need to Understand Definition of Disability as it Applies to the
Workplace*, TRIANGLE BUS. J. (June 8, 1998). Copy supplied.

Courts ID Two Types of Sexual Harassment, TRIANGLE BUS. J. (Apr. 17, 1998).
Copy supplied.

Legislature Expands Employee Rights, TRIANGLE BUS. J. (Feb. 27, 1998). Copy
supplied.

Safeguarding Against Employee Lawsuits, TRIANGLE BUS. J. (Jan. 9, 1998). Copy supplied.

With Joel H. Katz, *Emotional Distress and Employment Controversies: Does a Claim Exist?*, CAMPBELL L. OBSERVER (Sept. 1997). Copy supplied.

With Mark S. Thomas, *A Primer on the Age Discrimination in Employment Act Part III*, CAMPBELL L. OBSERVER (July 1993). Copy supplied.

With Gretchen W. Ewalt, *A Primer on the Age Discrimination in Employment Act Part II*, CAMPBELL L. OBSERVER (June 1993). Copy supplied.

With Michael C. Lord, *OSHA Announces Final Standard on Confined Space*, CAMPBELL L. OBSERVER (May 1993). Copy supplied.

With David R. Hostetler, *The Family and Medical Leave Act of 1993*, CAMPBELL L. OBSERVER (Apr. 1993). Copy supplied.

With Gretchen W. Ewalt, *A Primer on the Age Discrimination in Employment Act Part I: A Statutory Overview*, CAMPBELL L. OBSERVER (Mar. 1993). Copy supplied.

With Richard M. Lewis, *N.C. Workers' Compensation Act*, CAMPBELL L. OBSERVER (Feb. 1993). Copy supplied.

With Gretchen W. Ewalt, *Cobra Continuation Coverage for Group Health Plans*, CAMPBELL L. OBSERVER (Nov. 1992). Copy supplied.

With Michael C. Lord, *Hamlet Amendments to the Occupational Safety and Health Act of North Carolina*, CAMPBELL L. OBSERVER (Sept. 1992). Copy supplied.

With Timothy S. Riordan, *Retaliatory Discharge under the Worker's Compensation Act*, CAMPBELL L. OBSERVER (Aug. 1992). Copy supplied.

With David R. Hostetler, *Negligent Hiring and Retention Law*, CAMPBELL L. OBSERVER (July 1992). Copy supplied.

With Michael C. Lord, *Employment Law Notebook*, CAMPBELL L. OBSERVER (June 1992). Copy supplied.

With Michael C. Lord, *OSHA's Final Bloodborne*, CAMPBELL L. OBSERVER (Apr. 1992). Copy supplied.

With Frank P. Ward, Jr., *Civil Rights Act of 1991*, CAMPBELL L. OBSERVER (Feb. 1992). Copy supplied.

With Michael C. Lord, *OSHA's Excavation Standard*, CAMPBELL L. OBSERVER (Jan. 1992). Copy supplied.

With Gretchen W. Ewalt, *Wrongful Discharge, Part III*, CAMPBELL L. OBSERVER (Dec. 1991). Copy supplied.

With Gretchen W. Ewalt, *Tort Remedies for Wrongful Discharge*, CAMPBELL L. OBSERVER (Nov. 1991). Copy supplied.

Personal Injury Litigation Returns to the Workplace, CAMPBELL L. OBSERVER (Oct. 1991). Copy supplied.

Wrongful Discharge: The Meaning of "Bad Faith" Discharge, CAMPBELL L. OBSERVER (Sept. 1991). Copy supplied.

With Margie T. Case, *Highlights of the North Carolina Employment Security Law*, CAMPBELL L. OBSERVER (Aug. 1991). Copy supplied.

With Gretchen W. Ewalt, *Prevention, Discipline & Policy: Sexual Harassment*, CAMPBELL L. OBSERVER (July 1991). Copy supplied.

"Put it in Writing": Effective and Fair Employee Discipline, CAMPBELL L. OBSERVER (June 1991). Copy supplied.

With Michael C. Lord, *Overview of the Occupational Safety and Health Act of North Carolina*, CAMPBELL L. OBSERVER (Dec. 1990). Copy supplied.

With Robert A. Valois, *Union Organizing: No-Solicitation and No-Distribution Rules*, CAMPBELL L. OBSERVER (Oct. 1990). Copy supplied.

With John T. Matteson, *The Americans with Disabilities Act*, CAMPBELL L. OBSERVER (Sept. 1990). Copy supplied.

With James A. Roberts, III, *Protecting an Employer Investment: Trade Secrets and Restrictive Covenants*, CAMPBELL L. OBSERVER (Aug. 1990). Copy supplied.

With Gretchen W. Ewalt, *The Future of Employment at Will in North Carolina*, CAMPBELL L. OBSERVER (Oct. 1989). Copy supplied.

Unfair and Deceptive Legislation: The Case for Finding North Carolina General Statutes Section 75-1.1 Unconstitutionally Vague as Applied to an Alleged Breach of a Commercial Contract, 8 CAMPBELL L. REV. 420 (1986). Copy supplied.

In approximately 1998 through 2001, I published a series of articles under the theme of "Legal Focus: Employment" for the Triangle Business Journal. From 1989 through at least 1993, I also published or co-authored the "Employment Law Notebook" column for the Campbell Law Observer. I have disclosed above all the articles I was able to identify. It is possible that I published additional columns that I cannot now recall, but the above reflects my best recollection.

- 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.

To the best of my knowledge, I have never prepared or contributed in the preparation of such materials.

- 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.

Wake County Board of Education, *Report on legal services and related matters*, April 21, 2010. Copy supplied.

I previously submitted a Senate Judiciary Questionnaire to this Committee in 2006 when nominated to the United States District Court for the Eastern District of North Carolina by President George W. Bush. Copy supplied.

I made several appearances before the Wake Forest (North Carolina) Town Council during the late 1980s and/or early 1990s as a private citizen speaking on zoning issues. I do not have any notes, recordings or transcripts of my comments.

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

I have given speeches before the NCBA, the North Carolina Advocates for Justice (formerly the North Carolina Association of Trial Lawyers), and other groups on employment law compliance and/or redistricting and election law. The following list reflects my best efforts to identify the speeches or talks that I have delivered. With assistance, I compiled this list by searching my records and conducting internet searches. It is possible that there are some speeches or talks that I have been unable to recall or identify.

May 24, 2017: Presenter, "Anatomy of An Accident: Are you prepared for an OSHA Serious Injury or Fatality investigation?", Capital Associated Industries, Raleigh, North Carolina. Presentation supplied.

March 28, 2012: Speaker, Obamacare Supreme Court Discussion: Lunch & Learn, Civitas Institute, Raleigh, North Carolina. Recording and press coverage supplied.

October 13, 2011: Presenter, "Social Networking Sites: Treasure Trove or Liability Trap?", North Carolina Petroleum and Convenience Marketers Association, Myrtle Beach, South Carolina. Paper supplied.

June 5, 2009: Panelist, "A Brief Introduction to Union and Employer Activities Under the NLRA and Proposed Changes Under the Employee Free Choice Act," North Carolina Bar Association, Greensboro, North Carolina. Paper supplied.

October 3, 2007: Speaker, Freedom Leadership Award ceremony honoring Tom Ellis, Raleigh, North Carolina. I spoke in honor of Tom Ellis upon his receiving an award from Hillsdale College. I have no notes, transcript or recording. The address of Hillsdale College is 33 East College Street, Hillsdale, MI 49242.

October 20, 2006: CLE Presenter, "Ethical Issues in Employment Law: Joint Representation for Employers and Employees," Wake Forest University School of Law CLE, Raleigh, North Carolina. A copy of the paper on which the discussion was based is supplied in response to Question 12a.

December 8, 2005: Speaker, State-Level Redistricting Cases, North Carolina Institute for Constitutional Law, Raleigh, North Carolina. Paper and press coverage supplied.

October 28 – 29, November 9 – 10, November 18 – 19, 2004: CLE Presenter, "Employment and Labor Law Resource Guide," Making Workplace Law Work for You Seminar, North Carolina Citizens for Business and Industry, Raleigh, Charlotte, Asheville, Wrightsville Beach, and Greenville, North Carolina. A copy of the resource guide on which the discussion was based is supplied in response to Question 12a.

October 7, 2004: Speaker, State-Level Redistricting, North Carolina Bar Association, Cary, North Carolina. Meeting agenda and paper supplied.

February 9, 2004: Speaker, Redistricting Litigation, Wake County Young Republicans, Raleigh, North Carolina. I spoke on a then-current legislative redistricting case in North Carolina. I have no notes, transcript, or recording. The address of the Wake County Young Republicans is 615 West Morgan Street, Raleigh, NC 27603.

October 28, October 30, November 4, November 6, 2003: CLE Presenter, "Ten Mistakes Plaintiffs' Lawyers Hope You Make," and "Employment and Labor Law Resource Guide," Labor and Employment Law Seminar, North Carolina Citizens for Business and Industry and Haynsworth Baldwin Johnson & Greaves, Greenville, Raleigh, Charlotte, and Greensboro, North Carolina. For the "Ten Mistakes" presentations, I used the same or substantially the same presentation as I did on June 6, 2003, cited below. For the "Resource Guide" presentations, I used the same resource guide previously supplied for the Fall 2004 seminars.

October 8, 2003: Speaker, Monthly Meeting of the 28th Judicial District Bar, Asheville, North Carolina. I spoke on a then-current legislative redistricting case in North Carolina. I have no notes, transcript, or recording. The address of the 28th Judicial District Bar is PO Box 7391, Asheville, NC 28802.

August 26, 2003: Speaker, Redistricting Litigation, Capital Area Republican Club, Raleigh, North Carolina. I spoke on a then-current legislative redistricting case in North Carolina. I have no notes, transcript, or recording. The Capital Area Republican Club does not have a mailing address.

June 6, 2003: Speaker, "Ten Mistakes Employers Make in Disciplining and Discharging Employees," North Carolina Bar Association, Greensboro, North Carolina. Presentation supplied.

1997: Speaker, Agribusiness Law Conference, Norman Adrian Wiggins School of Law, Buies Creek, North Carolina. I spoke on legal issues facing agricultural businesses. I have no notes, transcript, or recording, but press coverage supplied. The address of the Norman Adrian Wiggins School of Law is 225 Hillsborough St, Raleigh, NC 27603.

1996: Speaker, Agribusiness Law Conference, Norman Adrian Wiggins School of Law, Buies Creek, North Carolina. I spoke on legal issues facing agricultural businesses. I have no notes, transcript, or recording, but press coverage supplied. The address of the Norman Adrian Wiggins School of Law is 225 Hillsborough St, Raleigh, NC 27603.

October 24, 1995: Speaker, Campbell University Women-in-Law Sexual Harassment Lecture, Buies Creek, North Carolina. I spoke on the importance of employers investigating sexual harassment claims and maintaining written policies and documentation. I have no notes, transcript or recording, but press coverage supplied. The address of the Norman Adrian Wiggins School of Law is 225 Hillsborough Street, Raleigh, NC 27603.

In the 1990s, I presented several speeches to leaders of institutions associated with the North Carolina Baptist State Convention on general employment law issues. I do not have any notes, transcripts, or recordings of those speeches. The address of the North Carolina Baptist State Convention office is 205 Convention Drive, Cary, NC 27511.

In the late 1980s and early 1990s, I presented multiple seminars for Capital Associated Industries regarding OSHA compliance. I do not have any notes, transcripts, or recordings of those seminars. The address of Capital Associated Industries is 3150 Spring Forest Road, Suite 116, Raleigh, NC 27616.

- 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.

Trial on North Carolina Legislative Maps Wraps Up, Spectrum News Central NC, Apr. 15, 2016. Recording available at: <http://www.twcnews.com/nc/triangle-sandhills/news/2016/04/15/trial-on-north-carolina-legislative-maps-wraps-up.html>.

Anne Blythe, *Employment Law Advocates in NC Hope for HB2 Changes*, THE NEWS & OBSERVER (Raleigh, North Carolina), Apr. 9, 2016. Copy supplied.

Chris Bagley, *Local Attorneys React to N.C. Supreme Court's Opinions*, TRIANGLE BUSINESS J., Jul. 12, 2013. Copy supplied.

Dan Way, *Republicans See 'Utter Vindication' in Redistricting Opinion*, CAROLINA J., Jul. 9, 2013. Copy supplied.

John Hilton, *Panel Wants More Information About Redistricting Litigation*, WINSTON-SALEM J., May 12, 2013. Copy supplied.

Craig Jarvis, *Appeals Court Throws Out Suit Testing "Stand By Your Ad"*, THE NEWS & OBSERVER (Raleigh, North Carolina), Nov. 22, 2012. Copy supplied.

Lynn Bonner, *Voting Districts in Doubt as Filing Nears*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 20, 2011. Copy supplied.

Loretta Boniti, *ON JONES STREET: Redistricting expert sits down with News 14 Carolina*, News 14 Carolina, Mar. 25, 2011. Recording available at: http://www.twcnews.com/archives/nc/triangle-sandhills/2011/03/25/on-jones-street--redistricting-experts-sits-down-with-news-14-carolina-NC_638620.old.html.

Britt Combs, *Queen's Lawsuit Goes After Hise's Ads*, THE MCDOWELL NEWS (Marion, North Carolina), Feb. 21, 2011. Copy supplied.

Scattered Snags Reported in Midterm Balloting, CNN.com, Nov. 2, 2010. Copy supplied.

North Carolina GOP Attorney Condemns Touchscreen Voting System, News 14 Carolina, Oct. 31, 2010. Recording supplied.

Andrew Barksdale, *NC Democrats File Complaint Over GOP's TV Ads*, THE FAYETTEVILLE OBSERVER, Oct. 30, 2010. Copy supplied.

Steve Sbraccia, *Highway Patrol Demand for Troopers Personal Cell Phones May Be Illegal*, THE NEWS & OBSERVER (Raleigh, North Carolina), July 16, 2010. Copy supplied.

Rick Martinez, *Hearing from the Farr Side*, THE NEWS & OBSERVER (Raleigh, North Carolina), May 19, 2010. Copy supplied.

Thomas Goldsmith and T. Keung Hui, *Wake Schools Urged to Get Own Counsel*, THE NEWS & OBSERVER (Raleigh, North Carolina), May 11, 2010. Copy supplied.

Thomas Goldsmith, *Wake Schools' January Legal Bill Is \$6,000*, THE NEWS & OBSERVER (Raleigh, North Carolina), Mar. 9, 2010. Copy supplied.

Diana Smith, *Q&A with Raleigh Lawyer Thomas A. Farr*, NORTH CAROLINA LAWYERS WEEKLY, Jan. 25, 2010. Copy supplied.

Thomas Goldsmith and T. Keung Hui, *Wake School Board Buzz Persists*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 22, 2009. Copy supplied.

T. Keung Hui, *Art Pope and Thomas Farr Speak Out*, WAKEED BLOG, Dec. 22, 2009. Copy supplied.

Barbara Barrett, *Senate Finally Backs Burr's Bioterrorism Bill; Tar Heels Score With Easley*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 8, 2006. Copy supplied.

Arthur O. Murray, *Employment Law: Patricia Holland*, BUSINESS NORTH CAROLINA, Jan. 2006. Copy supplied.

Karin Rives, *Burden of Proof High for Potential Litigants in Age Bias Cases*, THE NEWS & OBSERVER (Raleigh, North Carolina), Apr. 1, 2005. Copy supplied.

Lynn Bonner, *Battle of the Ballots*, THE NEWS & OBSERVER (Raleigh, North Carolina), Jan. 23, 2005. Copy supplied.

Scott Mooneyham, *N.C. Supreme Court Rejects Republican Redistricting Request*, Associated Press, Feb. 2, 2004. Copy supplied.

Lynn Bonner, *Franklin Judge OKs Lake's Role*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 30, 2003. Copy supplied.

Mitch Kokai et al., *Redistricting battle heads to Wake County*, News 14 Carolina, Dec. 30, 2003. Copy supplied.

Scott Mooneyham, *N.C. Judge Upholds New Panel to Hear Redistricting Challenges*, Associated Press, Dec. 30, 2003. Copy supplied.

Mitch Kokai et al., *Redistricting case heads back to court*, News 14 Carolina, Dec. 22, 2003. Copy supplied.

Mark Johnson, *GOP Spars Over Districts*, CHARLOTTE OBSERVER, Dec. 9, 2003. Copy supplied.

Lynn Bonner, *District Case Bounces Again*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 5, 2003. Copy supplied.

Scott Mooneyham, *Johnston Judge Joins Counterpart in Redistricting Request*, Associated Press, Dec. 4, 2003. Copy supplied.

GOP Legislators Want Judge to Rule Redistricting Provisions Unconstitutional, Associated Press, Dec. 2, 2003. Copy supplied.

Lynn Bonner, *Wake Judge to Hear Redistricting Claim*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 2, 2003. Copy supplied.

Lynn Bonner, *Judge Rejects GOP Complaint*, THE NEWS & OBSERVER (Raleigh, North Carolina), Sept. 26, 2003. Copy supplied.

Scott Mooneyham, *Judge Rejects GOP Request for Redistricting Deadline*, Associated Press, Sept. 25, 2003. Copy supplied.

Eric Dyer, *Court Nixes Districts Drawn by Legislature*, GREENSBORO NEWS & RECORD, July 17, 2003. Copy supplied.

Gary Robertson, *N.C. Supreme Court Rejects Legislative District Maps—Again*, Associated Press, July 16, 2003. Copy supplied.

Gary Robertson, *Georgia Case May Be Model for Another State's Redistricting*, Associated Press, July 4, 2003. Copy supplied.

Matthew Eisley, *A Fair Judge Orr Not?*, THE NEWS & OBSERVER (Raleigh, North Carolina), Mar. 5, 2003. Copy supplied.

Lynn Bonner, *State Seeks New Voting Maps*, THE NEWS & OBSERVER (Raleigh, North Carolina), Jan. 10, 2003. Copy supplied.

Mark Johnson, *Ethics of Judge's Visit Questioned*, CHARLOTTE OBSERVER, June 4, 2002. Copy supplied.

David Rice, *Assembly's Latest Effort at Districts Is Rejected*, WINSTON-SALEM J., June 1, 2002. Copy supplied.

State Architect—Legislators, Other Leaders Give Credit to John Sanders as N.C.'s "Framer", WINSTON-SALEM J., April 15, 2002. Copy supplied.

David Rice, *Justices Will Hear Redistricting Lawsuit Today*, WINSTON-SALEM J., Apr. 4, 2002. Copy supplied.

NAACP Fights Republicans Over Legislative Districts, Associated Press, Mar. 27, 2002. Copy supplied.

Lynn Bonner, *NAACP Brings Redistricting Suit*, THE NEWS & OBSERVER (Raleigh, North Carolina), Mar. 27, 2002. Copy supplied.

Court Halts Election Process, WILMINGTON MORNING STAR, Mar. 8, 2002. Copy supplied.

Scott Mooneyham, *NC Supreme Court Stops Legislative Primaries*, Associated Press, Mar. 7, 2002. Copy supplied.

Lynn Bonner, *Redistricting Lawsuit to Get Quick Hearing*, THE NEWS & OBSERVER (Raleigh, North Carolina), Feb. 27, 2002. Copy supplied.

Court Set Redistricting Hearing, Doesn't Stop Elections, Associated Press, Feb. 27, 2002. Copy supplied.

Scott Mooneyham, *Redistricting Ruling Seen as Potential Quagmire for Lawmakers*, Associated Press, Feb. 25, 2002. Copy supplied.

Lynn Bonner, *Ruling on State Districts Could Delay May Primaries*, THE NEWS & OBSERVER (Raleigh, North Carolina), Feb. 21, 2002. Copy supplied.

Eric Dyer, *New Districts Need Review, Judge Rules*, GREENSBORO NEWS & RECORD, Feb. 21, 2002. Copy supplied.

Scott Mooneyham, *NC Judge Stays Election Delay So Appellate Courts Can Decide*, Associated Press, Feb. 21, 2002. Copy supplied.

Lynn Bonner and Wade Rawlins, *Justice, Judge Split on Plans*, THE NEWS & OBSERVER (Raleigh, North Carolina), Feb. 16, 2002. Copy supplied.

Eric Dyer, *Judge: District Maps Invalid*, GREENSBORO NEWS & RECORD, Feb. 16, 2002. Copy supplied.

Judge Sends Redistricting Lawsuit Back to State Court, Associated Press, Dec. 21, 2001. Copy supplied.

Sabrina Jones, *Reports of Racism at Work Increasing*, THE NEWS & OBSERVER (Raleigh, North Carolina), Dec. 11, 2000. Copy supplied.

Beth Velliquette, *Ruling Halts Rights Ordinance*, CHAPEL HILL HERALD, Nov. 14, 2000. Copy supplied.

Katie Abel, *Confidentiality Agreements Need Careful Structuring*, TRIANGLE BUSINESS J., July 26, 1999. Copy supplied.

Dennis Patterson, *Democrats Withdraw Lawsuit Over Absentee Ballots*, Associated Press, Oct. 31, 1998. Copy supplied.

Wade Rawlins, *Absentee Voter Suit Dismissed*, THE NEWS & OBSERVER (Raleigh, North Carolina), Oct. 31, 1998. Copy supplied.

New Soccer Fields in Works for Wake Forest, THE NEWS & OBSERVER (Raleigh, North Carolina), Apr. 26, 1997. Copy supplied.

Court Battle Over Redistricting Plan to Resume in N.C., Reuters, Mar. 26, 1994. Copy supplied.

Glenn Simpson, *Helms Fined \$25,000 for '84 Senate Match*, ROLL CALL, Mar. 24, 1994. Copy supplied.

Beverly Brown, *Town Has Second Thoughts on Peninsula Park*, THE NEWS & OBSERVER (Raleigh, North Carolina), March 26, 1992. Copy supplied.

Carla Hall, *William Bennett Recommended to Reagan*, WASHINGTON POST, Oct. 31, 1981. Copy supplied.

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

I have not held judicial office.

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

- i. Of these, approximately what percent were:

jury trials: _____ %
bench trials: _____ % [total 100%]

civil proceedings: _____ %
criminal proceedings: _____ % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.
- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).
- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
- e. Provide a list of all cases in which certiorari was requested or granted.
- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.
- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished

opinions are filed and/or stored.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.
- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

I have not held judicial office.

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

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

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

Nominee (2006; 2007 – 2008), United States District Judge for the Eastern District of North Carolina; nominated and re-nominated by President George W. Bush.

Member (1985 – 1986), North Carolina State Board of Elections; appointed by Governor James Martin.

Member (1984 – 1985), Wake County Board of Elections; appointed by the North Carolina State Board of Elections from lists submitted by the chairs of the two major political parties.

Member (1983 – January 1985; March 1985 – 1990), Federal Service Impasses Panel; appointed and re-appointed by President Ronald Reagan.

I was not confirmed to be a United States District Judge for the Eastern District of North Carolina. I have had no unsuccessful candidacies for public 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.

Board Member and Chair, Grow NC Strong (2015 – March 2017)

Counsel for election recounts:

- Lt. Gov. Don Forest (2012)
- Rep. Renee Ellmers (2010)
- Jackie Warner (Republican candidate for state house) (2010)
- Wake County Sheriff Donnie Harrison (2002)
- Raleigh Mayor Paul Coble (1999)
- Rep. Fred Heineman (1994)
- Dan Coats (Republican candidate for state house) (1990's)

Legal counsel, North Carolina Republican Party (2000 – 2001)

Performed legal services for:

- State Sens. Ralph Hise, Wesley Meredith, and Louis Pate (2011 – 2012)
- State Sen. Brent Jackson (2010)
- North Carolina Republican Party (2010)
- National Congressional Club (1984 and 1990)
- 1990 Helms for Senate Committee (client)
- 1984 Helms for Senate Committee (client)

Host of fundraising event, State Rep. Sam Ellis (2004)

Before and after my official service as legal counsel to the North Carolina Republican Party, I have infrequently provided pro bono advice to various Chairs of that party.

I have provided advice to several Republican candidates for local or state office over the years and to officers of local Republican organizations, though this has been infrequent over the last 20 years.

In 1991, I worked to elect Mack Turner to the Town of Wake Forest Town Council.

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

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

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

From January to October 1983, I served as law clerk to the Honorable Frank W. Bullock, Jr., United States District Judge for the Middle District of North Carolina.

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

I have not 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.

1979 – 1981

National Right to Work Foundation
8001 Braddock Road
Springfield, Virginia 22160
Staff Attorney

1981 – 1982

United States Senate Committee on Labor and Human Resources
(assigned to Senator John East, R-N.C.)
United States Senate
Washington, D.C. 20510
Counsel

1982

Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20415
Staff Attorney

1983 – 2003

Maupin Taylor & Ellis
301 Fayetteville Street Mall, Suite 1700

Raleigh, North Carolina 27601
Shareholder (1987 – 2003)
Associate (1983 – 1987)

2003 – 2004
Haynsworth, Baldwin, Johnson, & Greaves, L.L.C.
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Partner

2004 – present
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
4208 Six Forks Road, Suite 1100
Raleigh, North Carolina 27609
Equity Shareholder

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have not served as a mediator or an arbitrator.

b. Describe:

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

My first job out of law school was with the National Right to Work Foundation (“NRTWF”) in Springfield, Virginia. NRTWF provides free legal services to employees who are engaged in civil disputes because of compulsory unionism. The cases on which I worked involved employees who objected to paying compulsory union dues to the extent their compulsory dues were used for reasons other than to defray legitimate collective bargaining expenses by the union. I worked at NRTWF from the fall of 1979 until January 1981.

In January 1981, I accepted employment as a counsel to the United States Senate Committee on Labor and Human Resources. While Senator Orrin Hatch (R-UT) may have been listed in the records as my employer, I was assigned to work with Senator John P. East (R-N.C.) I performed the typical services assigned to committee lawyers for Senator East.

It is my recollection that sometime in the spring or early summer of 1982, I accepted a staff attorney position with the Office of Personnel Management.

In January 1983, I accepted a law clerk position with the Honorable Frank W. Bullock, Jr., United States District Judge for the Middle District of North Carolina. I was one of Judge Bullock's first two clerks and performed the typical duties assigned to law clerks.

In October 1983, I accepted an associate position with the law firm of Maupin, Taylor & Ellis, located in Raleigh, North Carolina. I became a shareholder of Maupin Taylor in approximately 1987, and I remained employed there until April 2003. During my early years at Maupin Taylor, my practice was around 40% general litigation, 50% employment and labor litigation, and 10% advising political clients like the Helms Committee or representing parties in election or other constitutional litigation. In my later years, my practice became more focused towards the area of employment litigation and advice, though I continued to be involved in election or voting rights litigation.

While at Maupin Taylor, I served for periods of time as a member of the Executive Committee, member of the Compensation Committee, and Coordinator of Maupin's employment practice group.

In April 2003, I accepted a position as a partner in the law firm of Haynsworth, Baldwin, Johnson, & Greaves, in the firm's office in Cary, North Carolina. In September 2004, Haynsworth merged with the law firm of Ogletree Deakins. The Haynsworth attorneys moved their practice from Cary, North Carolina, to the Ogletree offices in Raleigh. I became a class A or equity shareholder in Ogletree at the time of the merger.

My practice at the Haynsworth-Ogletree firms has been focused on representing management in employment disputes.

Beginning in 2011, I have represented the General Assembly and the State of North Carolina in cases challenging congressional and legislative redistricting statutes, a case challenging North Carolina's Voter ID identification requirement and other election law changes, and a case alleging violations of the National Voter Registration Act.

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

At the National Right to Work Foundation, my clients were typically employees who objected to paying compulsory union dues to the extent their compulsory dues were used for reasons other than to defray legitimate collective bargaining expenses by the union.

In the Senate, my client was the Committee on Labor and Human Resources, for which I performed ordinary staff counsel duties.

At the Office of Personnel Management, I assisted in the execution of OPM's responsibilities over the federal employment system.

As a law clerk, I assisted Judge Bullock with the discharge of his duties.

My private practice experience has largely been defending companies in civil actions, with the majority of my time spent representing management in employment disputes. Prior to coming to Ogletree, I very occasionally represented employees in employment disputes. For example, while I was employed by Maupin Taylor, we represented a group of senior sales persons who sued Electron Data Systems for age discrimination. This case was settled shortly before trial. During the time of my employment at the Haynsworth firm, I represented an African American female who claimed that her employer discriminated against her because of her race and sex. The case was settled. I have not represented any employment law plaintiffs since joining Ogletree with one exception. I provided pro bono advice for a person who believed she was forced out of her partnership because of her sexual orientation. The dispute was ultimately settled.

- 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.

At least 60 percent of my work has involved litigation. I have had regular court appearances throughout my career, excepting when I worked for different federal employers early in my career.

- i. Indicate the percentage of your practice in:

1. federal courts:	60%
2. state courts of record:	30%
3. other courts:	0%
4. administrative agencies:	10%

- ii. Indicate the percentage of your practice in:

1. civil proceedings:	100%
2. criminal proceedings:	0%

- 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 12 cases to verdict, judgment, or final decision: eleven cases as chief counsel, and one case as associate counsel.

- i. What percentage of these trials were:
 - 1. jury: 42%
 - 2. non-jury: 58%

- 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 argued one case before the Supreme Court, for the intervening *Pope* plaintiffs in *Shaw v. Hunt*, 517 U.S. 899 (1996). Copies of the *Pope* appellants' brief and oral argument transcript supplied.

In the following cases, I prepared or assisted in the preparation of petitions for certiorari or briefs filed in the Supreme Court:

Algernon Blair, Inc. v. Walters, No. 96-1082
Communications Workers of America v. Beck, No. 86-637
Cooper v. Harris, Nos. 15-1262, 16-166
Dickson v. Rucho, Nos. 14-839, 16-24
North Carolina v. Covington, Nos. 16-649, 16-1023
North Carolina v. League of Women Voters of North Carolina, No. 14-780
North Carolina v. North Carolina State Conference of NAACP, No. 16-833
Pfizer, Inc. v. Dotson, Nos. 08-1479, 09-29
Pope v. Blue, No. 91-2038
United Food & Commercial Workers Union v. Lundy Packing Co., No. 95-1790

I have supplied copies of petitions and briefs I prepared or assisted with the preparation of.

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. *U.S. Tobacco Corporation, et al. v. Big South Wholesale Virginia, LLC, et al.*, No. 5:13-cv-527-BO (E.D.N.C.) (pending)

Our firm represents U.S. Tobacco Cooperative and two affiliated organizations in an action against a former employee and independent contractor alleging claims under the Racketeer Influenced and Corrupt Organization Act and for unfair trade practices, fraud, and breach of contract. The case was initiated before the Honorable James Fox, United States District Judge to the Eastern District of North Carolina, but upon his retirement it was transferred to the Honorable Terrence W. Boyle.

Co-Counsel

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W. Sidney Aldridge (representing defendant Steven Daniel)
Nicholls & Crampton
3700 Glenwood Avenue
Raleigh, NC 27612
(919) 827-0994

Christopher T. Graebe (representing defendant Albert Johnson)
Graebe, Hanna & Sullivan, PLLC
4350 Lassiter at North Hills Avenue
Suite 375
Raleigh, NC 27609
(919) 863-9092

Wynne P. Kelly (representing the United States)
U.S. Department of Justice
555 4th St. N.W.
Washington, D.C. 20630
(202) 252-2545

2. *Dickson v. Rucho*, 766 S.E. 2d 238 (N.C. 2014), *vacated and remanded*, 135 S. Ct. 1843, *aff'd*, 781 S.E. 2d 404 (N.C. 2015), *vacated and remanded*, 137 S. Ct. 2186

(2017); *Harris v. McCrory*, 159 F. Supp. 3d 600 (M.D.N.C.), *aff'd sub nom. Cooper v. Harris*, 137 S. Ct. 1455 (2017); *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016) (Wynn, Schroeder, Eagles, JJ.), *aff'd*, 137 S. Ct. 2211 (2017).

I have represented the State of North Carolina in three related lawsuits challenging North Carolina's 2011 congressional and legislative redistrictings.

In *Dickson v. Rucho*, 766 S.E. 2d 238 (N.C. 2014), *vacated and remanded*, 135 S. Ct. 1843, *aff'd*, 781 S.E. 2d 404 (N.C. 2015), *vacated and remanded*, 137 S. Ct. 2186 (2017), the North Carolina Supreme Court affirmed the unanimous decision by the three-judge trial panel (Crosswhite, Hinton, Ridgeway, JJ.) rejecting plaintiffs' claims that certain legislative and congressional districts constituted alleged racial gerrymanders. The decision was vacated and remanded by the United States Supreme Court. Following remand, the North Carolina Supreme Court again affirmed the challenged districts. Plaintiffs then filed a second petition for a writ of *certiorari*. On May 30, 2017, the Supreme Court granted *certiorari*, vacated the decision by the North Carolina Supreme Court for a second time, and remanded for further consideration in light of the Supreme Court's decision in *Harris v. McCrory*.

Opposing Counsel

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(919) 783-2881

Anita Earls (representing NAACP)
Southern Coalition of Social Justice
1415 West Highway 54
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Durham, NC 27707
(919) 323-3380

After the initial decision in *Dickson v. Rucho*, two plaintiffs challenged the 2011 congressional plan in federal court in a case captioned *Harris v. McCrory*, 159 F. Supp. 3d 600 (M.D.N.C.), *aff'd sub nom. Cooper v. Harris*, 137 S. Ct. 1455 (2017). Contrary to the decision in *Dickson v. Rucho*, the district court (per Gregory and Cogburn, JJ., with Osteen, J., dissenting) in this litigation found that the 2011 North Carolina Congressional Districts 1 and 12 constituted illegal racial gerrymanders. The Supreme Court affirmed.

Opposing Counsel

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Raleigh, NC 27601
(919) 783-2881

Also following the initial decision in *Dickson v. Rucho*, another set of plaintiffs successfully challenged several of North Carolina's legislative districts as racial gerrymanders in the case of *Covington v. North Carolina*, 316 F.R.D. 117 (M.D.N.C. 2016) (Wynn, Schroeder, Eagles, JJ.), *aff'd*, 137 S. Ct. 2211 (2017).

Opposing Counsel

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Anita Earls (representing NAACP)
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Co-Counsel for Supreme Court Filings

Paul Clement and Erin Murphy (representing defendants in *Harris* and *Covington*)
Bancroft PLLC
500 New Jersey Avenue, NW
Seventh Floor
Washington, D.C. 20001
(202) 234-0090

3. *United States v. North Carolina*, 182 F. Supp. 3d 320 (M.D.N.C.), *rev'd*, 831 F. 3d 204 (4th Cir. 2016), *cert. denied sub nom. North Carolina v. North Carolina St. Conf. of the NAACP*, 137 S. Ct. 1399 (2017).

In 2013, the North Carolina General Assembly enacted a photo ID requirement for voting and made other election law modifications. In *United States v. North Carolina*, 182 F. Supp. 3d 320 (M.D.N.C. 2016) (Schroeder, J.), and two related civil actions that were consolidated with this case, the United States District Court for the Middle District of North Carolina found for the defendants (whom I helped represent) on all of plaintiffs' claims. The decision was reversed by the Fourth Circuit. 831 F. 3d 204 (4th Cir. 2016)

(Floyd, Motz, Wynn, JJ.). On May 15, 2017, defendants' petition for a writ of *certiorari* was denied by the United States Supreme Court. *North Carolina v. North Carolina St. Conf. of the NAACP*, 137 S. Ct. 1399 (2017).

Co-Counsel

Kyle Duncan
Schaerr Duncan LLP
1717 K Street NW
Suite 900
Washington, DC 20006
(202) 714-9492

Opposing Counsel

Plaintiffs were represented by over 30 to 40 lawyers in this case, so only the lead counsel for each of the major parties is identified below.

Bert Russ (representing the United States)
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530
(202) 353-7738

Daniel Donovan (representing the NAACP)
Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
(202) 879-5174

Dale Ho (representing the League of Women Voters)
American Civil Liberties Union Foundation, Inc.
125 Broad Street
18th Floor
New York, NY 10004
(212) 549-2693

Josh Kaul (representing the intervening plaintiffs)
Perkins Coie LLP
1 E. Main Street
Suite 201
Madison, WI 53703
(608) 294-4007

4. *Shaw v. Hunt*, 517 U.S. 899 (1996).

This case involved a challenge to a congressional district which plaintiffs alleged to be an unconstitutional racial gerrymander. I was lead counsel for the intervening plaintiffs at a trial that took approximately two weeks. The case was tried to a three-judge court which

included Circuit Judge Dickson Phillips and District Judges Earl Britt and Richard Voorhees. Plaintiffs and intervening plaintiffs lost at trial but obtained a reversal of the trial court decision in the Supreme Court.

Co-Counsel

Honorable Robinson Everett (now deceased)
Duke University School of Law
201 Science Drive
Box 90362
Durham, NC 27708

Opposing Counsel

Eddie Speas
Poyner & Spruill
301 Fayetteville Street Mall
Raleigh, NC 27601
(919) 783-2881

Adam Stein (representing the intervening defendants)
Tin, Fulton, Walker, & Owen
1526 East Franklin Street
Suite 102
Chapel Hill, NC 28203
(919) 240-7089

5. *Doyle McTighe v. Pfizer, et al.*, No. 5:02-CV-606-H3 (Eastern District of North Carolina); and *Doyle McTighe v. Pfizer, et al.*, No. 02-CVS-010341 (Wake County Super. Ct. Oct. 2005).

This case involved claims of retaliation, gender discrimination, intentional infliction of emotional distress (“IIED”), negligent infliction of emotional distress (“NIED”), negligent supervision, and other claims.

I served as lead counsel for the corporate defendant and the individual defendants. One individual defendant obtained separate counsel at trial based upon my recommendation.

The case was originally filed in the Superior Court of Wake County. We removed the case to federal court. On August 4, 2004, the Honorable Malcolm Howard, United States District Judge for the Eastern District of North Carolina, dismissed all federal claims and remanded the state claims to Superior Court. On June 6, 2005, the Honorable Howard Manning, Wake County Superior Court Judge, entered an order granting defendants’ motion for summary judgment on all state claims except IIED and negligent supervision.

Beginning on September 19, 2005, the case was tried before the Honorable Wade Barber, Senior Resident Superior Court Judge from Orange County, in the Wake County Superior Court. The trial took approximately three to four weeks. On October 12, 2005, the jury entered a verdict for the defendants.

Co-Counsel

Patricia Holland (representing the individual defendant)
Jackson Lewis
3737 Glenwood Avenue
Raleigh, NC 27912
(919) 760-6460

Opposing Counsel

Randall Roden
Tharrington Smith
150 Fayetteville Street Mall
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6. *Stephenson v. Bartlett*, 355 N.C. 354, 562 S.E.2d 377 (2002) (“*Stephenson I*”) and *Stephenson v. Bartlett*, 357 N.C. 301, 582 S.E.2d 247 (2003) (“*Stephenson II*”), *Stephenson v. Bartlett*, 358 N.C. 219, 595 S.E.2d 112 (N.C. 2004) (“*Stephenson III*”); and *Stephenson v. Bartlett*, 180 F. Supp. 2d 779 (E.D.N.C. 2001).

These cases involved constitutional challenges under the North Carolina Constitution to the legislative districts drawn by the North Carolina General Assembly following the 2000 Census.

I served as lead counsel for the plaintiffs. *Stephenson I* found the districts enacted in November 2001 to be unconstitutional. In *Stephenson II*, the Supreme Court affirmed the decision by the Superior Court to use interim court-drawn redistricting plans for the 2002 general elections. In *Stephenson III*, the court ruled that the *Stephenson* case was over and that plaintiffs were not entitled to a hearing on whether the General Assembly had complied with the injunction entered in *Stephenson I*, as applied to the 2004 general elections.

The federal court decision resulted after defendants removed plaintiffs’ complaint, which had been filed in Johnston County Superior Court, The Honorable Malcolm Howard, District Court Judge for the Eastern District of North Carolina, remanded the case to the Superior Court.

The Honorable Knox Jenkins (deceased), Senior Resident Superior Court Judge for Johnston County, presided over all trial court proceedings in *Stephenson I* and *II*. The Honorable Robert Hobgood, Senior Resident Superior Court Judge for Franklin County, presided over all trial court proceedings in *Stephenson III*.

Co-Counsel

Honorable Robert N. Hunter (co-counsel following the *Stephenson I* ruling)
N.C. Court of Appeals
One West Morgan Street

Raleigh, NC 27601
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Opposing Counsel

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North Carolina Department of Justice
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7. *Williams v. Blue Cross Blue Shield of North Carolina*, 357 N.C. 170 (2003)
(affirming decision by Balog, J., Orange County Superior Court Judge).

This case involved a constitutional challenge to the Orange County Civil Rights Ordinance. The Supreme Court of North Carolina found this ordinance to be an unconstitutional local law under the North Carolina Constitution.

I served as lead counsel for the defendant, Blue Cross and Blue Shield of North Carolina before the Superior Court and North Carolina Supreme Court.

Opposing Counsel

Burton Craige
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Geoffrey E. Gledhill (representing counterclaim defendant Orange County)
Coleman, Gledhill, Hargrave & Peek, P.C.
129 East Tryon Street
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Hillsborough, NC 27278
(919) 732-2196

8. *NLRB v. Lundy Packing Co.*, 68 F.3d 1577 (4th Cir. 1995) (Hamilton, Niemeyer, Wilkinson, JJ.), *cert. denied sub nom. United Food & Comm'l Workers Union Local 204 v. Lundy Packing Co.*, 518 U.S. 1019 (1996).

This case is a Fourth Circuit decision reversing a bargaining unit determination by the NLRB. I argued the case in the Fourth Circuit and helped prepare the brief. I did not participate in any preliminary proceeding before the National Labor Relations Board. I also helped prepare the (successful) brief in opposition to the petition for a writ of certiorari.

Opposing Counsel

Jill Ann Griffin
National Labor Relations Board

1015 Half Street SE
Washington, D.C. 20570
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9. *Pugh, et al., v. Avis, et al.*, No. 7-96-CV-91-F(2) (E.D.N.C. dismissed Sept. 16, 1998) (Fox, J.).

This matter was brought by the Lawyers' Committee for Civil Rights Under Law against Avis and a franchisee called New Hanover Rent-A-Car, alleging that Avis and New Hanover had discriminated against African-American customers. I was lead counsel for the franchisee. The parties eventually negotiated a consent decree resolving this litigation.

Counsel for Avis

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Opposing Counsel

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10. *Clinton v. Wake County Bd. of Educ.*, 108 N.C. App. 616, *rev. denied*, 333 N.C. 574 (1993).

This case resulted in a trial of approximately two weeks. Plaintiff alleged claims against the Wake County School Board for racial discrimination and other claims.

I was lead counsel for the defendant. At the close of plaintiffs' evidence, the Superior Court judge directed a verdict in defendant's favor on most of plaintiffs' claims. The jury then returned a verdict for the defendant on all remaining claims. The Court of Appeals affirmed, per Greene, Walker, and Wynn, JJ.

The Honorable Coy Brewer, Cumberland County Superior Court, presided at trial.

Opposing Counsel

Travis Payne
Edelstein & Payne
315 E. Jones Street
Raleigh, NC 27601
(919) 828-1456

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

I served as a member of the United States Federal Service Impasses Panel during the term of President Reagan. The panel resolves collective bargaining impasses in the federal sector. I was privileged to work with some outstanding leaders in the field of labor relations, including Roy Brewer, Robert Howlett, Jean McKelvey, Victor Goodman, Dan Kruger, and Susan Robfogel.

I served on the Wake County (North Carolina) Board of Elections for a year or so in approximately 1984-1985, and on the North Carolina State Board of Elections in approximately 1985-1986. In both roles, I applied and interpreted state election law alongside my colleagues.

I have served as a member of the Personnel Committee for the N.C. Bar Association from 2003 through the present. From 2015 to 2016, I was a member of the Bar Association Search Committee to replace our Executive Director. From 2016 to the present, I have served as a member of the Bar Association's Administration of Justice Committee.

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 was an adjunct professor at Campbell University Law School from 1990 through 1995. During that timeframe I taught employment law using a standard case book which I cannot recall. I no longer have a syllabus for this course.

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.

Upon leaving Ogletree I would immediately be paid the full sum of my capital account which I have funded with annual contributions. At the present time my capital account total is \$85,219.00. I would also immediately receive my entire accrued benefit from our firm's non-qualified retirement plan. The form of the benefit will be a lump sum payment totaling approximately \$300,000.00.

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.

Consistent with all ethical rules that apply to judges, I may consider future adjunct teaching opportunities. I currently have no plans or arrangement with any law school, university, or any other institution.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

I will abide by all applicable rules related to conflicts of interest or the appearance of conflicts of interest. This would apply to my wife, my children, my stepchildren, my brother and his family, and any other relative.

I would also abide by all applicable rules related to conflicts of interest or the appearance of a conflict of interest as related to any of my current or former clients or future cases involving a party represented by my law firm, Ogletree Deakins.

Lastly, I will evaluate any other real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action, 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 will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States

Judges, and any and all other laws, rules, and practices governing such circumstances.

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

Since 2016, under my supervision, Ogletree Deakins has provided pro bono legal advice to the Durham Rescue Mission. Advice and counsel have been provided on an as-needed basis. I also provided pro bono advice to a business owner who believed that her partners forced her out of her business partially because of her sexual orientation. When I was unable to settle the case, I referred my client to a local plaintiff's employment lawyer, who was able to resolve the dispute through pre-litigation mediation.

While at Maupin Taylor & Ellis, I volunteered to represent on a pro bono basis three Catholic priests accused of different forms of misconduct. I represented them in connection with internal investigations by the Raleigh Diocese. Also during my time at the Maupin firm, I provided *pro bono* advice to Our Lady of Lourdes Catholic Church.

During my service on the Board of Directors of the Capital Area Soccer League, I served as pro bono counsel for that organization. Some of my work included drafting employment agreements, severance agreements, preparing policies that precluded harassment of employees, players, and parents, and investigating and resolving one claim of sexual harassment.

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.

I was nominated to the United States District Court for the Eastern District of North Carolina in 2006, and re-nominated in 2007, but did not receive a confirmation hearing or vote before President George W. Bush left office. After President Trump was elected, I called Senator Tillis to advise him that I would like to be considered for this nomination. In subsequent telephone calls, Senator Tillis and Senator Burr advised me that they were supporting me for this nomination. On April 10, 2017, I interviewed with attorneys from the White House Counsel's Office and the Office of Legal Policy at the Department of Justice. Since that

time, I have been in contact with officials from both of those offices. On July 13, 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.