

**UNITED STATES SENATE  
COMMITTEE ON THE JUDICIARY**

**QUESTIONNAIRE FOR JUDICIAL NOMINEES**

**PUBLIC**

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

Sheryl (Sheri) Halle Lipman

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

United States District Judge for the Western District of Tennessee

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 of Legal Counsel  
University of Memphis  
201 Administration Building  
Memphis, Tennessee 38152

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

1963; Memphis, Tennessee

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.

1984 – 1987, New York University School of Law; J.D., 1987

1981 – 1984, University of Michigan; B.A., 1984

Summer 1982, University of Memphis (formerly Memphis State University); 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.

1999 – present  
University of Memphis

201 Administration Building  
Memphis, TN 38152  
Interim Chief of Staff to the President (July 1, 2013 – present)  
University Counsel (2002 – present)  
Interim Equal Employment/Affirmative Action Director (July 1, 2012 – March 31, 2013)  
Senior Attorney (1999 – 2002)

1997 – 1999  
Burch, Porter & Johnson  
130 North Court Avenue  
Memphis, TN 38103  
Litigation Associate

1996 – 1997  
Memphis Race Relations & Diversity Institute  
no longer exists  
Vice President-Comprehensive Services (1997)  
Director of Programs (1996)

1991 – 1995  
Wyatt, Tarrant & Combs  
(formerly McDonnell Boyd and McDonnell Dyer)  
The Renaissance Center  
1715 Aaron Brenner Drive, Suite 800  
Memphis, TN 38120  
Member (1995)  
Counsel (1995)  
Litigation Associate (1991 – 1995)

1988 – 1991, Summer 1986  
Reed Smith Shaw & McClay  
(formerly Pierson, Ball and Dowd)  
1301 K Street, N.W., Suite 1100 - East Tower  
Washington, D.C. 20005  
Litigation Associate (1988 – 1991)  
Summer Associate (Summer 1986)

1987 – 1988  
Honorable Julia S. Gibbons, United States District Court  
Western District of Tennessee  
Federal Building  
Memphis, TN 38103  
Judicial Law Clerk

1985 – 1986  
Matthew A. Kaufman

225 Broadway Street, Suite 1606  
New York, NY 10007  
Law Clerk

Summer 1985  
Litt and Stormer  
(no longer exists)  
Los Angeles, CA  
Summer Associate

Summer 1984  
Armadillo Jack's Restaurant  
(no longer exists)  
Memphis, TN  
Waitress

Other affiliations (uncompensated unless otherwise noted):

2012 – present  
Memphis Child Advocacy Center  
1085 Poplar Avenue  
Memphis, TN 38105  
Counsel, Board of Directors

2008 – present  
Tennessee Shakespeare Company  
2260 West Street  
Germantown, TN 38138  
Member, Board of Directors (2008 – present)  
President, Board of Directors (2009 – 2010)  
Treasurer, Board of Directors (2008 – 2009)

2000 – present  
Facing History and Ourselves  
650 East Parkway South  
Memphis, TN 38104  
Board of Advisors

2007 – present  
Memphis Jewish Federation  
6560 Poplar Avenue  
Germantown, TN 38138  
Director, Board of Directors  
Counsel, Board of Directors (2009 – 2011)

2009 – 2010

Leo Bearman, Sr. Chapter, American Inn of Court  
(no physical address)  
Secretary to the Inn

2004 – 2009 (ceased operations) (compensated)

LLR, LLC d/b/a Relax the Back  
201 University Blvd., Suite 123  
Denver, CO 80206  
Member, LLC

1998 – 2009

The Leadership Academy  
(now New Memphis Institute, formerly Goals for Memphis)  
22 North Front Street, Suite 500  
Memphis, TN 38103  
Trustee, Board of Directors  
Vice President, Leadership Development Intensive (2004 - 2005)  
Counsel (1998 - 2005)

1999 – 2008

Memphis Regional Planned Parenthood  
2430 Poplar Avenue  
Memphis, TN 38104  
Member, Board of Directors (1999 – 2008)  
Chair, Board of Directors (2003 – 2005)  
Vice Chair, Board of Directors (2001 – 2003)  
Member, Executive Committee (2000 – 2001)

2005 – 2007

Memphis & Shelby County Sports Development Corporation  
(no longer exists)  
Member, Board of Directors

1997 – 2004

Memphis Jewish Community Center  
6560 Poplar Avenue  
Memphis, TN 38138  
Member, Board of Directors  
Counsel, Board of Directors (2000 – 2002)  
Assistant Vice President of Membership (1998 – 2000)

2000 – 2002

Memphis Bar Association  
80 Monroe Avenue, Suite 220  
Memphis, TN 38103

Member, Board of Directors  
Member, Executive Committee (2001 – 2002)

1999 – 2002  
National Ornamental Metal Museum  
374 Metal Museum Drive  
Memphis, TN 38106  
Member, Board of Directors

1999 – 2001  
The Exchange Club Family Center  
2180 Union Ave  
Memphis, TN 38104  
Member, Board of Directors

1992 – 2001  
American Civil Liberties Union of Tennessee  
P. O. Box 120160  
Nashville, TN 37212  
Member, Board of Directors  
Vice President, Board of Directors (1996 – 2001)

1993 – 2000  
Hands On Memphis  
(merged with Volunteer Midsouth)  
General Counsel, Board of Directors (1993 – 1999)  
Co-Chair, Board of Directors (1997 – 1998)  
Vice President, Board of Directors (1994 – 1996)  
President, Board of Directors (1993 – 1994)

1995 – 1999  
Memphis Jewish Home  
36 Bazeberry Road  
Cordova, TN 38018  
Member, Board of Directors

1993 – 1994, 1994 – 1995  
Bethany Home  
(no longer exists)  
Member, Board of Directors  
Vice Chair, Board of Directors (1994 – 1995)  
Secretary (1993 – 1994)

1995 – 1996  
Vollintine-Evergreen Community Development Corporation

(no longer exists)  
Member, Board of Directors

1991 – 1995  
Center for Southern Folklore  
119 South Main Street  
Memphis, TN 38103  
Member and General Counsel, Board of Directors

1988 – 1990  
Project Northstar (homeless children's tutoring project)  
(no longer exists)  
Washington, D.C.  
Member, Board of Directors

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

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

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

Allen J. Hammond Presidential Service Award, University of Memphis (2012)  
Named one of 100 Women who have made a difference in the University of Memphis' first 100 years (2012)  
AV rating, Martindale-Hubbell (2008)  
Memphis & Shelby County Bar Foundation, Fellow (2005)  
Nominated for local Jefferson Award for outstanding volunteer service (2001)  
Chosen Top 40 under 40 by Memphis Business Journal (1998)  
Honorary Member of Memphis City Council (1998 and 1999)  
Harvard Business School Executive Education Programs, "Strategic Perspectives in Nonprofit Management" (April 27, 1997 – May 3, 1997)  
Leadership Memphis, Member, Class of 1995  
Public Interest Grant, New York University School of Law (1985)  
University of Michigan Honors Convocation (1983 – 1984, 1981 – 1982)  
Public Interest Internship, University of Michigan, Summer 1983  
University of Michigan, College of Literature, Science and the Arts Academic Scholarship (1982 – 1983)  
University of Michigan, Branstrom Prize, Top 5% of Freshman Class (1982)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the

titles and dates of any offices, which you have held in such groups.

American Bar Association (1987 – approximately 1999)

American Judicature Society (several years between 1988 and 1995)

Association of Women Attorneys

Co-editor of newsletter (1992)

Delegate, Sixth Circuit Judicial Conference (named by Honorable Julia S. Gibbons)  
(1995)

District of Columbia Bar

Leo Bearman, Sr. Chapter, American Inn of Court

Master (2008 – 2011)

Secretary (2009 – 2010)

Associate (1995 – 1997)

Member, Merit Selection Panel to Choose Federal Public Defender for Western District  
of Tennessee (appointed by the Sixth Circuit Court of Appeals) (1995)

Memphis Bar Association

Human Resources Committee (2002 – 2005)

Director (2000 – 2002)

Executive Committee (2001 – 2002)

National Association of Women Judges Conference Planning Committee (2009)

Tennessee Bar Association (1991 – approximately 1999)

The Bar Association of the District of Columbia (1989 – 1991)

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.

Tennessee, 1987

District of Columbia, 1989 (inactive)

There have been no lapses in membership, although, as indicated, my membership in the District of Columbia bar is inactive.

- 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.

All Tennessee State Courts, 1987

United States District Court for the Western District of Tennessee, 1988

United State Court of Appeals for the Sixth Circuit, 1988

All District of Columbia Courts, 1989

United States Court of Appeals for the Fourth Circuit, 1990

United States District Court for the District of Columbia, 1991

United States District Court for the Central District of Illinois, 1993

United States District Court for the District of Arizona, 1994  
United States Court of Federal Claims, 1995

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.

American Civil Liberties Union of Tennessee (1991 – present)

Member, Board of Directors (1992 – 2001)

Vice President, Board of Directors (1996 – 2001)

Bethany Home (1992 – 1999)

Member, Board of Directors (1992 – 1995, 1998 – 1999)

Vice Chair, Board of Directors (1994 – 1995)

Secretary (1993 – 1994)

Bridges, Inc. (1998-2000)

Member, Board of Advisors (1998 – 2000)

Center for Southern Folklore (1991 – 2008)

Member and General Counsel, Board of Directors (1991 – 1995)

Facing History and Ourselves, Memphis Region (2000 – present)

Member, Board of Advisors (2000 – present)

Hands On Memphis (1993 – 2000)

Member, Board of Directors (1993 – 2000)

First President, Board of Directors (1993 – 1994)

Vice President, Board of Directors (1994 – 1996)

Co-Chair, Board of Directors (1997 – 1998)

General Counsel, Board of Directors (1993 – 1999)

Marcus Orr Center for the Humanities at the University of Memphis (2009 – present)

Member, Board of Advisors (2009 – present)

Memphis Child Advocacy Center (2012 – present)

Counsel, Board of Directors (2012 – present)

Memphis Jewish Community Center (1991 – present)

Member, Board of Directors (1997 – 2004)

Assistant Vice President of Membership (1998 – 2000)

Counsel, Board of Directors (2000 – 2002)

Memphis Jewish Federation (1991 – present)

Director, Board of Directors (2007 – present)

Counsel, Board of Directors (2009 – 2011)

Genesis Young Leadership Program Chair (2010)

Strategic Planning Committee (2007)

Memphis Jewish Home (1995 – 1999)  
 Member, Board of Directors (1995 – 1999)

Memphis Regional Planned Parenthood (1999 – present)  
 Member, Board of Directors (1999 – 2008)  
 Member, Executive Committee (2000 – 2001)  
 Vice Chair, Board of Directors (2001 – 2003)  
 Chair, Board of Directors (2003 – 2005)  
 Member, Search Committee for President (2012 – 2013)

Memphis & Shelby County Sports Development Corporation (2005 – 2007)  
 Member, Board of Directors (2005 – 2007)

National Association of College and University Attorneys (1995, 1999 – present)  
 Member (1995, 1999 – present)  
 Annual Conference Program Committee (2011 – 2013)  
 Co-chair, subcommittee on Student Affairs and Athletics (2011 – 2012)  
 Co-chair, subcommittee on General Counsel (2013)  
 Task Force on the Annual Conferences (2012)

National Collegiate Athletic Association (NCAA) (2010)  
 Member, Search Committee for General Counsel (2010)

National Ornamental Metal Museum (1999 – present)  
 Member, Resource Board (2002 – present)  
 Member, Board of Directors (1999 – 2002)

New York University Alumni Association (est. 1991 – present)

Project Northstar (1988 – 1990)  
 Member, Board of Directors (1988 – 1990)

Tennessee Shakespeare Company (2008 – present)  
 Member, Board of Directors (2008 – present)  
 President, Board of Directors (2009 – 2010)  
 Treasurer, Board of Directors (2008 – 2009)

The Exchange Club Family Center (1999 – 2001)  
 Member, Board of Directors (1999 – 2001)

The Leadership Academy (now New Memphis Institute, formerly Goals for Memphis) (1998 – present)  
 Trustee, Board of Directors (1998 – 2009)  
 Vice President, Leadership Development Intensive (2004 – 2005)

University of Michigan Alumni Association (est. 1988 – present)

Vollintine-Evergreen Community Development Corporation (1995 – 1996)  
 Member, Board of Directors (1995 – 1996)

Vollintine-Evergreen Community Association (est. 1995 – 2011)

- 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 these organizations currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

**12. Published Writings and Public Statements:**

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

*The Story of the Disappearing Season: Should Strict Liability Be Used in the NCAA Infractions Process?*, 41 U. MEM. L. REV. 847 (2011). Copy supplied.

*Open Letter to Tiger Fans from Sheri Lipman*, June 2, 2009. Copy supplied.

*U of M Pleads for Trust in Student-Athlete Issues*, The Commercial Appeal, January 26, 2005. Copy supplied.

*Businesses Learning to Manage Effect of HIV/AIDS in Workplace*, The Memphis Business Journal, July 27, 2003. Copy supplied.

*Women at the Bar*, HER Business News, April 1998. Copy supplied.

*Women at the Bar: Hiring to Avoid Firing*, HER Business News, February 1998. Copy supplied.

*Women at the Bar: Getting Paid!*, HER Business News, January 1998. Copy supplied.

*Legal Matters: The Courts Help Shatter the Glass*, The Same Difference (newsletter of the Memphis Race Relations and Diversity Institute), June 1995. Copy supplied.

*Legal Matters: Civil Rights Act of 1991: Changes in the Landscape*, The Same Difference (newsletter of the Memphis Race Relations and Diversity Institute), March 1995. Copy supplied.

With Gerson & Lakey, *Minorities and Women in the Profession and Labor and Employment: 'Diversity Management: Opposites Don't Always Attract,'* subtitled *Increasing Diversity in the Legal Workplace: A Look at the Recruitment*,

*Retention, and Promotion of Minority and Women Attorneys in Law Firms*, presented at the 13th Annual Mid-Winter Corporate Counsel Meeting of the American Bar Association on February 16-19, 1995. Copy supplied.

*Legal Matters*, The Same Difference (newsletter of the Memphis Race Relations and Diversity Institute), December 1994. Copy supplied.

*Legal Matters*, The Same Difference (newsletter of the Memphis Race Relations and Diversity Institute), September 1994. Copy supplied.

*Legal Matters*, The Same Difference (newsletter of the Memphis Race Relations and Diversity Institute), June 1994. Copy supplied.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

As the Vice Chair and Chair of the Board of Directors of Memphis Regional Planned Parenthood, I authored messages in the 2002-2003, FY2004, and FY2005 annual reports. Otherwise, I did not personally prepare or review any portion of the annual reports in advance. Copies supplied.

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

I have not presented such testimony, but I have been present before public bodies as part of a team from the University of Memphis, seeking approval for certain contracts for the University. These appearances include:

August 5, 2011: Executive Sub-Committee of the Tennessee State Building Commission (acquisition of Lambuth campus). I have no notes, transcript or recording.

August 4, 2011: Madison County (Tennessee) Commission (acquisition of Lambuth campus). Minutes supplied.

August 2, 2011: Jackson City (Tennessee) Council (acquisition of Lambuth campus). Minutes supplied.

November 23, 2009: Executive Sub-Committee of the Tennessee State Building Commission (Highland Row development project). Minutes supplied.

December 16, 2008: Fiscal Review Committee of the Tennessee state legislature (Nike contract). I have no notes, transcript or recording.

May 18, 2007: West Tennessee Seismic Safety Commission. Minutes supplied.

November 20, 2006: Executive Sub-Committee of the Tennessee State Building Commission (contract to obtain use of downtown law school building). Minutes supplied.

May 13, 2004: Tennessee State Building Commission (use agreement for FedExForum and termination of Pyramid agreement). Minutes supplied.

April 19, 2004: Executive Sub-Committee of the Tennessee State Building Commission (use agreement for FedExForum and termination of Pyramid agreement). Minutes supplied.

April 13, 2004: Memphis City Council Committee and Council (use agreement for FedExForum and termination of Pyramid agreement). I have no notes, transcript or recording.

March 3, 2004: Shelby County (Tennessee) Commission (use agreement for FedExForum and termination of Pyramid agreement). I have no notes, transcript or recording.

February 14, 2004: Memphis City Council (use agreement for FedExForum and termination of Pyramid agreement). I have no notes, transcript or recording.

Since becoming University Counsel in 2002, I have served on a number of committees that have issued reports or studies for the university. Although these were issued in my capacity as in-house counsel for the University, I have supplied the public documents that I could locate:

April 14, 2005: Report of the President's Task Force on the University's Response to Student-Athlete Conduct and the Criminal Justice System.

July 15, 2004: 2003-2004 Division I Athletics Certification Self Study Instrument.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions,

conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following list reflects my best efforts to identify the speeches or talks I delivered. To answer this question, I searched my files and papers, and conducted Internet searches for responsive materials and information. I tried to compile as complete a list as possible, but there may be other speeches or talks that I have been unable to recall or identify. Although I usually wrote notes in advance of my participation on a panel, that was not always my practice, nor has it always been my practice to maintain the notes I used.

June 18, 2013: Panelist, "College Athletics," 2013 Lawyers New to Higher Education Workshop, Philadelphia, PA. This session was an introduction to legal issues in collegiate athletics, including contract issues, employment matters and a compliance overview. I have no notes, transcript or recording. The address of the National Association of College and University Attorneys is One Dupont Circle, Suite 620, Washington, DC 20036.

January 12, 2013: Panelist, "General Counsel and Athletics," 2013 NACUA General Counsel Institute, New Orleans, LA. Recording supplied.

June 29, 2012: Discussion Coordinator, "Intercollegiate Athletics and Sports Forum," 2012 NACUA Annual Conference, Chicago, IL. The Forum sessions are open sessions where various people update the group on current events. I did not provide an update in this session, but I served as one of the discussion coordinators. I have no notes, transcript or recording. The address of the National Association of College and University Attorneys is One Dupont Circle, Suite 620, Washington, DC 20036.

June 27, 2012: Panelist, "Where Are We Now? An Update on NCAA Efforts to Deregulate," 2012 NACUA Annual Conference, Chicago, IL. Recording supplied.

May 13, 2012: Guest Speaker, Germantown High School Baccalaureate, Memphis, TN. Transcript supplied.

April 18, 2012: Co-Presenter, "Top Ten Legal Issues in Higher Education," Continuing Legal Education Luncheon sponsored by the Labor and Employment section of the Memphis Bar Association, Memphis, TN. Notes supplied.

November 4, 2011: Guest Lecturer, "Self Leadership," Executive MBA Program,

Fogelman College of Business and Economics, University of Memphis, Memphis, TN. The lecture focused on my background and how I made the professional choices in my life. I have no notes, transcript or recording. The address for the Fogelman College of Business and Economics is University of Memphis, Memphis, TN 38152.

June 28, 2011: Moderator, "Trends in NCAA Compliance: Understanding Institutional Controls and Counsel's Role in Managing the Risks Inherent in Athletics Compliance," 2011 NACUA Annual Conference, San Francisco, CA. I have no notes, transcript or recording. The address for the National Association of College and University Attorneys is One Dupont Circle, Suite 620, Washington, DC 20036.

June 27, 2011: Discussion Coordinator, "Athletics Forum," 2011 NACUA Annual Conference, San Francisco, CA. The Forum sessions are open sessions where various people update the group on current events. My recollection is that I provided an update on clawback provisions in coaches' contracts at this session, in addition to serving as a discussion coordinator. I have no notes, transcript or recording. The address of the National Association of College and University Attorneys is One Dupont Circle, Suite 620, Washington, DC 20036.

June 27, 2011: Panelist, "What Should Athletics Call Me About? The Legal Issues Every University Counsel Should Know About in the Athletics Department," 2011 NACUA Annual Conference, San Francisco, CA. Recording supplied.

February 11, 2011: Presenter, "Should Strict Liability Be Used in the NCAA Infractions Process? The Story of the Disappearing Season," University of Memphis Law Review Symposium, Memphis, TN. Copy of article that formed the basis of the talk supplied in response to Question 12a.

December 14, 2010: Co-Presenter, "Memphis Jewish History," discussion co-led with Judy Ringel at Temple Israel Synagogue, Memphis, TN. Notes supplied.

Fall 2010, Fall 2008: Guest Lecturer, "Public Administration: Collective Bargaining and Conflict Resolution," University of Memphis, Memphis, TN. Notes supplied.

April 8, 2010: Guest Speaker, Germantown High School National Honor Society Induction Ceremony, Memphis, TN. Transcript supplied.

March 25, 2010: Panelist, "Who's Your Client? A Corporate Counsel's Dilemma," Business Law Section of the Memphis Bar Association. In this presentation, I discussed how to work with the leaders of a large institution while still being clear that the institution is the client. I have no notes, transcript or recording. The address of the Memphis Bar Association is 80 Monroe Avenue,

Suite 220, Memphis, TN 38103.

April 9, 2007: Panelist, "Being a Lawyer," University of Memphis Student-Athletes' Career Panel, Memphis, TN. Notes supplied.

February 27, 2007: Speaker, "Update on Geier Litigation," Black Law Students Association at the University of Memphis, Memphis, TN. Notes supplied.

April 18, 2006 and October 22, 2001: Speaker, "The Role of Lawyers," University of Memphis Pre-Law Society, Memphis, TN. Notes supplied.

November 4, 2005: Panelist, "Diversity's Role in Public and Private Employment Sectors: Differences and Similarities," Conference on Diversity in the Workplace, Memphis, TN, sponsored by the University of Memphis Law School and Baker, Donelson, Bearman, Caldwell & Berkowitz. In this presentation, I discussed how the Geier litigation provided the framework for various practices on our campus. I have no notes, transcript or recording. The address of the University of Memphis Law School is One North Front Street, Memphis, TN 38103.

October 20, 2003: Guest Lecturer, Higher Education Law, "Role of Counsel on Campus," University of Memphis, Memphis, TN. Notes supplied.

Spring Semester 2003, Spring Semester 2001, Spring Semester 2000: Guest Lecturer, "Legal Environment of Business," Fogelman College of Business and Economics, University of Memphis, Memphis, TN. In these lectures, I believe I described recent ACLU litigation. I have no notes, transcript or recording. The address for the Fogelman College of Business and Economics is University of Memphis, Memphis, TN 38152.

May 2003: Speaker, Presentation at the 15th Annual Memphis in May Student Affairs Conference, Student Affairs Division, University of Memphis, Memphis, TN. I do not specifically recall this presentation, but I believe I would have discussed legal issues in student affairs matters. I have no notes, transcript or recording. The address for the Student Affairs Division at the University of Memphis is Student Affairs, University of Memphis, Memphis, TN 38152.

February 8, 2002: Speaker, "You May Think You Don't Need a Lawyer ... Legal Issues and the Affiliate: Developing a Checklist for an Organization", co-presented with Rob Pineda at the 2002 CityCares Annual Conference, Memphis, TN. Notes supplied.

Spring Semester 2002 and Spring Semester 2001: Guest Lecturer, Federal Courts, University of Memphis Law School, Memphis, TN. I used substantially the same notes for both events. Notes from Spring Semester 2001 supplied.

May 22-23, 2001: Panelist, "The Law Professor as Lawyer," Conference on Legal Education in the United States and China, sponsored by the University of Memphis Law School, Memphis, TN. Notes supplied.

March 29, 2001: Panelist, "Legal Transitions," sponsored by Association for Women Attorneys, Memphis, TN. Notes supplied.

March 28, 2001: Speaker, "Status of Law on Abortion," UT Medical Students for Choice, University of Tennessee Health Science Center, Memphis, TN. In this speech, I provided an overview of the then-current law. I have no notes, transcript or recording. The address of the University of Tennessee Health Science Center is 62 South Dunlap, Memphis, TN 38163.

August 19, 2000: Speaker, "ADA and Sexual Harassment Training," provided for YMCA of Memphis and the Mid-South City Wide Child Care Training, Memphis, TN. I have no notes, transcript or recording. The address of the YMCA of Memphis and the Mid-South is 6373 Quail Hollow, Suite 201, Memphis, TN 38120.

May 19, 2000: Panelist, ADA Panel, University of Memphis School of Law Labor & Employment Law Symposium, Memphis, TN. Notes supplied.

April 12, 2000: Panelist, "Racial Profiling Forum and Town Meeting," sponsored by the ACLU of Tennessee, the Black Law Students and Jewish Law Students of the University of Memphis School of Law, and the Civilian Law Enforcement Review Board of the City of Memphis, Memphis, TN. As a panelist, my recollection is that I discussed a proposed law that would track the reasoning behind police stops. Minutes and press coverage supplied.

February 14, 2000: Speaker, "Legal Issues," University of Memphis Campus Ministries, Student Affairs Division, University of Memphis, Memphis, TN. In this speech, I believe I discussed legal issues that could affect the campus ministries. I have no notes, transcript or recording. The address of the University of Memphis Campus Ministries, Student Affairs Division, University of Memphis, 3625 Mynders Avenue, Memphis, TN 38111.

March 9, 1999: Speaker, "Free Exercise Clause and Attendance Policies," sponsored by the Jewish Law Students, University of Memphis Law School, Memphis, TN. In this speech, I discussed how attendance policies affect students who miss class to observe religious holidays. I have no notes, transcript or recording. The address for the University of Memphis Law School is One North Front Street, Memphis, TN 38103.

December 8, 1998 and October 15, 1997: Guest Lecturer, Great Expectations Honors Forum, University of Memphis, Memphis, TN. In these lectures, I believe I spoke about my background, and how I made my career choices. I have

no notes, transcript or recording. The address for the University of Memphis is Memphis, TN 38152.

October 18, 1998: Panelist, "Blacks and Jews in Memphis," sponsored by the Jewish Historical Society of Memphis and the Mid-South. My recollection of this panel is that it included four participants from different generations, describing their experiences with the intersection of these two groups. I have no notes, transcript or recording. The Jewish Historical Society of Memphis and the Mid-South does not have a physical address.

January 13, 1998: Panelist, "Forum on Public School Issues," sponsored by the National Council of Jewish Women/Memphis Section, Memphis, TN. In this speech, I believe I spoke about issues related to religion in public schools. I have no notes, transcript or recording. The National Council of Jewish Women/Memphis Section has no physical address.

July 14, 1997: Panelist, "The Argument for Gun Control from Different Perspectives," sponsored by the Memphis Public Issues Forum, Memphis, TN. I have no notes, transcript or recording. The Memphis Public Issues Forum has no physical address.

September 13, 1996: Speaker, "White Collar Crime," sponsored by the Greater Memphis Legal Assistants, Memphis, TN. In this speech, I described the differences between civil and criminal cases, including substance, process and preparation. I have no notes, transcript or recording. The Greater Memphis Legal Assistants has no physical address.

February 10, 1995: Panelist, "What to Say After You've Said Hello or Effective Client Communications," sponsored by the Memphis Bar Association, Memphis, TN. In this speech, I believe I spoke about the importance of clearly communicating with your client, and the need to document those communications. I have no notes, transcript or recording. The address of the Memphis Bar Association is 80 Monroe Avenue, Suite 220, Memphis, TN 38103.

March 3 and 23, 1993: Speaker, Faculty and Student Judicial Committee Training, University of Memphis, Memphis, TN. In these trainings, I focused on evidence principles that help guide evaluation of proof. I have no notes, transcript or recording. The address of the University of Memphis is 3641 Central Avenue, Memphis, TN 38111.

January 14, 1992: Presenter, Trial of Eve, sponsored by Beth Sholom Synagogue Sisterhood, Memphis, TN. This was a mock trial where Eve was charged with possession of a forbidden substance (apple) with intent to eat and entice others to eat. I represented Eve, and she was found not guilty. I have no notes, transcript or recording. The address of Beth Sholom Synagogue is 6675 Humphreys Blvd, Memphis, TN 38120.

- 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.

In my role as University Counsel, I am periodically asked to comment on matters at the University. Most of these articles are the result of my fulfillment of those job duties, and many of these articles were reprinted in part or in full in multiple outlets. To compile this list, I have searched my own files, conducted Internet searches, and endeavored to find all responsive documents.

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William Greer, "New Students Get a Taste of the City," The New York Times, September 8, 1984. 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.

Civilian Law Enforcement Review Board of the City of Memphis (1998-2002), appointed by the Memphis City Council.

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

I have not held office or position with a political party, election committee or political campaign. In 1987 or 1988, I believe that I stuffed envelopes for Congressman Cohen, when he was in the state legislature.

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 September 1987 until August 1988, I clerked for the Honorable Julia S. Gibbons, then District Judge of the United States District Court for the Western District of Tennessee.

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

1996 – 1997  
(from my home)  
(practice limited to one case)

- 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.

1988 – 1991  
Reed Smith Shaw & McClay (formerly Pierson, Ball and Dowd)  
1301 K Street, N.W., Suite 1100 - East Tower  
Washington, D.C. 20005  
Litigation Associate

1991 – 1995  
Wyatt, Tarrant & Combs (formerly McDonnell Boyd and McDonnell Dyer)  
The Renaissance Center  
1715 Aaron Brenner Drive, Suite 800  
Memphis, Tennessee, 38120  
Litigation Associate (1991 – 1995)  
Member (1995)  
Counsel (1995)

1997 – 1999  
Burch, Porter & Johnson  
130 North Court Avenue  
Memphis, Tennessee 38103  
Litigation Associate

1999 – present  
University of Memphis  
201 Administration Building  
Memphis, Tennessee 38152  
University Counsel (2002 – present)  
Senior Attorney (1999 – 2002)

- 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.

No.

b. Describe:

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

Since 1987, I have worked in four different settings. The diversity of these experiences has enabled me to see all stages of the litigation process – both civil and criminal – from different perspectives.

In my clerkship year, I worked day-to-day with the Honorable Judge Julia Gibbons, which provided an invaluable exposure to the way in which a judge approaches motions, trials, a calendar, interactions with lawyers, interactions with litigants, and every other aspect of being a judge.

During my almost two and a half years at Reed Smith Shaw & McClay (formerly Pierson, Ball & Dowd), my practice was primarily devoted to white-collar criminal defense, but I also handled litigation involving breach of contract, employment discrimination and other business-related matters. Most of my practice was in federal court, including a criminal jury trial and a civil suit tried to verdict in the United States District Court for the Eastern District of Virginia.

When I returned to Memphis to work at Wyatt, Tarrant & Combs (formerly McDonnell Boyd and McDonnell Dyer) in 1991, my practice became more civil-oriented, although I was still involved in a few criminal matters. My civil practice during those years was primarily business-oriented. I spent a great deal of time on one large matter, having been hired as outside counsel by the Tennessee Attorney General's office to represent the University of Memphis in an age discrimination lawsuit. Most of my practice was in federal court.

In 1996, while I served in a non-legal capacity at the Memphis Race Relations and Diversity Institute, I retained the University of Memphis case as my only legal matter.

When I joined Burch Porter & Johnson, my practice returned to a mix of civil and criminal litigation, but primarily civil cases. I had a few more cases in state court during this time period, and I also worked on a few transactional matters. I continued to work on the University of Memphis case.

When I became in-house counsel to the University of Memphis in 1999, my practice shifted. I have served as the University's primary in-house counsel on all major employment discrimination litigation and tort litigation, as well as supervising the other in-house attorneys in smaller litigation matters. I manage litigation handled by the Tennessee Attorney General's office and have responded to investigations and appeared before governmental bodies and regulatory bodies, including the National Collegiate Athletic Association, the Office of Civil Rights in the Department of Education, and the Equal Employment Opportunity Commission. Finally, I handle general internal problem solving of issues with legal implications and transactions related to University business.

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

As an associate at Reed Smith, my practice was primarily devoted to white-collar criminal defense, and those clients were primarily individuals who worked at large corporations also being investigated. In the civil litigation I handled, I represented both corporations and individuals. When I returned to Memphis to work at Wyatt (and predecessor firm) in 1991 and my practice became more heavily civil litigation, I continued to represent primarily businesses, along with the University of Memphis. I also had a few individual clients, in both civil and criminal matters. In 1996, as I transitioned from law to non-legal non-profit work, my only client was the University of Memphis in the age discrimination matter. In 1997, when I joined Burch, I again represented primarily businesses in federal court litigation, but I also had a growing practice representing individuals in employment discrimination cases and tort litigation.

As in-house counsel to the University of Memphis, my only client is the University.

- 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.

Although my practice has varied over the years, I can best describe the time in two segments. During the approximately 11 years I was in private practice, I would estimate 90% of my practice was litigation and 10% transactional or general legal advice. During the 14 years I have been in-house counsel for the University of Memphis, my practice has been approximately 15% litigation. Combining these numbers results in an overall practice that has been approximately 50% litigation and 50% other legal endeavors. During the time I have been engaged in litigation, my court appearances were occasional.

i. Indicate the percentage of your practice in:

1. federal courts: 65%
2. state courts of record: 30%
3. other courts: 0%
4. administrative agencies: 5%

ii. Indicate the percentage of your practice in:

1. civil proceedings: 75%
2. criminal proceedings: 25%

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 participated in a case for approximately eight years, where I was co-lead counsel and eventually the lead counsel; this case was tried to final decision. At Reed Smith, I was associate counsel on the trial teams in two cases, one white collar criminal case that was tried to verdict and one civil case that was tried to judgment. At Wyatt's predecessor firm, I was part of a three member trial team serving as "elbow counsel" in a criminal matter that was tried to verdict. Finally, at the University of Memphis, I assisted on the trial team in a matter that was a jury trial, with the judge deciding the University portion of the trial because the University is a state agency.

i. What percentage of these trials were:

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

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.

Young v. United States; Klaymic v. United States (consolidated appeals), 481 U.S. 787 (1987) (reply brief supplied).

Coger v. Board of Regents, 528 U.S. 1110 (2000) (petition for certiorari supplied).

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. Coger, et al. v. Board of Regents of the State of Tennessee, et al., Case No. 89-2374-GA, 1997 U.S. District LEXIS 5362 (Jan. 2, 1997) (Gibbons, J) (case reversed by 154 F.3d 296 (6th Cir. 1998), cert. granted, 528 U.S. 1110 (2000) (decision reversed in light of Kimel v. Florida Board of Regents, 528 U.S. 62, 120 S. Ct. 631, 145 L.Ed 2d 522 (2000)).

In this matter, 18 professors from 11 different departments at the University of Memphis claimed that the University's evaluation system, which was tied to salary increases, discriminated on the basis of age because of its increased emphasis on research. The case was filed in May 1989, and I was hired as outside counsel by the Tennessee Attorney General's office in the summer of 1991. At that stage of the litigation, documents had been produced but no other progress had been made in the case. Assistant State Attorney General Al Cocke and I represented the University as co-chief counsel, splitting the departments at issue. I handled all depositions, motions, and trial examinations related to my assigned departments. The case was tried as a bench trial before Judge Julia Gibbons in the United States District Court for the Western District of Tennessee for approximately 23 trial days between December 1993 and May 1994, when the plaintiffs concluded their proof. While the parties awaited the return to trial for defendants' proof, the Supreme Court handed down a seminal case involving Eleventh Amendment immunity, Seminole Tribe of Florida v. Florida, 116 S. Ct. 1114 (1996), and defendants renewed their motion to dismiss the matter based on lack of subject matter jurisdiction. Judge Gibbons dismissed the case, which was appealed to the Sixth Circuit Court of Appeals and reversed. I participated in the drafting of the appellate briefs, and the matter was argued by the Tennessee Solicitor General, who is now deceased. The State filed a petition for certiorari with the Supreme Court, which I assisted in drafting, but the issue was decided by the Court in a companion case to ours, which found that the states' immunity was not properly abrogated by the passage of the Age Discrimination in Employment Act. My representation of the University in this matter lasted from approximately June 1991 until approximately 2000. Although I began the case as co-lead counsel, I became the lead counsel in 1996 when my co-counsel retired from the practice of law.

Co-Counsel for the University of Memphis:

Albert K. Cocke (formerly with the Tennessee Attorneys General Office)  
Retired

Counsel for Plaintiffs:

Donald Donati  
Donati Law  
1545 Union Avenue  
Memphis, TN 38104  
901-278-1004

Jeffrey Atchley (formerly with Donati Law)

Norwood and Atchley  
266 South Front Street, Suite 206  
Memphis, TN 38103  
901-528-8300

2. United States v. Pena, 983 F.2d 71, 1993 WL 4810 (6th Cir. 1993) (Merritt, CJ, Guy, J, Ryan, J):

In early 1992, I was appointed to represent defendant Ms. Pena on appeal, following a guilty verdict. Ms. Pena was traveling as a passenger in a car, which was stopped by police for a traffic violation. When the vehicle was searched, a large quantity of illegal drugs was found hidden beneath several layers of “false floors” in the car’s trunk, leading the government to charge both the driver and the passenger with possession with intent to distribute the drugs. I argued the case before the United States Court of Appeals for the Sixth Circuit, which reversed the conviction, holding that there was insufficient evidence linking the passenger to the hidden drugs in the trunk. I served as sole counsel on all aspects of the appeal.

Counsel for the United States:

Linda Harris (formerly Assistant United States Attorney)  
Nettles Harris Law Firm and Dispute Resolution PLLC  
22 North Front Street, Suite 170  
Memphis, Tennessee 38103  
901-522-2747

3. United States v. Kaub, et al., Case No. 89-00007-A (1989) (Williams, J), aff’d., United States v. Sullivan, 905 F.2d 1532 (4th Cir. 1990):

This criminal matter in the United States District Court for the Eastern District of Virginia involved three individual defendants who were employees of a defense contractor. The three employees were charged with crimes arising from their hiring of two individuals to assist in lobbying the military services to ensure that their product was purchased. The two outside individuals pled guilty to bribery and other charges. I assisted in all phases of preparation for trial, including reviewing wiretap evidence, drafting pre-trial motions and trial documents, and developing trial strategy. During the trial, I served as the sole associate counsel, with Mark Tuohey serving as lead counsel for Mr. Kaub. The matter was tried before Judge Richard L. Williams, now deceased. Mr. Kaub was convicted by a jury of filing a false statement in connection with

representations made in the contracting process, but was found not guilty of conspiracy, wire fraud, and bribery. He was sentenced to one year, with six months being suspended and six months to be served in a halfway house, in addition to two years' probation, 300 hours of a community service, and a fine. We appealed this case to the Fourth Circuit Court of Appeals, No. 89-5414, 89-5415, which affirmed the conviction. On appeal, I was the primary author of the briefs, and prepared Mr. Tuohey for oral argument, where I was second chair. My work on this matter began in approximately October 1989 and concluded in 1990.

Counsel for the United States:

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505 Ninth Street, N.W., Suite 1000  
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202-776-7824

Co-Counsel for Mr. Kaub:

Mark H. Tuohey (formerly Reed Smith Shaw and McClay)  
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202-536-1740

Counsel for co-Defendants:

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202-663-6500

George O'Connell (formerly Miller and O'Connell)  
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Jeffrey Isaacs (formerly Miller and O'Connell)  
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200 North Main Street, Eighth Floor  
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213-978-8100

Craig C. Reilly  
The Office of Craig C. Reilly, Esq.  
111 Oronoco Street

Alexandria, Virginia 22314  
703-549-5354

4. Tel-Instrument Electronics Corp. v. Teledyne Industries, et al., Case No. 90-0120-A (1990) (Bryan, J):

Following the criminal case in United States v. Kaub, the disappointed bidder in the bid process for the equipment at issue sued the company for whom the defendants worked, Teledyne Industries, as well as our individual client and others, claiming that they lost the bid only as a result of the illegal actions of the defendants. The case was tried before a jury in the United States District Court for the Eastern District of Virginia. At the close of plaintiff's proof, the defendants' motion for a directed verdict was granted, with the court finding insufficient proof that the plaintiff could produce the equipment given the specifications needed by the military services. I took the lead for our client during most of the discovery phase, including at depositions and in drafting pre-trial motions. At trial, I served as the sole associate counsel, including being responsible for presenting and cross-examining witnesses. This case was filed in January 1990 and tried later that same year. The Judge in this matter was the Honorable Albert V. Bryan, Jr., now retired.

Counsel for Plaintiff:

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Aborn & Anesi  
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212-684-6111

Donald Bab  
Bresler and Bab  
99 Park Avenue  
New York, NY 10016  
212-935-6000

Co-Counsel for Mr. Kaub:

Mark H. Tuohey (formerly Reed Smith Shaw and McClay)  
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202-536-1740

Counsel for co-Defendants:

Jamie Gorelick (formerly Miller, Cassidy, Larroca and Lewin)  
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202-663-6500

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5. United States v. Sanders, et al., Case No. 89-20321-01 (1991) (Gibbons, J):

In this multi-defendant criminal tax case, the defendants were charged with willful failure to pay taxes. The defendants argued that they had a “good faith” understanding that they were not required to pay taxes. Judge Gibbons presided over the jury trial, which lasted more than four months in the United States District Court for the Western District of Tennessee. Some of the defendants were represented by counsel and others were pro se. Defendant Hollingsworth chose to represent himself but asked Judge Gibbons to appoint “elbow counsel” to advise him on trial strategy, answer questions for him, and assist him in preparing for his own testimony. Because of the anticipated length of the trial, I was one of the three lawyers appointed to rotate as counsel for this defendant. The jury returned a not guilty verdict for all defendants.

Counsel for the United States:

Devon Gosnell (formerly Assistant United States Attorney)  
The University of Tennessee, Office of General Counsel  
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901-448-5615

Anthony Arvin  
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Co-elbow counsel:

Carl Jacobson (formerly Wyatt, Tarrant & Combs)  
Lenny’s, Inc.  
8295 Tournament Dr.  
Suite 200  
Memphis, TN 38125  
901-259-2840

Jack Kopald (formerly Wyatt, Tarrant & Combs)  
Retired

6. Wells v. State of Tennessee, et al., Case No. CT-003593-06 (2011) (Stokes, J):

This civil action was brought by Mr. Wells, a student, against the University of Memphis and Mr. Estes, a property owner. Mr. Wells participated in an end of year art exhibit at a private gallery, sponsored by the University's Art department, and unfortunately was injured the next day when removing his exhibit from the premises. The University was sued in tort by the plaintiff, pursuant to an alleged contract by the building owner and based on a purported indemnification agreement improperly signed by the Art department chair, contrary to University policy and state law. I was part of the trial team for the University, which was represented by the Tennessee Attorney General's office as counsel of record. I participated in the trial strategy and trial preparation from beginning to end, including the day-to-day decisions at trial. The matter was tried in the Circuit Court of Shelby County. This was a jury trial as to the liability of the plaintiff and the building owner, but the judge ultimately determined liability as to the University, followed by a bench trial as to whether an indemnification clause should apply to the University. In November 2011, the jury returned a verdict in favor of the plaintiff for \$4,103,472, assessing fault between both defendants and the plaintiff. The Court altered the fault percentages, sitting in place of the Claims Commission as to the tort action against the University. This case is currently on appeal to the Tennessee Court of Appeals.

Counsel for the University at trial:

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Civil Rights & Claims Division  
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615-741-1845

Assistant Attorney General Martha Campbell  
Tennessee Attorney General's Office  
Civil Rights & Claims Division  
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Counsel for Defendant Estes:

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Russell Rutledge Esq.  
Law Office of Craig J. Lazarov (Nationwide Insurance Company)  
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7. John J. Serven v. Robin Derk Silver and Mercy Healthcare Arizona, Inc. (formerly known as St. Joseph's Hospital and Medical Center), Case No. 2:93-cv-02269-EHC (D. Ariz.) (Carroll, J):

This was a medical malpractice case in which I represented the plaintiff, who, because he lacked insurance, was sent home without treatment by a doctor in the emergency room of a hospital in Maricopa County, Arizona. The issues in the case were whether his condition was one that should have been treated immediately, regardless of insurance coverage, and whether his outcome would have been better had he been treated immediately. I was lead counsel in the case, in which both the treating physician and the hospital were sued. I conducted all discovery and drafted all motions and responses for the client from 1993 to 1995. Following unsuccessful attempts by the defendants to dispose of the matter by summary judgment, the matter was settled.

Counsel for Defendants:

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602-528-0182

John A. Micheaels  
Beale Micheaels & Slack  
7012 North 18th Street  
Phoenix, AZ 85020  
602-650-2465

8. Tanner v. Caplin and Drysdale, 24 F. 3d 874, 1994 WL 201245 (6th Cir 1994)  
(Gibbons, J):

Caplin & Drysdale (“Caplin”), a Washington, D.C. law firm whom we represented, was accused of legal malpractice by Mr. Tanner. Mr. Tanner charged that Caplin negligently handled the settlement of several civil actions, during a time when criminal charges were pending against Mr. Tanner. The proof developed in discovery failed to show that the settlements handled by Caplin caused any harm to Mr. Tanner. In addition, the proof of damages was speculative, at best. Judge Gibbons granted summary judgment in favor of Caplin, which was appealed to the Sixth Circuit. The Sixth Circuit affirmed the lower court. In this matter, I conducted discovery as associate counsel to James W. McDonnell and drafted the majority of the memoranda submitted in support of summary judgment as well as the appellate briefs. I prepared Mr. McDonnell for the appellate oral argument, at which I served as second chair. We represented the defendant in this matter from approximately 1992 through 1994.

Co-Counsel for Caplin and Drysdale:

James W. McDonnell  
Wyatt Tarrant and Combs  
The Renaissance Center  
1715 Aaron Brenner Drive  
Suite 800  
Memphis TN 38120  
901-537-1000

Counsel for Plaintiff:

Everett Gibson  
Bateman Gibson Law Firm  
65 Union Ave Suite 1010  
Memphis, TN 38103  
901-526-0412

9. Rydelek v. Board of Regents of the State of Tennessee, University of Memphis, et al.,  
Case No. CT-00-4347-06 (Fields, J):

This employment discrimination case was brought by a research professor whose contract was not renewed after approximately 15 years at the University because of his failure to acquire sufficient outside funding for his work. Plaintiff claimed that the non-renewal was based on his age and gender and that he had maintained an adequate level of funding over the years. The case was filed in the Circuit Court of Shelby County, Tennessee. Following discovery, the parties settled the case. In this matter, I was active throughout the discovery and motions practice, working with the Assistant Attorney General who served as counsel of record.

Counsel for the University:

William Marett

Senior Counsel  
Civil Litigation and State Services Division  
Tennessee Attorney General's Office  
P.O. Box 20207  
Nashville, TN 37202-0207  
615-741-7087

Counsel for Plaintiff:

Reva Kriegel  
266 South Front Street, Suite 206  
Memphis, TN 38103  
901-527-1319

10. Sunshine Corporation, et al. v. USF&G, et al., Case No. 2:97-cv-02695 (McCalla, J):

Our client, Sunshine Corporation, received an adverse judgment in a class action matter, and sought help in obtaining insurance coverage for the judgment. Although Joel Porter was co-lead counsel, I handled all aspects of the case, which was eventually resolved against our client on dispositive motions. Although the matter centered on an interpretation of the coverage language in the policy, some depositions were taken, including expert witnesses. In addition, the parties attempted to resolve the matter through mediation, which was unsuccessful. This case was filed in 1997 and concluded in 1998.

Co-counsel:

Joel Porter  
Burch Porter and Johnson  
130 North Court Street  
Memphis, TN 38103  
901-524-5000

Counsel for Defendant Insurance Companies:

Michael G. McLaren, Esq.  
Black, McLaren, Jones, Ryland & Griffee, P.C.  
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Michael E. Keeney, Esq.  
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John Leach, Esq.  
Chiozza Law Firm  
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Robert E. Parker, Esq.  
Parker, Lawrence, Cantrell & Smith  
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615-255-7500

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 University Counsel, I am involved in statutory, regulatory and policy interpretation on a regular basis. Today's university is highly-regulated, including both state and federal laws affecting everything from education records to financial aid to the research enterprise and athletics. Both to ensure ongoing compliance and to address specific situations that arise, I am often called upon to review a statutory or regulatory issue and determine the best course of action.

In one of the most significant matters, in May 2008, the University of Memphis was notified that a student-athlete who had just competed for the University in the NCAA men's basketball tournament's championship game had been declared ineligible for competition. The eligibility issue was based on the student-athlete's failure to respond to inquiries from one of the collegiate testing services about the test score he submitted before the academic year and the season began. The score was used to gain admittance to the University and to be declared eligible to compete by the NCAA. We appeared before the Committee on Infractions of the NCAA, and the Infractions Appeals Committee, contesting the conclusion that the University should be "strictly liable" for the actions at issue related to the test score. The term "strict liability" had not previously been used in the NCAA setting, and the proof showed no actual knowledge by the University, but rather an attempt by the University to ensure that the student-athlete was properly ruled eligible. I represented the University in this matter, in conjunction with outside counsel. The NCAA found against the University. I participated in the drafting of the documents submitted in this matter and assisted in the hearings before both committees. The matter concluded in March 2010.

I also participate in all of the most significant litigation impacting the University, and I supervise the in-house attorneys who are primarily responsible for the smaller litigation

matters. In my role as University Counsel, I ensure that the President of the University is kept informed of all major developments in the litigation, and I make recommendations to her related to any settlement decisions. In a typical year, the University has one to two pending employment-related cases, which are usually filed in federal court but are sometimes brought in state court. For these matters, I participate in case strategy, discovery, review of motions and the trial, if the matter reaches that point. Currently, there are two such cases pending, one in federal court and one in state. As for tort matters, we currently have five cases pending, four before the Tennessee Claims Commission and one in state court. This number has declined from a high of 13 in 2008. I have served as the primary in-house counsel for the University in four of these tort cases in the last five years. Like the employment matters, my involvement has included participating in development of case strategy, discovery, reviewing motions, and any eventual trials.

I have also engaged in several significant and complicated investigations and negotiations. On the investigation side, we typically have two to four matters per year where outside agencies, primarily the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Education's Office of Civil Rights (OCR), investigate complaints made by employees or students related to alleged discrimination. As to claims filed with the EEOC, my typical role is to review and edit our response statement and to represent the University in all interviews and other proceedings that occur related to these employment discrimination matters. The way in which these inquiries are handled is critical to whether the EEOC will pursue a matter or make no finding and issue a "right to sue" letter. During my tenure as University Counsel, the EEOC has never pursued a case against the University beyond this stage. As to OCR matters, which are typically filed by students who believe they have been subject to discrimination in the course of their academic work, I prepare the position statement of the University after interviewing witnesses myself and reviewing all documents. Once I determine our position on the matter, I represent the University in all stages of the investigation, including witness interviews, review of documents, and any alternative dispute resolution. In my time as University Counsel, the University has agreed to a settlement in two OCR matters and has prevailed in all others.

Finally, I have been involved in two complex transactions in which the University acquired additional facilities for its expansion. First, I took the lead on the negotiations with the United States Postal Service to purchase an historic Post Office and Customs House, which had a complicated legal status, to relocate our law school to downtown Memphis. Second, I represented the University in our acquisition of the Lambuth University college campus in Jackson, Tennessee, which involved working with governmental and private entities in Jackson, Tennessee, who were helping to satisfy the debts of the former school, and working with the Chairman of the Board of the former school. This transaction was further complicated because it had to be approved by a bankruptcy court. During the bankruptcy proceedings, I assisted counsel for Lambuth, in conjunction with counsel from the Tennessee Attorney General's Office.

I have never performed lobbying or 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.

Sports Law, University of Memphis Law School, Fall semesters 2011, 2012, 2013 (scheduled). Course covers both amateur and professional sports issues. 2011 and 2012 syllabi provided.

Law of Higher Education, University of Memphis, Graduate School, College of Education, Fall semesters 2005-2010. Course covers statutory and regulatory provisions affecting higher education institutions. Representative syllabus from 2010 provided.

Legal Methods, University of Memphis Law School, academic years, 1999-2005. Course required for first year law students, and includes research, writing and oral advocacy skills. Representative syllabi from Fall 2002 and Spring 2003 provided.

Legal Methods, University of Memphis Law School, Tennessee Pre-Law Fellowship Program (alternative admission program), Summer 2000 and 2001. Abbreviated version of class taught to first year law students covering research, writing and advocacy skills, as part of a program for diverse students offered an alternative way to prove they are qualified for law school. No syllabus available.

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

I have no such anticipated deferred income or future benefits.

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

If confirmed, I would consider continuing to teach Sports Law in the Fall of 2013 and in future semesters, time permitting. I have no other plans, commitments or agreements to pursue outside employment.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest**:

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

If confirmed, I will recuse myself in any litigation where I have ever played a role or to which I have a familial tie. I would always recuse myself from any cases in which my father, who is semi-retired, represents a party. For a period of time, I also anticipate recusing myself in all cases where my current employer, the University of Memphis, plays a role.

- 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.

During the years I spent in private practice, I almost always had at least one pro bono case active, including both civil and criminal matters for indigent litigants. On the civil side, I have handled a divorce, a social security matter, employment discrimination matters (as appointed counsel), and other referrals from nonprofit organizations. I have also participated in events with the local bar association where we provided instant legal advice, either at a physical location or via phone lines. On the criminal side, I volunteered to handle appointed cases, which paid only a small fraction of my billing rate, to help ensure competent representation for all.

In addition, both during my time in private practice and continuing to the present, I have served as General Counsel to numerous nonprofit organizations. Currently, I serve as

General Counsel to the Memphis Child Advocacy Center (MCAC), whose mission is to provide a holistic approach to addressing child sexual and severe abuse issues. In my role as counsel to MCAC, I am currently negotiating a lease with the Veterans Administration for use of a building next door to our current location, a key component of the organization's expansion.

**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 2013, the Memphis Bar Association announced that Judge Jon McCalla would be taking senior status and that Congressman Steve Cohen was accepting statements of interest in the position. On February 22, 2013, I submitted my resume for consideration. On March 1, 2013, I interviewed with Congressman Cohen in Memphis, Tennessee. At the conclusion of that interview, he informed me that a group of community stakeholders would advise him on the selection. I met with the committee on March 11, 2013, also in Memphis. The next day, Congressman Cohen notified me that my name would be among those forwarded to the White House. Since March 18, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On April 25, 2013, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On May 12, 2013, I briefly met Senator Alexander when he delivered the commencement address at the University of Memphis. In this short conversation, I mentioned that I was under consideration for this judicial vacancy. On August 1, 2013, the President submitted my nomination to the Senate.

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

No.