

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

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

Susan Richard Nelson (formerly, Susan Beth Richard)

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

United States District Court Judge for the District of Minnesota

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office Address: United States District Court
 300 South Fourth Street
 Minneapolis, MN 55415

Residence: 

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

1952; Buffalo, New York

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.

1975 to 1978, University of Pittsburgh School of Law; J.D., 1978
1970 to 1974, Oberlin College; B.A., 1974

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.

June 2000 to present
United States District Court
300 South Fourth Street
Minneapolis, Minnesota 55415

United States Magistrate Judge

1996 to present
Minnesota Women Lawyers
600 Nicollet Mall, Suite 390B
Minneapolis, Minnesota 55402
Officer (Various positions held)

1984 to 2000
Robins, Kaplan, Miller & Ciresi
800 LaSalle Plaza
Minneapolis, Minnesota 55402
Partner (1988 to 2000)
Associate (1984 to 1988)

1980 to 1983
Tyler, Cooper & Alcorn
205 Church Street
New Haven, Connecticut 06509
Associate

1978 to 1980 & 1977
Reed, Smith, Shaw & McClay
Pittsburgh, Pennsylvania
Associate
Summer Associate (1977)

1976 (summer)
Pennsylvania Department of Environmental Protection
Pittsburgh, Pennsylvania
Unpaid intern in legal affairs

1975 (summer)
YMCA summer camp
Pittsburgh, PA
Camp counselor

1975 (January to June)
Stouffers Restaurant
Pittsburgh, Pennsylvania
Waitress

1974 (September to December)
First Federal Savings & Loan
Pittsburgh, Pennsylvania
Bank Teller

1973 to 1974 (summers)
Camp Interlocken
Keene, New Hampshire
Camp counselor, waterfront director

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

I have not served in the military. I have not registered for selective service, as I am not eligible to do so.

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.

2005 Myra Bradwell Award, Minnesota Women Lawyers
2005 Judicial Professionalism Award, Hennepin County Bar Association
Selected as Leading Minnesota Lawyer (Super Lawyer, 1995 to 1999)
1998 Trial Lawyer of the Year Award, Trial Lawyers for Public Justice
(Awarded to the entire State of Minnesota Tobacco Trial Team)
1998 Minnesota Trial Lawyers Association Member of the Year Award
(Awarded to the entire State of Minnesota Tobacco Trial Team)
1998 Minnesota Women's Press News Maker of the Year Award
(Awarded to women members of State of Minnesota Tobacco Trial Team)
Order of the Barristers, University of Pittsburgh School of Law, 1978
American Jurisprudence Award in Criminal Law, 1976
Graduated from Oberlin College with High Honors, 1974

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
American Trial Lawyers Association
 Presidential Appointment, Constitutional Law Committee, 1992
Federal Bar Association, 2000 to present
 Board Member, 2000 to 2004
Federal Magistrate Judges Association
 Chair, Minneapolis Convention, 2002
Hennepin County Bar Association
Minnesota State Bar Association, 1984 to present
Minnesota Trial Lawyers Association
Minnesota Women Lawyers

President, 1996 to 1997
President-Elect, 1995 to 1996
Board Member, 1994 to 1995
Current Member of the Advisory Board
Minnesota Supreme Court Advisory Committee, Elimination of Bias CLE, 1995 to 1996
United States Magistrate Judge Selection Committee, 1991

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Connecticut, 1980 (presently on inactive status)
Minnesota, 1983
Pennsylvania, 1978 (presently on inactive status)

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.

Supreme Court of the United States, 1985
United States Circuit Court for the Eighth Circuit, 1985
United States District Court for the District of Minnesota, 1985
United States District Court for the District of Pennsylvania, 1978
United States District Court for the District of Connecticut, 1981
Pennsylvania State Courts, 1978
Connecticut State Courts, 1981
Minnesota State Courts, 1984

There has been no lapse 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.

Marco Island Yacht Club (2000-2008)
American Legion, Bloomington, Minnesota (2000-2003)
St Paul Chamber Orchestra (Board Member, 1999 to 2001)

Minneapolis Club (1998 to present)
Minnesota Valley Country Club (1997 to present)
Swedish Institute (1995 to present)
Bloomington Classic Baseball League (1995-1999)
Bloomington Athletic Association (1990-1995)
Lifetime Athletic Club (formerly Flagship Athletic Club) (1989 to present)
Southdale YMCA (1986-1996)
Izaak Walton League, Bush Lake, Minnesota (1986-1988)
Minneapolis Jewish Community Center (1985-1990)

- 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 Minneapolis Club discriminated in their membership long before I became a member, and no longer maintains any discriminatory 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.

Editor, Robins, Kaplan, Miller & Ciresi, Complex Litigation Newsletter, May, 1995

Cyanide Poisoning in the Intensive Care Unit: The Story of Sodium Nitroprusside, Robins, Kaplan, Miller & Ciresi, Complex Litigation Newsletter, May 1995

Editor, Robins, Kaplan, Miller & Ciresi Personal Injury Newsletter, Volume IV, Number 1, Summer 1993

Editor, Robins, Kaplan, Miller & Ciresi Personal Injury Newsletter, Volume III, Number 1, April 1992

Editor, Robins, Kaplan, Miller & Ciresi Personal Injury Newsletter, Volume I, Number 3, December 1989

Editor, Robins, Kaplan, Miller & Ciresi Personal Injury Newsletter, Volume I, Number 2, March 1989

The Police Chase: A Precarious Balance of Judgment, Robins Kaplan Miller & Ciresi Newsletter, Volume I, Number 2, March 1989

- 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.

I served on the Minnesota Supreme Court Advisory Committee on the development of the "elimination of bias" CLE requirement for all lawyers in the State of Minnesota. The Committee recommended to the Court that the CLE rules require all lawyers to take two hours of elimination of bias credit every reporting period (every three years). Copies supplied.

As President of Minnesota Women Lawyers, I wrote a monthly column for its Newsletter, addressing MWL's programs, mentor opportunities and the like. In 1993, I served as chair of MWL's annual holiday benefit which raised money for battered women's shelters in the state. In connection with that event, I made some remarks about the good work of the recipient shelters. In 1997, at MWL's annual dinner, I introduced our keynote speaker, Coretta Scott King. In 1996 at MWL's annual dinner, I made remarks when I accepted the presidency of the organization. Copies of the monthly columns supplied. No notes for remarks.

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

I have never given testimony or any official statement relating to matters of public policy or legal interpretation.

- 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 made it my practice to speak frequently at continuing legal education and other bar association programs, especially since my appointment as a magistrate judge in 2000. After searching my files and internet databases I have identified the following presentations that I have made, although there may be others for which I have been unable to locate a record:

Minnesota Women Lawyers: A Twenty Year Retrospective on Gender Fairness in the Courts, Panelist with Marianne Short and Judge Diana Murphy, Eighth Circuit Court of Appeals (Oct. 27, 2009)

Upper Midwest Employment Law Institute, Faculty, “Lost in Translation: Cultural and Practical Considerations for Working with Interpreters” (May 29, 2009)

Pioneering Minnesota Women Lawyers, Luncheon Speaker at St. Thomas School of Law (April 8, 2009)

Fulbright & Jaworski, Web Seminar Panelist, “The Judge’s and the Office of the General Counsel’s Perspectives: How Not to Regret Mediations and Settlement Conferences” (Sept. 9, 2008)

Upper Midwest Employment Law Institute, Faculty (May 29, 2008)

William Mitchell College of Law Judicial Clerkship Panel Discussion, Panelist (Mar. 12, 2008)

CLE Seminar, Faculty, “Pressure on the Privilege” (2008)

Federal Bar Association Luncheon, “Partnering Between In-House and Outside Counsel,” Introductory Speaker (Nov. 14, 2007)

American Intellectual Property Law Association, Advanced Patent Litigation Seminar, “Patrolling the Roads: Judges’ Perspectives on Patent Litigation Trends”, Minneapolis Panelist (June 15, 2007)

Federal Court Practice Seminar, Federal Bar Association, “Spoliation of Evidence”, Panelist (June 13, 2006)

Upper Midwest Employment Law Institute, Faculty (May 22, 2006)

Minnesota Defense Lawyers Seminar, “Tips for New Lawyers” (May 25, 2005)

Minnesota Women Lawyers Annual Meeting, Myra Bradwell Award Acceptance Remarks (Spring 2005)

Federal Court Practice Seminar, Federal Bar Association, “Electronic Evidence and Discovery,” Panelist (June 10, 2004)

Minnesota CLE Seminar, Product Liability Practice, “Judicial Perspective on Product Liability Litigation” (Nov. 19, 2002)

Intellectual Property Licensing Seminar, “Mediation of Intellectual Property Cases” (June 6, 2002)

Minnesota State Bar Association, Labor and Employment Section, “Computer Based Discovery in Federal Employment Litigation”, Luncheon Speaker (Mar. 13, 2002)

Federal Bar Association Seminar, “Civility in the Courts”, Faculty (June 27, 2001)

Upper Midwest Employment Law Institute, “E-Discovery – Goldmine or Nightmare”, Faculty (May 30, 2001)

Minnesota Women Lawyer’s Seminar, “Tips From the Bench”, Faculty (2001)

Federal Bar Association Luncheon Speaker, “Transition from Private Practice to the Federal Bench” (Oct. 18, 2000)

Minnesota Trial Lawyer’s Association Seminar, “A View From the Bench”, Faculty (Sept. 15, 2000)

Investiture Ceremony Remarks (June 12, 2000)

William Mitchell Center for Conflict Management Seminar, “Y2K Disputes: The Mediation Option”, Faculty (Aug. 26, 1999)

CLE, Industry Wide Litigation, “Attorney Client Privilege and Discovery Ethics: Lessons Learned From the Tobacco Litigation”, Faculty (April 11, 1999)

Minnesota Institute of Legal Education, “Torts: Frontier Issues”, Faculty (1999)

Minnesota Trial Lawyer’s Association, “Demonstrative Evidence in Tobacco Litigation”, Faculty (1999)

Fulcrum Seminar, “Associate Training and Development”, Faculty (1999)

CLE, Winning By Motion, “Summary Judgment: Recognizing a Material Fact Dispute” (1999)

CLE, “No More Lies: Truth and the Consequences for Tobacco – Tobacco Lobbying Documents” (Oct. 28, 1998)

Eighth Judicial District of Minnesota Annual Meeting, “The Tobacco Litigation”, Keynote Speaker (June 1998)

Minnesota Institute for Legal Education, Federal Preemption, “Medtronic and its Aftermath”, Faculty (1997)

Minnesota Institute for Legal Education, Federal Preemption, “Medtronic and its Aftermath”, Faculty (1996)

Minnesota Institute for Legal Education, Products Liability: New Developments – New Frontiers, “Proving a Product is Unreasonably Dangerous”, Faculty (1995)

Association of Trial Lawyers of America Annual Convention, Co-Chair, Rear Impact Crash Worthiness Panel, Attorneys Information Exchange Group Program (Oct. 1994)

Minnesota Defense Lawyers, Minnesota Trial Lawyers and Minnesota Women Lawyers, “The Year 2001: The Law & Women”, Co-Chair (April 22, 1994)

Robins, Kaplan, Miller & Ciresi Biannual Trial Advocacy Seminar, “Developing a Theme in the Products Liability Trial”, Faculty (1994)

Minnesota Trial Lawyers Association, “An Independent Examination of Independent Medical Examiners”, Faculty (May 12, 1993)

Association of Trial Lawyers of America Annual Convention, “Fuel System Integrity Litigation”, Faculty (Mar. 1993)

CLE, Personal Injury Damages Seminar, “Toxic Tort Proof and Damages”, Faculty (1993)

Federal Bar Association Annual Seminar, Panel on Alternative Dispute Resolution, Moderator (1993)

Minnesota Trial Lawyers Association Annual Product Liability Seminar, “Product Liability Litigation in Minnesota”, Faculty (1993)

Association of Trial Lawyers of America Mid-Winter Convention, “Preemption”, Faculty (1992)

United States Magistrate Judge Training on Settlement Conferences, Coordinated by Magistrate Judge Celeste Bremer, Iowa (1992)

Association of Trial Lawyers of America Annual Convention, “Preemption After Cippollone”, Faculty (1992)

Minnesota Institute for Legal Education, “Public Construction Law, Politics and

Economics”, Faculty (1992)

- 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.

I have searched my files and numerous electronic and internet databases in an effort to locate each time I have spoken on the record to a reporter. It has not been my practice to give interviews on a regular basis, but it is possible others exist that I have not been able to locate.

Maria Elena Baca, “*Coretta Scott King Pays Tribute to Unsung ‘Sheroes’*,” Star Tribute, May 22, 1997.

Kristine Boylan, “*New to the Bench: Judge Susan Nelson*,” Hennepin Lawyer, Sept. 2000, at 8. Copies 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.

On June 1, 2000, I was appointed a United States Magistrate Judge by the United States District Court for the District of Minnesota. On June 1, 2008, I was reappointed a United States Magistrate Judge by the United States District Court for the District of Minnesota. This is a federal court whose jurisdiction is defined by 28 U.S.C. § 636.

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

I have presided over three cases to verdict as a United States Magistrate Judge.

- i. Of these, approximately what percent were:

jury trials:	66%
bench trials:	34%
civil proceedings:	100%
criminal proceedings:	

- b. Provide citations for all opinions you have written, including concurrences and dissents.

See attached list of opinions.

- 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).

1. *Darcy A. Kornell, individually and as parent and natural guardian of Q.Z., a minor v. Hardin Olson, M.D.*, 00-CV-1836 (SRN) (D. Minn. Jan. 22, 2002). Plaintiff, Darcy A. Kornell, individually and as the mother of her minor son, Q.Z., brought this suit against her obstetrician for medical malpractice arising out of the birth of her son. The parties consented to having all proceedings, including trial, before me. The defendant brought a *Daubert* motion to exclude the plaintiff's experts from testifying at trial on the grounds that their anticipated testimony as to the causal link between the child's exposure to herpes and his subsequent diagnosis was not based on reliable, scientific studies and methodology. After a lengthy evidentiary hearing, I granted defendant's motion. The matter settled before trial.

Counsel for Plaintiff:

Phillip A. Cole, Sheila A. Bjorklund and
Thomas A. Foster
Lommen Abdo Cole King & Stageberg
80 South Eighth Street, Suite 2000
Minneapolis, MN 55402
(612) 339-8131

Counsel for Defendant:

Terence O'Loughlin, Carolin J. Nearing
Geraghty, O'Loughlin & Kenney PA
55 East Fifth Street, Suite 1100
St. Paul, MN 55101
(651) 291-1177

2. *Robert S. Visina v. Wedge Community Co-op, Inc.*, 07-CV-122 (DSD/SRN), 2007 WL 2908043 (D. Minn. Oct. 1, 2007). Defendant terminated plaintiff, a warehouse employee, after a positive random drug test. Plaintiff sued, alleging that the defendant had violated the Minnesota Drug and Alcohol Testing in the Workplace Act. The defendant removed the case to federal court, claiming that the Federal Omnibus Transportation Employer Testing Act completely preempted his state law claims. Plaintiff moved to remand. In a Report & Recommendation, I granted plaintiff's motion. I ruled that the doctrine of complete preemption is a jurisdictional issue, which permits removal only where there is a federal cause of action that encompasses the claim that plaintiff pled as a state law claim. Here, I ruled that the Federal Omnibus Transportation Employer Testing Act provided no basis for removal. The matter was remanded to state court.

Counsel for Plaintiff: Leslie L. Lienemann
Culberth & Lienemann LLP
444 Cedar Street, Suite 1050
St. Paul, MN 55101
(651) 290-9300

Counsel for Defendant: Pamela L. Vanderwiel
Greene Espel, PLLP
200 South Sixth Street, Suite 1200
Minneapolis, MN 55402
(612) 373-0830

3. *Wildlife Research Center, Inc. v. HME Products, LCC and Terry Harmston*, 521 F.Supp.2d 961 (D. Minn. 2007). Plaintiff, a patent assignee, brought this patent infringement action alleging defendants infringed a patent describing a reusable, hanging container for attracting game with a scented wick protected from moisture. The parties took the unusual step of seeking summary judgment of infringement based on plaintiff's construction of certain patent terms before the Answer was filed and without the benefit of a Markman hearing. In a Report & Recommendation, I granted plaintiff's motion in substantial measure and denied defendant's cross motion. The District Court adopted my Report & Recommendation in its entirety. The case was ultimately settled.

Counsel for Plaintiff: J. Thomas Vitt, Bart B. Torvik
Dorsey & Whitney LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
(612) 340-5675

Counsel for Defendant: James T. Nikolai, Peter G. Nikolai
Nikolai & Mersereau PA
900 Second Avenue South, Suite 820
Minneapolis, MN 55402
(612) 339-7461

4. *The Rottlund Company, Inc. v. Pinnacle Corporation, Town & Country Homes, Inc. v. Bloodgood Sharp Buster Architects & Planners of Iowa, Inc.*, 01-CV-1980 (DSD/SRN), 2004 WL 1879983 (D. Minn. Aug. 20, 2004), *appeal denied*, 452 F.3d 726 (8th Cir. 2006). Plaintiff is a direct competitor with defendants Pinnacle and Town & Country Homes, Inc. in the design, development, construction and sale of townhomes. Plaintiff accused defendants of copyright infringement of technical drawings and architectural works as-built structures in three copyrighted townhomes. I issued several Reports & Recommendations regarding the liability and damages aspects of this complicated case. This case presented interesting issues regarding the line

between facts and ideas which are not entitled to copyright protection and the point at which those ideas become sufficiently concrete or detailed to constitute protected expression. This case was ultimately tried by District Court Judge Doty in a lengthy trial. On appeal, the Eighth Circuit Court of Appeals reversed Judge Doty on certain rulings he made at trial and the case was remanded back to the district court. Eventually, the entire case settled.

Plaintiff's Counsel: Craig S. Krummen, David Davenport
Winthrop & Weinstine PA
225 South Sixth Street, Suite 3500
Minneapolis, MN 55402
(612) 604-6400

Defendant's Counsel: Darren Schwiebert
Fredrikson & Byron PA
200 South Sixth Street, Suite 4000
Minneapolis, MN 55402
(612) 492-7000

Christopher Murdoch
Holland & Knight
131 South Dearborn Street, Suite 3000
Chicago, IL 60603
(312) 263-3600

Third-Party Defendant's Counsel: Holly J. Newman
Mackall Crouse & Moore PLC
901 Marquette Avenue, Suite 1400
Minneapolis, MN 55402

5. *Deborah R. Coen v. Louis Coen, Daniel Coen, et al.*, 05-CV-596 (PJS/SRN), 2006 WL 2727219 (D. Minn. Sept. 22, 2006), *aff'd*, 509 F.3d 900 (8th Cir. 2007), *cert. denied*, ___ U.S. ___, 128 S.Ct. 2949 (2008). Plaintiff alleged claims of fraud in connection with the disposition of certain shares of a family-owned foreign company, Compayne (Hampstead) Limited, which is principally located in Great Britain. The action also alleged improprieties in connection with the trusts and estates of certain deceased members of plaintiff's family. The named defendants are all residents of Great Britain or France. After a period of limited discovery on the issue of personal jurisdiction, defendants moved to dismiss the complaint for lack of personal jurisdiction. I recommended dismissal of the case, without prejudice, on the grounds that this Court lacked personal jurisdiction over the defendants. This case was appealed to the District Court. Judge Patrick Schiltz adopted my Report & Recommendation and dismissed the case without prejudice.

Plaintiff's Counsel: Nathan A. Busch

Busch Law Firm
10709 Wayzata Boulevard
Minnetonka, MN 55305
(952) 545-2650

Defendant's Counsel:

Bryan Keane, Christopher Shaheen
Dorsey & Whitney
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
(612) 340-2600

6. *EcoWater Systems LLC v. Hague Quality Water International*, 06-CV-3134 (JNE/SRN)(D. Minn. May 22, 2007). Plaintiff and defendant are competitors in the field of residential water conditioning systems. In 2005, EcoWater alleged that one of Hague's conditioners did not meet its stated specifications. As a result, plaintiff sued, alleging a claim under the Lanham Act for false advertising and state law claims for deceptive trade practices and unfair competition. Defendant moved to dismiss or transfer the case on the grounds of improper venue and/or that transfer under sections 1404(a) or 1406 was warranted. I ruled that a venue transfer under section 1406 was not required and that plaintiff had stated a case for personal jurisdiction over the defendant – both specific and general. The parties appealed this Report & Recommendation to the District Court. Judge Joan Ericksen adopted the Report & Recommendation in its entirety. The matter was settled.

Plaintiff's Counsel:

Michael R. Cunningham
Gray, Plant, Mooty
80 South Eighth Street
Minneapolis, MN 55402
(612) 632-3000

Defendant's Counsel:

James M. Jorissen
Leonard, O'Brien, Spencer, Gale
& Sayre, Ltd.
100 South Fifth Street, Suite 2500
Minneapolis, MN 55402
(612) 332-1030

Edward A. Matto
John Okuley Mueller
Smith & Matto
7700 Rivers Edge Drive, Suite 200
Columbus, OH 43235

7. *Kettner v. Compass Group USA, Inc.*, 570 F. Supp.2d 1121 (D. Minn. 2008).

The trustee for the deceased employee's estate sued his former employer alleging that his discharge violated the ADA, the ADEA and the Rehabilitation Act. The defendant moved to dismiss certain damages claims, arguing that the recoverable damages for a trustee, suing on behalf of a deceased former employee were limited to special damages. The death of the deceased was not related to his discharge. With respect to state law claims under the Minnesota Human Rights Act, I ruled that only special damages were recoverable under Minnesota's law of survival. With respect to the federal law claims, there is no general survival statute for federal question cases. I ruled that, as to the federal claims, all damages survived the ADEA claim, except liquidated damages and all damages survived the ADA and Rehabilitation Act claims, except those which were penal in nature. My Report & Recommendation was adopted in its entirety by the District Court, Judge Joan Ericksen. Ultimately, this case settled.

Plaintiff's Counsel:

Sonia Miller-Van Oort
Flynn, Gaskins & Bennett LLP
333 South Seventh Street, Suite 2900
Minneapolis, MN 55402
(612) 333-9500

Defendant's Counsel:

Sandra L. Jezierski
Halleland Lewis Nilan & Johnson
220 South Sixth Street, Suite 600
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(612) 338-1838

8. *United States of America v. Steven Jay Novick*, 07-CR-455 (JNE/SRN), 2008 WL 2788023 (D. Minn. July 15, 2008). Defendant was indicted for unlicensed dealing in firearms and for making false statements to federally licensed firearms dealers. Defendant moved to suppress evidence obtained during a search of his home. On the day of the execution of the warrant, unbeknownst to the ATF agents, the local police department invited a reporter to witness the search of defendant's home. The reporter entered the home and observed portions of the search. Defendant moved to suppress the evidence, in part on the grounds that the officers exceeded the scope of the warrant by bringing along a third party, unnecessary to the execution of the warrant. I concluded that there was a violation of the Fourth Amendment in this case. The question, though, of interest in this case, is whether the exclusionary rule should operate to suppress this evidence. I concluded that since the execution of the warrant was done without any interference or assistance of the third party media, the exclusionary rule should not apply to preclude the admissibility of the evidence obtained in the search. My Report & Recommendation was adopted in its entirety by the District Court, Judge Joan Ericksen.

Plaintiff's Counsel:

Ann Anaya
United States Attorney's Office
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5623

Defendant's Counsel:

Jon M. Hopeman
Felhaber, Larson, Fenlon & Vogt
220 South Sixth Street, Suite 2200
Minneapolis, MN 55402
(612) 339-6321

9. *Firstcom, Inc. v. Qwest Communications*, 618 F.Supp.2d 1001 (D. Minn. 2007), *aff'd*, 555 F.3d 669 (8th Cir. 2009). This case involved a dispute between the plaintiff, Firstcom, a competitive local exchange carrier (CLEC), against Qwest, an incumbent local exchange carrier (ILEC). Plaintiff alleged that the defendant entered into secret interconnection agreements favoring plaintiff's competitors and alleged violations of the Telecommunications Act. Qwest moved to dismiss the case.

I ruled that the prior expiration of the Minnesota Telecommunications Act barred plaintiff's MTA claim, equitable tolling under federal law was not warranted on the facts pled, the state statute of limitations was conflict-preempted by the federal statute's two year limitations period and the common law claims were similarly preempted by the Telecommunications Act. My Report & Recommendation was adopted in its entirety by the District Court, Judge David Doty.

Plaintiff's Counsel:

David E. Wandling
Wandling Law Group, PC
5105 Thimsen Avenue, Suite 200
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(952) 474-4406

Defendant's Counsel:

Heather D. Redmond
Marianne Short
Theresa Bevilacqua
Dorsey & Whitney
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(612) 340-2600

Jason D. Topp
Qwest
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10. *West Coast Beauty Supply Co. v. Rusk, Inc.*, 03-CV-5595 (DSD/SRN) (D. Minn. June 30, 2004). Defendant was a manufacturer and supplier of beauty products. Plaintiff was a distributor of beauty products and for sixteen years had been the exclusive distributor for defendant's products in certain western states. The case raised an interesting set of legal issues regarding a whole host of breach of contract claims: issues regarding the statute of frauds, the parole evidence rule, claims of breach of the covenant of good faith and fair dealing, issues of promissory estoppel, unjust enrichment, unfair competition, the applicability of the Minnesota Franchise Act, issues of consumer fraud. In the end, I recommended that the Defendant's motion to dismiss be denied as to the majority of the claims. My Report & Recommendation was adopted in its entirety by the District Court, Judge David Doty. The matter was settled.

Plaintiff's Counsel: Richard T. Ostlund, Randy Gullickson
Anthony Ostlund & Baer
90 South Seventh Street, Suite 3600
Minneapolis, MN 55402
(612) 349-6969

Defendant's Counsel: William Narwold, Michael Streater, Joel Casey
Briggs & Morgan
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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.

1. *Darcy A. Kornell, individually and as parent and natural guardian of Q.Z., a minor v. Hardin Olson, M.D.*, 00-CV-1836 (SRN) (D. Minn. Jan. 22, 2002)

Counsel for Plaintiff: Phillip A. Cole, Sheila A. Bjorklund and Thomas A. Foster
Lommen Abdo Cole King & Stageberg
80 South Eighth Street, Suite 2000
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(612) 339-8131

Counsel for Defendant: Terence O'Loughlin, Carolin J. Nearing Geraghty, O'Loughlin & Kenney PA

55 East Fifth Street, Suite 1100
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(651) 291-1177

2. *Robert S. Visina v. Wedge Community Co-op, Inc.*, 07-CV-122 (DSD/SRN),
2007 WL 2908043 (D. Minn. Oct. 1, 2007)

Counsel for Plaintiff: Leslie L. Lienemann
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Counsel for Defendant: Pamela L. Vanderwiell
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(612) 373-0830

3. *Wildlife Research Center, Inc. v. HME Products, LCC and Terry
Harmston*, 521 F.Supp.2d 961 (D. Minn. 2007)

Counsel for Plaintiff: J. Thomas Vitt, Bart B. Torvik
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Counsel for Defendant: James T. Nikolai, Peter G. Nikolai
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4. *The Rottlund Company, Inc. v. Pinnacle Corporation, Town & Country
Homes, Inc. v. Bloodgood Sharp Buster Architects & Planners of Iowa, Inc.*,
01-CV-1980 (DSD/SRN), 2004 WL 1879983 (D. Minn. Aug. 20, 2004),
appeal denied, 452 F.3d 726 (8th Cir. 2006)

Plaintiff's Counsel: Craig S. Krummen, David Davenport
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Third-Party Defendant's
Counsel:

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Mackall Crouse & Moore PLC
901 Marquette Avenue, Suite 1400
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5. *Deborah R. Coen v. Louis Coen, Daniel Coen, et al.*, 05-CV-596 (PJS/SRN), 2006 WL 2727219 (D. Minn. Sept. 22, 2006), *aff'd*, 509 F.3d 900 (8th Cir. 2007), *cert. denied*, ___ U.S. ___, 128 S.Ct. 2949 (2008)

Plaintiff's Counsel:

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Busch Law Firm
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(952) 545-2650

Defendant's Counsel:

Bryan Keane, Christopher Shaheen
Michael Skoglund
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50 South Sixth Street, Suite 1500
Minneapolis, MN 55402
(612) 340-2600

6. *EcoWater Systems LLC v. Hague Quality Water International*, 06-CV-3134 (JNE/SRN)(D. Minn. May 22, 2007)

Plaintiff's Counsel:

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Gray, Plant, Mooty
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Defendant's Counsel:

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Edward A. Matto
John Okuley Mueller
Smith & Matto
7700 Rivers Edge Drive, Suite 200
Columbus, OH 43235

7. *Kettner v. Compass Group USA, Inc.*, 570 F. Supp.2d 1121 (D. Minn. 2008)

Plaintiff's Counsel: Sonia Miller-Van Oort
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333 South Seventh Street, Suite 2900
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(612) 333-9500

Defendant's Counsel: Sandra L. Jezierski
Halleland Lewis Nilan & Johnson
220 South Sixth Street, Suite 600
Minneapolis, MN 55402
(612) 338-1838

8. *United States of America v. Steven Jay Novick*, 07-CR-455 (JNE/SRN), 2008 WL 2788023 (D. Minn. July 15, 2008)

Plaintiff's Counsel: Ann Anaya
United States Attorney's Office
300 South Fourth Street
Minneapolis, MN 55415
(612) 664-5623

Defendant's Counsel: Jon M. Hopeman
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220 South Sixth Street, Suite 2200
Minneapolis, MN 55402
(612) 339-6321

9. *Firstcom, Inc. v. Qwest Communications*, 618 F.Supp.2d 1001 (D. Minn. 2007), *aff'd*, 555 F.3d 669 (8th Cir. 2009)

Plaintiff's Counsel: David E. Wandling
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10. *West Coast Beauty Supply Co. v. Rusk, Inc.*, 03-CV-5595 (DSD/SRN) (D. Minn. June 30, 2004)

Plaintiff's Counsel: Richard T. Ostlund, Randy
Gullickson
Anthony Ostlund & Baer
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Defendant's Counsel: William Narwold, Michael
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e. Provide a list of all cases in which certiorari was requested or granted.

To the best of my knowledge, I do not believe certiorari has been granted in any of my cases. The following cases are those in which certiorari was requested, to the best of my knowledge:

Serna v. Goodno, 04-CV-615 (JMR/SRN), 2005 WL 1324090 (D. Minn. June 3, 2005), *adopted*, 2005 WL 1705623 (D. Minn. July 7, 2005), *aff'd*, 567 F.3d 944 (8th Cir. 2009), *cert. denied*, ___ S.Ct. ___, 2009 WL 2524338 (Oct. 20, 2009)

United States v. Perry, 07-CR-125 (RHK/SRN), 2007 WL 2310845 (D. Minn. Aug. 9, 2007), *aff'd*, 548 F.3d 688 (8th Cir. 2008), *cert. denied*, ___ U.S. ___, 129 S.Ct. 2174 (2009)

Schaaf v. Residential Funding Corp., 05-CV-1319 (JNE/SRN), 2006 WL 2506974 (D. Minn. Aug. 29, 2006), *aff'd*, 517 F.3d 544 (8th Cir. 2008), *cert. denied*, __ U.S. __, 129 S.Ct. 222 (2008)

Coen v. Coen, 05-CV-596 (PJS/SRN), 2006 WL 2727219 (D. Minn. Sept. 22, 2006), *aff'd*, 509 F.3d 900 (8th Cir. 2007), *cert. denied*, __ U.S. __, 128 S.Ct. 2949 (2008)

United States v. Jeanetta, 05-CR-341 (DWF/SRN), Report & Recommendation (D. Minn. Oct. 30, 2006), *adopted*, Order (D. Minn. Nov. 28, 2006), *aff'd*, 533 F.3d 651 (8th Cir. 2008), *cert. denied*, __ U.S. __, 129 S.Ct. 747 (2008)

Kohser v. Merth, 03-CV-6194 (JNE/SRN), Report & Recommendation (D. Minn. Sept. 21, 2005), *adopted*, Order (D. Minn. Dec. 27, 2005), *aff'd*, 250 Fed.Appx. 753 (8th Cir. 2007), *cert. denied*, __ U.S. __, 128 S.Ct. 2907 (2008)

Carlson v. American Express Financial Advisors, Inc., 02-CV-4084 (DWF/SRN), Report & Recommendation (D. Minn. Mar. 29, 2005), *adopted*, Order (D. Minn. May 25, 2005), *aff'd*, 230 Fed.Appx. 633 (8 Cir. 2007), *cert. denied*, __ U.S. __, 128 S.Ct. 1884 (2008)

Johnson v. Haugland, 02-CV-4865 (ADM/SRN), 2005 WL 348267 (D. Minn. Feb. 11, 2005), *aff'd*, 168 Fed. Appx. 139 (8th Cir. 2006), *cert. denied*, 549 U.S. 880, 127 S.Ct. 368 (2006)

United States v. Langer, 04-MC-33 (DSD/SRN), Order (D. Minn. Nov. 9, 2004), *adopted*, Order (D. Minn. Nov. 29, 2004), *aff'd*, 158 Fed.Appx. 759 (8th Cir. 2005), *cert. denied*, 549 U.S. 956 (2006)

United States v. Spencer, 03-CR-243 (DWF/SRN), Report & Recommendation (D. Minn. Aug. 27, 2003), *adopted*, Order (D. Minn. Sept. 15, 2003), *aff'd*, 119 Fed.Appx. 21 (8th Cir. 2004), *cert. denied*, 544 U.S. 1009 (2005)

DuBose v. Ladwig, 02-CV-3575 (DWF/SRN), Report & Recommendation (D. Minn. Mar. 14, 2003), *adopted*, Order (D. Minn. April 1, 2003), *aff'd*, 87 Fed.Appx. 610 (8th Cir. 2004), *cert. denied*, 543 U.S. 833 (2004)

Kolosky v. Fairview University Medical Center, 03-CV-1085 (DWF/SRN), Report & Recommendation (D. Minn. June 23, 2003), *adopted*, Order (D. Minn. Aug. 14, 2003), *aff'd*, 97 Fed.Appx. 64 (8th Cir. 2004), *cert. denied*, 543 U.S. 988, 125 S.Ct. 516 (2004)

State v. Mendoza, 02-CV-594 (PAM/SRN), Report & Recommendation (D. Minn. Jan. 27, 2003), *adopted*, Order (D. Minn. Mar. 18, 2003), *aff'd*, *Mendoza v. Minnesota*, 100 Fed.Appx. 587 (8th Cir. 2004), *cert. denied*, 543 U.S. 859, 125 S.Ct. 223 (2004)

McDeid v. Barnhart, 01-CV-1126 (JMR/SRN), Report & Recommendation (D. Minn. Sept. 3, 2002), *aff'd*, Order (D. Minn. Oct. 8, 2002), *aff'd*, 65 Fed. Appx. 587 (8th Cir. 2003), *cert. denied*, 540 U.S. 971 (2003)

Bar-Meir v. North American Die Casting Ass'n, 00-CV-1666 (RHK/AJB), Am. Report & Recommendation (D. Minn. May 21, 2001), *adopted*, Order (D. Minn. June 12, 2001), *aff'd*, 22 Fed.Appx. 702 (8th Cir. 2002), *cert. denied*, 536 U.S. 941, 122 S.Ct. 2624 (2002)

Johnson v. City of Shorewood, 00-CV-1281 (DWF/SRN), Report & Recommendation (D. Minn. May 3, 2001) and Report & Recommendation (D. Minn. May 18, 2001), *adopted*, Order (D. Minn. July 11, 2001); Report & Recommendation (D. Minn. Aug. 3, 2001), *adopted*, Order (D. Minn. Oct. 10, 2001), *aff'd as modified*, 360 F.3d 810 (8th Cir. 2004), *cert. denied*, 543 U.S. 810 (2004).

- 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.

The following cases involve reversal or criticism of my opinions.

1. *United States v. Villalba-Alvarado*, 02-CR-3101 (PAM/SRN), Report & Recommendation (June 24, 2002), *concurring in part, and disagreeing in part*, 2002 WL 32373896 (D. Minn. July 23, 2002), *rev'd, in part*, 345 F.3d 1007 (8th Cir. 2003). I recommended the suppression of evidence and the District Court judge concurred in part, and disagreed in part, with my recommendations. The Eighth Circuit reversed certain suppression rulings and remanded.
2. *Prescott v. Little Six, Inc.*, 02-CV-4741 (DSD/SRN), Report & Recommendation (D. Minn. Aug. 4, 2003), *adopting in part, and declining to adopt in part*, 284 F.Supp.2d 1224 (D. Minn.), *rev'd*, 387 F.3d 753 (8th Cir. 2004), *cert. denied*, 544 U.S. 1032 (2005). I recommended that the defendants' motion to dismiss for lack of subject matter jurisdiction be granted. The District Court adopted my recommendations with respect to certain plaintiffs, but declined to adopt them with respect to other plaintiffs. The Eighth Circuit held that the District Court erred in not according proper deference to the tribal trial court's finding that employee benefits plans were not authorized under tribal law.
3. *Bandy-Bey v. Feneis*, 06-CV-173 (JRT/SRN), Report & Recommendation (D. Minn. June 1, 2007), *rejected*, 2007 WL 2571996 (D. Minn. Aug. 31, 2007).

In this prisoner civil rights action, I recommended granting a motion to strike the plaintiff's amended complaint and granted a defendant's motion to dismiss. The District Court held that the motion to strike should have been denied and denied the motion to dismiss as moot.

4. *Goad v. Barnhart*, 00-CV-1899 (JRT/SRN), Report & Recommendation (D. Minn. Jan. 23, 2003), *rejected*, 2003 WL 22075761 (D. Minn. Aug. 14, 2003), *rev'd*, 398 F.3d 1021 (8th Cir. 2005). I recommended the award of attorney fees pursuant to the Equal Access to Justice Act. The District Court judge declined to adopt the recommendation. The Eighth Circuit held that the District Court had considered improper information in denying the award of fees and reversed and remanded.
5. *Goad v. Massanari*, 00-CV-1899 (JRT/SRN), Report & Recommendation (D. Minn. June 5, 2001), *adopted in part*, 2001 WL 1640052 (D. Minn. Sept. 30, 2001). In this appeal of the denial of Social Security disability benefits, I recommended that the matter be reversed and remanded. The District Court rejected a portion of my reasoning, but adopted my recommendation to remand the case.
6. *Schinzing v. Mid-States Stainless, Inc.*, 00-CV-2686 (SRN), Second Am. Findings of Fact, Conclusions of Law & Order for Judgment (D. Minn. May 18, 2004), *aff'd in part, rev'd in part, vacated in part & remanded*, 415 F.3d 807 (8th Cir. 2005), *cert. denied*, 546 U.S. 1173 (2006). This was a consent patent infringement case. After a bench trial, I entered judgment for the inventor. The Eighth Circuit affirmed in part, reversed in part, and vacated judgment, ordering remand.
7. *United States v. Elmardoudi*, 01-CR-52 (JRT/SRN), Report & Recommendation (Filed Under Seal) (D. Minn. June 1, 2006), *adopted in part and rejected in part*, Mem. Opinion & Order (D. Minn. Aug. 2, 2006), *aff'd*, 501 F.3d 935 (8th Cir. 2007). Defendant moved to dismiss the superseding indictment for violation of the Speedy Trial Act. I recommended denying the motion and the District Court disagreed and dismissed the superseding indictment without prejudice. The Eighth Circuit affirmed.
8. *Johnson v. City of Shorewood*, 00-CV-1281 (DWF/SRN), Report & Recommendation (D. Minn. May 3, 2001) and Report & Recommendation (D. Minn. May 18, 2001), *adopted*, Order (D. Minn. July 11, 2001); Report & Recommendation (D. Minn. Aug. 3, 2001), *adopted*, Order (D. Minn. Oct. 10, 2001), *aff'd as modified*, 360 F.3d 810 (8th Cir. 2004), *cert. denied*, 543 U.S. 810 (2004). I recommended granting the defendants' motions for summary judgment and the dismissal of plaintiffs' claims. My recommendations were adopted by the District Court. The Eighth Circuit affirmed, but held that pursuant to the *Rooker-Feldman* doctrine, the District Court was without jurisdiction to consider certain of the plaintiffs' claims.

9. *Sturge v. Northwest Airlines, Inc.*, 05-CV-1665 (DSD/SRN), Report & Recommendation (D. Minn. Dec. 19, 2008), *declining to adopt*, 600 F.Supp.2d 1040 (D. Minn. Mar. 2, 2009). I recommended that the defendant's motion to dismiss for lack of subject matter jurisdiction be granted. The District Court judge held that the Railway Labor Act's mandatory arbitration provision did not divest the court of jurisdiction and denied the defendant's motion to dismiss. Subsequently, a discovery order that I issued was also reversed in part, consistent with the District Court's earlier opinion. *Sturge*, Order of Feb. 19, 2010, *reversed in part*, Order of April 13, 2010.

10. *UnitedHealth Group, Inc. v. Hiscox Dedicated Corp. Member, Ltd., et al.*, 09-CV-210 (PJS/SRN), Report & Recommendation (D. Minn. Aug. 27, 2009), *adopting in part*, 2010 WL 550991 (D. Minn. Feb. 9, 2010). In this insurance coverage dispute, the insurers moved to dismiss, arguing that they were not obligated to indemnify the insured. I recommended that the insurers' motions be denied because I did not believe that indemnity could be determined on the face of the complaint. Although the District Court adopted part of my recommendation, it concluded that, except for certain narrow exceptions, the insurers were not obligated to indemnify the insured.

- 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.

Civil: As a magistrate judge, I issue orders on non-dispositive matters or orders on dispositive matters in consent cases and I issue reports & recommendations on all dispositive matters referred to me. My non-dispositive orders range from discovery matters, motions to amend the pleadings, motions to extend the discovery schedule and other miscellaneous civil motions. I issue hundreds of such orders in any given year. Very few of those orders are published, although I have filed all of my opinions with our court's Electronic Case Filing system, for as long as the court has maintained that system. With respect to dispositive motions referred to me by the district court, a fair percentage of those cases are published electronically and a smaller portion is available in a published reporter. It is not within my discretion as a magistrate judge to determine whether any given opinion is designated as unpublished.

Criminal: As a magistrate judge, I issue orders on non-dispositive criminal motions (hundreds every year) and reports and recommendations on suppression motions which are all referred to the magistrate judges in this district. After the district court rules on any objections to those reports & recommendations, any given suppression order may be published. Again, it is not within my discretion to determine whether any given order is published. If published, the opinions may be available through electronic publication or in a published reporter. As

with my civil opinions, I have filed all of my criminal opinions with our court's Electronic Case Filing system, for as long as the court has maintained that system.

- 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.

Franco v. Grant, No. 09-CV-0552 (JRT/SRN), 2010 WL 653855 (D. Minn. Feb. 22, 2010)

United States v. Ewing, 09-CR-103 (DSD/SRN), 2009 WL 2337121 (D. Minn. July 29, 2009)

Vance v. King, 08-CV-4756 (ADM/SRN), 2009 WL 294361 (D. Minn. Feb. 5, 2009)

Gouleed v. Wengler, 07-CV-4152 (DSD/SRN), 2009 WL 76669 (D. Minn. Jan. 8, 2009)

Bellanger v. Minnesota, 08-CV-1352, 2008 WL 5244587 (D. Minn. Dec. 15, 2008)

Jones v. Carlson, 06-CV-2317 (JRT/SRN), 2008 WL 4748541 (D. Minn. Oct. 27, 2008), *certificate of appealability denied*, 2009 WL 294352 (D. Minn. Feb. 5, 2009)

Love v. Dingle, 07-CV-4341 (JRT/SRN), 2008 WL 4748640 (D. Minn. Oct. 27, 2008)

United States v. Balance, 08-CR-156 (JNE/SRN), 2008 WL 4533999 (D. Minn. Oct. 6, 2008)

United States v. Rehak, 08-CR-0072 (PJS/SRN), 2008 WL 2828886 (D. Minn. July 21, 2008)

United States v. Novick, 07-CR-455 (JNE/SRN), 2008 WL 2788023 (D. Minn. July 15, 2008)

United States v. Hernandez-Seldana, 08-CR-14 (MJD/SRN), 2008 WL 2230703 (D. Minn. May 28, 2008)

Njaka v. Wright County, 560 F. Supp. 2d 746, 748 (D. Minn. 2008)

United States v. Kahmann, 06-CR-373 (JRT/SRN), 2007 WL 909733 (D. Minn. Mar. 23, 2007)

United States v. Rage, 06-CR-268(1) (RHK/SRN), 2007 WL 763817 (D. Minn. Mar. 9, 2007)

Midkiff v. Paulose, 06-CV-1474 (JNE/SRN), 2006 WL 3804334 (D. Minn. Dec. 26, 2006)

Young v. Minnesota Dept. of Corrections at Rush City, 05-CV-454 (RHK/SRN), 2006 WL 2670030 (D. Minn. Sept. 18, 2006), *aff'd and remanded*, 508 F.3d 868 (8th Cir. 2007)

Serna v. Goodno, 04-CV-0615 (JMR/SRN), 2005 WL 1324090 (D. Minn. June 3, 2005), *adopted*, 2005 WL 1705623 (D. Minn. July 7, 2005), *aff'd*, 567 F.3d 944 (8th Cir. 2009), *cert. denied*, ___ S.Ct. ___, 2009 WL 2524338 (2009)

United States v. Cruz, 04-CR-176 (DSD/SRN) (D. Minn. Sept. 21, 2004)

United States v. Bradai, 04-CR-16 (DWF/SRN) (D. Minn. Aug. 27, 2004)

- 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.

I have not sat by designation on a federal court of appeals.

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:

- 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.

I follow the federal recusal statutes and the Code of Conduct for United States Judges. My husband is a partner at a large law firm in Minneapolis – Leonard Street & Deinard. By law, I presently recuse and would recuse, if confirmed, on all cases filed by any lawyer in his firm. I worked at another large law firm for 17 years before my appointment to the bench as a magistrate judge – Robins, Kaplan, Miller & Ciresi. With respect to many matters filed by that firm, I presently recuse and would recuse, if confirmed. To the extent that I have a financial interest in any party, I would also recuse, if confirmed. The vast majority of my recusals have occurred for one of the above reasons.

While serving as the trial judge by the consent of the parties in *Anchor Wall Systems, Inc. v. Concrete Products of New London, Inc.*, 03-CV-3271 (SRN) (D. Minn.), counsel for the defendant informed me of its intention to file a motion for recusal and requested that I refrain from ruling on a pending summary judgment motion. The defendant ultimately filed a motion to withdraw consent and seek my recusal before the Honorable Ann D. Montgomery, the District Court Judge originally assigned to the case. Judge Montgomery denied the motion and held that any motion to seek recusal should have been first heard by me. No motion for recusal was filed with me.

I maintain a standing recusal list of law firms and entities which require my recusal consistent with the Code of Conduct for United States Judges. Our Clerk's Office notifies us electronically if any such cases have been assigned to me. In addition, I review every new file assigned to me to ensure that I do not have a relationship with any of the parties or counsel which would interfere with my ability to be impartial or interfere with the appearance of impartiality.

I was able to conduct a search on CM-ECF of all recusal orders since 2004. I have attached a list of the CM-ECF recusal search results.

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 held public office other than judicial office. I have not had unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

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

Since I have been on the bench, I have engaged in no political activity.

I have never formally worked on a campaign nor have I held any office in a political party or election committee. Approximately 15 years ago, I hosted a fundraiser at my home for a candidate for the state court bench, Bruce Peterson. He is still a judge on the Hennepin County trial bench.

Approximately 15 years ago, my husband and I had a fundraiser at our home for a democratic candidate from Minnesota for the United States Senate – Tom Berg, a former United States Attorney in the district.

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 did not serve as a law clerk to a judge.

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

I never practiced on my own.

- 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.

1978 to 1980
Reed Smith Shaw & McClay
225 Fifth Avenue
Pittsburgh, PA 15222
Associate

1980 to 1983
Tyler Cooper & Alcorn
New Haven, CT (no longer in existence)
Associate

1984 to 2000
Robins, Kaplan, Miller & Ciresi (formerly Robins, Zelle, Larson & Kaplan)
800 LaSalle Plaza
Minneapolis, MN 55402
Associate (1984 to 1988)
Partner (1988 to 2000)

- 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.

As a partner at Robins, Kaplan, Miller & Ciresi, I occasionally served as a no-fault arbitrator for the AAA. Each of those matters involved the determination of available no-fault benefits to the claimant.

As a Magistrate Judge, I conduct settlement conferences nearly every week. I have settled hundreds of cases in that capacity. The following is a description of ten of the most significant cases I have settled.

1. *Doe I et al v. Mulcahy, Inc. et al, Civil No. 08-306 (DWF/SRN) (D. Minn.)* The Does, a putative class of Latino employees of the defendant drywall company alleged that the defendant harassed them, both physically and emotionally, forcing them to work long hours

without pay. I invited bankruptcy counsel to attend this mediation so that the plaintiffs could better understand their position vis a vis other creditors of the defendant. The case was successfully settled.

2. *Joseph Pagliolo et al., v. Guidant Corporation, et al, Civil No. 06-943 (DWF/SRN) (D. Minn.)*. This putative class sued its employers alleging that a significant reduction in force implemented by Guidant and the other defendants had a disparate impact on older employees. There were hundreds of employees in the proposed class. The case was successfully settled.
3. *Flores v. Michael Lehman et al., Civil No. 08-6046(MJD/SRN) (D. Minn.)* This § 1983 lawsuit is representative of a lot of cases brought in federal court alleging excessive force by law enforcement. I settle 4 – 6 such cases a year. In this matter, the plaintiff alleged that, at the time of booking at the Ramsey County jail, a corrections officer intentionally broke her arm. The case was successfully settled.
4. *Ripdos v. Apex Financial Management LLC, Civil No. 07-1507(DWF/SRN) (D. Minn.)* This Federal Debt Collection Practices Act case is representative of many cases brought in this district. I settle approximately 6-10 of these cases each year. The plaintiff, a victim of identity theft, alleged that the debt collector, in response to her question “Who are you?” said “I am the man who is going to end your life.” The case was successfully settled.
5. *John Dale Stoll v. Univar USA Inc, Banjo Corporation and Clawson Container Company, Civil No. 05-213 (JNE/SRN) (D. Minn.)* The plaintiff was badly burned while working in the course of his employment with sulphuric acid. This products liability action was brought against the manufacturer of the valve used to dispense the acid and the manufacturer of the container of sulphuric acid used by plaintiff’s employer. Plaintiff had significant injuries and widespread scarring. The case was successfully settled.
6. *NMT Medical, Inc. v. Cardia, Inc., Civil No. 04-4200 (JNE/SRN) (D. Minn.)*. NMT Medical sued Cardia alleging patent infringement of its patent which describes an occluder, a closure device used in heart surgery. We have a very significant patent docket in this district (the third or fourth largest docket in the country) and so we settle a lot of patent cases. This case was successfully settled.
7. *LuAllen Kettner v. Compass Group USA, Inc., Civil No. 08-205(JNE/SRN) (D. Minn.)*. This case was brought by the heirs of Lawrence Kettner, deceased, who alleged that his termination from employment with the defendant was motivated by age and disability

bias. Lawrence Kettner was blind and the family wished to honor him in some way with this settlement. As part of the settlement, Compass agreed to set up a scholarship in his name with the National Council for the Blind.

8. *Polymedco, Inc. v. Mentor Corporation et al., Civil No. 06-4400(DSD/SRN) (D. Minn.)*. Polymedco and Mentor had a longtime distributorship agreement under which Mentor distributed Polymedco's medical product. In 2006, Coloplast, another defendant made a bid to buy Mentor's urology division. Mentor, without consent, transferred the agreement and alleged trade secrets to Coloplast after the sale. After several settlement conferences, the case between Polymedco and Mentor was successfully settled.
9. *MSP Corporation v. Westech Instruments, Inc. et al., Civil No. 07-2301(MJD/SRN) (D. Minn.)*. This trademark action involved a pharmaceutical impactor which competed with plaintiff's comparable product. Plaintiff expressed an intent to amend to add patent claims and the defendant counterclaimed under a theory of breach of contract. The case was successfully settled.
10. *Polaris Industries Inc. v. Jerrico International, Inc. et al, Civil No. 06-2153(MJD/SRN)(D. Minn.)*. In this patent, trade dress claim, Polaris alleged that defendant Jerrico imported thousands of knock off ATVs which looked substantially similar to the Polaris Predator ATV and they were sold in discount auto stores by defendant CSK Auto. The case was successfully settled.

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

As an associate with Reed, Smith, Shaw & McClay, I rotated among the various departments of the firm. I was fortunate to second chair an employment discrimination case which was tried in Delaware during that time. In addition, I spent a fair amount of time doing real estate work and labor work.

At Tyler, Cooper & Alcorn, I was primarily involved in insurance defense work. I was fortunate to be able to handle a significant number of cases on my own and frequently appear in court. I was also fortunate to second chair a trial on behalf of a bank client in Bridgeport, Connecticut.

At Robins, Kaplan, Miller & Ciresi, I was primarily involved in products liability litigation, initially with a focus on automotive product liability matters and pharmaceutical cases. I was also involved in personal injury matters, typically complex matters referred to the firm from smaller firms. In 1994, I was invited to be a member of the core trial team representing the State of Minnesota and Blue Cross Blue Shield of Minnesota against the tobacco industry. I was involved full time on that case from 1994 until the case settled on the date of final argument in May, 1998.

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

At Reed, Smith, Shaw & McClay, I primarily represented companies and worked for the defense. The practice was varied since I rotated among the various departments of the firm as a new associate.

At Tyler, Cooper & Alcorn, I primarily represented insurance companies who were called in to defend their insureds in contract and/or tort matters. The practice was varied but primarily concerned business and insurance litigation.

At Robins, Kaplan, Miller & Ciresi, I primarily represented individual clients in personal injury and products liability matters. As a member of the core trial team representing the State of Minnesota and Blue Cross Blue Shield of Minnesota in the tobacco litigation, I worked extensively with dozens of state agencies and with Blue Cross Blue Shield of Minnesota.

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

At Reed, Smith, Shaw & McClay, my practice varied. Approximately 50% of the matters I was involved with were litigation matters. I occasionally appeared in court and second chaired a trial in Delaware.

At Tyler, Cooper & Alcorn, all of my practice was in litigation and I appeared frequently in court. I second chaired a trial in Connecticut during that time.

At Robins, Kaplan, Miller & Ciresi, all of my practice was in litigation and I appeared frequently in court. I tried a number of cases during my 17 years with the firm.

- i. Indicate the percentage of your practice in:
 1. federal courts: 40%
 2. state courts of record: 60%
 3. other courts:

4. administrative agencies:

- ii. Indicate the percentage of your practice in:
 - 1. civil proceedings: 100%
 - 2. criminal proceedings:

- 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 was at counsel table, either as a first chair, second chair or a member of the trial team in 8 jury trials although three of those cases settled after all of the evidence was presented to the jury.

- i. What percentage of these trials were:
 - 1. jury: 100%
 - 2. non-jury:

- 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.

In *Great American Federal Savings & Loan Association et al v. Novotny*, 442 U.S. 366 (1979), an employment matter alleging a claim under section 1985(c), I assisted on the briefing to the Supreme Court of the United States.

During the tobacco litigation, there were two matters raised in the Supreme Court of the United States: *Philip Morris, Inc. v. Minnesota*, 523 U.S. 1056 (1998) and *R. J. Reynolds Tobacco Co. v. Minnesota*, No. CX-95-2536, 1995 WL 862582 (Minn. Ct. App. December 26, 1995), *cert. denied*, 517 U.S. 1222, 116 S. Ct. 1852 (1996) (*appeal on writ of certiorari of the denial of defendants' motion to seek a writ of prohibition or mandamus from a discovery order*)

I did not argue any of these matters.

- 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. *The State of Minnesota and Blue Cross Blue Shield of Minnesota v. Philip Morris, et al., Ramsey County District Court, File No. C1-94-8565.* Case Description: In 1994, the State of Minnesota and BlueCross BlueShield of Minnesota filed a complaint against the tobacco industry alleging fraud and violations of the antitrust laws. My role in the case was significant and I worked fulltime on the case until it settled in May of 1998. The scope of discovery was monumental - on the plaintiffs' side of the case alone, there were 190 days of depositions and hundreds of motions. The case was venued in Ramsey County before the Honorable Kenneth Fitzpatrick. The trial began in early January, 1998. On the last day of final arguments to the jury, the case settled.

Opposing Counsel:

The American Tobacco Company	Byron E. Starns Leonard, Street & Deinard 150 South Fifth Street, Suite 2300 Minneapolis, MN 55402 (612) 335-1516
Brown & Williamson Tobacco Corp.	Jack M. Fribley Faegre & Benson 90 South Seventh Street, Suite 2200 Minneapolis, MN 55402 (612) 766-7000
Philip Morris Inc.	Peter Sipkins Dorsey & Whitney 50 South Sixth Street, Suite 1500 Minneapolis, MN 55402 (612) 343-7903
R.J. Reynolds Tobacco Company	James Simonson Gray, Plant, Mooty 80 South Eighth Street, Suite 500 Minneapolis, MN 55402 (612) 632-3300
The Council for Tobacco Research	Lawrence Purdy Maslon, Edelman, Borman & Brand LLP

90 South Seventh Street, Suite 3300
Minneapolis, MN 55402
(612) 672-8200

The Tobacco Institute

George Flynn
Flynn, Gaskins & Bennett
333 South Seventh Street, Suite 2900
Minneapolis, MN 55402
(612) 333-9500

Lorillard Tobacco Company

David Martin
(then at the Doherty, Rumble & Butler firm
which has since closed)
Medtronic Inc.
710 Medtronic Parkway Northeast
Minneapolis, MN 55432
(763) 505-2682

2. *Patricia Engel, et al., v. Ford Motor Company*. Case Description: In 1989, plaintiff Patricia Engel was driving her Ford vehicle when she was rear ended by another vehicle. Upon impact, the doors matchboxed, preventing them from being opened, locking in the passengers. The fuel tank was pierced and the vehicle became engulfed in flames. Heroic bystanders were able to save three of the four passengers. Jacob Engel, a nine year old, died from burns and smoke inhalation in the crash. The remaining passengers suffered severe burn injuries. Along with my partner, Ty Bujold, we sued Ford Motor Company. We alleged a design defect in the integrity of the fuel system and we achieved a very sizeable settlement for the family. The case was venued in Dakota County, Minnesota before the Honorable Harvey Holtan.

Opposing Counsel:

David Kelly, Kim Schmid
Bowman & Brooke
150 South Fifth Street, Suite 3000
Minneapolis, MN 55402
(612) 339-8682

3. *John D. Breen, personally and guardian for Irene Breen v. Abbott Laboratories, et al.* (1993). Case Description: On behalf of Irene Breen, we brought a medical malpractice and pharmaceutical products liability lawsuit against her treating physicians and Abbott Laboratories. Mrs. Breen was administered a very high dose of a drug called SNP (sodium nitroprusside). If given too high a dose, a patient can suffer irreversible brain damage. After receiving a significant dose of SNP, Irene Breen entered a vegetative state, having suffered massive brain damage, quadriplegia and blindness. The case was venued in Hennepin County before Judge Harvey Ginsburg. The case was settled on the morning trial was scheduled to begin.

Opposing Counsel:

David Hutchinson

Geraghty, O'Loughlin & Kenney PA
55 East Fifth Street, Suite 1100
St. Paul, MN 55101
(651) 291-1177

4. *Herr et al v. Carolina Log Buildings, et al, Civil File Nos. EV-85-262-C through EV 85-268-C (S.D. Ind. 1985)*. Case Description: In this toxic tort case, we represented 43 plaintiffs who resided in log cabins in southern Indiana and who had been exposed to large amounts of pentachlorophenol, a wood preservative, manufactured by Dow Chemical Company and others, which had been used to preserve the wood on their log homes. The matters were venued in federal court in the southern district of Indiana before Judge Brook and Magistrate Judge Hussman. After several years of litigation, the cases settled.

Opposing Counsel:

Mr. Edward Fitzpatrick
Attorney
The Dow Chemical Company
Washington Street Building
Midland, MI 48640

5. *Van Dam v. Ford Motor Company (1989)*. Case Description: This case was brought on behalf of an injured truck driver against Ford Motor Company, alleging that the cab compartment of the truck was defectively designed because it failed to provide sufficient head room for an average truck driver. Mr. Van Dam repeatedly hit his head on the roof of the cab which caused him to suffer permanent head, neck and back injuries. The case was venued in federal court in Minneapolis before the Honorable Diana Murphy, who currently sits on the Eighth Circuit. After two full weeks of trial, the case was settled.

Opposing Counsel:

The Honorable John McShane
(then at the Bowman & Brooke law firm)
Hennepin County District Court
Hennepin County Government Center
300 South Sixth Street
Minneapolis, MN 55487
(612) 596-6830

6. *Albert v. Paper Calmenson, et al*. Case Description: Todd Albert, the plaintiff, was burned over 80% of his body surface, in an underground tank explosion on the defendant's premises. The matter was venued in Hennepin County District Court before Judge Sean Rice, who is now retired from the bench. My partner Tyrone Bujold and I tried the case to verdict in 1993. The jury returned a sizeable verdict for our client, Todd Albert.

Opposing Counsel:

Duane Arndt
Arndt & Benton PA
400 South Fourth Street, Suite 1012
Minneapolis, MN 55415
(612) 332-5473

7. *Ridens v. American Manufacturing Company (1986)*. Case Description: Ted Ridens, my client, was a member of the ground crew for the Flying Tigers at the LAX airport. While performing those job responsibilities, the hydraulic lift failed and crushed the vertebrae in his neck. He received surgical disc fusions at every level of his cervical spine. The case was venued in Hennepin County, Minnesota before Judge Robert Schefelbein. Several weeks prior to trial, the case settled.

Opposing Counsel:

James Crassweller
Kalina, Wills, Gisvold & Clark
6160 Summit Drive, Suite 560
Minneapolis, MN 55430
(612) 789-9000

Richard Mahoney
Mahoney, Dougherty & Mahoney PA
801 Park Avenue
Minneapolis, MN 55404
(612) 339-5863

8. *Evan Flam, a minor v. Rowland Pointe Partnership (1993)*. Case Description: I represented Evan Flam in this premises liability matter against a developer, Rowland Pointe Partnership. In 1990, seven year old Evan Flam was severely injured when thousands of pounds of dirt caved in upon him on undeveloped land located next to his apartment complex. The case was venued in Hennepin County District Court before Judge Peter Lindberg. Ultimately, the case was settled.

Other counsel:

Mitchell Spector
Abrams & Spector
2445 Park Avenue
Minneapolis, MN 55404
(612) 925-3053

9. *Swift v. Owen and the City of Marshall*. Case Description: I represented the plaintiff in this case against the City of Marshall and one of its police officers. My client was injured as a passenger on a motorcycle which was pursued by the police on a high speed police chase. The case was venued in Lyon County District Court before Judge Harvey Holtan. After several days of trial in 1993, the case settled.

Opposing Counsel:

William Moeller
Blethen Gage & Krause PLLP

127 South Second Street
Mankato, MN 56002
(507) 345-1166

10. *The Jeep Litigation*. Case Description: In the late 1980s and the early 1990s, my partner, Tyrone Bujold and I handled a number of cases involving Jeep rollovers against its then parent American Motors Corporation. In those product liability cases, we alleged that the Jeep was designed with a high center of gravity, no rollover protection and a propensity to roll over under circumstances where most stable, standard sedans would not have rolled. The models under scrutiny were the Jeep CJ-5 and CJ-7. At the time, over 1000 suits were brought all over the country. Those cases were venued before various district court judges in federal court in Minnesota. All of the cases were settled.

Opposing Counsel:

Mark Olson
Oppenheimer Wolff & Donnelly
45 South Seventh Street, Suite 3300
Minneapolis, MN 55402
(612) 607-7337

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

I have never been involved in lobbying activities of any sort.

With respect to litigation which did not progress to trial, most of the litigation matters I have handled over the years settled before trial, including many of the cases I referenced in the previous question.

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 never taught a class at an institution of higher learning or a law school.

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

customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I have a small defined benefit account with my former law firm, Robins, Kaplan, Miller & Ciresi. When I was appointed to the bench, no further contributions were made to the account. I will be able to access the funds when I turn 65. The entire present value of the account is approximately \$64,000.

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.

No.

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

See attached Financial Disclosure Report.

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

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

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

If confirmed, I will continue to recuse on any matter involving my husband's law firm, Leonard, Street & Deinard. I will also recuse, on a selective basis, on cases involving certain lawyers at my former law firm, Robins, Kaplan, Miller & Ciresi. I will also recuse on any case in which I might own stock or have a financial interest in one of the parties. In addition, my career law clerk is married to one of the Assistant United States Attorneys in Minneapolis. It is my practice now and would be my practice if confirmed not to have him appear before me.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If I am confirmed, and during my service as a United States Magistrate Judge, I will continue to follow the federal recusal statutes and the Code of Conduct for United States Judges. If necessary, I would seek advice from the Code of Conduct Committee of the Judicial Conference. I would always err on the side of disqualification.

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.

As a judge, I cannot serve as an advocate in pro bono matters. However, I serve as a mentor in many circumstances to disadvantaged youth. For instance, I participated this past summer in the Just the Beginning Foundation program in Minneapolis which is designed to identify and attract bright, underprivileged children of color to the law. I continue to mentor several students in that program. Over the years, I have also been a supporter of Advocates for Human Rights, a local NGO, founded by lawyers, whose mission is dedicated to the study of and eradication of human rights violations all over the world. Every year, I host a high school class for a mock suppression hearing to address constitutional issues with them. I hope to become more involved in international judge's programs focused on the rule of law in third world countries.

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.

Our senior senator, Senator Amy Klobuchar empanelled a selection committee comprised of prominent judges and attorneys in Minnesota to assist her with her recommendation to the President. I interviewed once with several members of the committee, once with the entire committee and a third time with the committee chairs. I also interviewed with Senator Klobuchar and with our new senator, Senator Franken. On November 3, 2009, Senator Klobuchar recommended me to the President for nomination. Beginning immediately thereafter, I was in contact with the pre-nomination officials at the Department of Justice. I had an interview at the Department of Justice on February 9, 2010 with attorneys from the Department of Justice and the White House Counsel's Office. The President submitted my nomination to the Senate on April 21, 2010.

- 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, Susan Richard Vels, do swear
that the information provided in this statement is, to the best
of my knowledge, true and accurate.

April 19, 2010
(DATE)

Deborah D. Bell
(NAME)

