

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Greg N. Stivers

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

United States District Court Judge for the Western District of Kentucky

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.

Kerrick Bachert Stivers, PSC
1025 State Street
P.O. Box 9547
Bowling Green, KY 42102

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

1960; Hazard, Kentucky

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.

1982 – 1985, University of Kentucky College of Law; J.D., 1985
1979 – 1982, Eastern Kentucky University; B.A., 1982
1978 – 1979, University of Louisville; no degree received

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.

1985 – Present
Kerrick Bachert Stivers, PSC
(formerly Campbell, Kerrick and Grise (1985 – 1993); Kerrick, Grise and Stivers (1993 – 2003); Kerrick, Stivers and Coyle (2003 – 2008); and Kerrick, Stivers Coyle & Van Zant

(2008 – 2011); Kerrick Stivers Coyle, PLLC (2011 – 2014))
1025 State Street
P. O. Box 9547
Bowling Green, KY 42102
Partner (1990 – present)
Associate (1985 – 1990)

1984 – 1985
Vimont and Wills
155 East Main Street
Lexington, KY 40507
Law Clerk

Summer 1983
Bell, Orr, Ayers & Moore
1010 College Street
Bowling Green, KY 42101
Law Clerk

Summer 1982
HHL Partners Warehouse
Church Street
Bowling Green, KY 42101
General Labor

Other Affiliations (compensated unless otherwise indicated):

2011 – Present
Monticello Banking Company (area bank)
1050 Wilkins Trace
Bowling Green, KY 42103
Director

2006 – Present
State Street Realty, LLC (owns law firm office building)
1025 State Street
Bowling Green, KY 42101
Member

2002 – Present
Blackacre Partners, LLC (owns development real estate)
2819 Ring Road, Suite 200
Elizabethtown, KY 42701
Member

1999 – Present

WKU Research Foundation, Inc. (uncompensated)
2413 Nashville Road
Bowling Green, KY 42104
Director (1999 – present)
Board Chair (2011, 2013)

2013
Rivergreen Homeowner's Association, Inc. (uncompensated)
1945 Scottsville Road
Bowling Green, KY 42104

2006 – 2013
Hilltopper Athletic Foundation (uncompensated)
1605 Avenue of Champions
Bowling Green, KY 42101
Director (2006 – 2013)
President (2010)

2004 – 2006
St. Joseph Cemetery Board (uncompensated)
434 Church Street
Bowling Green, KY 42101
Board Counsel

1989 – 1998
Big Brothers/Big Sisters of Bowling Green, Inc. (not compensated)
716 East 10th Avenue
Bowling Green, KY 42101
Director 1989-1998; President 1998

1998 – Present
ELL, Inc. (owns rental real estate)
1465 Rivergreen Lane
Bowling Green, KY 42103
President

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 timely 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.

2012, 2013, 2014 - Super Lawyer for Kentucky
2011 - AV Rated by Martindale-Hubbell
2011 - Western Kentucky University Cherry Society
2009, 2010, 2012 - Western Kentucky University Summit Award
1985 - Graduated with distinction from Eastern Kentucky University
1984 - American Jurisprudence Award, Professional Responsibility

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
Association of Defense Trial Attorneys
Bowling Green/Warren County Bar Association
Defense Research Institute
Kentucky Bankers Association
Kentucky Bar Association
 Employment Law Section
 Workers Compensation Section
 Local Government Section
Kentucky Defense Counsel

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.

Kentucky, 1985

There have been no lapses in membership.

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

U. S. District Court, Western District of Kentucky, 1989

U. S. District Court, Eastern District of Kentucky, 1986

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.

Bowling Green Country Club (1988 – present)
Bowling Green Noon Lions Club (1986 – 1992)
Bowling Green – Warren County Jaycees (1986 – 1995)
Olde Stone Country Club (2008 – present)
Rivergreen Homeowner’s Association (2006 – present)
 Director (2012 – 2013)
The Other Club (2012 – present)
University of Kentucky College of Law Alumni Association (1986 – present)
Western Kentucky University Child Care Consortium Oversight Committee
 (2010 – 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.

The Other Club is a men’s literary group which does not have any female members, although there are a number of women’s literary groups in the area. I joined the Bowling Green Country Club in 1988, and do not believe there were any discriminatory membership requirements in place during the entirety of my membership. The first African American member joined the Bowling Green Country Club in 1992. The Lions Club International amended its charter to open its membership to women the year that I joined, and the Bowling Green Noon Lions Club inducted its first female member the next year. Prior to my joining the Jaycees, membership was limited to men. To the best of my knowledge, none of the other organizations to which I belong discriminate or formerly have discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership practices.

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.

With Scott.D. Laufenberg, "The Impending End of the Jural Rights Doctrine in Kentucky Jurisprudence," 99 Ky. L.J. Online 50 (2011). Copy supplied.

Letter to the Editor, Bowling Green Daily News, February 3, 2010. 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.

None.

- 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 presented seminars on workers' compensation defense issues to a firm client, Aetna Insurance Company in Indianapolis, Indiana, in the early 1990s. I also presented on this topic at seminars for local business and legal organization in Bowling Green, Kentucky, in 1992 or 1993, but I have no materials from these presentations.

- 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.

Shelby Rogers, *WKU Loses Legal Appeal*, College Heights Herald, April 23, 2014. Copy supplied.

Lynn Minton, *Stivers Recognized by Summit Awards*, WKU Office of Research, November 5, 2012. Copy supplied.

Justin Story, *Appeals Court: WKU Justified in Firing Zhang*, Bowling Green Daily News, October 8, 2012. Copy supplied

Justin Story, *BGPD Sergeant Gets Setback on Overtime Pay*, Bowling Green Daily News, October 6, 2012. Copy supplied.

Andrew Wolfson, *Guns OK in Camp Vehicles*, The Courier-Journal, April 27, 2012. Copy supplied.

Justin Story, *Court Dismisses Whistle-Blowing Suit Against City*, Bowling Green Daily News, September 7, 2011. Copy supplied.

Justin Story, *Court Won't Hear Wells' Age Bias Suit*, Bowling Green Daily News, September 3, 2011. Copy supplied.

Justin Story, *BGPD Sergeant wins OT in Lawsuit, Judge Orders City to Credit Helbig With Two Hours of Pay*, Bowling Green Daily News, September 1, 2011. Copy supplied.

Deborah Highland, *Judge to Rule on BGPD Sergeant's Overtime Pay*, Bowling Green Daily News, July 13, 2011. Copy supplied.

Justin Story, *Court Upholds Ruling for City in Bias Lawsuit*, Bowling Green Daily News, April 19, 2011. Copy supplied.

Jonathan Linter, *Former Employee Sues WKU, Claiming Mistreatment in Firing*, College Heights Herald, April 15, 2011. Copy supplied

Justin Story, *Former BGFD Deputy Chief Cherry Loses Suit Against City*, Bowling Green Daily News, February 18, 2011. Copy supplied.

Justin Story, *Appeals Court Upholds Ruling for City in Property Dispute*, Bowling Green Daily News, February 15, 2011. Copy supplied.

Justin Story, *Jury to Hear Case in Suit Against City*, Bowling Green Daily News, January 28, 2011. Copy supplied.

Justin Story, *Sergeant Appeals Dismissal of Suit, BGPD's Helbig Sued City Over Losing Captain Position*, Bowling Green Daily News, January 14, 2011. Copy supplied.

Justin Story, *BGPD Sergeant's Lawsuit vs. City Dismissed*, Bowling Green Daily News, December 29, 2010. Copy supplied.

Justin Story, *Suit Against City Going to Trial in Feb., Trial Was to Begin on Nov. 9*, Bowling Green Daily News, October 28, 2010. Copy supplied.

Bruce Schreiner, *Rand Paul Known for Frugal Side at Home*, Associated Press, October 16, 2010. Copy supplied.

Tessa Duvall, *Zhang Loses Suit Against WKU*, College Heights Herald, October 1, 2010. Copy supplied.

Justin Story, *Jury Finds in Favor of WKU in Civil Lawsuit, Ex-Employee Claimed Pregnancy Led to Her Firing*, Bowling Green Daily News, October 1, 2010. Copy supplied.

Justin Story, *Jury Find in Favor of WKU in Civil Lawsuit*, Bowling Green Daily News, October 1, 2010. Copy supplied.

Justin Story, *Zhang Recalls Time at WKU, Former ICSET Employee – The Only Witness to Testify on First Day of Trial – Is Seeking Nearly \$200K From Western*, Bowling Green Daily News, September 29, 2010. Copy supplied.

Justin Story, *Wrongful Termination Case Against WKU Heads to Trial*, Bowling Green Daily News, September 26, 2010. Copy supplied.

Justin Story, *Jury Will Hear Termination Suit Against Western*, Bowling Green Daily News, July 2, 2010. Copy supplied.

Justin Story, *Judge Dismisses Former Interim Police Chief's Discrimination Claim*, Bowling Green Daily News, June 29, 2010. Copy supplied.

Justin Story, *ICSET Director Accused of Exploitation*, Bowling Green Daily News, April 18, 2010. Copy supplied.

Western Kentucky University Press Release, *Western Kentucky University Announces Tailgating, Parking Details*, April 16, 2010. Copy supplied.

Justin Story, *Judge Rules Against Couple in Dispute with City*, Bowling Green Daily News, November 19, 2009. Copy supplied.

James Mayse, *Attorneys Rebuff Request for RWRA Settlement Document*, Messenger-Inquirer, July 30, 2009. Copy supplied.

Justin Story, *Autry Family May Get \$200K*, Bowling Green Daily News, June 9, 2009. Copy supplied.

Jim Gaines, *Lawsuits Against City Linger: One Involves Halfway House Company, the Other Brought by Former BGD Colonel*, The Daily News, March 2, 2009. Copy supplied.

Ky. Board Upholds \$200,000 Award in Dorm Death, WDRB.com. Copy supplied.

Jim Gaines, *Bowling Green Officials to be Dropped From Keeton Corrections Suit*, Bowling Green Daily News, December 11, 2008. Copy supplied.

Jim Gaines, *Keeton Renews Suit Over Property*, Bowling Green Daily News, November 29, 2008. Copy supplied.

Jim Gaines, *Judge Dismisses Suit Against Area Planners*, Bowling Green Daily News, September 26, 2008. Copy supplied.

Natalie Jordan, *Judge Dismisses Lawsuit Against Western Claiming Discrimination*, Bowling Green Daily News, August 7, 2008. Copy supplied.

Western Kentucky University Press Release, *Discrimination Suit Against Western Kentucky University Dismissed*, August 6, 2008. Copy supplied.

Natalie Jordan, *Western Fights for Land on Normal*, Bowling Green Daily News, February 20, 2008. Copy supplied.

Ameerah Cetawayo, *Eateries Close, Greek Village Gains Ground*, Bowling Green Daily News, September 13, 2007. Copy supplied.

Brett Barrouquere, *Supreme Court Says University Can't Be Sued over Dorm Fire, Death*, AP Alert – Kentucky, April 20, 2007. Copy supplied.

Burton Speakman, *Autry Case to High Court*, Bowling Green Daily News, January 19, 2007. Copy supplied.

Lisa Autry, *Soules Sentenced to Life In Prison in Dorm Fire Case*, WKYU, January 17, 2007. Copy supplied.

Alex Fontana, *Appeal Set for Wrongful Death Suit for Murdered Western Kentucky U. Student*, College Heights Herald, December 27, 2006. Copy supplied.

Alex Fontana, *Warren Judge-Exec Candidate Misused WKU Alumni Directories*, College Heights Herald, October 31, 2006. Copy supplied.

Hayli Fellwock, *State Appellate Court Judges Hear Katie Autry Civil Lawsuit Arguments*, Bowling Green Daily News, December 15, 2004. Copy supplied.

Scott Sisco, *CIMA Whistleblower Wins Judgment, Damages From Company in Lawsuit*, Bowling Green Daily News, May 18, 2004. Copy supplied.

Hayli Fellwock, *Goodrum Seeks New Hearing*, Bowling Green Daily News, February 12, 2004. Copy supplied.

Taylor Loyal, *Autry Death Suit Up in Air*, Bowling Green Daily News, November 4, 2003. Copy supplied

People Poll, Eastern Progress, February 4, 1982. 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 not been elected or appointed to any public office. I have not been a candidate for any elected or 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.

After consulting my records and the Internet, I have provided all the information regarding my political activities that I can recall, though there may be some events that I have missed. In 2010, I co-hosted fundraisers for local candidates, including Warren County Magistrate James “Doc” Kaelin and Warren County Judge-Executive Mike Buchanan. In 2010, I also co-hosted a fundraiser for Rand Paul in his campaign for the United States Senate and wrote an editorial in the local paper in defense of Senator Paul. In 2004, I went door-to-door in my neighborhood campaigning for John Grise when he successfully ran for Warren County Circuit Judge.

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 to any judge.

- 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.

1985 – present

Kerrick Bachert Stivers, PSC

(formerly Campbell, Kerrick and Grise (1985 – 1993); Kerrick, Grise and Stivers (1993 – 2003); Kerrick, Stivers and Coyle (2003 – 2008); and Kerrick, Stivers Coyle & Van Zant (2008 – 2011) Kerrick Stivers Coyle, PLLC (2011-2014))

1025 State Street

Bowling Green, Kentucky 42101

Partner (1990 – present)

Associate (1985 – 1990)

- 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 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.

I have worked exclusively in the private practice of law since graduating from law school in 1985. I was hired by the firm of Campbell, Kerrick, and Grise, (subsequently Kerrick, Grise and Stivers (1993 – 2003); Kerrick, Stivers and Coyle (2003 – 2008); and Kerrick, Stivers Coyle & Van Zant (2008 – 2011); Kerrick Stivers Coyle, PLLC (2011 – 2014); and Kerrick Bachert Stivers, PSC (2014 – present)). The firm has a general civil practice with a heavy emphasis on litigation. My work varied widely in my first few years of practice. I tried a few civil cases in district and circuit court and assisted our senior partner on numerous matters. I also handled the firm's commercial and real estate practice. Beginning in roughly 1988, I began to concentrate in defending workers' compensation claims, which became the primary focus of my litigation practice in the late 1980s to 1996. During this period I continued to spend a significant amount of time working on transactional work, including representing clients buying and selling businesses and in property acquisition and financing.

In 1996, the Kentucky Workers Compensation Act was overhauled by the Kentucky legislature which resulted in a significant downturn in the number of litigated claims. At about that time, I began defending employers in several discrimination cases and was retained in some significant commercial litigation on behalf of business clients. My employment law practice expanded around 2000 with a series of discrimination cases against a local county hospital. I then began representing municipal governments throughout south-central and western Kentucky in a wide variety of general liability, discrimination, and civil rights matters.

My practice is currently focused on litigation of employment and municipal liability claims, as well as general representation of clients on business and transactional matters.

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

Most of my litigation clients have been employers and insurers, although I have also represented plaintiffs in workers' compensation, personal injury, and commercial litigation. Beginning in roughly 1988, I began representing Dollar General Corporation (then headquartered in nearby Scottsville, Kentucky) throughout the state on general liability and workers' compensation cases. Around that same time, I developed some expertise in workers' compensation claims for Aetna Insurance Company. After 1996, I began working with Western Kentucky University (WKU) on employment-related matters and was retained in some significant commercial litigation on behalf of business clients. My employment law practice expanded around 2000 with a series of discrimination cases against Monroe County Medical Center, a county hospital which my firm represented. In the early 2000s I started representing municipal governments throughout south-central and western Kentucky through the Kentucky League of Cities (KLC) in a variety of general liability, discrimination and civil rights cases. Presently my practice consists of serving WKU as its general outside counsel, working with WKU, KLC, and on employment litigation, and working with business clients on transactional matters.

- 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.

Overall, my practice has been split 80/20 between litigation and business representation and transactions. In the first ten years of practice, I spent approximately 90% of my time in litigation. For the last fifteen years, my practice has been split approximately 70/30 between litigation and transactional work and general counseling. During the entirety of my legal practice I have regularly appeared in state and federal courts and before administrative agencies.

- i. Indicate the percentage of your practice in:

1. federal courts:	20%
2. state courts of record:	65%
3. other courts:	0%
4. administrative agencies:	15%

- ii. Indicate the percentage of your practice in:

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

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

I estimate that I have tried more than 50 civil cases to verdict, judgment, or final decision, almost all of which were as sole or chief counsel. I have tried approximately 20 jury trials, four as sole counsel and one as associate counsel, and five bench trials, all as sole counsel. On workers' compensation claims before the Kentucky Department of Worker's Claims, I have tried roughly 40 to 50 cases to a final decision, all as sole 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 the United States Supreme Court.

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) Caneyville v. Green's Motorcycle, 296 S.W.3d 790 (Ky. 2009); Grayson Circuit Court, Division II, presided over by Judge Robert A. Miller; Kentucky Court of Appeals No. 2006-CA-001142-MR; Supreme Court of Kentucky No. 2007-SC-000517-DG; 2005 – 2009.

I served as the lead counsel in defense of negligence claims against the City of Caneyville volunteer fire department for failing to extinguish a fire timely. The trial court granted our motion to dismiss under a statute affording immunity to fire-fighters, which was reversed by the Kentucky Court of Appeals as a violation of the jural rights doctrine. Under the jural rights doctrine, Kentucky courts had held since 1932 that the legislature was barred from abridging any tort rights that existed at the time of the 1892 Constitution. The Kentucky Supreme Court

accepted discretionary review and reversed the Court of Appeals. In its decision, the court reinstated the trial court's dismissal and, by a plurality, overturned the jural rights doctrine. When the case reached the Kentucky Supreme Court, I served as chief appellate counsel.

Counsel for Plaintiff:
Alton Cannon
P.O. Box 427
Leitchfield KY 42755
270-259-9631

- (2) Autry v. Western Kentucky University, 219 S.W.2d 713 (Ky. 2007); Warren Circuit Court, Division No. I, presided over by Judges Thomas R. Lewis and Steve A. Wilson – Case No. 03-CI-01492; Kentucky Court of Appeals No. 2004-CA-000216; Supreme Court of Kentucky No. 2005-SC-000480-DG; Commonwealth of Kentucky Board of Claims Claim No. BC-04-402 presided over by Jan M. West, Hearing Officer; 2003 – 2009.

I served as chief counsel representing Western Kentucky University (WKU) and officials in a wrongful death claim arising from the brutal rape and murder of a student in her dormitory room. The trial court dismissed WKU and the foundation created by WKU to operate the dorm on the basis of sovereign immunity. The Court of Appeals affirmed dismissal of WKU, but reversed with respect to the foundation. The Kentucky Supreme Court subsequently affirmed the trial court decision, holding that both WKU and the foundation were performing governmental functions and were therefore immune from suit. I drafted the motion to dismiss before the trial court and the briefs before both the Court of Appeals and the Kentucky Supreme Court. I also argued the case before both appellate courts.

Counsel for Plaintiff, Estate of Autry:
Ben Crocker
Crocker Law Firm
520 East Main Street
Bowling Green, KY 42101
270-846-3100

For Co-Defendant WKU Student Life Foundation:
Charles E. English, Jr.
English Lucas Priest & Owsley
1101 College Street
Bowling Green, KY 42101
270-781-6500

Joe Bill Campbell
Hughes & Coleman

1256 Campbell Lane, Suite. 201
Bowling Green, KY 42104
270-782-6000

Reford H. Coleman
Eric Allen Hamilton
Coleman Lochmiller & Bond
P.O. Box 1177
Elizabethtown, KY 42702
270-737-0600

C. Terrell Miller
217 Fox Run Road
Georgetown, KY 40324
502-696-5389

Linda S. Bouvette
American Water
169 Burning Springs Road
Belle, WV 25015
304-340-0763

- (3) Cook v. WKU, Commonwealth of Kentucky, Court of Appeals, 97-CA-001733. Warren Circuit Court, Division I, Case No. 96-CI-00819 presided over by Judge Thomas R. Lewis; Commonwealth of Kentucky Court of Appeals Case No. 97-CA-001733; Kentucky Supreme Court No. 99-SC-00801; 1994 – 2001.

I represented Western Kentucky University (WKU) as sole counsel in a claim of religious discrimination for failure to accommodate an employee's religious belief against working on the Sabbath. I conducted all discovery and tried the case before the Kentucky Human Rights Commission, which found in favor of the employee. On appeal to the Warren Circuit Court, the Commission's ruling was affirmed, but was subsequently reversed by the Kentucky Court of Appeals on the basis of precedent from the Supreme Court of the United States.

Counsel for Plaintiff:
Leslie Jones
Kentucky Department of Public Advocacy
100 Fair Oaks Lane, Suite 302
Frankfort, KY 40501
502-564-8006

- (4) Tucker v. City of Princeton, US District Court for the Western District of Kentucky, 5:08-CV-203-R, in the United States District Court for the Western District Court of Kentucky, presided over by Thomas R. Russell, Chief Judge; 2008 – 2011.

I represented the City of Princeton as primary counsel in a sexual harassment claim by the sole female officer on the police force. At the conclusion of discovery, the trial court granted our motion for summary judgment in favor of the City, finding that the supervisor mistreated all of the employees and that therefore the plaintiff had not established that the supervisor had treated her differently than the male officers. I drafted all pleadings, conducted all of the discovery depositions, and I drafted the dispositive motion.

Counsel for Plaintiff, Abigail Tucker:
Edward K. Box
P.O. Box 30
Paducah, KY 42002-0030
270-442-1900

- (5) Bartley v. Monroe Medical Foundation, Inc., Case No. 1:00CV-112 in the United States District Court for the Western District of Kentucky, presided over by Judge Joseph H. McKinley, Jr.; 1999 – 2003.

I served as sole counsel representing a county hospital on a claim of disability discrimination. While the plaintiff was on leave at a treatment facility for alcohol addiction, the hospital learned that the he had not been performing many significant functions of his position as manager of the hospital's laboratory and terminated him. The plaintiff contended that the hospital discriminated against him because of his alcoholism. The district court dismissed the case on the hospital's motion for summary judgment on the basis that the hospital had the right to terminate an employee who did not perform his job duties. I drafted the pleadings, conducted all discovery, and prepared the memorandum in support of the hospital's motion for summary judgment.

Counsel for Plaintiff:
Glen Parrish
(no current business contact information available)

- (6) Dye v. Western Kentucky University, Warren Circuit Court, Division I, Case No. 97-CI-01379, presided over by Judge Thomas R. Lewis; Commonwealth of Kentucky Court of Appeals No. 2001-CA-1320; 1997 – 2001.

I served as chief counsel representing Western Kentucky University (WKU) in a wrongful discharge claim in which the plaintiff alleged that he was fired on the basis of his race and his previous request to be on light duty because of high blood pressure and an irregular heartbeat. WKU had discharged the plaintiff after he engaged in a loud and profane argument with a co-worker. The university had previously issued two written warnings to the plaintiff for incidents involving confrontations with students in the residence halls where the plaintiff served as a custodian. After the second warning, the plaintiff was told that any similar

infraction would result in his termination. Less than three months later, he got into a heated exchange with another custodian in front of his supervisor, who recommended termination. The case was tried on March 6-8, 2001. A defense verdict was returned by the jury, which was affirmed on appeal by the Kentucky Court of Appeals.

Counsel for Robert Dye:
Nancy Oliver Roberts
1023 Kentucky Street
Bowling Green, KY 42101
270-842-5900

- (7) Brown v. Carroll Cabinet Company, Warren Circuit Court, Division I, 97-CI-1127, Hon. Thomas R. Lewis, presiding; 1997 – 1999.

I served as sole counsel for the plaintiff, who was a quadriplegic co-owner of a family business in a fraud claim against his former in-laws. After a tragic accident that left him paralyzed from the neck down, the plaintiff's father-in-law, Mr. Carroll, told him that his medical bills would bankrupt the cabinet business for which the plaintiff had worked for several years prior to his accident. Carroll had the plaintiff sign a release of his interest in the company for no consideration, despite the fact that the plaintiff had been promised ownership in the company and had been listed in the annual minutes as a shareholder and director. One month after he signed the release, the plaintiff's wife filed for divorce and his in-laws denied that the plaintiff ever owned any interest in the company. Defendants refused to make any settlement offers. The case was tried for three days beginning on January 12, 1999. After presentation of the plaintiff's case in chief, defendants settled by payment of the full value established by the plaintiff's expert for his interest in the \$3.5 million company. I did all of the research, drafted the complaint, conducted all discovery, and tried the case.

Co-Counsel for Defendants, Carroll Cabinet Company:

Steve Catron
(formerly of Wyatt, Tarrant, and Combs)
(no current business contact information available)

Michael Vitale
English, Lucas, Priest and Owsley
1101 College Street
Bowling Green, KY 42102
270-781-6500

- (8) Cherry v. City of Bowling Green, Civil Action No. 06-CI-00877, Warren Circuit Court, Division II, Hon. John R. Grise presiding; Commonwealth of Kentucky,

Court of Appeals, 2011-CA-000591 and 2011-CA-000641; Commonwealth of Kentucky, Kentucky Supreme Court, Case No. 2012-SC-000489; 2008 – 2013.

I represented the City of Bowling Green as sole trial and appellate counsel in a retaliation claim by a firefighter who was disciplined for misuse of department credit cards. Following a hearing before the City Commission, the plaintiff was suspended and additional actions were taken, which he claimed as double jeopardy in violation of procedural rights afforded firefighters under KRS 95.450. After a three-day trial, a jury verdict was rendered in favor of the City on the statutory process claim, which was affirmed by the Kentucky Court of Appeals. The Kentucky Supreme Court denied discretionary review. I took over this case after most discovery had been taken and served as sole counsel at trial. I also handled the appellate briefs and argument before the Kentucky Court of Appeals and on the motion for discretionary review.

Counsel for Plaintiff:

Matthew J. Baker
911 College Street
Bowling Green, KY 42101
270-746-2385

- (9) Zhang v. Western Kentucky University, 07-CI-01933 – Warren Circuit Court, Division II, presided over by Judge John R. Grise; Commonwealth of Kentucky, Court of Appeals 2011-CA-287; Supreme Court of Kentucky Case No. 2012-SC-000690; 2007 – 2013 .

I served as chief counsel in a claim against Western Kentucky University (WKU) by a former employee, alleging wrongful termination based on race and gender, as well as wage and hour and outrage claims. The plaintiff, a Chinese national with a Ph.D. in chemistry from Northwestern University, was hired by a laboratory at WKU to operate a particular mass spectrometer used to analyze field samples. When she was unable to operate the machine within acceptable limits after several months, the plaintiff was warned and then was transferred to work on routine sample analysis under the supervision of a masters-level supervisor. The plaintiff was warned again that she was not performing up to expectations and was given a second warning that failure to improve her work within thirty days would result in her termination. Before the end of the thirty-day period, the plaintiff advised her supervisor that she was pregnant and claimed that the supervisor, also a pregnant woman, was upset to learn of the plaintiff's pregnancy. At the end of the probationary period, the plaintiff was still not performing on a level equal to an undergraduate worker and the supervisor recommended termination to the lab director, who was also a native of China. In addition to the discrimination claims, the plaintiff also said that she was forced to work long hours and was never paid overtime during the seven months she worked at WKU. She further alleged that the lab director had invaded her privacy when he came to her apartment one

evening and forced her to return to work. The lab director testified that he had to go to the plaintiff's apartment because he did not have her phone number and a lab customer had called about a report which was overdue.

The case proceeded to trial on September 28, 2010, on the discrimination claims, after summary judgment was granted on the invasion of privacy, outrage, and wage and hour claims. A defense verdict was returned at trial, which was affirmed by the Kentucky Court of Appeals. Discretionary review was denied by the Kentucky Supreme Court.

Counsel for Plaintiff:
Pamela Bratcher
558 East Tenth Avenue, Suite A
Bowling Green, KY 42101
270-783-8311

- (10) Charles Whaley v. WKU, 01-CI-00731, Warren Circuit Court, Division I, presided over by Judge Thomas R. Lewis; 2001 – 2002 .

I represented Western Kentucky University (WKU) as sole counsel in a claim of gender and disability discrimination brought by an unsuccessful applicant for a position as associate director of the University's gifted studies program. The plaintiff had been involved in multiple automobile accidents; he walked with a cane and also took pain medication. The plaintiff claimed that he was not provided with an application packet that was supposed to be sent to persons expressing interest in the position. He also alleged that he was not told that he was expected to make a presentation to the search committee at the time of his interview. Evidence from WKU's files and testimony from the director of gifted studies indicated that contrary to plaintiff's recollection, he did fill out and sign the application packet and was informed that he should make a presentation to the search committee. At trial the successful applicant presented to the jury the slide show presentation she had shared with the committee at the time of her interview. Testimony established that plaintiff attended his interview before the search committee with some notes jotted down on a pad, but with few ideas regarding his goals for the position. At the end of a three-day trial in August 2002, the jury returned a unanimous verdict in favor of WKU.

Counsel for Plaintiff:
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502-241-4660

Stephen C. Emery

Howell & Emery PLLC
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P.O. Box 655
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502-565-4440

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.)

A significant part of my practice has involved transactional work. In addition to managing my firm's real estate services (primarily residential purchase and financing), I have devoted a significant amount of my practice to advising clients on business form selection and negotiating and drafting documents, as well as closing transactions involving the purchase and sale of businesses, commercial leases, and asset-based lending. These transactions have ranged from "mom and pop" businesses to the \$42 million sale of a family business to the company's employee stock option plan.

In conjunction with the litigation I have handled for Western Kentucky University, the Kentucky League of Cities, and Hardin Memorial Hospital, I have worked closely with these clients to handle employee issues prior to litigation. In many instances, through counseling, progressive discipline, and performance improvement plans, disciplinary issues have been resolved which otherwise could have resulted in lawsuits.

I have not performed lobbying activities on behalf of any clients or organizations.

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 have not taught any courses.

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.

If I were confirmed, I would receive compensation from my law partnership per the buy-out terms of our operating agreement. I also would divest myself from ownership of the

building where my law firm is located. Additionally, I would roll over my 401(k) accounts out of my firm's plan. I also own some rental property, which I would sell or transfer as necessary.

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 have no plans, commitments, or agreements to pursue outside employment if I am confirmed.

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 most likely potential conflicts would arise with respect to cases in which my present firm has been involved and for an appropriate period of time I would recuse myself from matters in which members of my firm appear. Additionally, I would recuse myself from matters involving existing firm clients and organizations with which I have been associated.

- 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 would handle actual and potential conflicts of interest in accordance with the Code of Professional Conduct for United States Judges, and in particular Canon 3, which applies to conflicts of interest. I would look to all applicable rules and practices of the United States Courts, the Sixth Circuit, and the Western District of Kentucky, to determine the duration of such conflicts. In each such instance, I would follow 28 U.S.C. Section 455, the Code of Conduct

for United States Judges, and other applicable policies and procedures, and would recuse as appropriate.

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.

For the past several years, I have served the disadvantaged by working on the oversight committee for the Head Start and Early Head Start programs conducted in Bowling Green, Owensboro, and Murray, Kentucky through the Western Kentucky University Child Care Consortium. Head Start and Early Head Start promote school readiness of children from birth to five for low-income families by enhancing their cognitive, social and emotional development. These programs must have an oversight board and this function was previously performed by the Western Kentucky University Board of Regents, which delegated that responsibility to the Western Kentucky University Research Foundation (WKURF). The WKURF, in turn, formed a committee (WKU Child Care Consortium Oversight Committee or "Oversight Committee") to review monthly and quarterly financial and service documentation and to meet with auditors to ensure compliance with federal regulations. As a member of the Oversight Committee, I meet quarterly with the director and assistant director to discuss developments and issues with the program and to review budgeting and expenditures. We also receive updates from the director as well as from the Office of Head Start in the form of emails and bulletins. Additionally, I periodically attend meetings of the Parents Council, a group of parents of children participating in the program whose input and approval are a necessary part of the program.

26. **Selection Process:**

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

I provided Senator Paul's State Chief with my resume in mid-2012 and met with him on a couple of occasions in Bowling Green, Kentucky, to discuss my interest in a potential nomination. I also discussed the vacancy with Senator Paul in Bowling Green, Kentucky. In response to a request from Senator McConnell's counsel, I submitted a questionnaire to Senator McConnell on April 23, 2013. On July 30, 2013, I met with Senator McConnell in Washington, D.C. The following

day I was advised by Senator McConnell's counsel that Senator McConnell had forwarded my name to the White House as a potential nominee for the Western District of Kentucky. Since August 8, 2013, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On November 7, 2013, I interviewed with attorneys from the White House Counsel's Office and the Department of Justice in Washington, DC. On June 19, 2014, 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.

AFFIDAVIT

I, Greg N. Stivers, do swear that the information provided in this statement is, to the best of my knowledge, true and accurate.

June 23, 2014
(DATE)

Greg N. Stivers
(NAME)

Davonna C. Page
(NOTARY)
Comm. Exp, 10-15-14
ID # 430013

