

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Robert F. Rossiter, Jr.

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

United States District Judge for the District of Nebraska

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.

Fraser Stryker PC LLO
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102

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

1956; Camp Le Jeune, North Carolina

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.

1978 – 1981, Creighton University School of Law; J.D. (*cum laude*), 1981

1974 – 1978, Purdue University; B.S., 1978

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.

1983 – present
Fraser Stryker PC LLO
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102
Partner/Shareholder (1987 – present)
Management Committee Member (2011 – present)

Associate (1983 – 1987)

1983 – 1987, 1999 – present
Creighton University School of Law
2500 California Plaza
Omaha, Nebraska 68178
Adjunct Faculty

1981 – 1983
United States District Court
District of Nebraska
Roman L. Hruska United States Courthouse
111 South 18th Plaza, Suite 1152
Omaha, Nebraska 68102
Judicial Law Clerk, Hon. C. Arlen Beam (1982 – 1983)
Judicial Law Clerk, Hon. Albert G. Schatz (1981 – 1982)

1980 – 1981
Creighton University School of Law
2500 California Plaza
Omaha, Nebraska 68178
Research Assistant for Professor Larry Teply

January 1979 – May 1981 (est.)
Creighton University School of Law
2500 California Plaza
Omaha, Nebraska 68178
Library Assistant

May 1979 – August 1979
Blume, Wyneken & Bullman
344 Utility Building
Fort Wayne, Indiana 46802
Summer Law Clerk

May 1978 – August 1978
Ramada Inn Chadd's Ford
Routes 1 and 202
Glenn Mills, Pennsylvania 19342
Desk Clerk/Night Auditor

Other Affiliations (Uncompensated):

1981 – present
Nebraska State Bar Association
635 South 14th Street #200
Lincoln, Nebraska 68508

In line to be President (2015 – 2016)
President-Elect (2014 – 2015)
President-Elect Designate (2013 – 2014)

2003 – 2009
Catholic Charities of the Archdiocese of Omaha, Inc.
3300 North 60th Street
Omaha, Nebraska 68104
Member, Board of Directors

2003 – 2007
Eighth Circuit Bar Association
c/o Michael Gans, Clerk of Court
Eighth Circuit Court of Appeals
Thomas F. Eagleton Courthouse
111 South Tenth Street, Room 24.329
St. Louis, Missouri 63102
Member, Board of Directors

2004 – 2006
Girls, Inc. of Omaha
2811 North 45th Street
Omaha, Nebraska 68104
Member, Board of Directors

1995 – 1997
St. Wenceslaus Church
15353 Pacific Street
Omaha, Nebraska 68154
President (1996 – 1997)

1980 – 1983 (est.)
Pi Kappa Alpha
Theta Lambda Chapter
Housing Corporation Board
Omaha, Nebraska
(Chapter no longer in existence)

1979 – 1980 (est.)
Pi Kappa Alpha
Beta Phi Chapter
Housing Corporation Board
629 University Street
West Lafayette, Indiana 47906

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 U.S. Military. I did register for selective service.

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

Listed in *Chambers USA, America's Leading Business Lawyers* (Labor & Employment-Band 1, 2003 – present)

Listed in *The Best Lawyers in America* in Employment Law – Management; Labor Law – Management; and Litigation – Labor & Employment (1995 – present)

Regularly listed in “Best Lawyers in Omaha,” *Omaha Magazine* (1995 – present)

Rated AV® Preeminent by Martindale-Hubbell (1990 – present)

Great Plains Super Lawyers (2009 and 2014); selected as one of Top 25 lawyers in the three state area of North Dakota, South Dakota, and Nebraska – *Minnesota Journal of Law and Politics* (June/July 2009)

Named Best Lawyers “Omaha Litigation – Labor & Employment Lawyer of the Year” (2013)

Selected to Super Lawyers (2007, 2009, 2011 – 2013), Employment & Labor, and Employment Litigation: Defense; selected to Top 10 Nebraska Super Lawyers (2012)

Named “Omaha Best Lawyers Employment Law – Management Lawyer of the Year” (2012)

Named Best Lawyers “Omaha Best Lawyer Labor and Employment Lawyer of the Year” (2010)

Fellow, American College of Trial Lawyers (2007)

Fellow, The College of Labor and Employment Lawyers (2004)

Fellow, Nebraska State Bar Foundation (2001)

Executive Editor, Creighton Law Review (1980 – 1981)

Alpha Sigma Nu National Jesuit Honor Society (Law School – Inducted 1980)

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 (1981 – present)
Member, Labor and Employment Law Section (EEO Committee) (2001 – present)
Member, Litigation Section (2001 – present)

Eighth Circuit Bar Association (2002 – present)
Charter Member (2003)
Member, Board of Directors (2003 – 2007)
Member, Communications Committee (2005 – 2006)
Representative, District of Nebraska (2003 – 2007)

Nebraska Lawyers Foundation (2013 – present)
Member, Board of Directors (2013 – present)
President (2014 – present)

Nebraska State Bar Association (1981 – present)
President-Elect Designate (2013 – 2014)
President-Elect (2014 – 2015)
In line to be President (2015 – 2016)
Executive Council (2001 – 2002; 2013 – present)
Liaison to Client Assistance Fund (2014 – present)
Liaison to Publications Committee (2014 – present)
House of Delegates
Elected Member (1990 – present (sixth term))
Chair, House of Delegates (2001 – 2002)
Legislation Committee (2007 – present)
Ad Hoc Committee on Governance (2014)
Ad Hoc Committee on Legislative Policy (2013 – 2014)
Member, Nebraska Judicial Structure and Administrative Task Force (2006 – 2007)
Member, Labor and Employment Law Section (1984 – present)
Chair (2003 – 2005)
Executive Committee (1994 – 2005)
Legislation Subcommittee Chair (2012 – present)
Member, Young Lawyers Section (1981 – 1990)
Chair (1988 – 1989)
Judicial Resources Committee (2001 – present)
Member, Practice and Procedure Committee (2007 – present)
Annual Meeting Planning Committee – Co-Chair (2000)

Omaha Bar Association (1981 – present)
Courts Committee (2005 – present)
Chair, Lawyers in the Schools Law Day Program (1984)

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.

Nebraska (1981)

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 Supreme Court (1995)

United States Court of Appeals for the Federal Circuit (1998)

United States Court of Appeals for the Eighth Circuit (1981)

United States Court of Appeals for the Tenth Circuit (2003)

United States District Court for the District of Colorado (2013)

United States District Court for the Northern District of Illinois (1995)

United States District Court for the District of Nebraska (1981)

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 College of Trial Lawyers (Inducted March 10, 2007)

Fellow State Chair (2012 – 2014)

Nebraska Access to Justice Subcommittee Chair (2010 – 2012)

State Vice-Chair (2010 – 2012)

State Committee Member (2008 – present)

American Employment Law Council (2010 – present)

The College of Labor and Employment Lawyers (Inducted August 8, 2004)

Fellow (2004)

Creighton Preparatory School

Parent Board (2000 – 2004)

Parent Awareness Committee on Teen Drug & Alcohol Education (2002 – 2004)

Co-Chair (2003 – 2004)

Creighton University School of Law Alumni Advisory Board (2000 – present)

Class of 1981 30-Year Reunion Committee (2011)

Defense Research Institute (1989 – present)

Eighth Circuit Court of Appeals Advisory Committee (2005)
Chair (2005)

Federalist Society (2003)

Field Club of Omaha (1984 – 2006 (est.))

Girls, Inc. of Omaha (2004 – 2006)
Board of Directors (2004 – 2006)

Historical Society of the U.S. Courts – Eighth Circuit (1998 – 2002 (est.))

Knights of Columbus – St. Wenceslaus Parish (1990 – 1994 (est.))

Marian High School
Annual Fund Drive (2006 – 2007)
Co-Chair (2006 – 2007)
Parent Board (2002 – 2011)
Golf Tournament Committee (2008 – 2010)
Co-Chair (2008 – 2010)

Midlands Industry Liaison Group (2008 – present)

Nebraska Association of Trial Attorneys (1984 – 1995)

Nebraska Defense Counsel Association (2008 – present)

Nebraska State Bar Association/Nebraska Supreme Court (1981 – present)

Nebraska Supreme Court Judicial Nominating Commission
Douglas County District Court (1993 – 2001)
Nebraska Supreme Court (2001 – 2009)

Pi Kappa Alpha Social Fraternity (1975 – present)

Purdue Alumni Association (1981 – present (est.))

Purdue Club of the Midlands (1996 – present (est.))

John Purdue Club (Funds Scholarships for Purdue Athletes) (January 1999 – present)

St. Wenceslaus Church
Parish Council (1995 – 1997)

President (1996 – 1997)

Society for Human Resource Management (2012 – present)

United States District Court for the District of Nebraska

Federal Practice Committee (1994 – 1997)

Chair (1996 – 1997)

Civil Justice Advisory Group (1994 – 1997)

Ad Hoc Committee on Docket Realignment (2003)

United States Supreme Court Historical Society (2005 – 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.

I believe the Field Club of Omaha, a golf membership club, had an issue in the mid-1980s, with limiting women's tee times on weekends, which was promptly resolved by the officers of the Club. The Knights of Columbus is a Catholic fraternal organization limited to men, although there is a corresponding organization for women. Pi Kappa Alpha is a fraternity that, prior to 1964, restricted its membership to white men. 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.

“Federal and State Employment Discrimination Laws, A General Overview” (with George C. Rozmarin), “The Civil Rights Act of 1991 – An Overview,” & “Employment Discrimination” in *Nebraska “How To” Practice Manual*, Young Lawyers Section of the Nebraska State Bar Association and the University of Nebraska School of Law (1991). Copies supplied. Please note that the materials supplied were from a version of the manual located in our firm library. The handwriting on pages 66-83 is not mine.

Larry L. Teply, *Programmed Materials on Legal Research and Citation* (Robert Rossiter ed., West Publishing Co. 2d Ed. 1986). Copy of table of contents supplied.

Torts, Case Notes, 13 Creighton Law Review 1473 (1980). Copy supplied.

Labor Law – Preemption – Supreme Court Approves Unemployment Compensation for the Benefit of Striking Employees: *New York Telephone v. New York State Department of Labor*, 99 S.Ct. 1328 (1979), 13 Creighton Law Review 1005 (1980). 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.

2012 Legislative Policy of Nebraska State Bar Association. Copy supplied.

2007 Nebraska Judicial Structure & Administration Task Force Final Report. Copy supplied.

November 2006, Association of the Bar of United States Court of Appeals for the Eighth Circuit, Newsletter, Committee Member/Editor. I also authored the short article regarding United States District Court Judge Patrick Schiltz, sitting with the Eighth Circuit as a visiting judge (p. 4). Copy supplied.

June 2006, Association of the Bar of United States Court of Appeals for the Eighth Circuit, Newsletter, Committee Member/Editor. I also assisted in authoring an article in the newsletter regarding Eighth Circuit filings (pp. 12-13). Copy supplied.

March 2006, Association of the Bar of United States Court of Appeals for the Eighth Circuit, Newsletter, Committee Member/Editor. Copy supplied.

November 2005, Association of the Bar of United States Court of Appeals for the Eighth Circuit, Newsletter, Committee Member/Editor. Copy supplied.

June 2005, Association of the Bar of United States Court of Appeals for the Eighth Circuit, Newsletter, Committee Member/Editor. Copy supplied.

January 2005, Association of the Bar of United States Court of Appeals for the Eighth Circuit, Newsletter, Committee Member/Editor. Copy supplied.

2003 – 2006 Catholic Charities of Omaha, Public Policy and Legislative Committee Report. Copy supplied.

2003 U.S. District Court, District of Nebraska; Ad Hoc Committee on Docket Realignment. Copy supplied.

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

2003 – 2007 Eighth Circuit Bar Association Meeting of Officers and Directors. As a member of the Board of Directors of the Eighth Circuit Bar Association, I participated in the Board meetings of this body. I offered remarks at those meetings relating to the business of the organization. The minutes of those meetings are available at http://www.eighthcircuitbar.com/meeting_minutes.php.

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

I have provided, to the extent still available, materials I presented at the following seminars and conferences and from in-house training. In all cases, the materials distributed to the attendees are included, as well as any PowerPoint presentations, if they still exist. Where presentation notes still exist, I have provided those as well.

April 18, 2015: Presenter, Nebraska Lawyers Foundation Barristers' Ball, La Vista, Nebraska. Video supplied.

April 16, 2015: Presenter, Legislative Update, Trends, EEOC, and NLRB News, FMLA and ADA Updates, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

November 4, 2014: Judge, Moot Court Competition, Creighton University School of Law, Omaha, Nebraska. I was one of three judge for the finals of the law school's moot court competition. We asked questions about the legal issues raised in the problem presented, and at the conclusion of the contest, each of the judges provided feedback to the students regarding their arguments and their performance. I have no notes, transcript, or recording. The address for Creighton University School of Law is 2500 California Plaza, Omaha, Nebraska 68178.

April 29, 2014: Presenter, General Employment Trends, ADA Developments, FMLA Developments, and Controlling Absenteeism, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoints and handouts supplied.

April 4, 2013: Presenter, ADA Update, General Employment Trends, and “How to Protect Your Business When Someone Departs,” Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoints and handouts supplied.

December 18, 2012: Presenter, Employment Law Issues in the Workplace, Sterling Education Services, Lincoln, Nebraska. PowerPoint supplied.

August 24, 2012: Presenter, Volunteer Lawyers Project, Wage Claims and Administrative Discrimination Complaints, Discrimination Statutes - The Basics; Discrimination Claims – What Is Required Before Filing Suit, Nebraska State Bar Association Continuing Legal Education, Omaha, Nebraska. PowerPoint and handout supplied.

August 15, 2012: Presenter, FMLA and ADA Updates, Midlands ILG Compliance Conference, Omaha, Nebraska. PowerPoint supplied.

April 5, 2012: Presenter, ADA Update, FMLA Update, and General Employment Trends to Watch For, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoints and handouts supplied.

September 15 – 16, 2011: Presenter, Employment Law Update, Society for Human Resources Management, Omaha, Nebraska. PowerPoint supplied.

March 31, 2011: Presenter, ADA Updates, the ADAAA, FMLA Update, and Genetic Discrimination (GINA), Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoints and handouts supplied.

June 4, 2010: Presenter, Leveling the Playing Field in Pretrial Proceedings; Successfully Resisting Dispositive Motions and Dealing With Affirmative Defenses, American College of Trial Lawyers/NSBA Public Interest Law Section, Omaha, Nebraska. Outline and PowerPoint supplied.

April 15, 2010: Presenter, ADA/FMLA Updates, Miscellaneous Employment Updates, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoint and handouts supplied.

May 5, 2009: Presenter, Employment Law Update, Lilly Ledbetter Act, I-9 Issues, ADA/FMLA Updates, Midlands Industry Liaison Group, Omaha, Nebraska. PowerPoint supplied.

April 30, 2009: Presenter, ADA Changes and Updates, FMLA Medical Leave, FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

May 15, 2008: Presenter, ADA/FMLA, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoint and handouts supplied.

May 24, 2007: Presenter, ADA and FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

November 3, 2006: Presenter, Labor and Employment Law Section - Updates and Trends; ADA and FMLA Recent Developments, Nebraska Continuing Legal Education, Omaha, Nebraska. PowerPoint and handouts supplied.

May 11, 2006: Presenter, ADA and FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

May 20, 2005: Presenter, ADA/FMLA Update – Trying Matters in Employment Law; Recent Developments: FMLA and ADA, Nebraska Continuing Legal Education, Omaha, Nebraska. PowerPoint supplied.

May 12, 2005: Presenter, ADA and FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

October 5, 2004: Presenter, The Human Resources Side of Safety – Job Descriptions, ADA, FMLA and Worker's Comp. – The Legal Issues, American Society of Safety Engineers, Omaha, Nebraska. PowerPoints supplied.

September 2, 2004: Presenter, ADA & FMLA, Nebraska State Conference, Society for Human Resources Management, Omaha, Nebraska. PowerPoint and handouts supplied.

April 22, 2004: Presenter, ADA and FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts supplied.

June 10, 2003: Presenter, ADA and FMLA Update, Human Resource Association of the Midlands, Omaha, Nebraska. PowerPoint and handouts supplied.

May 23, 2003: Presenter, Hot Topics in Disability Discrimination – Recent Case Law Update, Trying Matters in Employment Law: ADA – Recent Developments, Nebraska Continuing Legal Education, Ashland, Nebraska. Handout supplied.

May 15, 2003: Presenter, ADA and FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

May 2, 2002: Presenter, ADA and FMLA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

October 16, 2001: Presenter, Employment Law Workshop, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handout supplied.

April 20, 2001: Speaker, Presentation of Portrait of the Honorable C. Arlen Beam (Senior Judge, U.S. Court of Appeals for the Eighth Circuit), United States District Court for the District of Nebraska, Omaha, Nebraska. I made brief comments congratulating Judge Beam on behalf of his former law clerks. I have no notes, transcript, or recording. The address for the United States District Court for the District of Nebraska is Roman L. Hruska Federal Courthouse, 111 South 18 Street, Omaha, Nebraska 68102.

October 26, 2000: Presenter, FMLA and ADA: The Basics and What's New (Federal Law Clerk Training), American Bar Association Equal Employment Opportunity Committee, St. Paul, Minnesota. PowerPoint supplied.

July 28, 2000: Presenter, Discovery with a Purpose: A Defendant's Perspective, District of Nebraska Federal Practice Committee, Omaha, Nebraska. Handout supplied.

May 5, 2000: Presenter, Employment Law Update and Trying Matters in Employment Law; Retaliation Claims: An Overview, Nebraska Continuing Legal Education, Omaha, Nebraska. PowerPoint and handout supplied.

April 13, 2000: Presenter, FMLA and ADA Recent Developments, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoint and handouts supplied.

February 25, 2000: Presenter, Civil Practice and Procedure Seminar – Pleading to Win – Summary Judgment Practice in State Court, Nebraska Continuing Legal Education, Omaha, Nebraska. PowerPoint and handout supplied.

June 18, 1999: Presenter, Young Lawyers Section – The 1999 YLS Practice Seminar; Employment Agreements, Nebraska State Bar Association, Lincoln,

Nebraska. PowerPoint and handout supplied.

April 29, 1999: Presenter, ADA and FMLA Updates, Employment Contracts, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and PowerPoint supplied.

November 1998: Presenter, Avoiding Claims Based on Religious Discrimination, Human Resource Association of the Midlands, Omaha, Nebraska. Handouts and PowerPoint supplied.

June 12, 1998: Presenter, Proof of Damages: Employment Discrimination Litigation – How to Win and How to Defend, Nebraska Association of Trial Attorneys, Omaha, Nebraska. Outline supplied.

May 1998: Presenter, Family and Medical Leave Act of 1993: An Overview and an Update; ADA Recent Developments, Nebraska Continuing Legal Education, Omaha, Nebraska. Outlines supplied.

April 16, 1998: Presenter, ADA Recent Developments, FMLA Recent Developments, Employment Contracts and Employment Practices Liability Insurance, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. PowerPoints and handouts supplied.

May 1997: Presenter, Interrelationship between ADA and FMLA; ADA Recent Developments; FMLA Recent Developments, Nebraska Continuing Legal Education, Omaha, Nebraska. Notes and handouts supplied.

April 10, 1997: Presenter, ADA Recent Developments, FMLA Recent Developments, Interrelationship Between the FMLA and the ADA, and Taxation of Settlements, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts and notes supplied.

May 1996: Presenter, The Family and Medical Leave Act, Nebraska Continuing Legal Education, Omaha, Nebraska. Handout supplied.

April 18, 1996: Presenter, ADA/FMLA Updates; Nebraska Wage Payment & Collection Act and Wrongful Discharge, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts supplied.

1994: Presenter, 32nd Annual Meeting and Exposition, American Association of Homes for the Aging, San Diego, California. I presented a short break-out session on general employment law issues. I have no notes, transcript or recording. The address for the American Association of Homes for the Aging is 2519 Connecticut Avenue NW, Washington, DC 20008.

October 18, 1994: Presenter, Employment Law Workshop, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handout supplied.

June 18, 1993: Presenter, Employment Law Update, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handout supplied.

1992: Presenter, References and Employee Background Checks Today; New Civil Rights Act Invites an Onslaught of Litigation, Council on Education in Management, Omaha, Nebraska. Handouts supplied.

May 21, 1992: Presenter, Americans With Disabilities Act of 1990, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts supplied.

May 14, 1992: Presenter, The Americans With Disabilities Act of 1990; The Civil Rights Act of 1991, HELP, Inc., Omaha, Nebraska. Handouts supplied.

1991: Presenter, Avoiding Lawsuits for Employment Discrimination, National Business Institute, Omaha, Nebraska. Handout supplied.

August 9, 1990: Presenter, multiple topics in The Fundamentals of Employment Law – Employment Law Workshop, Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts supplied.

1989: Presenter, Substance Abuse, Medical Problems and Dishonesty in the Workplace; The Legality of Alcohol, Drug, AIDS and Psychological Testing of Employees, National Business Institute, Omaha, Nebraska. Outlines supplied.

April 18, 1989: Presenter, Legislative Developments, Fraser Stryker Labor and Employment Law Client Conference, Omaha, Nebraska. Handout supplied.

1988: Presenter, Defamation in the Workplace, National Business Institute, Omaha, Nebraska. Handout supplied.

March 19, 1987: Presenter, Immigration Reform and Control Act of 1986; Drug Testing Update; and Employment Related Defamation Actions (to the best of my recollection), Fraser Stryker Labor and Employment Law Client Conference, Fraser Stryker, Omaha, Nebraska. Handouts supplied.

1980: Presenter, Student Inductee Acceptance Remarks, Alpha Sigma Nu, Omaha, Nebraska. I accepted induction on behalf of all inductees, and my recollection is that I thanked Creighton University and Alpha Sigma Nu for the honor on behalf of all inductees and talked a bit about the Jesuit education experience. I have no notes, transcript or recording. The address for Alpha

Sigma Nu is 707 North 11th Street #330, Post Office Box 1881, Milwaukee, Wisconsin 53233.

- 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.

Neeley, Liz, "New Bar Leaders Step up at 2014 Annual Meeting," *News Release, Nebraska State Bar Association*, October 8, 2014. Copy supplied.

Morton, Joseph, "Omaha Attorney Tapped for Federal Bench," *Omaha World-Herald*, August 16, 2014. Copy supplied.

Winchester, Cody, "OPPD: Severance Not Public Record; All Together, the Utility Paid \$600,000 or so to Seven Ex-Workers," *Omaha World-Herald*, June 26, 2014. Copy supplied.

Roberts, Andy, "Nebraska's Legal Counsel for Discipline, Dennis Carlson, Calls It a (Good) Day," *Daily Record*, June 2, 2014. Copy supplied.

Schoenike, Jane, "Rossiter Elected President-Elect Designate, Nebraska State Bar Association," *News Release, Nebraska State Bar Association*, October 2, 2013. Copy supplied.

Buddenberg, Roger, "Can Workers Vent on Facebook?" *Omaha World-Herald*, October 10, 2011. Copy supplied.

Hammel, Paul, "Ruling Lets OPPD Keep Tough No-Tobacco Rules," *Omaha World-Herald*, December 3, 2010. Copy supplied (reprinted in multiple outlets).

Cooper, Todd, "Unions File Suit Over OPPD Ban of Tobacco," *Omaha World-Herald*, June 12, 2009. Copy supplied.

Fowler, Lisa Mathews, "Be Aware of Laws When Hiring, Promoting, Firing in the Workplace," *Midlands Business Journal*, July 14, 2006. Copy supplied.

Ruff, Joe, "Court to Decide Vacation Pay Case," *Omaha World-Herald*, July 13, 2006. Copy supplied (reprinted in multiple outlets).

Hammel, Paul, "Third Trial Opens for Ex-Bank Employee in Free-Speech Case," *Omaha World-Herald*, August 31, 2005. Copy supplied (reprinted in multiple outlets).

Buttry, Stephen, "Ex-Federal Judge Cambridge, 72, Dies," *Omaha World-Herald*, October 2, 2004. Copy supplied.

Cooper, Todd, "Man Wins Lawsuit on Family Leave Act," *Omaha World-Herald*, June 15, 2003. Copy supplied.

Reed, Leslie, "Judicial Nominee Wins Wide Praise; If Confirmed by the U.S. Senate, Laurie Smith Camp Would Become Nebraska's First Female Federal Judge," *Omaha World-Herald*, July 1, 2001. Copy supplied.

Powell, Joy, "Judge Says Family-Leave Law Violated," *Omaha World-Herald*, November 2, 1995. Copy supplied.

"Discharge for Wearing Pro-life Button at Work Lawful," Labor Law Reports: Employment Practices (CCH) Report 524, Issue No. 741, August 1995. Copy supplied.

Powell, Joy, "Woman Loses Appeal over Abortion Button," *Omaha World-Herald*, July 10, 1995. Copy supplied.

O'Hanlon, Kevin, "Omaha Woman Loses First Round in Job Lawsuit," *Omaha World-Herald*, October 28, 1994. Copy supplied.

Powell, Joy, "Case Raises Questions About Family-Leave Law," *Omaha World-Herald*, October 27, 1994. Copy supplied.

"Ruling a Victory for Broader Rights," *Omaha World-Herald*, June 11, 1994. Copy supplied.

Brunkow, Angie, "Nebraskans to See More ADA Suits, Lawyer Says," *Norfolk Daily News* (to the best of my recollection), August 1993. Copy supplied.

O'Hanlon, Kevin, "Woman Loses Suit over Abortion Button," *Omaha World-Herald*, June 7, 1994. Copy supplied (reprinted in multiple outlets).

O'Hanlon, Kevin, "Both Sides in Firing Case Are Asked to Help Judge," *Omaha World-Herald*, February 24, 1994. Copy supplied.

Anderson, Julie, "Fort Calhoun Plant Operation Safe, NRC Report Says," *Omaha World-Herald*, July 11, 1990. Copy supplied.

Gauger, Jeff, "Court Rejects Appeal Claim of Age Bias," *Omaha World-Herald*, May 14, 1988. Copy supplied.

"Program Brings Attorneys to High Schools," *Midlands Business Journal*, May 1, 1987. Copy supplied.

Barnes, Jeff, "Law Day Events Are Planned to Reach Citizenry," *Midlands Business Journal* (Date unknown). Copy supplied.

Powell, Joy, "Judge Says Family-Leave Law Violated," *Omaha World-Herald* (date unknown). 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 served as a judge.

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

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

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

I have not served as a judge.

- 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.

I have never run for public office and have held no public offices.

- 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 held no memberships or offices and rendered no services to any political party or election committee.

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 was hired by the late Hon. Robert V. Denney, United States District Court for the District of Nebraska, for a two-year clerkship to begin August 1981. Judge Denney passed away in the spring of 1981. I began my clerkship with the late Hon. Albert G. Schatz, United States District Court for the District of Nebraska. Once the Hon. C. Arlen Beam (now a senior judge on the Eighth Circuit) was nominated and confirmed to the vacancy left by Judge Denney, I served as law clerk to Judge Beam from approximately February 1982 through August 1983.

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

I have never practiced alone.

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

1983 – present
Fraser Stryker PC LLO
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102
Associate (1983 – 1987)
Partner/Shareholder (1987 – present)
Management Committee Member (2011 – present)

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

I have never served as a mediator or arbitrator in alternative dispute resolution proceedings.

b. Describe:

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

My practice with Fraser Stryker began as a general civil litigation practice involving not only insurance defense (personal injury/tort litigation) cases, but also some limited plaintiffs' personal injury cases, and labor and

employment litigation. As the years progressed, beginning in approximately the late 1980s, my practice moved to predominantly federal court litigation of employment matters including breach of contract, wrongful discharge, discrimination (Title VII, Americans With Disabilities Act, and the Age Discrimination in Employment Act), Family and Medical Leave Act, ERISA, and Fair Labor Standards Act.

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

Since the late 1980s, when handling employment and labor cases, the vast majority of my clients have been corporate clients. However, I have represented a number of individuals with regard to employment related matters. Formerly, I represented insurance companies in insurance defense matters and a limited number of individual plaintiffs in personal injury cases.

- 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.

During my first few years of practice, I handled primarily personal injury/insurance defense claims which allowed me to be in court and try cases frequently. In the mid to late 1980s, I began moving my practice to primarily labor and employment law and labor and employment litigation, the area in which I have practiced since that time. Since the mid-1980s, I have handled numerous employment-related lawsuits. While the number of matters that have actually gone to trial over the last few years has decreased significantly, I nonetheless continue to spend time in state and federal courts dealing with these matters. In federal court, virtually all of the submissions (short of trial) are written and not oral. Therefore, I am frequently involved in the written submission to the federal courts at all stages of litigation, including pleadings, discovery motions, evidentiary motions, and dispositive motions. Early in my career, I handled a limited number of criminal matters, and I have been involved in a number of civil lawsuits that also involved criminal issues.

- i. Indicate the percentage of your practice in:

1. federal courts:	Approximately 70%
2. state courts of record:	Approximately 15%
3. other courts:	Arbitrations 5%
4. administrative agencies:	Approximately 10%

- ii. Indicate the percentage of your practice in:

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

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

I would estimate I have worked at least 600 litigation matters in my career. Of these, approximately 70 to 75 have been tried to conclusion. I would estimate that of the cases tried, approximately 35 to 40 (50%) have been tried to a jury and the balance were non-jury. I have tried approximately 15 to 20 arbitration proceedings. In 95% of the cases, I was chief or sole counsel.

- i. What percentage of these trials were:

1. jury:	50%
2. non-jury:	50%

- 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.

Responses to petitions for writ of certiorari were filed in the three employment cases I handled listed below, but none were granted.

Metzsch v. Avaya, Inc., Case No. 05-10538. Copy supplied.

Fred v. Wackenhut Corporation, Case No. 95-212, 1995 WL 17047569 (1995).

Stinson v. Nebraska Furniture Mart, Case No. 11-52-13. Copy 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.

The following is a listing (alphabetically) of cases tried to judgment or verdict, although I have handled a number of significant cases which have been disposed of by way of summary judgment.

1. *Dossett v. First State Bank*, 399 F.3d 940 (8th Cir. 2005), filed October 2001, closed September 2005, before the Honorable Richard G. Kopf, United States District Court of Nebraska.

I represented defendant First State Bank in this matter. Plaintiff brought an action under 42 U.S.C. § 1983 against a private bank in Loomis, Nebraska. Plaintiff claimed that defendant bank conspired with the Loomis State School District to terminate plaintiff's employment in retaliation for plaintiff exercising her constitutional right of freedom of speech at a public school board meeting. The matter was first tried in 2003. The first trial resulted in a jury verdict in favor of plaintiff in the amount of \$1,555,678. I was not involved in the first trial. The court granted a motion for new trial and a second trial was held in 2003. The second trial, in which I became involved as co-lead counsel, resulted in a verdict in favor of defendant. The matter was appealed to the Eighth Circuit Court of Appeals, which ordered retrial based upon a single jury instruction. 399 F.3d 940 (8th Cir. 2005). The third trial was held in 2005. I again acted as co-lead counsel. The third trial resulted in another verdict in favor of defendant. No appeal was taken. The case is significant because it involved an issue of first impression relating to 42 U.S.C. § 1983 and the First Amendment and the liability of a private employer based upon its actions involving governmental entities.

Co-Counsel:

Roger Shiffermiller
Fidelity National Title Group (formerly at Fraser Stryker)
2111 South 67th Street, Suite 210
Omaha, NE 68106
402-498-7176

Counsel for the plaintiff:

Robert Chaloupka (deceased)

Maren Chaloupka
Chaloupka, Holyoke, Snyder, Chaloupka, Longoria & Kishiyama, PC LLO
1714 Second Avenue
Scottsbluff, NE 69361
308-635-5000

2. *Dux v. Jefferson County, Nebraska*, Case No. 4:94-CV-3132, filed April 1994, closed April 1996, before the Honorable Richard G. Kopf, United States District Court of Nebraska.

I represented defendant Jefferson County, Nebraska, as lead counsel in this matter. The plaintiff was a member of the County Rescue Squad and claimed that she was discriminated against by her supervisor and other male employees. This matter was significant given the number of sexual harassment allegations made. The

matter was tried for approximately two weeks before a jury, which returned a verdict in favor of defendants. No reported decision exists and the matter was not appealed.

Co-Counsel (representing co-defendant Hergott):

Thom Cope
Now with Mosch, Clark & Rothschild
259 North Meyer
Tucson, AZ 85701
520-624-8886

Counsel for the plaintiff:

Elaine Waggoner
Waggoner Law Office
715 South 14th Street
Lincoln, NE 68508
402-475-3597

3. *Foltz v. Northwestern Bell*, 376 N.W.2d 301 (Neb. 1985), filed 1984, closed 1985, before the Honorable James Buckley, District Court of Douglas County, Nebraska.

In this case, my partner Joseph Meusey and I represented defendant Northwestern Bell Telephone Company in a lawsuit brought by Mr. Foltz on behalf of his son, T. Foltz. The lawsuit was also brought against Coen Construction Company. T. Foltz was on a tractor mowing ditches in a rural area. While mowing the ditch, his tractor wheel ran up on a telephone pole that had been cut off and was hidden in the tall grass. As a result of this, T. Foltz was thrown from the tractor and the mower blade cut off his heel. Northwestern Bell had contracted with Coen Construction to remove old telephone poles in the area. The jury returned a verdict for both Northwestern Bell and Coen. The decision of the jury and the court was affirmed on appeal by the Nebraska Supreme Court. 376 N.W.2d 301 (Neb. 1985). The case is significant in that the Nebraska Supreme Court's discussion and holding with respect to premises liability has been critical to the development of Nebraska law since that time and has not been reversed or modified. This case has been cited by more than 20 Nebraska Supreme Court or intermediate appellate court decisions since that time.

Lead Counsel:

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Fraser Stryker PC LLO
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402-341-6000

Counsel for the plaintiff:

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Thomas M. Monaghan
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402-884-7044

Co-Counsel (for defendant Coen Construction Co.):

Melvin C. Hansen
Hansen, Lautenbaugh & Buckley, LLP
1905 Harney Street, Suite 224
Omaha, NE 68102
402-342-6233

4. *Fred v. Wackenhut Corp.*, 860 F. Supp. 1401 (D. Neb. 1994), *aff'd*, 53 F.2d 335 (8th Cir. 1995), filed November 1990, closed June 1994, before the Honorable Lyle Strom, United States District Court of Nebraska.

I represented defendant Omaha Public Power District (OPPD) as sole counsel in this matter. This was a Title VII sexual harassment case. Plaintiff was a female guard at OPPD's Fort Calhoun Nuclear Power Station. The case was significant given the number and types of sexual harassment claims. The non-jury trial spanned over three weeks and resulted in a judgment in favor of defendant. 860 F. Supp. 1401 (D. Neb. 1994). The case was appealed to the Eighth Circuit Court of Appeals, which affirmed the decision of the district court. 53 F.3d 335 (8th Cir. 1995).

Co-Counsel (for defendant Wackenhut):

Judith Sadler
Holmes, Diggs & Eames, PLLC
5300 Memorial Drive, Suite 900
Houston, TX 77007
214-942-6812

Counsel for the plaintiff:

Noemi Collie

Solo Practitioner
1012 North Bishop Avenue
Dallas, TX 75208
214-942-6812

5. *Jaramillo v. Burkhart*, Case Nos. 8:87-CV-00508 & 8:87-CV-00509, *aff'd*, 985 F.2d 567 (8th Cir. 1991), filed July 1987, closed February 1996, before the Honorable William G. Cambridge (deceased), United States District Court of Nebraska.

In this matter, I represented defendant Mr. Burkhart, the driver of a truck involved in a tragic automobile accident in 1986. Ms. Jaramillo was a passenger in an automobile driven by Mr. Nava. Two children of Ms. Jaramillo were back seat passengers. Ms. Jaramillo's vehicle was hit by a truck owned by Olsen Brothers, Inc. and driven by Mr. Burkhart, an employee of Olsen Brothers. As a result of the accident, Ms. Jaramillo and Mr. Nava died, and the two children were injured. The lawsuit was tried before a jury in front of the late Hon. William G. Cambridge, and the jury found in favor of defendant Mr. Burkhart. That jury's verdict was affirmed in an unpublished opinion by the Eighth Circuit Court of Appeals. 985 F.2d 567 (8th Cir. 1991). A second lawsuit was also filed on behalf of the children by their grandmother. Although the trial court entered summary judgment in favor of the defendants, that ruling was overturned by the Eighth Circuit Court of Appeals. 999 F.2d 1241 (8th Cir. 1993). After the Eighth Circuit held in a later appeal that the district court lacked discretion to deny a motion to amend to join Mr. Nava as a real party in interest, the matter was settled. 59 F.3d 78 (8th Cir. 1995). This matter was significant as it dealt with a number of tort and comparative negligence issues.

Counsel for the plaintiff:

John B. "Brad" Ashford
United States Congress (formerly in private practice)
107 Cannon House Office Building
Washington, DC 20515
202-225-4155

6. *Joe v. First Bank Systems*, 202 F.3d 1067 (8th Cir. 2000), filed 1998, closed February 2000, before the Honorable Thomas Shanahan (deceased), United States District Court of Nebraska.

I represented the defendant bank as lead counsel in this matter. This matter was significant in that it was an early case involving the Worker Adjustment, Retraining and Notification Act (WARN Act). The matter was tried to a jury before the late Judge Thomas Shanahan and involved a number of plaintiffs. The jury verdict in favor of the defendant with regard to the majority of the plaintiffs was upheld on appeal. 202 F.3d 1067 (8th Cir. 2000). One plaintiff did recover, but the award with regard to that plaintiff was significantly limited.

Chief Counsel for the plaintiffs:

W. Patrick Betterman
W. Patrick Betterman, PC LLO
3628 North 163rd Plaza
Omaha, NE 68116
402-333-3334

Mary Lou Perry
(current business contact information unavailable)

7. *Jones v. Tek Industries*, 319 F.3d 355 (8th Cir. 2003), filed April 2000, closed March 2001, before the Honorable Warren Urbom, United States District Court of Nebraska.

I represented the defendant, a private manufacturing company, in this matter. This case involved a Title VII claim of religious discrimination brought by several inmates at the Nebraska State Penitentiary. Those inmates worked for the defendant within the walls of the prison. The issue related to religious accommodation and whether plaintiff's belief in the teachings of the "House of Yahweh" should be accommodated in a prison workplace. The matter was tried to a jury for a week, and a defendant's verdict was returned. The matter was appealed to the Eighth Circuit Court of Appeals, and the verdict was upheld on appeal. 319 F.3d 355 (8th Cir. 2003). The case is significant given the variety of religious accommodation issues raised.

Counsel for the plaintiffs:

Joy Shiffermiller
Shiffermiller Law Office, PC LLO
1002 G Street
Lincoln, NE 68508
402-484-7700

8. *Rains v. Becton, Dickinson and Co.*, 523 N.W.2d 506 (Neb. 1994), filed 1993, closed 1994, before the Honorable Robert Steinke, District Court of Platte County, Nebraska.

In this case, I represented Becton, Dickinson and Co. in a wrongful termination lawsuit brought by Ms. Rains. Ms. Rains claimed that her termination, for falling asleep on the job, was wrongful, and that she was entitled to protections of the company handbook. The matter was tried to the court, which found in favor of Becton, Dickinson and Co. The matter was affirmed on appeal before the Nebraska Supreme Court. 523 N.W.2d 506 (Neb. 1994). The matter is significant in that it is an early case clarifying the doctrine of employment at will and the use of handbook language in supporting such a claim. The case has been cited more

than 25 times since it was decided.

Counsel for the plaintiff:

Richard K. Watts
(current business contact information unavailable)

9. *Sahulka v. Lucent Technologies, Inc.*, Case No. 8:94-CV-00527, filed October 1994, closed November 1995, before the Honorable William G. Cambridge (deceased), United States District Court of Nebraska.

I represented the defendant manufacturer as sole counsel in this matter. This was the first case litigated in the District of Nebraska and one of the first in the country under the Family and Medical Leave Act (FMLA). The case, which was eventually tried before the late Hon. William G. Cambridge, involved an employee of defendant who had a number of medical issues. The plaintiff had been terminated for violations of attendance rules. The plaintiff also had an adult son with schizophrenia who lived at home with the plaintiff. The primary issue in the case was whether the company knew or should have known that FMLA leave should have been offered to the plaintiff. Judge Cambridge eventually found in favor of the plaintiff and reinstated her, but limited damages. No appeal was taken from this matter. There is no reported decision.

Counsel for the plaintiff:

Robert E. O'Connor, Jr.
Solo Practitioner
2433 South 130th Circle
Omaha, NE 68144
402-330-5906

10. *Wilson v. US West Communications*, 860 F. Supp. 665 (1995); *aff'd*, 58 F.3d 1337 (8th Cir. 1995), filed April 1993, closed November 1995, before the Honorable Thomas Shanahan (deceased), United States District Court of Nebraska.

I represented defendant US West Communications as sole counsel in this matter. This religious discrimination case was brought under Title VII of the Civil Rights Act of 1964. The case received a great deal of press coverage. The plaintiff, Ms. Wilson, a longtime employee of US West Communications, began wearing a button to work that depicted an aborted fetus and urged the elimination of all abortions. Ms. Wilson testified that as a Roman Catholic, she had made a promise to the Blessed Virgin Mary that she would wear the button at all times until abortion ended. The issue was whether US West Communications, offering several alternatives to Wilson, had met its obligation of accommodation under Title VII. The court found that US West had met its obligations and granted judgment for the employer. 860 F. Supp. 665 (1995). The matter was appealed to the Eighth Circuit Court of Appeals, which affirmed the decision of the district court. 58 F.3d

1337 (8th Cir. 1995). The case is significant given the religious discrimination and accommodation issues raised and the context in which they were raised. It has been cited more than 45 times in cases and in numerous secondary sources.

Counsel for the plaintiff:

Scott S. Phillips
Formerly at Kretzinger, Walsh Law Firm
2308 Cornhusker Road
Omaha NE 68123

Now believed to be currently at Heritage Classical Charter Schools
29970 Technology Drive, Suite 110
Winchester, CA 92563
951-239-3248

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.)

On a daily basis, I counsel, in person and by phone, multiple employers who seek advice on employment related decisions, including disciplinary actions up to and including termination. I use a proactive approach with clients, encouraging them, before making important employment related decisions, to contact me to talk through potential pitfalls and shortcomings in decisions.

I have also been very active since entering private practice in the activities of the Nebraska State Bar Association. I have found that experience particularly rewarding as it gave me the opportunity to meet and learn about the state's judges and legal practitioners. The Nebraska State Bar Association has done a great deal of good work for the public, the courts, and its membership over the years. I have thoroughly enjoyed participating in the Nebraska State Bar Association as an officer, a member of various committees, as Chair of the House of Delegates, and as a member.

I was honored to have been named as a Fellow in the College of Labor and Employment Lawyers and later in the American College of Trial Lawyers. The latter organization, with which I am more active, is an organization that does great work for the profession and the public.

I have not engaged in lobbying.

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

of each course, provide four (4) copies to the committee.

I taught Legal Research and Writing at Creighton University School of Law from approximately 1983 to 1987. This course was designed to introduce students to the fundamental tools and techniques essential to law practice: research, analysis, writing and citation. No syllabus is available.

I taught Employment Law (formerly Individual Employee Rights) from 1999 to 2014 at Creighton University School of Law. This past year I did not teach in the spring 2015 semester, but I am still listed as an adjunct faculty member. This course provided an introduction to a variety of general employment law issues, including the employment-at-will rule and the recognition of statutory and common law protections against unjust discharge. Representative syllabi supplied.

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.

My law firm has a 401(k) and profit sharing plan in which I am fully vested. Those vested funds can be rolled over into another qualified retirement plan in the event that I should be confirmed and leave the firm. I also hold stock in the firm for which I will be compensated under an established valuation agreement. No current agreement exists regarding the payment of any additional compensation upon separation from the firm.

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 do not have any plans for outside employment with or without compensation during service to the Court.

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

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.

The only potential conflict of interest, apart from clients I have represented, involves my wife, MaryBeth (Frankman) Rossiter, who is also an attorney. She has practiced law part-time for many years and is currently at the Fitzgerald, Schorr, Barnettler & Brennan law firm. She is involved in litigation preparation for an attorney with whom she has worked for over 20 years, but does not act as chief or sole counsel and does not regularly appear in court. During our more than 30 years of practice, we can recall two cases when someone in my firm represented the party opposing the party represented by my wife and her firm, but there never has been a disqualifying conflict. With respect to client conflicts, two of my larger clients are First National Bank of Omaha and the Omaha Public Power District. If confirmed, I will deal with issues of actual or potential conflicts of interest by referencing the Code of Conduct for United States Judges and any applicable statutes or rules. I would permanently recuse myself from any matters in which I was involved while at Fraser Stryker. I would recuse myself from any matters in which Fraser Stryker represents a party until such matters are resolved and an appropriate period of time has passed. I also would recuse myself from any matters involving former clients until an appropriate time has passed. With respect to matters involving my wife or her law firm, I would recuse myself from any matters consistent with the Code of Conduct for United States Judges and any applicable statutes or rules.

- 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 deal with issues of actual or potential conflicts of interest by referencing the Code of Conduct for United States Judges and any applicable statutes or rules. I understand public trust is critical to the effectiveness of the judicial system and that that trust is dependent, in large part, upon the perception of fairness of the judiciary. When dealing with conflict issues, I will properly consider any claims of conflict or any challenges to my fairness or impartiality as a judge, and will, where necessary and appropriate, recuse myself.

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 handled a few matters either by court appointment or by volunteering through the Nebraska State Bar Association's Volunteer Lawyers Project. For example, through the Volunteer Lawyers Project, I previously handled a name change for a divorced woman.

In addition, I have done (and continue to do) pro bono or reduced fee work in the employment area, such as giving employment-related advice, handling discrimination matters, reviewing and updating policies and handbooks, or providing other legal advice for entities such as: Girls, Inc.; Nebraska Humane Society; Catholic Charities of Omaha; Marian High School; St. Vincent De Paul Society; Omaha's Henry Doorly Zoo; Mid-America Council, Boy Scouts of America; and St. Wenceslaus Church. I also have presented at seminars for training public service attorneys and attorneys volunteering at the NSBA's Volunteer Lawyer Project Help Desk.

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.

Following the announcement by United States District Judge Joseph F. Bataillon of his intention to take senior status effective in October 2014, Senator Mike Johanns and Senator Deb Fischer publicly solicited persons interested in applying for Judge Bataillon's position. As part of the process, applicants were to express an interest and complete the Senate Judiciary Questionnaire for Judicial Nominees. I interviewed with Senators Johanns and Fischer and their chiefs of staff on March 15, 2014, in Omaha, Nebraska. I was informed by Senator Johanns on or about July 15, 2014, that my name would be forwarded to the White House for consideration. Since July 15, 2014, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 11, 2014, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, D.C. On June 11, 2015, the President submitted my nomination to the Senate.

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

No.