

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Peter David Welte

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

United States District Judge for the District of North Dakota

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: Vogel Law Firm
2825 36th Avenue South, Suite A
P.O. Box 6367
Grand Forks, North Dakota 58206

Residence: Larimore, North Dakota

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

1965; New Britain, Connecticut

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.

1994 – 1997, University of North Dakota School of Law; Juris Doctorate (with distinction), 1997

1985 – 1989, North Dakota State University; Bachelor of Science, 1989

1984 – 1985, University of North Dakota; 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.

Affiliations (Compensated):

2015 – present
Vogel Law Firm
2825 36th Avenue South, Suite A
Grand Forks, North Dakota 58206
Shareholder (2016 – present)
Attorney (2015)

1995 – present
Ash Grove Farm
624 46th Street NE
Aneta, North Dakota 58212
Grain Farmer (Self-Employed)

2004 – 2018
University of North Dakota School of Law
215 Centennial Drive, Stop 9003
Grand Forks, North Dakota 58202
Adjunct Instructor of Law

1999 – 2015
Grand Forks County State's Attorney's Office
124 South 4th Street
P.O. Box 5607
Grand Forks, North Dakota 58206
Elected State's Attorney (2003 – 2015)
Assistant State's Attorney (1999 – 2003)

1997 – 2003
City of Larimore
122 West Main, P.O. Box 766
Larimore, North Dakota 58251
City Attorney

1998 – 2003
Steele County State's Attorney's Office
201 Washington Avenue
Finley, North Dakota 58230
Steele County State's Attorney

1997 – 1999
Juntunen, Hager and Welte (formerly Hager & Welte, PLLP)
218 South 3rd Street
Grand Forks, North Dakota 58201
Attorney/Partner

1995 – 1997
West Publishing
610 Opperman Drive
Eagan, Minnesota 55123
Westlaw Student Representative

1994 – 1995
Ash Grove Farm
624 46th Street NE
Aneta, North Dakota 58212
Farm Worker

1991 – 1994
Cystic Fibrosis Foundation
4550 Montgomery Avenue, Suite 1100N
Bethesda, Maryland 20814
Charitable Gaming Worker/Development Coordinator

1991
KVRR-Fox Television
4015 9th Avenue South
Fargo, North Dakota 58103
Account Executive

1990 – 1991
KQWB Radio
2720 7th Avenue South
Fargo, North Dakota 58103
Account Executive

1989 – 1990
United States Department of Agriculture
New England Agricultural Statistics Service
53 Pleasant Street, 2nd Floor
Concord, New Hampshire 03301
Agricultural Statistician

1988 – 1989
United States Department of Agriculture
North Dakota Agricultural Statistics Service
1805 NDSU Research Park Drive, Research 2 Building
Fargo, North Dakota 58102
Student Intern

Affiliations (Uncompensated):

1994 – present
Larimore United Methodist Church
207 West 3rd Street
Larimore, North Dakota 58251
Lay Leader (2010 – present)
Administrative Board (2008 – present)

1999 – 2015
North Dakota Association of Counties
1661 Capitol Way
Bismarck, North Dakota 58501
Governance Committee (2013 – 2015)
Institute of Local Government Board of Directors (2012 – 2015)
Board of Directors (2012 – 2015)
Member (1999 – 2015)

2009 – 2015
North Dakota Attorney General's Drug and Violent Crime Board
600 E. Boulevard Avenue, Department 125
Bismarck, North Dakota 58505
Chairman

2010 – 2014
Red River Children's Advocacy Center
100 4th Street South, #302
Fargo, North Dakota 58103
Board of Directors

1998 – 2015
North Dakota State's Attorney's Association
1661 Capitol Way
Bismarck, North Dakota 58501
Past President (2007 – 2008)
President (2006 – 2007)
Treasurer (2005 – 2006)
Secretary (2004 – 2005)
Board of Directors (2003 – 2004)
Member (1998 – 2015)

2002 – 2010
North Dakota High Intensity Drug Trafficking Area
600 E. Boulevard Avenue, Department 125
Bismarck, North Dakota 58505
Board of Directors

2002 – 2005
Project Safe Neighborhoods
United State's Attorney's Office
655 First Avenue North, Suite 250
Fargo, North Dakota 58102
Board of Directors

1984 – present
North Dakota Farm Bureau
1101 1st Avenue North
Fargo, North Dakota 58102
Grand Forks County Board of Directors (1997 – 1999)
Member (1984 – present)

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 have registered for selective service.

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

State Bar of North Dakota Community Service Award, Northeast Central Judicial District (2015)

Order of Barristers, University of North Dakota School of Law (1997)

Leonard Erickson Memorial Law Award, University of North Dakota School of Law (1997)

Moot Court Board, University of North Dakota School of Law (1996 – 1997)

Charles Dahl Memorial Law Award, University of North Dakota School of Law (1996)

William DePuy Memorial Law Award, University of North Dakota School of Law (1996)

Best Appellate Team, University of North Dakota School of Law Moot Court Competition (1996)

Legal Writing and Appellate Advocacy Student Teaching Assistant, University of North Dakota School of Law (1995 – 1996)

High Grade Award for Property Law, University of North Dakota School of Law (1994)

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.

Christian Legal Society (1994 – 1998)

Federalist Society (2017 – present)

Greater Grand Forks County Bar Association

President (2005 – 2006)

Vice President (2004 – 2005)

Secretary-Treasurer (2003 – 2004)

Member (1997 – present)

North Dakota Supreme Court

Jury Standards Committee (2016 – present)

Caseflow Management Committee (2012 – 2014)

Court Improvement Project Committee (2007 – 2008)

Juvenile Drug Court Advisory Board (2001 – 2006)

Juvenile Drug Court Planning Committee (2000 – 2001)

State Bar Association of North Dakota

Annual Meeting Planning Committee (2015 – 2016)

Board of Governors, Northeast Central Judicial District (2015 – present)

Judicial Nominating Committee for the Northeast Central Judicial District

Vacancy (2015)

Continuing Legal Education Committee (2008 – present)

Member (1997 – 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 Dakota, 1997

There has been no lapse in membership.

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

United States District Court for the District of North Dakota, 1997

Supreme Court of the State of North Dakota, 1997

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.

Boy Scouts of America, Northern Lights Council
Annual Lawn Social "Host Couple" (2002 – present)

Dak-Minn Blood Bank, Annual Holiday Blood Drive (2003 – 2014)

Fraternal Order of Police, Grand Forks Regional Lodge #2 (1999 – 2015)

Grand Forks Community Violence Intervention Center (1999 – present)

Grand Forks Kiwanis Club (2015 – present)

Grand Forks Noon Rotary Club (2008 – 2015)

Grand Forks Sertoma Club (2002 – 2006)

Larimore Polar Bear Booster Club (2012 – present)

Larimore United Methodist Church
Administrative Board (2008 – present)
Lay Leader (2010 – present)

National Rifle Association (2009 – present)

North Dakota Association of Counties (1999 – 2015)
Governance Committee (2013 – 2015)
Board of Directors (2012 – 2015)
Institute of Local Government Board of Directors (2012 – 2015)

North Dakota State's Attorney's Association (1998 – 2015)
Past President (2007 – 2008)
President (2006 – 2007)
Treasurer (2005 – 2006)

Secretary (2004 – 2005)
Board of Directors (2003 – 2004)
Member (1998 – 2015)

Northwood, North Dakota Lions Club (1997 – 2000)

Red River Children's Advocacy Center
Board of Directors (2010 – 2014)

Special Olympics North Dakota (2006 – present)

The Chamber Grand Forks-East Grand Forks (2015 – present)

- 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.

Boy Scouts is male only at the young participant level, but adults of both genders participate in each nationally. Rotary International, did not admit women as members. In 1987, in response to the United States Supreme Court's decision in *Bd. of Dirs. of Rotary Int'l v. Rotary Club of Duarte*, Rotary Clubs in the United States began admitting women as members. In 1989, Rotary International adopted a worldwide policy eliminating the male membership policy for all Rotary clubs. To the best of my knowledge, none of the other organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin, either through formal membership requirements or the practical implementation of membership policies.

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

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

How Can the Government Regulate Farming?, AGWEEK (Aug. 5, 2018). Copy supplied.

You Have the Right to an Attorney, Vogel Law Firm (Aug. 2, 2018). Copy supplied.

Grain Market Volatility Is On the Minds of Farmers and Legislators, AGWEEK (July 22, 2018). Copy supplied.

Farmers Hope the Farm Bill Remains a Priority in Washington this Summer, AGWEEK (July 8, 2018). Copy supplied.

If You Need a Lawyer, Find One Who Specializes, AGWEEK (June 25, 2018). Copy supplied.

Navigating the Legal Issues Surrounding UAVs, AGWEEK (June 10, 2018). Copy supplied.

Good News For Farmers Battling Federal Agencies, AGWEEK (May 28, 2018). Copy supplied.

A Refresher on Public Entities, Open Records and Meeting Laws, AGWEEK (Apr. 29, 2018). Copy supplied.

Fasten Your Seatbelts: Trump Tariffs Have Not Hurt Farmers, AGWEEK (Apr. 15, 2018). Copy supplied.

Considering the Lessons of Earl Butz, AGWEEK (Apr. 1, 2018). Copy supplied.

Why Do We Need County Weed Boards?, AGWEEK (Mar. 18, 2018). Copy supplied.

Is the Section 199A Provision Good or Bad?, AGWEEK (Mar. 4, 2018). Copy supplied.

Could a Change to SNAP Mean a Change to the Entire Farm Bill?, AGWEEK (Feb. 18, 2018). Copy supplied.

How Do You Know If You're Liable If Something Happens on Your Property?, AGWEEK (Feb. 5, 2018). Copy supplied.

What Does a Technology Agreement for Seed Mean to You?, AGWEEK (Jan. 21, 2018). Copy supplied.

Why Don't Land Values Match Commodity Prices More Closely?, AGWEEK (Jan. 7, 2018). Copy supplied.

Weighing the Impact of the Federal Tax Relief Legislation on Agriculture, AGWEEK (Dec. 23, 2017). Copy supplied.

Where Does WOTUS Go From Here?, AGWEEK (Dec. 10, 2017). Copy supplied.

Contemplating Wetland Mitigation? You Might Want to Consult an Attorney, AGWEEK (Nov. 27, 2017). Copy supplied.

What Happens When Farming, Law and Policy Meet?, AGWEEK (Nov. 12, 2017). Copy supplied.

An Explanation of 'Sunshine Laws,' AGWEEK (Oct. 15, 2017). Copy supplied.

What will the 2018 Farm Bill Bring?, AGWEEK (Oct 1, 2017). Copy supplied.

What's the Outlook for Ag-Gag Laws?, AGWEEK (Sept. 17, 2017). Copy supplied.

Food Labeling is a Hot Topic, AGWEEK (Sept. 5, 2017). Copy supplied.

Environmental Agencies Have Grown in Darkness, AGWEEK (Aug. 19, 2017). Copy supplied.

Protections for Agritourism Exist in ND, AGWEEK (Aug. 6, 2017). Copy supplied.

Be Aware of Compliance Issues When Haying and Grazing CRP, AGWEEK (July 23, 2017). Copy supplied.

Who Is Liable for Agricultural Workers?, AGWEEK (July 9, 2017). Copy supplied.

Ongoing Litigation Will Affect Farmers, AGWEEK (June 24, 2017). Copy supplied.

Understanding Maximizing Profit, Minimizing Loss, AGWEEK (June 12, 2017). Copy supplied.

Crop Insurance Takes Hit Under New Trump Budget, AGWEEK (May 28, 2017). Copy supplied.

A Landowner's Guide to Duty of Care, AGWEEK (Apr. 30, 2017). Copy supplied.

How to Legally Protect Your Farm Property, AGWEEK (Apr. 15, 2017). Copy supplied.

Spring Is the Time for Water Drainage Projects, AGWEEK (Apr. 3, 2017). Copy supplied.

A Farmer's Take on the 2017 North Dakota Legislature, AGWEEK (Mar. 20, 2017). Copy supplied.

Welte: WOTUS Rollback Is Victory for Agriculture, AGWEEK (Mar. 6, 2017). Copy supplied.

Land Use and Legalities, AGWEEK (Feb. 13, 2017). Copy supplied.

Legislative Session Takes Off in ND, AGWEEK (Jan. 30, 2017). Copy supplied.

Administrative Law is Staple Practice, AGWEEK (Jan. 16, 2017). Copy supplied.

WELTE: Your Guide to North Dakota Legislature, AGWEEK (Jan. 3, 2017). Copy supplied.

WELTE: Trump Cabinet Elections Good News for ND?, AGWEEK (Dec. 19, 2016). Copy supplied.

DAPL Puts Legal Council on Overdrive, AGWEEK (Dec. 5, 2016). Copy supplied.

New Outlook On U.S. Regulation Trump Administration Give Farmers Hope, AGWEEK (Nov. 21, 2016). Copy supplied.

WELTE: Is FSA Fulfilling Its Mission?, AGWEEK (Nov. 7, 2016). Copy supplied.

WELTE: Firearm 101, AGWEEK (Oct. 17, 2016). Copy supplied.

WELTE: Understand the Laws of Open Season, AGWEEK (Oct. 3, 2016). Copy supplied.

Plan For The Takeover Succession Planning Should Be At Forefront Of Discussion, AGWEEK (Sept. 19, 2016). Copy supplied.

Keys To Wetland Mitigation Procedure Landowners Are Responsible For Developing A Plan And Seeing It Through, AGWEEK (Sept. 5, 2016). Copy supplied.

Crops And Taxes The Farmers Tax Guide Provides Various Resources For Agriculturalists, AGWEEK (Aug. 22, 2016). Copy supplied.

WELTE: Anti-Corporate Farming Can Be Misleading for Farmers, AGWEEK (Aug. 8, 2016). Copy supplied.

WELTE: Farmers Look to Save Money in 2016, Prepare for Average Crop Year, AGWEEK (July 25, 2016). Copy supplied.

Deadlines Approach: Farmers Need to Pay Attention to Noxious Weeds, AGWEEK (June 27, 2016). Copy supplied.

WELTE: Swampbuster Suit Shows Farmer's Strength, AGWEEK (June 13, 2016). Copy supplied.

No Right Answer Both Sides of Measure 1 Debate Have Valid Points, AGWEEK (May 30, 2016). Copy supplied.

COLUMN: N.D. Drivers' Right to Say No, AGWEEK (Apr. 25, 2016). Copy supplied.

Peter Welte Column: Legal Guardianship, AGWEEK (Apr. 11, 2016). Copy supplied.

Peter Welte: 'Who's Your Client?', AGWEEK (Mar. 28, 2016). Copy supplied.

Peter Welte: Resources Available to Help with Drainage Issues, AGWEEK (Mar. 7, 2016). Copy supplied.

Welte: Rough Year in Court for the EPA, AGWEEK (Feb. 22, 2016). Copy supplied.

Peter Welte: What to Know About North Dakota's Open Discussion, Records Laws, AGWEEK (Feb. 8, 2016). Copy supplied.

Welte: Farmers Should Be Familiar with Regulation, Constitution and Rights, AGWEEK (Jan. 26, 2016). Copy supplied.

Politics of Farm Policy: Presidential Candidates Shouldn't Neglect Agriculture, AGWEEK (Jan. 11, 2016). Copy supplied.

Taxes And Books Farmers, Ranchers Keep Busy With Annual Budget Duties, AGWEEK (Dec. 21, 2015). Copy supplied.

Welte: Estate Planning a Valuable Practice, AGWEEK (Dec. 8, 2015). Copy supplied.

Peter Welte: Alternatives to Dispute Resolution Provide Options, AGWEEK (Nov. 25, 2015). Copy supplied.

Peter Welte: North Dakota Fights EPA Regulation, AGWEEK (Nov. 3, 2015). Copy supplied.

Welte: The WOTUS Saga, AGWEEK (Oct. 20, 2015). Copy supplied.

Peter Welte: Agritourism Season Is Here Consider Taxes, Liability, Risk Management, AGWEEK (Oct. 5, 2015). Copy supplied.

Welte: Agriculture Liens and Money Collection, AGWEEK (Sept. 22, 2015). Copy supplied.

Welte: WOTUS Injunction Is Unusual, AGWEEK (Sept. 9, 2015). Copy supplied.

Welte: Leases and Low Prices, AGWEEK (Aug. 25, 2015). Copy supplied.

Share The Road It's Harvest Time And Farmers Are Out In Their Machinery, AGWEEK (Aug. 10, 2015). Copy supplied.

Welte: A Closer Look at 'Arbitrary and Capricious,' AGWEEK (July 28, 2015). Copy supplied.

Welte: Farm Workers Hard to Find, AGWEEK (July 14, 2015). Copy supplied.

Welte: Whiskey's for Drinkin', Water's for Fightin', AGWEEK (July 2, 2015). Copy supplied.

With Tami Norgard, *Commentary: Land Liens and Rising Blood Pressure*, AGWEEK (June 16, 2015). Copy supplied.

Eminent Domain Difficult to Navigate, AGWEEK (June 4, 2015). Copy supplied.

Grandpa's Mineral Interests: How Did We Lose Them?, AGWEEK (May 18, 2015). Copy supplied.

Settle 'Navigable Water' Definition: New Bill Would Defend Farmers' Rights To Farmland Drainage, AGWEEK (May 4, 2015). Copy supplied.

Townships Struggle To Manage Local Control: Unpaid Officers Serve Citizens, AGWEEK (Apr. 20, 2015). Copy supplied.

Ensure A Quality Will: It's Worthwhile To Pay Legal Fees For Lawyers' Help, AGWEEK (Apr. 6, 2015). Copy supplied.

Ag and Law Have Close Ties, AGWEEK (Mar. 23, 2015). Copy supplied.

The Big Role Of Small Farms, AGWEEK (May 19, 2014). Copy supplied.

Domestic Violence: The Evolution from a Family Problem to Legal Discipline, 88 N.D. L. REV. 863 (2012). Copy supplied.

The Law of Unintended Consequences: The North Dakota Supreme Court Recognizes the Right to a Jury Trial for Noncriminal Traffic Offenses in Riemers v. Eslinger, 86 N.D. L. REV. 505 (2010). Copy supplied.

With Jill A. Hough and Ayman G. Smadi, *Legal Implications to Closing or Reducing Maintenance on Low Volume Roads in North Dakota*, Upper Great Plains Transportation Institute (March 1997). 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.

None.

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

I served as Grand Forks County State's Attorney from January 2003 until February 2015. During that time, I attended almost every regularly scheduled County Commission meeting, and several committee meetings. These meetings are scheduled, per North Dakota statute, on the first and third Tuesday of each month. This accounts for over 400 County Commission or committee meetings in which I provided communication to the County Commission on matters of public policy or legal interpretation. My notes for these meetings no longer exist. I have attempted to secure audio recordings of these meetings, but there are none. To the extent these meetings were reported on by local media, I have noted that below, and provided copies.

Hearing on HB1365 before the House Human Services Committee of the State of North Dakota Legislature, March 15, 2017. Committee minutes and submitted testimony supplied.

Grand Forks County Commission Meeting, October 22, 2014. This meeting was reported in the following article: *BRIEF: Lighthouse Associates Inc. Appoints Public Administrator For Grand Forks County*, GRAND FORKS HERALD (Oct. 22, 2014). Copy supplied.

Grand Forks County Commission Meeting, July 15, 2014. This meeting was reported in the following article: *Grand Forks County Defers Decision on Same-sex Marriage*, GRAND FORKS HERALD (July 18, 2014). Copy supplied.

Grand Forks County Commission Meeting, February 4, 2014. This meeting was reported in the following article: *Grand Forks County Commission Hears Answers On Water Board Benefits*, GRAND FORKS HERALD (Feb. 5, 2014). Copy supplied.

Grand Forks County Commission Meeting, October 15, 2013. This meeting was reported in the following articles: *Grand Forks City, County At Odds Over Which Is Responsible For Junk Complaint*, GRAND FORKS HERALD (Nov. 11, 2013) and *County Says Grand Forks Schools Can Levy Tax For Buildings*, GRAND FORKS HERALD (Oct. 15, 2013). Copies supplied.

Grand Forks County Commission Meeting, April 8, 2013. This meeting was reported in the following article: *GF Housing Group Wins Tax Case*, GRAND FORKS HERALD (Apr. 9, 2013). Copy supplied.

Grand Forks County Commission Meeting, October 19, 2010. This meeting was reported in the local Grand Forks newspaper in the following article: *Grand Forks County Tables Decision on Red River Flood Control Impact Group*, GRAND FORKS HERALD (Oct. 20, 2010). Copy supplied

Hearing on the Study of Long-Term Care Services before the Long-Term Care Committee of the State of North Dakota Legislature, July 14, 2010. Meeting agenda, minutes, and submitted testimony supplied.

Hearing on Mental Health and Sexually Dangerous Individual Commitment Costs Study before the Judicial Process Committee of the State of North Dakota Legislature, February 10, 2010. Meeting agenda, minutes, and submitted testimony supplied.

Grand Forks County Commission Meeting, April 21, 2009. This meeting was reported in the following article: *Commission And Residents: County Needs Flood Plan: 'We Can't Expect To Go Through This Every Year,'* GRAND FORKS HERALD (Apr. 21, 2009). Copy supplied.

Grand Forks County Commission Meeting, April 6, 2009. This meeting was reported in the local Grand Forks newspaper in the following article: *Only 15 GF County Residents Claim Flood Damage*, GRAND FORKS HERALD (April 8, 2009). Copy supplied.

Grand Forks County Commission Meeting, 2008. This meeting was reported in the local Grand Forks newspaper in the following articles: *State Supreme Court Rules GF County Board Of Commissioners Did No Wrong*, GRAND FORKS HERALD (June 10, 2008). Copy supplied.

Hearing on State's Attorney Services to Rural Areas before the Advisory Committee on Intergovernmental Relations to the State of North Dakota

Legislature, March 26, 2008. Meeting agenda and minutes supplied.

Grand Forks County Commission Meeting, October 23, 2006. This meeting was reported in the following article: *Grand Forks County Jail May Go Regional*, GRAND FORKS HERALD (Oct. 24, 2006). Copy supplied.

Grand Forks County Commission Meeting, August 16, 2005. I have no notes, transcript, or recording of my remarks.

Grand Forks County Commission Meeting, March 1, 2005. This meeting was reported in the following article: *Officials Propose Fairgrounds Site For Jail*, GRAND FORKS HERALD (March 2, 2005). Copy supplied.

Grand Forks County Commission Meeting, July 15, 2003. This meeting was reported in the following articles: *Commission OK's Wood Job Switch*, GRAND FORKS HERALD (July 16, 2003) and *Commissioners Seek County Jobs*, GRAND FORKS HERALD (July 15, 2003). Copies supplied.

Grand Forks County Commission Meeting, May 13, 2003. This meeting was reported in the following article: *It's In The Fix; GF County Board Finalizes Awarding of Courthouse Renovation Bids*, GRAND FORKS HERALD (May 14, 2003). Copy supplied.

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

December 20, 2017: Presenter, 2017 Review of North Dakota Supreme Court Disciplinary Proceedings," Grand Forks, North Dakota. Copy supplied.

February 10, 2016: Presenter, 2015 Review of North Dakota Supreme Court Disciplinary Proceedings," Grand Forks, North Dakota. Copy supplied.

September 15, 2015: Speaker, Investiture of Judge John Thelen. I presented Judge Thelen with a gavel on behalf of the State Bar Association of North Dakota. I have no notes, transcript, or recording. The address of the Grand Forks County Courthouse is 124 South 4th Street, Grand Forks, North Dakota 58201.

October 29, 2015: Co-presenter, "When a Lawyer Needs A Lawyer," Grand Forks, North Dakota. Copy supplied.

July 30, 2015: Co-panelist, "A Visit with Peter Lake," University of North Dakota School of Law, Grand Forks, North Dakota. I participated as a panelist in a question and answer session with a visiting lecturer. I have no notes, transcript, or recording. The address of the University of North Dakota School of Law is 215 Centennial Drive, Grand Forks, North Dakota 58202.

May 23, 2014: Co-presenter, "2014 Free Ethics IVN," State Bar Association of North Dakota, Grand Forks, North Dakota. I participated as a panelist in a discussion regarding ethics. I have no notes, transcript, or recording. The address of the State Bar Association of North Dakota is 1661 Capitol Way, Bismarck, North Dakota 58501.

August 28, 2009: Presenter, "Professional Responsibility Issues for Military and Non-military Attorneys," Grand Forks County States Attorney's Office and the Greater Grand Forks County Bar Association, Grand Forks, North Dakota. I introduced a speaker for this continuing legal education program. I have no notes, transcript, or recording. The address of the Greater Grand Forks County Bar Association is 124 South 4th Street, P.O. Box 5607, Grand Forks, North Dakota 58206.

October 25, 2005: Co-presenter, "Methamphetamine—The New Crime Wave," 2005 Meth Summit, Minot, North Dakota. I discussed meth prosecution. I have no notes, transcript, or recording. The address of the Office of the Attorney General is 600 East Boulevard Avenue, Department 125, Bismarck, North Dakota 58505.

October 25, 2005: Co-presenter, "Meth Prosecution—From Complaint to Sentencing," 2005 Meth Summit, Minot, North Dakota. I discussed meth prosecution. I have no notes, transcript, or recording. The address of the Office of the Attorney General is 600 East Boulevard Avenue, Department 125, Bismarck, North Dakota 58505.

September 30, 2005: Co-presenter, "Continuing Legal Education Program," UND School of Law and the North Dakota Bar Association, Grand Forks Country Club, Grand Forks, North Dakota. I participated in a presentation at our local Inn of Court. I have no notes, transcript, or recording.

May 15, 2002: Speaker, The Fifth Celebration of National Peace Officers' Memorial Day, Grand Forks Police Department, Grand Forks, North Dakota. I spoke at a ceremony honoring police officers. I have no notes, transcript, or recording, but press coverage supplied. The address of the Grand Forks Police Department is 122 South 5th Street, # 123, Grand Forks, North Dakota 58201.

July 11, 2002: Speaker, Substance Abuse Forum, Grand Forks, North Dakota. I discussed the juvenile drug abuse. I have no notes, transcript, or recording, but

press coverage supplied. The address of the Office of the Attorney General is 600 East Boulevard Avenue, Department 125, Bismarck, North Dakota 58505.

- 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.

Grand Forks State's Attorney Retires After Four Decades In Law, GRAND FORKS HERALD (Feb. 2, 2018). Copy supplied.

Early Results Mixed for Criminal Justice Reform Effort, BISMARCK TRIBUNE (Nov. 11, 2017). Copy supplied.

Convicted Killer Alfonso Rodriguez Jr. Heading Back to Court, WEST FARGO PIONEER (June 20, 2017). Copy supplied.

Dru Sjodin's Killer's Last Appeal Hearing Starts Tomorrow, WDAZ (June 19, 2017). Copy supplied.

Ex-North Dakota Sheriff Charged With Dealing Drugs, Bribery, BILLINGS GAZETTE (May 31, 2017). Copy supplied.

Lawson Free On Bond, Looking Forward To Day In Court, JAMESTOWN SUN (May 31, 2017). Copy supplied (reprinted in multiple outlets).

Former ND Sheriff Official Charged With Meth, Bribery Offenses, PRAIRIE BUSINESS (May 31, 2017). Copy supplied (reprinted in multiple outlets).

Trial Set For Ward County Sheriff Facing Misdemeanor Charges, AP NEWS (Mar. 31, 2017). Copy supplied.

Removal Process For Sheriff Proceeds, BISMARCK TRIBUNE (Aug. 19, 2016). Copy supplied (reprinted in multiple outlets).

Ex-UND Administrator Sentenced to 12 Years, BISMARCK TRIBUNE (July 13, 2016). Copy supplied.

Former UND Chairman About Child Porn Scandal: "This is Rock Bottom," WDAZ (July 12, 2016). Copy supplied.

Former UND Administrator Gets 12 Years In Prison For Child Porn, GRAND FORKS HERALD (July 12, 2016). Copy supplied.

Governor Suspends Sheriff, BISMARCK TRIBUNE (June 17, 2016). Copy supplied.

Debbie Kleven to Join Vogel Law After Resigning as Grand Forks Judge, GRAND FORKS HERALD (June 2, 2016). Copy supplied.

Former UND Chairman Pleads Guilty in Child Porn Case, PRAIRIE BUSINESS MAGAZINE (Mar. 29, 2016). Copy supplied (reprinted in multiple outlets).

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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.

City of Larimore

City Attorney, 1997 – 2003, Appointed by Mayor Marvin Denault

Steele County

State's Attorney, 1998 – 2003, Appointed by the County Commission

Grand Forks County

Assistant State's Attorney, 1999 – 2003, Appointed by State's Attorney
James T. Odegard

State's Attorney, 2003 – 2015 (initially elected in 2002, and reelected in
2006, 2010, and 2014)

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

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

In 2004 and 2008, I was active in the election campaigns of John Hoeven for
Governor of North Dakota. I had no title, but did hand out campaign literature
locally.

In 2000, 2004, 2006, 2010, and 2014, I was active in the election campaigns of
Wayne Stenehjem for Attorney General of North Dakota. I had no title, but did
hand out campaign literature locally.

In 2018, I served as a delegate to the North Dakota Republican Convention for
District 19, located in Grand Forks County and Walsh County, North Dakota.

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

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

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

I have not served as a law clerk.

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

1998 – 2003

201 Washington Avenue
Finley, North Dakota 58230
Steele County State's Attorney

- 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.

1997 – 1999
Juntunen, Hager and Welte (formerly Hager & Welte, PLLP)
218 South 3rd Street
Grand Forks, North Dakota 58201
Attorney at Law

1997 – 2003
City of Larimore
122 West Main, P.O. Box 766
Larimore, North Dakota 58251
City Attorney

1998 – 2003
Steele County State's Attorney's Office
201 Washington Avenue
Finley, North Dakota 58230
Appointed State's Attorney

1999 – 2015
Grand Forks County State's Attorney's Office
124 South 4th Street
P.O. Box 5607
Grand Forks, North Dakota 58206
Elected State's Attorney (2003 – 2015)
Assistant State's Attorney (1999 – 2003)

2004 – 2018
University of North Dakota School of Law
215 Centennial Drive, Stop 9003
Grand Forks, North Dakota 58202
Adjunct Instructor of Law

2015 – present
Vogel Law Firm
2825 36th Avenue South, Suite A
Grand Forks, North Dakota 58206-6367
Shareholder (2016 – present)
Associate (2015)

- 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 arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

After graduation from law school, I affiliated with the two attorneys that I had clerked for as a law student. I shared an indigent defense contract in the Northeast Central Judicial District with one of my partners, Don Hager. My practice that first year consisted mostly of indigent defense work, complimented by a general practice that focused mostly on transactional law, including real estate and debt collection. I also worked as counsel for the City of Larimore, handling municipal court appearances as a prosecutor, and advising the City of Larimore in areas of municipal law.

In the late fall of 1998, my practice changed when I was appointed the State's Attorney of Steele County, North Dakota, in the East Central Judicial District. Although State's Attorney is a constitutional elected office in North Dakota, state law permits the County Commission to make the office an appointed office. As appointed State's Attorney, I acted as general counsel for Steele County, advising the Commission, and prosecuting criminal matters in District Court. I continued my private practice, but from 1998 until 1999 my time was largely consumed with my duties as Steele County State's Attorney, Larimore City Attorney, and the indigent defense work in the Northeast Central Judicial District.

During the first two years of my practice, I appeared in court nearly every working day, either as a prosecutor or as a criminal defense counsel. I enjoyed that, and therefore applied for a position as an Assistant State's Attorney in Grand Forks County, earning that appointment in December 1999. Because I was hired under a Violence Against Women Act (VAWA) grant, I prosecuted crimes of domestic violence, stalking, and sexual assault. I also prosecuted other crimes, and served as a backup prosecutor for juvenile court matters. This was my first position as a career prosecutor, and I handled roughly 500 cases per year. Additionally, I maintained my position as Steele County State's Attorney and Larimore City Attorney.

In early 2002, the elected State's Attorney of Grand Forks County—the late James T. Odegard—announced he would retire at the end of the year. Although I was the youngest Assistant State's Attorney in what was at the time the most experienced prosecution staff in North Dakota, I decided to pursue elected office and ran for Grand Forks County State's Attorney. I defeated my primary opponent, and he withdrew from the general election. I was elected in November 2002, and assumed office in January 2003.

The transition to full-time State's Attorney in 2003 was a dramatic change. I went from being an employee to being a manager and administrator of an office of approximately 20 people, including nine Assistant State's Attorneys. Additionally, there are approximately 19 county agencies and boards that I served as chief counsel. In North Dakota, the State's Attorney is the public prosecutor, and the defense counsel for all civil suits brought against the County.

In 2015, my practice changed when I left public office to join the Vogel Law Firm, establishing the firm's office in Grand Forks, North Dakota. I began as an associate and, in December 2015, I was elected a shareholder. My practice consists mostly of criminal defense work. But roughly 20% of my practice focuses on agricultural law, including matters involving drainage law, water law, environmental law, and land-use law.

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

My typical clients can be classified into three categories. The first category is criminal defendants. Early in my career my clients were mostly indigent defendants, while more recently my clients retain me to represent them.

The second category is municipalities and governmental entities. I represented these entities as State's Attorney for Steele County and Grand Forks County, and also as an Assistant State's Attorney in Grand Forks County.

The third category is Midwestern farmers. This part of my practice has been focused on drainage law, agricultural law, including water law, environmental law, and land-use law.

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

I would estimate approximately 70% of my practice has been in litigation.

Throughout my career, particularly as State's Attorney, I have appeared in state court frequently. Recently, with the advent of electronic filing and streamlining of court systems, I appear less frequently in court, but 80% of my practice is presently in criminal defense, and my practice is robust.

i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 5% |
| 2. state courts of record: | 85% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 10% |

ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 30% |
| 2. criminal proceedings: | 70% |

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 50 cases to verdict, judgment or final decision in courts of record, including cases before administrative law judges. Approximately 8 of those cases have been jury trials in which I was chief counsel, and approximately 2 of those cases were jury trials in which I was associate counsel.

i. What percentage of these trials were:

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

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

I have not practiced before or appeared before the Supreme Court of the United States.

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

a. the date of representation;

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

1. *State of North Dakota v. Peake*, Case No. 18-00-K-00851. Northeast Central Judicial District, Grand Forks County, North Dakota.

I represented the State of North Dakota, as lead attorney, in the prosecution of a high school track and field coach. One of his former female athletes came forward, long after high school graduation, with allegations of inappropriate sexual contact and acts by the defendant. An investigation revealed there were possibly several other victims, but the victim in this matter was the only one of the putative victims who was both willing and able to participate in the investigation and prosecution of the defendant. The defendant eventually pleaded guilty to the crimes as charged.

Date of representation: 2000

Presiding Judge: Hon. Lawrence E. Jahnke

Counsel for defendant:

John A. Thelen
Judge of the District Court
Grand Forks County Courthouse
124 S. Fourth Street
Grand Forks, North Dakota 58201
(701) 787-2730
(in private practice at time of the representation)

2. *State of North Dakota v. Johnson*, Case No. 18-00-K-01595. Northeast Central Judicial District, Grand Forks County, North Dakota.

I represented the State of North Dakota in the prosecution of a forty-year-old man who sexually assaulted a 15-year-old Native American girl. The defendant was charged with Gross Sexual Imposition, an A Felony-level crime in North Dakota, in addition to a misdemeanor level crime of Contributing to the Delinquency of a Minor. Several evidentiary issues existed in this matter, and there were several pretrial and post-conviction motions. The prosecution was further complicated due to cultural issues and the age of the victim. I served as sole counsel in this matter, and tried it to a jury, which returned a guilty verdict on both counts.

Dates of representation: 2000 – 2001

Presiding Judge: Hon. Debbie G. Kleven

Counsel for defendant:

Steven M. Light (deceased)

Darla Jane Schuman
Schuman Law Office
2860 10th Avenue North, Suite 500
Grand Forks, North Dakota 58203
(701) 757-3357

3. *State of North Dakota v. Rodriguez*, Case No. 18-03-K-03368. Northeast Central Judicial District, Grand Forks County, North Dakota.

I was lead counsel for the State of North Dakota in the case that led to the eventual federal prosecution of the defendant for the death of a female University of North Dakota student. As Grand Forks County State's Attorney, I was part of the multi-disciplinary task force that was formed in order to gather facts and bring the matter to justice. The defendant was arrested and charged with Kidnapping, an A Felony-level crime in North Dakota. I served as co-lead counsel in this matter. The case was bound over after preliminary hearing. In April 2004, the victim's body was found in Polk County, Minnesota. The defendant was then indicted on federal charges of Kidnapping Resulting in a Death. Shortly thereafter we filed a dismissal of our local charges, in order to expedite the federal prosecution of the defendant. He was found guilty and sentenced to death by lethal injection. This was the first death penalty case in a century to occur in North Dakota.

Dates of representation: 2003 – 2004

Presiding Judge: Hon. Lawrence E. Jahnke.

Co-lead counsel:

J.E. "Rick" Brown (deceased)
Assistant State's Attorney for Grand Forks County

Counsel for defendant:

David Duane Dusek
Dusek Law, P.C.
P.O. Box 14145
Grand Forks, North Dakota 58208
(701) 746-4107

4. *State of North Dakota v. Johnson*, Case No. 18-06-K-02832. Northeast Central Judicial District, Grand Forks County, North Dakota.

I represented the State of North Dakota when the defendant (identified in case number 2 in response to this question) failed to register as a sex offender upon his release from prison. There were several pretrial and post-conviction motions in this matter, and the defendant retained and dismissed several defense attorneys. I tried the matter to a jury, and after a one-day trial a verdict of guilty was returned.

Dates of representation: 2006 – 2007

Presiding Judge: Hon. Joel D. Medd

Counsel for defendant:

Darla Jane Schuman
Schuman Law Office
2860 10th Avenue North, Suite 500
Grand Forks, North Dakota 58203
(701) 757-3357

Larry James Richards
Attorney at Law
711 N. Washington Street, #202
Grand Forks, North Dakota 58203
(701) 795-5100

Trent William Mahler
P.O. Box 284
Milnor, North Dakota 58060
(701) 403-0699

Nicholas Dwight Thornton
Attorney at Law
Fremstad Law Firm
3003 32nd Avenue South, Suite 240
P.O. Box 3143
Fargo, North Dakota 58108
(701) 478-7620

5. *State of North Dakota v. O'Toole*, Case No. 18-08-K-00534. Northeast Central Judicial District, Grand Forks County, North Dakota.

I represented the State of North Dakota against the defendant, who was an officer with the Grand Forks Police Department. The defendant, along with a co-defendant/fellow Grand Forks Police Department officer E.S., assisted a third Grand Forks Police Department officer—M.C.—on a traffic stop involving a young man from Grand Forks. Air temperatures were sixteen below zero, and wind chill temperatures approached forty-

two degrees below zero. The victim was wearing jeans and a long-sleeved shirt with no coat, hat or gloves. M.C. asked E.S. to place the victim in E.S.'s squad car. E.S. refused. The defendant refused, as well, to permit the victim to enter the squad car. The defendant further sent an electronic message to E.S. saying "[T]hat's right make him freeze." The victim suffered from frostbite from the incident. The defendant was charged with reckless endangerment, and was convicted at a jury trial. I was not lead counsel in this matter, but participated in the investigation and provided pretrial and trial support for the Assistant State's Attorney trying the matter.

Date of representation: 2008

Presiding Judge: Hon. Sonja Clapp

Lead counsel for the prosecution:

Mark Jason McCarthy
Judge of the District Court
Grand Forks County Courthouse
124 South Fourth Street
Grand Forks, North Dakota 58201
(Previously Assistant State's Attorney for Grand Forks County at time of prosecution of David Lawrence O'Toole.)

Counsel for defendant:

Michael J. Geiermann
Attorney at Law
Geiermann Bergeson & Guler Law Offices, PC
425 North Fifth Street
P.O. Box 2196
Bismarck, North Dakota 58502

6. *State of North Dakota v. Moncada*, Case No. 18-08-K-01675. Northeast Central Judicial District, Grand Forks County, North Dakota.

State of North Dakota v. Aguero, Case No. 18-08-K-1676. Northeast Central Judicial District, Grand Forks County, North Dakota.

I represented the State of North Dakota against two co-defendants who were charged with murdering a father and son over a drug debt. Each co-defendant was charged with four AA Felonies, the highest level criminal charge under North Dakota law. The trial was high profile, with intense and widespread media coverage. The co-defendants were well established in the drug community, creating security concerns within the courthouse, and also making witness management difficult. After a jury trial of several days, both defendants were convicted on all four counts. I was co-counsel in this matter. I led the investigation and management of this case for the seven years leading up to the filing of

charges, and provided trial support to the lead prosecutors throughout the trial. The court sentenced each co-defendant to life in prison without the possibility of parole.

Dates of representation: 2001 – 2009

Presiding Judge: Hon. Lawrence E. Jahnke.

Lead counsel for the prosecution:

Mark Jason McCarthy
Judge of the District Court
Grand Forks County Courthouse
124 South Fourth Street
Grand Forks, North Dakota 58201
(Previously Assistant State's Attorney for Grand Forks County at time of prosecution)

Co-counsel for the prosecution:

David T. Jones
Grand Forks County State's Attorney
Grand Forks County Courthouse
124 South Fourth Street
Grand Forks, North Dakota 58201
(Previously Assistant State's Attorney for Grand Forks County at time of prosecution)

Counsel for defendant Moncada:

Robert Wade Martin
Attorney at Law
Martin Law
Heritage Place
201 Main Street South, Suite 200
Minot, North Dakota 58701

Counsel for defendant Aguero:

Kerry Shannon Rosenquist
Attorney at Law
Rosenquist & Arnason, PC
2750 26th Street South, Suite C
Grand Forks, North Dakota 58201

David Duane Dusek
Dusek Law, P.C.
P.O. Box 14145
Grand Forks, North Dakota 58208

(701) 746-4107

Benjamin C. Pulkrabek
Attorney at Law
402 First Street N.W.
Mandan, North Dakota 58554
(701) 663-1929

7. *State of North Dakota v. Chisholm*, Case No. 18-10-K-01273. Northeast Central Judicial District, Grand Forks County, North Dakota.

I represented the State of North Dakota in the prosecution of the defendant for murdering his brother with whom he had a strained relationship. On the weekend of July 4, 2010, the brother's family reported him missing. The defendant immediately became a person of interest. After a multi-jurisdictional investigation, defendant was charged with murdering his brother. The matter went to trial, and the defendant was convicted of murder. I was not lead counsel in this matter, but provided extensive support throughout the investigative phase of the prosecution, provided support for trial preparation, jury selection and handling of the media, and also assisted in communicating with some of the family members of the defendant and his brother throughout the trial.

Dates of representation: 2010 – 2011

Presiding Judge: Hon. Lawrence E. Jahnke

Lead counsel for the prosecution:

Mark Jason McCarthy
Judge of the District Court
Grand Forks County Courthouse
124 South Fourth Street
Grand Forks, North Dakota 58201
(Previously Assistant State's Attorney for Grand Forks County at time of prosecution)

Counsel for defendant:

Steven M. Light
Attorney at Law (deceased)

8. *Columbia Mall Grand Forks, LLC v. Cellular Communications, Inc.*, Case No. 18-2016-CV-01171. Northeast Central Judicial District, Grand Forks County, North Dakota.

I defended respondent Cellular Communications, Inc. in this forcible detainer action, which evolved into a civil collection action. I was sole trial counsel. At issue was a lease with a "percentage rent" clause, which provided for increased rent to be paid by tenant Cellular Communications to landlord Columbia Mall if certain sales thresholds were

reached. The issue in the matter was the definition of “sales” under North Dakota law. Plaintiff Columbia Mall alleged over \$75,000.00 in percentage rent was due according to its definition of sales. After some negotiation, the Mall brought a forcible detainer action to evict my client from their retail space. We litigated the matter to the bench, and prevailed on the basis that a forcible detainer action was a summary proceeding and was inappropriate for the matter at hand. The forcible detainer action thus was dismissed. Columbia Mall then sued my client for \$75,000.00 past due rent in a new, separate, collection action. After extensive discovery, we litigated the matter in binding arbitration. At a one day trial, my client fully prevailed on the merits.

Dates of representation: 2016 – 2017

Presiding Judge: Hon. John A. Thelen
Arbitrator: Jack G. Marcil

Counsel for plaintiff:

Ward K. Johnson III
Johnson and Autrey Law Firm, PLLP
215 North Third Street, Suite 208
Grand Forks, North Dakota 58203

9. *State of North Dakota v. Kukowski*, Criminal Case No. 51-2016-CR-00333. North Central Judicial District, Ward County, North Dakota. Civil Case No. 12-GOV-01, Special Commissioner Appointed by Governor Pursuant to North Dakota Century Code Chapter 44-11.

I defended the elected Sheriff of Ward County in parallel criminal and civil proceedings. Under North Dakota law, sheriffs are charged with managing the county jail. An inmate died shortly after leaving the custody of the Ward County Jail. My client immediately requested an investigation by the North Dakota Bureau of Criminal Investigation. After the investigation, a special prosecutor reviewed the matter and charged my client with: two counts of Reckless Endangerment, and one count of Public Servant Refusing to Perform a Duty. The special prosecutor also filed a civil petition for the Governor of North Dakota to remove my client from his constitutional office. There were several hearings, several procedural and substantive motions, and intense media scrutiny. There was also a successful motion by the government to the North Dakota Supreme Court for a supervisory writ over the trial judge in the criminal case (*State v. Romanick*, 2017 ND 42, 890 N.W.2d 803). I was lead counsel in both parallel proceedings, and also argued the supervisory writ to the North Dakota Supreme Court. After extensive litigation, both the criminal prosecution and the civil removal action were dismissed pursuant to agreement.

Dates of representation: 2016 – 2017

Presiding Judge of criminal case: Hon. Lolita G. Hartl Romanick

Presiding Judge of civil case: Hon. Karen K. Klein, retired Federal Magistrate Judge

Counsel for the prosecution:

Seymour Robert Jordan
Divide County State's Attorney
300 North Main Street
P.O. Box 84
Crosby, North Dakota 58730
(701) 965-6451

10. *In the Matter of A.K.*. State of North Dakota Department of Human Services Case No. 359357. North Dakota State Office of Administrative Hearings File Nos. 2017-0231 and 2017-0257.

I represented A.K. in an action by the State of North Dakota charging her with intentionally violating public assistance programs. A.K. and her husband I.I. came to America from Iraq, where I.I. had fought with the United States Army in Operation Iraqi Freedom. Because of his role in that conflict, the lives of I.I. and his family were in danger so they immigrated to America with the assistance of the United States government. A.K. and I.I. came to Grand Forks, North Dakota with their three children, settled into a small apartment, and sought public assistance funds. After some time receiving benefits, as a part of routine income checks done by the local Grand Forks County Social Services agency, it was alleged that A.K. and I.I. were overpaid approximately \$1,700 in public assistance funds. A.K. has a significant language barrier and tried to communicate with the local agency officials to demonstrate the need for the public assistance. But Grand Forks County Social Services instituted an "Intentional Program Violation" action against A.K. If A.K. were found to have committed an intentional program violation, she not only would be required to repay the funds, but also would be disqualified from further public assistance for at least one year. Her family was already well below poverty guidelines, but without the public assistance they would have been destitute, and she and I.I. both felt like their only option would have been to return to Iraq, where their lives, and the lives of their children, were in danger. I was lead counsel in a two-day trial before an Administrative Law Judge. The Administrative Law Judge, at the close of evidence, found that there was no evidence of any intentional program violation. This decision exonerated A.K., and permitted the family to remain in America.

Dates of representation: 2017 – 2018

Presiding Judge: Hon. H. Patrick Seaworth

Counsel for the prosecution:

Elizabeth Ann Fischer
Attorney at Law
Assistant Attorney General
North Dakota Attorney General's Office
500 North Ninth Street
Bismarck, North Dakota 58501
(701) 328-3621

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.)

Some of the most significant legal activities I have pursued in my career are linked to my belief in service as a core component of a lawyer's duty to the public. I have served on several boards and committees, as listed in my response to Question 9. As secretary-treasurer of the Greater Grand Forks County Bar Association, I worked to increase membership in the group significantly, revitalizing a local bar association that had been less active in previous years. I was privileged to serve on the North Dakota Supreme Court's Juvenile Drug Court Planning Committee and was a charter team member of one of the first three Juvenile Drug Court's in North Dakota. I remained active in the Juvenile Drug Court program until I left office in 2015.

I chaired the North Dakota Attorney General's Drug and Violent Crime Board for several years, assisting law enforcement with grant funding and projects that were geared towards fighting drug crimes throughout North Dakota. I also was on the North Dakota Attorney General's High Intensity Drug Trafficking Area Board, which is a multi-disciplinary, multi-jurisdictional board of federal, state and local agencies that fights to reduce drug crimes in the upper Midwest region.

As Grand Forks County State's Attorney, I often lobbied the North Dakota legislature on behalf of the North Dakota State's Attorney's Association. The times that I formally testified in that capacity before the legislature are set forth in my response to Question 12(c).

I have lobbied on behalf of one client since re-entering private practice in 2015. I represented two parents of a disabled adult child and testified regarding the need to change North Dakota law to permit administering forced medication to wards who are subject to a guardianship where the guardian has full authority regarding medical decisions for the ward, and regarding the ability of that guardian to consent to such forced medication. That testimony is reflected in the first entry as set forth in my response to Question 12(c).

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

In Fall 2005, Fall 2006, Fall 2007, Spring 2009, Spring 2010, Spring 2011, Spring 2012, Fall 2012, Spring 2013, Spring 2015, Spring 2016, and Spring 2017, I taught agricultural law at the University of North Dakota School of Law. Although I have not retained the syllabus for each class that I have taught, I have attached three representative syllabi.

In Summer 2007, Fall 2008, Fall 2010, Fall 2014, Fall 2015, and Fall 2016, I taught state and local government law at the University of North Dakota School of Law. I have attached a representative syllabus.

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

I do not expect to have any such income, other than earned, undistributed profits or bonuses from my current firm. If that happened, it would be a single occurrence, contemporaneously occurring with the closing of my private practice.

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

I would like to maintain my involvement in our family farm, located in southwestern Grand Forks County, North Dakota. Beyond that, I do not have any such plans, commitments or agreements.

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).

When my nomination is formally submitted to the Senate and I file my Financial Disclosure Report, I will supplement this Questionnaire with a copy of that Report.

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

See attached Statement of Net Worth.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will recuse in cases where I have had a role in representing or providing counsel to any of the parties. Regarding my present firm, I will recuse myself in cases pending at the time of my appointment wherein current members of my firm are counsel of record.

If confirmed, if a potential conflict arose, either real or perceived, I would assess each potential conflict on a case-by-case basis, seeking input of the parties and counsel and would recuse where warranted. I will adhere to the Code of Conduct for United States Judges and would seek guidance in doing so.

- 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 assiduously review and adhere to the Code of Conduct for United States Judges, the Ethics Reform Act of 1989, 28 U.S.C. Section 455 and other relevant authority.

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.

I have rendered pro bono services to several clients, including the Yoke Parish of my church and our local volunteer fire department. As the parent of a special needs child, it has been my privilege to meet and work with similarly-situated families who are unable to afford traditional legal representation, usually in transactional matters, and I have provided services in several of those cases.

Additionally, the special needs community in our locale is close knit. I have been active with Special Olympics and the local Anne Carlsen Center, both as a volunteer and as a resource for raising funds and awareness for children and adults with special needs.

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 October, 2017, I contacted Senator John Hoeven's Chief of Staff to indicate my interest in the present vacancy. Shortly thereafter, I contacted Senator Heidi Heitkamp's Chief of Staff to express my interest in the position. On November 15, 2017, I was contacted by Senator Heitkamp's Chief of Staff and asked to forward a formal letter of interest and a resume regarding the present vacancy. I did so, and also provided a copy to Senator Hoeven's Chief of Staff. On November 21, 2017, I was contacted by the Office of White House Counsel to set up an interview, which took place before attorneys from the Office of White House Counsel and the Department of Justice on December 5, 2017. On May 15, 2018, I was contacted by Associate Counsel to the President, Office of White House Counsel, and advised that I was preliminarily selected. I was asked by the Office of White House Counsel and the Department of Justice's Office of Legal Policy to review and submit appropriate paperwork. I have been in contact with both offices since that time.

- 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.